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**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

Montana Federation of Public Employees,

Plaintiff,

Northern Cheyenne Tribe, Blackfeet Nation,  
Confederated Salish & Kootenai Tribes, Fort  
Belknap Indian Community, and Western  
Native Voice,

Plaintiff-Intervenors.

Forward Montana and Montana Public  
Interest Research Group,

Youth Plaintiff-  
 Intervenor,

V.

State of Montana and Christi Jacobsen, in her official capacity as Montana Secretary of State.

Defendants,

Republican National Committee, and  
Montana Republican State Central  
Committee.

### Defendant-Intervenors.

Case No. DV-25-268

**PLAINTIFFS' JOINT STATEMENT  
OF UNDISPUTED MATERIAL  
FACTS<sup>1</sup>**

<sup>1</sup> All plaintiffs join in the statement of undisputed facts with respect to SB 490, ¶¶ 1–124. Facts related to the specific plaintiff groups are submitted by those plaintiffs individually. *E.g.*, MFPE submits ¶¶ 125–141; Native American Plaintiffs submit ¶¶ 142–165; and Youth Plaintiffs submit ¶¶ 166–204.

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## Senate Bill 490

### A. Montanans have long relied on election day registration to vote.

1. The Framers of the 1972 Montana Constitution “inten[ded] . . . that election day registration should be available as long as it was workable in Montana.” *Mont. Democratic Party v. Jacobsen* (“MDP”), 2024 MT 68, 416 Mont. 44, 545 P.3d 1074, *cert. denied sub nom. Christi Jacobsen, Mont. Sec’y of State v. Mont. Democratic Party*, 145 S. Ct. 1125 (2025).<sup>2</sup>

2. In 2005, the Montana Legislature enacted election day registration (“EDR”) with bipartisan support, permitting voters to both register to vote and cast a ballot on election day. Section 13-2-304(1)(a), MCA (2005 Mont. Laws ch. 286, § 1).

3. Pursuant to that law, Montanans were able to “register and vote up until the time polls close[d] on election day,” which, by statute, is 8:00 p.m. Sections 13-21-104(2)(c), 13-1-106(1), MCA.

4. “Election day registration is a failsafe that allows eligible voters to vote on election day if they would otherwise not be able to vote due to registration issues.” *MDP*, ¶ 64 n.11.

5. Once election day registration was made available in Montana, it “bec[a]me wildly popular.” *MDP*, ¶ 6.

6. As of 2021, “more than 70,000 Montanans ha[d] utilized election day registration to vote.” *Id.* ¶¶ 64, 70.

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<sup>2</sup> Defendant Secretary of State is collaterally estopped from disputing determinative issues and facts that were decided in *MDP*. See *Brishka v. Department of Transportation*, 2021 MT 129, ¶ 11, 404 Mont. 228, 487 P.3d 771 (“Collateral estoppel, or issue preclusion, . . . prevents relitigation of determinative facts that were actually or necessarily decided in a prior action” in which “the party against whom collateral estoppel is asserted was a party.”).

7. Another 13,816 voters utilized election day registration to vote in 2022 and 2024. Ex. 2, Decl. of Kenneth R. Mayer ¶ 12, (Jan. 20, 2026) (“Mayer Decl.”).

8. The number of Montanans utilizing election day registration in the general election during presidential election years has also grown, from 8,172 in the 2020 election to 10,296 in 2024. Ex. 2, Mayer Decl. ¶ 24 tbl. 1.

9. Secretary Jacobsen has agreed that election day registration has “led to an improvement in Montana’s elections.” *MDP*, ¶ 64.

**B. The Montana Legislature has previously attempted to restrict election day registration.**

10. In 2014, the Montana Legislature referred an act to Montana voters that would have eliminated election day registration, purportedly to “protect[] the integrity of Montana elections.” Ex. 1, Decl. of Raph Graybill (Jan. 21, 2026) (“Graybill Decl.”), Ex. O, Ballot Language for Legislative Referendum No. 126.

11. When voting on the “2014 referendum, Montana voters rejected eliminating election day registration by a 14-point margin.” *MDP*, ¶¶ 6, 64.

12. In 2021, the Montana Legislature passed HB 176, which “eliminated election day registration for all but a select category of people and pushed the registration deadline back to noon the day before the election.” *Id.* ¶ 6.

13. HB 176 faced “vociferous opposition . . . in public hearings.” *Id.* ¶ 64.

14. Nevertheless, in April 2021, the Governor signed HB 176 into law. *Montana Democratic Party v. Jacobsen*, 2022 MT 184, ¶ 4, 410 Mont. 114, 120, 518 P.3d 58, 61, *abrogated by MDP*, ¶ 4.

15. In response, multiple plaintiffs, including the Montana Democratic Party, Forward Montana Foundation, the Montana Public Interest Research Group (MontPIRG), the Northern



Cheyenne Tribe, Blackfeet Nation, the Confederated Salish and Kootenai Tribes, Fort Belknap Indian Community, and Western Native Voice, filed suit in district court, alleging that HB 176 violated the Montana State Constitution. *MDP*, ¶ 3. Several of the *MDP* plaintiffs are also plaintiffs in this action.

16. These cases were consolidated in the district court in Yellowstone County. *MDP*, ¶ 4.

17. The defendant in the consolidated cases was Secretary of State Christi Jacobsen. *Id.*, ¶ 1. The Secretary is also the Defendant in this action.

18. In 2022, the district court “conducted a nine-day trial” on plaintiffs’ challenge to HB 176 and three other election laws, “consisting of both factual and expert witness testimony.” *Id.* ¶ 4.

19. Ultimately, the district court concluded that HB 176 violated the Montana Constitution. *Id.* ¶ 4.

20. In March 2024, the Montana Supreme Court affirmed. *See id.*, ¶¶ 63–85.

21. The Court held that HB 176 violated the right to suffrage under the Montana Constitution because it “impermissibly interfere[d] with the right of suffrage due to the numerous Montanans who utilize[d] election day registration to both register and vote at the same time on election day,” without showing that “eliminating election day registration was the least onerous path to a compelling state interest.” *Id.* ¶ 63.

22. The United States Supreme Court denied the Secretary’s petition for certiorari regarding the Montana Supreme Court’s decision. *Christi Jacobsen, Montana Sec’y of State v. Montana Democratic Party*, No. 24-220, 145 S. Ct. 1125 (2025).

**C. SB 490 was enacted over public opposition.**

23. During the 2025 legislative session, the Montana Legislature passed SB 490. SB 490 sets the close of voter registration for federal elections at noon on Election Day. Graybill Decl., Ex. A, SB 490.

24. SB 490 eliminates 8 of the 13 hours that were previously available to register for federal elections on Election Day. Sections 13-21-104(2)(c), 13-1-106(1), MCA.

25. As a result, after noon on Election Day, Montana election workers will be permitted to register voters for state elections, but not federal elections. Graybill Decl., Ex. B, Discovery Responses at 6 (“County officials will not deliver a federal ballot to anyone registering after noon on election day. They will, however, hand the voter a state election ballot.”).

26. SB 490 was introduced in the Legislature by Senator Mike Cuffe. Graybill Decl., Ex. C (“Ex. C”), Mar. 5, 2025 Hr’g at 5.

27. Senator Cuffe also supported HB 176—the Legislature’s previous effort to restrict election day registration—in the Legislature, and he introduced a similar proposal to eliminate election day registration in 2019. Graybill Decl., Ex. E, Feb 15, 2021 HB 176 Legislative Hr’g.

28. During discussion of the bill, Senator Cuffe acknowledged that the Montana Supreme Court found HB 176 unconstitutional. Ex. C, Mar. 5, 2025 Hr’g at 15–16; Graybill Decl., Ex. D (“Ex. D”), Mar. 26, 2025 Hr’g at 46–47.

29. Senator Cuffe drafted SB 490 in response to the Montana Supreme Court’s decision in *MDP* finding that eliminating election day registration violated the fundamental right to suffrage. *See* Ex. C, Mar. 5, 2025 Hr’g at 15–16, 18; Ex. D, Mar. 26, 2025 Hr’g at 49.

30. Although Senator Cuffe acknowledged *MDP*'s holding, he cast doubt on the decision, stating, among other things, "[Y]ou know there's a term frequently that's called judge shopping." Ex. D, Mar. 26, 2025 Hr'g at 48.

31. Senator Cuffe stated that, after HB 176 was "shot down," he "began working on a bill very similar to my former one," explaining, "This is my last term. I was hoping to get this resolved before I'm done". Ex. C, Mar. 5, 2025 Hr'g at 15–16.

32. When Senator Cuffe requested the bill, he described it as "HB 176 (2021)." Graybill Decl., Ex. G ("Ex. G"), Junque File at 2.

33. Another proponent of the bill, Senator Manzella, admitted, "We're trying to work around the court's decision." Ex. C, Mar. 5, 2025 Hr'g at 18.

34. The Legislature's Legal Review Note likewise acknowledged the Montana Supreme Court's holding in *MDP* and cautioned that SB 490 "may raise a potential constitutional conformity question." Ex. G, Junque File at 10–11.

35. By only addressing federal elections, Senator Cuffe, the Secretary of State, and proponents of SB 490 sought to avoid the Montana Supreme Court and its decision in *MDP* by forcing any litigation over the bill into federal court, where they believed it would face less searching scrutiny. Graybill Decl., Ex. H ("Ex. H"), Mar. 1, 2025 Hr'g at 34 (testimony of Austin James, Elections Dir. for the Sec'y of State); *see also* Ex. D, Mar. 26, 2025 Hr'g at 48 (Sen. Cuffe describing the concept of "judge shopping."), 94 (Sen. Cuffe noting that "there are different people on the Supreme Court").

36. SB 490 faced substantial public opposition during legislative hearings. *See* Ex. D, Mar. 26, 2025 Hr'g at 26–43; Ex. H, Mar. 1, 2025 Hr'g at 22–31.

37. Members of the public, some representing community organizations, argued to the Legislature that SB 490 would create election costs, not eliminate them. Ex. D, Mar. 26, 2025 Hr’g at 33, 35, 40–41; Ex. H, Mar. 1, 2025 Hr’g at 23–30. As one explained, “[Y]ou’re going to have two different ballots printed. You’re going to have the federal ballot that you can no longer register for after noon on election day, and then you’ll have, potentially all of the other races out there that are not on the federal.” Ex. D, Mar. 26, 2025 Hr’g at 28. Another—an attorney for the law firm Crowley Fleck, which defended HB 176 in the previous litigation—noted that counties would have to pay for the two separate ballots because SB 490 has “no fiscal note.” Ex. D, Mar. 26, 2025 Hr’g at 74.

38. Community members stated that SB 490’s system would confuse voters. Ex. D, Mar. 26, 2025 Hr’g at 28, 33–37.

39. Community members also warned that SB 490 would prevent otherwise eligible voters from casting their ballots. Ex. D, Mar. 26, 2025 Hr’g at 29–30, 33, 38–40; Ex. H, Mar. 1, 2025 Hr’g at 23–30. As a representative of Western Native Voice put it, “[SB 490 is] going to keep Montanans from exercising their constitutional right to vote. The need to register to vote doesn’t suddenly go away after noon on Election Day.” Ex. D, Mar. 26, 2025 Hr’g at 30; *see also id.* at 32–33 (“[T]he fact of the matter is, if this goes in place, these folks will then be denied their right to vote.”); Ex. H, Mar. 1, 2025 Hr’g at 26 (testimony that for Native voters “that cushion on Election Day can mean the difference between having their voice heard or being silenced due to circumstances that have little control over”).

40. Montanans have come to rely on election day registration. “[P]eople that are used to being able to show up on election day after work won’t have that opportunity,” explained a

representative from the Montana Federation of Public Employees (MFPE), “They’ll be turned away to vote.” Ex. D, Mar. 26, 2025 Hr’g at 33.

41. The MFPE representative also pointed out that the new late registration option the Saturday before the election would not mitigate the harm caused by eliminating most election day registration hours, particularly because some counties—including Missoula, Montana’s third most populous—already allowed people to register on Saturday before the election, so that provision in the statute did not even maintain the overall number of hours available for people to register. Ex. D, Mar. 26, 2025 Hr’g at 32; Ex. 3, Decl. of Amanda Curtis ¶ 11, (Jan. 20, 2026) (“MFPE Decl.”).

42. Community members also warned that SB 490’s effects on voter participation would disproportionately impact historically disadvantaged groups, including Native Americans, voters with disabilities, and young voters. Ex. D, Mar. 26, 2025 Hr’g at 31, 38–39, 42; Ex. H, Mar. 1, 2025 Hr’g at 22–31.

43. A representative of the Blackfeet Tribe, the Fort Belknap Indian Community, and the Chippewa Cree Tribes of Rocky Boy emphasized that Native Americans would be especially vulnerable to disenfranchisement. Ex. D, Mar. 26, 2025 Hr’g at 30–31. “A very large number of Native Americans utilize same-day voter registration,” she explained, “[S]o any changes to the current policy would disproportionately impact our population.” Ex. D, Mar. 26, 2025 Hr’g at 31; *see also id.* at 11 (Austin James Elections Dir. for the Sec’y of State, acknowledging it can be “very difficult” for Native American voters absent EDR); *see also* Ex. H, Mar. 1, 2025 Hr’g at 25–26 (testimony underscoring the burden SB490 would place particularly on “young and indigenous voters” and that it would be “especially harmful in tribal communities” where “Native American voters must overcome a disproportionate number of obstacles to participate”).

44. Despite these concerns, the Legislature passed SB 490 on April 25, 2025. Graybill Decl., Ex. Q, SB 490 Status Report at 1.

45. On May 5, 2025, the Governor signed it into law. Graybill Decl., Ex. P (“Ex. P”), SB 490 Status Report at 1.

**D. Restricting election day registration will disenfranchise Montanans.**

46. “[M]any electors would be disenfranchised without the availability of election day registration.” *MDP*, ¶ 70.

47. “This is due to a number of factors, including it is some people’s habit to register and vote on election day; many people cannot take work off to register and then again to vote; election offices are open late on election day, allowing some who are not able to take off work during regular business hours to register and vote; people who thought they were registered do not recognize there is a problem until they show up to vote on election day; some voters were inactivated from the voter rolls without their knowledge; and election day is by far the most energizing day that gets people excited to register and vote.” *Id.* ¶ 71; Ex. 2, Mayer Decl. ¶¶ 14, 27.

48. Vastly more Montanans register on election day than on an average pre-election day during the late registration period. In 2022, over 12 times as many voters registered on election day than on the average pre-election late registration day. Similarly, in 2024 nearly 8 times as many voters registered on election day than on the average pre-election late registration day. Ex. 2, Mayer Decl. ¶¶ 23–24.

49. Although Montana does not record time-stamped data on when voters register or cast their ballots on election day, research indicates that a significant percentage of voters arrive at polling places after 12 pm on election day. Ex. 2, Mayer Decl. ¶ 28.

50. In 2021, before HB 176 was enjoined, the law disenfranchised Montana voters during the November 2021 municipal election. *MDP*, ¶ 72.

51. SB 490 will have the same result: truncating election day registration will disenfranchise Montana voters who rely on it to register and vote.

52. The factual circumstances supporting the Montana Supreme Court’s conclusion in *MDP* that Montanans would be disenfranchised without election day registration have not changed. *See* Ex. B, Discovery Responses at 6–7; Ex. 2, Mayer Decl. ¶ 1; Ex. 4, Decl. of Wyatt Murdoch ¶ 9, (Jan. 16, 2026) (“Murdoch Decl.”); Ex. 6, Decl. of Ronnie Jo Horse (“Horse Decl.”), ¶¶ 16, 30–31, 33; Ex. 7, Decl. of Melissa Lonebear (“Lonebear Decl.”), ¶¶ 4–12, 15–18; Ex. 8, Decl. of Rodney Gervais Jr. (“Gervais Decl.”), ¶¶ 5–11, 14–17; Ex. 9, Decl. of Michael Dolson (“Dolson Decl.”), ¶¶ 4–15, 19–22, 25; Ex. 10, Decl. of Delina M. Cuts The Rope (“Cuts the Rope Decl.”), ¶¶ 4–9, 11–16.

53. In fact, during the floor debate on SB 490, the bill’s sponsor, Montana Senator Mike Cuffe, said that eliminating EDR hours “gives election workers a chance to do their job when they’re fresh, when they’re bright, the way it was intended to do.” Ex. C, Mar. 5, 2025 Hr’g at 9. This is the same justification offered for 2021 Montana HB 176.

54. Indeed, when asked to identify any material facts that had changed since *MDP*, the Secretary did not identify any. *See* Ex. B, Discovery Responses at 6–7.

55. In *MDP*, the Montana Supreme Court found that Montanans would be disenfranchised without election day registration because “many people cannot take work off to register and then again to vote.” *MDP*, ¶ 71; *see also id.* (“[E]lection offices are open late on election day, allowing some who are not able to take off work during regular business hours to register and vote.”).

56. This remains true in light of SB 490: people who cannot take off work both before and during election day will be disenfranchised by SB 490. Ex. 4, Murdoch Decl. ¶¶ 3, 6–9; Ex. 6, Horse Decl. ¶¶ 18–19, 25, 30; Ex. 9, Dolson Decl. ¶¶ 7, 20.

57. In fact, when SB 490 was heard before the Senate, one voter testified that election day registration is “a lifeline for folks who work [nine] to [five].” Ex. D, Mar. 26, 2025 Hr’g at 41.

58. Montanans continue to rely on election day registration in the afternoons and evenings because of their work schedules and other obligations, and they will be disenfranchised if it is eliminated during those times. Ex. 2, Mayer Decl. ¶¶ 14–16; Ex. 4, Murdoch Decl. ¶ 9; Ex. 6, Horse Decl. ¶¶ 18–19, 25, 30; Ex. 9, Dolson Decl. ¶¶ 7, 20.

59. Many Montanans live in places where the polls do not open before noon at all. In 2024, 101 of Montana’s 729 precincts did not open until noon, and five Montana counties had *no* polling places open until noon. Ex. 2, Mayer Decl. ¶¶ 43–44; *see also* Ex. 9, Dolson Decl. ¶ 20. For these Montanans, by eliminating election day registration after noon, SB 490 will eliminate election day registration altogether.

60. Moreover, adding late registration on the Saturday before an election does not offset the elimination of EDR after 12 noon on election day because some counties in Montana already allow late registration on the Saturday before election day and because many Montanans work on Saturday morning and afternoons. Election day remains the only day when voters can register or update their registration after 5:00 pm. Ex. 2, Mayer Decl. ¶ 20.

61. Additionally, even in counties where Saturday registration is new, the combined number of hours available for voter registration over the Saturday before an election (8am–5pm, or 9 hours) and on election day (7am–12pm, or 5 hours) is 14 hours. This is only 1 more hour than



the number available for federal election day registration pre-SB 490 (7am–5pm on election day, or 13 hours). Ex. 2, Mayer Decl. ¶ 21.

62. The *MDP* Court found that election day registration serves as a “final safeguard” for people “who thought they were registered” and “do not recognize there is a problem until they show up to vote on election day,” or were “inactivated from the voter rolls without their knowledge.” *MDP*, ¶ 71. Absent this protection, the Court found, “these people will be disenfranchised.” *Id.*

63. “Registration issues may occur on election day due to [Montana’s] sometimes-confusing labyrinth of election laws.” *MDP*, ¶ 64 n.11.

64. “For example, voters who have moved from one county to another since the last election and who have not updated their voter registration would be prevented from voting without election day registration unless they could make it back to their old county before polls closed.” *Id.*

65. Montanans who are unaware that there is a problem with their registration, who are not registered at all, or who were purged from the rolls without their knowledge continue to rely on election day registration to be able to vote. Ex. 2, Mayer Decl. ¶ 16; Ex. 4, Murdoch Decl. ¶ 9; Ex. 6, Horse Decl. ¶¶ 22, 30–31; Ex. 9, Dolson Decl. ¶ 14; Ex. 10, Cuts the Rope Decl. ¶ 14; Ex. 7, Lonebear Decl. ¶¶ 7, 17.

66. That SB 490 preserves morning hours for registration on election day in some precincts does nothing to address this issue, since people who are unaware of a problem with their registration will not know that they need to come to the polls within a certain window to be able to vote. Ex. 2, Mayer Decl. ¶ 16; Ex. 6, Horse Decl. ¶¶ 19, 22, 25, 28, 30–31; Ex. 9, Dolson Decl. ¶ 14, 19–21; Ex. 10, Cuts the Rope Decl. ¶ 13–14; Ex. 7, Lonebear Decl. ¶¶ 7, 15–17.

67. The *MDP* Court found that “election day registration typically increases voter turnout by 2–7% compared to not having it.” *MDP*, ¶ 71.

68. These statistics have not changed. According to current research, election day registration typically increases voter turnout by between two and seven percentage points. Ex. 2, Mayer Decl. ¶ 26.

69. The *MDP* Court found that “late” registration, wherein Montanans can “‘late register’ at a county election office any time during the 30 days prior to the election,” does not mitigate the disenfranchisement that will result from the elimination of election day registration. *MDP*, ¶ 71.

70. This is because “the number of people” who registered “on election day alone [wa]s nearly equal to the number of people who registered in the 29 days leading up to election day combined.” *MDP*, ¶ 71.

71. This remains true. In 2024, nearly 8 times as many Montanans registered on election day as compared to the average pre-election registration day. Ex. 2, Mayer Decl. ¶ 23.

72. The *MDP* Court found that eliminating election day registration “[w]ould disproportionately affect . . . first-time voters and Native Americans.” *MDP*, ¶ 73.

73. For the same reasons the Court articulated in *MDP*, SB 490 would also disproportionately disenfranchise Native American voters, Ex. 7, Lonebear Decl. ¶ 15; Ex. 10, Cuts the Rope Decl. ¶¶ 14–16; Ex. 8, Gervais Decl. ¶¶ 15–17; Ex. 9, Dolson Decl. ¶¶ 14–15, 25; Ex. 6, Horse Decl. ¶¶ 18–23, 26–27, and young voters, who seek to cast their ballots for the first time. Ex. 2, Mayer Decl. ¶¶ 18–19.

74. The *MDP* Court found that Native Americans “rely on election day registration because of the numerous issues they face in voting, including lack of access to mail, transportation,

and the long distances to county seats where they can register.” *MDP*, ¶ 73. When election day registration is unavailable, “these barriers cannot be overcome, or become too costly to overcome, and thus disenfranchise these voters.” *Id.*

75. These facts have not changed. For the same reasons the Court identified in *MDP*, Native American voters continue to rely heavily on election day registration to vote and will be disenfranchised without it. Ex. D, Mar. 26, 2025 Hr’g at 31 (representative of Native American tribes explaining that SB 490 would “disproportionately impact” the indigenous population); Ex. 7, Lonebear Decl. ¶ 15; Ex. 10, Cuts the Rope Decl. ¶¶ 14–16; Ex. 8, Gervais Decl. ¶¶ 15–17; Ex. 9, Dolson Decl. ¶¶ 14–15, 25; Ex. 6, Horse Decl. ¶¶ 18–23, 26–27.

76. “More than 60% of Montanans that utilize election day registration are under the age of 34.” *MDP*, ¶ 73.

77. This pattern still holds. Young voters continue to rely on election day registration because they have less experience with administration processes surrounding registering and voting, are more likely to be activated late in the electoral process, and are more likely to move than other voters. Ex. 2, Mayer Decl. ¶ 12. And since many young voters are also first-time voters, they are more likely than other voters to need to register for the first time. Ex. 2, Mayer Decl. ¶ 12.

**E. SB 490 increases administrative complexity and depresses turnout and voter confidence without improving the integrity of Montana elections.**

78. In *MDP*, the Secretary argued that the “reducing administrative burdens on election workers” was a compelling interest that justified HB 176. *MDP*, ¶ 75.

79. The Montana Supreme Court found that restricting election day registration does not reduce administrative burdens on election workers. *See MDP*, ¶¶ 77–79.

80. Instead, rolling back election day registration “at best shifts the work election workers must do on election day with work they do on the days leading up to the election and vice

versa.” *MDP*, ¶ 76. “[R]egardless of when registration ends, election workers still have the same amount of work. . . . The only thing that changes is when they do this work.” *MDP*, ¶ 77.

81. Ultimately, eliminating opportunities for election day registration “decreases election administrators’ work only if voters are disenfranchised.” *MDP*, ¶ 79; Ex. 2, Mayer Decl. ¶ 47.

82. Moreover, when election day registration is restricted, “otherwise qualified voters who show up ready to vote may respond poorly to election workers who explain the new law to them and why they cannot vote in that election—this takes time and increases stress.” *MDP*, ¶ 78.

83. The same reasoning applies equally to SB 490. Ex. 2, Mayer Decl. ¶ 42.

84. In fact, SB 490 does not decrease burdens for election officials at all, because election day registration remains available after noon for state elections. Instead, SB 490 simply adds new burdens for election workers that HB 176 did not.

85. Before SB 490, county officials could—and did—print a single ballot that included both federal and state elections. Graybill Decl., Ex. F, Sec’y of State Ballot Form and Uniformity Guide at 1–2, 5.

86. Despite testimony from the Secretary’s office assuring legislators that everything would “be all [on] one ballot,” Ex. D, Mar. 26, 2025 Hr’g at 19, county officials will have to print two separate ballots to administer SB 490, one for state elections and one for federal elections. *See* Ex. B, Discovery Responses at 6 (“County officials will not deliver a federal ballot to anyone registering after noon on election day. They will, however, hand the voter a state election ballot.”).

87. As a result, SB 490 will increase the burden of preparing ballots and conducting mandatory logic and accuracy testing in the lead up to and on Election Day. Ex. 2, Mayer Decl. ¶ 31.

88. Logic and accuracy testing “analyzes a voting system’s ability to properly locate each ballot position for every ballot style and ensures a tabulator’s ability to accurately compile returns from each ballot.” Graybill Decl., Ex. N (“Ex. N”), Uniform Ballot and Voting Systems Procedures Guide at 14. Counties using voting systems must conduct at least three separate logic and accuracy tests on their machines in the lead up to the election, including one on election day itself. Ex. N, Uniform Ballot and Voting Systems Procedures Guide at 15–16.

89. Conducting these tests requires election administrators to design and print test decks for every ballot style that will be used during the election. Ex. N, Uniform Ballot and Voting Systems Procedures Guide at 16.

90. The number of ballots in a test deck will vary based on the contests, candidates. A test deck must include a ballot where each candidate receives at least one vote for every ballot style. As an example, creating a test deck for a single precinct with four races and eleven candidates could require designing and printing least fifteen different ballots. Ex. N, Uniform Ballot and Voting Systems Procedures Guide at 17.

91. SB 490 will significantly increase the time and expense of designing and printing test decks by at least doubling the number of ballots needed to complete the test deck. Ex. B, Discovery Responses at 6 (SB 490 will require counties to create and distribute both federal and state-only ballots).

92. By increasing the number of test decks that election administrators must run, SB 490 will also increase the time spent actually conducting the tests. including on election day. Ex. N, Uniform Ballot and Voting Systems Procedures Guide at 17–20 (describing process of running logic and accuracy testing).

93. Moreover, election workers are required to continue to register voters even after noon on election day because registration for state elections remains open. Every eligible voter denied a federal ballot will still be entitled to register and vote in state elections. The only change will be whether the voter is handed a full ballot or just a state ballot after completing registration. Ex. 2, Mayer Decl. ¶¶ 34–35; Ex. B, Discovery Responses at 6.

94. SB 490 creates a new consequence for voters who register after 12 pm—disenfranchisement from federal elections—while simultaneously increasing the time and burden of administering elections. *See supra*, ¶¶ 46–51, 55–59, 62–66, 82–93.

95. SB 490 also does not decrease the time and burden it takes for election workers to register voters. *See MDP*, ¶ 78 (because counties “still registered voters who came in on election day so that they could vote in the next election, . . . the administrative burden was the same or higher, the law just had the net result of decreasing voters”).

96. Instead, SB 490 will make it harder for election officials to conduct election day registration. Under SB 490, elections officials will now need to monitor the precise time at which a voter is registered and then offer them a different ballot depending on whether they registered before or after 12pm. Ex. 2, Mayer Decl. ¶ 38; Ex. B, Discovery Responses at 6. (“County election offices will monitor late registration for the federal ballot. County election officials will not deliver a federal ballot to anyone registering after noon on election day. They will, however, hand the voter a state election ballot.”).

97. SB 490 will thus increase the time expended and administrative burden borne by election workers on election day.

98. The Secretary asserted in discovery that “each county election office has their practices and methodology in place to ensure the implementation and enforcement of SB 490,”

Ex. B, Discovery Responses at 6. But election administrators in some of Montana’s largest counties confirmed that no such practices and methodologies exist, and that the Secretary of State has not provided election administrators with any guidance on how to implement separate ballots on election day. Graybill Decl., Ex. K, Lewis & Clark RTK Responses at 1; Graybill Decl., Ex. L, Missoula RTK Responses at 2; Graybill Decl., Ex. M, Gallatin RTK Responses at 1.

99. This system will also generate confusion and discontent among voters, especially those who are turned away under the new rules. Ex. 2, Mayer Decl. ¶¶ 31, 36–38, 47; *see also* Ex. D, Mar. 26, 2025 Hr’g at 28, 33–37 (warning that SB 490 would cause confusion). For example, voters will now confront separate election day schedules: the election day deadline for federal election day registration (12pm), and the state election day registration hours and hours for most polling places (7am – 8pm), exacerbating voter confusion. Ex. 2, Mayer Decl. ¶ 45. Additionally, because SB 490 provides that a person can register on election day only if an election official “receives and verifies” their registration “prior to noon,” officials may turn away voters who were able to and endeavored to comply with the noon cutoff, including those who arrived at the polls before noon. Ex. 2, Mayer Decl. ¶¶ 36–37.

100. Because a bad experience at the polls can discourage a prospective voter from participating in subsequent elections, this system will also depress future turnout and undermine confidence among voters who are unable to register for a federal election on election day. Ex. 2, Mayer Decl. ¶ 48.

101. The legislature was aware of these likely consequences when it enacted SB 490. An attorney from Crowley Fleck, the law firm that defended HB 176 in the previous litigation, testified that SB 490 would create “more election costs” for election administrators and “create[] . . . much more confusion” for voters. Ex. D, Mar. 26, 2025 Hr’g at 26–29.

102. Addressing voter confusion will require public education from officials, including on Election Day, as well as individualized explanations to voters who have questions or concerns about which elections they may vote in and why, increasing the time required for voter registration. Ex. 2, Mayer Decl. ¶ 42; Ex. D, Mar. 26, 2025 Hr’g at 28, 37.

103. In advocating for SB 490, Senator Cuffe contended that allowing election day registration until the polls close caused long hours and fatigue among election workers, making them susceptible to mistakes. Ex. C, Mar. 5, 2025 Hr’g at 6–10.

104. The bill’s other proponents in the Legislature, including Elections Director Austin James, also argued it was necessary to reduce burdens on election workers and suggested that the burden of election day registration contributed to counting errors. *See* Ex. D, Mar. 26, 2025 Hr’g at 15; *see also, e.g., id.* at 21–24.

105. The bill’s proponents did not offer any other justification for the law other than the supposed easing of burdens on election administrators. *See generally* Ex. D, Mar. 26, 2025 Hr’g; Ex. H, Mar. 1, 2025 Hr’g.

106. During the legislative hearings, SB 490’s proponents did not identify any documented instances of errors attributable to election day registration. *See generally* Ex. D, Mar. 26, 2025 Hr’g; Ex. H, Mar. 1, 2025 Hr’g.

107. The district court in *MDP* found that eliminating election day registration does not reduce lines or wait times on Election Day. *See Mont. Democratic Party v. Jacobsen* (“*MDP Trial Court Op.*”), No. DV 21-0451, 2022 WL 16735253, ¶ 514–15 (Mont. Dist. Sep. 30, 2022).

108. In most counties, election day registration occurs at a central location and not at polling places. *See id.*



109. Where election day registration does occur at polling places, there are separate lines for voters who are already registered and those that need to register on election day. *See id.*

110. This structure is still in place. Graybill Decl., Ex. R, Montana Election Handbook at 68.

111. The Secretary of State has no evidence that election day registration contributes to long lines on Election Day. *MDP Trial Court Op.*, ¶ 520; Ex. B, Discovery Responses at 6–7.

112. Plus, the confusion related to the new, bifurcated system SB 490 imposes will increase the time it takes for election workers to explain the rules to voters, increasing lines and wait times. Ex. 2, Mayer Decl. ¶¶ 28–29.

113. Administering separate registration and ballot rules of federal and state elections requires additional procedures by election officials and increases both the risk of voter confusion and the complexity of election administration. Ex. 2, Mayer Decl. ¶¶ 35–42.

114. With election day registration in place for all elections for the entirety of election day, “the election worker does not have to ask any questions or spend any time investigating whether an individual may still register. Rather, any qualified voter may register and vote on election day,” *MDP*, ¶ 78, without determining what time they registered and or in which elections they may vote.

115. Montana has failed to pursue alternative means of reducing election workers’ burdens that would not disenfranchise qualified voters.

116. The *MDP* Court found that, if Montana truly did wish to reduce the burdens on election workers, other approaches were readily available, including providing better training, better equipment, streamlined protocols, and more election workers. *MDP*, ¶ 79.

117. These options are still available, but the State has not pursued them. Ex. 2, Mayer Decl. ¶ 32.

118. Another way to reduce the burdens on election workers related to election day registration is to register more eligible voters prior to election day, including through an automatic voter registration program. Ex. D, March 26, 2025 Hr'g at 36 (Conner Fitzpatrick testifying that other means exist to reduce the burden on election workers while balancing the important rights of voters, including implementing automatic registration).

119. In the same session in which the Legislature passed SB 490, the Legislature rejected HB 187, a bill endorsed by election workers that would have addressed concerns about workers' fatigue on election day by allowing election workers to pause tabulation with the permission of the Secretary to alleviate exhaustion during the counting process. Graybill Decl., Ex. I, Daily Montanan Coverage of HB 187; Graybill Decl., Ex. J, HB 187; Ex. P, HB 187 Status Report.

120. SB 490 does not improve the integrity of Montana elections, and the State has not identified a single case of a voter relying on election day registration to submit a fraudulent registration between 2008 and 2024, over a period in which nearly 80,000 Montanans utilized EDR. Ex. 2, Mayer Decl. ¶ 50.

121. And Montanans already have confidence in their elections. In fact, according to the Survey on the Performance of American Elections, 91.4% of Montanans say they are either "very confident" or "somewhat confident" that votes were counted fairly during the 2024 election. Ex. 2, Mayer Decl. ¶ 49.

122. The district court in *MDP* found after trial that there was no evidence that eliminating election day registration would deter potential voter fraud or improve public confidence in elections. *See MDP Trial Court Op.*, ¶ 314.

123. The Montana Supreme Court has already found that Secretary Jacobsen has identified just “two cases in the last several decades regarding voter fraud in Montana,” and “[n]one of the cases had anything to do with election day registration.” *MDP*, ¶ 105.

124. The current record also includes no evidence that restricting election day registration would deter voter fraud or improve public confidence. *See* Ex. B, Discovery Responses at 5.

#### **PLAINTIFF MFPE’S STATEMENT OF UNDISPUTED MATERIAL FACTS**

125. The Montana Federation of Public Employees (“MFPE”) is Montana’s largest union of dedicated public employee, representing tens of thousands of members. Ex. 3, MFPE Decl. ¶ 3. MFPE’s membership is diverse, representing every corner of Montana’s electorate, including new workers entering the workforce, retirees, and Montanans with disabilities. Ex. 3, MFPE Decl. ¶ 3.

126. Since 2020, many MFPE members have relied on election day registration in order to register and cast a ballot. Ex. 3, MFPE Decl. ¶ 4. For example, one hundred and thirty-nine MFPE members utilized election day registration in the 2020 statewide general election. Ex. 3, MFPE Decl. ¶ 4. Of those members, 22 updated their registration to a new county, 74 updated their registration to a new precinct, and 43 registered or updated their voter registration for other reasons. Ex. 3, MFPE Decl. ¶ 4.

127. MFPE members also relied on election day registration during the 2022 and 2024 elections to exercise their right to vote. Ex. 3, MFPE Decl. ¶ 5.

128. Among the MFPE members who rely on election day registration are first time Montana voters and working Montana voters, including union members. Ex. 3, MFPE Decl. ¶ 6.

129. Former MFPE member, Cullen Hinkle, for example, was a first time Montana voter during the 2020 election. Ex. 3, MFPE Decl. ¶ 8; Ex. 5, Decl. of Cullen Hinkle ¶¶ 5–6 (Jan. 18, 2026) (“Hinkle Decl.”). He was a teacher who had recently moved from Louisiana. Hinkle Decl. ¶¶ 1, 6. Because he worked until around 7:00 pm each day, he did not have time to visit his local election office prior to election day. Ex. 3, MFPE Decl. ¶ 8; Ex. 5, Hinkle Decl. ¶ 2. If election day registration had ended at noon during the November 2020 election, Mr. Hinkle would have been prevented from voting. Ex. 3, MFPE Decl. ¶ 8; Ex. 5, Hinkle Decl. ¶ 8.

130. In many Montana counties, election day is the only day when county election officers are open outside of regular business hours. Ex. 3, MFPE Decl. ¶ 7. For MFPE members who work during business hours, election day may therefore be the only opportunity they have to update their voter registration or register to vote because election offices are open that day until 8:00 p.m. Ex. 3, MFPE Decl. ¶ 7.

131. Montanans who have non-traditional work schedules—such as MFPE members who are teachers who coach sports teams, law enforcement officers, and state prison and hospital employees—regularly work on Saturdays and cannot take time away from work to visit their county elections office. Ex. 3, MFPE Decl. ¶ 11.

132. MFPE member Wyatt Murdoch, for example, is a teacher who works into the evening and has relied on election day registration in past elections to register and vote after work. Ex. 3, MFPE Decl. ¶¶ 10–12; Ex. 4, Murdoch Decl. ¶ 1–7. If election day registration had ended at noon during the November 2020 election, Mr. Murdoch would have been prevented from voting. Ex. 4, Murdoch Decl. ¶ 8.

133. Mr. Murdoch continues to have a work schedule that requires him to be at work until after 12 pm on election day. Outside of his teaching duties, he also coaches sports and advises

student clubs, both of which require time after school and on weekends for meetings and events. As a result, Mr. Murdoch would be unable to address any unexpected issues with his registration prior to noon on election day. Ex. 4, Murdoch Decl. ¶ 9.

134. MFPE members who discover that their registration contains government-created errors such as a misspelled name or address, MFPE members who have their voter registration inactivated without their knowledge, and MFPE members who are members of the disability community and are unable to register by mail also rely on election day registration. Ex. 3, MFPE Decl. ¶ 12.

135. Registering its members to vote and ensuring they can cast a ballot is central to MFPE's mission. Ex. 3, MFPE Decl. ¶ 14.

136. MFPE has worked to support election day registration since it was enacted in 2005, helped lead the successful effort to stop its repeal in 2014, and worked to oppose HB 176 in 2021. Ex. 3, MFPE Decl. ¶ 14.

137. MFPE must again expend resources to ensure that its members are able to register, remain registered, and ultimately cast their ballots. Ex. 3, MFPE Decl. ¶ 16.

138. MFPE is currently developing a plan to update its current voter registration mailers to ensure that its membership is aware that election day registration will no longer be available after 12:00 pm. Ex. 3, MFPE Decl. ¶ 16.

139. MFPE is also developing a targeted communications campaign to reach members with non-traditional work schedules to assist them in developing a plan to ensure they are not disenfranchised. Ex. 3, MFPE Decl. ¶ 16.

140. The time and resources that MFPE must expend on these efforts will detract from MFPE's ability to support its Decennial Study Leadership Committee, which focuses on talking to

legislators and organizing town halls to discuss whether the school funding formula satisfies Montana's constitutional obligation to fulfill the educational potential of every student through a system of public schools. Ex. 3, MFPE Decl. ¶ 17.

141. The Decennial Study is important to MFPE's mission because the majority of its members are school employees, and the volatility in per-student funding impacts the ability of MFPE's members to hire educators and to access stable employment, which leads to gaps in student learning. Ex. 3, MFPE Decl. ¶ 17.

#### **NATIVE AMERICAN PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS**

142. The Fort Belknap Indian Community is a sovereign, federally recognized tribe with more than 8,660 members. The reservation is intersected by Blaine and Phillips counties. Ex. 10, Cuts the Rope Decl. ¶ 3.

143. SB 490 makes participation in elections by Fort Belknap members substantially more difficult. Due to the disproportionate barriers placed on Fort Belknap voters by SB 490, Fort Belknap members' attempts to vote are more likely to be unsuccessful and Fort Belknap's political power and ability to advocate for Fort Belknap's needs would be reduced by the suppressive effects of this law. Fort Belknap would also be denied full participation in the state and federal systems through its diminished political power. Ex. 10, Cuts the Rope Decl. ¶ 16. The limitation on EDR will also force Fort Belknap to spend additional resources to provide services to voters. Ex. 10, Cuts the Rope Decl. ¶ 15.

144. The Northern Cheyenne Tribe is a sovereign, federally recognized tribe with about 12,385 members. The reservation is intersected by Big Horn and Rosebud counties. Ex. 7, Lonebear Decl. ¶ 3.

145. SB 490 makes participation in elections by Northern Cheyenne members substantially more difficult. Due to the disproportionate barriers placed on Northern Cheyenne voters by SB 490, Northern Cheyenne members' attempts to vote are more likely to be unsuccessful and Northern Cheyenne's political power and ability to advocate for Northern Cheyenne's needs would be reduced by the suppressive effects of this law. Northern Cheyenne would also be denied full participation in the state and federal systems through its diminished political power. Ex. 7, Lonebear Decl. ¶ 18.

146. The Blackfoot Nation is a federally recognized tribe with more than 17,000 enrolled members. The reservation is intersected by Glacier and Pondera counties. Ex. 8, Gervais Decl. ¶ 4.

147. SB 490 makes participation in elections by Blackfoot members substantially more difficult. Due to the disproportionate barriers placed on Blackfoot voters by SB 490, Blackfoot members' attempts to vote are more likely to be unsuccessful and Blackfoot's political power and ability to advocate for Blackfoot's needs would be reduced by the suppressive effects of this law. Blackfoot would also be denied full participation in the state and federal systems through its diminished political power. Ex. 8, Gervais Decl. ¶ 17.

148. The Confederated Salish and Kootenai Tribes of the Flathead Reservation ("CSKT") is a federally recognized tribe with 7,766 enrolled members and about 5,200 members living on the Flathead Reservation. CSKT members comprise about 17% of the Flathead Reservation population because the reservation was open to homesteading against Tribal will. The reservation is intersected by Lake, Sanders, Flathead, and Missoula counties. Ex. 9, Dolson Decl. ¶ 3.

149. SB 490 makes participation in elections by CSKT members substantially more difficult. Due to the disproportionate barriers placed on CSKT voters by SB 490, CSKT members' attempts to vote are more likely to be unsuccessful and CSKT's political power and ability to advocate for CSKT's needs would be reduced by the suppressive effects of this law. CSKT would also be denied full participation in the state and federal systems through its diminished political power. Ex. 9, Dolson Decl. ¶ 25.

150. Western Native Voice is a domestic non-profit organization that organizes and advocates in order to build Native leadership within Montana. Ex. 6, Horse Decl. ¶ 4. It is a membership organization with over 10,000 members across the state, including Native Americans who will be negatively impacted by SB490's limitation on EDR. Ex. 6, Horse Decl. ¶ 5. Western Native Voice conducts get-out-the-vote activities on all seven reservations and in Native American communities in the cities of Billings, Great Falls, and Missoula. Ex. 6, Horse Decl. ¶¶ 7–8.

151. Western Native Voice engages in robust election day activities, including door knocking, ballot assistance, and providing rides to the county seat for EDR. Providing rides to the county seat is a key component of the organization's strategy to increase turnout. Ex. 6, Horse Decl. ¶¶ 19–28. Many Native American voters traditionally vote on Election Day and so need to rely on EDR to address any issue with their registration that day. Ex. 6, Horse Decl. ¶ 21.

152. As part of its GOTV efforts, Western Native Voice has hired hundreds of individuals to work exclusively on Election Day. Ex. 6, Horse Decl. ¶ 23. SB 490 is already impacting Western Native Voice's operations. In response to SB490, Western Native Voice expects that it will no longer be able to employ certain organizers only on Election Day as the opportunity for EDR has been so severely curtailed. Instead, it will be forced to spend additional resources to hire organizers earlier in the election cycle in order to mobilize turnout. Ex. 6, Horse Decl. ¶ 32. SB490 will also



require Western Native Voice to increase its staff and number of cars in order for the organization to even try to serve the same number of voters in the severely limited number of hours during which EDR is now available. Ex. 6, Horse Decl. ¶ 33.

153. Poverty rates on these Native American reservations are much higher than the statewide average. The poverty rate is 36% on the Fort Belknap Reservation and more than 40% on the Northern Cheyenne Reservation, both of which are more than double the state rate. Ex. 10, Cuts the Rope Decl. ¶ 6; Ex. 7, Lonebear Decl. ¶ 5. The poverty rate among the Blackfeet Nation is about a third higher than the state average Ex. 8, Gervais Decl. ¶ 10. About 19% of the Flathead Reservation population lives in severe poverty. Ex. 9, Dolson Decl. ¶ 6.

154. Given the extreme poverty on reservations, many Native Americans do not own or have access to a reliable vehicle, and those who do cannot always afford gas money. Ex. 10, Cuts the Rope Decl. ¶¶ 6, 8; Ex. 7, Lonebear Decl. ¶ 6; Ex. 8, Gervais Decl. ¶ 10; Ex. 9, Dolson Decl. ¶ 6; Ex. 6, Horse Decl. ¶¶ 16, 22.

155. There is an extreme housing shortage on many Native American reservations in Montana, resulting in overcrowding and long wait lists for housing. There are also high rates of homelessness, near homelessness, and housing mobility, all of which can make it more difficult to maintain a voter registration. Ex. 10, Cuts the Rope Decl. ¶ 9; Ex. 7, Lonebear Decl. ¶ 8; Ex. 8, Gervais Decl. ¶ 11; Ex. 9, Dolson Decl. ¶ 4; Ex. 6, Horse Decl. ¶ 17.

156. Many homes on Native American reservations in Montana lack internet access, and not all tribal members have access to devices that connect them to the internet. For example, in many communities on the Northern Cheyenne reservation, as few as 8% of homes have reliable internet services all. Ex. 10, Cuts the Rope Decl. ¶ 7; Ex. 7, Lonebear Decl. ¶ 10; Ex. 8, Gervais Decl. ¶ 6.

157. Particularly by November, reservations in Montana often receive harsh winter weather such as low temperatures and heavy snow and wind. For example, there was a winter storm on the Northern Cheyenne reservation on Election Day in November 2024. Following a storm, tribal members are often not able to leave their homes until after noon based on the timing of plowing services. Ex. 10, Cuts the Rope Decl. ¶ 11; Ex. 7, Lonebear Decl. ¶¶ 11–12; Ex. 8, Gervais Decl. ¶ 9; Ex. 9, Dolson Decl. ¶ 9.

158. Native Americans living on reservations in Montana must often travel long distances to locations that permit EDR. Fort Belknap voters must travel approximately 128 miles roundtrip to register at the county seat, some CSKT members must travel about 116 miles roundtrip, some Northern Cheyenne voters must travel approximately 115 miles roundtrip, Blackfeet members must travel more than 110 miles roundtrip. Ex. 10, Cuts the Rope Decl. ¶ 14; Ex. 7, Lonebear Decl. ¶ 14; Ex. 8, Gervais Decl. ¶ 13; Ex. 9, Dolson Decl. ¶ 12. While some counties do have satellite voting locations on reservation, they are generally staffed for limited days and hours, and they can still be located quite far from some of the rural communities on the reservations. Ex. 6, Horse Decl. ¶ 14.

159. Because of these barriers, many Native Americans residing on rural reservations rely on EDR so that they can make only one trip to the polling center to register and vote on the same day. Ex. 6, Horse Decl. ¶ 18.

160. Tribal members will often arrive at a polling place believing that they are registered, but do not realize that they may need to update their voter registration or travel to a difficult location in order to vote. Ex. 10, Cuts the Rope Decl. ¶ 14; Ex. 7, Lonebear Decl. ¶ 17; Ex. 9, Dolson Decl. ¶ 14; Ex. 6, Horse Decl. ¶¶ 21, 30. Northern Cheyenne members in particular commonly have issues with misspellings or incorrect transcriptions of their names given

unfamiliarity with Native names, which can lead to the requirement that these members re-register when they arrive at the polls. Ex. 7, Lonebear Decl. ¶ 9.

161. Tribal members overwhelmingly arrive at polling places on the reservation after noon on Election Day. Ex. 10, Cuts the Rope Decl. ¶ 13; Ex. 7, Lonebear Decl. ¶ 15; Ex. 9, Dolson Decl. ¶¶ 7, 19–21; Ex. 6, Horse Decl. ¶ 28.

162. At the Missoula and Sanders Counties’ satellite offices that serve CSKT members, very few members showed up in the morning to vote in the 2022 primary election. Consequently, for the 2022 general election and 2024 elections, those offices rescheduled to open later, at either 11:30 AM or 12:30 PM. Ex. 9, Dolson Decl. ¶ 20.

163. In the 2024 general election, at the Gray Wolf satellite office and polling place that serves CSKT members, Missoula County issued 29 ballots before 12 PM and 122 ballots after 12 PM. Ex. 9, Dolson Decl. ¶ 21.

164. Fort Belknap and CSKT work in coordination with groups like Western Native Voice to assist in get-out-the-vote efforts, including rides to the polls for Native American voters. Ex. 10, Cuts the Rope Decl. ¶ 15; Ex. 9, Dolson Decl. ¶¶ 23–24.

165. Western Native Voice provides rides to county seats on Election Day so the voters they serve can access EDR. Ex. 6, Horse Decl. ¶¶ 22–28. In 2024 alone, 82% of the rides Western Native Voice provided to the county seat were after noon. Ex. 6, Horse Decl. ¶ 27.

## **YOUTH PLAINTIFFS’ STATEMENT OF UNDISPUTED MATERIAL FACTS**

### **Senate Bill 276**

#### **A. Eligible Montana students have long relied on their student IDs for voting.**

166. Montana has required some form of voter ID for in-person voting since 2003. Section 13-13-114(1)(a), MCA (2003).

167. Before 2021, Montana voters could vote by providing either photo ID, including a driver’s license or student ID, or by providing non-photo identification such as “a current utility bill, bank statement, or paycheck that had their name and address on it.” *MDP*, ¶ 8.

168. Thus, for almost two decades, Montana students were entitled to use their student ID for voting. *Id.*

**B. The Montana Legislature has previously attempted to restrict permissible student IDs.**

169. In 2021, the Montana Legislature passed SB 169. *Id.*

170. SB 169 created a two-tier photo ID system to verify that a registered Montana voter “is who they say they are and that they are registered to vote.” *Id.*; *see also* Section 13-13-114(1)(c), MCA (describing purpose of providing photo ID as giving an election judge “information . . . sufficient to verify a person’s identity and eligibility to vote.”); *MDP*, ¶ 8 (“The question of whether a person is actually eligible to vote . . . is a function of the registration process”).

171. “SB 169 changed these requirements by listing certain acceptable ‘primary’ photo IDs that would suffice by themselves, such as a Montana driver’s license, U.S. passport, or a Montana concealed carry permit” while “[o]ther IDs, such as postsecondary education photo IDs, were moved into a class of ‘secondary’ IDs that required an elector to show that ID plus an additional document such as a utility bill, bank statement, or government document that lists the person’s current name and address.” *MDP*, ¶ 8.

172. In response, multiple plaintiffs, including Forward Montana Foundation and MontPIRG, filed suit alleging that SB 169 violated the Montana State Constitution. *Id.* ¶ 3.

173. Just as with HB 176, these claims were part of *Montana Democratic Party v. Jacobsen*. *Id.*

174. After trial, the district court in *Montana Democratic Party v. Jacobsen* concluded that SB 169 violated the Montana Constitution, and the Montana Supreme Court affirmed. *Id.* ¶¶ 4, 107–119.

175. The Court held that “[e]xcluding student IDs from the list of acceptable photo IDs impose[d] a burden on student voting and the Secretary [did] not establish[] that it [wa]s necessary for any legitimate government purpose, much less that it [wa]s more important than the right to vote. Nor [wa]s it a reasonable restriction of voter’s rights.” *Id.* ¶ 119.

176. The Court also found that the legislative record “reflect[ed] that some legislators” introduced SB 169 “to discourage students from voting.” *Id.* ¶ 110.

**C. The Montana Legislature enacts SB 276 as an updated version of SB 169.**

177. Senator Cuffe introduced SB 276 as a “much shorter, concise version” of SB 169. Mont. Leg. S. State Admin. Hr’g., 16:23:50–16:27:14 (Feb. 19, 2025).<sup>3</sup> He explained that the purpose of his bill was to clean up a problem with SB 169, which was that it required student ID holders to also provide proof of residence when they vote. *Id.* Because proof of residence is established at the registration stage, he asserted that he was trying to remove the requirement that people using student IDs must provide proof of residence again when voting, so that “all you have to do is have an ID card that shows your name and your picture, shows who you are.” *Id.* Senator Cuffe confirmed that SB 276 did not address eligibility factors, just identity. *Id.*

178. Austin James, Elections Director for the Secretary of state agreed that photo ID for voting serves a different state interest than proving eligibility for voter registration. Mont. Leg. S. State Admin. Hr’g., 16:30:00–16:30:17 (Feb. 19, 2025).

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<sup>3</sup> Available at <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20250219/-1/52563>.

179. Instead of simply restoring the previous language allowing voters to present a secondary or postsecondary education photo ID, SB 276 only allows voters to present certain student IDs for voting.

180. Specifically, SB 276 adds “a student photo identification card issued by the Montana university system or a school that is a member of the national association of intercollegiate athletics” to the list of primary IDs. Section 13-13-114, MCA.

181. Director James asserted that the reason to exclude secondary IDs was to avoid having eighteen-year-old (or older) voters rely on their out-of-date elementary school IDs for voting. Mont. Leg. S. State Admin. Hr’g., 16:32:50–16:33:11 (Feb. 19, 2025).

182. But because the bill also required that voter IDs be “current, valid, and readable,” adding secondary education cards would not require election administrators to verify a voter’s identity based on an out-of-date elementary school photo ID. Section 13-13-114(1)(a), MCA.

183. The Montana University System includes 16 state run universities and colleges. Montana University System, Colleges and Universities, <https://perma.cc/K6KU-9U2L> (last visited Jan. 20, 2026); *cf.* Section 20-25-201, MCA. It does not include tribal colleges. *Id.*

184. Montana students who do not attend one of these sixteen colleges may only use their student ID as a primary form of voter ID if they attend a school that is part of the National Association of Intercollegiate Athletics (NAIA), such as Carroll College. *See* Nat’l Assoc. of Intercollegiate Athletics, *2025–2026 Member Institutions*, [https://www.naia.org/schools/files/2025-2026\\_NAIA\\_Institutions.pdf](https://www.naia.org/schools/files/2025-2026_NAIA_Institutions.pdf) (last visited Jan. 20, 2026).

185. For example, a Montana voter who attends school at the University of Idaho but returns home to vote will not be able to use their student photo ID for voting unless they had additional proof of residence, because the University of Idaho is not a member of the NAIA. Nat’l

Assoc. of Intercollegiate Athletics, 2025–2026 Member Institutions, [https://www.naia.org/schools/files/2025-2026\\_NAIA\\_Institutions.pdf](https://www.naia.org/schools/files/2025-2026_NAIA_Institutions.pdf) (last visited Jan. 20, 2026).

186. By contrast, if that same Montana voter attended Lewis and Clark State College, they would be able to use their student photo ID for voting, because LCSC is a member of the NAIA. Nat'l Assoc. of Intercollegiate Athletics, 2025–2026 Member Institutions, [https://www.naia.org/schools/files/2025-2026\\_NAIA\\_Institutions.pdf](https://www.naia.org/schools/files/2025-2026_NAIA_Institutions.pdf) (last visited Jan. 20, 2026).

**D. SB 276 increases administrative complexity without improving the integrity of Montana elections.**

187. Prior to SB 276, election administrators could accept any student photo ID for verifying someone's identity.

188. SB 276 increases the burden on election officials for verifying a voter's identity by requiring that workers determine whether a student ID is issued by a Montana University System School or a school that is a member of the NAIA before they accept it for voting. Section 13-13-114, MCA.

**E. SB 276 removes the declaration fail-safe option for voters who cannot present photo ID for voting.**

189. Voters who cannot present an acceptable photo ID for voting are nonetheless entitled to vote a provisional ballot. Section 13-13-114(2), MCA.

190. Prior to SB 276, a voter who cast a provisional ballot without an acceptable ID could cure her ballot by executing a sworn declaration under penalty of perjury stating that she faces a reasonable impediment to procuring the necessary ID. Section 13-15-107, MCA (2021).

191. SB 276 removed the reasonable impediment declaration fail-safe for voters who cast a ballot without acceptable ID. Section 13-15-107, MCA (2025).

192. As a result, voters who cannot present ID for voting because their ID was lost or stolen or they lack the necessary documents to obtain an identification; due to their work schedule, a disability, illness, or family responsibilities; or because they have applied for but not yet received their ID, will be disenfranchised under SB 276. *Compare* Section 13-15-107, MCA (2021) *with* Section 13-15-107, MCA (2025).

#### **F. Youth Plaintiffs**

193. Forward Montana is a nonpartisan, not-for-profit membership organization that is dedicated to educating, engaging, and organizing young Montanans to shape their democracy to improve their lives and the lives of their fellow Montanans. Empowering young Montanans to exercise their civic rights through voting is at the heart of Forward Montana’s work. Ex. 11, Decl. of Alice. Boyer ¶¶ 3–4, 7, (Jan. 20, 2026) (“Boyer Decl.”)

194. Forward Montana’s members, and the young voters it works with, are often new voters who are registering and voting for the first time. This population tends to move often as they transition from high school to college and beyond. Ex. 11, Boyer Decl. ¶¶ 9–10.

195. Forward Montana’s members and the young voters it works with regularly use election-day registration to register as new voters or update their registration. Ex. 11, Boyer Decl. ¶ 11.

196. Forward Montana regularly encounters voters who make the decision to register and vote on election day. Cutting off election day registration for federal elections at noon on Election Day reduces Forward Montana’s ability to turn out new voters, including students and those who have recently turned eighteen. Ex. 11, Boyer Decl. ¶¶ 12–13.

197. Student ID is the only form of no-cost ID available to students. Many of Forward Montana’s members, and the young voters it works with, regularly rely on their student IDs when



asked to provide identification in ordinary life. This includes high school students who rely on their high school IDs for identification. Ex. 11, Boyer Decl. ¶¶ 14, 19.

198. Some of Forward Montana’s members, and the young voters it works with, rely on the declaration fail-safe to provide voter ID when they do not otherwise possess an acceptable form of ID. Ex. 11, Boyer Decl. ¶ 15.

199. SB 490 and SB 276 will require Forward Montana to modify its extensive voter registration and GOTV efforts to ensure its members and other youth voters will be able to successfully cast both a federal and state ballot. This includes modifying information Forward Montana provides to voters, as well as the training and materials Forward Montana provides to members and volunteers. As a result, Forward Montana will incur new costs due to SB 490 and SB 276. This will require Forward Montana to divert resources away from other core activities. Ex. 11, Boyer Decl. ¶¶ 23–28.

200. MontPIRG is a student-directed nonpartisan organization headquartered in Missoula, MT, with operations in Bozeman, Butte, and Billings. MontPIRG’s mission is to effect tangible, positive change through educating and empowering the next generation of civic leaders. As part of this mission, MontPIRG is committed to organizing to ensure that every young person’s voice is heard on election day and eliminate barriers between young people and the constitutional right to vote. MontPIRG has registered young voters in Montana for 40 years. Ex. 12, Declaration of Dean McGovern (Jan. 20, 2026) (“McGovern Decl.”), ¶¶ 3–5.

201. SB 490 and SB 276 harm MontPIRG and its mission to register and turn out young voters because both laws will require MontPIRG to expend significant resources to develop new voter education materials, engage in campaigns to reeducate young voters with whom it has previously engaged, and conduct expanded get out the vote efforts, including encouraging voters

who still need to register to vote to arrive at polling places before noon on election day in order to vote a full ballot. Ex. 12, McGovern Decl. ¶ 12.

202. MontPIRG regularly encounters students during GOTV drives that have not yet registered but wish to vote, including after noon on election day. Between class schedules, unpredictable work schedules, and extracurricular commitments—many young voters are unable to register in advance of election day or get to the polls before 12 p.m. on election day. MontPIRG will need to tell youth voters, that they will not be able to vote in federal elections if they are not yet registered, and do not arrive at their polling location until after 12 p.m. Ex. 12, McGovern Decl. ¶¶ 14–15.

203. As part of MontPIRG’s GOTV efforts, they also educate youth voters about what they need to bring with them to the polls to cast their ballots. And because of Senate Bill 276 (“SB 276”), we will have to inform youth voters that they cannot be guaranteed that their student IDs can be used to verify their identity, unless they also provide an additional form of identification, many of which young voters do not possess. Students, for example, who may attend universities out-of-state but remain residents of Montana, are unlikely to possess NAIA IDs. And all young voters may lack utility bills, bank statements, and pay checks with their current Montana address. Ex. 12, McGovern Decl. ¶ 16.

204. As a result of SB 490 and SB 276, MontPIRG will be forced to modify its voter registration and GOTV efforts. Because MontPIRG will have to spend extensive resources reeducating young voters about limited election day registration hours and new ID requirements, it will be required to divert resources from other critical organizational activities throughout the state, including educating voters about candidates and ballot initiatives. Ex. 12, McGovern Decl. ¶¶ 17–18.

Dated: January 22, 2026

Respectfully submitted,

/s/ Raph Graybill

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# EXHIBIT 1

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**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

Montana Federation of Public Employees,  
  
Plaintiff,

v.

State of Montana and Christi Jacobsen, in her  
official capacity as Montana Secretary of State,  
  
Defendants.

Case No. DV-25-268

**DECLARATION OF RAPH  
GRAYBILL**

I, Raph Graybill, declare as follows:

My name is Raph Graybill. I am over 18 years old and am an attorney with Graybill Law Firm, PC. I am admitted to practice law in the State of Montana and am an attorney for Plaintiff in this matter. I submit this declaration to provide the Court with true and correct copies of certain

documents submitted in connection with Plaintiff's Motion for Partial Summary Judgment or, in the alternative, Preliminary Injunction.

1. Exhibit A is a true and correct copy of Senate Bill 490.
2. Exhibit B is a true and correct copy of Secretary Jacobsen's Corrected Responses to Plaintiff Montana Federation of Public Employees' First Set of Requests for Admission and Interrogatories.
3. Exhibit C is a true and correct copy of a transcript of the March 5, 2025 Senate proceedings related to Montana Senate Bill No. 490 (2025), from the video provided by the Legislature, available at <https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20250305/-1/51634>.
4. Exhibit D is a true and correct copy of a transcript of the March 26, 2025 Hearing of the House Standing Committee on State Administration related to Montana Senate Bill No. 490 (2025), from the video provided by the Legislature, available at <https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20250326/-1/53293>
5. Exhibit E is a true and correct copy of a transcript of the February 15, 2021 Hearing of the Senate Standing Committee on State Administration related to Montana House Bill No. 176 (2025), from the video provided by the Legislature, available at <https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20210215/-1/41476>.
6. Exhibit F is a true and correct copy of the Secretary of State's Ballot Form and Uniformity Guide (December 16, 2021).
7. Exhibit G is a true and correct copy of the Junque File for LC0182.

8. Exhibit H is a true and correct copy of a transcript of the March 1, 2025 Hearing of the Senate Standing Committee on State Administration related to Montana Senate Bill No. 490 (2025), from the video provided by the Legislature, available at <https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20250301/-1/56938>.
9. Exhibit I is a true and correct copy of Micah Drew, “Committee considers repealing continuous ballot count provision,” Daily Montanan (Jan. 22, 2025), <https://dailymontanan.com/2025/01/22/committee-considers-repealing-continuous-count-ballot-tabulation-provision>.
10. Exhibit J is a true and correct copy of the Montana Legislative Services summary of HB 187 (2025), publicly available at <https://bills.legmt.gov/#/laws/bill/2/LC2114>.
11. Exhibit K is a true and correct copy of Lewis & Clark County’s response to a Right to Know request, dated October 23, 2025.
12. Exhibit L is a true and correct copy of Missoula County’s response to a Right to Know request, dated October 22, 2025.
13. Exhibit M is a true and correct copy of Gallatin County’s response to a Right to Know request, dated November 14, 2025.
14. Exhibit N is a true and correct copy of the Uniform Ballot and Voting Systems Procedures Guide, issued by Montana Secretary of State Christi Jacobsen.
15. Exhibit O is a true and correct copy of the Ballot Language for Legislative Referendum No. 126 (2014).
16. Exhibit P is a true and correct copy of the Senate Bill 490 Status Report (Jan. 19, 2026).
17. Exhibit Q is a true and correct copy of the House Bill 187 Status Report (Jan. 19, 2026).

18. Exhibit R is a true and correct copy of the Montana Election Handbook (2024).

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Dated this 21st day of January, 2026.

  
/s/  
Raph Graybill



# EXHIBIT A



AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA.

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

- (a) prior to the close of business on the Friday before the election;
- (b) between 8 a.m. and 5 p.m. on the Saturday before the election; and
- (c) prior to noon on the day of the election."

**Section 2.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

- (2) The rules must provide that:
- (a) there are uniform statewide standards concerning electronic registration and voting;
  - (b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;
  - (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

**Section 3. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

- END -

I hereby certify that the within bill,  
SB 490, originated in the Senate.

---

Secretary of the Senate

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2025.

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2025.

SENATE BILL NO. 490

INTRODUCED BY M. CUFFE

AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA.

# EXHIBIT B

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MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,

Plaintiff,

NORTHERN CHEYENNE TRIBE,  
BLACKFEET NATION,  
CONFEDERATED SALISH &  
KOOTENAI TRIBES, FORT BELKNAP  
INDIAN COMMUNITY, and WESTERN  
NATIVE VOICE,

Plaintiff-Intervenors,

FORWARD MONTANA and MONTANA  
PUBLIC INTEREST RESEARCH  
GROUP,

Youth Plaintiff-

Intervenors,

v.

STATE OF MONTANA and CHRISTI  
JACOBSEN, in her official capacity as  
Montana Secretary of State,

Defendants.

ADV-25-2025-268  
Hon. Adam Larsen

**SECRETARY JACOBSEN'S CORRECTED  
RESPONSES TO PLAINTIFF'S FIRST SET  
OF REQUESTS FOR ADMISSION AND  
INTERROGATORIES**



TO: Montana Federation of Public Employees, c/o Raph Graybill, Graybill Law Firm, PC, 300 4th Street North, PO Box 3586, Great Falls, MT 59403:

Defendant Christi Jacobsen, in her official capacity as Montana Secretary of State (“Secretary Jacobsen”) hereby corrects Answers to Interrogatory Nos. 5 and 7 to Plaintiff’s First Set of Requests for Admission and Interrogatories to Defendants (September 19, 2025).

### **GENERAL OBJECTIONS**

1. Secretary Jacobsen objects to the definitions and instructions contained in Plaintiff’s First Set of Requests for Admission and Interrogatories to Defendants to the extent they seek to impose any obligation or responsibility exceeding the requirements of the Montana Rules of Civil Procedure.

2. Secretary Jacobsen objects to Plaintiff’s First Set of Requests for Admission and Interrogatories to Defendants to the extent they request information and/or documents prepared for or in anticipation of litigation, constitute attorney work product, constitute privileged attorney-client communications, or are otherwise privileged.

3. Secretary Jacobsen’s responses to Plaintiff’s First Set of Requests for Admission and Interrogatories to Defendants are made without in any way waiving or intending to waive, but rather preserving and intending to preserve all questions as to the competence, relevance, materiality and admissibility as evidence for any purpose of the information in this or any other court action or judicial or administrative proceeding or investigation; the right to object on any ground to the

use of the information or documents in this or the right to object at any time in any further response to this or any other requests for production documents.

4. Secretary Jacobsen reserves the right to supplement and/or modify her responses to Plaintiff's First Set of Requests for Admission and Interrogatories to Defendants to the extent further information becomes available and/or responsive documents are discovered.

Subject to the foregoing General Objections, Secretary Jacobsen submits these Responses to Plaintiff's First Set of Requests for Admission and Interrogatories to Defendants as follows:

#### **REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit that the procedures governing Election Day Registration as it existed in Montana immediately prior to the enactment of Senate Bill 490 were substantially the same as the procedures governing Election Day Registration as it existed in Montana on September 30, 2022.

**RESPONSE:** Object on the grounds that the term "substantially the same" is vague and ambiguous. Without waiving the objection, the same is denied.

**REQUEST FOR ADMISSION NO. 2:** Admit that the practical circumstances and consequences of Election Day Registration as it existed in Montana immediately prior to the enactment of Senate Bill 490 were substantially the same as the practical circumstances and consequences of Election Day Registration as it existed in Montana on September 30, 2022.

**RESPONSE:** Object on the grounds that the term “substantially the same” is vague and ambiguous. In addition, objection is made because circumstances and consequences are two different things, and thus this request is compound. Without waiving the objection, the same is denied.

**REQUEST FOR ADMISSION NO. 3:** Admit that Montana does not maintain any record of the time of day a voter registration application was submitted.

**RESPONSE:** Object on the grounds that voter registration applications are submitted to county election offices. County election administrators are responsible for the administration of all procedures relating to registration of electors and keep all county records relating to elector registration and elections. In addition, objection is made because the term “record” in the context of this question is vague. Without waiving the objection, the same is denied.

**REQUEST FOR ADMISSION NO. 4:** Admit that Montana does not maintain any record of the time of day a voter registration application was accepted.

**RESPONSE:** Object on the grounds that voter registration applications are submitted to county election offices for acceptance. County election administrators are responsible for the administration of all procedures relating to registration of electors and keep all county records relating to elector registration and elections. In addition, objection is made because the term “record” in the context of this question is vague. Without waiving the objection, the same is denied.

## INTERROGATORIES

**INTERROGATORY NO. 1:** Identify and describe each state interest, if any, that You contend Senate Bill 490 serves, including but not limited to any state interests allegedly furthered by ending election day registration at noon on election day for federal elections and at 8:00 pm on election day for state elections, along with how Senate Bill 490 serves each interest, and any facts supporting your contention that each state interest is served or otherwise promoted, supported, or advanced by Senate Bill 490.

**ANSWER:** Secretary Jacobsen objects to the extent that this Interrogatory to the extent that it seeks to shift the burden of proof to the State that the relevant statute is constitutional. Statutes enjoy a presumption of constitutionality that can only be overcome by proof of unconstitutionality beyond a reasonable doubt, and Plaintiffs bear this burden of proof.

Subject to and without waiving this objection, state interests include, but are not limited to preserving election integrity, maintaining confidence in the State's elections, and insuring timely federal election results on election day.

Further, SB 490 expands opportunities for Montanans who were otherwise unable to register to vote or who had difficulty registering to vote. SB 490 allows these individuals to register to vote and vote. Additionally, SB 490 alleviates concerns of both voters and county election officials by allowing for a more well-run election. SB 490 reallocates voter registration hours allowing for election officials to provide for voters that are currently disenfranchised. It brings relief to Election Administrators,

while protecting Montanans' right to vote from being infringed upon. SB 490 allows for maximum participation in elections, along with more efficient elections.

**INTERROGATORY NO. 2:** Explain how Senate Bill 490 will be implemented and enforced on election day, including specifically whether and how individuals who register to vote after noon on election day will be permitted to vote in state elections but prohibited from voting in federal elections.

**ANSWER:** SB 490 allows for maximum participation, including registering to vote and voting, in our elections. County election offices will monitor late registration for the federal ballot. County election officials will not deliver a federal ballot to anyone registering after noon on election day. They will, however, hand the voter a state election ballot. Each county election office has their practices and methodology in place to ensure the implementation and enforcement of SB 490. It is the county election administrators that are responsible for the administration of all procedures relating to registration of electors and keep all county records relating to elector registration and elections.

**INTERROGATORY NO. 3:** If your answer to Request for Admission No. 1 or 2 is anything other than an unqualified admission, explain the ways in which the procedures governing or practical circumstances or consequences of Election Day Registration as it existed in Montana immediately prior to the enactment of Senate Bill 490 differed from those procedures, circumstances, or consequences as Election Day Registration existed in Montana on September 30, 2022.

**ANSWER:** Defendant objects to this Interrogatory on the basis that it is overly broad, unduly burdensome, and seeks information that is irrelevant to any party's claim or defense. Subject to and without waiving this objection, as existed on September 30, 2022, SB 490 still allows for same day registration. While still allowing same day registration, SB 490 simultaneously reallocates registration hours to allow for election officials to be in a better position to maximumly serve both their polling place and absentee voters on election day. In reallocating hours, SB 490 allows for Montanans to have an added opportunity to register to vote and allows for the most amount of Montanans to be able to vote. In other words, SB 490 procedurally reallocates voter registration hours allowing for election officials to provide for voters that are currently disenfranchised.

**INTERROGATORY NO. 4:** If your answer to Request for Admission Nos. 3 or 4 is anything other than an unqualified admission, describe whether and how election records maintained by or otherwise accessible to Your office track, monitor, or indicate the exact time and date a registrar receives an application for voter registration.

**ANSWER:** Defendant objects as the terms "election records" are vague and ambiguous. Without waiving such objection, election records are maintained at county election offices and with the Secretary of State, depending on the record. Voter registration applications are submitted to county election offices, not the State of Montana.

**INTERROGATORY NO. 5:** Identify and describe all communications between You and any members of the Montana Legislature in connection with Senate Bill 490, including the dates, participants in, and subject matter of any such discussions, communications, and consultations.

**ANSWER:** There exists no information responsive to this interrogatory.

**CORRECTED ANSWER:** The Secretary of State's Office's interactions with legislators during testimony and throughout the bill's committee hearings are public record.

**INTERROGATORY NO. 6:** Identify and describe each state interest, if any, that You contend Senate Bill 276 serves, how it serves each interest, and any facts supporting your contention that each state interest is served or otherwise promoted, supported, or advanced by Senate Bill 276.

**ANSWER:** The State has a legitimate and compelling interest in instilling confidence in the citizens of Montana and ensuring election integrity, including but not limited to protecting Montana elections from voter fraud and strengthening Montana's voting process. SB 276 bolsters the security of Montana's elections by elevating several forms of identification and providing Montana voters with a wide variety of photo ID options when voting. Further, SB 276 streamlines processes for election officials and provides a better election experience for Montana voters.

Facts that support this answer include, but are not limited to individuals presenting voter identification to vote and thus allowing every eligible Montanan to have a voice in our elections.

**INTERROGATORY NO. 7:** Identify and describe all communications between You and any members of the Montana Legislature in connection with Senate Bill 276,

including the dates, participants in, and subject matter of any such discussions, communications, and consultations.

**ANSWER:** There exists no information responsive to this interrogatory.

**CORRECTED ANSWER:** The Secretary of State's Office's interactions with legislators during testimony and throughout the bill's committee hearings are public record.

DATED this 20th day of October 2025.

Austin Knudsen  
*Montana Attorney General*

/s/ Thane Johnson  
Thane Johnson  
Michael D. Russell  
Alwyn Lansing  
Michael Noonan  
*Assistant Attorneys General*  
MONTANA DEPARTMENT OF JUSTICE  
  
*Attorneys for Defendants*



## VERIFICATION

STATE OF MONTANA            )  
                                          :ss  
County of Lewis and Clark    )

Pursuant to Montana Code Annotated § 1-6-105, I, Angela Nunn, declare that I am the authorized representative of Christi Jacobsen, Montana Secretary of State, in the above-titled action; that I have read Secretary Jacobsen's Responses to Plaintiff's First Set of Requests for Admission and Interrogatories to Defendants; that the responses/answers were prepared with the assistance and advice of counsel; that some of the information is accordingly outside the scope of the Secretary's personal knowledge; and that the responses/answers, subject to inadvertent or undiscovered errors, are based on and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in the course of the preparation of these responses/answers. Consequently, Secretary Jacobsen reserves the right to make any changes to the responses/answers if it appears at any time that omission or errors have been made or that more accurate information is available. Subject to these limitations, the responses/answers are true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 21<sup>st</sup> day of October 2025, in Helena, Montana.

  
ANGELA NUNN

## CERTIFICATE OF SERVICE

I certify that I served a true and accurate copy of the foregoing by email to the following:

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Date: October 20, 2025

Deborah G. Bungay  
Deborah Bungay

# EXHIBIT C



**Planet Depos®**  
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# Transcript of Hearing

**Date:** March 5, 2025

**Case:** Transcription Services

**Planet Depos**

**Phone:** 888.433.3767 | **Email:** [transcripts@planetdepos.com](mailto:transcripts@planetdepos.com)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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Hearing

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Wednesday, March 5, 2025

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20 Job No.: 601363

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1     Hearing was held at:

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9     State Capitol

10    1301 E 6th Avenue

11    Helena, Montana 59601

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1                   A P P E A R A N C E S

2       The Chairman

3       Senator Mike Cuffe

4       Senator Shelley Vance

5       Senator Jacinda Morigeau

6       Senator Dave Fern

7       Senator Wendy McKamey

8       Senator Theresa Manzella

9       Senator Pat Flowers

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|----|------------------------------------|------|
| 1  | C O N T E N T S                    |      |
| 2  | HEARING                            | PAGE |
| 3  | Title and History of Bill 490      | 5    |
| 4  | Opening Statement by Senator Cuffe | 5    |
| 5  | Motion to Amend by Senator Vance   | 10   |
| 6  | Closing Statement by Senator Vance | 11   |
| 7  | Vote for Motion to Amend           | 12   |
| 8  | Discussion on Bill 490             |      |
| 9  | By Senator Jacinda Morigeau        | 13   |
| 10 | By Senator Wendy McKamey           | 16   |
| 11 | By Senator Theresa Manzella        | 17   |
| 12 | By Senator Pat Flowers             | 18   |
| 13 | Closing by Senator Cuffe           | 19   |
| 14 | Vote to Pass Bill 490              | 20   |
| 15 |                                    |      |
| 16 |                                    |      |
| 17 |                                    |      |
| 18 |                                    |      |
| 19 |                                    |      |
| 20 |                                    |      |
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1 P R O C E E D I N G S

2 (Proceedings began.)

3 THE CHAIRMAN: Read the title and the  
4 history of the bill.

5 THE CLERK: Senate Bill 490, introduced  
6 by Cuffe, a bill for an act entitled, "An act  
7 revising late voter registration; revising the  
8 days and times an elector may register late,  
9 change the elector's voter registration  
10 information, and vote in a federal election; and  
11 amending sections."

12 THE CHAIRMAN: Read the sections.

13 THE CLERK: Sections 1 through 3.

14 THE CHAIRMAN: What is your pleasure,  
15 Senator Cuffe?

16 SENATOR CUFFE: Mr. Chairman, I move  
17 that, when the committee does rise and report  
18 after having had under consideration Senate Bill  
19 490, that I recommend the same do pass. Thank  
20 you, Mr. Chairman.

21 THE CHAIRMAN: Senator Cuffe.

22 SENATOR CUFFE: Mr. Chairman, we're

1 doing a lot of business these next couple of  
2 days. Nothing that we're going to be doing is  
3 any more important than the topic of Senate Bill  
4 490. We have to have faith in our elections.

5 We have to have faith that (inaudible)  
6 our folks who are conducting those elections are  
7 able to do it to the best of their ability.  
8 Sometimes when we overwork them, long, long hours  
9 into the night, into the wee hours of the next  
10 morning, it challenges their ability to do their  
11 best job. So Mr. Chairman, I bring you Senate  
12 Bill 490.

13 Now, this is the product of election  
14 officials who are wanting to provide the best  
15 election for the greatest number of voters and  
16 the nonpartisan staff conducting those elections.  
17 Some of whom happen to be in the gallery, I  
18 believe, excited to make this improvement to our  
19 elections. My intention is to make a good  
20 process better.

21 Now, let's remember, we can register to  
22 vote all year long as long as we meet the

1     qualifications. Regular registration ends 30  
2     days prior to election day. Sometimes we forget  
3     that in today's world. 30 days prior to election  
4     day is regular registration.

5             We call it late registration, and  
6     presently, we're allowing them to register to  
7     vote as long as the polls are open. So you  
8     may -- and not only may, but we frequently do  
9     have a line of people going into the voting polls  
10    and another line of people registering to vote.  
11    And as soon as they register, they go over and  
12    get into the line of the people going in. And as  
13    long as the polls are open, people can register  
14    to vote.

15            So currently, what really happens,  
16    polls are intended to close at 8:00 p.m., but it  
17    doesn't work that way. As an example, I recently  
18    saw news reports that in Gallatin County, people  
19    was -- were still voting at 4:00 a.m. Wednesday  
20    morning. Now, the polls were intended to close  
21    8:00 p.m. Tuesday night, but they're still voting  
22    at 4:00 in the morning. That's a good eight-hour

1 shift beyond what closing should be.

2 Now, I know I've run a lot of  
3 manufacturing processes, and I know if I take a  
4 shift and run them an extra eight-hour shift  
5 beyond their regular shift, fatigue enters in,  
6 mistakes get made. Not that people are sloppy,  
7 but mistakes can be made, and they have been. So  
8 Senate Bill 490 is a common-sense solution to  
9 this kind of a problem.

10 I'll ask you to take a look on page 2,  
11 key parts. Look on lines 10 through 16, 17. The  
12 polls are open all the way through the week prior  
13 to the election week, just like normal. They  
14 close Friday before the election at 5:00 p.m.

15 Now, big change, they're open on  
16 Saturday. They're open all day Saturday from  
17 8:00 in the morning to 5:00 in the afternoon.  
18 Now, this is a solution worked out between,  
19 largely, election officials, and I'm talking  
20 clerk of courts, clerk and recorders, and  
21 election administrators, and the Secretary of  
22 State's office, and I've been involved in many of

1 the discussions. So it's open all day Saturday.

2 Then, especially at requests of the  
3 clerk and recorders, that there is some catch-up  
4 work that they really need a full day without  
5 registering voters on Monday, the day before the  
6 election. However, they will reopen registration  
7 on Tuesday from 8:00 in the morning until noon.  
8 So what does that mean? It means regular  
9 registration closed a month earlier.

10 Those who decide, for whatever reason,  
11 they need to register late can register all day  
12 Friday before the election, all day Saturday,  
13 just not Monday, but they're -- they can again at  
14 the last minute from 8:00 to 12:00 on Tuesday of  
15 election day. That gives the election workers a  
16 chance to do their job when they're fresh, when  
17 they're bright, the way it was intended to do.  
18 The polls remain open another eight hours, but  
19 hopefully, we can get rid of these 4:00 in the  
20 morning -- and I've heard stories of even later.  
21 But this particular one -- news story that I was  
22 shown, had to do with our previous election.

1           So Mr. Chairman, I think it's a good  
2     common-sense solution. It has been worked out by  
3     well-meaning people who have a great amount of  
4     experience in operating our elections. So thank  
5     you, Mr. Chairman.

6           THE CHAIRMAN: Are there any  
7     amendments?

8           THE CLERK: Mr. Chairman, "I move to  
9     amend Senate Bill 490 with amendment  
10    SB0490.001.002," signed Senator Vance.

11          THE CHAIRMAN: What is your pleasure,  
12    Senator Vance?

13          SENATOR VANCE: Thank you, Mr. Chair.  
14    I move that Senate Bill 490 be amended and  
15    request that amendment 490.001.002 be posted and  
16    deemed read.

17          THE CHAIRMAN: Senator Vance.

18          SENATOR VANCE: Thank you, Mr. Chair,  
19    Members of the committee. I am simply -- if  
20    you'll look on page 2, line 16, I'm striking the  
21    word or and adding the word and on that. During  
22    our committee hearing, we had a situation --

1 well, anyway, we had discussions in our  
2 committee, and sometimes we're talking about the  
3 elector, and sometimes we're talking about the  
4 clerks and recorders and when they're going to be  
5 open.

6 And it occurred to me that we just  
7 needed to make clarity that it is when the clerk  
8 and recorders are going to be open for our people  
9 who are registering late, and that it was not a  
10 situation that it was maybe Friday, maybe  
11 Saturday, and then on late day registration.  
12 It's all three of them. So that's the purpose of  
13 the amendment. Thank you.

14 THE CHAIRMAN: Is there any discussion  
15 on the amendment? Senator Morigeau, are you on  
16 the bill or the amendment?

17 SENATOR MORIGEAU: The bill.

18 THE CHAIRMAN: So seeing no discussion,  
19 would the sponsor care to close on her amendment?

20 SENATOR CUFFE: Mr. Chairman, thank  
21 you. And I would -- oh, excuse -- did you say  
22 sponsor, or did you tell me?

1 THE CHAIRMAN: The sponsor of the  
2 amendment, Senator Cuffe.

3 SENATOR CUFFE: Okay. Can I say that I  
4 find this a friendly amendment?

5 THE CHAIRMAN: You can go right ahead  
6 now that you did it.

7 SENATOR CUFFE: Thank you.

8 SENATOR VANCE: Please do pass on the  
9 amendment. Thank you.

10 THE CHAIRMAN: Question now arises on  
11 the amendment by Senator Vance that Senate Bill  
12 490 be amended (inaudible), say aye, members  
13 opposed vote no. Several members voted. Senator  
14 Smith, the clerk will record the vote.

15 THE CLERK: Mr. Chairman, 49 senators  
16 vote aye, and one senator votes nay.

17 THE CHAIRMAN: 49 voting aye, one  
18 voting no. The motion to amend has carried. Is  
19 there any further amendments?

20 THE CLERK: None, Mr. Chairman.

21 THE CHAIRMAN: Let's go to discussion  
22 on the bill. Any discussion on the bill, Senator



1 Morgio.

2 SENATOR MORIGEAU: Thank you,  
3 Mr. Chair. I'll speak to the bill. I really  
4 respect Senator Cuffe.

5 He said something that added to my  
6 comments today. He kind of implied that, you  
7 know, folks can register to vote all year long,  
8 and then we have a month of late registration  
9 specifically, but respectfully, not everyone is  
10 as involved or nerdy about the -- our civic duty  
11 as us, so other people do need extra time to be  
12 convinced. My youngest brother was one of those  
13 who I needed to push and prod and cajole and just  
14 give him the -- everything I had to get him to  
15 register to vote.

16 I heard a lot while I was campaigning  
17 that people were a little incredulous that I  
18 wanted to get into this, gestures broadly. So I  
19 just feel like we need to have these extra times  
20 so that we can get those folks who need a little  
21 extra time and convincing that they should be  
22 involved, they should come to vote, and they --

1 well, they should get registered to vote. So I  
2 just wanted to -- that's what I really wanted to  
3 say.

4 And then, you know, Montanans, we've  
5 been using this. I tried to look up the stats on  
6 late registration on the SOS's website, but on my  
7 phone, you know, I'm trying, and I just -- I  
8 couldn't find it. And then I also wanted to  
9 point out that having different rules for  
10 different elections can get confusing. Everybody  
11 has a lot on their mind.

12 We want to make the process of voting  
13 and registering to vote easier, not harder. And  
14 then the last thing, this might conflict with the  
15 Supreme Court decision from last year that we  
16 just had, that restrictive rules on registering  
17 to vote were unconstitutional. Thank you.

18 THE CHAIRMAN: Further discussion on  
19 the bill as amended, Senator Fern?

20 SENATOR FERN: Thank you, Mr. Chair.  
21 Would the good sponsor yield to a question from  
22 me?

1 THE CHAIRMAN: Senator Cuff.

2 SENATOR CUFFE: Yes, Mr. Chairman.

3 SENATOR FERN: Mr. Chair --

4 SENATOR CUFFE: Senator --

5 SENATOR FERN: Good Senator, could you  
6 talk a little bit about the involvement of clerks  
7 and recorders in this bill? And were they  
8 prominent enough to say that this represents a  
9 desire from them to move this bill?

10 THE CHAIRMAN: Senator Cuffe.

11 SENATOR CUFFE: Mr. Chairman.

12 Yes, Senator Fern (sic) -- Senator  
13 Fern, yes. I think it does. They came to me. I  
14 did not originate this bill. They came to me.

15 And the former senator speaking talked  
16 about Supreme Court decisions, etcetera. And  
17 yes. I was involved with those, also. This is a  
18 far better solution, I believe. And it came from  
19 the people doing the work. This is not my  
20 pie-in-the-sky dream.

21 Mine was shot down, and maybe not  
22 completely shot down. It's still working its way

1 towards the U.S. Supreme Court. Has not been  
2 turned down. And in fact, the U.S. Supreme Court  
3 asked for additional information not so very long  
4 ago.

5 This is my last term. I was hoping to  
6 get this resolved before I'm done. As I began  
7 working on a bill very similar to my former one,  
8 clerks and recorders came to me and said, Here's  
9 an idea.

10 Sat down with the Secretary of State,  
11 and I thought the one that was brought to me was  
12 a little complicated. And I was chewing it over.  
13 Secretary of State's office suggested, Hey,  
14 perhaps this is a better improvement. And  
15 consequently, that's how this bill got here.

16 Clerk and record -- it was presented to  
17 clerks and recorders, Senator Fern -- Fern, and  
18 yes. They're very much on board with it.

19 Thank you, Mr. Chair.

20 THE CHAIRMAN: Further discussion,  
21 Senator McKamey?

22 SENATOR MCKAMEY: Thank you,

1 Mr. Chairman. I absolutely support this bill.  
2 This is out of respect not only to the good  
3 sponsor, but also to our election officiators and  
4 our clerks and recorders. You know, they are  
5 under extreme pressure to try to get everything  
6 set and put in place. It is by passing this bill  
7 that we respect our clerks and recorders and our  
8 election officials. I say, vote green, really.

9 THE CHAIRMAN: Further discussion,  
10 Senator Manzella?

11 SENATOR MANZELLA: Thank you,  
12 Mr. Chairman. At the risk of being redundant,  
13 this is a hugely important bill for the security  
14 and efficiency of our elections. And the clerk  
15 and recorders did come to us in the committee and  
16 share with us that late same-day registration is  
17 one of their biggest challenges to manage and  
18 handle in an efficient way.

19 And this is them giving up a Saturday  
20 that they would normally have off, making  
21 themselves available to work to register late  
22 registrants. And then on Monday, they have to

1 prepare for all of the precincts around their  
2 counties, so they have to prepare and organize  
3 all of the equipment and get it all into place so  
4 that they can have a safe, timely, efficient  
5 election day.

6 And so this is a great solution. We're  
7 trying to work around the court's decision and  
8 make same-day registration available to people to  
9 the very best of our ability and still have an  
10 efficient, safe election. Please support this  
11 bill.

12 THE CHAIRMAN: Further discussion,  
13 Senator Flowers -- Minority Leader Flowers.

14 SENATOR FLOWERS: Thank you, Mr. Chair.  
15 I come from a county where there's a lot of young  
16 voters, and rightly or wrongly, a lot of our  
17 young voters register late. They think about  
18 it -- they're thinking about lots of other things  
19 other than voting, and they're encouraged at the  
20 end to vote.

21 And one thing that I think is going to  
22 really suppress the vote is the stop-start. So

1     you can register Saturday, Sunday, but you can't  
2     register Monday. You can register Tuesday, only  
3     until noon. Realistically, if you're in college,  
4     are you going to track those kinds of details?  
5     Absolutely not. I think this is a voter  
6     suppression bill, plain and simple, and I urge  
7     you to vote no. Thank you.

8                 THE CHAIRMAN: Seeing no further  
9     discussions, Senator Cuffe, would you care to  
10    close?

11                SENATOR CUFFE: Thank you, Mr. Chair.  
12    I was not going to. I felt enough had been said.  
13    I was going to let the discussion and my  
14    presentation stand for itself.

15                I take issue with the minority leader.  
16    He's absolutely wrong. He knows me better than  
17    that. There's no way that I intend to suppress  
18    voters. I just want to make that statement,  
19    Mr. Chairman.

20                I do believe this is a good bill. It's  
21    brought about not by me. It's brought about by  
22    the people who operate the elections, those

1 people -- many of whom are nonpartisan, have no  
2 intention of trying to suppress the vote.

3 Get the politics out of it. There's  
4 plenty of time for politics. I resent the  
5 suggestion. I resent the statement. This  
6 bill --

7 THE CHAIRMAN: Stick to the bill,  
8 Senator.

9 SENATOR CUFFE: This bill deserves a  
10 yes vote. Thank you, Mr. Chairman.

11 THE CHAIRMAN: Question now arises on  
12 the motion of Senator Cuffe that when this  
13 committee does rise and report after having under  
14 consideration Senate Bill 474 (sic), that it  
15 recommend the same do pass as amended. All those  
16 in favor of the motion vote aye.

17 I'm going to back up just a minute. Is  
18 everybody clear that this is Senate Bill 490?  
19 All right. The clerk will record the vote.

20 THE CLERK: Mr. Chairman, 33 senators  
21 vote aye and 17 senators vote nay.

22 THE CHAIRMAN: 33 senators have voting



1     aye, 17 voting no.  Senate Bill 490 has been  
2     passed on second reading.

3                     (Proceedings concluded.)

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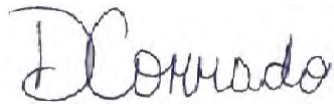
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interest, financial or otherwise, in its outcome.



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DIANA CORRADO

2025-09-28

Transcript of Hearing  
Conducted on March 5, 2025

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|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>A</b>                                                                                              |                                                                                                  |                                                                                                                                                                                                                                                                                    |                                                                               |
| <b>ability</b><br>6:7, 6:10,<br>18:9, 22:7                                                            | 17:3<br><b>amend</b><br>4:5, 4:7, 10:9,<br>12:18                                                 | 10:2, 14:5,<br>16:1, 19:12,<br>21:1                                                                                                                                                                                                                                                | <b>bright</b><br>9:17                                                         |
| <b>able</b><br>6:7                                                                                    | <b>amended</b><br>10:14, 12:12,<br>14:19, 20:15                                                  | <b>before</b><br>8:14, 9:5,<br>9:12, 16:6                                                                                                                                                                                                                                          | <b>bring</b><br>6:11                                                          |
| <b>about</b><br>11:2, 11:3,<br>13:10, 15:6,<br>15:16, 18:17,<br>18:18, 19:21                          | <b>amending</b><br>5:11                                                                          | <b>began</b><br>5:2, 16:6                                                                                                                                                                                                                                                          | <b>broadly</b><br>13:18                                                       |
| <b>absolutely</b><br>17:1, 19:5,<br>19:16                                                             | <b>amendment</b><br>10:9, 10:15,<br>11:13, 11:15,<br>11:16, 11:19,<br>12:2, 12:4,<br>12:9, 12:11 | <b>being</b><br>17:12                                                                                                                                                                                                                                                              | <b>brother</b><br>13:12                                                       |
| <b>accurate</b><br>22:6                                                                               | <b>amendments</b><br>10:7, 12:19                                                                 | <b>believe</b><br>6:18, 15:18,<br>19:20                                                                                                                                                                                                                                            | <b>brought</b><br>16:11, 19:21                                                |
| <b>act</b><br>5:6                                                                                     | <b>amount</b><br>10:3                                                                            | <b>best</b><br>6:7, 6:11,<br>6:14, 18:9, 22:6                                                                                                                                                                                                                                      | <b>business</b><br>6:1                                                        |
| <b>added</b><br>13:5                                                                                  | <b>another</b><br>7:10, 9:18                                                                     | <b>better</b><br>6:20, 15:18,<br>16:14, 19:16                                                                                                                                                                                                                                      | <b>C</b>                                                                      |
| <b>adding</b><br>10:21                                                                                | <b>any</b><br>6:3, 10:6,<br>11:14, 12:19,<br>12:22, 22:9                                         | <b>between</b><br>8:18                                                                                                                                                                                                                                                             | <b>cajole</b><br>13:13                                                        |
| <b>additional</b><br>16:3                                                                             | <b>anyway</b><br>11:1                                                                            | <b>beyond</b><br>8:1, 8:5                                                                                                                                                                                                                                                          | <b>call</b><br>7:5                                                            |
| <b>administrators</b><br>8:21                                                                         | <b>arises</b><br>12:10, 20:11                                                                    | <b>big</b><br>8:15                                                                                                                                                                                                                                                                 | <b>came</b><br>15:13, 15:14,<br>15:18, 16:8                                   |
| <b>after</b><br>5:18, 20:13                                                                           | <b>around</b><br>18:1, 18:7                                                                      | <b>biggest</b><br>17:17                                                                                                                                                                                                                                                            | <b>campaigning</b><br>13:16                                                   |
| <b>afternoon</b><br>8:17                                                                              | <b>asked</b><br>16:3                                                                             | <b>bill</b><br>4:3, 4:8, 4:14,<br>5:4, 5:5, 5:6,<br>5:18, 6:3, 6:12,<br>8:8, 10:9,<br>10:14, 11:16,<br>11:17, 12:11,<br>12:22, 13:3,<br>14:19, 15:7,<br>15:9, 15:14,<br>16:7, 16:15,<br>17:1, 17:6,<br>17:13, 18:11,<br>19:6, 19:20,<br>20:6, 20:7,<br>20:9, 20:14,<br>20:18, 21:1 | <b>can't</b><br>19:1                                                          |
| <b>ago</b><br>16:4                                                                                    | <b>audio</b><br>22:4                                                                             |                                                                                                                                                                                                                                                                                    | <b>capitol</b><br>2:9                                                         |
| <b>ahead</b><br>12:5                                                                                  | <b>available</b><br>17:21, 18:8                                                                  |                                                                                                                                                                                                                                                                                    | <b>care</b><br>11:19, 19:9                                                    |
| <b>all</b><br>6:22, 8:12,<br>8:16, 9:1, 9:11,<br>9:12, 11:12,<br>13:7, 18:1,<br>18:3, 20:15,<br>20:19 | <b>avenue</b><br>2:10                                                                            |                                                                                                                                                                                                                                                                                    | <b>carried</b><br>12:18                                                       |
| <b>allowing</b><br>7:6                                                                                | <b>aye</b><br>12:12, 12:16,<br>12:17, 20:16,<br>20:21, 21:1                                      |                                                                                                                                                                                                                                                                                    | <b>case</b><br>22:9                                                           |
| <b>also</b><br>14:8, 15:17,                                                                           | <b>B</b>                                                                                         |                                                                                                                                                                                                                                                                                    | <b>catch-up</b><br>9:3                                                        |
|                                                                                                       | <b>back</b><br>20:17                                                                             | <b>bit</b><br>15:6                                                                                                                                                                                                                                                                 | <b>certificate</b><br>22:1                                                    |
|                                                                                                       | <b>been</b><br>8:7, 8:22,                                                                        | <b>board</b><br>16:18                                                                                                                                                                                                                                                              | <b>certify</b><br>22:2                                                        |
|                                                                                                       |                                                                                                  |                                                                                                                                                                                                                                                                                    | <b>chair</b><br>10:13, 10:18,<br>13:3, 14:20,<br>15:3, 16:19,<br>18:14, 19:11 |
|                                                                                                       |                                                                                                  |                                                                                                                                                                                                                                                                                    | <b>chairman</b><br>3:2, 5:3, 5:12,<br>5:14, 5:16,<br>5:20, 5:21,              |

Transcript of Hearing  
Conducted on March 5, 2025

24

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| <p>5:22, 6:11,<br/>10:1, 10:5,<br/>10:6, 10:8,<br/>10:11, 10:17,<br/>11:14, 11:18,<br/>11:20, 12:1,<br/>12:5, 12:10,<br/>12:15, 12:17,<br/>12:20, 12:21,<br/>14:18, 15:1,<br/>15:2, 15:10,<br/>15:11, 16:20,<br/>17:1, 17:9,<br/>17:12, 18:12,<br/>19:8, 19:19,<br/>20:7, 20:10,<br/>20:11, 20:20,<br/>20:22<br/><b>challenges</b><br/>6:10, 17:17<br/><b>chance</b><br/>9:16<br/><b>change</b><br/>5:9, 8:15<br/><b>chewing</b><br/>16:12<br/><b>civic</b><br/>13:10<br/><b>clarity</b><br/>11:7<br/><b>clear</b><br/>20:18<br/><b>clerk</b><br/>5:5, 5:13,<br/>8:20, 9:3, 10:8,<br/>11:7, 12:14,<br/>12:15, 12:20,<br/>16:16, 17:14,<br/>20:19, 20:20<br/><b>clerks</b><br/>11:4, 15:6,<br/>16:8, 16:17,<br/>17:4, 17:7<br/><b>close</b><br/>7:16, 7:20,<br/>8:14, 11:19,<br/>19:10<br/><b>closed</b><br/>9:9</p> | <p><b>closing</b><br/>4:6, 4:13, 8:1<br/><b>college</b><br/>19:3<br/><b>come</b><br/>13:22, 17:15,<br/>18:15<br/><b>comments</b><br/>13:6<br/><b>committee</b><br/>5:17, 10:19,<br/>10:22, 11:2,<br/>17:15, 20:13<br/><b>common-sense</b><br/>8:8, 10:2<br/><b>completely</b><br/>15:22<br/><b>complicated</b><br/>16:12<br/><b>concluded</b><br/>21:3<br/><b>conducting</b><br/>6:6, 6:16<br/><b>conflict</b><br/>14:14<br/><b>confusing</b><br/>14:10<br/><b>consequently</b><br/>16:15<br/><b>consideration</b><br/>5:18, 20:14<br/><b>convinced</b><br/>13:12<br/><b>convincing</b><br/>13:21<br/><b>corrado</b><br/>1:22, 22:2,<br/>22:16<br/><b>could</b><br/>15:5<br/><b>couldn't</b><br/>14:8<br/><b>counsel</b><br/>22:8<br/><b>counties</b><br/>18:2<br/><b>county</b><br/>7:18, 18:15</p> | <p><b>couple</b><br/>6:1<br/><b>court</b><br/>14:15, 15:16,<br/>16:1, 16:2<br/><b>court's</b><br/>18:7<br/><b>courts</b><br/>8:20<br/><b>cuff</b><br/>15:1<br/><b>cuffe</b><br/>3:3, 4:4, 4:13,<br/>5:6, 5:15, 5:16,<br/>5:21, 5:22,<br/>11:20, 12:2,<br/>12:3, 12:7,<br/>13:4, 15:2,<br/>15:4, 15:10,<br/>15:11, 19:9,<br/>19:11, 20:9,<br/>20:12<br/><b>currently</b><br/>7:15</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>dave</b><br/>3:6<br/><b>day</b><br/>7:2, 7:4, 8:16,<br/>9:1, 9:4, 9:5,<br/>9:11, 9:12,<br/>9:15, 11:11,<br/>18:5<br/><b>days</b><br/>5:8, 6:2, 7:2,<br/>7:3<br/><b>decide</b><br/>9:10<br/><b>decision</b><br/>14:15, 18:7<br/><b>decisions</b><br/>15:16<br/><b>deemed</b><br/>10:16<br/><b>deserves</b><br/>20:9<br/><b>desire</b><br/>15:9</p> | <p><b>details</b><br/>19:4<br/><b>diana</b><br/>1:22, 22:2,<br/>22:16<br/><b>different</b><br/>14:9, 14:10<br/><b>digital</b><br/>22:4<br/><b>discussion</b><br/>4:8, 11:14,<br/>11:18, 12:21,<br/>12:22, 14:18,<br/>16:20, 17:9,<br/>18:12, 19:13<br/><b>discussions</b><br/>9:1, 11:1, 19:9<br/><b>doing</b><br/>6:1, 6:2, 15:19<br/><b>done</b><br/>16:6<br/><b>down</b><br/>15:21, 15:22,<br/>16:2, 16:10<br/><b>dream</b><br/>15:20<br/><b>during</b><br/>10:21<br/><b>duty</b><br/>13:10</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>earlier</b><br/>9:9<br/><b>easier</b><br/>14:13<br/><b>efficiency</b><br/>17:14<br/><b>efficient</b><br/>17:18, 18:4,<br/>18:10<br/><b>eight</b><br/>9:18<br/><b>eight-hour</b><br/>7:22, 8:4<br/><b>election</b><br/>5:10, 6:13,<br/>6:15, 7:2, 7:3,</p> |
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Transcript of Hearing  
Conducted on March 5, 2025

25

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8:13, 8:14,<br>8:19, 8:21, 9:6,<br>9:12, 9:15,<br>9:22, 17:3,<br>17:8, 18:5,<br>18:10<br><b>elections</b><br>6:4, 6:6, 6:16,<br>6:19, 10:4,<br>14:10, 17:14,<br>19:22<br><b>elector</b><br>5:8, 11:3<br><b>elector's</b><br>5:9<br><b>employed</b><br>22:8<br><b>encouraged</b><br>18:19<br><b>end</b><br>18:20<br><b>ends</b><br>7:1<br><b>enough</b><br>15:8, 19:12<br><b>enters</b><br>8:5<br><b>entitled</b><br>5:6<br><b>equipment</b><br>18:3<br><b>especially</b><br>9:2<br><b>etcetera</b><br>15:16<br><b>even</b><br>9:20<br><b>everybody</b><br>14:10, 20:18<br><b>everyone</b><br>13:9<br><b>everything</b><br>13:14, 17:5<br><b>example</b><br>7:17<br><b>excited</b><br>6:18<br><b>excuse</b><br>11:21 | <b>experience</b><br>10:4<br><b>extra</b><br>8:4, 13:11,<br>13:19, 13:21<br><b>extreme</b><br>17:5<br><hr/> <b>F</b> <hr/> <b>fact</b><br>16:2<br><b>faith</b><br>6:4, 6:5<br><b>far</b><br>15:18<br><b>fatigue</b><br>8:5<br><b>favor</b><br>20:16<br><b>federal</b><br>5:10<br><b>feel</b><br>13:19<br><b>felt</b><br>19:12<br><b>ferm</b><br>15:12, 16:17<br><b>fern</b><br>3:6, 14:19,<br>14:20, 15:3,<br>15:5, 15:13,<br>16:17<br><b>financial</b><br>22:10<br><b>find</b><br>12:4, 14:8<br><b>flowers</b><br>3:9, 4:12,<br>18:13, 18:14<br><b>folks</b><br>6:6, 13:7,<br>13:20<br><b>foregoing</b><br>22:4<br><b>forget</b><br>7:2<br><b>former</b><br>15:15, 16:7 | <b>frequently</b><br>7:8<br><b>fresh</b><br>9:16<br><b>friday</b><br>8:14, 9:12,<br>11:10<br><b>friendly</b><br>12:4<br><b>full</b><br>9:4<br><b>further</b><br>12:19, 14:18,<br>16:20, 17:9,<br>18:12, 19:8<br><hr/> <b>G</b> <hr/> <b>gallatin</b><br>7:18<br><b>gallery</b><br>6:17<br><b>gestures</b><br>13:18<br><b>give</b><br>13:14<br><b>gives</b><br>9:15<br><b>giving</b><br>17:19<br><b>go</b><br>7:11, 12:5,<br>12:21<br><b>going</b><br>6:2, 7:9, 7:12,<br>11:4, 11:8,<br>18:21, 19:4,<br>19:12, 19:13,<br>20:17<br><b>good</b><br>6:19, 7:22,<br>10:1, 14:21,<br>15:5, 17:2,<br>19:20<br><b>great</b><br>10:3, 18:6<br><b>greatest</b><br>6:15<br><b>green</b><br>17:8 | <hr/> <b>H</b> <hr/> <b>handle</b><br>17:18<br><b>happen</b><br>6:17<br><b>happens</b><br>7:15<br><b>harder</b><br>14:13<br><b>heard</b><br>9:20, 13:16<br><b>hearing</b><br>1:9, 2:1, 4:2,<br>10:22<br><b>held</b><br>2:1<br><b>helena</b><br>2:11<br><b>here</b><br>16:15<br><b>here's</b><br>16:8<br><b>hereby</b><br>22:2<br><b>hey</b><br>16:13<br><b>history</b><br>4:3, 5:4<br><b>hopefully</b><br>9:19<br><b>hoping</b><br>16:5<br><b>hours</b><br>6:8, 6:9, 9:18<br><b>however</b><br>9:6<br><b>hugely</b><br>17:13<br><hr/> <b>I</b> <hr/> <b>idea</b><br>16:9<br><b>implied</b><br>13:6<br><b>important</b><br>6:3, 17:13<br><b>improvement</b><br>6:18, 16:14 |
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Transcript of Hearing  
Conducted on March 5, 2025

26

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>incredulous</b><br>13:17<br><b>information</b><br>5:10, 16:3<br><b>intend</b><br>19:17<br><b>intended</b><br>7:16, 7:20,<br>9:17<br><b>intention</b><br>6:19, 20:2<br><b>interest</b><br>22:10<br><b>introduced</b><br>5:5<br><b>involved</b><br>8:22, 13:10,<br>13:22, 15:17<br><b>involvement</b><br>15:6<br><b>issue</b><br>19:15<br><b>itself</b><br>19:14<br><hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <b>jacinda</b><br>3:5, 4:9<br><b>job</b><br>1:20, 6:11,<br>9:16<br><hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <b>key</b><br>8:11<br><b>kind</b><br>8:9, 13:6<br><b>kinds</b><br>19:4<br><b>know</b><br>8:2, 8:3, 13:7,<br>14:4, 14:7, 17:4<br><b>knowledge</b><br>22:7<br><b>knows</b><br>19:16<br><hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <b>largely</b><br>8:19 | <b>last</b><br>9:14, 14:14,<br>14:15, 16:5<br><b>late</b><br>5:7, 5:8, 7:5,<br>9:11, 11:9,<br>11:11, 13:8,<br>14:6, 17:16,<br>17:21, 18:17<br><b>later</b><br>9:20<br><b>leader</b><br>18:13, 19:15<br><b>let's</b><br>6:21, 12:21<br><b>line</b><br>7:9, 7:10,<br>7:12, 10:20<br><b>lines</b><br>8:11<br><b>little</b><br>13:17, 13:20,<br>15:6, 16:12<br><b>long</b><br>6:8, 6:22, 7:7,<br>7:13, 13:7, 16:3<br><b>look</b><br>8:10, 8:11,<br>10:20, 14:5<br><b>lot</b><br>6:1, 8:2,<br>13:16, 14:11,<br>18:15, 18:16<br><b>lots</b><br>18:18<br><hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <b>made</b><br>8:6, 8:7<br><b>make</b><br>6:18, 6:19,<br>11:7, 14:12,<br>18:8, 19:18<br><b>making</b><br>17:20<br><b>manage</b><br>17:17<br><b>manufacturing</b><br>8:3 | <b>many</b><br>8:22, 20:1<br><b>manzella</b><br>3:8, 4:11,<br>17:10, 17:11<br><b>march</b><br>1:10<br><b>maria</b><br>1:22<br><b>maybe</b><br>11:10, 15:21<br><b>mckamey</b><br>3:7, 4:10,<br>16:21, 16:22<br><b>mean</b><br>9:8<br><b>means</b><br>9:8<br><b>meet</b><br>6:22<br><b>members</b><br>10:19, 12:12,<br>12:13<br><b>might</b><br>14:14<br><b>mike</b><br>3:3<br><b>mind</b><br>14:11<br><b>mine</b><br>15:21<br><b>minority</b><br>18:13, 19:15<br><b>minute</b><br>9:14, 20:17<br><b>mistakes</b><br>8:6, 8:7<br><b>monday</b><br>9:5, 9:13,<br>17:22, 19:2<br><b>montana</b><br>2:11<br><b>montanans</b><br>14:4<br><b>month</b><br>9:9, 13:8<br><b>more</b><br>6:3 | <b>morgio</b><br>13:1<br><b>morigeau</b><br>3:5, 4:9,<br>11:15, 11:17,<br>13:2<br><b>morning</b><br>6:10, 7:20,<br>7:22, 8:17, 9:7,<br>9:20<br><b>motion</b><br>4:5, 4:7,<br>12:18, 20:12,<br>20:16<br><b>move</b><br>5:16, 10:8,<br>10:14, 15:9<br><b>much</b><br>16:18<br><hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <b>nay</b><br>12:16, 20:21<br><b>need</b><br>9:4, 9:11,<br>13:11, 13:19,<br>13:20<br><b>needed</b><br>11:7, 13:13<br><b>neither</b><br>22:8<br><b>nerdy</b><br>13:10<br><b>news</b><br>7:18, 9:21<br><b>next</b><br>6:1, 6:9<br><b>night</b><br>6:9, 7:21<br><b>none</b><br>12:20<br><b>nonpartisan</b><br>6:16, 20:1<br><b>noon</b><br>9:7, 19:3<br><b>normal</b><br>8:13<br><b>normally</b><br>17:20 |
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Transcript of Hearing  
Conducted on March 5, 2025

27

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>nothing<br/>6:2<br/>number<br/>6:15</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p>occurred<br/>11:6<br/>office<br/>8:22, 16:13<br/>officials<br/>6:14, 8:19,<br/>17:8<br/>officiators<br/>17:3<br/>oh<br/>11:21<br/>okay<br/>12:3<br/>one<br/>9:21, 12:16,<br/>12:17, 13:12,<br/>16:7, 16:11,<br/>17:17, 18:21<br/>only<br/>7:8, 17:2, 19:2<br/>open<br/>7:7, 7:13,<br/>8:12, 8:15,<br/>8:16, 9:1, 9:18,<br/>11:5, 11:8<br/>opening<br/>4:4<br/>operate<br/>19:22<br/>operating<br/>10:4<br/>opposed<br/>12:13<br/>organize<br/>18:2<br/>originate<br/>15:14<br/>other<br/>13:11, 18:18,<br/>18:19<br/>otherwise<br/>22:10</p> | <p>out<br/>8:18, 10:2,<br/>14:9, 17:2, 20:3<br/>outcome<br/>22:10<br/>over<br/>7:11, 16:12<br/>overwork<br/>6:8</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p>page<br/>4:2, 8:10,<br/>10:20<br/>pages<br/>1:21<br/>particular<br/>9:21<br/>parties<br/>22:9<br/>parts<br/>8:11<br/>pass<br/>4:14, 5:19,<br/>12:8, 20:15<br/>passed<br/>21:2<br/>passing<br/>17:6<br/>pat<br/>3:9, 4:12<br/>people<br/>7:9, 7:10,<br/>7:12, 7:13,<br/>7:18, 8:6, 10:3,<br/>11:8, 13:11,<br/>13:17, 15:19,<br/>18:8, 19:22,<br/>20:1<br/>perhaps<br/>16:14<br/>phone<br/>14:7<br/>pie-in-the-sky<br/>15:20<br/>place<br/>17:6, 18:3<br/>plain<br/>19:6</p> | <p>please<br/>12:8, 18:10<br/>pleasure<br/>5:14, 10:11<br/>plenty<br/>20:4<br/>point<br/>14:9<br/>politics<br/>20:3, 20:4<br/>polls<br/>7:7, 7:9, 7:13,<br/>7:16, 7:20,<br/>8:12, 9:18<br/>posted<br/>10:15<br/>precincts<br/>18:1<br/>prepare<br/>18:1, 18:2<br/>prepared<br/>22:3<br/>presentation<br/>19:14<br/>presented<br/>16:16<br/>presently<br/>7:6<br/>pressure<br/>17:5<br/>previous<br/>9:22<br/>prior<br/>7:2, 7:3, 8:12<br/>problem<br/>8:9<br/>proceedings<br/>5:2, 21:3,<br/>22:5, 22:6<br/>process<br/>6:20, 14:12<br/>processes<br/>8:3<br/>prod<br/>13:13<br/>product<br/>6:13<br/>prominent<br/>15:8</p> | <p>provide<br/>6:14<br/>purpose<br/>11:12<br/>push<br/>13:13<br/>put<br/>17:6</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p>qualifications<br/>7:1<br/>question<br/>12:10, 14:21,<br/>20:11</p> <hr/> <p style="text-align: center;"><b>R</b></p> <hr/> <p>read<br/>5:3, 5:12,<br/>10:16<br/>reading<br/>21:2<br/>realistically<br/>19:3<br/>really<br/>7:15, 9:4,<br/>13:3, 14:2,<br/>17:8, 18:22<br/>reason<br/>9:10<br/>recently<br/>7:17<br/>recommend<br/>5:19, 20:15<br/>record<br/>12:14, 16:16,<br/>20:19, 22:6<br/>recorders<br/>8:20, 9:3,<br/>11:4, 11:8,<br/>15:7, 16:8,<br/>16:17, 17:4,<br/>17:7, 17:15<br/>recording<br/>22:4<br/>redundant<br/>17:12<br/>register<br/>5:8, 6:21, 7:6,</p> |
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Transcript of Hearing  
Conducted on March 5, 2025

28

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| 7:11, 7:13,<br>9:11, 13:7,<br>13:15, 17:21,<br>18:17, 19:1,<br>19:2<br><b>registered</b><br>14:1<br><b>registering</b><br>7:10, 9:5,<br>11:9, 14:13,<br>14:16<br><b>registrants</b><br>17:22<br><b>registration</b><br>5:7, 5:9, 7:1,<br>7:4, 7:5, 9:6,<br>9:9, 11:11,<br>13:8, 14:6,<br>17:16, 18:8<br><b>regular</b><br>7:1, 7:4, 8:5,<br>9:8<br><b>related</b><br>22:8<br><b>remain</b><br>9:18<br><b>remember</b><br>6:21<br><b>reopen</b><br>9:6<br><b>report</b><br>5:17, 20:13<br><b>reports</b><br>7:18<br><b>represents</b><br>15:8<br><b>request</b><br>10:15<br><b>requests</b><br>9:2<br><b>resent</b><br>20:4, 20:5<br><b>resolved</b><br>16:6<br><b>respect</b><br>13:4, 17:2,<br>17:7<br><b>respectfully</b><br>13:9 | <b>restrictive</b><br>14:16<br><b>revising</b><br>5:7<br><b>rid</b><br>9:19<br><b>right</b><br>12:5, 20:19<br><b>rightly</b><br>18:16<br><b>rise</b><br>5:17, 20:13<br><b>risk</b><br>17:12<br><b>rules</b><br>14:9, 14:16<br><b>run</b><br>8:2, 8:4<br><hr/> <b>S</b> <hr/> <b>safe</b><br>18:4, 18:10<br><b>said</b><br>13:5, 16:8,<br>19:12, 22:5<br><b>same</b><br>5:19, 20:15<br><b>same-day</b><br>17:16, 18:8<br><b>sat</b><br>16:10<br><b>saturday</b><br>8:16, 9:1,<br>9:12, 11:11,<br>17:19, 19:1<br><b>saw</b><br>7:18<br><b>say</b><br>11:21, 12:3,<br>12:12, 14:3,<br>15:8, 17:8<br><b>sb</b><br>10:10<br><b>second</b><br>21:2<br><b>secretary</b><br>8:21, 16:10,<br>16:13 | <b>sections</b><br>5:11, 5:12,<br>5:13<br><b>security</b><br>17:13<br><b>seeing</b><br>11:18, 19:8<br><b>senate</b><br>5:5, 5:18, 6:3,<br>6:11, 8:8, 10:9,<br>10:14, 12:11,<br>20:14, 20:18,<br>21:1<br><b>senator</b><br>3:3, 3:4, 3:5,<br>3:6, 3:7, 3:8,<br>3:9, 4:4, 4:5,<br>4:6, 4:9, 4:10,<br>4:11, 4:12,<br>4:13, 5:15,<br>5:16, 5:21,<br>5:22, 10:10,<br>10:12, 10:13,<br>10:17, 10:18,<br>11:15, 11:17,<br>11:20, 12:2,<br>12:3, 12:7,<br>12:8, 12:11,<br>12:13, 12:16,<br>12:22, 13:2,<br>13:4, 14:19,<br>14:20, 15:1,<br>15:2, 15:3,<br>15:4, 15:5,<br>15:10, 15:11,<br>15:12, 15:15,<br>16:17, 16:21,<br>16:22, 17:10,<br>17:11, 18:13,<br>18:14, 19:9,<br>19:11, 20:8,<br>20:9, 20:12<br><b>senators</b><br>12:15, 20:20,<br>20:21, 20:22<br><b>set</b><br>17:6<br><b>several</b><br>12:13 | <b>share</b><br>17:16<br><b>shelley</b><br>3:4<br><b>shift</b><br>8:1, 8:4, 8:5<br><b>shot</b><br>15:21, 15:22<br><b>should</b><br>8:1, 13:21,<br>13:22, 14:1<br><b>shown</b><br>9:22<br><b>sic</b><br>15:12, 20:14<br><b>signature-snmnt</b><br>22:13<br><b>signed</b><br>10:10<br><b>similar</b><br>16:7<br><b>simple</b><br>19:6<br><b>simply</b><br>10:19<br><b>situation</b><br>10:22, 11:10<br><b>skills</b><br>22:7<br><b>sloppy</b><br>8:6<br><b>smith</b><br>12:14<br><b>solution</b><br>8:8, 8:18,<br>10:2, 15:18,<br>18:6<br><b>some</b><br>6:17, 9:3<br><b>something</b><br>13:5<br><b>sometimes</b><br>6:8, 7:2, 11:2,<br>11:3<br><b>soon</b><br>7:11<br><b>sos's</b><br>14:6 |
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Transcript of Hearing  
Conducted on March 5, 2025

29

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>speak</b><br>13:3<br><b>speaking</b><br>15:15<br><b>specifically</b><br>13:9<br><b>sponsor</b><br>11:19, 11:22,<br>12:1, 14:21,<br>17:3<br><b>staff</b><br>6:16<br><b>stand</b><br>19:14<br><b>state</b><br>2:9, 16:10<br><b>state's</b><br>8:22, 16:13<br><b>statement</b><br>4:4, 4:6,<br>19:18, 20:5<br><b>stats</b><br>14:5<br><b>stick</b><br>20:7<br><b>still</b><br>7:19, 7:21,<br>15:22, 18:9<br><b>stop-start</b><br>18:22<br><b>stories</b><br>9:20<br><b>story</b><br>9:21<br><b>striking</b><br>10:20<br><b>suggested</b><br>16:13<br><b>suggestion</b><br>20:5<br><b>sunday</b><br>19:1<br><b>support</b><br>17:1, 18:10<br><b>suppress</b><br>18:22, 19:17,<br>20:2<br><b>suppression</b><br>19:6 | <b>supreme</b><br>14:15, 15:16,<br>16:1, 16:2<br><hr/> <b>T</b><br><hr/> <b>take</b><br>8:3, 8:10,<br>19:15<br><b>talk</b><br>15:6<br><b>talked</b><br>15:15<br><b>talking</b><br>8:19, 11:2,<br>11:3<br><b>tell</b><br>11:22<br><b>term</b><br>16:5<br><b>thank</b><br>5:19, 10:4,<br>10:13, 10:18,<br>11:13, 11:20,<br>12:7, 12:9,<br>13:2, 14:17,<br>14:20, 16:19,<br>16:22, 17:11,<br>18:14, 19:7,<br>19:11, 20:10<br><b>themselves</b><br>17:21<br><b>theresa</b><br>3:8, 4:11<br><b>thing</b><br>14:14, 18:21<br><b>things</b><br>18:18<br><b>think</b><br>10:1, 15:13,<br>18:17, 18:21,<br>19:5<br><b>thinking</b><br>18:18<br><b>thought</b><br>16:11<br><b>three</b><br>11:12<br><b>through</b><br>5:13, 8:11, | 8:12<br><b>time</b><br>13:11, 13:21,<br>20:4<br><b>timely</b><br>18:4<br><b>times</b><br>5:8, 13:19<br><b>title</b><br>4:3, 5:3<br><b>today</b><br>13:6<br><b>today's</b><br>7:3<br><b>topic</b><br>6:3<br><b>towards</b><br>16:1<br><b>track</b><br>19:4<br><b>transcribed</b><br>1:22<br><b>transcriber</b><br>22:1<br><b>transcript</b><br>22:3, 22:5<br><b>tried</b><br>14:5<br><b>true</b><br>22:5<br><b>try</b><br>17:5<br><b>trying</b><br>14:7, 18:7,<br>20:2<br><b>tuesday</b><br>7:21, 9:7,<br>9:14, 19:2<br><b>turned</b><br>16:2<br><hr/> <b>U</b><br><hr/> <b>unconstitutional</b><br>14:17<br><b>under</b><br>5:18, 17:5,<br>20:13<br><b>until</b><br>9:7, 19:3 | <b>urge</b><br>19:6<br><b>using</b><br>14:5<br><hr/> <b>V</b><br><hr/> <b>vance</b><br>3:4, 4:5, 4:6,<br>10:10, 10:12,<br>10:13, 10:17,<br>10:18, 12:8,<br>12:11<br><b>vote</b><br>4:7, 4:14,<br>5:10, 6:22, 7:7,<br>7:10, 7:14,<br>12:13, 12:14,<br>12:16, 13:7,<br>13:15, 13:22,<br>14:1, 14:13,<br>14:17, 17:8,<br>18:20, 18:22,<br>19:7, 20:2,<br>20:10, 20:16,<br>20:19, 20:21<br><b>voted</b><br>12:13<br><b>voter</b><br>5:7, 5:9, 19:5<br><b>voters</b><br>6:15, 9:5,<br>18:16, 18:17,<br>19:18<br><b>votes</b><br>12:16<br><b>voting</b><br>7:9, 7:19,<br>7:21, 12:17,<br>12:18, 14:12,<br>18:19, 20:22,<br>21:1<br><hr/> <b>W</b><br><hr/> <b>want</b><br>14:12, 19:18<br><b>wanted</b><br>13:18, 14:2,<br>14:8 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Hearing  
Conducted on March 5, 2025

30

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>wanting<br/>6:14<br/>way<br/>7:17, 8:12,<br/>9:17, 15:22,<br/>17:18, 19:17<br/>we're<br/>5:22, 6:2, 7:6,<br/>11:2, 11:3, 18:6<br/>we've<br/>14:4<br/>website<br/>14:6<br/>wednesday<br/>1:10, 7:19<br/>wee<br/>6:9<br/>week<br/>8:12, 8:13<br/>well-meaning<br/>10:3<br/>wendy<br/>3:7, 4:10<br/>whatever<br/>9:10<br/>without<br/>9:4<br/>word<br/>10:21<br/>work<br/>7:17, 9:4,<br/>15:19, 17:21,<br/>18:7<br/>worked<br/>8:18, 10:2<br/>workers<br/>9:15<br/>working<br/>15:22, 16:7<br/>world<br/>7:3<br/>wrong<br/>19:16<br/>wrongly<br/>18:16<br/><hr/>Y<hr/>year<br/>6:22, 13:7,</p> | <p>14:15<br/>yield<br/>14:21<br/>young<br/>18:15, 18:17<br/>youngest<br/>13:12<br/><hr/>.<hr/>.002<br/>10:10, 10:15<br/><hr/>0<hr/>00<br/>7:16, 7:19,<br/>7:21, 7:22,<br/>8:14, 8:17, 9:7,<br/>9:14, 9:19<br/>0490.001<br/>10:10<br/>09<br/>22:17<br/><hr/>1<hr/>10<br/>4:5, 8:11<br/>11<br/>4:6<br/>12<br/>4:7, 9:14<br/>13<br/>4:9<br/>1301<br/>2:10<br/>16<br/>4:10, 8:11,<br/>10:20<br/>17<br/>4:11, 8:11,<br/>20:21, 21:1<br/>18<br/>4:12<br/>19<br/>4:13<br/><hr/>2<hr/>20<br/>4:14</p> | <p>2025<br/>1:10, 22:17<br/>22<br/>1:21<br/>28<br/>22:17<br/><hr/>3<hr/>30<br/>7:1, 7:3<br/>33<br/>20:20, 20:22<br/><hr/>4<hr/>4<br/>7:19, 7:22,<br/>9:19<br/>474<br/>20:14<br/>49<br/>12:15, 12:17<br/>490<br/>4:3, 4:8, 4:14,<br/>5:5, 5:19, 6:4,<br/>6:12, 8:8, 10:9,<br/>10:14, 12:12,<br/>20:18, 21:1<br/>490.001<br/>10:15<br/><hr/>5<hr/>5<br/>8:14, 8:17<br/>59601<br/>2:11<br/><hr/>6<hr/>601363<br/>1:20<br/>6th<br/>2:10<br/><hr/>8<hr/>8<br/>7:16, 7:21,<br/>8:17, 9:7, 9:14</p> |  |
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# EXHIBIT D



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# Transcript of House Standing Committee

**Date:** March 26, 2025  
**Case:** Transcription Services

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TRANSCRIPT OF COMMITTEE HEARING OF THE

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STATE ADMINISTRATION COMMITTEE

8

MONTANA STATE HOUSE

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11

MARCH 26, 2025

12

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14

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16

17

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19

20 Job No.: 601174

21 Pages: 1 - 132

22 Transcribed by: Christian Naaden

1 P R O C E E D I N G S

2 MDM. CHAIR: Good morning. It's 10:00 a.m.  
3 House state administration will come to order. Will  
4 the Secretary please take the roll?

5 SECRETARY: Thank you, Madam Chair. Vice  
6 Chair Bertoglio.

7 VICE CHAIR BERTOGLIO: Here.

8 SECRETARY: Vice Chair Korda.

9 VICE CHAIR KORDA: Here.

10 SECRETARY: Representative Bennett.

11 REP. BENNETT: Here.

12 SECRETARY: Representative Byrne.

13 REP. BYRNE: Here.

14 SECRETARY: Representative Cochran.

15 REP. COCHRAN: Here.

16 SECRETARY: Representative Edwards.

17 REP. EDWARDS: Here.

18 SECRETARY: Representative Fyant.

19 REP. FYANT: Here.

20 SECRETARY: Representative Strand.

21 REP. STRANDE: Here.

22 SECRETARY: Representative Lee.

Transcript of House Standing Committee  
Conducted on March 26, 2025

3

1 REP. LEE: Here.  
2 SECRETARY: Representative Love.  
3 REP. LOVE: Here.  
4 SECRETARY: Representative Perry.  
5 REP. PERRY: Top of the morning, I'm here.  
6 SECRETARY: Representative Rexton.  
7 MALE1: She's outside.  
8 MDM. CHAIR: She's here.  
9 SECRETARY: Representative Runningwolf.  
10 MALE1: Excused.  
11 SECRETARY: Representative Schubert.  
12 REP. SCHUBERT: Here.  
13 SECRETARY: Representative Smith.  
14 REP. SMITH: Here.  
15 SECRETARY: Representative Suktas.  
16 MALE1: Excused.  
17 SECRETARY: Representative Tillman.  
18 REP. TILMAN: Here.  
19 SECRETARY: Representative Wirth.  
20 REP. WIRTH: Here.  
21 SECRETARY: Chair Darling.  
22 MDM. CHAIR: I'm here. Representative

1 Perry's right there. Oh, okay. All right. Thank you  
2 everyone. Good morning. We'll go ahead and get  
3 started. We'll open the hearing on Senate Bill 490.  
4 Senator Cuffe, would you please open on Senate Bill  
5 490?

6 SEN. CUFFE: Thank you, Madam Chair. Yes,  
7 I'd be happy to open on 490. And, Madam Chair, I  
8 promise, no four-letter words today. Madam Chair,  
9 this is a great common sense solution to a  
10 continuing problem of voting polls workers having to  
11 work a full --

12 MDM. CHAIR: Senator, can you please --  
13 Senator, can you please introduce yourself?

14 SEN. CUFFE: My name is --

15 MDM. CHAIR: Thank you.

16 SEN. CUFFE: What's that? Madam Chair,  
17 thank you for getting me on track here. I was so  
18 excited. My name is Mike Cuffe. Oh, golly, that's a  
19 four-letter word. M-i-k-e C-u-f-f-e, and represent  
20 Senate District one, which is in the northwest  
21 corner, which means I border on Idaho. I border on  
22 British Colbia, Canada.



1           Thanks to a mistake made when folks were  
2     surveying the Continental Divide, actually, had they  
3     stayed on the Continental Divide instead of losing  
4     track at Lost Trail Pass, I'd be in Idaho.

5           But it worked out better. I'm happy to be  
6     in Montana, happy to be in the northwest corner, and  
7     I'm happy to bring a great common-sense solution,  
8     trying to help out the -- it's hard to do a good job  
9     when you're grinding away on a long day from 8:00 in  
10    the morning until 4:00 in the morning or whatever  
11    hours after 4:00, because there's a lot of work to  
12    do whenever the polls close.

13          And, so, this bill addresses that after a  
14    lot of work with clerk and recorders over the past  
15    few years. We need to have faith in the -- in the  
16    ability of election officials to do their jobs  
17    without running out of mental fatigue and physical  
18    fatigue. And I've run a lot of production plants,  
19    and I understand what you feel like after you work a  
20    hard double shift, or more.

21          So this bipartisan solution came from  
22    election officials. Bipartisan or nonpartisan

1 election officials wanted to provide the best  
2 election possible that they can for the voters and  
3 for the nonpartisan staff conducting the elections.  
4 My intention is to make a good process better.

5 So, voters can register all year long up  
6 until it gets pretty close to voting time. When I  
7 was a kid, you had to register a couple of months in  
8 advance. Right now, you can register as long as the  
9 polls are open on voting day.

10 So, regular registration actually ends 30  
11 days. We call it late registration after 30 days  
12 before the election. Polls are intended to close at  
13 8 p.m. on Election Day.

14 That's what we have in statute, but we also  
15 have in statute that the polls will remain open as  
16 long as there's anybody in line to vote. If you have  
17 a second line where people are registering to vote,  
18 and going right over and getting in line to vote,  
19 sometimes the polls remain open much longer.

20 And in fact, currently, it often doesn't  
21 work that way in different places. But the example  
22 which I looked at news report just -- just recently

1 in Gallatin County, people were still casting votes  
2 at 4:00 in the morning.

3 Now, this is after statute says polls will  
4 close at 8:00. Now at 4:00 in the morning at 8:00,  
5 this was set up so that those election guys, many of  
6 whom have been there all day, are ready to do the --  
7 the work it takes to close it up, get it over to  
8 where the votes are counted, and get on with  
9 business.

10 I don't think if it's my plywood plant, I  
11 run it differently. I don't have them there until  
12 4:00 in the morning. And they should not be a  
13 political issue. This is a doggone good common sense  
14 approach.

15 If it was your house, your kids going to  
16 bed at 8:00, I don't think anybody could come up  
17 with a scheme that they're still up running around  
18 at 4:00 in the morning.

19 Somehow you get it back closer to -- to  
20 shut down at 4:00 -- 8:00. Common sense solution to  
21 the problem of fatigue, of overwork, and overwork  
22 fatigue brings the added possibility of mistakes,

1 and I could point out to a few.

2 I'm going to stop with that part of my  
3 presentation. I'd like to address your attention to  
4 page two. You can scan through the bill Senate Bill  
5 490. And if you go to page two of the bill. The real  
6 -- the real guts of the bill starts on page two,  
7 line 10. Oh, guts, four letters.

8 Anyway, "In a federal election, elector may  
9 register a change voter's registration information  
10 after the close of regular registration, which is 30  
11 days earlier.

12 And they can vote in the election if the  
13 election administration resides where the elector  
14 resides, receives and verifies the registration  
15 information, a, prior to the close of business on  
16 the Friday before the election. Any time that day."

17 Saturday, any time between 8:00 and 5:00.  
18 Saturday before the election. Not open on Monday for  
19 -- for registration because clerk and recorders have  
20 a jble of business to do, and they really asked me  
21 to make sure they did not have to be registering on  
22 Monday.

1           So they traded Saturday for Monday. That  
2           was their solution. And also be open on the day of  
3           election up until noon, but not later than noon. And  
4           again, that gives them a chance to catch that up and  
5           avoid that 4:00 in the morning business.

6           To me, it's pretty simple, a very common  
7           sense thing. And I don't care. When I was in Libya,  
8           I had a union crew, and if my union crew came to me  
9           and said, "Hey, we got a better way to do business  
10          here," I'd sit down and look at it and take it. When  
11          I was in Eureka, I ran a nonunion crew.

12          And if those guys came up to me and said,  
13          "Hey, look, doesn't this make sense if we could be  
14          free to do this catch-up work all day Monday? But  
15          then we'll -- for the guys who didn't quite get in  
16          yet, we'd let them register 8:00 to noon on  
17          Tuesday."

18          I don't care if it's union job, if it's a  
19          nonunion job, or if it's clerk and recorders coming  
20          in. It's trying to do their best job possible. I say  
21          it makes sense. So I hope you give it serious  
22          consideration and time we get done chewing it over,

1 we'll vote it yes. Thank you, Madam Chair.

2 MDM. CHAIR: Thank you. Senator, do we have  
3 any proponents to Senate Bill 490?

4 MR. JAMES: Good morning, Madam Chair,  
5 members of the committee. Austin James, J-a-m-e-s,  
6 on behalf of Madam Secretary Kristi Jacobson and the  
7 Secretary of State's Elections Department. We ask  
8 you to look and pass Senate Bill 490 to create a  
9 bipartisan opportunity to enact same weekend  
10 registration in Montana.

11 If you're a person like my father, who ran  
12 a small business on Main Street in Butte, Montana,  
13 you're open from 8:00 to 5:00, and if there's a  
14 customer that comes by the front door at 5:00,  
15 you're opening there and you're also well there  
16 before seven -- at 7:00 to make sure that at 8:00  
17 the doors open and you're providing services so that  
18 all the prep work is done. Those people have trouble  
19 registering in between 8:00 and 5:00 Monday through  
20 Friday.

21 You also have folks that may be students,  
22 and those students have class Monday through Friday.

1 And they may have class like I did, public  
2 introduction to public speaking, which I guess  
3 serves well because that's what I'm doing here today  
4 between 6:00 and 8:00 on a -- on a -- on a weekday.

5 You also have Native American voters who  
6 need to get rides, and they need to travel long  
7 distances. And if you're going to try and position a  
8 certain time, it's very difficult with without --  
9 without some type of increased opportunity.

10 And that is why the focus has been placed  
11 on providing same day registration. Now this bill  
12 keeps same day registration. In fact, it keeps the  
13 same amount of registration hours that are available  
14 today.

15 But it adds a Saturday opportunity, so that  
16 if you have to drive long distances, you have an  
17 opportunity to leave, you have an opportunity to get  
18 there, and you have an opportunity to get home in a  
19 reasonable hour where you're not going through snow  
20 or treacherous roads, if you got to borrow a ride,  
21 all of those types of things.

22 It provides an opportunity for student

1 voters and rural voters, small business owners. We  
2 are going to put so much emphasis should this bill  
3 pass, as the Secretary of State's office, on that  
4 culmination of energy the weekend before for  
5 registration, we're going to have the most voters  
6 ever participate, ever. And I'm confident in that.

7 The current model, let me just be frank, is  
8 voter suppression. You see the person who is  
9 registering to vote. I watched Gallatin's webcam.  
10 Takes about 17 minutes per person to register to  
11 vote.

12 However, what you don't see is the hundreds  
13 of people, thousands of people that call our office  
14 and the elections office who are not -- who are  
15 registered voters, who are not going to vote because  
16 the line is too long, because when they drive by,  
17 they see too many cars and there's no parking spot.

18 You don't see all of those people, and so  
19 while you see the one voter who takes 17 minutes,  
20 you don't realize the three voters who are single  
21 parents, who have kids, who can't get their kids out  
22 of the car seat to go stand in a line for two hours.



1           We haven't began counting until 3:00 in the  
2 morning, and it creates a bunch of other logistical  
3 problems. Reforming the current broken model is  
4 necessary for not just election workers, it's  
5 necessary for the state and for voters. We currently  
6 have a Monday problem. We have to wait to print our  
7 registers until the lines are clear.

8           When counties have different lengths of  
9 lines, that means that other counties aren't able to  
10 plan their day because they don't know how many are  
11 going to be in line in various counties.

12           This bill provides a Monday opportunity so  
13 that while we open up and create a Saturday  
14 registration model, a same weekend registration, we  
15 also have Sunday and Monday available to get things  
16 ready for an election. Very -- extremely necessary.

17           There's no job -- we're doing three jobs at  
18 the same time as an efficient process. You must take  
19 steps one to two to three.

20           We also have a situation right now where  
21 you squeeze all of those demographics that I just  
22 mentioned earlier into one segment, which is

1 registration day, and between 6:00 and 8:00 p.m.

2 You're wondering why it goes till 3:00 in the  
3 morning? Well that's why.

4 Because you have to put everybody in that  
5 line. And if you do -- say you are a native voter  
6 who has to travel long distances and have to borrow  
7 a ride. You're now faced with a situation where your  
8 only opportunity is from 6:00 to 8:00 p.m., you're  
9 going to be in line until midnight, and then you got  
10 to get home at 4:00 in the morning? That's not fair  
11 to those demographics of people. It's fair to  
12 provide an opportunity for them on that Saturday.

13 Now, I know that there were some clerks --  
14 know we were in complete unison that the current  
15 model is broken. There is some clerks who had  
16 suggested that we need to cut off registration -  
17 they're firm on this -- we need to cut registration  
18 off on Friday.

19 And the way that we adjust for the problems  
20 that we have arisen through previous legislation and  
21 through litigation on this topic, is to expand  
22 registration hours on the week before.

1           Again, I think that opening it till 8:00  
2     p.m. on the week before and closing it off on Friday  
3     does not provide for it to serve as many voters as a  
4     Saturday would serve because you still have to drive  
5     that distance and then drive home, which puts you at  
6     home in the late time of hour, where deer  
7     populations are in the rut, and other types of  
8     obstacles. I believe that Saturday, and so do the  
9     nonpartisan staff that helped work on this solves  
10    the problem.

11           The current model allows for receipt of  
12    ballots after 8:00 p.m., which is in conflict with  
13    state law that says ballots must be received before  
14    8:00 p.m. and also in conflict with federal law  
15    issued by the White House yesterday. The current  
16    model leads to counting errors by a result of  
17    exhaustion and other errors, and let's just be let's  
18    -- let's be candid.

19           We -- we -- when you have something that  
20    normally begins at 8:00 p.m. and you're not  
21    beginning that until 3:00 in the morning, you're  
22    just not fresh. I mean, that's just a fact, right?

1           And at the same time, there are young  
2       folks, like a young Austin back in the day, that  
3       came from an apolitical family, which will wonder  
4       that I work in the Capitol today that weren't  
5       involved in elections. They got involved with that  
6       ability to, at 8:00, watch election results.

7           That - that -- that theme of being able to  
8       celebrate victories and losses, being able to be  
9       part of this culmination of experiences engages  
10      young people into the process.

11          When you have tabulation that doesn't begin  
12      until the day after the election, and the tabulation  
13      spans over four days, the peak of an election is  
14      lost and so is the -- so is the interest level of  
15      engaging young people and other demographics.

16          That -- we've been really bmed out because  
17      I'll tell you, leading into this hearing and leading  
18      into the Senate hearing, which went by party lines,  
19      and I don't think it should be because we're trying  
20      to provide for all Montanans with this bill, there  
21      was a consistent narrative which was to borrow the  
22      end of same day registration bill from 2021 and

1 repeat the same arguments.

2 I'm going to repeat myself: this bill does  
3 not end same day registration. It provides a  
4 failsafe on same day registration, but it maximizes  
5 opportunity on the Saturday before, so that we can  
6 also alleviate the problem in the most narrow  
7 possible way, and so that we make a better system  
8 for everyone.

9 The good senator touched on the and/or  
10 discussion that is in the bill, and I'll point you  
11 to that, and I want to give you a little bit of  
12 background because - because -- because it is  
13 something we should discuss. And I know my good  
14 friend Regina and the clerks were -- want to make  
15 sure that I address this.

16 And it's on page two from lines 14 through  
17 16, you'll see subpart B was "or" and it's been  
18 changed to "and". Now, the question was since this  
19 says the elector may right in the preface of it,  
20 that means that the A through C is an option for the  
21 voters.

22 And so therefore, the initial drafting by

1 Andrea was to provide an or because the fear was if  
2 you said and then it would mean that you could  
3 register it all three of those points and you can't  
4 register it three times, you can only register once.  
5 Right?

6 Andrea looked at that again and issued a  
7 legal opinion that said, "No, this is talking about  
8 the times, and so we don't want counties to choose  
9 'Well, I'll pick A or I'll pick B or I'll pick C.'  
10 What we're trying to intend is, is that a voter has  
11 an option, and the election office is open on all  
12 three times."

13 To be honest, my legal opinion is it  
14 doesn't need an and or an or, but I hope that the  
15 legislative record to this point has been really  
16 clear that the legislative -- the legal advice  
17 provided by the Senate committee was that this would  
18 provide language that would ensure that election  
19 offices are open at those three times, and that a  
20 voter has those three opportunities to register, and  
21 that they, of course, they can only register once.

22 I want this to be very, very clear that

1 this isn't saying that the election office has three  
2 different choices to pick from, and it's not saying  
3 that an elector may register three times.

4 However we solve this problem is important,  
5 but I don't want to get sideways on that  
6 technicality. So I hope that we can establish a good  
7 legislative record. And perhaps if it's clear to the  
8 committee an alternative way, we can go that way.

9 I've also heard -- another concern I want  
10 to address in advance, which is from -- from a  
11 lobbyist, from an environmentalist organization  
12 related to a concern that if because it's specific  
13 to federal elections, that that would mean that  
14 there would be two separate ballots.

15 This will be all one ballot, and if there -  
16 - I don't believe there's a need for an amendment,  
17 but if there isn't a need, 13-1-104 provides a time  
18 for holding an election.

19 And I would ask anyone with that technical  
20 concern to present an amendment to the committee,  
21 because I don't believe it's an issue, but I do want  
22 to make sure that it's very, very clear.

1           There are other states that provide  
2       separate times for federal elections just like this  
3       state is proposing to do. They've been routinely  
4       upheld. You have a United States constitutional  
5       specific authority to set times for federal  
6       elections, and it's well within your authority to do  
7       so.

8           And lastly, I want to just mention a few  
9       things without mentioning names. My nonpartizan  
10      staff want to go up, and we watched the -- the  
11      second reading on the Senate floor, and there were  
12      two comments that were made. One was - was exciting  
13      and one was polarizing, and I think it's worth  
14      mentioning because it gives you context.

15           One was by a Senator who had a previous  
16      experience as a professional election administrator,  
17      and she said that in the 20 years of paying  
18      attention to reform for late registration bills,  
19      this is the first bill she's seen that is clearly  
20      nonpolitical, and that is a bipartisan effort to try  
21      and create reform for the better interest of  
22      Montanans. And I saw nonpartisan staff enthusiastic



1 by that, because we need a change, and we're sick of  
2 having this stuck in politics.

3 And on the second, I heard another member  
4 of that body refer to this as voter suppression. And  
5 those folks want me to convey that that churned  
6 their stomach and that they were sick to their  
7 stomach by that conviction, because the reality is  
8 the current system is voter suppression, and the  
9 current system needs fixed.

10 And we worked really hard to provide a  
11 bipartisan solution to do that. With that, I'd ask  
12 for a due pass on Senate Bill 490. Thank you, Madam  
13 Chair.

14 MDM. CHAIR: Thank you, Mr. James. Next  
15 proponent, please?

16 MS. PAULSEN: Madam Chair, members of the  
17 committee, I am Angie Paulsen. P-a-u-l-s-e-n. I am  
18 Broadwater County Clerk and Recorder, Election  
19 Administrator, And County Surveyor. I'm here today  
20 in support of Senate Bill 490.

21 I have had the honor of working two federal  
22 elections, one without same day voter registration

1 and one with, so I've seen the comparison of the  
2 two. I will say that my staff's number one complaint  
3 and concern this time was the amount of same day  
4 voter registrations.

5 We had lines out the door from 7:00 a.m.  
6 until 8:00 p.m. and we are a smaller county. We are  
7 -- we have 6000 registered voters in Broadwater  
8 County, so even in the smaller counties, with the  
9 courthouse closed down, we had lines out the door. I  
10 was having to add rooms, add booths, which is great.

11 We love to see the voter participation, but  
12 it was quite hectic with the lines. We were also  
13 getting calls from other counties to see if we could  
14 spare some workers to go help them with their lines  
15 out the door and I was not able to do that because  
16 we had our own lines.

17 I have precincts that are 20 to 25 miles  
18 away, so on Election day, I have to go visit those  
19 precincts. So I was not able to help with the lines  
20 on the same day voter registration.

21 And one thing I really want to point out is  
22 that Monday before the election, which we are trying

1 to eliminate the registration on that day, is so  
2 important. Because that day there's only certain  
3 tasks that can be done on that Monday, like print  
4 the registers for each precinct.

5 Because you have your voters that are  
6 registering the week of coming up to the election,  
7 and we have -- we can't print those registers  
8 because they have to be an updated list of who's  
9 registered.

10 So we give those to our -- our chief  
11 judges, and that can only be done Monday before it's  
12 extensive. So when we have people registering that  
13 day, it -- just we are there that much longer on  
14 Monday.

15 I also have little unique situation in  
16 Broward County where I have machines for each of my  
17 precincts, so I have to make sure on that Monday  
18 that my machines are ready to go zero totals.

19 There is quite a process with prepping  
20 those machines and my chief judges, I have to  
21 coordinate with probably 40 plus people on that  
22 Monday before just to get those polling places

1     prepped.

2             And I end up -- I'm at my office very late  
3     the Monday before due to all these tasks, so I sleep  
4     three hours a night before an election, and I'm  
5     working 24 hours straight the day of election. And  
6     like I said, I'm from a county that only has 6000  
7     voters, so that's just to put that in perspective.

8             I also just wanted to say that if we talk  
9     about voter turnout, the former --- the 2022  
10    presidential election, when we did not have same day  
11    voter registration, we had a higher voter turnout,  
12    so that is not a factor in voter turnout as we did  
13    this election.

14            And I'm not saying -- we are not even  
15    eliminating same day voter registration, we have  
16    until noon on that day. And we are going to -- we  
17    hope to come in on Saturday and take care of those  
18    who can't make it on Election Day.

19            The other thing I want to point out -- and  
20    this is the last thing -- is on election day, since  
21    the county is closed, our GIS department is not  
22    working that day.

1           So if somebody is registering to vote and  
2   we have an addressing problem, we cannot go confirm  
3   that address with our county GIS department and  
4   enter them into our system, which creates  
5   provisional voters, and that is a whole 'nother  
6   subset of issues for -- for us when we're  
7   registering voters during an election. So with that,  
8   I do urge a due pass, and I am here to stand for  
9   questions. Thank you, Madam Chair.

10           MDM. CHAIR: Thank you, Miss Paulsen.  
11   Thanks for being here. Any other proponents for  
12   Senate Bill 490? Any other proponents in the room?  
13   Do we have any proponents online. Miss Kirby?

14           SECRETARY: We have one online.

15           MDM. CHAIR: All right. John Beasant, go  
16   ahead.

17           MR. BEASANT: I am so sorry. I should be  
18   under the opponents.

19           MDM. CHAIR: A-okay, thank you. All right,  
20   so no proponents. Wonderful. Thank you. Thank you,  
21   Miss Kirby. Opponents for House or Senate Bill 490  
22   opponents in the room.

1 MS. GRMOLGEZ: Good morning, Madam Chair.  
2 Members of the committee. For the record, my name is  
3 Aimee Grmoljez. You spell the last name G-r-m-o-l-g-  
4 e-z. I'm an attorney at the Crowley Fleck Law Firm,  
5 and I rise today on behalf of secure democracy. I do  
6 have a handout, with your permission, Madam Chair?

7 MDM. CHAIR: Yes, please.

8 MS. GRMOLGEZ: Thank you. Madam Chair,  
9 members of the committee, first, I want to thank the  
10 bill sponsor, and I thank the Secretary of State's  
11 Office has done a great job of -- of working in the  
12 interim on this issue and really hearing from all of  
13 the interested parties.

14 What I just wanted to share with you is  
15 our concern on one line of the bill. On page two,  
16 line 16, where it says prior to noon on the day of  
17 the election, I think it has some unintended  
18 consequences, and we would remove our objection if  
19 that language was stricken.

20 So let me -- let me put it into a little  
21 bit of perspective, thinking about -- about back  
22 when you all were running. Since you're in the

1 house, you run every two years.

2 The last election in November, there were  
3 799,849 registered voters, according to the  
4 Secretary of State's website about 10 minutes ago.  
5 The voter turnout was 612,423.

6 When I did a rough search of who had  
7 registered absentee and voted, by 5:00 on the Monday  
8 prior to that election, 425,000 people had  
9 registered and voted and received those ballots in.

10 That left approximately 187,423 people  
11 that either submitted an absentee ballot that was  
12 received after 5:00 on the Monday before the  
13 election, or went in person and voted.

14 This bill, on line 16, page two, says that  
15 for federal elections -- and I think when you go up  
16 in that paragraph, subsection three -- only federal  
17 elections were going to stop you from registering at  
18 noon.

19 So I think you heard from proponents, "Oh,  
20 this is allowed under the US Supreme Court case  
21 law." It doesn't appear to be allowed under Montana  
22 Supreme Court case law.

1           So that's already in your legal note that  
2   you have, Madam Chair, members of the committee. We  
3   think that this is going to create, actually, more  
4   election costs because you're going to have two  
5   different ballots printed.

6           You're going to have the federal ballot  
7   that you can no longer register for after noon on  
8   Election Day, and then you'll have potentially all  
9   of the other races out there that are not on the  
10   federal.

11          We also think this is going to probably  
12   create some confusion for voters. It's going to  
13   require additional public education, so I would  
14   definitely trust the Secretary of State's website  
15   and the -- the proponents testimony that it takes 17  
16   minutes per person. I would dare say this will take  
17   longer. And also, it's going to potentially face  
18   legal challenges.

19          So for those reasons, Madam Chair, members  
20   of the committee, we haven't heard a very -- I guess  
21   -- legally bound and good policy decision for the  
22   voters of Montana to stop registration at noon on



1 the day of the election, and it really creates just  
2 much more confusion.

3 So we think that there's some terrific  
4 parts of this bill, including adding the ability for  
5 people to come in the Saturday before the election,  
6 in my mind, is above and beyond and really  
7 incredible work for our bureaus. But I just wanted  
8 to say we'd really ask that that subsection C of  
9 section three be stricken in section one. Thank you.

10 MDM. CHAIR: Thank you, Miss Grmolgez.

11 MR. SUNCHILD: Good morning, Madam Chair,  
12 members of the committee. Keaton Sunchild, S-u-n-c-  
13 h-i-l-d, representing Western Native Voice. We heard  
14 in the beginning a lot about small businesses and  
15 business hours, and, you know, you're open a certain  
16 open time to close time. If this bill passed, it  
17 would put our election administrators in a spot  
18 where they might have to, you know, participate in  
19 bad customer service.

20 If you get married, you change your name.  
21 You had -- you moved, and you didn't know you needed  
22 to update your voter registration. And you go to the

1 election wherever you're holding your elections and  
2 you're trying to vote, and it's afternoon on  
3 Election Day, all of a sudden you have to be turned  
4 away.

5 So that puts election administrators in a  
6 bad spot, people are mad, and don't really -- didn't  
7 really know, like was just mentioned. They're  
8 confused, this creates confusion.

9 And whether intended or not, this is going  
10 to disenfranchise voters. It's going to keep  
11 Montanans from exercising their constitutional right  
12 to vote. The need to register to vote doesn't  
13 suddenly go away after noon on Election Day. So, you  
14 know, we're going to see a lot of unintended  
15 consequences if this bill is passed. So we ask for a  
16 do not concur. Thanks.

17 MDM. CHAIR: Thank you, Mr. Sunchild.

18 MS. SNOW: Good morning, Chair. Excuse me,  
19 members of the committee. For the record, my name is  
20 Alissa Snow. That's A-l-l-i-s-a S-n-o-w, and I am  
21 here today representing the Blackfeet Tribe, the  
22 Fort Belknap Indian Community, and the Chippewa Cree

1 tribes of Rocky Boy.

2 We stand here today in opposition of House  
3 Bill 176, and if anyone should speak about native  
4 voter suppression and the fairness or lack thereof  
5 of the current system, then it should be Native  
6 Americans.

7 I'm here to tell you that not only were  
8 tribes not consulted or aware of this, but we did  
9 not ask the Secretary of State to speak for us.  
10 Tribes adamantly oppose any change in policy that  
11 further limits the ability to access voter services.

12 A very large number of Native Americans  
13 utilize same day voter registration, so any changes  
14 to the current policy would disproportionately  
15 impact our population. Until we address the issues  
16 that create the need for same day voter  
17 registration, we will continue to oppose bills like  
18 House Bill 176.

19 So please stand with Montana voters. We  
20 voted this down previously and we will continue to  
21 vote this down should it come up again and vote no  
22 on House Bill 176. Thank you.

1 MDM. CHAIR: Thank you, Miss Snow. Next  
2 proponent? Or opponent?

3 MR. LOSING: Madam Chair, members of the  
4 committee. My name is Hunter Losing, L-o-s-i-n-g,  
5 here, on behalf of the Montana Federation of Public  
6 Employees. I won't belabor the points that have  
7 already been made. One myth I wanted to dispel  
8 though is that this bill does not reduce any of the  
9 hours available for voter registration.

10 And the reason for that is there are some  
11 counties already that allow Saturday hours. So the  
12 notion that no hours are reduced if this is put in  
13 place is actually incorrect, and those counties that  
14 already have Saturday voter registration will see a  
15 reduction in the hours available to -- to register  
16 to vote.

17 The only other thing I'll add is, you know,  
18 these long lines show that folks are using this  
19 service. And I get that it's frustrating, I get that  
20 it's difficult for our election administrators to  
21 stay on top of it, but the fact of the matter is, if  
22 this goes in place, these folks will then be denied

1 the right to vote.

2 And there's going to be confusion this  
3 first time that this is in place, and these people  
4 that are used to being able to show up on Election  
5 Day after work won't have that opportunity, they'll  
6 be turned away to vote, and I believe that's going  
7 to cause a lot more frustration than -- than simply  
8 having to be in the office for extended hours. So  
9 for those reasons, we urge you to vote no, and thank  
10 you for your time.

11 MDM. CHAIR: Thank you, Mr. Losing.

12 MR. FITZPATRICK: Madam Chair,  
13 Representatives, Conner Fitzpatrick, F-i-t-z-p-a-t-  
14 r-i-c-k, Lewis and Clark County elections.

15 I find myself in a quite a bit of a  
16 conundr here, because I thank the honorable Senator  
17 for trying to tackle something that, honestly, by  
18 me being up here is quite a thorny issue. I've got a  
19 lot of elections administrators that think  
20 differently on how to handle this.

21 In my mind -- well, one, my staff would  
22 probably give me a severe talking to if I didn't

1 mention that adding a Saturday to our report to  
2 assist with voters means that it's going to change  
3 up our side a little bit. Currently, the way  
4 Saturdays works is that we are focused solely on  
5 getting the polling place, materials set and ready  
6 to go.

7 Delivery occurs first thing Monday  
8 morning, Sunday gives us an emergency opportunity to  
9 go,

10 Okay, Is there anything that we need last minute  
11 here?" And it's great that we can focus on that. Of  
12 course, I would also be remiss not to mention that I  
13 can schedule more people, and we can work with that.

14 So, in light of all of that, my concern  
15 here is I'm putting myself in the shoes of the  
16 voter, as the entire point of the elections office,  
17 in my mind, is to serve said voters in conducting  
18 democracy. The first thing I have issues with is  
19 that this is solely for federal elections.

20 As you've probably heard from me or Miss  
21 Plettenberg over and over again, elections thrive on  
22 consistency. Consistent processes, consistent

1 actions, reactions, etc., through this whole  
2 process. Voters also tend to thrive on consistency.

3 They know what to expect, when to come in,  
4 etc., etc., so I would like to see an amendment to  
5 broaden this to local elections as well if the House  
6 have -- a committee decides to go through with it.

7 Another issue I have is that currently I  
8 believe it is guidance with Secretary of State's  
9 Office that anyone in line for late registration  
10 when the line closes be that 5 p.m. on any of the  
11 regular late election days prior to election day  
12 itself or that Monday before can be helped.

13 That same guidance applies if they're in  
14 line at noon the Monday before Election Day, and the  
15 same guidance applies if they're in line at 8 p.m.  
16 on Election Day itself. I would like to see that  
17 guidance codified. And I do realize that that's  
18 going to, well, likely end up kicking our butts  
19 here, but it serves the voters to have that codified  
20 in my mind.

21 And at the end of it all, we're trying to  
22 balance two things here. We're trying to balance the

1     humanity aspect of the election administrators and  
2     their staff going, "Okay, we realize that these are  
3     people. They have finite amounts of energy, finite  
4     amounts of time."

5             Sleep is important, as you've all heard me  
6     say before. But then we're also trying to balance  
7     the voter side of this. Now, if we were to do  
8     something, which unfortunately, it's rather  
9     political. but really, in my mind, it shouldn't be -  
10    - if we just had automatic voter registration, then  
11    bam, that would be -- that might be the way out in  
12    my mind.

13            But unfortunately, that has become a  
14    political issue more than anything, and now we're  
15    trying to tackle this in a nonpartizan way as the  
16    elections offices are.

17            So I do thank the senator for bringing this  
18    up. This is something we do need to talk about and  
19    something that does need to be looked at through a  
20    nonpartisan lens, because who knows how that voter  
21    is going to vote? They could go one way, they could  
22    go the other, or they could go a third way with,



1 say, a write-in.

2 But I do think that perhaps we need to  
3 take a holistic look at this as well. Put in as many  
4 -- make it as consistent as possible among  
5 elections, but then also make it so that the voter  
6 is -- should this change pass -- very much well  
7 aware of this.

8 And to that end, I really hope the  
9 Secretary of State's office is planning on not just  
10 advertising -- should this pass -- the change in  
11 2026, but also 2028 and perhaps 2030, even, just to  
12 make it absolutely abundantly clear that, "Voters  
13 this has changed."

14 So, I -- like I said, I find myself in a  
15 very interesting circumstance here, being against  
16 something that I feel overall might help our office,  
17 but really it's just down to the details of it all.  
18 And, such as elections the devil is in the details.  
19 Thank you.

20 MDM. CHAIR: Thank you, Mr. Fitzpatrick.  
21 Are there any other opponents in the room? Let's go  
22 to opponents online, Miss Kirby?

1 SECRETARY: We have two online.

2 MDM. CHAIR: Thank you. Alex, go ahead.

3 Alex, are you there?

4 MR RATE: Can -- can you all hear me?

5 MDM. CHAIR: We can hear you now.

6 MR. RATE: Okay, my apologies. Madam Chair,  
7 members of the committee, Alex Rate, R-a-t-e with  
8 the ACLU of Montana here urging a no vote on Senate  
9 Bill 490. So under current law, a qualified elector  
10 may late register and cast a ballot prior to the  
11 close of polls on election day.

12 That is what we call election day  
13 registration and studies have shown that Election  
14 Day registration has permitted tens of thousands of  
15 voters to cast a ballot in Montana elections.

16 Election day registration is  
17 disproportionately utilized by historically  
18 disadvantaged groups, including, as you heard from  
19 Miss Snow, indigenous voters, disabled voters and  
20 young voters.

21 Indigenous voters in particular face  
22 numerous obstacles to the ballot box already. Many

1 indigenous voters living on rural reservations do  
2 not have residential mail delivery, many live in  
3 areas that are miles away from county elections  
4 offices, and many experienced discrimination when  
5 they travel to the polls to vote -- to vote.

6 The elimination of Election Day  
7 registration creates an unnecessary additional  
8 barrier to the ballot box that may ultimately result  
9 in denying the right to vote for these communities.

10 And of course, in 2021, the Montana  
11 Legislature attempted to eliminate Election Day  
12 registration altogether by passing House Bill 176. A  
13 number of organizations challenged HB-176, arguing  
14 that it violated our constitutional right to vote.

15 And the right to vote has been deemed to  
16 be one of the most fundamental rights in our  
17 Constitution, and the Montana Supreme Court has held  
18 that any burden on that right is subject to  
19 something called strict scrutiny.

20 That means that any law burdening the  
21 right to vote must be justified by a compelling  
22 state interest. And, in that case, the courts found

1 that alleged burdens on elections officials that  
2 result from Election day registration are not  
3 sufficient to meet the compelling state interest as  
4 required for strict scrutiny.

5 Let me be clear. Senate Bill 490 would  
6 burden the right to vote, and as such would be  
7 subject to strict scrutiny, and any argument that  
8 the burdens on election officials are sufficient to  
9 justify this bill would be rejected by the courts.

10 So if the legislature passes Senate Bill  
11 490, it will suffer the same fate as HB-176. No  
12 doubt the courts will deem it unconstitutional and  
13 enjoin it from taking effect. But more importantly,  
14 this legislature should be working to expand the  
15 franchise, not to arbitrarily restrict it.

16 The easier we can make it for Montanans to  
17 vote, the healthier our democracy will be. We urge a  
18 no vote on SB-490.

19 MDM. CHAIR: Thank you, Mr. Rate. John,  
20 you're next.

21 MR. BAZANT: Good morning, Madam Chair, and  
22 other esteemed members of the committee. My name is

1 John Bazant, spelled B-a-z-a-n-t, and I am  
2 testifying on behalf of Forward Montana.

3 Our organization is the state's largest  
4 grassroots youth-led, youth-focused civic engagement  
5 organization, and we are urging you to oppose SB-  
6 490.

7 Same-day voter registration has been a  
8 critical safeguard that ensures that all eligible  
9 Montanans, including students, rural voters, seniors  
10 and working families have a fair chance to cast  
11 their ballot.

12 Same-day voter registration has been a  
13 lifeline for folks who work 9 to 5, juggle  
14 unpredictable schedules, or just voting for the  
15 first time, and just changing these rules now would  
16 create unnecessary confusion and limit access to the  
17 ballot for the very people our democracy should be  
18 welcoming in.

19 If this law moves forward, it will  
20 certainly be challenged in court, because Montana's  
21 constitutional right to vote applies to both state  
22 and federal elections administered by the state,

1     wasting taxpayer time and money on a fight we  
2     already know the outcome for when the legal  
3     precedent is clear. Restrictions on same-day voter  
4     registration undermine -- undermine the fundamental  
5     right and have no place in Montana law.

6             This bill also raises serious concerns  
7     about election accessibility. Proposed -- the  
8     proposed changes while marketing -- marketed as  
9     offering additional options, create confusion and  
10    restrict flexibility, and impose artificial  
11    deadlines that disproportionately impact young  
12    voters, rural voters, indigenous communities, and  
13    others who already face significant barriers.

14            Ensuring that all eligible voters can  
15    register and vote through Election Day is not just  
16    about convenience, it's about upholding the core  
17    values of a Representative democracy.

18            For these reasons, Forward Montana strongly  
19    urges you to vote no on SB-490. Protecting the right  
20    to vote means maintaining same-day voter  
21    registration, not restricting it.

22            We ask you not to undermine the democratic

1 principles that our state has so long championed,  
2 and instead, prioritize policies that expand, rather  
3 than restrict, access to the ballot for Montanans,  
4 especially young and first-time voters who are the  
5 future of our democracy. Thank you very much.

6 MDM. CHAIR: Thank you, Mr. Bazant. Okay.  
7 If there's no one else online, we're going to go to  
8 questions from the committee. Oh, informational  
9 witnesses. Informational witnesses in the room? Do  
10 have informational witnesses online?

11 SECRETARY: We have one online.

12 MDM. CHAIR: Go ahead, Miss Plettenberg.

13 MS. PLETTENBERG: Madam Chair, members of  
14 the committee. Regina Plettenberg, P-e-t-t-e-n-b-e-  
15 r-g. I'm the Ravalli County election administrator  
16 and here on behalf of the Montana Association of  
17 Clerks and Records to answer questions.

18 MDM. CHAIR: Thank you. Questions from the  
19 committee. Representative Perry.

20 REP. PERRY: Madam Chair for Mister Austin,  
21 please.

22 MDM. CHAIR: Mr. James?

1 MR. JAMES: Madam Chair, top of the  
2 morning, Representative Perry.

3 REP. PERRY: And the rest of the day to  
4 you. This is because I don't necessarily understand.  
5 Is there a -- a -- a day when election registration  
6 starts? I mean, is there a day set in statute that  
7 says this is the day that you can start to register?

8 MR. JAMES: Madam Chair, Representative  
9 statute refers to regular registration as any time  
10 period outside of late registration. And statute  
11 specifies late registration starts 30 days before  
12 the election.

13 REP. PERRY: And so --

14 MDM. CHAIR: Follow up?

15 REP. PERRY: I'm sorry, Madam Chair. Madam  
16 Chair, Mr. Austin. So are -- are you then saying to  
17 me that a person can register 365 days of the year?

18 MR. JAMES: Madam Chair, that is correct  
19 with the exception of two on a federal election  
20 year, Sunday and the Monday. If this bill were to  
21 pass.

22 REP. PERRY: Final follow up.



1 MDM. CHAIR: Follow up.

2 REP. PERRY: So you're telling me that all  
3 of this stuff being stacked to the very last minute  
4 of the day says that all of these other people are  
5 not taking advantage of the fact that they can  
6 register any time of the year?

7 MR. JAMES: Madam Chair, good  
8 Representative, that's absolutely correct.

9 REP. PERRY: Thank you.

10 MDM. CHAIR: Representative Lee?

11 REP. LEE: Thank you, Madam Chair, for the  
12 sponsor, please.

13 MDM. CHAIR: Senator Cuffe?

14 SEN. CUFFE: Thank you, Madam Chair and  
15 Representative Lee. Thank you.

16 REP. LEE: Madam Chair, Senator. So if I'm  
17 reading this correctly. So I understand this when  
18 we're looking at page two, line 15, when it's  
19 talking about this the Saturday before.

20 So if this was to pass, would that be  
21 required then for all county election administrators  
22 that they have no choice but they would have to be

1 open on that Saturday?

2 So nobody's nobody could say we can't do  
3 it, we can't handle -- we can't handle the staff, we  
4 can't get staff in, but they would absolutely have  
5 no choice but to do that?

6 SEN. CUFFE: That would be set for  
7 registration 8:00 to 5:00, Saturday before the  
8 election.

9 REP. LEE: Okay. Just --

10 MDM. CHAIR: Follow up?

11 REP. LEE: Thank you. One more. As -- as  
12 some of the proponents brought -- brought up, are  
13 you worried that in terms of the constitutionality  
14 of this bill -- because as we saw, the Supreme Court  
15 just last year said that you can't cancel same day  
16 registration, and all this bill really does is just  
17 add a few hours on the same day of registration --  
18 so it certainly restricts them.

19 So I guess I would just -- I don't think  
20 you brought that up in your opening. So I guess I'd  
21 just be curious to what your thoughts are in terms  
22 of the constitutionality after the Supreme Court

1 just had that case last year.

2 SEN. CUFFE: Sure, thank you. And actually,  
3 that's a mistake.

4 MDM. CHAIR: (Inaudible) the Chair.

5 SEN. CUFFE: Madam Chair, that's a mistake  
6 to say they just had it last year. They had it in  
7 2021.

8 REP. LEE: I thought they (inaudible).

9 SEN. CUFFE: It went to the Supreme Court  
10 last year.

11 MDM. CHAIR: (Inaudible) the Chair, both of  
12 you, please.

13 SEN. CUFFE: Madam Chair. So, Madam Chair  
14 and Representative Lee, the decision and I would  
15 strongly recommend you read that Supreme Court  
16 decision. The vote in that Supreme Court decision,  
17 three -- three of the of the justices voted in favor  
18 of the bill.

19 Four voted against the bill. That is a  
20 very, very, very lengthy decision, and I read it all  
21 a few times. Not going to say I haven't memorized,  
22 but I read it all and at that time I understood it.

1           Now the rebuttals -- the rebuttals from the  
2     other three chief justice -- or not chief -- the  
3     other three justices that voted in favor of the bill  
4     were very strong based on strong legal terms.

5           So I do not think that three out of four  
6     that went down on a three to four decision. In  
7     addition, it was not judged on its own. That bill  
8     was not judged on its own. It went -- you know,  
9     there's a term frequently that's called judge  
10    shopping. I don't know if judge shopping happened or  
11    not.

12           But there were -- I'm not sure if it was  
13    three or four bills, Madam Chair, that were lumped  
14    together and heard together and judged together. And  
15    they were -- they were generally frequently referred  
16    to as Jim Crow laws, which means laws that are  
17    intended to suppress voters.

18           And I will say that folks who argue that  
19    this bill was brought to suppress voters, I  
20    strenuously would object to that. Those words were  
21    used on the floor of the Senate. I was not actually  
22    going to close on my bill when I presented it on the

1 Senate floor.

2 Those words were used, and I felt I had to  
3 respond, that I resented that. I resent the fact  
4 that anybody would say that I am trying to suppress  
5 the votes. I'm trying to make a good election system  
6 better. I do not believe you can do a good job if  
7 you came in at 7:00 this morning and you're still  
8 grinding out decisions 4:00 this afternoon, working  
9 through hard, strenuous, and mentally taxing kind of  
10 work. I don't believe you can do your best job. For  
11 many, many, many years, polls closed at 8:00,  
12 period. Registration was cut off far in advance of  
13 the election.

14 So, specifically Supreme Court decision, if  
15 that's your question, it was a decision of three to  
16 four, a very strong legal argument made by those who  
17 supported the bill. So, with the changes we made, we  
18 went back, we said, "Okay, what -- how could we make  
19 it better?"

20 And let's also say Mike Cuffe did not  
21 write this bill. Mike Cuffe did not write this bill.  
22 Now, we heard the good election administrator from

1 Lewis and Clark County in -- who was testifying  
2 against the bill, invoked the name of Regina  
3 Plettenberg, as if she was supporting his position.  
4 We also heard Regina Plettenberg say she is here as  
5 an informational witness.

6 MDM. CHAIR: Representative Lee, are you  
7 satisfied with the answer?

8 REP. LEE: I am.

9 MDM. CHAIR: Okay.

10 REP. LEE: (Inaudible).

11 MDM. CHAIR: Okay. I think we were kind of  
12 going down a rabbit trail there. Any other  
13 questions? Representative Cochran and then  
14 Representative Love.

15 REP. COCHRAN: Thank -- thank you, Madam  
16 Chair. A question for Mr. James, please.

17 MDM. CHAIR: Mr. James?

18 MR. JAMES: Madam Chair, Representative  
19 Cochran.

20 REP. COCHRAN: Yeah. Can you -- my question  
21 is, I've heard testimony of from the opposition  
22 about the fact that the difference between the

1 federal and the local elections, ability to register  
2 to vote on that same day, is that -- can you explain  
3 how -- what -- if that was right? The opposition's  
4 argument?

5 MR. JAMES: Madam Chair, Representative, I  
6 disagree with that analysis. I believe that Montana  
7 law is very clear in the design of the ballot. None  
8 of those statutes are being amended.

9 It's very clear in the time of commencing  
10 an election, none of those statutes are being  
11 amended. If there is some type of like technical  
12 concern, I would encourage that lobbying group to  
13 come work with our office to propose an amendment so  
14 that we can solve the problem that needs to be  
15 solved. But I don't think that there is one at the  
16 moment.

17 REP. COCHRAN: Follow up, Madam Chair.

18 MDM. CHAIR: Follow up.

19 REP. COCHRAN: Madam Chair, one -- so if  
20 I'm standing in line to register, it closes at noon,  
21 but there's also that ballot on that ballot or the  
22 local elections on the same ballot, presidential,

1 and then down the list, I don't get to vote? I'm  
2 turned away, and I don't get to vote that day?

3 MR. JAMES: Madam Chair, good  
4 Representative, in that situation, you would have  
5 been in line at noon, which means that you -- you  
6 would be able to vote. And more than likely in a --  
7 in a situation like Gallatin County, you would  
8 probably be doing so about an hour or two before the  
9 polls close.

10 But ultimately, we get to a situation  
11 where you'd be able to vote, and then the polls  
12 would close and then we would count so we have an  
13 orderly election.

14 If you were not there until well after  
15 noon, no, you wouldn't be able to vote, just like  
16 the numerous phone calls from people that I had to  
17 listen to that asked me what I was going to do about  
18 the fact they couldn't vote under the current  
19 system.

20 REP. COCHRAN: Thank you. Madam Chair?

21 MDM. CHAIR: Thank you. Representative  
22 Love?



1 REP. LOVE: Madam Chair, for Mr. James.

2 MDM. CHAIR: Mr. James.

3 MR. JAMES: Madam Chair, Representative  
4 love.

5 REP. LOVE: Mr. James, the way I read this,  
6 this still does allow same day registration, and it  
7 also adds Saturday registration. And I know when I  
8 was working five days a week, Saturday registration  
9 would have been great. Does the current law allow  
10 Saturday -- Saturday registration?

11 MR. JAMES: Madam Chair, members of the  
12 Committee, the current law does not allow Saturday  
13 registration. This would be adding same day  
14 registration, which means that there would not be a  
15 decrease in hours in which registration is  
16 available.

17 As far as the red herring that was said  
18 earlier, counties are free to operate in times in  
19 excess of those registration hours, just like they  
20 do today. So they can add from that, this wouldn't  
21 be cutting anything, but it maintains the current  
22 amount of legal hours allowed to register to vote.

1 Madam Chair.

2 REP. LOVE: Follow up, Madam Chair --

3 MDM. CHAIR: Follow up.

4 REP. LOVE: -- (inaudible) Mr. James.

5 MR. JAMES: Madam Chair, Representative  
6 Love.

7 REP. LOVE: Mr. James, in your opinion,  
8 will this hold up in court?

9 MR. JAMES: Madam Chair, members of the  
10 committee, absolutely, and I look forward to doing  
11 it.

12 MDM. CHAIR: Representative Fyant.

13 REP. FYANT: Thank you, Madam Chair. For  
14 the bill sponsor?

15 MDM. CHAIR: Senator Cuffe?

16 SEN. CUFFE: Madam Chair. Was that a  
17 question, or was that --

18 MDM. CHAIR: Representative Fyant wants to  
19 ask you a question.

20 SEN. CUFFE: Okay, I'm sorry.

21 REP. FYANT: Madam Chair, good Senator. so  
22 in my small town of Arlee, Montana, it's located in

1 three different counties. The town is -- so some of  
2 us are in Lake County, which is probably 40 miles  
3 one way, some are in Missoula County, which is about  
4 30 miles one way, and those that live in Sanders  
5 County are 75 miles one way.

6 So if my relatives that live in Sanders  
7 County need to vote, they have to travel to Thompson  
8 Falls, to the county courthouse. So, my question is,  
9 is there an opportunity to vote -- and to register  
10 and vote absentee that same day?

11 SEN. CUFFE: Thank you, thank you for that  
12 question. I was reserving that for my closing  
13 points. Absolutely. You can do that right now, and  
14 many people do. In fact, many people go in on -- if  
15 they feel they need to register, they go in and  
16 register somewhat earlier and pick up their absentee  
17 vote at the same time.

18 And either stand there and fill it out,  
19 one trip to the -- to the courthouse, or they take  
20 it home to the kitchen table where they want to  
21 think and - and spend some time looking over the  
22 candidates prior to -- to actually make -- marking

1 the ballot.

2 They have that choice. And yes, that does  
3 exist now. It will also exist at this time. And when  
4 they go in to register, they can ask for an absentee  
5 ballot, they can fill that ballot out, slam bam,  
6 it's a done deal. Thank you for the question.

7 REP. FYANT: Follow up, Madam Chair?

8 MDM. CHAIR: Follow up.

9 REP. FYANT: Thank you. Senator, so also in  
10 my community we have several people that don't have  
11 transportation. They work, you know, during the day,  
12 take the transit to their workplace or whatever.

13 So they have to catch a ride to, say,  
14 Thompson Falls from Arlee. So is that -- so I just  
15 see this as restrictive for some of those people in  
16 that situation.

17 SEN. CUFFE: Are you asking me?

18 REP. FYANT: I'm asking --

19 MDM. CHAIR: Through the Chair, please.

20 SEN. CUFFE: Madam Chair, I'm not sure how  
21 to answer that question. I think the restriction is  
22 going to be there, I think, whenever the

1 registration time is, whenever the election date is,  
2 unless they request a vote by -- by mail and can  
3 vote, you know, that way.

4 REP. FYANT: Follow up. One last follow up.

5 MDM. CHAIR: Follow up.

6 REP. FYANT: Thank you, Madam Chair, good  
7 Senator. So -- so my question is, if they -- if they  
8 are in that situation where they have to catch a  
9 ride to the polls with a family member, or -- and  
10 sometimes there's several of them that, you know,  
11 need to do that. So this option, would be -- their  
12 only option would be to register before noon on the  
13 day of the election and vote.

14 Or depending on their work hours, if they  
15 work Monday through Friday, then they could do the  
16 Saturday? Is that true?

17 SEN. CUFFE: Actually, they can vote, they  
18 can register, begin registering, you know, the day  
19 after the last election. They could go in and  
20 register right then if somehow. Or if they had just  
21 moved to town, they can pick any day and go in and  
22 find a way to register to vote.

1           And I understand what you're saying, it's  
2     difficult. I grew up, we didn't have a car. It  
3     seemed like everybody in town had a car, but my  
4     family, we grew up about as poor as anybody, and we  
5     did a lot of walking. And if we had to go to a  
6     Kalispell or Whitefish to a doctor, we caught a  
7     ride.

8           But it is difficult, it can be difficult,  
9     but we walked every day at the post office to  
10    school, to work. Now they can -- they can elect to  
11    register any day.

12          They don't have to wait until the day of  
13    the election -- the day before -- the day of the  
14    election, or the day before the election or the  
15    Friday before. They can -- they can pick any day  
16    that they can get a ride into Thompson Falls and  
17    register.

18          And also, typically, once registered, you  
19    don't run and reregister again every year. It's --  
20    it's more of a one-time inconvenience, unless  
21    somehow you do something to -- to lose your  
22    registration.

1 REP. FYANT: Madam Chair, yeah, my concern  
2 is that asking for a ride --

3 MDM. CHAIR: Follow up.

4 REP. FYANT: -- follow up -- asking for a  
5 ride one time or two times, one to register to vote  
6 and one to actually vote. So, thank you.

7 SEN. CUFFE: Madam Chair, if that -- you  
8 know, I think the reply is easily when you're  
9 registered to vote, ask for a -- for a ballot. And  
10 you can be given a ballot, you can cast it right  
11 then, or you can find another way that you can mail  
12 it in or other ways, Madam Chair.

13 MDM. CHAIR: Thank you, Representative  
14 Strand.

15 REP. STRAND: Thank you, Madam Chair, for  
16 Mr. Fitzpatrick.

17 MDM. CHAIR: Mr. Fitzpatrick.

18 REP. FIZPATRICK: Madam Chair,  
19 Representative.

20 REP. STRAND: Madam Chair, Mr. Fitzpatrick,  
21 you talked about, I thought an interesting part of  
22 this discussion today was your talk about, concerns

1 about, you know, building confusion with voters, and  
2 issues revolving around that, if we have different  
3 expectations for different elections and so on.

4 What I don't think I heard much about,  
5 though, was how that might impact training people to  
6 do their work. And I'm kind of curious about that,  
7 because it's obvious that it's hard to get folks in  
8 the door, especially with these crazy hours  
9 involved. Could you talk about that a little bit.

10 REP. FITZPATRICK: Madam Chair,  
11 Representative Strand, absolutely. So the way it  
12 sits right now, with elections being - late  
13 registration for elections being pretty consistent  
14 across the board, the only thing that changes is our  
15 local school elections and local municipal elections  
16 are done by mail ballot.

17 So there's a slight change there. We don't  
18 have to do a provisional on election day like we do  
19 during federal elections, because the polls aren't  
20 open. Everything's right there (inaudible) for us.

21 So, with that, we put together manuals for  
22 our temporary staff for any elections judge helping



1 - judges helping us out, going through step by step,  
2 "Okay, this is what you need to do. For  
3 registration, you'll go here, you'll check their ID,  
4 name, etc., etc. by clicking this button here and  
5 elect MT."

6 And then if it's a mail ballot election,  
7 when you're coming in during late registration,  
8 you're actually required to receive a ballot by law.

9 The way it's written is you have to receive  
10 that ballot in person, hence the discussion about  
11 how to get to the elections office during late  
12 registration. So if you're there in front of us,  
13 you're receiving a ballot regardless of whether you  
14 actually want to vote it or not is kind of the fun  
15 thing. If you don't vote it, no big deal that's on  
16 you. But, of course, you can vote and leave it right  
17 there.

18 During a federal election, election day  
19 shifts the gears a little bit. Because you have the  
20 polls, because we've printed those registers for the  
21 polling place to go, "Okay, these are all the people  
22 that could show up here. These are the people who

1 are polling place voters, these are the people who  
2 are absentee voters, these are people who are  
3 provisionally registered voters." For those absentee  
4 or provisionally registered voters, they receive a  
5 provisional ballot at the polls.

6 If they come to our office to do same day  
7 registration, and they're from another county,  
8 another precinct within the county, or they have a  
9 name change, we give them a provisional ballot just  
10 to be on the safe side, so that we're making sure  
11 that they're not also going to the polls and voting  
12 under the name in the register there.

13 If they have an absentee ballot, we can  
14 void that absentee ballot out of elect MT and issue  
15 them a new absentee ballot. But because they're  
16 absentee, they're already going to receive a  
17 provisional if they go to the polling place, because  
18 that is specifically noted in the register.

19 So like my name, Connor Fitzpatrick, I'm an  
20 absentee voter. Good luck getting me to the polls on  
21 election day, working at the elections office,  
22 right?

1           So if I were to show up at the polls,  
2   regardless of whether I changed my address or  
3   anything on election day at the polls itself, I'm  
4   getting a provisional. But for those absentee  
5   voters, we can make sure, "Okay, yep, you've changed  
6   your name, we can update that on our side. You've  
7   changed your address, we can work with that."

8           But if you're moving county to county, that  
9   voter is still listed in their previous precincts  
10   register. So we want to make sure that they're not  
11   going to their polling place voting there, in say --  
12   let's go Cascade County -- and then coming back to  
13   Lewis and Clark and going, "Hey, I'm -- yeah, I'm  
14   going to try and register here to see how many times  
15   we can get the rounds in."

16           After the election is complete for those  
17   county to county moves or address to address moves  
18   in our county, we will make sure that they didn't  
19   vote in their previous precinct, whether it's in our  
20   county or in another county.

21           This is where things get real fun. We start  
22   talking with the other elections, offices going,

1 "Hey, we had John Smith move here from Great Falls.  
2 Cascade County Elections Office, did -- did they  
3 vote at their precinct? Did they cast an absentee  
4 ballot that you guys haven't counted yet? Yes or  
5 no?"

6 Usually the absentee ballots are picked up  
7 pretty quickly so that, "Hey, yep. We can just look  
8 and see that." It's those provisionals and the  
9 registers that they need to check to make sure.

10 So there's a lot of things moving. And I  
11 hope in all of that I've answered your question in  
12 all of this. but as it is, I'm here for any follow  
13 ups as well.

14 REP. STRAND: Follow up, Madam Chair.

15 MDM. CHAIR: Follow up.

16 REP. STRAND: So I guess what I'm -- I  
17 think I'm hearing is that it's super complicated,  
18 certainly we could all pick up on that. But -- but  
19 my question really is digging into when you're  
20 training all these people, and there are different  
21 expectations and different elections, you know, if  
22 it's that complicated for one kind of election,

1     there's a different set of processes for every other  
2     election. I mean, how -- that's what I'm curious  
3     about.

4             REP. FITZPATRICK:   Madam Chair,  
5     Representative Strand, yeah, I guess I did kind of  
6     stray off topic there, I apologize. So on the worker  
7     side, the only time I could see where it would be a  
8     issue is if you have -- so every other year we have  
9     the federal primary, of course.

10            Right before that, like, immediately  
11    preceding, it is the school election time. And, you  
12    know, there's a lot of discussions about trying to  
13    move those, etc., etc.

14            But the way it sits right now, it's --  
15    that's going to be an interesting gear shift to  
16    train people on, but we're going to have it noted  
17    for everyone to make sure that we're following the  
18    same processes all the way through, and to make sure  
19    that the training is done correctly, because if it's  
20    in statute, then that's kind of what we're forced to  
21    do.

22            But, as it is, I think my concern is less

1 with the staffing side for that training. because  
2 that is doable in my mind. It's more on the voter  
3 side trying to get them back up to speed on  
4 everything. I've got folks that come in specifically  
5 during late registration just to receive their  
6 ballot rather than being an absentee voter.

7 Typically they're of course, not Election  
8 Day itself, but it -- it's interesting in my mind  
9 where you could receive this ballot and it's the  
10 exact same ballot mailed to you. You're taking the  
11 time out of to come in to our office and go, "Hey, I  
12 want this every single federal election." So I know  
13 people are people. It's all kinds of interesting,  
14 right?

15 REP. STRAND: Thank you. Thank you, Madam  
16 Chair.

17 MDM. CHAIR: Did you get your answer?

18 REP STRAND: Yes.

19 MDM. CHAIR: Okay. Thank you, Mr.  
20 Fitzpatrick. Representative Cochran.

21 REP. COCHRAN: Thank you, Madam Chair. Just  
22 one more quick question for Miss Plettenberg please.

1 MDM. CHAIR: Miss Plettenberg?

2 REP. PLETTENBERG: Madam Chair,  
3 Representative Cochran.

4 REP. COCHRAN: Thank you, Madam Chair, Miss  
5 Plettenberg, with, you know, your informational  
6 witness here, but I just want your opinion. Do you  
7 agree that this is a good bill/ Or yes or no?

8 REP. PLETTENBERG: Madam Chair,  
9 Representative Cochran, so as you can see, just in  
10 the room there, you have a -- our group is -- our  
11 group is split on and not really on the overall. I  
12 think everyone understands what the secretary is  
13 trying to do and the problem -- and the problem that  
14 they're trying to solve.

15 As -- as Mr. James says, we have several  
16 in our group who just want to roll it back to  
17 Friday. They don't want the election day, they don't  
18 want Monday, but they don't love the Saturday.  
19 Others are like myself. I'm good with the Saturday  
20 and closing it at noon.

21 So, I mean, I -- I think that -- I don't  
22 know the perfect way to solve what is a -- you know,

1     it -- it has become difficult with the lines and the  
2     timing on Election Day.

3             There's just no -- there's no if, ands,  
4     or buts about that. So I think this is an attempt to  
5     not take away from the voter, but to help ease the  
6     issue of trying to manage those lines clear into the  
7     A.M. hours of Wednesday. And trying to end Election  
8     Day on Election Day.

9             So I - I -- I feel like the Secretary of  
10    State's office worked very hard to find a  
11    compromise, and we do appreciate that. They -- I  
12    know they're trying to do this for our group and --  
13    and be fair to the voters, and try to take care of  
14    the election administrators. I hope that answered  
15    your questions.

16            MDM. CHAIR: Follow up?

17            REP. COCHRAN: Follow up. Thanks, Madam  
18    Chair. I take that as a yes, kind of? Yes or no.

19            MDM. CHAIR: I believe it was a yes or no  
20    he requested.

21            REP. PLETTENBERG: Madam Chair and  
22    Representative Cochran, on behalf of myself, I do



1 think this is a very good attempt, yes.

2 REP. STRAND: Thank you, Miss Plettenberg,  
3 Madam Chair.

4 REP. PLETTENBERG: (Inaudible).

5 MDM. CHAIR: Thank you, Miss Plettenberg.  
6 Representative Smith, did you have a question?

7 REP. SMITH: Madam Chair, for the sponsor,  
8 please?

9 SEN. CUFFE: Madam Chair, Representative  
10 Smith.

11 REP. SMITH: Madam Chair, sponsor, I don't  
12 see a physical statement in here. Don't we have --  
13 if we're expected people to work on Saturdays,  
14 aren't we expected to pay them?

15 SEN. CUFFE: No physical -- no, it was --  
16 was requested, and I don't know how, you know, a  
17 particular county might do that. When the operations  
18 that I ran, if I got into a situation where somebody  
19 maybe needed to load boxcars on a weekend, Saturday  
20 into Sunday, that they took other days off. So that  
21 probably would negate -- it's up to the counties how  
22 they do that. Madam Chair.

1 MDM. CHAIR: Representative Smith, Miss  
2 Power has the answer to that about the fiscal note.

3 REP. POWER: Madam Chair, Representative  
4 Smith, this likely would only have an impact to  
5 local governments, which would not be reflected in a  
6 fiscal note that only reflects state impact, so I  
7 believe that's why it was not requested. Madam  
8 Chair.

9 REP. SMITH: In fact, we're going to have  
10 add an unfunded mandate to the counties.

11 MDM. CHAIR: Okay.

12 MALE1: Madam Chair, I --

13 MDM. CHAIR: I know. I'm going around the  
14 horn here. Representative -- or Vice Chair Cornyn.

15 VICE CHAIR CORNYN: Thank you, Madam Chair,  
16 first for Miss Grmolgez.

17 MDM. CHAIR: Miss Grmolgez.

18 MS. GRMOLGEZ: Madam Chair, Representative.

19 VICE CHAIR CORNYN: Madam Chair, Miss  
20 Grmolgez, have you seen the legal note? And what are  
21 your thoughts on it, if so?

22 MS. GRMOLGEZ: Thank you for the question,

1 Madam Chair, Representative. I have pulled up the  
2 legal note, and all of you, of course, can as well.  
3 And, you know, this refers to a case that was  
4 addressed by the proponent and the Secretary of  
5 State.

6 The case is the Montana Democratic Party  
7 versus Jacobson. In the -- in the legal note, it  
8 does identify, some of the issues that were  
9 addressed and, as the bill sponsor indicated, it was  
10 multiple bills.

11 The -- the legal note really just focuses  
12 on House Bill 176, which was passed in 2021 by that  
13 legislative body. and there was litigation over that  
14 bill that resulted in the Supreme Court  
15 acknowledging the article four, section three of the  
16 Constitution provides that the legislature may  
17 provide for a system of poll booth registration.

18 The court concluded that this provision  
19 does not mean that the legislature had, quote-  
20 unquote, "unfettered authority to terminate  
21 registration outside of constitutional constraints",  
22 end quote.

1           And then ultimately, the Supreme Court  
2 held that under MCA-132-304, it impermissibly  
3 interferes with the right to vote, and it didn't  
4 survive. This is the legal beagle part, strict  
5 scrutiny, and is therefore unconstitutional on its  
6 face.

7           So I think, you know, I testified that I am  
8 a lawyer, and I do know what strict scrutiny means.  
9 But I too went back as I sat in this room and  
10 thought, "Well, what does that really mean in  
11 layman's terms?"

12           So when you think about whether your  
13 rights -- and I know a lot of us read the  
14 Constitution before we go to bed or not -- but  
15 you've all read it, and there are different  
16 inalienable rights as the terminology under the  
17 Montana Constitution, which is unique and different  
18 than the US Constitution. And strict scrutiny is the  
19 highest standard that applies to those rights.

20           And so strict scrutiny, under judicial  
21 review, which if a case goes up, that's what any  
22 judge or the Montana Supreme Court has to use,

1 determines if the constitutional laws that infringe  
2 upon those fundamental rights require the government  
3 to demonstrate a compelling interest, or a narrowly  
4 tailored means to achieve it.

5 So I think the question for this committee  
6 is "Is this bill justified under a narrowly tailored  
7 and compelling interest to restrict the timing on  
8 when you can register?"

9 And if you think it is, then you vote for  
10 the bill. If you think that it constricts that right  
11 and we shouldn't be constricting the right on the  
12 day of elections at noon or 1:00 or 3:32 p.m.,  
13 whatever time you pick, that is what will be debated  
14 and discussed from a constitutional standpoint.

15 And the question that Representative  
16 Cochran asked that I thought was really on point is  
17 "What if you get in line at 1:00 pm?"

18 So you get in line at 1:00 pm on the day of  
19 elections and you go, "Gosh darn. I guess under this  
20 law, I don't get to vote in the federal elections."

21 And I do believe that's clear in this bill  
22 that it only applies to federal elections. "But I

1 want to vote on my local races. I'd kind of like to  
2 vote for myself. You know? I'm running." You don't  
3 get to under this bill, unless there are two ballots  
4 created.

5 And then you're going to stand in line and  
6 you're going to go up and say, "I know I wasn't here  
7 at 12, but I'd like to have the other ballot." Well,  
8 who's going to pay for that? It's going to be the  
9 county.

10 There's no fiscal note. So that's your  
11 policy call if you want to pass it and you leave  
12 that line in that I asked you to delete. That's --  
13 that's a policy call of the legislature, and that's  
14 what the legal note says. I hope that answered your  
15 question.

16 VICE CHAIR CORNYN: Thank you, Madam Chair.  
17 Follow up for Miss Plettenberg, please.

18 MDM. CHAIR: Miss Plettenberg?

19 REP. PLETTENBERG: Yes, Madam Chair,  
20 Representative Cornyn.

21 VICE CHAIR CORNYN: Madam Chair, Miss  
22 Plettenberg, I know the intent of this bill is to

1 offload some of the burden on the clerks. But I was  
2 thinking of, like, five other policies that might  
3 also do that, like automatic voter registration,  
4 online voter registration, ending the continuous  
5 count, expanding the pool of election judges or  
6 making the election day a holiday.

7           Would those also help alleviate some of  
8 the work that the clerks have to do? And if so,  
9 could we do those instead?

10           REP. PLETTENBERG: Madam Chair and  
11 Representative Cornyn, absolutely. But it's just --  
12 we did try to get rid of the continuous count with  
13 another bill that did not pass.

14           So I don't -- I mean, a lot of things  
15 could happen and -- but yeah, there -- there are a  
16 lot of ways you could ease the burden. And I think  
17 this is just another attempt.

18           VICE CHAIR CORNYN: Thank you, Miss  
19 Plettenberg. Madam Chair.

20           MDM. CHAIR: I'm just going to go around  
21 the horn. I have everybody's names written down.  
22 Vice Chair Bertoglio, then Representative Perry,

1 then Representative Love, and then Representative  
2 Burn.

3 REP. BERTOGLIO: Thank you -- thank you,  
4 Madam Chair. Question for Mr. James.

5 MDM. CHAIR: Mr. James.

6 MR. JAMES: Madam Chair, Representative  
7 Bertoglio.

8 REP. BERTOGLIO: Thank you, Madam Chair.  
9 Mr. James, I was fascinated to hear this large  
10 number of last-minute registrations at 125,000.  
11 First, I think it's awesome that we're thinking  
12 about opening it up on Saturday because I have  
13 relatives that live out of state that voted on a  
14 Saturday and I thought that is awesome.

15 However, can you break down where these  
16 last-minute registrations are occurring? I know your  
17 website might say 125,000, but are they mostly in  
18 Bozeman? Missoula? Can you break that down?

19 MR. JAMES: Madam Chair, it depends, and  
20 Representative Bertoglio, it depends on the  
21 election. But what I can say is the predominant  
22 number of things that occur on Election Day is



1 changing precincts or changing your name.

2 And under your law, which is unaffected by  
3 this proposed bill, you would still be able to vote  
4 in your old precinct, and you'd still be able to  
5 vote under your old name one last time and fill out  
6 a registration so that thereafter you're continuing.

7 So those people that fulfill that  
8 transaction will still vote a ballot. The difference  
9 is they'll vote in their old precinct if they hadn't  
10 updated on time, Madam Chair.

11 REP. BERTOGLIO: Follow up

12 MDM. CHAIR: Follow up?

13 REP. BERTOGLIO: Madam Chair, Mr. James, is  
14 that why the number is so large?

15 MR. JAMES: Madam Chair, members of the  
16 committee. I have been trying to study this. Now, I  
17 wouldn't say that I would adopt Miss Bertoglio's  
18 numbers or much of her testimony, but what I -- what  
19 I would say is that, that we have studied this and  
20 we have listened to the academic studies, and we  
21 have looked at the demographics who have made  
22 arguments in the previous case based on the specific

1 facts that they alleged., and what we can say is  
2 that you are shuffling those numbers into between  
3 6:00 and 8:00 on Election Day, because those people  
4 have certain challenges.

5 By taking those certain barriers and  
6 opening opportunity on Saturday, we believe we can  
7 have the greatest number of people participate in  
8 elections because that Saturday provides that  
9 opportunity.

10 REP. BERTOGLIO: Thank you.

11 MDM. CHAIR: You're out? Okay. Thank you,  
12 Representative Love.

13 REP. LOVE: Thank you, Madam Chair, for Mr.  
14 James.

15 MDM. CHAIR: Mr. James.

16 MR. JAMES: Madam Chair, Representative  
17 Love.

18 REP. LOVE: Madam Chair, Mr. James, I was  
19 wondering if you would speak to the court case that  
20 Miss Grmolgez has referenced.

21 MR. JAMES: Madam Chair, Representative  
22 Committee, I would be happy to. As you know or don't

1 know, or what has not been shared, is at the very  
2 beginning of that case, there was a motion to  
3 dismiss filed.

4 And the court said that the reason that it  
5 wasn't dismissed at that stage and held to the  
6 federal standard which routinely upheld -- upholds  
7 the legislature making these types of changes was  
8 because that it would affect state elections and  
9 wasn't exclusive to federal elections.

10 This bill is exclusive to federal  
11 elections. It would go to federal courts and be  
12 upheld as it routinely has been throughout the  
13 country. Your legal note says that it could invite a  
14 challenge.

15 And I have noticed that no matter whether  
16 a Republican or a Democrat is unfortunately down in  
17 that wing of the -- of the Capitol building, the way  
18 the current environment and elections is, is every  
19 time anyone sneezes, you get sued.

20 We were sued over the -- the replacement  
21 candidate for the Green Party for Senate this year,  
22 and that replacement candidate language has been in

1 Montana law for decades. Yet why did we get sued for  
2 political gain?

3 And I'm sure that there will be lawsuits  
4 for some form of formalized political gain here. But  
5 the reality is, is those of us who wake up every  
6 single morning, who go to work to serve voters, know  
7 that what we're proposing is to best enhance voters.

8 And any other argument is just looking at  
9 some type of outside thing. The reason that  
10 nonpartisan staff who dedicate their life and their  
11 profession, miss their kids' soccer games and aren't  
12 home on time for dinner during election years is  
13 because they care about voters and love this  
14 profession. And we're proposing a bill to enhance  
15 that.

16 REP. LOVE: Thank you, Mr. James, Madam  
17 Chair.

18 MDM. CHAIR: Thank you, Representative  
19 Byrne.

20 REP. BYRNE: Madam Chair, for the good  
21 sponsor.

22 MDM. CHAIR: Senator Cuffe.

1 SEN. CUFFE: Madam Chair, Representative.

2 REP. BYRNE: Madam Chair, Senator Cuffe,

3 once -- first, thank you for this bill. What

4 happened in the Senate? On second reading, it was

5 partisan, you had bipartisan in the third reading.

6 Was there information exchanged or how did that come

7 about?

8 SEN. CUFFE: I don't know.

9 REP. BYRNE: Okay. Thank you Chair.

10 SEN. CUFFE: I did not -- Madam Chair, I

11 did not run around working anybody. I don't know

12 that anybody else did. I did have an exchange with -

13 - with I believe this was -- this was the bill with

14 -- in my clothes. But while the voting took place

15 after that, so honestly, I don't know. People

16 thought about it.

17 REP. BYRNE: Thank you, Madam Chair. That's

18 it.

19 MDM. CHAIR: Okay, my turn. Let's see. Miss

20 Plettenberg.

21 REP. PLETTENBERG: Madam Chair.

22 MDM. CHAIR: We heard testimony from Mr.

1     Lowe saying that there are counties that already  
2     have Saturdays open or available for registrations.  
3     Do you know how many there are, and what their hours  
4     are?

5             REP. PLETTENBERG: Madam Chair, I can get  
6     that for you. I do believe Missoula County is open.  
7     I don't know if it's the full day, and there may be  
8     one or two others I've heard of.

9             Most are no, but I can get you the ones  
10    that have been in the past, and if it's a routine  
11    thing, or if they just do it, depending on like if  
12    it's a presidential general or whatever. I can get  
13    that for you.

14            MDM. CHAIR: Okay. Thank you. And then, oh,  
15    let's see. Miss Paulson.

16            MS. PAULSEN: Here.

17            MDM. CHAIR: Thank you for being here.  
18    You've heard testimony back and forth about two  
19    ballots. Federal ballot and a regular ballot, if  
20    this -- if this should pass. Is that, in fact -- I  
21    mean, how would your county handle something like  
22    that?

1 MS. PAULSEN: Madam Chair, to answer that  
2 question, this was the first time I had heard that  
3 proposed that way.

4 My understanding is we're talking about  
5 the federal election in and of itself because we --  
6 my county runs the school election, the municipal  
7 election, the federal election, and I'm thinking  
8 when we say federal election, the federal ballot  
9 that is inclusive to all the races on that ballot.  
10 So you have the federal, the state, the county, the  
11 initiatives on that ballot.

12 I might have to refer to legal on this, but  
13 my understanding is that all of those races would be  
14 on that ballot because it is inclusive to the  
15 federal election itself. You wouldn't exclude a  
16 separate -- you already have that federal ballot  
17 with all those races on it. Am I making sense there?

18 MDM. CHAIR: Yep, nope, just want to  
19 confirm. Mr. James, can you answer that as well,  
20 please?

21 MR. JAMES: Madam Chair, members of the  
22 committee. That is my understanding as well. If

1     there is a policy interest in one way or another of  
2     the committee, I'd be happy to invite Miss Grmolgez  
3     to come to the office and share with me her proposed  
4     amendment.

5             MDM. CHAIR:   Okay. If there's no other  
6     questions, well - oh. Representative Fyant.

7             REP. FYANT:   Thank you, Madam Chair. I have  
8     a question for Mr. Sunchild.

9             REP. SUNCHILD: Madam Chair, Representative  
10    Fyant.

11            REP. FYANT:   Madam Chair, Mr. Sunchild, so  
12    I had asked the good sponsor about the same day  
13    registration voter or ballot availability. I know  
14    it's -- you can register 365 days in advance, but  
15    you can't vote because the ballots aren't out. Can  
16    you address any other issues, especially as it  
17    relates to Indian Country?

18            REP. SUNCHILD: Madam Chair, Representative  
19    Fyant. historically, what we've seen, with the  
20    native communities we work with is mailing addresses  
21    or physical addresses and lack thereof are really  
22    hard to come by on reservations. Mail delivery



1       itself is unreliable.

2               Lots of folks have to rely on P.O. boxes,  
3       which cost money, so absentee ballots aren't really  
4       an option for a lot of folks who are lower income.  
5       You know, you'd rather put food on the table than --  
6       than get a P.O. box, obviously.

7               A lot of reservations are in remote parts  
8       of the state, and lots of tribal governments will  
9       kind of give, like, a day off to tribal governments,  
10      to tribal employees to go vote on Election Day.

11              And lots of times that's not a full day.  
12      Sometimes it's half day, which happens to be the  
13      second half of the day, which is afternoon. So, you  
14      know, we would see a lot of disenfranchisement,  
15      because of those issues if this bill were to be put  
16      into law.

17              REP. FYANT: Thank you.

18              REP. SUNCHILD: Thanks.

19              REP. FYANT: Okay. Can I ask the same  
20      question of Miss Snow?

21              MDM. CHAIR: Of who?

22              REP. FYANT: Miss Alissa snow.

1 MDM. CHAIR: Go ahead.

2 REP. FYANT: Thank you, Madam Chair.

3 REP. SNOW: Thank you, Madam Chair,  
4 Representative Fyant.

5 REP. FYANT: Madam Chair, Miss Snow, so,  
6 are there any other barriers or legal issues you see  
7 as this relates to Indian country?

8 REP. SNOW: Yeah. I'd just like to  
9 reiterate quickly. I missed the first part of what -  
10 what Keaton answered, but I caught the end of it  
11 where he mentioned our postal system.

12 A lot of our reservation members, live --  
13 you know, we -- we rely on the P.O. box system,  
14 postal service, which is very unreliable. We also  
15 have a lack of access to individual post office  
16 boxes for a lot of our families, so they share P.O.  
17 Po boxes.

18 We often don't get our mail. When you say  
19 grandma checks mail and she tucks it between her  
20 seat, you know, and we aren't getting these notices  
21 that we need to reactivate our -- our voter  
22 registration status, right?

1           We also deal with a lot of housing issues,  
2           and so due to lack of housing on reservation areas,  
3           we often move around a lot to families in between  
4           family homes in different -- oftentimes that means  
5           different reservation areas.

6           And we have to -- to update voter  
7           registrations in those areas, and most people aren't  
8           aware that there is, you know, just because of our  
9           inexperience with the voting process.

10          Some of us aren't aware of the need to  
11          have to update every time we move somewhere, which  
12          might be just even something as small as moving from  
13          a different precinct to -- you know, from another  
14          precinct.

15          And so when people are going to register  
16          or to vote on Election Day, we aren't doing so  
17          because we are waiting until the last minute. Most  
18          people aren't aware that there's an issue with their  
19          voter registration status when they do go to vote on  
20          Election Day.

21          REP. FYANT: Thank you, Madam Chair.

22          MDM. CHAIR: Thank you. There's no other

1 questions? Senator Cuffe, can you close on your  
2 bill?

3 SEN. CUFFE: Thank you, Madam Chair. Thank  
4 you members of the committee and for all the folks  
5 who chose to -- to have some input. You know, I  
6 don't know how many clerks, recorders, and election  
7 administrators that have brought this to me going  
8 back prior to 2021, going back for a lot of years.

9 We received a lot of input -- received  
10 input as this bill came together. Many are hesitant  
11 to stand up and speak because of the fear of being  
12 branded as some sort of a partisan statement.

13 Well, we tried to sum it up. We've tried to  
14 put it together in a good common sense, workable  
15 fashion. This should not be a political issue. I've  
16 never intended bringing it as a political issue.

17 It's a common -- I see it as a common  
18 sense solution to a problem of fatigue and overwork  
19 of people in those closing hours of the election,  
20 when mistakes can get made and have been made.

21 Now, I can tell you -- I'm just going to  
22 tell you a couple of them. In 2020 -- and that was a

1 little different election because it was a Covid  
2 election, and each county was able to do its own  
3 thing, and our county selected different  
4 depositories where you could put your ballot box  
5 such as that the Trigo Fire Hall. And people go put  
6 their ballot in.

7 Well, what happened? And for the last -  
8 last -- last day registration, the clerk and  
9 recorder and the election administrator chose to  
10 travel to Eureka to help with the -- the election  
11 day registration of voters, which there were quite a  
12 few. And they were not just one party or the other.

13 So they were up there helping register  
14 voters right up to the bitter end, whatever time it  
15 was, and they were tired. They had probably left  
16 Libby at 6:00 in the morning to get up there and set  
17 up business and worked hard. I don't think they took  
18 a lunch hour.

19 So, comes the end of the day. In the past,  
20 it used to be deputy sheriffs would come and gather  
21 up election boxes from the polling places and take  
22 them to the courthouse. Well, this time things were

1 a little different because of Covid.

2 And they were -- everything was in locked  
3 boxes, so the clerk and recorder and the election  
4 administrator picked up the various boxes containing  
5 ballots, loaded them in the car, and traveled back  
6 to Libby.

7 Now, thanks to the new process that we have  
8 through Secretary of State's office, you can track  
9 your vote as it's turned in. And there were folks  
10 tracking their vote and saying, "Wait a minute, my  
11 vote hasn't been counted. I threw it in and it's  
12 still not counted."

13 Well, at that time, some of those election  
14 boxes were not picked up until they were full. They  
15 were not taken in and voted every day if you put  
16 them in at one of these remote areas.

17 So people said, "Just be patient. They're  
18 going to get their mail up." And come election day,  
19 the wee hours of the morning, some of the people --  
20 their votes still were not showing up. And all of a  
21 sudden, the clerk and recorder had gone home, but  
22 the election administrator said, "I got to go back

1 to Eureka."

2 And he went into the -- it was a locked  
3 room in a locked building. They were the last ones  
4 out. And he was back up there before anybody else  
5 had been in the building. Sure enough, a box of  
6 ballots got left as they were trying to close up  
7 shop and get back to Libby.

8 Simple mistake, they're not sloppy people.  
9 Very simple mistake. That's one that I happen to be  
10 very familiar with. There have been others. I also  
11 happen to be very familiar with an issue of an  
12 overcount in Butte in the last primary election.

13 And I happen to Chair the committee that  
14 went down and observed the recount, and we were  
15 charged with finding out what went wrong and how it  
16 can be prevented -- presented. And we've presented -  
17 - I have presented some of those bills, I think  
18 maybe -- maybe not all of them, but presented most  
19 of them talked about them to this committee.

20 Well, was that strictly due to last minute  
21 registration? No, I'm not going to say that, but I'm  
22 going to say that that does add to the stress, the

1 concern, the things that are on the minds of the -  
2 particularly -- election administrators and clerks  
3 and recorders.

4 They have a lot going. And the more we  
5 want to throw on them -- and I think unfairly throw  
6 on them -- the more we invite mistakes. And that's  
7 the last thing. There is no election administrator  
8 and/or clerk and recorder who wants to have any of  
9 those kind of mistakes on their watch.

10 So I have been trying to -- to come up with  
11 things that will help that situation. This bill is  
12 definitely one. And we had a lot of input, got a  
13 heck of a lot input here today.

14 Well, if you got a better idea, put a bill  
15 together. That's what I did, that's what I've done.  
16 Do I like the names, the labels that get tied on to  
17 my name? The guy who's out here trying to repress  
18 the vote?

19 For my friends across the aisle, there's no  
20 question I'm a Republican. Have been for a long  
21 time. A long time. Voted for Nixon in 1968. But I've  
22 worked hard on election bills to try to do things



1 right, to try to make things better.

2 This is my -- my last election bill, and I  
3 had one put together earlier, and I didn't bring it  
4 because we had input coming from various clerks and  
5 recorders, election administrators. And we wrestled  
6 and wrestled it right up to the time the bill was  
7 dropped in. This is that bill.

8 And as I said, I said I didn't write the  
9 bill. Well, I wrote a good part of it, but the parts  
10 we're talking about, those were worked out in the  
11 final hours between some clerks and recorders and  
12 Secretary of State's office.

13 I thought, "Hey, that's a pretty good --"  
14 - there was another proposal, kind of similar, but I  
15 thought way more herky-jerky. And then this one came  
16 along and I thought, "Yeah, that's the best yet."

17 Maybe it's not good enough. Maybe it's not  
18 good enough. Maybe you folks get to make that final  
19 decision. Maybe the Supreme Court gets to make a  
20 different decision.

21 Maybe they do get a chance to look at it.  
22 Maybe they will make -- it's a different bill. It's

1 a different bill than the one that was there before.  
2 And there are different people on the Supreme Court.

3 So, yes. It might be that one of you asked  
4 do I -- do I have a concern? Well, sure I do. But I  
5 think this -- this is a better bill, I think it will  
6 be looked at squarely for what it is, I don't think  
7 it will be tangled up with three or four bills that  
8 gets lumped together into one package.

9 Use your heads, use your hearts. This is  
10 big business. This is serious business. This is not  
11 -- this should not be too big political business.  
12 This should not be who has the most suave lobbyists  
13 that can come in and tell the story.

14 This should be what you believe. Put  
15 yourselves in the shoes of the person out there,  
16 trying to run the election, and think how hard you  
17 work to do it right, and then think how you were  
18 beginning to feel 10:00 at night, 11:00 at night,  
19 12:00 at night, 12:30, 1:00 in the morning, 2:00 in  
20 the morning, and, my God, look at that line over  
21 there. My golly, look at that line over there lining  
22 up to vote, to register and going to vote. And it's

1 1:30 in the morning.

2 MDM. CHAIR: Senator --

3 SEN. CUFFE: And finally it gets to be  
4 4:00, and the election is done. Have you done your  
5 best job? You did the best you could. But was it the  
6 best? Was it what the people of Montana deserve?  
7 Thank you, Madam Chair.

8 MDM. CHAIR: Thank you, Senator. This  
9 closes the hearing on Senate Bill 490.  
10 Representative McKamey will open the hearing on  
11 Senate Bill 498. Senator McKamey? Senator, go ahead.  
12 You've already been gaveled in.

13 REP. MCKAMEY: Okay. Thank you very much, I  
14 was not aware that that was the case. All right,  
15 thank you Madam Chair and Committee. I'm very happy  
16 to be here for you to present, Senate Bill number  
17 498. Is that correct?

18 Okay. I am Wendy McKamey, and I serve as  
19 the senator for Senate District 12, which is the  
20 south side of Great Falls, which is part of the --  
21 my -- one of my Representatives is Representative  
22 Tillman, and so we share that responsibility.

1           This is an act just revising some  
2     preparation procedures on primary elections trends,  
3     and its election's judging -- judges duties when  
4     preparing for the count. What happens is this is  
5     something that even though it has been required,  
6     it's not necessarily something that has been in  
7     practice for a very long time.

8           And one of the reasons it has not been in  
9     practice for a very long time is because it's a very  
10    archaic practice, and needs to be updated to work  
11    with the technology of the times.

12           They used to have to divide all of the  
13    ballots into Democratic and Republican, and sort  
14    them that way. Well, this automatically happens by  
15    the machines that we use, the technology that we use  
16    now. And so it is an -- unnecessary and very time-  
17    consuming procedure.

18           So in counties where ballots are solely  
19    counted by hand, election judges can still separate  
20    the ballots for each political party and count the  
21    ballot -- the party's ballots separately. But this  
22    would be for relatively small counties, seriously.

1           This is very time consuming. We're talking  
2   about hours of work that this takes, and it  
3   consequently takes hours away from the preparation  
4   during a very - especially primaries are extremely  
5   intense, and a lot of -- a lot of demands are put on  
6   the election crew.

7           So, even though the elections  
8   administrators are not bringing this bill, it is  
9   something that we had talked about, and I agreed to  
10   bring this before all of us so that we could put  
11   this into law, that they don't have to go into this  
12   extensive, unnecessary, time -- time consuming  
13   activity.

14           And with that, Madam Chair and Committee,  
15   I urge a due pass on Senate Bill 498.

16           MDM. CHAIR: Thank you, Senator McKamey. Do  
17   we have any proponents in the room on Senate Bill  
18   498?

19           REP. FITZPATRICK: Proponents, right?

20           MDM. CHAIR: Yeah, its proponents, and  
21   let's keep our comments brief. Thank you.

22           REP. FITZPATRICK: Absolutely. Connor

1 Fitzpatrick, Lewis and Clark County Elections, F-i-  
2 t-z-p-a-t-r-i-c-k. Thank you to the honored senator  
3 for bringing this. This just codifies what we  
4 already do.

5 As a county that tabulates the ballots,  
6 the tabulator can already read the difference  
7 between the parties, sort the vote as the voters  
8 have voted, and, you know, just adding this into  
9 statute is fantastic. Thank you.

10 MDM. CHAIR: Thank you, Mr. Fitzpatrick. Do  
11 we have any other proponents in the room? Do you  
12 have any proponents online, Miss Kirby?

13 SECRETARY: We have one online.

14 MDM. CHAIR: Thank you. Miss Plettenberg,  
15 go ahead.

16 REP. PLETTENBERG: Madam Chair, members of  
17 the committee, Regina Plettenberg, P-l-e-t-t-e-n-b-  
18 e-r-g, here on behalf of the Montana Association of  
19 Clerk and Records, and we do support this bill.

20 As Mr. Fitzpatrick said, it codifies what  
21 many of us currently do. This is a really old  
22 statute, and this really just catches it up, as the

1 sponsor said. So we urge you due pass. Thank you.

2 MDM. CHAIR: Thank you, Miss Plettenberg.

3 Oh, how do I turn that off? I turned on the  
4 microphone. Do we have any opponents in the room?  
5 Any opponents online?

6 SECRETARY: No hands raised.

7 MDM. CHAIR: Informational witnesses in the  
8 room? Informational witnesses online?

9 SECRETARY: No hands raised.

10 MDM. CHAIR: Thank you. Okay, questions  
11 from the committee? Any questions from the  
12 committee? Seeing none, Senator, please close on  
13 your bill.

14 REP. MCKAMEY: Happy to do so, Madam Chair,  
15 thank you very much. And -- and I would like to say  
16 that was a robust discussion. However, I think it  
17 was sufficient.

18 And I think that that's all that we need  
19 to know is that sometimes we do need to be  
20 sufficient and efficient, and I urge a hard to due  
21 pass on Senate Bill 498. And with that, I close,  
22 Madam Chair.

1 MDM. CHAIR: Thank you, Senator McKamey.  
2 This closes the hearing on Senate Bill 498. We'll  
3 now open the hearing on Senate Bill 834 - oh, House  
4 Bill 834, my apologies.

5 REP. MERCER: Thank you Madam Chair, I'm  
6 Bill Mercer. I represent House District 52 in  
7 Billings, and House Bill 834 is the outgrowth of, I  
8 would say, a lot of work that was done in the  
9 interim, in large part in the Legislative Finance  
10 Committee building on historical work.

11 And I know Miss Power has a PowerPoint  
12 that I think if you want to see what kind of the  
13 genesis for this bill is in what New Mexico has done  
14 over the last 25 years or so in terms of legislating  
15 for results.

16 So you'll see that this bill is -- you've  
17 got some whereas clauses that really articulate what  
18 it is that we're after. We're after the creation of  
19 a commission to take a deeper dive not only into  
20 what New Mexico has done, but what we've done  
21 historically and some other models that we could be  
22 looking at.



1           And the whereas clauses do a good job of -  
2       - of really what we're after. It is that how do we  
3       effectively collaborate between the legislative  
4       branch and the executive branch in terms of figuring  
5       out what resources are needed and how they're going  
6       to be implemented, and how we're going to evaluate  
7       what's being done?

8           Not only with what we appropriate, but  
9       what we're doing in terms of on the policy side,  
10      with what policy committees have done? So, you know,  
11      we've called it the Evidence and Impact Commission,  
12      you might say, "Well, gosh, how'd you come up with  
13      that?"

14           You probably could name it something else,  
15      but what we're really trying to do is put a focus on  
16      gathering data, collaborating between the two  
17      branches, and really trying to deliver the best  
18      possible results for the state. You'll see in  
19      section one the composition of the committee. And it  
20      is true, it's a broad composition of what the  
21      representation of the Commission would be.

22           But as we've thought through the bill --

1 and you're going to hear from other informational  
2 witnesses and from the Chairman of the  
3 Appropriations Committee -- there are a lot of us  
4 that have had our hands on this.

5 And really to have this -- if, in fact,  
6 what you're really trying to do is have effective  
7 collaboration between the executive branch and the  
8 legislative branch, it's got to have a pretty broad  
9 representation, and that's what you will see in  
10 section two.

11 Senator [Ph] has probably spent more time  
12 developing this than any of the rest of us, and  
13 coming out of his work on the 872 Commission, I  
14 think he really -- if he were here today and he will  
15 certainly carry this on the Senate side, he would  
16 say the composition of the 872 Commission struck a  
17 good balance between kind of that -- that mix of  
18 people that are responsible for executing in the  
19 executive branch, and legislators in terms of  
20 thinking what needs to be done.

21 So I think I'll stop there and let you  
22 hear from, the other proponents and informational

1 witnesses and happy to answer any questions, thank  
2 you.

3 MDM. CHAIR: Thank you. Representative  
4 Mercer. Do we have proponents?

5 REP. JONES: Madam Chair.

6 MDM. CHAIR: Welcome.

7 REP. JONES: Are you ready? My name is Lou  
8 Jones, House district 18. I'm the Chairman of  
9 appropriations, and I rarely testify on any bill  
10 anywhere, but I made an exception for this bill.

11 So, if you think about it, my father had a  
12 saying, and it was always "Focus 80 percent of your  
13 effort on that 20 percent of things that really  
14 matter, because most of the time you're doing a  
15 whole lot of things and they don't matter."

16 So I found state government to be  
17 effectively similar. We throw money at a whole lot  
18 of areas and some of it really matters, and in other  
19 areas we do not know if it matters and we can't get  
20 a report to tell us if it matters.

21 So I've been a fan of and worked on this  
22 movement towards performance-based budgeting for a

1 long time. Those of you that have been around  
2 remember -- understand the concept, the data  
3 concept.

4 We now have a effectively built into  
5 appropriations, a fairly robust ability to look at  
6 and analyze data. So I want you to imagine if we  
7 could have a budget process where -- wherever a  
8 dollar went, we could tie it to the outcomes. Right?

9 Whether it's recidivism, recidivism. I hate  
10 that word, but no matter what it is, it's outcome  
11 based. Whether we're investing in education, does it  
12 matter? Are we putting the money because money is a  
13 scarce resource. We harvest it from taxpayers  
14 pockets,

15 So it's limited and it should be limited.  
16 So we need to invest it in what matters. And in been  
17 able to invest it in what matters requires that we  
18 have a relationship with the executive -- and it's  
19 not always perfect, and it's not pleasant because  
20 you know, the exec like saying, you know, "When you  
21 get out of town, get out of town, it's ours now,  
22 what do you mean? You want to continue to work and

1 see and follow up?"

2 But imagine if we could, and that's what a  
3 lot of states are -- are moving towards, and we've  
4 done some of this, right? We've been working on it,  
5 trying to say, "Well, we sent \$1 million, \$100,000,  
6 \$10 million over here." Did it produce the outcome  
7 that folks suggested it would? I don't know. I  
8 guarantee if I don't know, most folks don't know.

9 Now, in some cases we do. So how do we tie  
10 it to the outcomes? Because when folks show up here  
11 and they tell their anecdotal story from their  
12 viewpoint, they're going to tell it from their  
13 viewpoint, but what did the data say?

14 We invest money in suicide prevention. Did  
15 it work? We invest money in improving math scores.  
16 Did it matter? We invest money in, you know,  
17 reducing prisons. Did it matter?

18 So that's what these evidence-based  
19 programs do. They do require a relationship with the  
20 executive, because those are the -- you know, we're  
21 kind of a board of directors.

22 But as a board, we need to know if the

1 decisions we make based upon what's presented to us  
2 is having an impact. And we need the accountability,  
3 not -- not because I want to say, "You did this  
4 wrong", but because I want to make sure that what  
5 we're investing in is linked to an outcome.

6           You said you're going to fix more roads.  
7 Did you fix more roads? You said you were going to  
8 do X. Did you do X? If not, why not? Maybe there's a  
9 darn good reason. Accountability. So think about it.  
10 Results, accountability, plus some sort of  
11 sustainability.

12           I've been here through three different  
13 governors. Three different sets of opinions. In the  
14 end, though, the legislature exists through all of  
15 them. And it's worried about education, it's worried  
16 about health and human services, it's worried about  
17 energy.

18           Are we measuring does it matter? Without  
19 some sort of evidence-based system, we get to have  
20 great pictures presented to us, we get to be told  
21 great stories. What actually happened?

22           And so if we can build a performance-based

1 system, it's -- it serves us all well. It's about  
2 delivering more. And there are models out there that  
3 the -- the gentleman from New Mexico is probably one  
4 in the lead. There's one out of Utah. So we've been  
5 looking at these performance-based systems and  
6 saying, "How can we bring this to Montana?"

7 We couldn't earlier because we didn't have  
8 the data systems to track it. Mora now exists, we  
9 have the data systems, we've extended our budget  
10 time with the interim budget committees.

11 The good Representative Mercer, that I  
12 guess he's here so he can say his name was part of  
13 their creation. We have the components in place. We  
14 need to put it together so that we can actually make  
15 more informed decisions.

16 This bill is part of that. It's not a  
17 comfortable process, but it's a necessary process. I  
18 get that in some of these areas, the exec isn't  
19 completely comfortable, and I wouldn't be either.

20 And I'm not trying to make them  
21 uncomfortable, but I am trying to say that the board  
22 of directors, which is what a legislature is,

1 deserves an evidence-based report to know if what  
2 they're spending that scarce resource on, money  
3 harvested from taxpayers pockets, is producing the  
4 outcomes that was promised so that we can quit doing  
5 those things that aren't working, focus on doing the  
6 things that are working, and potentially find a way  
7 to spend a little less money. Focus on those things  
8 that works.

9           It goes back again to where I started, my  
10 father's words. You know you ought to spend 80  
11 percent of your effort on that 20 percent that  
12 really matters. The rest is just noise. How much of  
13 what we're doing is noise?

14           What matters? That's what this is about.  
15 We deserve a government that's smart with its money,  
16 we deserve a tool set and a relationship that  
17 extends not just for us. We all have a political  
18 flavor.

19           We -- but for the future as well, we need  
20 to have a system that lets us know the priorities we  
21 directed money to based upon an argument made to us,  
22 either worked or did not work.



1           Should we invest more there, or should we  
2     say, "Yeah, we're going to move this over here"?  
3     That's what this commission is about, that's what  
4     this concept is about. It will create some  
5     discomfort. You know?

6           All of us kind of preferred when we went  
7     out at night and nobody knew when we went as a kid,  
8     we kind of liked having a little freedom, you know?  
9     We didn't want to be measured. We didn't want to  
10    have a reporting system. And I'm not talking crazy  
11    reporting either.

12           Thousands of reports, you just don't read  
13    them. But create a system that says, "You said  
14    you're going to do X, you said you're going to the  
15    dance. Did you go to the dance? You said you're  
16    going to" -- what are we doing? Can we see it? Are  
17    you producing the outcomes you suggested? That's  
18    what we're talking about here.

19           And so I decided -- Representative Mercer  
20    and I argue about a lot of things. We agree on some,  
21    disagree on some. We're an entire alignment here. If  
22    you want to produce a better system, then we have to

1 be able to see clearly across the legislative  
2 executive line. Right?

3 And I'm hoping if we do this right, it  
4 becomes a synergy. And it's not probably going to be  
5 a real smooth synergy to begin with. Nobody likes  
6 being measured, nobody likes being held accountable,  
7 but it's a necessary synergy.

8 So with that, I just wanted to let folks  
9 know I -- I support this bill. Senator asked,  
10 Representative Mercer has worked on this. It had to  
11 start on the House side Outside to make its  
12 deadlines and to work.

13 These are -- these are good thoughts,  
14 maybe it needs some evolution, but this concept is  
15 the next step. You want to use the data system we've  
16 invested in, you want to leverage the interim budget  
17 committees we are invested in, you want to help our  
18 staff help us do better work, and it's found here.

19 So I hope you'll give this your due  
20 support. And, Madam Chair, with your blessing, I  
21 really need to go back to playing an Appropriator.

22 MDM. CHAIR: Do we have questions for

1 Representative Jones? Representative Byrne.

2 REP. BYRNE: Representative Jones, Madam  
3 Chair. Representative Jones, as you just mentioned  
4 the board of directors being the legislature, we own  
5 constitutionally the budget.

6 I see on here for voting members, the  
7 legislature only has four votes, and the executive  
8 has eight. That's before we get down to ex officio  
9 non-voting members. Should we not have the major  
10 majority of the votes?

11 REP. JONES: So Representative, I'm going  
12 to let you hold that conversation with the bill  
13 sponsor. I would say we need in my mind to make sure  
14 we are definitely at the table and have some  
15 control.

16 We also need to leave enough on the other  
17 side that they're willing to show up and work with  
18 us. And so I was not I watched the specifics of  
19 Senator [Ph] try to come up with something.

20 Potentially, it maybe needs a little  
21 tweaking. I won't complain about how it gets  
22 tweaked. I'm just hopeful that we begin this

1 relationship, which may not indeed be perfect. So  
2 absolutely, I -- as a member of the board of  
3 directors, I'd like a lot on there, so.

4 MDM. CHAIR: Can any of these questions  
5 wait for anybody else or are they just only  
6 specifically to Representative Jones? He's --  
7 because he would like to be excused so he can go  
8 finish --

9 REP. JONES: I'm happy to answer a couple  
10 now, but I do need to get back to doing what I do,  
11 if that's at all possible. But I'll happily -- if  
12 someone's got a question directly from me. Am I okay  
13 being excused, then, Madam Chair?

14 MDM. CHAIR: You're excused, thank you  
15 Representative.

16 REP. JONES: Thank you.

17 MDM. CHAIR: Thank you Committee for  
18 understanding. The next proponent, please? Any other  
19 proponents in the room? Do we have any proponents  
20 online?

21 SECRETARY: No hands raised.

22 MDM. CHAIR: Opponents in the room? Do you

1 have any opponents in the room? Opponents online?

2 SECRETARY: No hands raised.

3 MDM. CHAIR: Informational witnesses in the  
4 room? Do you have any informational witnesses?

5 DIR. CARLSON: Madam Chair, members of the  
6 committee. Amy Carlson, Legislative Fiscal Analyst  
7 and happy to answer any questions, thank you.

8 MDM. CHAIR: Thank you.

9 REP. EVANS: Madam Chair. Members of the  
10 committee. Good morning. Almost happy lunch hour.  
11 I'm Ryan Evans. I'm the Assistant Budget Director in  
12 the Governor's Budget Office. Available for  
13 questions.

14 MDM. CHAIR: Thank you.

15 REP. MCKEEVER: Madam Chair, members of the  
16 committee, good morning, afternoon. Angus McKeever,  
17 legislative auditor, director of the Legislative  
18 Audit Division. Also happy to answer any questions.

19 MDM. CHAIR: Thank you. All right. Any  
20 informational witnesses online?

21 SECRETARY: No hands raised.

22 MDM. CHAIR: Questions from the committee?

1 Representative Perry.

2 REP. PERRY: Madam Chair, for this bill's  
3 sponsor, please?

4 MDM. CHAIR: Representative Mercer.

5 REP. MERCER: Madam Chair, Representative  
6 Perry.

7 REP. PERRY: Madam Chair, Representative  
8 Mercer, I just have one question. Is the governor  
9 and his staff on board with this and willing to have  
10 this relationship?

11 REP. MERCER: You know, I -- I don't want  
12 to speak for the executive branch. I think if I can  
13 refer that to Mr. Evans, that'd be my preference.

14 REP. PERRY: That'd be fine. Madam Chair,  
15 Mr. Evans.

16 REP. EVANS: Madam Chair, Representative  
17 Perry.

18 REP. PERRY: The governor on board?

19 REP. EVANS: So I'm here as an  
20 informational witness today. We're certainly -- we  
21 have had some discussions. We're open to the  
22 concept. You know, I would assume that we will

1 review any and all bills as they come down.

2 At this point, though, there has been  
3 discussions between our office, with the sponsor,  
4 and a couple of the other members of the legislature  
5 that have been noted and there is -- there is a  
6 compelling reason to do this, potentially. So -- but  
7 it ultimately will be dependent on what the bill  
8 becomes or is, right?

9 REP. PERRY: Thank you. Thank you, Madam  
10 Chair.

11 MDM. CHAIR: Representative Strand?

12 REP. STRAND: Thank you Madam Chair, for  
13 the sponsor.

14 MDM. CHAIR: Representative Mercer?

15 REP. MERCER: Madam Chair, Representative  
16 Strand.

17 REP. STRAND: Madam Chair, Representative.  
18 I -- I think -- like hopefully many people in the  
19 room, I'm definitely drawn to the idea of this.

20 As somebody who is in the schools, you  
21 know, trying to measure outcomes has been a part of  
22 the school world for a while, and I've been on the

1 end of that, and it's led to some unintended  
2 consequences over time because it's difficult to  
3 measure complicated activity, you know, easily.

4 So I guess I'm just wondering, I don't  
5 know much about MARA, but if you could get more into  
6 how this could work, how it might work, how MARA  
7 works? I mean, how do we measure the complicated  
8 work, you know, that we're asking departments to do?

9 REP. MERCER: Yeah. And I -- I'm going to  
10 take a -- try to be concise, but I really would like  
11 to also redirect that to, at a minimum, the auditor  
12 and to Miss Carlson, who I think will have  
13 perspectives on MARA and then evaluation in general,  
14 MARA stands for Modernization and Risk Assessment.

15 And kind of like the title of this, you  
16 could say, "Well, does that fully capture what MARA  
17 really is?" And I would say it doesn't.

18 I think what MARA has tried to do is get  
19 very sophisticated in terms of data collection, and  
20 then utilizing that data -- that data to drive a  
21 bunch of different analytical pieces, and Director  
22 Carlson can talk more about that. It's really -- of



1 everything I've done in the legislature, it's been  
2 my favorite single thing.

3 Because we -- MARA is not focused on a  
4 biennium. MARA is focused on where are we going to  
5 be in 2040 and what are our needs going to be?

6 And I think you're right that any analysis  
7 can be either incomplete or it can lead you in -- in  
8 maybe the wrong direction. But I think at the end of  
9 the day, what MARA stands for and what this bill  
10 would stand for is you have to be actively engaged  
11 in trying to figure out if you're having an impact.

12 And I agree with what Chairman Jones said,  
13 that sometimes will lead to some uncomfortable  
14 conversations. But in the absence, I don't think you  
15 necessarily know where you're going or what it is  
16 that you're actually accomplishing.

17 And part of it is, is knowing if what you  
18 were hoping to do isn't being accomplished, then,  
19 you know, let's try a course correction. It doesn't  
20 necessarily mean you're going to start from scratch.

21 So, I'm -- we could -- we could have a  
22 whole afternoon discussion on all of this, and I

1 would welcome broader discussions about MRA and the  
2 IBCs for those of you that kind of want to get read  
3 into what all that means, but I think I should yield  
4 to the -- the auditor and the director for their  
5 views on this as well.

6 REP. STRAND: Re-refer.

7 MDM. CHAIR: To which one?

8 REP. STRAND: How about the auditor or who  
9 - whichever.

10 DIR. CARLSON: I'm sure you'll get us both  
11 in turn. just a couple of ideas about MARA. So I  
12 believe at the early part of session, we had Nick  
13 Van Brown and a couple of our analysts come in and  
14 demo some of the tools that we've developed.

15 I mean, that is a bit of the tip of the  
16 iceberg of what MARA has done. We are -- have a long  
17 term kind of strategic plan on which data sets we're  
18 trying to build out and incorporate into data sets  
19 that we can work and deliver tools for the  
20 legislature.

21 We really do work toward the things that  
22 are the highest policy concerns. MARA -- the

1 committee helps us kind of guide what directions we  
2 want to go with that. It's really legislative  
3 driven.

4 What is the directions that you are  
5 interested in? And then we go after that data and  
6 try to build tools or analyze things that help you  
7 make decisions. So it's -- it's on the broad side.

8 We can also -- and I think would be  
9 incorporated into this process more would be more on  
10 the accounting side of the information that we have.

11 At least, I see it that way, where we  
12 would measure or marry up accounting side  
13 information with outcomes, type information and work  
14 toward that kind of goal, which would be a different  
15 application of the data. So is that sufficient?

16 REP. STRAND: I think so. Thank you, Madam  
17 Chair.

18 MDM. CHAIR: Did anyone -- Mr. McKeever  
19 too?

20 REP. MCKEEVER: Madam Chair, Representative  
21 Strand, just to take that a little further and to go  
22 back to your -- your question. You mentioned some of

1 the pitfalls or the risks involved in, you know,  
2 outcomes driven or outcomes oriented analysis and  
3 decision making.

4 And I think maybe the thing I would add to  
5 what Representative Mercer and -- and Amy said is we  
6 see the evaluation piece as -- as being very  
7 important, especially at the -- the -- the further  
8 end of this discussion.

9 So, MARA is building a great data  
10 infrastructure for you guys to understand all kinds  
11 of different issues. And we really see it as a very  
12 important effort that's going to give the  
13 legislature an ability to understand the enterprise  
14 in a -- in a much more detailed way.

15 But maybe to your question, like, data is  
16 only ever going to take you so far. And if you  
17 become too deterministic about what the data says or  
18 what it doesn't say, you're going to run into  
19 issues.

20 And I think anyone who's been involved in  
21 these kind of discussions in a -- in a practical,  
22 operational sense has probably seen that happening

1 to one extent or another.

2 And so that's where, certainly, the  
3 evaluative aspect of this comes in. Yeah, data can  
4 help you identify and hone in on where risk really  
5 exists. But sooner or later, you can't just rely on  
6 the data, you have to send people in to do very  
7 detailed analysis.

8 And as many of you are familiar with,  
9 that's what you get with your audit function. You  
10 know, you don't just look at the data. We go and we  
11 sit in agencies for prolonged periods of time,  
12 longer than perhaps the executive branch is always  
13 fond of seeing us.

14 But that face-to-face part of this,  
15 understanding issues on that basis, is very  
16 important for you to really get to the -- the  
17 ultimate evaluative question, which is, you know,  
18 are these investments paying off for us?

19 And so hopefully that gives you some  
20 comfort that this is -- you know, what we're talking  
21 about here, and the reason that you see the  
22 commission structured in this way with different

1 inputs from all these different people is to make  
2 sure that this -- this gets us into an evaluation  
3 framework that's really going to be meaningful and  
4 is really going to drive positive results.

5 REP. STRAND: All right, thank you.

6 MDM. CHAIR: Thank you. Representative  
7 Byrne?

8 REP. BYRNE: Madam Chair, for Director  
9 Carlson.

10 MDM. CHAIR: Director?

11 DIR. CARLSON: Madam Chair, Representative  
12 Byrne.

13 REP. BYRNE: Madam Chair, Director, you  
14 heard my question to the good Appropriations Chair  
15 before he ran away. I believe -- when I look at this  
16 with -- the legislature being the constitutional  
17 requirement for the budget.

18 And -- and as the good representative  
19 mentioned about the board of directors, I love the  
20 composition of this.

21 I just don't like the way it's weighted on  
22 the voting, being basically a third going to the

1 legislature and the majority being held by the  
2 executive. How do you see that? You (inaudible) like  
3 that, but --

4 DIR. CARLSON: Madam Chairman, I do think  
5 that'd be a best question for the sponsor. I -- it's  
6 a little outside my role to talk about that kind of  
7 thing.

8 REP. BYRNE: Chair, redirect.

9 MDM. CHAIR: Representative Mercer.

10 REP. MERCER: I thank you, Madam Chair and  
11 Representative Byrne. I -- you know, this is -- it's  
12 had a fair amount of deliberation in terms of what  
13 it should look like. It's only barely imbalanced,  
14 right? You've got five legislators, you've got six  
15 members of the executive branch, and you have five  
16 ex officios.

17 So, you know, yeah, it's -- but truly this  
18 commission, though, is in the spirit of how can we  
19 be pulling the oars in the same direction on a  
20 system that we both think is really going to add  
21 value as part of the collaboration?

22 So I'm not all that wound up about whether

1 it's an exact split or not and -- so that's --  
2 that's my answer.

3 VICE CHAIR CORNYN: Thank you.

4 REP. BYRNE: Madam Chair, nothing.

5 MDM. CHAIR: Representative Fyant and then  
6 Representative Edwards.

7 REP. FYANT: Thank you, Madam Chair, for  
8 the bill sponsor?

9 MDM. CHAIR: Representative Mercer.

10 REP. MERCER: Madam Chair, Representative  
11 Fyat.

12 REP. FYANT: Madam Chair, Representative.  
13 So I really like performance based budgeting with --  
14 you know, that's outcomes driven. When I was on  
15 tribal council we looked at various softwares that  
16 could do that for us. I have two questions. My first  
17 one is, is the data is -- it ongoing data reporting,  
18 or is it like the end of a year, or a quarter, or  
19 whatever?

20 REP. MERCER: Madam Chair, Representative  
21 Fyant, I think what I would say is I don't think  
22 this bill really speaks to that. I think this is



1 more of a structure that would kind of look at what  
2 we already gather, and sort of how that fits in with  
3 what we might think we could use more effectively.

4 So if you look at -- if you go in and  
5 Google, and -- if you go back in your e-mail,  
6 actually you'll find an e-mail from Director Howe  
7 from early in the session where he said, "Here are  
8 all -- here's what's called the clearinghouse of  
9 reports that all we have at one time or another said  
10 in the code 'We want a report.'"

11 And so we already gather a lot of annual  
12 reports, and then we have the annual report  
13 requirement for every agency in House Bill 190.

14 This -- this is, I think, more designed to  
15 say if we were going to take -- and the New Mexico  
16 slides probably do a better job of explaining this  
17 than what I'm going to say -- but if we really tried  
18 to get into what they're doing down there to try to  
19 decide if we're sort of understanding what outcomes  
20 we want and whether we're achieving them, that is a  
21 data driven process.

22 So I think we have to consider whether what

1 we're gathering is useful, whether we need to gather  
2 something else, and -- and whether that's  
3 collectively going to lead to more collaboration  
4 between the executive and the legislature on  
5 outcomes.

6 So I don't think the bill really is going  
7 to itself, dictate any additional data or reporting.  
8 That will be part of the conversation about that  
9 this commission would have.

10 REP. FYANT: Okay. Follow up.

11 MDM. CHAIR: Follow up.

12 REP. FYANT: Okay, thank you Madam Chair.  
13 My last question is so on the surface, it feels like  
14 performance based budgeting is nonpartisan, and it  
15 kind of takes away the power of appropriations.

16 But after listening to Representative  
17 Byrne, the makeup of the commission might sway  
18 things. So, can you address that?

19 REP. MERCER: Yeah. Thank you, Madam Chair  
20 and Representative Fyant. I -- I don't think that  
21 the composition of the commission is going to --  
22 first of all, we have -- we don't want to prejudge

1 what the commission might think makes the most sense  
2 in terms of putting us on a track where we might be  
3 more closely aligned with what New Mexico is doing.

4 We've -- I probably should have said in my  
5 opening, we -- for the first time in my experience  
6 as a legislator in this session, each appropriations  
7 subcommittee decided it was going to do what we  
8 called a full budget review.

9 Some people would know that more as zero  
10 based budgeting, where we took one piece, one  
11 program, and we said, "We're going to start back  
12 from scratch."

13 The way I like to describe it is we were  
14 pretending we were Martians, and we just arrived in  
15 the Appropriations Committee, and we were going to  
16 listen to the executive branch tell us what they do  
17 in the program, and then try to decide what we  
18 needed to spend to fund that program. So that --  
19 that's just happened.

20 And one of the things that Director Carlson  
21 is going to be doing is pulling all of us together  
22 and saying, "What did you think of that? How did

1       that work?"

2               I wouldn't necessarily say that's  
3       performance-based budgeting, but it's certainly a  
4       start. And I think that the question is is what can  
5       we learn from that? How does that fit into what we'd  
6       be talking to the commission about?

7               But at the end of the day, we will be  
8       looking to what New Mexico is doing, what Utah is  
9       doing, and trying to -- North Carolina is doing some  
10      things in this area.

11              And we're going to just try to, I think,  
12      bring to this commission all of these different  
13      ideas and say, "What is it that the executive branch  
14      and the legislative branch can work on together?"

15              REP. JAMES:   Okay, thank you.

16              MDM. CHAIR:   Representative Edwards?

17              REP. EDWARDS:  Thank you, Madam Chair, for  
18      the sponsor?

19              REP. MERCER:   Madam Chair, Representative  
20      Edwards.

21              REP. EDWARDS:  Quick question here. Just  
22      reading through the fiscal note, definitely looks

1     like the Department of Administration is going to  
2     take the lion's share of -- of, you know, leading  
3     this charge, yet I don't see Director Giles or Mr.  
4     Harris here. Have you consulted with them? And are  
5     they --

6             REP. MERCER: Peter, would you mind letting  
7     me look at that? I must have signed it.

8             I -- you know, I think their role probably  
9     is just largely to make sure that the money that's  
10    going to be used for the commission's expenses will  
11    be -- will be administered.

12            I don't think they have an outsized role.  
13    I mean, Director Giles would be one of the executive  
14    branch participants, but I don't think that their  
15    role is any more substantial than the other  
16    executive branch entities that would be  
17    participating.

18            REP. PERRY: Great, thank you.

19            MDM. CHAIR: Thank you. Any other  
20    questions? Any other questions? Seeing none.  
21    Representative, would you like to close your bill?

22            REP. MERCER: Yeah. Thank you for a good

1 hearing. I really do think we've covered it. I -- if  
2 you've got reservations, I would at least encourage  
3 you to take a look at what Miss Power has in terms  
4 of the New Mexico experience.

5           They -- they've been at this for a while.  
6 I'm not saying that what we're doing would look  
7 exactly like what they're doing, but there are some  
8 -- some other states that we can look to, and this  
9 isn't as prescriptive as it is just trying to create  
10 a mechanism to put people around a table and say,  
11 "What do we think of this? How are we going to try  
12 to do it? Can we -- can we work together on it?"

13           And I think it's a -- it's a good next  
14 step. So I hope you go green on it, thank you very  
15 much.

16           MDM. CHAIR: Thank you, Representative  
17 Mercer. This closes the hearing on House Bill 834.  
18 Thanks, everyone. That was an interesting morning.  
19 People were very, very chatty and excitable.

20           So tomorrow we are doing executive action  
21 on all the bills that we heard last week. We will  
22 have one bill hearing for Senator Hurts, House

1 Senate Bill 492, but then we'll do executive action  
2 on one, two, three, four, five, six, seven, eight,  
3 nine, 10, 11 bills.

4 And then Friday, we will do executive  
5 action on all of the bills that we heard this week.  
6 And then Tuesday, we will have two more hearings, a  
7 J. Fitzpatrick bill and a S. Fitzpatrick bill. And  
8 that's all we've been assigned so far.

9 So we may be close to wrapping up for the  
10 committee. So any questions? All right, we're  
11 adjourned.

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CERTIFICATE OF TRANSCRIBER

I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability from the audio recordings and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome, the above 131 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.



Chris Naaden

September 25, 2025

(601174, MT House State Administration Committee  
hearing, 3-26-25)



Transcript of House Standing Committee  
Conducted on March 26, 2025

133

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| <p style="text-align: center;"><b>A</b></p> <p><b>a-l-l-i-s-a</b><br/>30:20</p> <p><b>a-okay</b><br/>25:19</p> <p><b>ability</b><br/>5:16, 16:6,<br/>29:4, 31:11,<br/>51:1, 104:5,<br/>120:13, 132:4</p> <p><b>able</b><br/>13:9, 16:7,<br/>16:8, 22:15,<br/>22:19, 33:4,<br/>52:6, 52:11,<br/>52:15, 77:3,<br/>77:4, 89:2,<br/>104:17, 110:1</p> <p><b>about</b><br/>12:10, 18:7,<br/>24:9, 26:21,<br/>27:4, 29:14,<br/>31:3, 36:18,<br/>42:7, 42:16,<br/>45:19, 50:22,<br/>52:8, 52:17,<br/>55:3, 58:4,<br/>59:21, 59:22,<br/>60:1, 60:4,<br/>60:6, 60:9,<br/>61:10, 65:3,<br/>65:12, 68:4,<br/>70:2, 72:12,<br/>76:12, 80:13,<br/>81:7, 81:16,<br/>82:18, 83:4,<br/>84:12, 91:19,<br/>93:10, 97:2,<br/>97:9, 103:11,<br/>106:9, 106:15,<br/>106:16, 107:1,<br/>108:14, 109:3,<br/>109:4, 109:18,<br/>109:20, 111:21,<br/>116:5, 116:22,<br/>118:1, 118:8,<br/>118:11, 120:17,</p> | <p>121:21, 122:19,<br/>123:6, 123:22,<br/>126:8, 128:6</p> <p><b>above</b><br/>29:6, 132:8</p> <p><b>absence</b><br/>117:14</p> <p><b>absentee</b><br/>27:7, 27:11,<br/>55:10, 55:16,<br/>56:4, 62:2,<br/>62:3, 62:13,<br/>62:14, 62:15,<br/>62:16, 62:20,<br/>63:4, 64:3,<br/>64:6, 66:6, 85:3</p> <p><b>absolutely</b><br/>37:12, 45:8,<br/>46:4, 54:10,<br/>55:13, 60:11,<br/>75:11, 97:22,<br/>112:2</p> <p><b>abundantly</b><br/>37:12</p> <p><b>academic</b><br/>77:20</p> <p><b>access</b><br/>31:11, 41:16,<br/>43:3, 86:15</p> <p><b>accessibility</b><br/>42:7</p> <p><b>accomplished</b><br/>117:18</p> <p><b>accomplishing</b><br/>117:16</p> <p><b>according</b><br/>27:3</p> <p><b>accountability</b><br/>106:2, 106:9,<br/>106:10</p> <p><b>accountable</b><br/>110:6</p> <p><b>accounting</b><br/>119:10, 119:12</p> <p><b>achieve</b><br/>73:4</p> <p><b>achieving</b><br/>125:20</p> | <p><b>acknowledging</b><br/>71:15</p> <p><b>aclu</b><br/>38:8</p> <p><b>across</b><br/>60:14, 92:19,<br/>110:1</p> <p><b>act</b><br/>96:1</p> <p><b>action</b><br/>130:20, 131:1,<br/>131:5, 132:14</p> <p><b>actions</b><br/>35:1</p> <p><b>actively</b><br/>117:10</p> <p><b>activity</b><br/>97:13, 116:3</p> <p><b>actually</b><br/>5:2, 6:10,<br/>28:3, 32:13,<br/>47:2, 48:21,<br/>55:22, 57:17,<br/>59:6, 61:8,<br/>61:14, 106:21,<br/>107:14, 117:16,<br/>125:6</p> <p><b>adamantly</b><br/>31:10</p> <p><b>add</b><br/>22:10, 32:17,<br/>46:17, 53:20,<br/>70:10, 91:22,<br/>120:4, 123:20</p> <p><b>added</b><br/>7:22</p> <p><b>adding</b><br/>29:4, 34:1,<br/>53:13, 98:8</p> <p><b>addition</b><br/>48:7</p> <p><b>additional</b><br/>28:13, 39:7,<br/>42:9, 126:7</p> <p><b>address</b><br/>8:3, 17:15,<br/>19:10, 25:3,<br/>31:15, 63:2,</p> | <p>63:7, 63:17,<br/>84:16, 126:18</p> <p><b>addressed</b><br/>71:4, 71:9</p> <p><b>addresses</b><br/>5:13, 84:20,<br/>84:21</p> <p><b>addressing</b><br/>25:2</p> <p><b>adds</b><br/>11:15, 53:7</p> <p><b>adjourned</b><br/>131:11</p> <p><b>adjust</b><br/>14:19</p> <p><b>administered</b><br/>41:22, 129:11</p> <p><b>administration</b><br/>1:7, 2:3, 8:13,<br/>129:1, 132:21</p> <p><b>administrator</b><br/>20:16, 21:19,<br/>43:15, 49:22,<br/>89:9, 90:4,<br/>90:22, 92:7</p> <p><b>administrators</b><br/>29:17, 30:5,<br/>32:20, 33:19,<br/>36:1, 45:21,<br/>68:14, 88:7,<br/>92:2, 93:5, 97:8</p> <p><b>adopt</b><br/>77:17</p> <p><b>advance</b><br/>6:8, 19:10,<br/>49:12, 84:14</p> <p><b>advantage</b><br/>45:5</p> <p><b>advertising</b><br/>37:10</p> <p><b>advice</b><br/>18:16</p> <p><b>affect</b><br/>79:8</p> <p><b>after</b><br/>5:11, 5:13,<br/>5:19, 6:11, 7:3,<br/>8:10, 15:12,</p> |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

134

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| 16:12, 27:12,<br>28:7, 30:13,<br>33:5, 46:22,<br>52:14, 57:19,<br>63:16, 81:15,<br>100:18, 101:2,<br>119:5, 126:16<br><b>afternoon</b><br>30:2, 49:8,<br>85:13, 113:16,<br>117:22<br><b>again</b><br>9:4, 15:1,<br>18:6, 31:21,<br>34:21, 58:19,<br>108:9<br><b>against</b><br>37:15, 47:19,<br>50:2<br><b>agencies</b><br>121:11<br><b>agency</b><br>125:13<br><b>ago</b><br>27:4<br><b>agree</b><br>67:7, 109:20,<br>117:12<br><b>agreed</b><br>97:9<br><b>ahead</b><br>4:2, 25:16,<br>38:2, 43:12,<br>86:1, 95:11,<br>98:15<br><b>aimee</b><br>26:3<br><b>aisle</b><br>92:19<br><b>alex</b><br>38:2, 38:3,<br>38:7<br><b>aligned</b><br>127:3<br><b>alignment</b><br>109:21<br><b>alissa</b><br>30:20, 85:22 | <b>all</b><br>4:1, 6:5, 7:6,<br>9:14, 10:18,<br>11:21, 12:18,<br>13:21, 16:20,<br>18:3, 18:11,<br>19:15, 24:3,<br>25:15, 25:19,<br>26:12, 26:22,<br>28:8, 30:3,<br>34:14, 35:21,<br>36:5, 37:17,<br>38:4, 41:8,<br>42:14, 45:2,<br>45:4, 45:21,<br>46:16, 47:20,<br>47:22, 61:21,<br>64:11, 64:12,<br>64:18, 64:20,<br>65:18, 66:13,<br>71:2, 72:15,<br>83:9, 83:13,<br>83:17, 88:4,<br>90:20, 91:18,<br>95:14, 96:12,<br>97:10, 99:18,<br>106:14, 107:1,<br>108:17, 109:6,<br>112:11, 113:19,<br>115:1, 117:22,<br>118:3, 120:10,<br>122:1, 122:5,<br>123:22, 125:8,<br>125:9, 126:22,<br>127:21, 128:12,<br>130:21, 131:5,<br>131:8, 131:10<br><b>alleged</b><br>40:1, 78:1<br><b>alleviate</b><br>17:6, 75:7<br><b>allow</b><br>32:11, 53:6,<br>53:9, 53:12<br><b>allowed</b><br>27:20, 27:21,<br>53:22<br><b>allows</b><br>15:11 | <b>almost</b><br>113:10<br><b>along</b><br>93:16<br><b>already</b><br>28:1, 32:7,<br>32:11, 32:14,<br>38:22, 42:2,<br>42:13, 62:16,<br>82:1, 83:16,<br>95:12, 98:4,<br>98:6, 125:2,<br>125:11<br><b>also</b><br>6:14, 9:2,<br>10:15, 10:21,<br>11:5, 13:15,<br>13:20, 15:14,<br>17:6, 19:9,<br>22:12, 23:15,<br>24:8, 28:11,<br>28:17, 34:12,<br>35:2, 36:6,<br>37:5, 37:11,<br>42:6, 49:20,<br>50:4, 51:21,<br>53:7, 56:3,<br>56:9, 58:18,<br>62:11, 75:3,<br>75:7, 86:14,<br>87:1, 91:10,<br>111:16, 113:18,<br>116:11, 119:8<br><b>alternative</b><br>19:8<br><b>altogether</b><br>39:12<br><b>always</b><br>103:12, 104:19,<br>121:12<br><b>amended</b><br>51:8, 51:11<br><b>amendment</b><br>19:16, 19:20,<br>35:4, 51:13,<br>84:4<br><b>american</b><br>11:5 | <b>americans</b><br>31:6, 31:12<br><b>among</b><br>37:4<br><b>amount</b><br>11:13, 22:3,<br>53:22, 123:12<br><b>amounts</b><br>36:3, 36:4<br><b>amy</b><br>113:6, 120:5<br><b>analysis</b><br>51:6, 117:6,<br>120:2, 121:7<br><b>analyst</b><br>113:6<br><b>analysts</b><br>118:13<br><b>analytical</b><br>116:21<br><b>analyze</b><br>104:6, 119:6<br><b>andrea</b><br>18:1, 18:6<br><b>ands</b><br>68:3<br><b>anecdotal</b><br>105:11<br><b>angie</b><br>21:17<br><b>angus</b><br>113:16<br><b>annual</b><br>125:11, 125:12<br><b>another</b><br>19:9, 21:3,<br>35:7, 59:11,<br>62:7, 62:8,<br>63:20, 75:13,<br>75:17, 84:1,<br>87:13, 93:14,<br>121:1, 125:9<br><b>answer</b><br>43:17, 50:7,<br>56:21, 66:17,<br>70:2, 83:1,<br>83:19, 103:1,<br>112:9, 113:7, |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

135

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 113:18, 124:2<br><b>answered</b><br>64:11, 68:14,<br>74:14, 86:10<br><b>any</b><br>8:16, 8:17,<br>10:3, 25:11,<br>25:12, 25:13,<br>31:10, 31:13,<br>32:8, 35:10,<br>37:21, 39:18,<br>39:20, 40:7,<br>44:9, 45:6,<br>50:12, 57:21,<br>58:11, 58:15,<br>60:22, 64:12,<br>72:21, 80:8,<br>84:16, 86:6,<br>92:8, 97:17,<br>98:11, 98:12,<br>99:4, 99:5,<br>99:11, 102:12,<br>103:1, 103:9,<br>112:4, 112:18,<br>112:19, 113:1,<br>113:4, 113:7,<br>113:18, 113:19,<br>115:1, 117:6,<br>126:7, 129:15,<br>129:19, 129:20,<br>131:10, 132:6<br><b>anybody</b><br>6:16, 7:16,<br>49:4, 58:4,<br>81:11, 81:12,<br>91:4, 112:5<br><b>anyone</b><br>19:19, 31:3,<br>35:9, 79:19,<br>119:18, 120:20<br><b>anything</b><br>34:10, 36:14,<br>53:21, 63:3<br><b>anyway</b><br>8:8<br><b>anywhere</b><br>103:10<br><b>apolitical</b><br>16:3 | <b>apologies</b><br>38:6, 100:4<br><b>apologize</b><br>65:6<br><b>appear</b><br>27:21<br><b>application</b><br>119:15<br><b>applies</b><br>35:13, 35:15,<br>41:21, 72:19,<br>73:22<br><b>appreciate</b><br>68:11<br><b>approach</b><br>7:14<br><b>appropriate</b><br>101:8<br><b>appropriations</b><br>102:3, 103:9,<br>104:5, 122:14,<br>126:15, 127:6,<br>127:15<br><b>appropriator</b><br>110:21<br><b>approximately</b><br>27:10<br><b>arbitrarily</b><br>40:15<br><b>archaic</b><br>96:10<br><b>area</b><br>128:10<br><b>areas</b><br>39:3, 87:2,<br>87:5, 87:7,<br>90:16, 103:18,<br>103:19, 107:18<br><b>aren't</b><br>13:9, 60:19,<br>69:14, 80:11,<br>84:15, 85:3,<br>86:20, 87:7,<br>87:10, 87:16,<br>87:18, 108:5<br><b>argue</b><br>48:18, 109:20<br><b>arguing</b><br>39:13 | <b>argument</b><br>40:7, 49:16,<br>51:4, 80:8,<br>108:21<br><b>arguments</b><br>17:1, 77:22<br><b>arisen</b><br>14:20<br><b>arlee</b><br>54:22, 56:14<br><b>around</b><br>7:17, 60:2,<br>70:13, 75:20,<br>81:11, 87:3,<br>104:1, 130:10<br><b>arrived</b><br>127:14<br><b>article</b><br>71:15<br><b>articulate</b><br>100:17<br><b>artificial</b><br>42:10<br><b>asked</b><br>8:20, 52:17,<br>73:16, 74:12,<br>84:12, 94:3,<br>110:9<br><b>asking</b><br>56:17, 56:18,<br>59:2, 59:4,<br>116:8<br><b>aspect</b><br>36:1, 121:3<br><b>assessment</b><br>116:14<br><b>assigned</b><br>131:8<br><b>assist</b><br>34:2<br><b>assistant</b><br>113:11<br><b>association</b><br>43:16, 98:18<br><b>assume</b><br>114:22<br><b>attempt</b><br>68:4, 69:1, | 75:17<br><b>attempted</b><br>39:11<br><b>attention</b><br>8:3, 20:18<br><b>attorney</b><br>26:4<br><b>audio</b><br>132:4<br><b>audit</b><br>113:18, 121:9<br><b>auditor</b><br>113:17, 116:11,<br>118:4, 118:8<br><b>austin</b><br>10:5, 16:2,<br>43:20, 44:16<br><b>authority</b><br>20:5, 20:6,<br>71:20<br><b>automatic</b><br>36:10, 75:3<br><b>automatically</b><br>96:14<br><b>availability</b><br>84:13<br><b>available</b><br>11:13, 13:15,<br>32:9, 32:15,<br>53:16, 82:2,<br>113:12<br><b>avoid</b><br>9:5<br><b>aware</b><br>31:8, 37:7,<br>87:8, 87:10,<br>87:18, 95:14<br><b>away</b><br>5:9, 22:18,<br>30:4, 30:13,<br>33:6, 39:3,<br>52:2, 68:5,<br>97:3, 122:15,<br>126:15<br><b>awesome</b><br>76:11, 76:14<br><hr/> <b>B</b><br><hr/> <b>b-a-z-a-n-t</b><br>41:1 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

136

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>back</b><br/>7:19, 16:2,<br/>26:21, 49:18,<br/>63:12, 66:3,<br/>67:16, 72:9,<br/>82:18, 88:8,<br/>90:5, 90:22,<br/>91:4, 91:7,<br/>108:9, 110:21,<br/>112:10, 119:22,<br/>125:5, 127:11<br/><b>background</b><br/>17:12<br/><b>bad</b><br/>29:19, 30:6<br/><b>balance</b><br/>35:22, 36:6,<br/>102:17<br/><b>ballot</b><br/>19:15, 27:11,<br/>28:6, 38:10,<br/>38:15, 38:22,<br/>39:8, 41:11,<br/>41:17, 43:3,<br/>51:7, 51:21,<br/>51:22, 56:1,<br/>56:5, 59:9,<br/>59:10, 60:16,<br/>61:6, 61:8,<br/>61:10, 61:13,<br/>62:5, 62:9,<br/>62:13, 62:14,<br/>62:15, 64:4,<br/>66:6, 66:9,<br/>66:10, 74:7,<br/>77:8, 82:19,<br/>83:8, 83:9,<br/>83:11, 83:14,<br/>83:16, 84:13,<br/>89:4, 89:6,<br/>96:21<br/><b>ballots</b><br/>15:12, 15:13,<br/>19:14, 27:9,<br/>28:5, 64:6,<br/>74:3, 82:19,<br/>84:15, 85:3,<br/>90:5, 91:6,</p> | <p>96:13, 96:18,<br/>96:20, 96:21,<br/>98:5<br/><b>bam</b><br/>36:11, 56:5<br/><b>barely</b><br/>123:13<br/><b>barrier</b><br/>39:8<br/><b>barriers</b><br/>42:13, 78:5,<br/>86:6<br/><b>based</b><br/>48:4, 77:22,<br/>104:11, 106:1,<br/>108:21, 124:13,<br/>126:14, 127:10<br/><b>basically</b><br/>122:22<br/><b>basis</b><br/>121:15<br/><b>bazant</b><br/>40:21, 41:1,<br/>43:6<br/><b>beagle</b><br/>72:4<br/><b>beasant</b><br/>25:15, 25:17<br/><b>because</b><br/>5:11, 8:19,<br/>11:3, 12:15,<br/>12:16, 13:10,<br/>14:4, 15:4,<br/>16:16, 16:19,<br/>17:12, 18:1,<br/>19:12, 19:21,<br/>20:14, 21:1,<br/>21:7, 22:15,<br/>23:2, 23:5,<br/>23:8, 28:4,<br/>33:16, 36:20,<br/>41:20, 44:4,<br/>46:14, 60:7,<br/>60:19, 61:19,<br/>61:20, 62:15,<br/>62:17, 65:19,<br/>66:1, 76:12,<br/>78:3, 78:8,</p> | <p>79:8, 80:13,<br/>83:5, 83:14,<br/>84:15, 85:15,<br/>87:8, 87:17,<br/>88:11, 89:1,<br/>90:1, 93:4,<br/>96:9, 103:14,<br/>104:12, 104:19,<br/>105:10, 105:20,<br/>106:3, 106:4,<br/>107:7, 112:7,<br/>116:2, 117:3<br/><b>become</b><br/>36:13, 68:1,<br/>120:17<br/><b>becomes</b><br/>110:4, 115:8<br/><b>bed</b><br/>7:16, 72:14<br/><b>been</b><br/>7:6, 11:10,<br/>16:16, 17:17,<br/>18:15, 20:3,<br/>32:7, 39:15,<br/>41:7, 41:12,<br/>52:5, 53:9,<br/>77:16, 79:1,<br/>79:12, 79:22,<br/>82:10, 88:20,<br/>90:11, 91:5,<br/>91:10, 92:10,<br/>92:20, 95:12,<br/>96:5, 96:6,<br/>96:8, 103:21,<br/>104:1, 104:16,<br/>105:4, 106:12,<br/>107:4, 115:2,<br/>115:5, 115:21,<br/>115:22, 117:1,<br/>120:20, 130:5,<br/>131:8<br/><b>before</b><br/>6:12, 8:16,<br/>8:18, 10:16,<br/>12:4, 14:22,<br/>15:2, 15:13,<br/>17:5, 22:22,<br/>23:11, 23:22,</p> | <p>24:3, 24:4,<br/>27:12, 29:5,<br/>35:12, 35:14,<br/>36:6, 44:11,<br/>45:19, 46:7,<br/>52:8, 57:12,<br/>58:13, 58:14,<br/>58:15, 65:10,<br/>72:14, 91:4,<br/>94:1, 97:10,<br/>111:8, 122:15<br/><b>began</b><br/>13:1<br/><b>begin</b><br/>16:11, 57:18,<br/>110:5, 111:22<br/><b>beginning</b><br/>15:21, 29:14,<br/>79:2, 94:18<br/><b>begins</b><br/>15:20<br/><b>behalf</b><br/>10:6, 26:5,<br/>32:5, 41:2,<br/>43:16, 68:22,<br/>98:18<br/><b>being</b><br/>16:7, 16:8,<br/>25:11, 33:4,<br/>33:18, 37:15,<br/>45:3, 51:8,<br/>51:10, 60:12,<br/>60:13, 66:6,<br/>82:17, 88:11,<br/>101:7, 110:6,<br/>111:4, 112:13,<br/>117:18, 120:6,<br/>122:16, 122:22,<br/>123:1<br/><b>belabor</b><br/>32:6<br/><b>believe</b><br/>15:8, 19:16,<br/>19:21, 33:6,<br/>35:8, 49:6,<br/>49:10, 51:6,<br/>68:19, 70:7,<br/>73:21, 78:6,</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

137

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 81:13, 82:6,<br>94:14, 118:12,<br>122:15<br><b>belknap</b><br>30:22<br><b>bennett</b><br>2:10, 2:11<br><b>bertoglio</b><br>2:6, 2:7,<br>75:22, 76:3,<br>76:8, 76:20,<br>77:11, 77:13,<br>78:10<br><b>bertoglio's</b><br>77:17<br><b>bertoglio</b><br>76:7<br><b>best</b><br>6:1, 9:20,<br>49:10, 80:7,<br>93:16, 95:5,<br>95:6, 101:17,<br>123:5, 132:3<br><b>better</b><br>5:5, 6:4, 9:9,<br>17:7, 20:21,<br>49:6, 49:19,<br>92:14, 93:1,<br>94:5, 109:22,<br>110:18, 125:16<br><b>between</b><br>8:17, 10:19,<br>11:4, 14:1,<br>50:22, 78:2,<br>86:19, 87:3,<br>93:11, 98:7,<br>101:3, 101:16,<br>102:7, 102:17,<br>115:3, 126:4<br><b>beyond</b><br>29:6<br><b>biennium</b><br>117:4<br><b>big</b><br>61:15, 94:10,<br>94:11<br><b>billings</b><br>100:7 | <b>bills</b><br>20:18, 31:17,<br>48:13, 71:10,<br>91:17, 92:22,<br>94:7, 115:1,<br>130:21, 131:3,<br>131:5<br><b>bill's</b><br>114:2<br><b>bipartisan</b><br>5:21, 5:22,<br>10:9, 20:20,<br>21:11, 81:5<br><b>bit</b><br>17:11, 26:21,<br>33:15, 34:3,<br>60:9, 61:19,<br>118:15<br><b>bitter</b><br>89:14<br><b>blackfeet</b><br>30:21<br><b>blessing</b><br>110:20<br><b>bmed</b><br>16:16<br><b>board</b><br>60:14, 105:21,<br>105:22, 107:21,<br>111:4, 112:2,<br>114:9, 114:18,<br>122:19<br><b>body</b><br>21:4, 71:13<br><b>booth</b><br>71:17<br><b>booths</b><br>22:10<br><b>border</b><br>4:21<br><b>borrow</b><br>11:20, 14:6,<br>16:21<br><b>both</b><br>41:21, 47:11,<br>118:10, 123:20<br><b>bound</b><br>28:21 | <b>box</b><br>38:22, 39:8,<br>85:6, 86:13,<br>89:4, 91:5<br><b>boxcars</b><br>69:19<br><b>boxes</b><br>85:2, 86:16,<br>86:17, 89:21,<br>90:3, 90:4,<br>90:14<br><b>boy</b><br>31:1<br><b>bozeman</b><br>76:18<br><b>branch</b><br>101:4, 102:7,<br>102:8, 102:19,<br>114:12, 121:12,<br>123:15, 127:16,<br>128:13, 128:14,<br>129:14, 129:16<br><b>branches</b><br>101:17<br><b>branded</b><br>88:12<br><b>break</b><br>76:15, 76:18<br><b>brief</b><br>97:21<br><b>bring</b><br>5:7, 93:3,<br>97:10, 107:6,<br>128:12<br><b>bringing</b><br>36:17, 88:16,<br>97:8, 98:3<br><b>brings</b><br>7:22<br><b>british</b><br>4:22<br><b>broad</b><br>101:20, 102:8,<br>119:7<br><b>broaden</b><br>35:5<br><b>broader</b><br>118:1 | <b>broadwater</b><br>21:18, 22:7<br><b>broken</b><br>13:3, 14:15<br><b>brought</b><br>46:12, 46:20,<br>48:19, 88:7<br><b>broward</b><br>23:16<br><b>brown</b><br>118:13<br><b>budget</b><br>104:7, 107:9,<br>107:10, 110:16,<br>111:5, 113:11,<br>113:12, 122:17,<br>127:8<br><b>budgeting</b><br>103:22, 124:13,<br>126:14, 127:10,<br>128:3<br><b>build</b><br>106:22, 118:18,<br>119:6<br><b>building</b><br>60:1, 79:17,<br>91:3, 91:5,<br>100:10, 120:9<br><b>built</b><br>104:4<br><b>bunch</b><br>13:2, 116:21<br><b>burden</b><br>39:18, 40:6,<br>75:1, 75:16<br><b>burdening</b><br>39:20<br><b>burdens</b><br>40:1, 40:8<br><b>bureaus</b><br>29:7<br><b>burn</b><br>76:2<br><b>business</b><br>7:9, 8:15,<br>8:20, 9:5, 9:9,<br>10:12, 12:1,<br>29:15, 89:17, |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

138

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>94:10, 94:11<br/><b>businesses</b><br/>29:14<br/><b>but</b>s<br/>68:4<br/><b>butte</b><br/>10:12, 91:12<br/><b>button</b><br/>61:4<br/><b>butts</b><br/>35:18<br/><b>byrne</b><br/>2:12, 2:13,<br/>80:19, 80:20,<br/>81:2, 81:9,<br/>81:17, 111:1,<br/>111:2, 122:7,<br/>122:8, 122:12,<br/>122:13, 123:8,<br/>123:11, 124:4,<br/>126:17</p> <hr/> <p><b>C</b></p> <hr/> <p><b>c-u-f-f-e</b><br/>4:19<br/><b>call</b><br/>6:11, 12:13,<br/>38:12, 74:11,<br/>74:13<br/><b>called</b><br/>39:19, 48:9,<br/>101:11, 125:8,<br/>127:8<br/><b>calls</b><br/>22:13, 52:16<br/><b>came</b><br/>5:21, 9:8,<br/>9:12, 16:3,<br/>49:7, 88:10,<br/>93:15<br/><b>can't</b><br/>12:21, 18:3,<br/>23:7, 24:18,<br/>46:2, 46:3,<br/>46:4, 46:15,<br/>84:15, 103:19,<br/>121:5<br/><b>canada</b><br/>4:22</p> | <p><b>cancel</b><br/>46:15<br/><b>candid</b><br/>15:18<br/><b>candidate</b><br/>79:21, 79:22<br/><b>candidates</b><br/>55:22<br/><b>cannot</b><br/>25:2<br/><b>capitol</b><br/>16:4, 79:17<br/><b>caption</b><br/>132:11<br/><b>capture</b><br/>116:16<br/><b>car</b><br/>12:22, 58:2,<br/>58:3, 90:5<br/><b>care</b><br/>9:7, 9:18,<br/>24:17, 68:13,<br/>80:13<br/><b>carlson</b><br/>113:5, 113:6,<br/>116:12, 116:22,<br/>118:10, 122:9,<br/>122:11, 123:4,<br/>127:20<br/><b>carolina</b><br/>128:9<br/><b>carry</b><br/>102:15<br/><b>cars</b><br/>12:17<br/><b>cascade</b><br/>63:12, 64:2<br/><b>case</b><br/>27:20, 27:22,<br/>39:22, 47:1,<br/>71:3, 71:6,<br/>72:21, 77:22,<br/>78:19, 79:2,<br/>95:14, 132:7<br/><b>cases</b><br/>105:9<br/><b>cast</b><br/>38:10, 38:15,</p> | <p>41:10, 59:10,<br/>64:3<br/><b>casting</b><br/>7:1<br/><b>catch</b><br/>9:4, 56:13,<br/>57:8<br/><b>catch-up</b><br/>9:14<br/><b>catches</b><br/>98:22<br/><b>caught</b><br/>58:6, 86:10<br/><b>cause</b><br/>33:7<br/><b>celebrate</b><br/>16:8<br/><b>certain</b><br/>11:8, 23:2,<br/>29:15, 78:4,<br/>78:5<br/><b>certainly</b><br/>41:20, 46:18,<br/>64:18, 102:15,<br/>114:20, 121:2,<br/>128:3<br/><b>certificate</b><br/>132:1<br/><b>chairman</b><br/>102:2, 103:8,<br/>117:12, 123:4<br/><b>challenge</b><br/>79:14<br/><b>challenged</b><br/>39:13, 41:20<br/><b>challenges</b><br/>28:18, 78:4<br/><b>championed</b><br/>43:1<br/><b>chance</b><br/>9:4, 41:10,<br/>93:21<br/><b>change</b><br/>8:9, 21:1,<br/>29:20, 31:10,<br/>34:2, 37:6,<br/>37:10, 60:17,<br/>62:9</p> | <p><b>changed</b><br/>17:18, 37:13,<br/>63:2, 63:5, 63:7<br/><b>changes</b><br/>31:13, 42:8,<br/>49:17, 60:14,<br/>79:7<br/><b>changing</b><br/>41:15, 77:1<br/><b>charge</b><br/>129:3<br/><b>charged</b><br/>91:15<br/><b>chatty</b><br/>130:19<br/><b>check</b><br/>61:3, 64:9<br/><b>checks</b><br/>86:19<br/><b>chewing</b><br/>9:22<br/><b>chief</b><br/>23:10, 23:20,<br/>48:2<br/><b>chippewa</b><br/>30:22<br/><b>choice</b><br/>45:22, 46:5,<br/>56:2<br/><b>choices</b><br/>19:2<br/><b>choose</b><br/>18:8<br/><b>chose</b><br/>88:5, 89:9<br/><b>chris</b><br/>132:2, 132:18<br/><b>christian</b><br/>1:22<br/><b>churned</b><br/>21:5<br/><b>circumstance</b><br/>37:15<br/><b>civic</b><br/>41:4<br/><b>clark</b><br/>33:14, 50:1,<br/>63:13, 98:1</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

139

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>class</b><br>10:22, 11:1<br><b>clauses</b><br>100:17, 101:1<br><b>clear</b><br>13:7, 18:16,<br>18:22, 19:7,<br>19:22, 37:12,<br>40:5, 42:3,<br>51:7, 51:9,<br>68:6, 73:21<br><b>clearinghouse</b><br>125:8<br><b>clearly</b><br>20:19, 110:1<br><b>clerk</b><br>5:14, 8:19,<br>9:19, 21:18,<br>89:8, 90:3,<br>90:21, 92:8,<br>98:19<br><b>clerks</b><br>14:13, 14:15,<br>17:14, 43:17,<br>75:1, 75:8,<br>88:6, 92:2,<br>93:4, 93:11<br><b>clicking</b><br>61:4<br><b>close</b><br>5:12, 6:6,<br>6:12, 7:4, 7:7,<br>8:10, 8:15,<br>29:16, 38:11,<br>48:22, 52:9,<br>52:12, 88:1,<br>91:6, 99:12,<br>99:21, 129:21,<br>131:9<br><b>closed</b><br>22:9, 24:21,<br>49:11<br><b>closely</b><br>127:3<br><b>closer</b><br>7:19<br><b>closes</b><br>35:10, 51:20, | 95:9, 100:2,<br>130:17<br><b>closing</b><br>15:2, 55:12,<br>67:20, 88:19<br><b>clothes</b><br>81:14<br><b>cochran</b><br>2:14, 2:15,<br>50:13, 50:15,<br>50:19, 50:20,<br>51:17, 51:19,<br>52:20, 66:20,<br>66:21, 67:3,<br>67:4, 67:9,<br>68:17, 68:22,<br>73:16<br><b>code</b><br>125:10<br><b>codified</b><br>35:17, 35:19<br><b>codifies</b><br>98:3, 98:20<br><b>colbia</b><br>4:22<br><b>collaborate</b><br>101:3<br><b>collaborating</b><br>101:16<br><b>collaboration</b><br>102:7, 123:21,<br>126:3<br><b>collection</b><br>116:19<br><b>collectively</b><br>126:3<br><b>come</b><br>2:3, 7:16,<br>24:17, 29:5,<br>31:21, 35:3,<br>51:13, 62:6,<br>66:4, 66:11,<br>81:6, 84:3,<br>84:22, 89:20,<br>90:18, 92:10,<br>94:13, 101:12,<br>111:19, 115:1,<br>118:13 | <b>comes</b><br>10:14, 89:19,<br>121:3<br><b>comfort</b><br>121:20<br><b>comfortable</b><br>107:17, 107:19<br><b>coming</b><br>9:19, 23:6,<br>61:7, 63:12,<br>93:4, 102:13<br><b>commencing</b><br>51:9<br><b>comments</b><br>20:12, 97:21<br><b>commission</b><br>100:19, 101:11,<br>101:21, 102:13,<br>102:16, 109:3,<br>121:22, 123:18,<br>126:9, 126:17,<br>126:21, 127:1,<br>128:6, 128:12<br><b>commission's</b><br>129:10<br><b>committee</b><br>1:6, 1:7, 10:5,<br>18:17, 19:8,<br>19:20, 21:17,<br>26:2, 26:9,<br>28:2, 28:20,<br>29:12, 30:19,<br>32:4, 35:6,<br>38:7, 40:22,<br>43:8, 43:14,<br>43:19, 53:12,<br>54:10, 73:5,<br>77:16, 78:22,<br>83:22, 84:2,<br>88:4, 91:13,<br>91:19, 95:15,<br>97:14, 98:17,<br>99:11, 99:12,<br>100:10, 101:19,<br>102:3, 112:17,<br>113:6, 113:10,<br>113:16, 113:22,<br>119:1, 127:15, | 131:10, 132:21<br><b>committees</b><br>101:10, 107:10,<br>110:17<br><b>common</b><br>4:9, 7:13,<br>7:20, 9:6,<br>88:14, 88:17<br><b>common-sense</b><br>5:7<br><b>communities</b><br>39:9, 42:12,<br>84:20<br><b>community</b><br>30:22, 56:10<br><b>comparison</b><br>22:1<br><b>compelling</b><br>39:21, 40:3,<br>73:3, 73:7,<br>115:6<br><b>complain</b><br>111:21<br><b>complaint</b><br>22:2<br><b>complete</b><br>14:14, 63:16<br><b>completely</b><br>107:19<br><b>complicated</b><br>64:17, 64:22,<br>116:3, 116:7<br><b>components</b><br>107:13<br><b>composition</b><br>101:19, 101:20,<br>102:16, 122:20,<br>126:21<br><b>compromise</b><br>68:11<br><b>concept</b><br>104:2, 104:3,<br>109:4, 110:14,<br>114:22<br><b>concern</b><br>19:9, 19:12,<br>19:20, 22:3,<br>26:15, 34:14, |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

140

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>51:12, 59:1,<br/>65:22, 92:1,<br/>94:4<br/><b>concerns</b><br/>42:6, 59:22,<br/>118:22<br/><b>concise</b><br/>116:10<br/><b>concluded</b><br/>71:18<br/><b>concur</b><br/>30:16<br/><b>conducting</b><br/>6:3, 34:17<br/><b>confident</b><br/>12:6<br/><b>confirm</b><br/>25:2, 83:19<br/><b>conflict</b><br/>15:12, 15:14<br/><b>confused</b><br/>30:8<br/><b>confusion</b><br/>28:12, 29:2,<br/>30:8, 33:2,<br/>41:16, 42:9,<br/>60:1<br/><b>conner</b><br/>33:13<br/><b>connor</b><br/>62:19, 97:22<br/><b>consequences</b><br/>26:18, 30:15,<br/>116:2<br/><b>consequently</b><br/>97:3<br/><b>consider</b><br/>125:22<br/><b>consideration</b><br/>9:22<br/><b>consistency</b><br/>34:22, 35:2<br/><b>consistent</b><br/>16:21, 34:22,<br/>37:4, 60:13<br/><b>constitution</b><br/>39:17, 71:16,<br/>72:14, 72:17,</p> | <p>72:18<br/><b>constitutional</b><br/>20:4, 30:11,<br/>39:14, 41:21,<br/>71:21, 73:1,<br/>73:14, 122:16<br/><b>constitutionality</b><br/>46:13, 46:22<br/><b>constitutionally</b><br/>111:5<br/><b>constraints</b><br/>71:21<br/><b>constricting</b><br/>73:11<br/><b>constricts</b><br/>73:10<br/><b>consulted</b><br/>31:8, 129:4<br/><b>consuming</b><br/>96:17, 97:1,<br/>97:12<br/><b>contain</b><br/>132:9<br/><b>containing</b><br/>90:4<br/><b>context</b><br/>20:14<br/><b>continental</b><br/>5:2, 5:3<br/><b>continue</b><br/>31:17, 31:20,<br/>104:22<br/><b>continuing</b><br/>4:10, 77:6<br/><b>continuous</b><br/>75:4, 75:12<br/><b>control</b><br/>111:15<br/><b>conundr</b><br/>33:16<br/><b>convenience</b><br/>42:16<br/><b>conversation</b><br/>111:12, 126:8<br/><b>conversations</b><br/>117:14<br/><b>convey</b><br/>21:5</p> | <p><b>conviction</b><br/>21:7<br/><b>coordinate</b><br/>23:21<br/><b>core</b><br/>42:16<br/><b>corner</b><br/>4:21, 5:6<br/><b>cornyn</b><br/>70:14, 70:15,<br/>70:19, 74:16,<br/>74:20, 74:21,<br/>75:11, 75:18,<br/>124:3<br/><b>correct</b><br/>44:18, 45:8,<br/>95:17, 132:9<br/><b>correction</b><br/>117:19<br/><b>correctly</b><br/>45:17, 65:19<br/><b>cost</b><br/>85:3<br/><b>costs</b><br/>28:4<br/><b>could</b><br/>7:16, 8:1,<br/>9:13, 18:2,<br/>22:13, 36:21,<br/>36:22, 46:2,<br/>49:18, 57:15,<br/>57:19, 60:9,<br/>61:22, 64:18,<br/>65:7, 66:9,<br/>75:9, 75:15,<br/>75:16, 79:13,<br/>89:4, 95:5,<br/>97:10, 100:21,<br/>101:14, 104:7,<br/>104:8, 105:2,<br/>116:5, 116:6,<br/>116:16, 117:21,<br/>124:16, 125:3<br/><b>couldn't</b><br/>52:18, 107:7<br/><b>council</b><br/>124:15<br/><b>counsel</b><br/>132:5</p> | <p><b>count</b><br/>52:12, 75:5,<br/>75:12, 96:4,<br/>96:20<br/><b>counted</b><br/>7:8, 64:4,<br/>90:11, 90:12,<br/>96:19<br/><b>counties</b><br/>13:8, 13:9,<br/>13:11, 18:8,<br/>22:8, 22:13,<br/>32:11, 32:13,<br/>53:18, 55:1,<br/>69:21, 70:10,<br/>82:1, 96:18,<br/>96:22<br/><b>counting</b><br/>13:1, 15:16<br/><b>country</b><br/>79:13, 84:17,<br/>86:7<br/><b>county</b><br/>7:1, 21:18,<br/>21:19, 22:6,<br/>22:8, 23:16,<br/>24:6, 24:21,<br/>25:3, 33:14,<br/>39:3, 43:15,<br/>45:21, 50:1,<br/>52:7, 55:2,<br/>55:3, 55:5,<br/>55:7, 55:8,<br/>62:7, 62:8,<br/>63:8, 63:12,<br/>63:17, 63:18,<br/>63:20, 64:2,<br/>69:17, 74:9,<br/>82:6, 82:21,<br/>83:6, 83:10,<br/>89:2, 89:3,<br/>98:1, 98:5<br/><b>couple</b><br/>6:7, 88:22,<br/>112:9, 115:4,<br/>118:11, 118:13<br/><b>course</b><br/>18:21, 34:12,</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of House Standing Committee  
Conducted on March 26, 2025

141

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 39:10, 61:16,<br>65:9, 66:7,<br>71:2, 117:19<br><b>court</b><br>27:20, 27:22,<br>39:17, 41:20,<br>46:14, 46:22,<br>47:9, 47:15,<br>47:16, 49:14,<br>54:8, 71:14,<br>71:18, 72:1,<br>72:22, 78:19,<br>79:4, 93:19,<br>94:2<br><b>courthouse</b><br>22:9, 55:8,<br>55:19, 89:22<br><b>courts</b><br>39:22, 40:9,<br>40:12, 79:11<br><b>covered</b><br>130:1<br><b>covid</b><br>89:1, 90:1<br><b>crazy</b><br>60:8, 109:10<br><b>create</b><br>10:8, 13:13,<br>20:21, 28:3,<br>28:12, 31:16,<br>41:16, 42:9,<br>109:4, 109:13,<br>130:9<br><b>created</b><br>74:4<br><b>creates</b><br>13:2, 25:4,<br>29:1, 30:8, 39:7<br><b>creation</b><br>100:18, 107:13<br><b>cree</b><br>30:22<br><b>crew</b><br>9:8, 9:11, 97:6<br><b>critical</b><br>41:8<br><b>crow</b><br>48:16 | <b>crowley</b><br>26:4<br><b>cuffe</b><br>4:4, 4:6, 4:14,<br>4:16, 4:18,<br>45:13, 45:14,<br>46:6, 47:2,<br>47:5, 47:9,<br>47:13, 49:20,<br>49:21, 54:15,<br>54:16, 54:20,<br>55:11, 56:17,<br>56:20, 57:17,<br>59:7, 69:9,<br>69:15, 80:22,<br>81:1, 81:2,<br>81:8, 81:10,<br>88:1, 88:3, 95:3<br><b>culmination</b><br>12:4, 16:9<br><b>curious</b><br>46:21, 60:6,<br>65:2<br><b>current</b><br>12:7, 13:3,<br>14:14, 15:11,<br>15:15, 21:8,<br>21:9, 31:5,<br>31:14, 38:9,<br>52:18, 53:9,<br>53:12, 53:21,<br>79:18<br><b>currently</b><br>6:20, 13:5,<br>34:3, 35:7,<br>98:21<br><b>customer</b><br>10:14, 29:19<br><b>cut</b><br>14:16, 14:17,<br>49:12<br><b>cutting</b><br>53:21<br><hr/> <b>D</b> <hr/> <b>dance</b><br>109:15<br><b>dare</b><br>28:16 | <b>darling</b><br>3:21<br><b>darn</b><br>73:19, 106:9<br><b>data</b><br>101:16, 104:2,<br>104:6, 105:13,<br>107:8, 107:9,<br>110:15, 116:19,<br>116:20, 118:17,<br>118:18, 119:5,<br>119:15, 120:9,<br>120:15, 120:17,<br>121:3, 121:6,<br>121:10, 124:17,<br>125:21, 126:7<br><b>date</b><br>57:1<br><b>days</b><br>6:11, 8:11,<br>16:13, 35:11,<br>44:11, 44:17,<br>53:8, 69:20,<br>84:14<br><b>deadlines</b><br>42:11, 110:12<br><b>deal</b><br>56:6, 61:15,<br>87:1<br><b>debated</b><br>73:13<br><b>decades</b><br>80:1<br><b>decide</b><br>125:19, 127:17<br><b>decided</b><br>109:19, 127:7<br><b>decides</b><br>35:6<br><b>decision</b><br>28:21, 47:14,<br>47:16, 47:20,<br>48:6, 49:14,<br>49:15, 93:19,<br>93:20, 120:3<br><b>decisions</b><br>49:8, 106:1,<br>107:15, 119:7 | <b>declare</b><br>132:2, 132:13<br><b>decrease</b><br>53:15<br><b>dedicate</b><br>80:10<br><b>deem</b><br>40:12<br><b>deemed</b><br>39:15<br><b>deeper</b><br>100:19<br><b>deer</b><br>15:6<br><b>definitely</b><br>28:14, 92:12,<br>111:14, 115:19,<br>128:22<br><b>delete</b><br>74:12<br><b>deliberation</b><br>123:12<br><b>deliver</b><br>101:17, 118:19<br><b>delivering</b><br>107:2<br><b>delivery</b><br>34:7, 39:2,<br>84:22<br><b>demands</b><br>97:5<br><b>demo</b><br>118:14<br><b>democracy</b><br>26:5, 34:18,<br>40:17, 41:17,<br>42:17, 43:5<br><b>democrat</b><br>79:16<br><b>democratic</b><br>42:22, 71:6,<br>96:13<br><b>demographics</b><br>13:21, 14:11,<br>16:15, 77:21<br><b>demonstrate</b><br>73:3<br><b>denied</b><br>32:22 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

142

|                                                  |                                                                |                                                  |                                                                                                                               |
|--------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| <b>denying</b><br>39:9                           | 19:2, 28:5,<br>55:1, 60:2,                                     | <b>disadvantaged</b><br>38:18                    | <b>doable</b><br>66:2                                                                                                         |
| <b>department</b><br>10:7, 24:21,<br>25:3, 129:1 | 60:3, 64:20,<br>64:21, 65:1,<br>72:15, 72:17,                  | <b>disagree</b><br>51:6, 109:21                  | <b>doctor</b><br>58:6                                                                                                         |
| <b>departments</b><br>116:8                      | 87:4, 87:5,<br>87:13, 89:1,                                    | <b>discomfort</b><br>109:5                       | <b>doggone</b><br>7:13                                                                                                        |
| <b>dependent</b><br>115:7                        | 89:3, 90:1,<br>93:20, 93:22,                                   | <b>discrimination</b><br>39:4                    | <b>doing</b><br>11:3, 13:17,                                                                                                  |
| <b>depending</b><br>57:14, 82:11                 | 94:1, 94:2,<br>106:12, 106:13,                                 | <b>discuss</b><br>17:13                          | 52:8, 54:10,                                                                                                                  |
| <b>depends</b><br>76:19, 76:20                   | 116:21, 119:14,<br>120:11, 121:22,                             | <b>discussed</b><br>73:14                        | 87:16, 101:9,                                                                                                                 |
| <b>depositories</b><br>89:4                      | 122:1, 128:12                                                  | <b>discussion</b><br>17:10, 59:22,               | 103:14, 108:4,                                                                                                                |
| <b>deputy</b><br>89:20                           | <b>differently</b><br>7:11, 33:20                              | 61:10, 99:16,<br>117:22, 120:8                   | 108:5, 108:13,                                                                                                                |
| <b>describe</b><br>127:13                        | <b>difficult</b><br>11:8, 32:20,                               | <b>discussions</b><br>65:12, 114:21,             | 109:16, 112:10,                                                                                                               |
| <b>deserve</b><br>95:6, 108:15,<br>108:16        | 58:2, 58:8,<br>68:1, 116:2                                     | 115:3, 118:1,<br>120:21                          | 125:18, 127:3,                                                                                                                |
| <b>deserves</b><br>108:1                         | <b>digging</b><br>64:19                                        | <b>disenfranchise</b><br>30:10                   | 127:21, 128:8,                                                                                                                |
| <b>design</b><br>51:7                            | <b>dinner</b><br>80:12                                         | <b>disenfranchiseme-<br/>nt</b><br>85:14         | 128:9, 130:6,<br>130:7, 130:20                                                                                                |
| <b>designed</b><br>125:14                        | <b>dir</b><br>113:5, 118:10,<br>122:11, 123:4                  | <b>dismiss</b><br>79:3                           | <b>dollar</b><br>104:8                                                                                                        |
| <b>detailed</b><br>120:14, 121:7                 | <b>directed</b><br>108:21                                      | <b>dismissed</b><br>79:5                         | <b>done</b><br>9:22, 10:18,                                                                                                   |
| <b>details</b><br>37:17, 37:18                   | <b>direction</b><br>117:8, 123:19                              | <b>dispel</b><br>32:7                            | 23:3, 23:11,                                                                                                                  |
| <b>determines</b><br>73:1                        | <b>directions</b><br>119:1, 119:4                              | <b>disproportionate-<br/>ly</b><br>31:14, 38:17, | 26:11, 56:6,                                                                                                                  |
| <b>deterministic</b><br>120:17                   | <b>directly</b><br>112:12                                      | 42:11                                            | 60:16, 65:19,                                                                                                                 |
| <b>developed</b><br>118:14                       | <b>director</b><br>113:11, 113:17,<br>116:21, 118:4,           | <b>distance</b><br>15:5                          | 92:15, 95:4,                                                                                                                  |
| <b>developing</b><br>102:12                      | 122:8, 122:10,<br>122:13, 125:6,<br>127:20, 129:3,<br>129:13   | <b>distances</b><br>11:7, 11:16,<br>14:6         | 100:8, 100:13,                                                                                                                |
| <b>devil</b><br>37:18                            | <b>directors</b><br>105:21, 107:22,<br>111:4, 112:3,<br>122:19 | <b>district</b><br>4:20, 95:19,<br>100:6, 103:8  | 100:20, 101:7,                                                                                                                |
| <b>dictate</b><br>126:7                          | <b>disabled</b><br>38:19                                       | <b>dive</b><br>100:19                            | 101:10, 102:20,                                                                                                               |
| <b>difference</b><br>50:22, 77:8,<br>98:6        |                                                                | <b>divide</b><br>5:2, 5:3, 96:12                 | 105:4, 117:1,<br>118:16                                                                                                       |
| <b>different</b><br>6:21, 13:8,                  |                                                                | <b>division</b><br>113:18                        | <b>door</b><br>10:14, 22:5,<br>22:9, 22:15,<br>60:8                                                                           |
|                                                  |                                                                |                                                  | <b>doors</b><br>10:17                                                                                                         |
|                                                  |                                                                |                                                  | <b>double</b><br>5:20                                                                                                         |
|                                                  |                                                                |                                                  | <b>doubt</b><br>40:12                                                                                                         |
|                                                  |                                                                |                                                  | <b>down</b><br>7:20, 9:10,<br>22:9, 31:20,<br>31:21, 37:17,<br>48:6, 50:12,<br>52:1, 75:21,<br>76:15, 76:18,<br>79:16, 91:14, |

Transcript of House Standing Committee  
Conducted on March 26, 2025

143

|                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 111:8, 115:1,<br>125:18<br><b>drafting</b><br>17:22<br><b>drawn</b><br>115:19<br><b>drive</b><br>11:16, 12:16,<br>15:4, 15:5,<br>116:20, 122:4<br><b>driven</b><br>119:3, 120:2,<br>124:14, 125:21<br><b>dropped</b><br>93:7<br><b>due</b><br>21:12, 24:3,<br>25:8, 87:2,<br>91:20, 97:15,<br>99:1, 99:20,<br>110:19<br><b>during</b><br>25:7, 56:11,<br>60:19, 61:7,<br>61:11, 61:18,<br>66:5, 80:12,<br>97:4<br><b>duties</b><br>96:3 | <b>easier</b><br>40:16<br><b>easily</b><br>59:8, 116:3<br><b>education</b><br>28:13, 104:11,<br>106:15<br><b>edwards</b><br>2:16, 2:17,<br>124:6, 128:16,<br>128:17, 128:20,<br>128:21<br><b>effect</b><br>40:13<br><b>effective</b><br>102:6<br><b>effectively</b><br>101:3, 103:17,<br>104:4, 125:3<br><b>efficient</b><br>13:18, 99:20<br><b>effort</b><br>20:20, 103:13,<br>108:11, 120:12<br><b>eight</b><br>111:8, 131:2<br><b>either</b><br>27:11, 55:18,<br>107:19, 108:22,<br>109:11, 117:7<br><b>elect</b><br>58:10, 61:5,<br>62:14<br><b>elections</b><br>6:3, 10:7,<br>12:14, 16:5,<br>19:13, 20:2,<br>20:6, 21:22,<br>27:15, 27:17,<br>30:1, 33:14,<br>33:19, 34:16,<br>34:19, 34:21,<br>35:5, 36:16,<br>37:5, 37:18,<br>38:15, 39:3,<br>40:1, 41:22,<br>51:1, 51:22,<br>60:3, 60:12, | 60:13, 60:15,<br>60:19, 60:22,<br>61:11, 62:21,<br>63:22, 64:2,<br>64:21, 73:12,<br>73:19, 73:20,<br>73:22, 78:8,<br>79:8, 79:9,<br>79:11, 79:18,<br>96:2, 97:7, 98:1<br><b>election's</b><br>96:3<br><b>elector</b><br>8:8, 8:13,<br>17:19, 19:3,<br>38:9<br><b>eligible</b><br>41:8, 42:14<br><b>eliminate</b><br>23:1, 39:11<br><b>eliminating</b><br>24:15<br><b>elimination</b><br>39:6<br><b>else</b><br>43:7, 81:12,<br>91:4, 101:14,<br>112:5, 126:2<br><b>emergency</b><br>34:8<br><b>emphasis</b><br>12:2<br><b>employed</b><br>132:6<br><b>employees</b><br>32:6, 85:10<br><b>enact</b><br>10:9<br><b>encourage</b><br>51:12, 130:2<br><b>end</b><br>16:22, 17:3,<br>24:2, 35:18,<br>35:21, 37:8,<br>68:7, 71:22,<br>86:10, 89:14,<br>89:19, 106:14,<br>116:1, 117:8, | 120:8, 124:18,<br>128:7<br><b>ending</b><br>75:4<br><b>ends</b><br>6:10<br><b>energy</b><br>12:4, 36:3,<br>106:17<br><b>engaged</b><br>117:10<br><b>engagement</b><br>41:4<br><b>engages</b><br>16:9<br><b>engaging</b><br>16:15<br><b>enhance</b><br>80:7, 80:14<br><b>enjoin</b><br>40:13<br><b>enough</b><br>91:5, 93:17,<br>93:18, 111:16<br><b>ensure</b><br>18:18<br><b>ensures</b><br>41:8<br><b>ensuring</b><br>42:14<br><b>enter</b><br>25:4<br><b>enterprise</b><br>120:13<br><b>enthusiastic</b><br>20:22<br><b>entire</b><br>34:16, 109:21<br><b>entities</b><br>129:16<br><b>environment</b><br>79:18<br><b>environmentalist</b><br>19:11<br><b>errors</b><br>15:16, 15:17<br><b>especially</b><br>43:4, 60:8, |
| <b>E</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>e-mail</b><br>125:5, 125:6<br><b>e-r-g</b><br>98:18<br><b>e-z</b><br>26:4<br><b>each</b><br>23:4, 23:16,<br>89:2, 96:20,<br>127:6<br><b>earlier</b><br>8:11, 13:22,<br>53:18, 55:16,<br>93:3, 107:7<br><b>early</b><br>118:12, 125:7<br><b>ease</b><br>68:5, 75:16                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

Transcript of House Standing Committee  
Conducted on March 26, 2025

144

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 84:16, 97:4,<br>120:7<br><b>establish</b><br>19:6<br><b>esteemed</b><br>40:22<br><b>etc</b><br>35:1, 35:4,<br>61:4, 65:13<br><b>eureka</b><br>9:11, 89:10,<br>91:1<br><b>evaluate</b><br>101:6<br><b>evaluation</b><br>116:13, 120:6,<br>122:2<br><b>evaluative</b><br>121:3, 121:17<br><b>evans</b><br>113:9, 113:11,<br>114:13, 114:15,<br>114:16, 114:19<br><b>even</b><br>22:8, 24:14,<br>37:11, 87:12,<br>96:5, 97:7<br><b>event</b><br>132:11, 132:14<br><b>ever</b><br>12:6, 120:16<br><b>every</b><br>27:1, 58:9,<br>58:19, 65:1,<br>65:8, 66:12,<br>79:18, 80:5,<br>87:11, 90:15,<br>125:13<br><b>everybody</b><br>14:4, 58:3<br><b>everybody's</b><br>75:21<br><b>everyone</b><br>4:2, 17:8,<br>65:17, 67:12,<br>130:18<br><b>everything</b><br>66:4, 90:2, | 117:1<br><b>everything's</b><br>60:20<br><b>evidence</b><br>101:11<br><b>evidence-based</b><br>105:18, 106:19,<br>108:1<br><b>evolution</b><br>110:14<br><b>ex</b><br>111:8, 123:16<br><b>exact</b><br>66:10, 124:1<br><b>exactly</b><br>130:7<br><b>example</b><br>6:21<br><b>exception</b><br>44:19, 103:10<br><b>excess</b><br>53:19<br><b>exchange</b><br>81:12<br><b>exchanged</b><br>81:6<br><b>excitable</b><br>130:19<br><b>excited</b><br>4:18<br><b>exciting</b><br>20:12<br><b>exclude</b><br>83:15<br><b>exclusive</b><br>79:9, 79:10<br><b>excuse</b><br>30:18<br><b>excused</b><br>3:10, 3:16,<br>112:7, 112:13,<br>112:14<br><b>exec</b><br>104:20, 107:18<br><b>executing</b><br>102:18<br><b>executive</b><br>101:4, 102:7, | 102:19, 104:18,<br>105:20, 110:2,<br>111:7, 114:12,<br>121:12, 123:2,<br>123:15, 126:4,<br>127:16, 128:13,<br>129:13, 129:16,<br>130:20, 131:1,<br>131:4<br><b>exercising</b><br>30:11<br><b>exhaustion</b><br>15:17<br><b>exist</b><br>56:3<br><b>exists</b><br>106:14, 107:8,<br>121:5<br><b>expand</b><br>14:21, 40:14,<br>43:2<br><b>expanding</b><br>75:5<br><b>expect</b><br>35:3<br><b>expectations</b><br>60:3, 64:21<br><b>expected</b><br>69:13, 69:14<br><b>expenses</b><br>129:10<br><b>experience</b><br>20:16, 127:5,<br>130:4<br><b>experienced</b><br>39:4<br><b>experiences</b><br>16:9<br><b>explain</b><br>51:2<br><b>explaining</b><br>125:16<br><b>extended</b><br>33:8, 107:9<br><b>extends</b><br>108:17<br><b>extensive</b><br>23:12, 97:12 | <b>extent</b><br>121:1<br><b>extremely</b><br>13:16, 97:4<br><hr/> <b>F</b> <hr/> <b>f-i</b><br>98:1<br><b>f-i-t-z-p-a-t</b><br>33:13<br><b>face</b><br>28:17, 38:21,<br>42:13, 72:6<br><b>face-to-face</b><br>121:14<br><b>faced</b><br>14:7<br><b>fact</b><br>6:20, 11:12,<br>15:22, 32:21,<br>45:5, 49:3,<br>50:22, 52:18,<br>55:14, 70:9,<br>82:20, 102:5<br><b>factor</b><br>24:12<br><b>facts</b><br>78:1<br><b>failsafe</b><br>17:4<br><b>fair</b><br>14:10, 14:11,<br>41:10, 68:13,<br>123:12<br><b>fairly</b><br>104:5<br><b>fairness</b><br>31:4<br><b>faith</b><br>5:15<br><b>falls</b><br>55:8, 56:14,<br>58:16, 64:1,<br>95:20<br><b>familiar</b><br>91:10, 91:11,<br>121:8<br><b>families</b><br>41:10, 86:16, |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

145

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>87:3<br/><b>family</b><br/>16:3, 57:9,<br/>58:4, 87:4<br/><b>fan</b><br/>103:21<br/><b>fantastic</b><br/>98:9<br/><b>far</b><br/>49:12, 53:17,<br/>120:16, 131:8<br/><b>fascinated</b><br/>76:9<br/><b>fashion</b><br/>88:15<br/><b>fate</b><br/>40:11<br/><b>father</b><br/>10:11, 103:11<br/><b>father's</b><br/>108:10<br/><b>fatigue</b><br/>5:17, 5:18,<br/>7:21, 7:22,<br/>88:18<br/><b>favor</b><br/>47:17, 48:3<br/><b>favorite</b><br/>117:2<br/><b>fear</b><br/>18:1, 88:11<br/><b>federal</b><br/>8:8, 15:14,<br/>19:13, 20:2,<br/>20:5, 21:21,<br/>27:15, 27:16,<br/>28:6, 28:10,<br/>34:19, 41:22,<br/>44:19, 51:1,<br/>60:19, 61:18,<br/>65:9, 66:12,<br/>73:20, 73:22,<br/>79:6, 79:9,<br/>79:10, 79:11,<br/>82:19, 83:5,<br/>83:7, 83:8,<br/>83:10, 83:15,<br/>83:16</p> | <p><b>federation</b><br/>32:5<br/><b>feel</b><br/>5:19, 37:16,<br/>55:15, 68:9,<br/>94:18<br/><b>feels</b><br/>126:13<br/><b>felt</b><br/>49:2<br/><b>few</b><br/>5:15, 8:1,<br/>20:8, 46:17,<br/>47:21, 89:12<br/><b>fight</b><br/>42:1<br/><b>figure</b><br/>117:11<br/><b>figuring</b><br/>101:4<br/><b>filed</b><br/>79:3<br/><b>fill</b><br/>55:18, 56:5,<br/>77:5<br/><b>final</b><br/>44:22, 93:11,<br/>93:18<br/><b>finally</b><br/>95:3<br/><b>finance</b><br/>100:9<br/><b>financial</b><br/>132:7<br/><b>find</b><br/>33:15, 37:14,<br/>57:22, 59:11,<br/>68:10, 108:6,<br/>125:6<br/><b>finding</b><br/>91:15<br/><b>fine</b><br/>114:14<br/><b>finish</b><br/>112:8<br/><b>finite</b><br/>36:3<br/><b>fire</b><br/>89:5</p> | <p><b>firm</b><br/>14:17, 26:4<br/><b>first</b><br/>20:19, 26:9,<br/>33:3, 34:7,<br/>34:18, 41:15,<br/>70:16, 76:11,<br/>81:3, 83:2,<br/>86:9, 124:16,<br/>126:22, 127:5<br/><b>first-time</b><br/>43:4<br/><b>fiscal</b><br/>70:2, 70:6,<br/>74:10, 113:6,<br/>128:22<br/><b>fit</b><br/>128:5<br/><b>fits</b><br/>125:2<br/><b>fitzpatrick</b><br/>33:12, 33:13,<br/>37:20, 59:16,<br/>59:17, 59:20,<br/>60:10, 62:19,<br/>65:4, 66:20,<br/>97:19, 97:22,<br/>98:1, 98:10,<br/>98:20, 131:7<br/><b>five</b><br/>53:8, 75:2,<br/>123:14, 123:15,<br/>131:2<br/><b>fix</b><br/>106:6, 106:7<br/><b>fixed</b><br/>21:9<br/><b>fizpatrick</b><br/>59:18<br/><b>flavor</b><br/>108:18<br/><b>fleck</b><br/>26:4<br/><b>flexibility</b><br/>42:10<br/><b>floor</b><br/>20:11, 48:21,<br/>49:1</p> | <p><b>focus</b><br/>11:10, 34:11,<br/>101:15, 103:12,<br/>108:5, 108:7<br/><b>focused</b><br/>34:4, 117:3,<br/>117:4<br/><b>focuses</b><br/>71:11<br/><b>folks</b><br/>5:1, 10:21,<br/>16:2, 21:5,<br/>32:18, 32:22,<br/>41:13, 48:18,<br/>60:7, 66:4,<br/>85:2, 85:4,<br/>88:4, 90:9,<br/>93:18, 105:7,<br/>105:8, 105:10,<br/>110:8<br/><b>follow</b><br/>44:14, 44:22,<br/>45:1, 46:10,<br/>51:17, 51:18,<br/>54:2, 54:3,<br/>56:7, 56:8,<br/>57:4, 57:5,<br/>59:3, 59:4,<br/>64:12, 64:14,<br/>64:15, 68:16,<br/>68:17, 74:17,<br/>77:11, 77:12,<br/>105:1, 126:10,<br/>126:11<br/><b>following</b><br/>65:17<br/><b>fond</b><br/>121:13<br/><b>food</b><br/>85:5<br/><b>forced</b><br/>65:20<br/><b>form</b><br/>80:4<br/><b>formalized</b><br/>80:4<br/><b>former</b><br/>24:9</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Conducted on March 26, 2025

146

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>fort</b><br>30:22<br><b>forth</b><br>82:18<br><b>forward</b><br>41:2, 41:19,<br>42:18, 54:10<br><b>found</b><br>39:22, 103:16,<br>110:18<br><b>four</b><br>8:7, 16:13,<br>47:19, 48:5,<br>48:6, 48:13,<br>49:16, 71:15,<br>94:7, 111:7,<br>131:2<br><b>four-letter</b><br>4:8, 4:19<br><b>framework</b><br>122:3<br><b>franchise</b><br>40:15<br><b>frank</b><br>12:7<br><b>free</b><br>9:14, 53:18<br><b>freedom</b><br>109:8<br><b>frequently</b><br>48:9, 48:15<br><b>fresh</b><br>15:22<br><b>friday</b><br>8:16, 10:20,<br>10:22, 14:18,<br>15:2, 57:15,<br>58:15, 67:17,<br>131:4<br><b>friend</b><br>17:14<br><b>friends</b><br>92:19<br><b>front</b><br>10:14, 61:12<br><b>frustrating</b><br>32:19<br><b>frustration</b><br>33:7 | <b>fulfill</b><br>77:7<br><b>full</b><br>4:11, 82:7,<br>85:11, 90:14,<br>127:8, 132:9<br><b>fully</b><br>116:16<br><b>fun</b><br>61:14, 63:21<br><b>function</b><br>121:9<br><b>fund</b><br>127:18<br><b>fundamental</b><br>39:16, 42:4,<br>73:2<br><b>further</b><br>31:11, 119:21,<br>120:7, 132:13<br><b>future</b><br>43:5, 108:19<br><b>fyant</b><br>2:18, 2:19,<br>54:12, 54:13,<br>54:18, 54:21,<br>56:7, 56:9,<br>56:18, 57:4,<br>57:6, 59:1,<br>59:4, 84:6,<br>84:7, 84:10,<br>84:11, 84:19,<br>85:17, 85:19,<br>85:22, 86:2,<br>86:4, 86:5,<br>87:21, 124:5,<br>124:7, 124:12,<br>124:21, 126:10,<br>126:12, 126:20<br><b>fyat</b><br>124:11 | <b>gallatin's</b><br>12:9<br><b>games</b><br>80:11<br><b>gather</b><br>89:20, 125:2,<br>125:11, 126:1<br><b>gathering</b><br>101:16, 126:1<br><b>gaveled</b><br>95:12<br><b>gear</b><br>65:15<br><b>gears</b><br>61:19<br><b>general</b><br>82:12, 116:13<br><b>generally</b><br>48:15<br><b>genesis</b><br>100:13<br><b>gentleman</b><br>107:3<br><b>getting</b><br>4:17, 6:18,<br>22:13, 34:5,<br>62:20, 63:4,<br>86:20<br><b>giles</b><br>129:3, 129:13<br><b>gis</b><br>24:21, 25:3<br><b>give</b><br>9:21, 17:11,<br>23:10, 33:22,<br>62:9, 85:9,<br>110:19, 120:12<br><b>given</b><br>59:10<br><b>gives</b><br>9:4, 20:14,<br>34:8, 121:19<br><b>go</b><br>4:2, 8:5,<br>12:22, 19:8,<br>20:10, 22:14,<br>22:18, 23:18,<br>25:2, 25:15, | 27:15, 29:22,<br>30:13, 34:6,<br>34:9, 35:6,<br>36:21, 36:22,<br>37:21, 38:2,<br>43:7, 43:12,<br>55:14, 55:15,<br>56:4, 57:19,<br>57:21, 58:5,<br>61:3, 61:21,<br>62:17, 63:12,<br>66:11, 72:14,<br>73:19, 74:6,<br>75:20, 79:11,<br>80:6, 85:10,<br>86:1, 87:19,<br>89:5, 90:22,<br>95:11, 97:11,<br>98:15, 109:15,<br>110:21, 112:7,<br>119:2, 119:5,<br>119:21, 121:10,<br>125:4, 125:5,<br>130:14<br><b>goal</b><br>119:14<br><b>god</b><br>94:20<br><b>goes</b><br>14:2, 32:22,<br>72:21, 108:9<br><b>going</b><br>6:18, 7:15,<br>8:2, 11:7,<br>11:19, 12:2,<br>12:5, 12:15,<br>13:11, 14:9,<br>17:2, 24:16,<br>27:17, 28:3,<br>28:4, 28:6,<br>28:11, 28:12,<br>28:17, 30:9,<br>30:10, 30:14,<br>33:2, 33:6,<br>34:2, 35:18,<br>36:2, 36:21,<br>43:7, 47:21,<br>48:22, 50:12, |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

147

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>52:17, 56:22,<br/>61:1, 62:11,<br/>62:16, 63:11,<br/>63:13, 63:14,<br/>63:22, 65:15,<br/>65:16, 70:9,<br/>70:13, 74:5,<br/>74:6, 74:8,<br/>75:20, 87:15,<br/>88:7, 88:8,<br/>88:21, 90:18,<br/>91:21, 91:22,<br/>92:4, 94:22,<br/>101:5, 101:6,<br/>102:1, 105:12,<br/>106:6, 106:7,<br/>109:2, 109:14,<br/>109:16, 110:4,<br/>111:11, 116:9,<br/>117:4, 117:5,<br/>117:15, 117:20,<br/>120:12, 120:16,<br/>120:18, 122:3,<br/>122:4, 122:22,<br/>123:20, 125:15,<br/>125:17, 126:3,<br/>126:6, 126:21,<br/>127:7, 127:11,<br/>127:15, 127:21,<br/>128:11, 129:1,<br/>129:10, 130:11<br/><b>golly</b><br/>4:18, 94:21<br/><b>gone</b><br/>90:21<br/><b>good</b><br/>2:2, 4:2, 5:8,<br/>6:4, 7:13, 10:4,<br/>17:9, 17:13,<br/>19:6, 26:1,<br/>28:21, 29:11,<br/>30:18, 40:21,<br/>45:7, 49:5,<br/>49:6, 49:22,<br/>52:3, 54:21,<br/>57:6, 62:20,<br/>67:7, 67:19,<br/>69:1, 80:20,</p> | <p>84:12, 88:14,<br/>93:9, 93:13,<br/>93:17, 93:18,<br/>101:1, 102:17,<br/>106:9, 107:11,<br/>110:13, 113:10,<br/>113:16, 122:14,<br/>122:18, 129:22,<br/>130:13<br/><b>google</b><br/>125:5<br/><b>gosh</b><br/>73:19, 101:12<br/><b>government</b><br/>73:2, 103:16,<br/>108:15<br/><b>governments</b><br/>70:5, 85:8,<br/>85:9<br/><b>governor</b><br/>114:8, 114:18<br/><b>governor's</b><br/>113:12<br/><b>governors</b><br/>106:13<br/><b>grandma</b><br/>86:19<br/><b>grassroots</b><br/>41:4<br/><b>great</b><br/>4:9, 5:7,<br/>22:10, 26:11,<br/>34:11, 53:9,<br/>64:1, 95:20,<br/>106:20, 106:21,<br/>120:9, 129:18<br/><b>greatest</b><br/>78:7<br/><b>green</b><br/>79:21, 130:14<br/><b>grew</b><br/>58:2, 58:4<br/><b>grinding</b><br/>5:9, 49:8<br/><b>grmolgez</b><br/>26:1, 26:8,<br/>29:10, 70:16,<br/>70:17, 70:18,</p> | <p>70:20, 70:22,<br/>78:20, 84:2<br/><b>grmolgez</b><br/>26:3<br/><b>group</b><br/>51:12, 67:10,<br/>67:11, 67:16,<br/>68:12<br/><b>groups</b><br/>38:18<br/><b>guarantee</b><br/>105:8<br/><b>guess</b><br/>11:2, 28:20,<br/>46:19, 46:20,<br/>64:16, 65:5,<br/>73:19, 107:12,<br/>116:4<br/><b>guidance</b><br/>35:8, 35:13,<br/>35:15, 35:17<br/><b>guide</b><br/>119:1<br/><b>guts</b><br/>8:6, 8:7<br/><b>guy</b><br/>92:17<br/><b>guys</b><br/>7:5, 9:12,<br/>9:15, 64:4,<br/>120:10</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>h-i-l-d</b><br/>29:13<br/><b>half</b><br/>85:12, 85:13<br/><b>hall</b><br/>89:5<br/><b>hand</b><br/>96:19<br/><b>handle</b><br/>33:20, 46:3,<br/>82:21<br/><b>handout</b><br/>26:6<br/><b>hands</b><br/>99:6, 99:9,</p> | <p>102:4, 112:21,<br/>113:2, 113:21<br/><b>happen</b><br/>75:15, 91:9,<br/>91:11, 91:13<br/><b>happened</b><br/>48:10, 81:4,<br/>89:7, 106:21,<br/>127:19<br/><b>happening</b><br/>120:22<br/><b>happens</b><br/>85:12, 96:4,<br/>96:14<br/><b>happily</b><br/>112:11<br/><b>happy</b><br/>4:7, 5:5, 5:6,<br/>5:7, 78:22,<br/>84:2, 95:15,<br/>99:14, 103:1,<br/>112:9, 113:7,<br/>113:10, 113:18<br/><b>hard</b><br/>5:8, 5:20,<br/>21:10, 49:9,<br/>60:7, 68:10,<br/>84:22, 89:17,<br/>92:22, 94:16,<br/>99:20<br/><b>harris</b><br/>129:4<br/><b>harvest</b><br/>104:13<br/><b>harvested</b><br/>108:3<br/><b>hate</b><br/>104:9<br/><b>hb</b><br/>39:13, 40:11<br/><b>heads</b><br/>94:9<br/><b>health</b><br/>106:16<br/><b>healthier</b><br/>40:17<br/><b>hear</b><br/>38:4, 38:5,</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

148

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 76:9, 102:1,<br>102:22<br><b>heard</b><br>19:9, 21:3,<br>27:19, 28:20,<br>29:13, 34:20,<br>36:5, 38:18,<br>48:14, 49:22,<br>50:4, 50:21,<br>60:4, 81:22,<br>82:8, 82:18,<br>83:2, 122:14,<br>130:21, 131:5<br><b>hearing</b><br>1:6, 4:3,<br>16:17, 16:18,<br>26:12, 64:17,<br>95:9, 95:10,<br>100:2, 100:3,<br>130:1, 130:17,<br>130:22, 132:22<br><b>hearings</b><br>131:6<br><b>hearts</b><br>94:9<br><b>heck</b><br>92:13<br><b>hectic</b><br>22:12<br><b>held</b><br>39:17, 72:2,<br>79:5, 110:6,<br>123:1<br><b>help</b><br>5:8, 22:14,<br>22:19, 37:16,<br>68:5, 75:7,<br>89:10, 92:11,<br>110:17, 110:18,<br>119:6, 121:4<br><b>helped</b><br>15:9, 35:12<br><b>helping</b><br>60:22, 61:1,<br>89:13<br><b>helps</b><br>119:1<br><b>hence</b><br>61:10 | <b>here</b><br>2:7, 2:9, 2:11,<br>2:13, 2:15,<br>2:17, 2:19,<br>2:21, 3:1, 3:3,<br>3:5, 3:8, 3:12,<br>3:14, 3:18,<br>3:20, 3:22,<br>4:17, 9:10,<br>11:3, 21:19,<br>25:8, 25:11,<br>30:21, 31:2,<br>31:7, 32:5,<br>33:16, 33:18,<br>34:11, 34:15,<br>35:19, 35:22,<br>37:15, 38:8,<br>43:16, 50:4,<br>61:3, 61:4,<br>61:22, 63:14,<br>64:1, 64:12,<br>67:6, 69:12,<br>70:14, 74:6,<br>80:4, 82:16,<br>82:17, 92:13,<br>92:17, 95:16,<br>98:18, 102:14,<br>105:6, 105:10,<br>106:12, 107:12,<br>109:2, 109:18,<br>109:21, 110:18,<br>111:6, 114:19,<br>121:21, 125:7,<br>128:21, 129:4<br><b>here's</b><br>125:8<br><b>hereby</b><br>132:2<br><b>herky-jerky</b><br>93:15<br><b>herring</b><br>53:17<br><b>hesitant</b><br>88:10<br><b>hey</b><br>9:9, 9:13,<br>63:13, 64:1,<br>64:7, 66:11, | 93:13<br><b>higher</b><br>24:11<br><b>highest</b><br>72:19, 118:22<br><b>historical</b><br>100:10<br><b>historically</b><br>38:17, 84:19,<br>100:21<br><b>hold</b><br>54:8, 111:12<br><b>holding</b><br>19:18, 30:1<br><b>holiday</b><br>75:6<br><b>holistic</b><br>37:3<br><b>home</b><br>11:18, 14:10,<br>15:5, 15:6,<br>55:20, 80:12,<br>90:21<br><b>homes</b><br>87:4<br><b>hone</b><br>121:4<br><b>honest</b><br>18:13<br><b>honestly</b><br>33:17, 81:15<br><b>honor</b><br>21:21<br><b>honorable</b><br>33:16<br><b>honored</b><br>98:2<br><b>hope</b><br>9:21, 18:14,<br>19:6, 24:17,<br>37:8, 64:11,<br>68:14, 74:14,<br>110:19, 130:14<br><b>hopeful</b><br>111:22<br><b>hopefully</b><br>115:18, 121:19<br><b>hoping</b><br>110:3, 117:18 | <b>horn</b><br>70:14, 75:21<br><b>hour</b><br>11:19, 15:6,<br>52:8, 89:18,<br>113:10<br><b>hours</b><br>5:11, 11:13,<br>12:22, 14:22,<br>24:4, 24:5,<br>29:15, 32:9,<br>32:11, 32:12,<br>32:15, 33:8,<br>46:17, 53:15,<br>53:19, 53:22,<br>57:14, 60:8,<br>68:7, 82:3,<br>88:19, 90:19,<br>93:11, 97:2,<br>97:3<br><b>house</b><br>1:8, 2:3, 7:15,<br>15:15, 25:21,<br>27:1, 31:2,<br>31:18, 31:22,<br>35:5, 39:12,<br>71:12, 100:3,<br>100:6, 100:7,<br>103:8, 110:11,<br>125:13, 130:17,<br>130:22, 132:21<br><b>housing</b><br>87:1, 87:2<br><b>how'd</b><br>101:12<br><b>howe</b><br>125:6<br><b>however</b><br>12:12, 19:4,<br>76:15, 99:16<br><b>human</b><br>106:16<br><b>humanity</b><br>36:1<br><b>hundreds</b><br>12:12<br><b>hunter</b><br>32:4 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of House Standing Committee  
Conducted on March 26, 2025

149

|                                                                                 |                                                                                                                                  |                                                                                           |                                                                                                                         |
|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| <b>hurts</b><br>130:22                                                          | <b>inclusive</b><br>83:9, 83:14                                                                                                  | <b>infringe</b><br>73:1                                                                   | 105:14, 105:15,<br>105:16, 109:1                                                                                        |
| <b>I</b>                                                                        | <b>income</b><br>85:4                                                                                                            | <b>initial</b><br>17:22                                                                   | <b>invested</b><br>110:16, 110:17                                                                                       |
| <b>ibcs</b><br>118:2                                                            | <b>incomplete</b><br>117:7                                                                                                       | <b>initiatives</b><br>83:11                                                               | <b>investing</b><br>104:11, 106:5                                                                                       |
| <b>iceberg</b><br>118:16                                                        | <b>inconvenience</b><br>58:20                                                                                                    | <b>input</b><br>88:5, 88:9,<br>88:10, 92:12,<br>92:13, 93:4                               | <b>investments</b><br>121:18                                                                                            |
| <b>id</b><br>61:3                                                               | <b>incorporate</b><br>118:18                                                                                                     | <b>inputs</b><br>122:1                                                                    | <b>invite</b><br>79:13, 84:2,<br>92:6                                                                                   |
| <b>idaho</b><br>4:21, 5:4                                                       | <b>incorporated</b><br>119:9                                                                                                     | <b>instead</b><br>5:3, 43:2, 75:9                                                         | <b>invoked</b><br>50:2                                                                                                  |
| <b>idea</b><br>92:14, 115:19                                                    | <b>incorrect</b><br>32:13                                                                                                        | <b>intend</b><br>18:10                                                                    | <b>involved</b><br>16:5, 60:9,<br>120:1, 120:20                                                                         |
| <b>ideas</b><br>118:11, 128:13                                                  | <b>increased</b><br>11:9                                                                                                         | <b>intended</b><br>6:12, 30:9,<br>48:17, 88:16                                            | <b>issue</b><br>7:13, 19:21,<br>26:12, 33:18,<br>35:7, 36:14,<br>62:14, 65:8,<br>68:6, 87:18,<br>88:15, 88:16,<br>91:11 |
| <b>identify</b><br>71:8, 121:4                                                  | <b>incredible</b><br>29:7                                                                                                        | <b>intense</b><br>97:5                                                                    | <b>issued</b><br>15:15, 18:6                                                                                            |
| <b>imagine</b><br>104:6, 105:2                                                  | <b>indeed</b><br>112:1                                                                                                           | <b>intent</b><br>74:22                                                                    | <b>issues</b><br>25:6, 31:15,<br>34:18, 60:2,<br>71:8, 84:16,<br>85:15, 86:6,<br>87:1, 120:11,<br>120:19, 121:15        |
| <b>imbalanced</b><br>123:13                                                     | <b>indian</b><br>30:22, 84:17,<br>86:7                                                                                           | <b>intention</b><br>6:4                                                                   | <b>itself</b><br>35:12, 35:16,<br>63:3, 66:8,<br>83:5, 83:15,<br>85:1, 126:7                                            |
| <b>immediately</b><br>65:10                                                     | <b>indicated</b><br>71:9                                                                                                         | <b>interest</b><br>16:14, 20:21,<br>39:22, 40:3,<br>73:3, 73:7,<br>84:1, 132:7,<br>132:13 | <b>i'm</b><br>52:1, 54:20                                                                                               |
| <b>impact</b><br>31:15, 42:11,<br>60:5, 70:4,<br>70:6, 101:11,<br>106:2, 117:11 | <b>indigenous</b><br>38:19, 38:21,<br>39:1, 42:12                                                                                | <b>interested</b><br>26:13, 119:5                                                         | <b>J</b>                                                                                                                |
| <b>impermissibly</b><br>72:2                                                    | <b>individual</b><br>86:15                                                                                                       | <b>interesting</b><br>37:15, 59:21,<br>65:15, 66:8,<br>66:13, 130:18                      | <b>j-a-m-e-s</b><br>10:5                                                                                                |
| <b>implemented</b><br>101:6                                                     | <b>inexperience</b><br>87:9                                                                                                      | <b>interferes</b><br>72:3                                                                 | <b>jacobson</b><br>10:6, 71:7                                                                                           |
| <b>important</b><br>19:4, 23:2,<br>36:5, 120:7,<br>120:12, 121:16               | <b>information</b><br>8:9, 8:15,<br>81:6, 119:10,<br>119:13, 132:5                                                               | <b>interim</b><br>26:12, 100:9,<br>107:10, 110:16                                         | <b>james</b><br>10:4, 10:5,                                                                                             |
| <b>importantly</b><br>40:13                                                     | <b>informational</b><br>43:8, 43:9,<br>43:10, 50:5,<br>67:5, 99:7,<br>99:8, 102:1,<br>102:22, 113:3,<br>113:4, 113:20,<br>114:20 | <b>introduce</b><br>4:13                                                                  |                                                                                                                         |
| <b>impose</b><br>42:10                                                          | <b>informed</b><br>107:15                                                                                                        | <b>introduction</b><br>11:2                                                               |                                                                                                                         |
| <b>improving</b><br>105:15                                                      | <b>infrastructure</b><br>120:10                                                                                                  | <b>invest</b><br>104:16, 104:17,                                                          |                                                                                                                         |
| <b>inalienable</b><br>72:16                                                     |                                                                                                                                  |                                                                                           |                                                                                                                         |
| <b>including</b><br>29:4, 38:18,<br>41:9                                        |                                                                                                                                  |                                                                                           |                                                                                                                         |

Transcript of House Standing Committee  
Conducted on March 26, 2025

150

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21:14, 43:22,<br>44:1, 44:8,<br>44:18, 45:7,<br>50:16, 50:17,<br>50:18, 51:5,<br>52:3, 53:1,<br>53:2, 53:3,<br>53:5, 53:11,<br>54:4, 54:5,<br>54:7, 54:9,<br>67:15, 76:4,<br>76:5, 76:6,<br>76:9, 76:19,<br>77:13, 77:15,<br>78:14, 78:15,<br>78:16, 78:18,<br>78:21, 80:16,<br>83:19, 83:21,<br>128:15<br><b>jble</b><br>8:20<br><b>jim</b><br>48:16<br><b>job</b><br>1:20, 5:8,<br>9:18, 9:19,<br>9:20, 13:17,<br>26:11, 49:6,<br>49:10, 95:5,<br>101:1, 125:16<br><b>jobs</b><br>5:16, 13:17<br><b>john</b><br>25:15, 40:19,<br>41:1, 64:1<br><b>jones</b><br>103:5, 103:7,<br>103:8, 111:1,<br>111:2, 111:3,<br>111:11, 112:6,<br>112:9, 112:16,<br>117:12<br><b>judge</b><br>48:9, 48:10,<br>60:22, 72:22<br><b>judged</b><br>48:7, 48:8,<br>48:14 | <b>judges</b><br>23:11, 23:20,<br>61:1, 75:5,<br>96:3, 96:19<br><b>judging</b><br>96:3<br><b>judicial</b><br>72:20<br><b>juggle</b><br>41:13<br><b>justice</b><br>48:2<br><b>justices</b><br>47:17, 48:3<br><b>justified</b><br>39:21, 73:6<br><b>justify</b><br>40:9<br><hr/> <b>K</b> <hr/> <b>kalispell</b><br>58:6<br><b>keaton</b><br>29:12, 86:10<br><b>keep</b><br>30:10, 97:21<br><b>keeps</b><br>11:12<br><b>kicking</b><br>35:18<br><b>kid</b><br>6:7, 109:7<br><b>kids</b><br>7:15, 12:21<br><b>kids'</b><br>80:11<br><b>kind</b><br>49:9, 50:11,<br>60:6, 61:14,<br>64:22, 65:5,<br>65:20, 68:18,<br>74:1, 85:9,<br>92:9, 93:14,<br>100:12, 102:17,<br>105:21, 109:6,<br>109:8, 116:15,<br>118:2, 118:17,<br>119:1, 119:14, | 120:21, 123:6,<br>125:1, 126:15<br><b>kinds</b><br>66:13, 120:10<br><b>kirby</b><br>25:13, 25:21,<br>37:22, 98:12<br><b>kitchen</b><br>55:20<br><b>knew</b><br>109:7<br><b>know</b><br>13:10, 14:13,<br>14:14, 17:13,<br>29:15, 29:18,<br>29:21, 30:7,<br>30:14, 32:17,<br>35:3, 42:2,<br>48:8, 48:10,<br>53:7, 56:11,<br>57:3, 57:10,<br>57:18, 59:8,<br>60:1, 64:21,<br>65:12, 66:12,<br>67:5, 67:22,<br>68:12, 69:16,<br>70:13, 71:3,<br>72:7, 72:8,<br>72:13, 74:2,<br>74:6, 74:22,<br>76:16, 78:22,<br>79:1, 80:6,<br>81:8, 81:11,<br>81:15, 82:3,<br>82:7, 84:13,<br>85:5, 85:14,<br>86:13, 86:20,<br>87:8, 87:13,<br>88:5, 88:6,<br>98:8, 99:19,<br>100:11, 101:10,<br>103:19, 104:20,<br>105:7, 105:8,<br>105:16, 105:20,<br>105:22, 108:1,<br>108:10, 108:20,<br>109:5, 109:8,<br>110:9, 114:11, | 114:22, 115:21,<br>116:3, 116:5,<br>116:8, 117:15,<br>117:19, 120:1,<br>121:10, 121:17,<br>121:20, 123:11,<br>123:17, 124:14,<br>127:9, 129:2,<br>129:8<br><b>knowing</b><br>117:17<br><b>knows</b><br>36:20<br><b>korda</b><br>2:8, 2:9<br><b>kristi</b><br>10:6<br><hr/> <b>L</b> <hr/> <b>l-o-s-i-n-g</b><br>32:4<br><b>labels</b><br>92:16<br><b>lack</b><br>31:4, 84:21,<br>86:15, 87:2<br><b>lake</b><br>55:2<br><b>language</b><br>18:18, 26:19,<br>79:22<br><b>large</b><br>31:12, 76:9,<br>77:14, 100:9<br><b>largely</b><br>129:9<br><b>largest</b><br>41:3<br><b>last</b><br>24:20, 26:3,<br>27:2, 34:10,<br>45:3, 46:15,<br>47:1, 47:6,<br>47:10, 57:4,<br>57:19, 77:5,<br>87:17, 89:7,<br>89:8, 91:3,<br>91:12, 91:20, |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

151

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>92:7, 93:2,<br/>100:14, 126:13,<br/>130:21<br/><b>last-minute</b><br/>76:10, 76:16<br/><b>lastly</b><br/>20:8<br/><b>late</b><br/>6:11, 15:6,<br/>20:18, 24:2,<br/>35:9, 35:11,<br/>38:10, 44:10,<br/>44:11, 60:12,<br/>61:7, 61:11,<br/>66:5<br/><b>later</b><br/>9:3, 121:5<br/><b>law</b><br/>15:13, 15:14,<br/>26:4, 27:21,<br/>27:22, 38:9,<br/>39:20, 41:19,<br/>42:5, 51:7,<br/>53:9, 53:12,<br/>61:8, 73:20,<br/>77:2, 80:1,<br/>85:16, 97:11<br/><b>laws</b><br/>48:16, 73:1<br/><b>lawsuits</b><br/>80:3<br/><b>lawyer</b><br/>72:8<br/><b>layman's</b><br/>72:11<br/><b>lead</b><br/>107:4, 117:7,<br/>117:13, 126:3<br/><b>leading</b><br/>16:17, 129:2<br/><b>leads</b><br/>15:16<br/><b>learn</b><br/>128:5<br/><b>least</b><br/>119:11, 130:2<br/><b>leave</b><br/>11:17, 61:16,</p> | <p>74:11, 111:16<br/><b>led</b><br/>116:1<br/><b>lee</b><br/>2:22, 3:1,<br/>45:10, 45:11,<br/>45:15, 45:16,<br/>46:9, 46:11,<br/>47:8, 47:14,<br/>50:6, 50:8,<br/>50:10<br/><b>left</b><br/>27:10, 89:15,<br/>91:6<br/><b>legal</b><br/>18:7, 18:13,<br/>18:16, 28:1,<br/>28:18, 42:2,<br/>48:4, 49:16,<br/>53:22, 70:20,<br/>71:2, 71:7,<br/>71:11, 72:4,<br/>74:14, 79:13,<br/>83:12, 86:6<br/><b>legally</b><br/>28:21<br/><b>legislating</b><br/>100:14<br/><b>legislation</b><br/>14:20<br/><b>legislative</b><br/>18:15, 18:16,<br/>19:7, 71:13,<br/>100:9, 101:3,<br/>102:8, 110:1,<br/>113:6, 113:17,<br/>119:2, 128:14<br/><b>legislator</b><br/>127:6<br/><b>legislators</b><br/>102:19, 123:14<br/><b>legislature</b><br/>39:11, 40:10,<br/>40:14, 71:16,<br/>71:19, 74:13,<br/>79:7, 106:14,<br/>107:22, 111:4,<br/>111:7, 115:4,</p> | <p>117:1, 118:20,<br/>120:13, 122:16,<br/>123:1, 126:4<br/><b>lengths</b><br/>13:8<br/><b>lengthy</b><br/>47:20<br/><b>lens</b><br/>36:20<br/><b>less</b><br/>65:22, 108:7<br/><b>let's</b><br/>15:17, 15:18,<br/>37:21, 49:20,<br/>63:12, 81:19,<br/>82:15, 97:21,<br/>117:19<br/><b>letters</b><br/>8:7<br/><b>letting</b><br/>129:6<br/><b>level</b><br/>16:14<br/><b>leverage</b><br/>110:16<br/><b>lewis</b><br/>33:14, 50:1,<br/>63:13, 98:1<br/><b>libby</b><br/>89:16, 90:6,<br/>91:7<br/><b>libya</b><br/>9:7<br/><b>life</b><br/>80:10<br/><b>lifeline</b><br/>41:13<br/><b>light</b><br/>34:14<br/><b>liked</b><br/>109:8<br/><b>likely</b><br/>35:18, 52:6,<br/>70:4<br/><b>likes</b><br/>110:5, 110:6<br/><b>limit</b><br/>41:16</p> | <p><b>limited</b><br/>104:15<br/><b>limits</b><br/>31:11<br/><b>line</b><br/>6:16, 6:17,<br/>6:18, 8:7,<br/>12:16, 12:22,<br/>13:11, 14:5,<br/>14:9, 26:15,<br/>26:16, 27:14,<br/>35:9, 35:10,<br/>35:14, 35:15,<br/>45:18, 51:20,<br/>52:5, 73:17,<br/>73:18, 74:5,<br/>74:12, 94:20,<br/>94:21, 110:2<br/><b>lines</b><br/>13:7, 13:9,<br/>16:18, 17:16,<br/>22:5, 22:9,<br/>22:12, 22:14,<br/>22:16, 22:19,<br/>32:18, 68:1,<br/>68:6<br/><b>lining</b><br/>94:21<br/><b>linked</b><br/>106:5<br/><b>lion's</b><br/>129:2<br/><b>list</b><br/>23:8, 52:1<br/><b>listed</b><br/>63:9, 132:11<br/><b>listen</b><br/>52:17, 127:16<br/><b>listened</b><br/>77:20<br/><b>listening</b><br/>126:16<br/><b>litigation</b><br/>14:21, 71:13<br/><b>little</b><br/>17:11, 23:15,<br/>26:20, 34:3,<br/>60:9, 61:19,</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

152

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 89:1, 90:1,<br>108:7, 109:8,<br>111:20, 119:21,<br>123:6<br><b>live</b><br>39:2, 55:4,<br>55:6, 76:13,<br>86:12<br><b>living</b><br>39:1<br><b>load</b><br>69:19<br><b>loaded</b><br>90:5<br><b>lobbying</b><br>51:12<br><b>lobbyist</b><br>19:11<br><b>lobbyists</b><br>94:12<br><b>local</b><br>35:5, 51:1,<br>51:22, 60:15,<br>70:5, 74:1<br><b>located</b><br>54:22<br><b>locked</b><br>90:2, 91:2,<br>91:3<br><b>logistical</b><br>13:2<br><b>long</b><br>5:9, 6:5, 6:8,<br>6:16, 11:6,<br>11:16, 12:16,<br>14:6, 32:18,<br>43:1, 92:20,<br>92:21, 96:7,<br>96:9, 104:1,<br>118:16<br><b>longer</b><br>6:19, 23:13,<br>28:7, 28:17,<br>121:12<br><b>look</b><br>9:10, 9:13,<br>10:8, 37:3,<br>54:10, 64:7, | 93:21, 94:20,<br>94:21, 104:5,<br>121:10, 122:15,<br>123:13, 125:1,<br>125:4, 129:7,<br>130:3, 130:6,<br>130:8<br><b>looked</b><br>6:22, 18:6,<br>36:19, 77:21,<br>94:6, 124:15<br><b>looking</b><br>45:18, 55:21,<br>80:8, 100:22,<br>107:5, 128:8<br><b>looks</b><br>128:22<br><b>lose</b><br>58:21<br><b>losing</b><br>5:3, 32:3,<br>32:4, 33:11<br><b>losses</b><br>16:8<br><b>lost</b><br>5:4, 16:14<br><b>lot</b><br>5:11, 5:14,<br>5:18, 29:14,<br>30:14, 33:7,<br>33:19, 58:5,<br>64:10, 65:12,<br>72:13, 75:14,<br>75:16, 85:4,<br>85:7, 85:14,<br>86:12, 86:16,<br>87:1, 87:3,<br>88:8, 88:9,<br>92:4, 92:12,<br>92:13, 97:5,<br>100:8, 102:3,<br>103:15, 103:17,<br>105:3, 109:20,<br>112:3, 125:11<br><b>lots</b><br>85:2, 85:8,<br>85:11<br><b>lou</b><br>103:7 | <b>love</b><br>3:2, 3:3,<br>22:11, 50:14,<br>52:22, 53:1,<br>53:4, 53:5,<br>54:2, 54:4,<br>54:6, 54:7,<br>67:18, 76:1,<br>78:12, 78:13,<br>78:17, 78:18,<br>80:13, 80:16,<br>122:19<br><b>lowe</b><br>82:1<br><b>lower</b><br>85:4<br><b>luck</b><br>62:20<br><b>lumped</b><br>48:13, 94:8<br><b>lunch</b><br>89:18, 113:10<br><hr/> <b>M</b> <hr/> <b>m-i-k-e</b><br>4:19<br><b>machines</b><br>23:16, 23:18,<br>23:20, 96:15<br><b>mad</b><br>30:6<br><b>made</b><br>5:1, 20:12,<br>32:7, 49:16,<br>49:17, 77:21,<br>88:20, 103:10,<br>108:21<br><b>mail</b><br>39:2, 57:2,<br>59:11, 60:16,<br>61:6, 84:22,<br>86:18, 86:19,<br>90:18<br><b>mailed</b><br>66:10<br><b>mailing</b><br>84:20<br><b>main</b><br>10:12 | <b>maintaining</b><br>42:20<br><b>maintains</b><br>53:21<br><b>major</b><br>111:9<br><b>majority</b><br>111:10, 123:1<br><b>make</b><br>6:4, 8:21,<br>9:13, 10:16,<br>17:7, 17:14,<br>19:22, 23:17,<br>24:18, 37:4,<br>37:5, 37:12,<br>40:16, 49:5,<br>49:18, 55:22,<br>63:5, 63:10,<br>63:18, 64:9,<br>65:17, 65:18,<br>93:1, 93:18,<br>93:19, 93:22,<br>106:1, 106:4,<br>107:14, 107:20,<br>110:11, 111:13,<br>119:7, 122:1,<br>129:9<br><b>makes</b><br>9:21, 127:1<br><b>makeup</b><br>126:17<br><b>making</b><br>62:10, 75:6,<br>79:7, 83:17,<br>120:3<br><b>male1</b><br>3:7, 3:10,<br>3:16, 70:12<br><b>manage</b><br>68:6<br><b>mandate</b><br>70:10<br><b>manuals</b><br>60:21<br><b>many</b><br>7:5, 12:17,<br>13:10, 15:3,<br>37:3, 38:22, |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

153

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 39:2, 39:4,<br>49:11, 55:14,<br>63:14, 82:3,<br>88:6, 88:10,<br>98:21, 115:18,<br>121:8<br><b>mara</b><br>116:5, 116:6,<br>116:13, 116:14,<br>116:16, 116:18,<br>117:3, 117:4,<br>117:9, 118:11,<br>118:16, 118:22,<br>120:9<br><b>march</b><br>1:11<br><b>marketed</b><br>42:8<br><b>marketing</b><br>42:8<br><b>marking</b><br>55:22<br><b>married</b><br>29:20<br><b>marry</b><br>119:12<br><b>martians</b><br>127:14<br><b>materials</b><br>34:5<br><b>math</b><br>105:15<br><b>matter</b><br>32:21, 79:15,<br>103:14, 103:15,<br>104:10, 104:12,<br>105:16, 105:17,<br>106:18<br><b>matters</b><br>103:18, 103:19,<br>103:20, 104:16,<br>104:17, 108:12,<br>108:14<br><b>maximizes</b><br>17:4<br><b>maybe</b><br>69:19, 91:18,<br>93:17, 93:18, | 93:19, 93:21,<br>93:22, 106:8,<br>110:14, 111:20,<br>117:8, 120:4,<br>120:15<br><b>mca-</b><br>72:2<br><b>mckamey</b><br>95:10, 95:11,<br>95:13, 95:18,<br>97:16, 99:14,<br>100:1<br><b>mckeever</b><br>113:15, 113:16,<br>119:18, 119:20<br><b>mean</b><br>15:22, 18:2,<br>19:13, 44:6,<br>65:2, 67:21,<br>71:19, 72:10,<br>75:14, 82:21,<br>104:22, 116:7,<br>117:20, 118:15,<br>129:13<br><b>meaningful</b><br>122:3<br><b>means</b><br>4:21, 13:9,<br>17:20, 34:2,<br>39:20, 42:20,<br>48:16, 52:5,<br>53:14, 72:8,<br>73:4, 87:4,<br>118:3<br><b>measure</b><br>115:21, 116:3,<br>116:7, 119:12<br><b>measured</b><br>109:9, 110:6<br><b>measuring</b><br>106:18<br><b>mechanism</b><br>130:10<br><b>meet</b><br>40:3<br><b>member</b><br>21:3, 57:9,<br>112:2 | <b>members</b><br>10:5, 21:16,<br>26:2, 26:9,<br>28:2, 28:19,<br>29:12, 30:19,<br>32:3, 38:7,<br>40:22, 43:13,<br>53:11, 54:9,<br>77:15, 83:21,<br>86:12, 88:4,<br>98:16, 111:6,<br>111:9, 113:5,<br>113:9, 113:15,<br>115:4, 123:15<br><b>memorized</b><br>47:21<br><b>mental</b><br>5:17<br><b>mentally</b><br>49:9<br><b>mention</b><br>20:8, 34:1,<br>34:12<br><b>mentioned</b><br>13:22, 30:7,<br>86:11, 111:3,<br>119:22, 122:19<br><b>mentioning</b><br>20:9, 20:14<br><b>mercier</b><br>100:5, 100:6,<br>103:4, 107:11,<br>109:19, 110:10,<br>114:4, 114:5,<br>114:8, 114:11,<br>115:14, 115:15,<br>116:9, 120:5,<br>123:9, 123:10,<br>124:9, 124:10,<br>124:20, 126:19,<br>128:19, 129:6,<br>129:22, 130:17<br><b>mexico</b><br>100:13, 100:20,<br>107:3, 125:15,<br>127:3, 128:8,<br>130:4<br><b>microphone</b><br>99:4 | <b>midnight</b><br>14:9<br><b>might</b><br>29:18, 36:11,<br>37:16, 60:5,<br>69:17, 75:2,<br>76:17, 83:12,<br>87:12, 94:3,<br>101:12, 116:6,<br>125:3, 126:17,<br>127:1, 127:2<br><b>mike</b><br>4:18, 49:20,<br>49:21<br><b>miles</b><br>22:17, 39:3,<br>55:2, 55:4, 55:5<br><b>million</b><br>105:5, 105:6<br><b>mind</b><br>29:6, 33:21,<br>34:17, 35:20,<br>36:9, 36:12,<br>66:2, 66:8,<br>111:13, 129:6<br><b>minds</b><br>92:1<br><b>minimum</b><br>116:11<br><b>minute</b><br>34:10, 45:3,<br>87:17, 90:10,<br>91:20<br><b>minutes</b><br>12:10, 12:19,<br>27:4, 28:16<br><b>miss</b><br>25:10, 25:13,<br>25:21, 29:10,<br>32:1, 34:20,<br>37:22, 38:19,<br>43:12, 66:22,<br>67:1, 67:4,<br>69:2, 69:5,<br>70:1, 70:16,<br>70:17, 70:19,<br>74:17, 74:18,<br>74:21, 75:18, |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

154

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 77:17, 78:20,<br>80:11, 81:19,<br>82:15, 84:2,<br>85:20, 85:22,<br>86:5, 98:12,<br>98:14, 99:2,<br>100:11, 116:12,<br>130:3<br><b>missed</b><br>86:9<br><b>missoula</b><br>55:3, 76:18,<br>82:6<br><b>mistake</b><br>5:1, 47:3,<br>47:5, 91:8, 91:9<br><b>mistakes</b><br>7:22, 88:20,<br>92:6, 92:9<br><b>mister</b><br>43:20<br><b>mix</b><br>102:17<br><b>model</b><br>12:7, 13:3,<br>13:14, 14:15,<br>15:11, 15:16<br><b>models</b><br>100:21, 107:2<br><b>modernization</b><br>116:14<br><b>moment</b><br>51:16<br><b>monday</b><br>8:18, 8:22,<br>9:1, 9:14,<br>10:19, 10:22,<br>13:6, 13:12,<br>13:15, 22:22,<br>23:3, 23:11,<br>23:14, 23:17,<br>23:22, 24:3,<br>27:7, 27:12,<br>34:7, 35:12,<br>35:14, 44:20,<br>57:15, 67:18<br><b>money</b><br>42:1, 85:3, | 103:17, 104:12,<br>105:14, 105:15,<br>105:16, 108:2,<br>108:7, 108:15,<br>108:21, 129:9<br><b>montana</b><br>1:8, 5:6,<br>10:10, 10:12,<br>27:21, 28:22,<br>31:19, 32:5,<br>38:8, 38:15,<br>39:10, 39:17,<br>41:2, 42:5,<br>42:18, 43:16,<br>51:6, 54:22,<br>71:6, 72:17,<br>72:22, 80:1,<br>95:6, 98:18,<br>107:6<br><b>montana's</b><br>41:20<br><b>montanans</b><br>16:20, 20:22,<br>30:11, 40:16,<br>41:9, 43:3<br><b>months</b><br>6:7<br><b>mora</b><br>107:8<br><b>more</b><br>5:20, 28:3,<br>29:2, 33:7,<br>34:13, 36:14,<br>40:13, 46:11,<br>52:6, 58:20,<br>66:2, 66:22,<br>92:4, 92:6,<br>93:15, 102:11,<br>106:6, 106:7,<br>107:2, 107:15,<br>109:1, 116:5,<br>116:22, 119:9,<br>120:14, 125:1,<br>125:3, 125:14,<br>126:3, 127:3,<br>127:9, 129:15,<br>131:6<br><b>morning</b><br>2:2, 3:5, 4:2, | 5:10, 7:2, 7:4,<br>7:12, 7:18, 9:5,<br>10:4, 13:2,<br>14:3, 14:10,<br>15:21, 26:1,<br>29:11, 30:18,<br>34:8, 40:21,<br>44:2, 49:7,<br>80:6, 89:16,<br>90:19, 94:19,<br>94:20, 95:1,<br>113:10, 113:16,<br>130:18<br><b>most</b><br>12:5, 17:6,<br>39:16, 82:9,<br>87:7, 87:17,<br>91:18, 94:12,<br>103:14, 105:8,<br>127:1<br><b>mostly</b><br>76:17<br><b>motion</b><br>79:2<br><b>move</b><br>64:1, 65:13,<br>87:3, 87:11,<br>109:2<br><b>moved</b><br>29:21, 57:21<br><b>movement</b><br>103:22<br><b>moves</b><br>41:19, 63:17<br><b>moving</b><br>63:8, 64:10,<br>87:12, 105:3<br><b>mra</b><br>118:1<br><b>mt</b><br>61:5, 62:14,<br>132:21<br><b>much</b><br>6:19, 12:2,<br>23:13, 29:2,<br>37:6, 43:5,<br>60:4, 77:18,<br>95:13, 99:15, | 108:12, 116:5,<br>120:14, 130:15<br><b>multiple</b><br>71:10<br><b>municipal</b><br>60:15, 83:6<br><b>must</b><br>13:18, 15:13,<br>39:21, 129:7<br><b>myself</b><br>17:2, 33:15,<br>34:15, 37:14,<br>67:19, 68:22,<br>74:2<br><b>myth</b><br>32:7<br><hr/> <b>N</b> <hr/> <b>naaden</b><br>1:22, 132:2,<br>132:18<br><b>name</b><br>4:14, 4:18,<br>26:2, 26:3,<br>29:20, 30:19,<br>32:4, 40:22,<br>50:2, 61:4,<br>62:9, 62:12,<br>62:19, 63:6,<br>77:1, 77:5,<br>92:17, 101:14,<br>103:7, 107:12<br><b>names</b><br>20:9, 75:21,<br>92:16<br><b>narrative</b><br>16:21<br><b>narrow</b><br>17:6<br><b>narrowly</b><br>73:3, 73:6<br><b>native</b><br>11:5, 14:5,<br>29:13, 31:3,<br>31:5, 31:12,<br>84:20<br><b>necessarily</b><br>44:4, 96:6, |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

155

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>117:15, 117:20,<br/>128:2<br/><b>necessary</b><br/>13:4, 13:5,<br/>13:16, 107:17,<br/>110:7<br/><b>need</b><br/>5:15, 11:6,<br/>14:16, 14:17,<br/>18:14, 19:16,<br/>19:17, 21:1,<br/>30:12, 31:16,<br/>34:10, 36:18,<br/>36:19, 37:2,<br/>55:7, 55:15,<br/>57:11, 61:2,<br/>64:9, 86:21,<br/>87:10, 99:18,<br/>99:19, 104:16,<br/>105:22, 106:2,<br/>107:14, 108:19,<br/>110:21, 111:13,<br/>111:16, 112:10,<br/>126:1<br/><b>needed</b><br/>29:21, 69:19,<br/>101:5, 127:18<br/><b>needs</b><br/>21:9, 51:14,<br/>96:10, 102:20,<br/>110:14, 111:20,<br/>117:5<br/><b>negate</b><br/>69:21<br/><b>neither</b><br/>132:5<br/><b>never</b><br/>88:16<br/><b>new</b><br/>62:15, 90:7,<br/>100:13, 100:20,<br/>107:3, 125:15,<br/>127:3, 128:8,<br/>130:4<br/><b>news</b><br/>6:22<br/><b>next</b><br/>21:14, 32:1,</p> | <p>40:20, 110:15,<br/>112:18, 130:13<br/><b>nick</b><br/>118:12<br/><b>night</b><br/>24:4, 94:18,<br/>94:19, 109:7<br/><b>nine</b><br/>131:3<br/><b>nixon</b><br/>92:21<br/><b>nobody</b><br/>46:2, 109:7,<br/>110:5, 110:6<br/><b>nobody's</b><br/>46:2<br/><b>noise</b><br/>108:12, 108:13<br/><b>non-voting</b><br/>111:9<br/><b>none</b><br/>51:7, 51:10,<br/>99:12, 129:20<br/><b>nonpartisan</b><br/>5:22, 6:3,<br/>15:9, 20:22,<br/>36:20, 80:10,<br/>126:14<br/><b>nonpartizan</b><br/>20:9, 36:15<br/><b>nonpolitical</b><br/>20:20<br/><b>nonunion</b><br/>9:11, 9:19<br/><b>noon</b><br/>9:3, 9:16,<br/>24:16, 26:16,<br/>27:18, 28:7,<br/>28:22, 30:13,<br/>35:14, 51:20,<br/>52:5, 52:15,<br/>57:12, 67:20,<br/>73:12<br/><b>nope</b><br/>83:18<br/><b>normally</b><br/>15:20<br/><b>north</b><br/>128:9</p> | <p><b>northwest</b><br/>4:20, 5:6<br/><b>note</b><br/>28:1, 70:2,<br/>70:6, 70:20,<br/>71:2, 71:7,<br/>71:11, 74:10,<br/>74:14, 79:13,<br/>128:22<br/><b>noted</b><br/>62:18, 65:16,<br/>115:5<br/><b>nothing</b><br/>124:4<br/><b>noticed</b><br/>79:15<br/><b>notices</b><br/>86:20<br/><b>notion</b><br/>32:12<br/><b>november</b><br/>27:2<br/><b>number</b><br/>22:2, 31:12,<br/>39:13, 76:10,<br/>76:22, 77:14,<br/>78:7, 95:16<br/><b>numbers</b><br/>77:18, 78:2<br/><b>numerous</b><br/>38:22, 52:16</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>oars</b><br/>123:19<br/><b>object</b><br/>48:20<br/><b>objection</b><br/>26:18<br/><b>observed</b><br/>91:14<br/><b>obstacles</b><br/>15:8, 38:22<br/><b>obvious</b><br/>60:7<br/><b>obviously</b><br/>85:6<br/><b>occur</b><br/>76:22</p> | <p><b>occurring</b><br/>76:16<br/><b>occurs</b><br/>34:7<br/><b>offering</b><br/>42:9<br/><b>office</b><br/>12:3, 12:13,<br/>12:14, 18:11,<br/>19:1, 24:2,<br/>26:11, 33:8,<br/>34:16, 35:9,<br/>37:9, 37:16,<br/>51:13, 58:9,<br/>61:11, 62:6,<br/>62:21, 64:2,<br/>66:11, 68:10,<br/>84:3, 86:15,<br/>90:8, 93:12,<br/>113:12, 115:3<br/><b>offices</b><br/>18:19, 36:16,<br/>39:4, 63:22<br/><b>officials</b><br/>5:16, 5:22,<br/>6:1, 40:1, 40:8<br/><b>officio</b><br/>111:8<br/><b>officios</b><br/>123:16<br/><b>offload</b><br/>75:1<br/><b>often</b><br/>6:20, 86:18,<br/>87:3<br/><b>oftentimes</b><br/>87:4<br/><b>oh</b><br/>4:1, 4:18, 8:7,<br/>27:19, 43:8,<br/>82:14, 84:6,<br/>99:3, 100:3<br/><b>okay</b><br/>4:1, 34:10,<br/>36:2, 38:6,<br/>43:6, 46:9,<br/>49:18, 50:9,<br/>50:11, 54:20,</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

156

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 61:2, 61:21,<br>63:5, 66:19,<br>70:11, 78:11,<br>81:9, 81:19,<br>82:14, 84:5,<br>85:19, 95:13,<br>95:18, 99:10,<br>112:12, 126:10,<br>126:12, 128:15<br><b>old</b><br>77:4, 77:5,<br>77:9, 98:21<br><b>once</b><br>18:4, 18:21,<br>58:18, 81:3<br><b>one</b><br>4:20, 12:19,<br>13:19, 13:22,<br>19:15, 20:12,<br>20:13, 20:15,<br>21:22, 22:1,<br>22:2, 22:21,<br>25:14, 26:15,<br>29:9, 32:7,<br>33:21, 36:21,<br>39:16, 43:7,<br>43:11, 46:11,<br>51:15, 51:19,<br>55:3, 55:4,<br>55:5, 55:19,<br>57:4, 59:5,<br>59:6, 64:22,<br>66:22, 77:5,<br>82:8, 84:1,<br>89:12, 90:16,<br>91:9, 92:12,<br>93:3, 93:15,<br>94:1, 94:3,<br>94:8, 95:21,<br>96:8, 98:13,<br>101:19, 107:3,<br>107:4, 114:8,<br>118:7, 121:1,<br>124:17, 125:9,<br>127:10, 127:20,<br>129:13, 130:22,<br>131:2<br><b>one-time</b><br>58:20 | <b>ones</b><br>82:9, 91:3<br><b>ongoing</b><br>124:17<br><b>online</b><br>25:13, 25:14,<br>37:22, 38:1,<br>43:7, 43:10,<br>43:11, 75:4,<br>98:12, 98:13,<br>99:5, 99:8,<br>112:20, 113:1,<br>113:20<br><b>only</b><br>14:8, 18:4,<br>18:21, 23:2,<br>23:11, 24:6,<br>27:16, 31:7,<br>32:17, 57:12,<br>60:14, 65:7,<br>70:4, 70:6,<br>73:22, 100:19,<br>101:8, 111:7,<br>112:5, 120:16,<br>123:13<br><b>open</b><br>4:3, 4:4, 4:7,<br>6:9, 6:15, 6:19,<br>8:18, 9:2,<br>10:13, 10:17,<br>13:13, 18:11,<br>18:19, 29:15,<br>29:16, 46:1,<br>60:20, 82:2,<br>82:6, 95:10,<br>100:3, 114:21<br><b>opening</b><br>10:15, 15:1,<br>46:20, 76:12,<br>78:6, 127:5<br><b>operate</b><br>53:18<br><b>operational</b><br>120:22<br><b>operations</b><br>69:17<br><b>opinion</b><br>18:7, 18:13, | 54:7, 67:6<br><b>opinions</b><br>106:13<br><b>opponent</b><br>32:2<br><b>opponents</b><br>25:18, 25:21,<br>25:22, 37:21,<br>37:22, 99:4,<br>99:5, 112:22,<br>113:1<br><b>opportunities</b><br>18:20<br><b>opportunity</b><br>10:9, 11:9,<br>11:15, 11:17,<br>11:18, 11:22,<br>13:12, 14:8,<br>14:12, 17:5,<br>33:5, 34:8,<br>55:9, 78:6, 78:9<br><b>oppose</b><br>31:10, 31:17,<br>41:5<br><b>opposition</b><br>31:2, 50:21<br><b>opposition's</b><br>51:3<br><b>option</b><br>17:20, 18:11,<br>57:11, 57:12,<br>85:4<br><b>options</b><br>42:9<br><b>order</b><br>2:3<br><b>orderly</b><br>52:13<br><b>organization</b><br>19:11, 41:3,<br>41:5<br><b>organizations</b><br>39:13<br><b>oriented</b><br>120:2<br><b>other</b><br>13:2, 13:9,<br>15:7, 15:17, | 16:15, 20:1,<br>22:13, 24:19,<br>25:11, 25:12,<br>28:9, 32:17,<br>36:22, 37:21,<br>40:22, 45:4,<br>48:2, 48:3,<br>50:12, 59:12,<br>63:22, 65:1,<br>65:8, 69:20,<br>74:7, 75:2,<br>80:8, 84:5,<br>84:16, 86:6,<br>87:22, 89:12,<br>98:11, 100:21,<br>102:1, 102:22,<br>103:18, 111:16,<br>112:18, 115:4,<br>129:15, 129:19,<br>129:20, 130:8<br><b>others</b><br>42:13, 67:19,<br>82:8, 91:10<br><b>otherwise</b><br>132:8<br><b>ought</b><br>108:10<br><b>out</b><br>5:5, 5:8, 5:17,<br>8:1, 12:21,<br>16:16, 22:5,<br>22:9, 22:15,<br>22:21, 24:19,<br>28:9, 36:11,<br>48:5, 49:8,<br>55:18, 56:5,<br>61:1, 62:14,<br>66:11, 76:13,<br>77:5, 78:11,<br>84:15, 91:4,<br>91:15, 92:17,<br>93:10, 94:15,<br>101:5, 102:13,<br>104:21, 107:2,<br>107:4, 109:7,<br>117:11, 118:18<br><b>outcome</b><br>42:2, 104:10, |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of House Standing Committee  
Conducted on March 26, 2025

157

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 105:6, 106:5,<br>132:8<br><b>outcomes</b><br>104:8, 105:10,<br>108:4, 109:17,<br>115:21, 119:13,<br>120:2, 124:14,<br>125:19, 126:5<br><b>outgrowth</b><br>100:7<br><b>outside</b><br>3:7, 44:10,<br>71:21, 80:9,<br>110:11, 123:6<br><b>outsized</b><br>129:12<br><b>over</b><br>5:14, 6:18,<br>7:7, 9:22,<br>16:13, 34:21,<br>55:21, 71:13,<br>79:20, 94:20,<br>94:21, 100:14,<br>105:6, 109:2,<br>116:2<br><b>overall</b><br>37:16, 67:11<br><b>overcount</b><br>91:12<br><b>overwork</b><br>7:21, 88:18<br><b>own</b><br>22:16, 48:7,<br>48:8, 89:2,<br>111:4<br><b>owners</b><br>12:1 | 17:16, 26:15,<br>27:14, 45:18,<br>132:11<br><b>pages</b><br>1:21, 132:8<br><b>paragraph</b><br>27:16<br><b>parents</b><br>12:21<br><b>parking</b><br>12:17<br><b>part</b><br>8:2, 16:9,<br>59:21, 72:4,<br>86:9, 93:9,<br>95:20, 100:9,<br>107:12, 107:16,<br>115:21, 117:17,<br>118:12, 121:14,<br>123:21, 126:8<br><b>participants</b><br>129:14<br><b>participate</b><br>12:6, 29:18,<br>78:7<br><b>participating</b><br>129:17<br><b>participation</b><br>22:11<br><b>particular</b><br>38:21, 69:17<br><b>particularly</b><br>92:2<br><b>parties</b><br>26:13, 98:7,<br>132:6<br><b>partisan</b><br>81:5, 88:12<br><b>parts</b><br>29:4, 85:7,<br>93:9<br><b>party</b><br>16:18, 71:6,<br>79:21, 89:12,<br>96:20<br><b>party's</b><br>96:21<br><b>pass</b><br>5:4, 10:8, | 12:3, 21:12,<br>25:8, 37:6,<br>37:10, 44:21,<br>45:20, 74:11,<br>75:13, 82:20,<br>97:15, 99:1,<br>99:21<br><b>passed</b><br>29:16, 30:15,<br>71:12<br><b>passes</b><br>40:10<br><b>passing</b><br>39:12<br><b>past</b><br>5:14, 82:10,<br>89:19<br><b>patient</b><br>90:17<br><b>paulsen</b><br>21:16, 21:17,<br>25:10, 82:16,<br>83:1<br><b>paulson</b><br>82:15<br><b>pay</b><br>69:14, 74:8<br><b>paying</b><br>20:17, 121:18<br><b>peak</b><br>16:13<br><b>penalty</b><br>132:3<br><b>people</b><br>6:17, 7:1,<br>10:18, 12:13,<br>12:18, 14:11,<br>16:10, 16:15,<br>23:12, 23:21,<br>27:8, 27:10,<br>29:5, 30:6,<br>33:3, 34:13,<br>36:3, 41:17,<br>45:4, 52:16,<br>55:14, 56:10,<br>56:15, 60:5,<br>61:21, 61:22,<br>62:1, 62:2, | 64:20, 65:16,<br>66:13, 69:13,<br>77:7, 78:3,<br>78:7, 81:15,<br>87:7, 87:15,<br>87:18, 88:19,<br>89:5, 90:17,<br>90:19, 91:8,<br>94:2, 95:6,<br>102:18, 115:18,<br>121:6, 122:1,<br>127:9, 130:10,<br>130:19<br><b>percent</b><br>103:12, 103:13,<br>108:11<br><b>perfect</b><br>67:22, 104:19,<br>112:1<br><b>performance</b><br>124:13, 126:14<br><b>performance-based</b><br>103:22, 106:22,<br>107:5, 128:3<br><b>perhaps</b><br>19:7, 37:2,<br>37:11, 121:12<br><b>period</b><br>44:10, 49:12<br><b>periods</b><br>121:11<br><b>perjury</b><br>132:3<br><b>permission</b><br>26:6<br><b>permitted</b><br>38:14<br><b>perry</b><br>3:4, 3:5,<br>43:19, 43:20,<br>44:2, 44:3,<br>44:13, 44:15,<br>44:22, 45:2,<br>45:9, 75:22,<br>114:1, 114:2,<br>114:6, 114:7,<br>114:14, 114:17,<br>114:18, 115:9, |
| <b>P</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>p-a-u-l-s-e-n</b><br>21:17<br><b>p-e-t-t-e-n-b-e</b><br>43:14<br><b>p-l-e-t-t-e-n-b</b><br>98:17<br><b>package</b><br>94:8<br><b>page</b><br>8:4, 8:5, 8:6,                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

Transcript of House Standing Committee  
Conducted on March 26, 2025

158

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>129:18<br/><b>perry's</b><br/>4:1<br/><b>person</b><br/>10:11, 12:8,<br/>12:10, 27:13,<br/>28:16, 44:17,<br/>61:10, 94:15<br/><b>perspective</b><br/>24:7, 26:21<br/><b>perspectives</b><br/>116:13<br/><b>peter</b><br/>129:6<br/><b>ph</b><br/>102:11, 111:19<br/><b>phone</b><br/>52:16<br/><b>physical</b><br/>5:17, 69:12,<br/>69:15, 84:21<br/><b>pick</b><br/>18:9, 19:2,<br/>55:16, 57:21,<br/>58:15, 64:18,<br/>73:13<br/><b>picked</b><br/>64:6, 90:4,<br/>90:14<br/><b>pictures</b><br/>106:20<br/><b>piece</b><br/>120:6, 127:10<br/><b>pieces</b><br/>116:21<br/><b>pitfalls</b><br/>120:1<br/><b>place</b><br/>32:13, 32:22,<br/>33:3, 34:5,<br/>42:5, 61:21,<br/>62:1, 62:17,<br/>63:11, 81:14,<br/>107:13<br/><b>placed</b><br/>11:10<br/><b>places</b><br/>6:21, 23:22,</p> | <p>89:21<br/><b>plan</b><br/>13:10, 118:17<br/><b>planning</b><br/>37:9<br/><b>plant</b><br/>7:10<br/><b>plants</b><br/>5:18<br/><b>playing</b><br/>110:21<br/><b>pleasant</b><br/>104:19<br/><b>please</b><br/>2:4, 4:4, 4:12,<br/>4:13, 21:15,<br/>26:7, 31:19,<br/>43:21, 45:12,<br/>47:12, 50:16,<br/>56:19, 66:22,<br/>69:8, 74:17,<br/>83:20, 99:12,<br/>112:18, 114:3<br/><b>plettenberg</b><br/>34:21, 43:12,<br/>43:13, 43:14,<br/>50:3, 50:4,<br/>66:22, 67:1,<br/>67:2, 67:5,<br/>67:8, 68:21,<br/>69:2, 69:4,<br/>69:5, 74:17,<br/>74:18, 74:19,<br/>74:22, 75:10,<br/>75:19, 81:20,<br/>81:21, 82:5,<br/>98:14, 98:16,<br/>98:17, 99:2<br/><b>plus</b><br/>23:21, 106:10<br/><b>plywood</b><br/>7:10<br/><b>po</b><br/>86:17<br/><b>pockets</b><br/>104:14, 108:3<br/><b>point</b><br/>8:1, 17:10,</p> | <p>18:15, 22:21,<br/>24:19, 34:16,<br/>73:16, 115:2<br/><b>points</b><br/>18:3, 32:6,<br/>55:13<br/><b>polarizing</b><br/>20:13<br/><b>policies</b><br/>43:2, 75:2<br/><b>policy</b><br/>28:21, 31:10,<br/>31:14, 74:11,<br/>74:13, 84:1,<br/>101:9, 101:10,<br/>118:22<br/><b>political</b><br/>7:13, 36:9,<br/>36:14, 80:2,<br/>80:4, 88:15,<br/>88:16, 94:11,<br/>96:20, 108:17<br/><b>politics</b><br/>21:2<br/><b>poll</b><br/>71:17<br/><b>polling</b><br/>23:22, 34:5,<br/>61:21, 62:1,<br/>62:17, 63:11,<br/>89:21<br/><b>polls</b><br/>4:10, 5:12,<br/>6:9, 6:12, 6:15,<br/>6:19, 7:3,<br/>38:11, 39:5,<br/>49:11, 52:9,<br/>52:11, 57:9,<br/>60:19, 61:20,<br/>62:5, 62:11,<br/>62:20, 63:1,<br/>63:3<br/><b>pool</b><br/>75:5<br/><b>poor</b><br/>58:4<br/><b>population</b><br/>31:15</p> | <p><b>populations</b><br/>15:7<br/><b>position</b><br/>11:7, 50:3<br/><b>positive</b><br/>122:4<br/><b>possibility</b><br/>7:22<br/><b>possible</b><br/>6:2, 9:20,<br/>17:7, 37:4,<br/>101:18, 112:11<br/><b>post</b><br/>58:9, 86:15<br/><b>postal</b><br/>86:11, 86:14<br/><b>potentially</b><br/>28:8, 28:17,<br/>108:6, 111:20,<br/>115:6<br/><b>power</b><br/>70:2, 70:3,<br/>100:11, 126:15,<br/>130:3<br/><b>powerpoint</b><br/>100:11<br/><b>practical</b><br/>120:21<br/><b>practice</b><br/>96:7, 96:9,<br/>96:10<br/><b>precedent</b><br/>42:3<br/><b>preceding</b><br/>65:11<br/><b>precinct</b><br/>23:4, 62:8,<br/>63:19, 64:3,<br/>77:4, 77:9,<br/>87:13, 87:14<br/><b>precincts</b><br/>22:17, 22:19,<br/>23:17, 63:9,<br/>77:1<br/><b>predominant</b><br/>76:21<br/><b>preface</b><br/>17:19</p> |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

159

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>preference</b><br/>114:13</p> <p><b>preferred</b><br/>109:6</p> <p><b>prejudice</b><br/>126:22</p> <p><b>prep</b><br/>10:18</p> <p><b>preparation</b><br/>96:2, 97:3</p> <p><b>preparing</b><br/>96:4</p> <p><b>prepped</b><br/>24:1</p> <p><b>prepping</b><br/>23:19</p> <p><b>prescriptive</b><br/>130:9</p> <p><b>present</b><br/>19:20, 95:16</p> <p><b>presentation</b><br/>8:3</p> <p><b>presented</b><br/>48:22, 91:16,<br/>91:17, 91:18,<br/>106:1, 106:20</p> <p><b>presidential</b><br/>24:10, 51:22,<br/>82:12</p> <p><b>pretending</b><br/>127:14</p> <p><b>pretty</b><br/>6:6, 9:6,<br/>60:13, 64:7,<br/>93:13, 102:8</p> <p><b>prevented</b><br/>91:16</p> <p><b>prevention</b><br/>105:14</p> <p><b>previous</b><br/>14:20, 20:15,<br/>63:9, 63:19,<br/>77:22</p> <p><b>previously</b><br/>31:20</p> <p><b>primaries</b><br/>97:4</p> <p><b>primary</b><br/>65:9, 91:12,</p> | <p>96:2</p> <p><b>principles</b><br/>43:1</p> <p><b>print</b><br/>13:6, 23:3,<br/>23:7</p> <p><b>printed</b><br/>28:5, 61:20</p> <p><b>prior</b><br/>8:15, 26:16,<br/>27:8, 35:11,<br/>38:10, 55:22,<br/>88:8</p> <p><b>priorities</b><br/>108:20</p> <p><b>prioritize</b><br/>43:2</p> <p><b>prisons</b><br/>105:17</p> <p><b>probably</b><br/>23:21, 28:11,<br/>33:22, 34:20,<br/>52:8, 55:2,<br/>69:21, 89:15,<br/>101:14, 102:11,<br/>107:3, 110:4,<br/>120:22, 125:16,<br/>127:4, 129:8</p> <p><b>problem</b><br/>4:10, 7:21,<br/>13:6, 15:10,<br/>17:6, 19:4,<br/>25:2, 51:14,<br/>67:13, 88:18</p> <p><b>problems</b><br/>13:3, 14:19</p> <p><b>procedure</b><br/>96:17</p> <p><b>procedures</b><br/>96:2</p> <p><b>process</b><br/>6:4, 13:18,<br/>16:10, 23:19,<br/>35:2, 87:9,<br/>90:7, 104:7,<br/>107:17, 119:9,<br/>125:21</p> <p><b>processes</b><br/>34:22, 65:1,</p> | <p>65:18</p> <p><b>produce</b><br/>105:6, 109:22</p> <p><b>producing</b><br/>108:3, 109:17</p> <p><b>production</b><br/>5:18</p> <p><b>profession</b><br/>80:11, 80:14</p> <p><b>professional</b><br/>20:16</p> <p><b>program</b><br/>127:11, 127:17,<br/>127:18</p> <p><b>programs</b><br/>105:19</p> <p><b>prolonged</b><br/>121:11</p> <p><b>promise</b><br/>4:8</p> <p><b>promised</b><br/>108:4</p> <p><b>proponent</b><br/>21:15, 32:2,<br/>71:4, 112:18</p> <p><b>proponents</b><br/>10:3, 25:11,<br/>25:12, 25:13,<br/>25:20, 27:19,<br/>28:15, 46:12,<br/>97:17, 97:19,<br/>97:20, 98:11,<br/>98:12, 102:22,<br/>103:4, 112:19</p> <p><b>proposal</b><br/>93:14</p> <p><b>propose</b><br/>51:13</p> <p><b>proposed</b><br/>42:7, 42:8,<br/>77:3, 83:3, 84:3</p> <p><b>proposing</b><br/>20:3, 80:7,<br/>80:14</p> <p><b>protecting</b><br/>42:19</p> <p><b>provide</b><br/>6:1, 14:12,</p> | <p>15:3, 16:20,<br/>18:1, 18:18,<br/>20:1, 21:10,<br/>71:17</p> <p><b>provided</b><br/>18:17</p> <p><b>provides</b><br/>11:22, 13:12,<br/>17:3, 19:17,<br/>71:16, 78:8</p> <p><b>providing</b><br/>10:17, 11:11</p> <p><b>provision</b><br/>71:18</p> <p><b>provisional</b><br/>25:5, 60:18,<br/>62:5, 62:9,<br/>62:17, 63:4</p> <p><b>provisionally</b><br/>62:3, 62:4</p> <p><b>provisionals</b><br/>64:8</p> <p><b>public</b><br/>11:1, 11:2,<br/>28:13, 32:5</p> <p><b>pulled</b><br/>71:1</p> <p><b>pulling</b><br/>123:19, 127:21</p> <p><b>put</b><br/>12:2, 14:4,<br/>24:7, 26:20,<br/>29:17, 32:12,<br/>37:3, 60:21,<br/>85:5, 85:15,<br/>88:14, 89:4,<br/>89:5, 90:15,<br/>92:14, 93:3,<br/>94:14, 97:5,<br/>97:10, 101:15,<br/>107:14, 130:10</p> <p><b>puts</b><br/>15:5, 30:5</p> <p><b>putting</b><br/>34:15, 104:12,<br/>127:2</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>qualified</b><br/>38:9</p> |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

160

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>quarter</b><br>124:18<br><b>question</b><br>17:18, 49:15,<br>50:16, 50:20,<br>54:17, 54:19,<br>55:8, 55:12,<br>56:6, 56:21,<br>57:7, 64:11,<br>64:19, 66:22,<br>69:6, 70:22,<br>73:5, 73:15,<br>74:15, 76:4,<br>83:2, 84:8,<br>85:20, 92:20,<br>112:12, 114:8,<br>119:22, 120:15,<br>121:17, 122:14,<br>123:5, 126:13,<br>128:4, 128:21<br><b>questions</b><br>25:9, 43:8,<br>43:17, 43:18,<br>50:13, 68:15,<br>84:6, 88:1,<br>99:10, 99:11,<br>103:1, 110:22,<br>112:4, 113:7,<br>113:13, 113:18,<br>113:22, 124:16,<br>129:20, 131:10<br><b>quick</b><br>66:22, 128:21<br><b>quickly</b><br>64:7, 86:9<br><b>quit</b><br>108:4<br><b>quite</b><br>9:15, 22:12,<br>23:19, 33:15,<br>33:18, 89:11<br><b>quote</b><br>71:19, 71:22 | <b>r-i-c-k</b><br>33:14<br><b>rabbit</b><br>50:12<br><b>races</b><br>28:9, 74:1,<br>83:9, 83:13,<br>83:17<br><b>raised</b><br>99:6, 99:9,<br>112:21, 113:2,<br>113:21<br><b>raises</b><br>42:6<br><b>ran</b><br>9:11, 10:11,<br>69:18, 122:15<br><b>rarely</b><br>103:9<br><b>rate</b><br>38:4, 38:6,<br>38:7, 40:19<br><b>rather</b><br>36:8, 43:2,<br>66:6, 85:5<br><b>ravalli</b><br>43:15<br><b>re-refer</b><br>118:6<br><b>reactions</b><br>35:1<br><b>reactivate</b><br>86:21<br><b>read</b><br>47:15, 47:20,<br>47:22, 53:5,<br>72:13, 72:15,<br>98:6, 109:12,<br>118:2<br><b>reading</b><br>20:11, 45:17,<br>81:4, 81:5,<br>128:22<br><b>ready</b><br>7:6, 13:16,<br>23:18, 34:5,<br>103:7<br><b>real</b><br>8:5, 8:6, | 63:21, 110:5<br><b>reality</b><br>21:7, 80:5<br><b>realize</b><br>12:20, 35:17,<br>36:2<br><b>really</b><br>8:20, 16:16,<br>18:15, 21:10,<br>22:21, 26:12,<br>29:1, 29:6,<br>29:8, 30:6,<br>30:7, 36:9,<br>37:8, 37:17,<br>46:16, 64:19,<br>67:11, 71:11,<br>72:10, 73:16,<br>84:21, 85:3,<br>98:21, 98:22,<br>100:17, 101:2,<br>101:15, 101:17,<br>102:5, 102:6,<br>102:14, 103:13,<br>103:18, 108:12,<br>110:21, 116:10,<br>116:17, 116:22,<br>118:21, 119:2,<br>120:11, 121:4,<br>121:16, 122:3,<br>122:4, 123:20,<br>124:13, 124:22,<br>125:17, 126:6,<br>130:1<br><b>reason</b><br>32:10, 79:4,<br>80:9, 106:9,<br>115:6, 121:21<br><b>reasonable</b><br>11:19<br><b>reasons</b><br>28:19, 33:9,<br>42:18, 96:8<br><b>rebuttals</b><br>48:1<br><b>receipt</b><br>15:11<br><b>receive</b><br>61:8, 61:9, | 62:4, 62:16,<br>66:5, 66:9<br><b>received</b><br>15:13, 27:9,<br>27:12, 88:9,<br>132:10<br><b>receives</b><br>8:14<br><b>receiving</b><br>61:13<br><b>recently</b><br>6:22<br><b>recidivism</b><br>104:9<br><b>recommend</b><br>47:15<br><b>record</b><br>18:15, 19:7,<br>26:2, 30:19<br><b>recorder</b><br>21:18, 89:9,<br>90:3, 90:21,<br>92:8<br><b>recorders</b><br>5:14, 8:19,<br>9:19, 43:17,<br>88:6, 92:3,<br>93:5, 93:11,<br>98:19<br><b>recordings</b><br>132:4<br><b>recount</b><br>91:14<br><b>red</b><br>53:17<br><b>redirect</b><br>116:11, 123:8<br><b>reduce</b><br>32:8<br><b>reduced</b><br>32:12<br><b>reducing</b><br>105:17<br><b>reduction</b><br>32:15<br><b>refer</b><br>21:4, 83:12,<br>114:13 |
| <b>R</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>r-a-t-e</b><br>38:7<br><b>r-g</b><br>43:15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

Transcript of House Standing Committee  
Conducted on March 26, 2025

161

|                                   |                                    |                                                        |                                                    |
|-----------------------------------|------------------------------------|--------------------------------------------------------|----------------------------------------------------|
| <b>referenced</b><br>78:20        | 58:18, 59:9,<br>62:3, 62:4         | 77:6, 84:13,<br>86:22, 87:19,<br>89:8, 89:11,<br>91:21 | 103:20, 108:1,<br>125:10, 125:12                   |
| <b>referred</b><br>48:15          | <b>registering</b><br>6:17, 8:21,  | <b>registrations</b><br>22:4, 76:10,                   | <b>reporting</b><br>109:10, 109:11,                |
| <b>refers</b><br>44:9, 71:3       | 10:19, 12:9,<br>23:6, 23:12,       | 76:16, 82:2,<br>87:7                                   | 124:17, 126:7                                      |
| <b>reflected</b><br>70:5          | 25:1, 25:7,<br>27:17, 57:18        | <b>regular</b><br>6:10, 8:10,                          | <b>reports</b><br>109:12, 125:9,                   |
| <b>reflects</b><br>70:6           | <b>registers</b><br>13:7, 23:4,    | 35:11, 44:9,<br>82:19                                  | 125:12                                             |
| <b>reform</b><br>20:18, 20:21     | 23:7, 61:20,<br>64:9               | <b>reiterate</b><br>86:9                               | <b>represent</b><br>4:19, 100:6                    |
| <b>reforming</b><br>13:3          | <b>registration</b><br>6:10, 6:11, | <b>rejected</b><br>40:9                                | <b>representation</b><br>101:21, 102:9             |
| <b>regarding</b><br>132:10        | 8:9, 8:10, 8:14,<br>8:19, 10:10,   | <b>related</b><br>19:12, 132:6                         | <b>representatives</b><br>33:13, 95:21             |
| <b>regardless</b><br>61:13, 63:2  | 11:11, 11:12,<br>11:13, 12:5,      | <b>relates</b><br>84:17, 86:7                          | <b>representing</b><br>29:13, 30:21                |
| <b>regina</b><br>17:14, 43:14,    | 13:14, 14:1,<br>14:16, 14:17,      | <b>relationship</b><br>104:18, 105:19,                 | <b>repress</b><br>92:17                            |
| 50:2, 50:4,<br>98:17              | 14:22, 16:22,<br>17:3, 17:4,       | 108:16, 112:1,<br>114:10                               | <b>republican</b><br>79:16, 92:20,                 |
| <b>register</b><br>6:5, 6:7, 6:8, | 20:18, 21:22,<br>22:20, 23:1,      | <b>relatively</b><br>96:22                             | 96:13                                              |
| 8:9, 9:16,<br>12:10, 18:3,        | 24:11, 24:15,<br>28:22, 29:22,     | <b>relatives</b><br>55:6, 76:13                        | <b>request</b><br>57:2                             |
| 18:4, 18:20,<br>18:21, 19:3,      | 31:13, 31:17,<br>32:9, 32:14,      | <b>rely</b><br>85:2, 86:13,                            | <b>requested</b><br>68:20, 69:16,                  |
| 28:7, 30:12,<br>32:15, 38:10,     | 35:9, 36:10,<br>38:13, 38:14,      | 121:5                                                  | 70:7                                               |
| 42:15, 44:7,<br>44:17, 45:6,      | 38:16, 39:7,<br>39:12, 40:2,       | <b>remain</b><br>6:15, 6:19                            | <b>require</b><br>28:13, 73:2,                     |
| 51:1, 51:20,<br>53:22, 55:9,      | 41:7, 41:12,<br>42:4, 42:21,       | <b>remember</b><br>104:2                               | 105:19                                             |
| 55:15, 55:16,<br>56:4, 57:12,     | 44:5, 44:9,<br>44:10, 44:11,       | <b>remiss</b><br>34:12                                 | <b>required</b><br>40:4, 45:21,                    |
| 57:18, 57:20,<br>57:22, 58:11,    | 46:7, 46:16,<br>46:17, 49:12,      | <b>remote</b><br>85:7, 90:16                           | 61:8, 96:5                                         |
| 58:17, 59:5,<br>62:12, 62:18,     | 53:6, 53:7,<br>53:8, 53:10,        | <b>remove</b><br>26:18                                 | <b>requirement</b><br>122:17, 125:13               |
| 63:10, 63:14,<br>73:8, 84:14,     | 53:13, 53:14,<br>53:15, 53:19,     | <b>repeat</b><br>17:1, 17:2                            | <b>requires</b><br>104:17                          |
| 87:15, 89:13,<br>94:22            | 57:1, 58:22,<br>60:13, 61:3,       | <b>replacement</b><br>79:20, 79:22                     | <b>reregister</b><br>58:19                         |
| <b>registered</b><br>12:15, 22:7, | 61:7, 61:12,<br>62:7, 66:5,        | <b>reply</b><br>59:8                                   | <b>resent</b><br>49:3                              |
| 23:9, 27:3,<br>27:7, 27:9,        | 71:17, 71:21,<br>75:3, 75:4,       | <b>report</b><br>6:22, 34:1,                           | <b>resented</b><br>49:3                            |
|                                   |                                    |                                                        | <b>reservation</b><br>86:12, 87:2,<br>87:5         |
|                                   |                                    |                                                        | <b>reservations</b><br>39:1, 84:22,<br>85:7, 130:2 |

Transcript of House Standing Committee  
Conducted on March 26, 2025

162

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>reserving</b><br>55:12<br><b>residential</b><br>39:2<br><b>resides</b><br>8:13, 8:14<br><b>resource</b><br>104:13, 108:2<br><b>resources</b><br>101:5<br><b>respond</b><br>49:3<br><b>responsibility</b><br>95:22<br><b>responsible</b><br>102:18<br><b>rest</b><br>44:3, 102:12,<br>108:12<br><b>restrict</b><br>40:15, 42:10,<br>43:3, 73:7<br><b>restricting</b><br>42:21<br><b>restriction</b><br>56:21<br><b>restrictions</b><br>42:3<br><b>restrictive</b><br>56:15<br><b>restricts</b><br>46:18<br><b>result</b><br>15:16, 39:8,<br>40:2<br><b>resulted</b><br>71:14<br><b>results</b><br>16:6, 100:15,<br>101:18, 106:10,<br>122:4<br><b>review</b><br>72:21, 115:1,<br>127:8<br><b>revising</b><br>96:1<br><b>revolving</b><br>60:2 | <b>rexton</b><br>3:6<br><b>rid</b><br>75:12<br><b>ride</b><br>11:20, 14:7,<br>56:13, 57:9,<br>58:7, 58:16,<br>59:2, 59:5<br><b>rides</b><br>11:6<br><b>right</b><br>4:1, 6:8, 6:18,<br>13:20, 15:22,<br>17:19, 18:5,<br>25:15, 25:19,<br>30:11, 33:1,<br>39:9, 39:14,<br>39:15, 39:18,<br>39:21, 40:6,<br>41:21, 42:5,<br>42:19, 51:3,<br>55:13, 57:20,<br>59:10, 60:12,<br>60:20, 61:16,<br>62:22, 65:10,<br>65:14, 66:14,<br>72:3, 73:10,<br>73:11, 86:22,<br>89:14, 93:1,<br>93:6, 94:17,<br>95:14, 97:19,<br>104:8, 105:4,<br>110:2, 110:3,<br>113:19, 115:8,<br>117:6, 122:5,<br>123:14, 131:10<br><b>rights</b><br>39:16, 72:13,<br>72:16, 72:19,<br>73:2<br><b>rise</b><br>26:5<br><b>risk</b><br>116:14, 121:4<br><b>risks</b><br>120:1<br><b>roads</b><br>11:20, 106:6, | 106:7<br><b>robust</b><br>99:16, 104:5<br><b>rocky</b><br>31:1<br><b>role</b><br>123:6, 129:8,<br>129:12, 129:15<br><b>roll</b><br>2:4, 67:16<br><b>room</b><br>25:12, 25:22,<br>37:21, 43:9,<br>67:10, 72:9,<br>91:3, 97:17,<br>98:11, 99:4,<br>99:8, 112:19,<br>112:22, 113:1,<br>113:4, 115:19<br><b>rooms</b><br>22:10<br><b>rough</b><br>27:6<br><b>rounds</b><br>63:15<br><b>routine</b><br>82:10<br><b>routinely</b><br>20:3, 79:6,<br>79:12<br><b>rules</b><br>41:15<br><b>run</b><br>5:18, 7:11,<br>27:1, 58:19,<br>81:11, 94:16,<br>120:18<br><b>running</b><br>5:17, 7:17,<br>26:22, 74:2<br><b>runningwolf</b><br>3:9<br><b>runs</b><br>83:6<br><b>rural</b><br>12:1, 39:1,<br>41:9, 42:12<br><b>rut</b><br>15:7 | <b>ryan</b><br>113:11<br><hr/> <b>S</b><br><hr/> <b>s-n-o-w</b><br>30:20<br><b>s-u-n-c</b><br>29:12<br><b>safe</b><br>62:10<br><b>safeguard</b><br>41:8<br><b>said</b><br>9:9, 9:12,<br>18:2, 18:7,<br>20:17, 24:6,<br>34:17, 37:14,<br>46:15, 49:18,<br>53:17, 79:4,<br>90:17, 90:22,<br>93:8, 98:20,<br>99:1, 106:6,<br>106:7, 109:13,<br>109:14, 109:15,<br>117:12, 120:5,<br>125:7, 125:9,<br>127:4, 127:11<br><b>same</b><br>10:9, 11:11,<br>11:12, 11:13,<br>13:14, 13:18,<br>16:1, 16:22,<br>17:1, 17:3,<br>17:4, 21:22,<br>22:3, 22:20,<br>24:10, 24:15,<br>31:13, 31:16,<br>35:13, 35:15,<br>40:11, 46:15,<br>46:17, 51:2,<br>51:22, 53:6,<br>53:13, 55:10,<br>55:17, 62:6,<br>65:18, 66:10,<br>84:12, 85:19,<br>123:19<br><b>same-day</b><br>41:7, 41:12, |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

163

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p>42:3, 42:20<br/><b>sanders</b><br/>55:4, 55:6<br/><b>sat</b><br/>72:9<br/><b>satisfied</b><br/>50:7<br/><b>saturday</b><br/>8:17, 8:18,<br/>9:1, 11:15,<br/>13:13, 14:12,<br/>15:4, 15:8,<br/>17:5, 24:17,<br/>29:5, 32:11,<br/>32:14, 34:1,<br/>45:19, 46:1,<br/>46:7, 53:7,<br/>53:8, 53:10,<br/>53:12, 57:16,<br/>67:18, 67:19,<br/>69:19, 76:12,<br/>76:14, 78:6,<br/>78:8<br/><b>saturdays</b><br/>34:4, 69:13,<br/>82:2<br/><b>saw</b><br/>20:22, 46:14<br/><b>say</b><br/>9:20, 14:5,<br/>22:2, 24:8,<br/>28:16, 29:8,<br/>36:6, 37:1,<br/>46:2, 47:6,<br/>47:21, 48:18,<br/>49:4, 49:20,<br/>50:4, 56:13,<br/>63:11, 74:6,<br/>76:17, 76:21,<br/>77:17, 77:19,<br/>78:1, 83:8,<br/>86:18, 91:21,<br/>91:22, 99:15,<br/>100:8, 101:12,<br/>102:16, 105:5,<br/>105:13, 106:3,<br/>107:12, 107:21,<br/>109:2, 111:13,</p> | <p>116:16, 116:17,<br/>120:18, 124:21,<br/>125:15, 125:17,<br/>128:2, 128:13,<br/>130:10<br/><b>saying</b><br/>19:1, 19:2,<br/>24:14, 44:16,<br/>58:1, 82:1,<br/>90:10, 103:12,<br/>104:20, 107:6,<br/>127:22, 130:6<br/><b>says</b><br/>7:3, 15:13,<br/>17:19, 26:16,<br/>27:14, 44:7,<br/>45:4, 67:15,<br/>74:14, 79:13,<br/>109:13, 120:17<br/><b>sb</b><br/>40:18, 41:5,<br/>42:19<br/><b>scan</b><br/>8:4<br/><b>scarce</b><br/>104:13, 108:2<br/><b>schedule</b><br/>34:13<br/><b>schedules</b><br/>41:14<br/><b>scheme</b><br/>7:17<br/><b>school</b><br/>58:10, 60:15,<br/>65:11, 83:6,<br/>115:22<br/><b>schools</b><br/>115:20<br/><b>schubert</b><br/>3:11, 3:12<br/><b>scores</b><br/>105:15<br/><b>scratch</b><br/>117:20, 127:12<br/><b>scrutiny</b><br/>39:19, 40:4,<br/>40:7, 72:5,<br/>72:8, 72:18,</p> | <p>72:20<br/><b>search</b><br/>27:6<br/><b>seat</b><br/>12:22, 86:20<br/><b>second</b><br/>6:17, 20:11,<br/>21:3, 81:4,<br/>85:13<br/><b>secretary</b><br/>2:4, 2:5, 2:8,<br/>2:10, 2:12,<br/>2:14, 2:16,<br/>2:18, 2:20,<br/>2:22, 3:2, 3:4,<br/>3:6, 3:9, 3:11,<br/>3:13, 3:15,<br/>3:17, 3:19,<br/>3:21, 10:6,<br/>10:7, 12:3,<br/>25:14, 26:10,<br/>27:4, 28:14,<br/>31:9, 35:8,<br/>37:9, 38:1,<br/>43:11, 67:12,<br/>68:9, 71:4,<br/>90:8, 93:12,<br/>98:13, 99:6,<br/>99:9, 112:21,<br/>113:2, 113:21<br/><b>section</b><br/>29:9, 71:15,<br/>101:19, 102:10<br/><b>secure</b><br/>26:5<br/><b>see</b><br/>12:8, 12:12,<br/>12:17, 12:18,<br/>12:19, 17:17,<br/>22:11, 22:13,<br/>30:14, 32:14,<br/>35:4, 35:16,<br/>56:15, 63:14,<br/>64:8, 65:7,<br/>67:9, 69:12,<br/>81:19, 82:15,<br/>85:14, 86:6,<br/>88:17, 100:12,</p> | <p>100:16, 101:18,<br/>102:9, 105:1,<br/>109:16, 110:1,<br/>111:6, 119:11,<br/>120:6, 120:11,<br/>121:21, 123:2,<br/>129:3<br/><b>seeing</b><br/>99:12, 121:13,<br/>129:20<br/><b>seemed</b><br/>58:3<br/><b>seen</b><br/>20:19, 22:1,<br/>70:20, 84:19,<br/>120:22<br/><b>segment</b><br/>13:22<br/><b>selected</b><br/>89:3<br/><b>sen</b><br/>4:6, 4:14,<br/>4:16, 45:14,<br/>46:6, 47:2,<br/>47:5, 47:9,<br/>47:13, 54:16,<br/>54:20, 55:11,<br/>56:17, 56:20,<br/>57:17, 59:7,<br/>69:9, 69:15,<br/>81:1, 81:8,<br/>81:10, 88:3,<br/>95:3<br/><b>senate</b><br/>4:3, 4:4, 4:20,<br/>8:4, 10:3, 10:8,<br/>16:18, 18:17,<br/>20:11, 21:12,<br/>21:20, 25:12,<br/>25:21, 38:8,<br/>40:5, 40:10,<br/>48:21, 49:1,<br/>79:21, 81:4,<br/>95:9, 95:11,<br/>95:16, 95:19,<br/>97:15, 97:17,<br/>99:21, 100:2,<br/>100:3, 102:15,</p> |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

164

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 131:1<br><b>senator</b><br>4:4, 4:12,<br>4:13, 10:2,<br>17:9, 20:15,<br>33:16, 36:17,<br>45:13, 45:16,<br>54:15, 54:21,<br>56:9, 57:7,<br>80:22, 81:2,<br>88:1, 95:2,<br>95:8, 95:11,<br>95:19, 97:16,<br>98:2, 99:12,<br>100:1, 102:11,<br>110:9, 111:19,<br>130:22<br><b>send</b><br>121:6<br><b>seniors</b><br>41:9<br><b>sense</b><br>4:9, 7:13,<br>7:20, 9:7, 9:13,<br>9:21, 83:17,<br>88:14, 88:18,<br>120:22, 127:1<br><b>sent</b><br>105:5<br><b>separate</b><br>19:14, 20:2,<br>83:16, 96:19<br><b>separately</b><br>96:21<br><b>september</b><br>132:19<br><b>serious</b><br>9:21, 42:6,<br>94:10<br><b>seriously</b><br>96:22<br><b>serve</b><br>15:3, 15:4,<br>34:17, 80:6,<br>95:18<br><b>serves</b><br>11:3, 35:19,<br>107:1 | <b>service</b><br>29:19, 32:19,<br>86:14<br><b>services</b><br>10:17, 31:11,<br>106:16<br><b>session</b><br>118:12, 125:7,<br>127:6<br><b>set</b><br>7:5, 20:5,<br>34:5, 44:6,<br>46:6, 65:1,<br>89:16, 108:16<br><b>sets</b><br>106:13, 118:17,<br>118:18<br><b>seven</b><br>10:16, 131:2<br><b>several</b><br>56:10, 57:10,<br>67:15<br><b>severe</b><br>33:22<br><b>share</b><br>26:14, 84:3,<br>86:16, 95:22,<br>129:2<br><b>shared</b><br>79:1<br><b>sheriffs</b><br>89:20<br><b>shift</b><br>5:20, 65:15<br><b>shifts</b><br>61:19<br><b>shoes</b><br>34:15, 94:15<br><b>shop</b><br>91:7<br><b>shopping</b><br>48:10<br><b>should</b><br>7:12, 12:2,<br>16:19, 17:13,<br>25:17, 31:3,<br>31:5, 31:21,<br>37:6, 37:10, | 40:14, 41:17,<br>82:20, 88:15,<br>94:11, 94:12,<br>94:14, 104:15,<br>109:1, 111:9,<br>118:3, 123:13,<br>127:4<br><b>shouldn't</b><br>36:9, 73:11<br><b>show</b><br>32:18, 33:4,<br>61:22, 63:1,<br>105:10, 111:17<br><b>showing</b><br>90:20<br><b>shown</b><br>38:13<br><b>shuffling</b><br>78:2<br><b>shut</b><br>7:20<br><b>sick</b><br>21:1, 21:6<br><b>side</b><br>34:3, 36:7,<br>62:10, 63:6,<br>65:7, 66:1,<br>66:3, 95:20,<br>101:9, 102:15,<br>110:11, 111:17,<br>119:7, 119:10,<br>119:12<br><b>sideways</b><br>19:5<br><b>signature-llc0g</b><br>132:16<br><b>signed</b><br>129:7<br><b>significant</b><br>42:13<br><b>similar</b><br>93:14, 103:17<br><b>simple</b><br>9:6, 91:8, 91:9<br><b>simply</b><br>33:7<br><b>since</b><br>17:18, 24:20, | 26:22<br><b>single</b><br>12:20, 66:12,<br>80:6, 117:2<br><b>sit</b><br>9:10, 121:11<br><b>sits</b><br>60:12, 65:14<br><b>situation</b><br>13:20, 14:7,<br>23:15, 52:4,<br>52:7, 52:10,<br>56:16, 57:8,<br>69:18, 92:11<br><b>six</b><br>123:14, 131:2<br><b>slam</b><br>56:5<br><b>sleep</b><br>24:3, 36:5<br><b>slides</b><br>125:16<br><b>slight</b><br>60:17<br><b>sloppy</b><br>91:8<br><b>small</b><br>10:12, 12:1,<br>29:14, 54:22,<br>87:12, 96:22<br><b>smaller</b><br>22:6, 22:8<br><b>smart</b><br>108:15<br><b>smith</b><br>3:13, 3:14,<br>64:1, 69:6,<br>69:7, 69:10,<br>69:11, 70:1,<br>70:4, 70:9<br><b>smooth</b><br>110:5<br><b>sneezes</b><br>79:19<br><b>snow</b><br>11:19, 30:18,<br>30:20, 32:1,<br>38:19, 85:20, |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of House Standing Committee  
Conducted on March 26, 2025

165

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>85:22, 86:3,<br/>86:5, 86:8<br/><b>soccer</b><br/>80:11<br/><b>softwares</b><br/>124:15<br/><b>solely</b><br/>34:4, 34:19,<br/>96:18<br/><b>solution</b><br/>4:9, 5:7, 5:21,<br/>7:20, 9:2,<br/>21:11, 88:18<br/><b>solve</b><br/>19:4, 51:14,<br/>67:14, 67:22<br/><b>solved</b><br/>51:15<br/><b>solves</b><br/>15:9<br/><b>some</b><br/>11:9, 14:13,<br/>14:15, 22:14,<br/>26:17, 28:12,<br/>29:3, 32:10,<br/>46:12, 51:11,<br/>55:1, 55:3,<br/>55:21, 56:15,<br/>71:8, 75:1,<br/>75:7, 80:4,<br/>80:9, 87:10,<br/>88:5, 88:12,<br/>90:13, 90:19,<br/>91:17, 93:11,<br/>96:1, 100:17,<br/>100:21, 103:18,<br/>105:4, 105:9,<br/>106:10, 106:19,<br/>107:18, 109:4,<br/>109:20, 109:21,<br/>110:14, 111:14,<br/>114:21, 116:1,<br/>117:13, 118:14,<br/>119:22, 121:19,<br/>127:9, 128:9,<br/>130:7, 130:8<br/><b>somebody</b><br/>25:1, 69:18,</p> | <p>115:20<br/><b>somehow</b><br/>7:19, 57:20,<br/>58:21<br/><b>someone's</b><br/>112:12<br/><b>something</b><br/>15:19, 17:13,<br/>33:17, 36:8,<br/>36:18, 36:19,<br/>37:16, 39:19,<br/>58:21, 82:21,<br/>87:12, 96:5,<br/>96:6, 97:9,<br/>101:14, 111:19,<br/>126:2<br/><b>sometimes</b><br/>6:19, 57:10,<br/>85:12, 99:19,<br/>117:13<br/><b>somewhat</b><br/>55:16<br/><b>somewhere</b><br/>87:11<br/><b>sooner</b><br/>121:5<br/><b>sophisticated</b><br/>116:19<br/><b>sorry</b><br/>25:17, 44:15,<br/>54:20<br/><b>sort</b><br/>88:12, 96:13,<br/>98:7, 106:10,<br/>106:19, 125:2,<br/>125:19<br/><b>south</b><br/>95:20<br/><b>spans</b><br/>16:13<br/><b>spare</b><br/>22:14<br/><b>speak</b><br/>31:3, 31:9,<br/>78:19, 88:11,<br/>114:12<br/><b>speaking</b><br/>11:2</p> | <p><b>speaks</b><br/>124:22<br/><b>specific</b><br/>19:12, 20:5,<br/>77:22<br/><b>specifically</b><br/>49:14, 62:18,<br/>66:4, 112:6<br/><b>specifics</b><br/>111:18<br/><b>specifies</b><br/>44:11<br/><b>speed</b><br/>66:3<br/><b>spell</b><br/>26:3<br/><b>spelled</b><br/>41:1<br/><b>spend</b><br/>55:21, 108:7,<br/>108:10, 127:18<br/><b>spending</b><br/>108:2<br/><b>spent</b><br/>102:11<br/><b>spirit</b><br/>123:18<br/><b>split</b><br/>67:11, 124:1<br/><b>sponsor</b><br/>26:10, 45:12,<br/>54:14, 69:7,<br/>69:11, 71:9,<br/>80:21, 84:12,<br/>99:1, 111:13,<br/>114:3, 115:3,<br/>115:13, 123:5,<br/>124:8, 128:18<br/><b>spot</b><br/>12:17, 29:17,<br/>30:6<br/><b>squarely</b><br/>94:6<br/><b>squeeze</b><br/>13:21<br/><b>stacked</b><br/>45:3<br/><b>staff</b><br/>6:3, 15:9,</p> | <p>20:10, 20:22,<br/>33:21, 36:2,<br/>46:3, 46:4,<br/>60:22, 80:10,<br/>110:18, 114:9<br/><b>staff's</b><br/>22:2<br/><b>staffing</b><br/>66:1<br/><b>stage</b><br/>79:5<br/><b>stand</b><br/>12:22, 25:8,<br/>31:2, 31:19,<br/>55:18, 74:5,<br/>88:11, 117:10<br/><b>standard</b><br/>72:19, 79:6<br/><b>standing</b><br/>51:20<br/><b>standpoint</b><br/>73:14<br/><b>stands</b><br/>116:14, 117:9<br/><b>start</b><br/>44:7, 63:21,<br/>110:11, 117:20,<br/>127:11, 128:4<br/><b>started</b><br/>4:3, 108:9<br/><b>starts</b><br/>8:6, 44:6,<br/>44:11<br/><b>state</b><br/>1:7, 1:8, 2:3,<br/>13:5, 15:13,<br/>20:3, 31:9,<br/>39:22, 40:3,<br/>41:21, 41:22,<br/>43:1, 70:6,<br/>71:5, 76:13,<br/>79:8, 83:10,<br/>85:8, 101:18,<br/>103:16, 132:21<br/><b>state's</b><br/>10:7, 12:3,<br/>26:10, 27:4,<br/>28:14, 35:8,</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

166

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>37:9, 41:3,<br/>68:10, 90:8,<br/>93:12<br/><b>statement</b><br/>69:12, 88:12<br/><b>states</b><br/>20:1, 20:4,<br/>105:3, 130:8<br/><b>status</b><br/>86:22, 87:19<br/><b>statute</b><br/>6:14, 6:15,<br/>7:3, 44:6, 44:9,<br/>44:10, 65:20,<br/>98:9, 98:22<br/><b>statutes</b><br/>51:8, 51:10<br/><b>stay</b><br/>32:21<br/><b>stayed</b><br/>5:3<br/><b>step</b><br/>61:1, 110:15,<br/>130:14<br/><b>steps</b><br/>13:19<br/><b>still</b><br/>7:1, 7:17,<br/>15:4, 49:7,<br/>53:6, 63:9,<br/>77:3, 77:4,<br/>77:8, 90:12,<br/>90:20, 96:19<br/><b>stomach</b><br/>21:6, 21:7<br/><b>stop</b><br/>8:2, 27:17,<br/>28:22, 102:21<br/><b>stories</b><br/>106:21<br/><b>story</b><br/>94:13, 105:11<br/><b>straight</b><br/>24:5<br/><b>strand</b><br/>2:20, 59:14,<br/>59:15, 59:20,<br/>60:11, 64:14,</p> | <p>64:16, 65:5,<br/>66:15, 66:18,<br/>69:2, 115:11,<br/>115:12, 115:16,<br/>115:17, 118:6,<br/>118:8, 119:16,<br/>119:21, 122:5<br/><b>strande</b><br/>2:21<br/><b>strategic</b><br/>118:17<br/><b>stray</b><br/>65:6<br/><b>street</b><br/>10:12<br/><b>strenuous</b><br/>49:9<br/><b>strenuously</b><br/>48:20<br/><b>stress</b><br/>91:22<br/><b>stricken</b><br/>26:19, 29:9<br/><b>strict</b><br/>39:19, 40:4,<br/>40:7, 72:4,<br/>72:8, 72:18,<br/>72:20<br/><b>strictly</b><br/>91:20<br/><b>strong</b><br/>48:4, 49:16<br/><b>strongly</b><br/>42:18, 47:15<br/><b>struck</b><br/>102:16<br/><b>structure</b><br/>125:1<br/><b>structured</b><br/>121:22<br/><b>stuck</b><br/>21:2<br/><b>student</b><br/>11:22<br/><b>students</b><br/>10:21, 10:22,<br/>41:9<br/><b>studied</b><br/>77:19</p> | <p><b>studies</b><br/>38:13, 77:20<br/><b>study</b><br/>77:16<br/><b>stuff</b><br/>45:3<br/><b>suave</b><br/>94:12<br/><b>subcommittee</b><br/>127:7<br/><b>subject</b><br/>39:18, 40:7<br/><b>submitted</b><br/>27:11<br/><b>subpart</b><br/>17:17<br/><b>subsection</b><br/>27:16, 29:8<br/><b>subset</b><br/>25:6<br/><b>substantial</b><br/>129:15<br/><b>sudden</b><br/>30:3, 90:21<br/><b>suddenly</b><br/>30:13<br/><b>sued</b><br/>79:19, 79:20,<br/>80:1<br/><b>suffer</b><br/>40:11<br/><b>sufficient</b><br/>40:3, 40:8,<br/>99:17, 99:20,<br/>119:15<br/><b>suggested</b><br/>14:16, 105:7,<br/>109:17<br/><b>suicide</b><br/>105:14<br/><b>suktas</b><br/>3:15<br/><b>sum</b><br/>88:13<br/><b>sunchild</b><br/>29:11, 29:12,<br/>30:17, 84:8,<br/>84:9, 84:11,</p> | <p>84:18, 85:18<br/><b>sunday</b><br/>13:15, 34:8,<br/>44:20, 69:20<br/><b>super</b><br/>64:17<br/><b>support</b><br/>21:20, 98:19,<br/>110:9, 110:20<br/><b>supported</b><br/>49:17<br/><b>supporting</b><br/>50:3, 132:4<br/><b>suppress</b><br/>48:17, 48:19,<br/>49:4<br/><b>suppression</b><br/>12:8, 21:4,<br/>21:8, 31:4<br/><b>supreme</b><br/>27:20, 27:22,<br/>39:17, 46:14,<br/>46:22, 47:9,<br/>47:15, 47:16,<br/>49:14, 71:14,<br/>72:1, 72:22,<br/>93:19, 94:2<br/><b>sure</b><br/>8:21, 10:16,<br/>17:15, 19:22,<br/>23:17, 47:2,<br/>48:12, 56:20,<br/>62:10, 63:5,<br/>63:10, 63:18,<br/>64:9, 65:17,<br/>65:18, 80:3,<br/>91:5, 94:4,<br/>106:4, 111:13,<br/>118:10, 122:2,<br/>129:9<br/><b>surface</b><br/>126:13<br/><b>surveying</b><br/>5:2<br/><b>surveyor</b><br/>21:19<br/><b>survive</b><br/>72:4</p> |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

167

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>sustainability</b><br>106:11<br><b>sway</b><br>126:17<br><b>synergy</b><br>110:4, 110:5,<br>110:7<br><b>system</b><br>17:7, 21:8,<br>21:9, 25:4,<br>31:5, 49:5,<br>52:19, 71:17,<br>86:11, 86:13,<br>106:19, 107:1,<br>108:20, 109:10,<br>109:13, 109:22,<br>110:15, 123:20<br><b>systems</b><br>107:5, 107:8,<br>107:9                                                                                                         | <b>taken</b><br>90:15<br><b>takes</b><br>7:7, 12:10,<br>12:19, 28:15,<br>97:2, 97:3,<br>126:15<br><b>taking</b><br>40:13, 45:5,<br>66:10, 78:5<br><b>talk</b><br>24:8, 36:18,<br>59:22, 60:9,<br>116:22, 123:6<br><b>talked</b><br>59:21, 91:19,<br>97:9<br><b>talking</b><br>18:7, 33:22,<br>45:19, 63:22,<br>83:4, 93:10,<br>97:1, 109:10,<br>109:18, 121:20,<br>128:6<br><b>tangled</b><br>94:7<br><b>tape-recording</b><br>132:10<br><b>tasks</b><br>23:3, 24:3<br><b>taxing</b><br>49:9<br><b>taxpayer</b><br>42:1<br><b>taxpayers</b><br>104:13, 108:3<br><b>technical</b><br>19:19, 51:11<br><b>technicality</b><br>19:6<br><b>technology</b><br>96:11, 96:15<br><b>tell</b><br>16:17, 31:7,<br>88:21, 88:22,<br>94:13, 103:20,<br>105:11, 105:12,<br>127:16 | <b>telling</b><br>45:2<br><b>temporary</b><br>60:22<br><b>tend</b><br>35:2<br><b>tens</b><br>38:14<br><b>term</b><br>48:9, 118:17<br><b>terminate</b><br>71:20<br><b>terminology</b><br>72:16<br><b>terms</b><br>46:13, 46:21,<br>48:4, 72:11,<br>100:14, 101:4,<br>101:9, 102:19,<br>116:19, 123:12,<br>127:2, 130:3<br><b>terrific</b><br>29:3<br><b>testified</b><br>72:7<br><b>testify</b><br>103:9<br><b>testifying</b><br>41:2, 50:1<br><b>testimony</b><br>28:15, 50:21,<br>77:18, 81:22,<br>82:18<br><b>thanks</b><br>5:1, 25:11,<br>30:16, 68:17,<br>85:18, 90:7,<br>130:18<br><b>that'd</b><br>114:13, 114:14,<br>123:5<br><b>theme</b><br>16:7<br><b>thereafter</b><br>77:6<br><b>therefore</b><br>17:22, 72:5<br><b>thereof</b><br>31:4, 84:21 | <b>they're</b><br>14:17<br><b>thing</b><br>9:7, 22:21,<br>24:19, 24:20,<br>32:17, 34:7,<br>34:18, 60:14,<br>61:15, 80:9,<br>82:11, 89:3,<br>92:7, 117:2,<br>120:4, 123:7<br><b>things</b><br>11:21, 13:15,<br>20:9, 35:22,<br>63:21, 64:10,<br>75:14, 76:22,<br>89:22, 92:1,<br>92:11, 92:22,<br>93:1, 103:13,<br>103:15, 108:5,<br>108:6, 108:7,<br>109:20, 118:21,<br>119:6, 126:18,<br>127:20, 128:10<br><b>think</b><br>7:10, 7:16,<br>15:1, 16:19,<br>20:13, 26:17,<br>27:15, 27:19,<br>28:3, 28:11,<br>29:3, 33:19,<br>37:2, 46:19,<br>48:5, 50:11,<br>51:15, 55:21,<br>56:21, 56:22,<br>59:8, 60:4,<br>64:17, 65:22,<br>67:12, 67:21,<br>68:4, 69:1,<br>72:7, 72:12,<br>73:5, 73:9,<br>73:10, 75:16,<br>76:11, 89:17,<br>91:17, 92:5,<br>94:5, 94:6,<br>94:16, 94:17,<br>99:16, 99:18,<br>100:12, 102:14, |
| <b>T</b>                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>t-z-p-a-t-r-i-c-k</b><br>98:2<br><b>table</b><br>55:20, 85:5,<br>111:14, 130:10<br><b>tabulates</b><br>98:5<br><b>tabulation</b><br>16:11, 16:12<br><b>tabulator</b><br>98:6<br><b>tackle</b><br>33:17, 36:15<br><b>tailored</b><br>73:4, 73:6<br><b>take</b><br>2:4, 9:10,<br>13:18, 24:17,<br>28:16, 37:3,<br>55:19, 56:12,<br>68:5, 68:13,<br>68:18, 89:21,<br>100:19, 116:10,<br>119:21, 120:16,<br>125:15, 129:2,<br>130:3 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

Transcript of House Standing Committee  
Conducted on March 26, 2025

168

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 102:21, 103:11,<br>106:9, 114:12,<br>115:18, 116:12,<br>116:18, 117:6,<br>117:8, 117:14,<br>118:3, 119:8,<br>119:16, 120:4,<br>120:20, 123:4,<br>123:20, 124:21,<br>124:22, 125:3,<br>125:14, 125:22,<br>126:6, 126:20,<br>127:1, 127:22,<br>128:4, 128:11,<br>129:8, 129:12,<br>129:14, 130:1,<br>130:11, 130:13<br><b>thinking</b><br>26:21, 75:2,<br>76:11, 83:7,<br>102:20<br><b>third</b><br>36:22, 81:5,<br>122:22<br><b>thompson</b><br>55:7, 56:14,<br>58:16<br><b>thorny</b><br>33:18<br><b>thought</b><br>47:8, 59:21,<br>72:10, 73:16,<br>76:14, 81:16,<br>93:13, 93:15,<br>93:16, 101:22<br><b>thoughts</b><br>46:21, 70:21,<br>110:13<br><b>thousands</b><br>12:13, 38:14,<br>109:12<br><b>three</b><br>12:20, 13:17,<br>13:19, 18:3,<br>18:4, 18:12,<br>18:19, 18:20,<br>19:1, 19:3,<br>24:4, 27:16, | 29:9, 47:17,<br>48:2, 48:3,<br>48:5, 48:6,<br>48:13, 49:15,<br>55:1, 71:15,<br>94:7, 106:12,<br>106:13, 131:2<br><b>threw</b><br>90:11<br><b>thrive</b><br>34:21, 35:2<br><b>through</b><br>8:4, 10:19,<br>10:22, 11:19,<br>14:20, 14:21,<br>17:16, 17:20,<br>35:1, 35:6,<br>36:19, 42:15,<br>49:9, 56:19,<br>57:15, 61:1,<br>65:18, 90:8,<br>101:22, 106:12,<br>106:14, 128:22<br><b>throughout</b><br>79:12<br><b>throw</b><br>92:5, 103:17<br><b>tie</b><br>104:8, 105:9<br><b>tied</b><br>92:16<br><b>till</b><br>14:2, 15:1<br><b>tillman</b><br>3:17, 95:22<br><b>tilman</b><br>3:18<br><b>time</b><br>6:6, 8:16,<br>8:17, 9:22,<br>11:8, 13:18,<br>15:6, 16:1,<br>19:17, 22:3,<br>29:16, 33:3,<br>33:10, 36:4,<br>41:15, 42:1,<br>44:9, 45:6,<br>47:22, 51:9, | 55:17, 55:21,<br>56:3, 57:1,<br>59:5, 65:7,<br>65:11, 66:11,<br>73:13, 77:5,<br>77:10, 79:19,<br>80:12, 83:2,<br>87:11, 89:14,<br>89:22, 90:13,<br>92:21, 93:6,<br>96:7, 96:9,<br>96:16, 97:1,<br>97:12, 102:11,<br>103:14, 104:1,<br>107:10, 116:2,<br>121:11, 125:9,<br>127:5<br><b>times</b><br>18:4, 18:8,<br>18:12, 18:19,<br>19:3, 20:2,<br>20:5, 47:21,<br>53:18, 59:5,<br>63:14, 85:11,<br>96:11<br><b>timing</b><br>68:2, 73:7<br><b>tip</b><br>118:15<br><b>tired</b><br>89:15<br><b>title</b><br>116:15<br><b>today</b><br>4:8, 11:3,<br>11:14, 16:4,<br>21:19, 26:5,<br>30:21, 31:2,<br>53:20, 59:22,<br>92:13, 102:14,<br>114:20<br><b>together</b><br>48:14, 60:21,<br>88:10, 88:14,<br>92:15, 93:3,<br>94:8, 107:14,<br>127:21, 128:14,<br>130:12 | <b>told</b><br>106:20<br><b>tomorrow</b><br>130:20<br><b>took</b><br>69:20, 81:14,<br>89:17, 127:10<br><b>tool</b><br>108:16<br><b>tools</b><br>118:14, 118:19,<br>119:6<br><b>top</b><br>3:5, 32:21,<br>44:1<br><b>topic</b><br>14:21, 65:6<br><b>totals</b><br>23:18<br><b>touched</b><br>17:9<br><b>toward</b><br>118:21, 119:14<br><b>towards</b><br>103:22, 105:3<br><b>town</b><br>54:22, 55:1,<br>57:21, 58:3,<br>104:21<br><b>track</b><br>4:17, 5:4,<br>90:8, 107:8,<br>127:2<br><b>tracking</b><br>90:10<br><b>traded</b><br>9:1<br><b>trail</b><br>5:4, 50:12<br><b>train</b><br>65:16<br><b>training</b><br>60:5, 64:20,<br>65:19, 66:1<br><b>transaction</b><br>77:8<br><b>transcribed</b><br>1:22 |
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# Transcript of House Standing Committee

Conducted on March 26, 2025

169

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>transcriber</b><br>132:1, 132:2<br><b>transcript</b><br>1:6<br><b>transcription</b><br>132:9<br><b>transit</b><br>56:12<br><b>transportation</b><br>56:11<br><b>travel</b><br>11:6, 14:6,<br>39:5, 55:7,<br>89:10<br><b>traveled</b><br>90:5<br><b>treacherous</b><br>11:20<br><b>trends</b><br>96:2<br><b>tribal</b><br>85:8, 85:9,<br>85:10, 124:15<br><b>tribe</b><br>30:21<br><b>tribes</b><br>31:1, 31:8,<br>31:10<br><b>tried</b><br>88:13, 116:18,<br>125:17<br><b>trigo</b><br>89:5<br><b>trip</b><br>55:19<br><b>trouble</b><br>10:18<br><b>true</b><br>57:16, 101:20,<br>132:9<br><b>truly</b><br>123:17<br><b>trust</b><br>28:14<br><b>try</b><br>11:7, 20:20,<br>63:14, 68:13,<br>75:12, 92:22, | 93:1, 111:19,<br>116:10, 117:19,<br>119:6, 125:18,<br>127:17, 128:11,<br>130:11<br><b>trying</b><br>5:8, 9:20,<br>16:19, 18:10,<br>22:22, 30:2,<br>33:17, 35:21,<br>35:22, 36:6,<br>36:15, 49:4,<br>49:5, 65:12,<br>66:3, 67:13,<br>67:14, 68:6,<br>68:7, 68:12,<br>77:16, 91:6,<br>92:10, 92:17,<br>94:16, 101:15,<br>101:17, 102:6,<br>105:5, 107:20,<br>107:21, 115:21,<br>117:11, 118:18,<br>128:9, 130:9<br><b>tucks</b><br>86:19<br><b>tuesday</b><br>9:17, 131:6<br><b>turn</b><br>81:19, 99:3,<br>118:11<br><b>turned</b><br>30:3, 33:6,<br>52:2, 90:9, 99:3<br><b>turnout</b><br>24:9, 24:11,<br>24:12, 27:5<br><b>tweaked</b><br>111:22<br><b>tweaking</b><br>111:21<br><b>two</b><br>8:4, 8:5, 8:6,<br>12:22, 13:19,<br>17:16, 19:14,<br>20:12, 21:21,<br>22:2, 26:15,<br>27:1, 27:14, | 28:4, 35:22,<br>38:1, 44:19,<br>45:18, 52:8,<br>59:5, 74:3,<br>82:8, 82:18,<br>101:16, 102:10,<br>124:16, 131:2,<br>131:6<br><b>type</b><br>11:9, 51:11,<br>80:9, 119:13<br><b>types</b><br>11:21, 15:7,<br>79:7<br><b>typically</b><br>58:18, 66:7<br><hr/> <b>U</b><br><hr/> <b>ultimate</b><br>121:17<br><b>ultimately</b><br>39:8, 52:10,<br>72:1, 115:7<br><b>unaffected</b><br>77:2<br><b>uncomfortable</b><br>107:21, 117:13<br><b>unconstitutional</b><br>40:12, 72:5<br><b>under</b><br>25:18, 27:20,<br>27:21, 38:9,<br>52:18, 62:12,<br>72:2, 72:16,<br>72:20, 73:6,<br>73:19, 74:3,<br>77:2, 77:5,<br>132:3<br><b>undermine</b><br>42:4, 42:22<br><b>understand</b><br>5:19, 44:4,<br>45:17, 58:1,<br>104:2, 120:10,<br>120:13<br><b>understanding</b><br>83:4, 83:13,<br>83:22, 112:18, | 121:15, 125:19<br><b>understands</b><br>67:12<br><b>understood</b><br>47:22<br><b>unfairly</b><br>92:5<br><b>unfettered</b><br>71:20<br><b>unfortunately</b><br>36:8, 36:13,<br>79:16<br><b>unfunded</b><br>70:10<br><b>unintended</b><br>26:17, 30:14,<br>116:1<br><b>union</b><br>9:8, 9:18<br><b>unique</b><br>23:15, 72:17<br><b>unison</b><br>14:14<br><b>united</b><br>20:4<br><b>unless</b><br>57:2, 58:20,<br>74:3<br><b>unnecessary</b><br>39:7, 41:16,<br>96:16, 97:12<br><b>unpredictable</b><br>41:14<br><b>unquote</b><br>71:20<br><b>unreliable</b><br>85:1, 86:14<br><b>until</b><br>5:10, 6:6,<br>7:11, 9:3, 13:1,<br>13:7, 14:9,<br>15:21, 16:12,<br>22:6, 24:16,<br>31:15, 52:14,<br>58:12, 87:17,<br>90:14<br><b>update</b><br>29:22, 63:6, |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

170

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| 87:6, 87:11<br><b>updated</b><br>23:8, 77:10,<br>96:10<br><b>upheld</b><br>20:4, 79:6,<br>79:12<br><b>upholding</b><br>42:16<br><b>upholds</b><br>79:6<br><b>ups</b><br>64:13<br><b>urge</b><br>25:8, 33:9,<br>40:17, 97:15,<br>99:1, 99:20<br><b>urges</b><br>42:19<br><b>urging</b><br>38:8, 41:5<br><b>use</b><br>72:22, 94:9,<br>96:15, 110:15,<br>125:3<br><b>useful</b><br>126:1<br><b>using</b><br>32:18<br><b>usually</b><br>64:6<br><b>utah</b><br>107:4, 128:8<br><b>utilize</b><br>31:13<br><b>utilized</b><br>38:17<br><b>utilizing</b><br>116:20<br><hr/> <b>v</b><br><hr/> <b>value</b><br>123:21<br><b>values</b><br>42:17<br><b>van</b><br>118:13<br><b>various</b><br>13:11, 90:4, | 93:4, 124:15<br><b>verifies</b><br>8:14<br><b>versus</b><br>71:7<br><b>vice</b><br>2:5, 2:7, 2:8,<br>2:9, 70:14,<br>70:15, 70:19,<br>74:16, 74:21,<br>75:18, 75:22,<br>124:3<br><b>victories</b><br>16:8<br><b>viewpoint</b><br>105:12, 105:13<br><b>views</b><br>118:5<br><b>violated</b><br>39:14<br><b>visit</b><br>22:18<br><b>voice</b><br>29:13<br><b>void</b><br>62:14<br><b>vote</b><br>6:16, 6:17,<br>6:18, 8:12,<br>10:1, 12:9,<br>12:11, 12:15,<br>25:1, 30:2,<br>30:12, 31:21,<br>32:16, 33:1,<br>33:6, 33:9,<br>36:21, 38:8,<br>39:5, 39:9,<br>39:14, 39:15,<br>39:21, 40:6,<br>40:17, 40:18,<br>41:21, 42:15,<br>42:19, 42:20,<br>47:16, 51:2,<br>52:1, 52:2,<br>52:6, 52:11,<br>52:15, 52:18,<br>53:22, 55:7,<br>55:9, 55:10, | 55:17, 57:2,<br>57:3, 57:13,<br>57:17, 57:22,<br>59:5, 59:6,<br>59:9, 61:14,<br>61:15, 61:16,<br>63:19, 64:3,<br>72:3, 73:9,<br>73:20, 74:1,<br>74:2, 77:3,<br>77:5, 77:8,<br>77:9, 84:15,<br>85:10, 87:16,<br>87:19, 90:9,<br>90:10, 90:11,<br>92:18, 94:22,<br>98:7<br><b>voted</b><br>27:7, 27:9,<br>27:13, 31:20,<br>47:17, 47:19,<br>48:3, 76:13,<br>90:15, 92:21,<br>98:8<br><b>voter</b><br>12:8, 12:19,<br>14:5, 18:10,<br>18:20, 21:4,<br>21:8, 21:22,<br>22:4, 22:11,<br>22:20, 24:9,<br>24:11, 24:12,<br>24:15, 27:5,<br>29:22, 31:4,<br>31:11, 31:13,<br>31:16, 32:9,<br>32:14, 34:16,<br>36:7, 36:10,<br>36:20, 37:5,<br>41:7, 41:12,<br>42:3, 42:20,<br>62:20, 63:9,<br>66:2, 66:6,<br>68:5, 75:3,<br>75:4, 84:13,<br>86:21, 87:6,<br>87:19<br><b>voter's</b><br>8:9 | <b>voters</b><br>6:2, 6:5, 11:5,<br>12:1, 12:5,<br>12:15, 12:20,<br>13:5, 15:3,<br>17:21, 22:7,<br>23:5, 24:7,<br>25:5, 25:7,<br>27:3, 28:12,<br>28:22, 30:10,<br>31:19, 34:2,<br>34:17, 35:2,<br>35:19, 37:12,<br>38:15, 38:19,<br>38:20, 38:21,<br>39:1, 41:9,<br>42:12, 42:14,<br>43:4, 48:17,<br>48:19, 60:1,<br>62:1, 62:2,<br>62:3, 62:4,<br>63:5, 68:13,<br>80:6, 80:7,<br>80:13, 89:11,<br>89:14, 98:7<br><b>votes</b><br>7:1, 7:8, 49:5,<br>90:20, 111:7,<br>111:10<br><b>voting</b><br>4:10, 6:6, 6:9,<br>41:14, 62:11,<br>63:11, 81:14,<br>87:9, 111:6,<br>122:22<br><hr/> <b>W</b><br><hr/> <b>wait</b><br>13:6, 58:12,<br>90:10, 112:5<br><b>waiting</b><br>87:17<br><b>wake</b><br>80:5<br><b>walked</b><br>58:9<br><b>walking</b><br>58:5 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

171

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>want</b><br/>17:11, 17:14,<br/>18:8, 18:22,<br/>19:5, 19:9,<br/>19:21, 20:8,<br/>20:10, 21:5,<br/>22:21, 24:19,<br/>26:9, 55:20,<br/>61:14, 63:10,<br/>66:12, 67:6,<br/>67:16, 67:17,<br/>67:18, 74:1,<br/>74:11, 83:18,<br/>92:5, 100:12,<br/>104:6, 104:22,<br/>106:3, 106:4,<br/>109:9, 109:22,<br/>110:15, 110:16,<br/>110:17, 114:11,<br/>118:2, 119:2,<br/>125:10, 125:20,<br/>126:22<br/><b>wanted</b><br/>6:1, 24:8,<br/>26:14, 29:7,<br/>32:7, 110:8<br/><b>wants</b><br/>54:18, 92:8<br/><b>wasting</b><br/>42:1<br/><b>watch</b><br/>16:6, 92:9<br/><b>watched</b><br/>12:9, 20:10,<br/>111:18<br/><b>way</b><br/>6:21, 9:9,<br/>14:19, 17:7,<br/>19:8, 34:3,<br/>36:11, 36:15,<br/>36:21, 36:22,<br/>53:5, 55:3,<br/>55:4, 55:5,<br/>57:3, 57:22,<br/>59:11, 60:11,<br/>61:9, 65:14,<br/>65:18, 67:22,<br/>79:17, 83:3,</p> | <p>84:1, 93:15,<br/>96:14, 108:6,<br/>119:11, 120:14,<br/>121:22, 122:21,<br/>127:13<br/><b>ways</b><br/>59:12, 75:16<br/><b>we'll</b><br/>4:2, 4:3, 9:15,<br/>10:1, 100:2,<br/>131:1<br/><b>we're</b><br/>12:5, 13:17,<br/>16:19, 18:10,<br/>21:1, 25:6,<br/>30:14, 35:21,<br/>35:22, 36:6,<br/>36:14, 43:7,<br/>45:18, 62:10,<br/>65:16, 65:17,<br/>65:20, 69:13,<br/>70:9, 76:11,<br/>80:7, 80:14,<br/>83:4, 93:10,<br/>97:1, 100:18,<br/>101:2, 101:6,<br/>101:9, 101:15,<br/>104:11, 105:20,<br/>106:5, 108:13,<br/>109:2, 109:18,<br/>109:21, 114:20,<br/>114:21, 116:8,<br/>118:17, 121:20,<br/>125:19, 125:20,<br/>126:1, 127:11,<br/>128:11, 130:6,<br/>131:10<br/><b>we've</b><br/>16:16, 61:20,<br/>84:19, 88:13,<br/>91:16, 100:20,<br/>101:11, 101:22,<br/>105:3, 105:4,<br/>107:4, 107:9,<br/>110:15, 118:14,<br/>127:4, 130:1,<br/>131:8<br/><b>webcam</b><br/>12:9</p> | <p><b>website</b><br/>27:4, 28:14,<br/>76:17<br/><b>wednesday</b><br/>68:7<br/><b>wee</b><br/>90:19<br/><b>week</b><br/>14:22, 15:2,<br/>23:6, 53:8,<br/>130:21, 131:5<br/><b>weekday</b><br/>11:4<br/><b>weekend</b><br/>10:9, 12:4,<br/>13:14, 69:19<br/><b>weighted</b><br/>122:21<br/><b>welcome</b><br/>103:6, 118:1<br/><b>welcoming</b><br/>41:18<br/><b>wendy</b><br/>95:18<br/><b>went</b><br/>16:18, 27:13,<br/>47:9, 48:6,<br/>48:8, 49:18,<br/>72:9, 91:2,<br/>91:14, 91:15,<br/>104:8, 109:6,<br/>109:7<br/><b>weren't</b><br/>16:4<br/><b>western</b><br/>29:13<br/><b>whatever</b><br/>5:10, 56:12,<br/>73:13, 82:12,<br/>89:14, 124:19<br/><b>whenever</b><br/>5:12, 56:22,<br/>57:1<br/><b>whereas</b><br/>100:17, 101:1<br/><b>wherever</b><br/>30:1, 104:7<br/><b>whether</b><br/>30:9, 61:13,</p> | <p>63:2, 63:19,<br/>72:12, 79:15,<br/>104:9, 104:11,<br/>123:22, 125:20,<br/>125:22, 126:1,<br/>126:2<br/><b>whichever</b><br/>118:9<br/><b>white</b><br/>15:15<br/><b>whitefish</b><br/>58:6<br/><b>whole</b><br/>25:5, 35:1,<br/>103:15, 103:17,<br/>117:22<br/><b>willing</b><br/>111:17, 114:9<br/><b>wing</b><br/>79:17<br/><b>wirth</b><br/>3:19, 3:20<br/><b>within</b><br/>20:6, 62:8<br/><b>without</b><br/>5:17, 11:8,<br/>11:9, 20:9,<br/>21:22, 106:18<br/><b>witness</b><br/>50:5, 67:6,<br/>114:20<br/><b>witnesses</b><br/>43:9, 43:10,<br/>99:7, 99:8,<br/>102:2, 103:1,<br/>113:3, 113:4,<br/>113:20<br/><b>wonder</b><br/>16:3<br/><b>wonderful</b><br/>25:20<br/><b>wondering</b><br/>14:2, 78:19,<br/>116:4<br/><b>word</b><br/>4:19, 104:10<br/><b>words</b><br/>4:8, 48:20,</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of House Standing Committee  
Conducted on March 26, 2025

172

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>49:2, 108:10<br/><b>work</b><br/>4:11, 5:11,<br/>5:14, 5:19,<br/>6:21, 7:7, 9:14,<br/>10:18, 15:9,<br/>16:4, 29:7,<br/>33:5, 34:13,<br/>41:13, 49:10,<br/>51:13, 56:11,<br/>57:14, 57:15,<br/>58:10, 60:6,<br/>63:7, 69:13,<br/>75:8, 80:6,<br/>84:20, 94:17,<br/>96:10, 97:2,<br/>100:8, 100:10,<br/>102:13, 104:22,<br/>105:15, 108:22,<br/>110:12, 110:18,<br/>111:17, 116:6,<br/>116:8, 118:19,<br/>118:21, 119:13,<br/>128:1, 128:14,<br/>130:12<br/><b>workable</b><br/>88:14<br/><b>worked</b><br/>5:5, 21:10,<br/>68:10, 89:17,<br/>92:22, 93:10,<br/>103:21, 108:22,<br/>110:10<br/><b>worker</b><br/>65:6<br/><b>workers</b><br/>4:10, 13:4,<br/>22:14<br/><b>working</b><br/>21:21, 24:5,<br/>24:22, 26:11,<br/>40:14, 41:10,<br/>49:8, 53:8,<br/>62:21, 81:11,<br/>105:4, 108:5,<br/>108:6<br/><b>workplace</b><br/>56:12</p> | <p><b>works</b><br/>34:4, 108:8,<br/>116:7<br/><b>world</b><br/>115:22<br/><b>worried</b><br/>46:13, 106:15,<br/>106:16<br/><b>worth</b><br/>20:13<br/><b>wouldn't</b><br/>52:15, 53:20,<br/>77:17, 83:15,<br/>107:19, 128:2<br/><b>wound</b><br/>123:22<br/><b>wrapping</b><br/>131:9<br/><b>wrestled</b><br/>93:5, 93:6<br/><b>write</b><br/>49:21, 93:8<br/><b>write-in</b><br/>37:1<br/><b>written</b><br/>61:9, 75:21<br/><b>wrong</b><br/>91:15, 106:4,<br/>117:8<br/><b>wrote</b><br/>93:9</p> <hr/> <p><b>Y</b></p> <hr/> <p><b>yeah</b><br/>50:20, 59:1,<br/>63:13, 65:5,<br/>75:15, 86:8,<br/>93:16, 97:20,<br/>109:2, 116:9,<br/>121:3, 123:17,<br/>126:19, 129:22<br/><b>year</b><br/>6:5, 44:17,<br/>44:20, 45:6,<br/>46:15, 47:1,<br/>47:6, 47:10,<br/>58:19, 65:8,<br/>79:21, 124:18</p> | <p><b>years</b><br/>5:15, 20:17,<br/>27:1, 49:11,<br/>80:12, 88:8,<br/>100:14<br/><b>yep</b><br/>63:5, 64:7,<br/>83:18<br/><b>yesterday</b><br/>15:15<br/><b>yield</b><br/>118:3<br/><b>young</b><br/>16:1, 16:2,<br/>16:10, 16:15,<br/>38:20, 42:11,<br/>43:4<br/><b>yourself</b><br/>4:13<br/><b>yourselves</b><br/>94:15<br/><b>youth-focused</b><br/>41:4<br/><b>youth-led</b><br/>41:4</p> <hr/> <p><b>Z</b></p> <hr/> <p><b>zero</b><br/>23:18, 127:9</p> <hr/> <p><b>\$</b></p> <hr/> <p><b>\$1</b><br/>105:5<br/><b>\$10</b><br/>105:6<br/><b>\$100,000</b><br/>105:5</p> <hr/> <p><b>0</b></p> <hr/> <p><b>00</b><br/>2:2, 5:9, 5:10,<br/>5:11, 7:2, 7:4,<br/>7:12, 7:16,<br/>7:18, 7:20,<br/>8:17, 9:5, 9:16,<br/>10:13, 10:14,<br/>10:16, 10:19,<br/>11:4, 13:1,</p> | <p>14:1, 14:2,<br/>14:8, 14:10,<br/>15:1, 15:12,<br/>15:14, 15:20,<br/>15:21, 16:6,<br/>22:5, 22:6,<br/>27:7, 27:12,<br/>46:7, 49:7,<br/>49:8, 49:11,<br/>73:12, 78:3,<br/>89:16, 94:18,<br/>94:19, 95:4,<br/>105:5<br/><b>000</b><br/>105:5</p> <hr/> <p><b>1</b></p> <hr/> <p><b>1</b><br/>19:17, 73:12,<br/>94:19, 95:1<br/><b>10</b><br/>2:2, 8:7, 27:4,<br/>94:18, 131:3<br/><b>104</b><br/>19:17<br/><b>11</b><br/>94:18, 131:3<br/><b>12</b><br/>74:7, 94:19,<br/>95:19<br/><b>125,000</b><br/>76:10, 76:17<br/><b>13</b><br/>19:17<br/><b>131</b><br/>132:8<br/><b>132</b><br/>1:21, 72:2<br/><b>14</b><br/>17:16<br/><b>15</b><br/>45:18<br/><b>16</b><br/>17:17, 26:16,<br/>27:14<br/><b>17</b><br/>12:10, 12:19,<br/>28:15</p> |
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Transcript of House Standing Committee  
Conducted on March 26, 2025

173

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>176</b><br/>31:3, 31:18,<br/>31:22, 39:12,<br/>39:13, 40:11,<br/>71:12<br/><b>18</b><br/>103:8<br/><b>187,423</b><br/>27:10<br/><b>190</b><br/>125:13<br/><b>1968</b><br/>92:21<br/><b>1:00 pm</b><br/>73:17, 73:18</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b><br/>94:19<br/><b>20</b><br/>20:17, 22:17,<br/>103:13, 108:11,<br/>132:19<br/><b>2020</b><br/>88:22<br/><b>2021</b><br/>16:22, 39:10,<br/>47:7, 71:12,<br/>88:8<br/><b>2022</b><br/>24:9<br/><b>2025</b><br/>1:11, 132:19<br/><b>2026</b><br/>37:11<br/><b>2028</b><br/>37:11<br/><b>2030</b><br/>37:11<br/><b>2040</b><br/>117:5<br/><b>24</b><br/>24:5<br/><b>25</b><br/>22:17, 100:14,<br/>132:19, 132:22<br/><b>26</b><br/>1:11, 132:22</p> | <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>3</b><br/>13:1, 14:2,<br/>15:21, 73:12<br/><b>3-</b><br/>132:22<br/><b>30</b><br/>6:10, 6:11,<br/>8:10, 44:11,<br/>55:4, 94:19,<br/>95:1<br/><b>304</b><br/>72:2<br/><b>32</b><br/>73:12<br/><b>365</b><br/>44:17, 84:14</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4</b><br/>5:10, 5:11,<br/>7:2, 7:4, 7:12,<br/>7:18, 7:20, 9:5,<br/>14:10, 49:8,<br/>95:4<br/><b>40</b><br/>23:21, 55:2<br/><b>425,000</b><br/>27:8<br/><b>490</b><br/>4:3, 4:5, 4:7,<br/>8:5, 10:3, 10:8,<br/>21:12, 21:20,<br/>25:12, 25:21,<br/>38:9, 40:5,<br/>40:11, 40:18,<br/>41:6, 42:19,<br/>95:9<br/><b>492</b><br/>131:1<br/><b>498</b><br/>95:11, 95:17,<br/>97:15, 97:18,<br/>99:21, 100:2</p> <hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p><b>5</b><br/>8:17, 10:13,</p> | <p>10:14, 10:19,<br/>27:7, 27:12,<br/>46:7<br/><b>52</b><br/>100:6</p> <hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p><b>6</b><br/>11:4, 14:1,<br/>14:8, 78:3,<br/>89:16<br/><b>6000</b><br/>22:7, 24:6<br/><b>601174</b><br/>1:20, 132:21<br/><b>612,423</b><br/>27:5</p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p><b>7</b><br/>10:16, 22:5,<br/>49:7<br/><b>75</b><br/>55:5<br/><b>799,849</b><br/>27:3</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>8</b><br/>5:9, 7:4, 7:16,<br/>7:20, 8:17,<br/>9:16, 10:13,<br/>10:16, 10:19,<br/>11:4, 14:1,<br/>14:8, 15:1,<br/>15:12, 15:14,<br/>15:20, 16:6,<br/>22:6, 46:7,<br/>49:11, 78:3<br/><b>80</b><br/>103:12, 108:10<br/><b>834</b><br/>100:3, 100:4,<br/>100:7, 130:17<br/><b>872</b><br/>102:13, 102:16</p> <hr/> <p style="text-align: center;">-</p> <hr/> <p>-<br/>93:13</p> | <p style="text-align: center;">\</p> <hr/> <p>\nother<br/>25:5<br/>\we<br/>125:10<br/>\well<br/>18:9</p> <hr/> <p>,</p> <hr/> <p>125:10</p> |
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# EXHIBIT E

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| <p style="text-align: center;">Page 1</p> <p style="text-align: center;">Montana Senate Committee on State Administration<br/>Meeting<br/>February 15, 2021</p> <hr/> <p style="text-align: center;">DIGITAL EVIDENCE GROUP<br/>1730 M Street, NW, Suite 812<br/>Washington, D.C. 20036<br/>(202) 232-0646</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p style="text-align: center;">Page 3</p> <p>1 ahead of an election to register. Changing the statute<br/>2 is a best practices approach to mitigate against voter<br/>3 fraud and ensure voter integrity. The changes proposed<br/>4 will make the Montana voting system more robust and<br/>5 ensures that every legitimate vote by every legitimate<br/>6 voter is counted.</p> <p>7 The intent of House Bill 176 is to provide a<br/>8 solution for citizens that are discouraged from<br/>9 registering to vote and casting a ballot due to long<br/>10 lines and extended wait times by making the process<br/>11 more efficient for the benefit of all Montanans, and it<br/>12 will reduce the opportunity for mistakes. Current law<br/>13 places election officials in between handling new voter<br/>14 registration, issuing replacement ballots, accepting<br/>15 deposited ballots, and even counting ballots all at the<br/>16 same time.</p> <p>17 The focus of House Bill 176 is not to burden.<br/>18 It is not to disenfranchise, and it is not to provide a<br/>19 forum for a historical debate, but it is to administer<br/>20 an election with complete fairness to all voters.</p> <p>21 Mr. Chair, and members of the Committee, I<br/>22 urge you to consider the importance of this bill as<br/>23 others are also here to testify on it. Mr. Chair.</p> <p>24 CHAIRMAN KARY: Thank you, Representative<br/>25 Greef.</p> |
| <p style="text-align: center;">Page 2</p> <p>1 (Recording begins)<br/>2 CHAIRMAN KARY: Okay. We will open on House<br/>3 Bill 176.<br/>4 Representative Greef?<br/>5 REPRESENTATIVE GREEF: Mr. Chair and members<br/>6 of the State Administration Committee, I'm Sharon<br/>7 Greef, and I represent House District 88 which is the<br/>8 north end of the beautiful Bitterroot Valley, the towns<br/>9 of Florence and Stevensville.<br/>10 Today, I'm bringing you House Bill 176. The<br/>11 purpose of this bill is to change the registration day<br/>12 to the day before the election. There is a provision<br/>13 that allows military and overseas voters to register on<br/>14 the same day as the election.<br/>15 We are blessed to have the right to vote, but<br/>16 we also must accept responsibility for this right.<br/>17 Elections don't just pop up out of the blue and<br/>18 surprise us. If we are a responsible voter, we study<br/>19 the ballot ahead of time, and we also know if we need<br/>20 to register to vote. House Bill 176 isn't telling that<br/>21 red -- excuse me, isn't telling voters they must<br/>22 register on just that one day before the election.<br/>23 They can register, they can cast their ballot a month<br/>24 ahead of time.<br/>25 Many states require an average of 15 days</p> | <p style="text-align: center;">Page 4</p> <p>1 Are there proponents in the room?<br/>2 MR. CORSON: Good afternoon, Mr. Chair,<br/>3 members of the committee. I'm Dana Corson, D-A-N-A,<br/>4 C-O-R-S-O-N. I'm the director of Elections and Voter<br/>5 Services, Montana Secretary of State. And thank you,<br/>6 Representative Greef. Our office thanks you and Krista<br/>7 Jacobson thanks you for addressing your concerns about<br/>8 voter registration and the impact it has on operations<br/>9 of the election office in the closing days of the<br/>10 election.<br/>11 It's a huge challenge to address and attend<br/>12 all of the details and surprises that two days before<br/>13 the election can bring to the county election offices,<br/>14 and I think I can speak for everyone here that we<br/>15 appreciate all their good work and efforts. But<br/>16 despite all of those good effort and work, our office<br/>17 continues to hear about the confusion and frustration<br/>18 that voters have who are on line for considerable<br/>19 periods of time, waiting to get their business done,<br/>20 but actually ending up walking away from the right to<br/>21 vote.<br/>22 The stories aren't new. We hear about the<br/>23 same stories, time and time again, election after<br/>24 election. Some would want to put the blame on advocacy<br/>25 groups and political parties that compel voters to vote</p>      |

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| <p style="text-align: right;">Page 5</p> <p>1 at the last minute. Others blame the local election<br/>2 office for lack of resources. Others blame the<br/>3 procrastination of the voter. But unless a change is<br/>4 made, the problem will continue and the problem will<br/>5 grow.<br/>6 The bill provides for brand-new voter<br/>7 registrations to be completed, as it came out of the<br/>8 Committee or out of the floor of the House, by noon on<br/>9 Monday prior to the election. And to help support this<br/>10 change, our office will provide outreach to voters for<br/>11 the change. As a note, it's very common for election<br/>12 administrators to inform the public about voting in<br/>13 their county during the election, and I'm sure that all<br/>14 of us working together can be effective on relaying<br/>15 election information to the voters.<br/>16 In closing, Montanans deserve a better voting<br/>17 experience, and this bill will reallocate and free up<br/>18 the necessary resources of the county election office<br/>19 to better address voters who are seeking to update<br/>20 their registration, help voters that have moved either<br/>21 precinct to precinct or county to county, help voters<br/>22 who are requesting replacement ballots, and help voters<br/>23 who are needing to drop their ballots off, and provide<br/>24 help to voters with disabilities and that this bill<br/>25 will be beneficial to the election offices, freeing up</p> | <p style="text-align: right;">Page 7</p> <p>1 CHAIRMAN KARY: Thank you, Mr. Halland.<br/>2 Seeing no further opponent or proponents in<br/>3 the hall, we'll go to online.<br/>4 And Alex, if you could set for two minutes<br/>5 and let them know approximately 30 seconds before,<br/>6 we'll get started with online.<br/>7 ALEX COLAFRANCESCO: All right, Mr. Chair.<br/>8 CHAIRMAN KARY: Proponents.<br/>9 ALEX COLAFRANCESCO: Mr. Chair, the only<br/>10 registered proponent is Stefan Deocomitis (phonetic).<br/>11 And he's not present.<br/>12 CHAIRMAN KARY: Okay. We will then go to<br/>13 opponents. Opponents in the room.<br/>14 And Joel, we're allowing two minutes.<br/>15 JOEL PEDEN: Two minutes?<br/>16 CHAIRMAN KARY: For testimony.<br/>17 JOEL PEDEN: All right. Thanks. Mr. Chair,<br/>18 members of the committee, my name is Joel Peden. That's<br/>19 P-E-D-E-N. And I'm the executive director of the<br/>20 Montana Association of Centers for Independent Living.<br/>21 Again, disability advocacy organizations that work<br/>22 throughout the state of Montana on behalf of Montanans<br/>23 with disabilities.<br/>24 We are here to oppose this. People with<br/>25 disabilities struggle with the ability to vote every</p>                                                                                                                                                                                                                             |
| <p style="text-align: right;">Page 6</p> <p>1 additional time and resources for other essential<br/>2 activities like prepping ballots, answering email,<br/>3 answer the phone, and provide help to their election<br/>4 judges. And I recommend that the Committee please pass<br/>5 House Bill 176.<br/>6 CHAIRMAN KARY: Thank you, Mr. Corson. I<br/>7 failed to announce that we will hold -- that was your<br/>8 time, two minutes. We will hold everyone to two<br/>9 minutes due to the amount of individuals that want to<br/>10 testify, both proponents and opponents.<br/>11 ED HALLAND: Mr. Chairman and members of the<br/>12 Committee. My name is Ed Halland, H-A-L-L-A-N-D. I am<br/>13 here representing myself and my family, and I might be<br/>14 able to say, a good number of people in Carbon County.<br/>15 Election integrity is a big concern in our<br/>16 area. We were 1, I think, of just 14 counties that had<br/>17 in-person voting, and I would like to see the process<br/>18 tightened up. I don't think it's unreasonable to say<br/>19 that you are registered the day before Election Day.<br/>20 And I know it would help our election<br/>21 administrator quite a bit. I was an election judge,<br/>22 and things can get kind of hectic down there. So help<br/>23 us out, and more basically, being able to have trust in<br/>24 our elections is kind of a foundation of our republic.<br/>25 So I'm asking you to vote for HB 176. Thank you.</p>                  | <p style="text-align: right;">Page 8</p> <p>1 election, whether it's transportation, whether it's to<br/>2 make sure that there's accessible voting machines, to<br/>3 make sure that when mail ballots happen that, you know,<br/>4 people that don't have, let's say the use of their<br/>5 hands or limited use of their arms, it -- just all the<br/>6 things that people with disabilities deal with on a<br/>7 daily basis. And we fight for our rights.<br/>8 And our opposition is just the fact that<br/>9 you're making it just a little bit harder for us.<br/>10 We're making it just a little bit harder. And where it<br/>11 gets frustrating is that when you look at other<br/>12 legislation that has to do with voting, so many times<br/>13 it makes it easier for people.<br/>14 I would use the example of absentee ballots.<br/>15 Right? If you go back to way back when, when we were<br/>16 all a little bit younger, absentee ballots -- their<br/>17 name said it all, right? On the day, if you couldn't<br/>18 get to the -- to vote on that day because you were out<br/>19 of town, you were able to do an absentee ballot. And<br/>20 it's grown to be more convenient now where more people<br/>21 vote absentee than they do -- is that my time? Okay.<br/>22 I'll wrap up.<br/>23 Again, we are here to oppose strictly on the<br/>24 grounds that it makes it more difficult for people with<br/>25 disabilities to vote, and we are definitely against</p> |

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| <p style="text-align: right;">Page 9</p> <p>1 that. And Mr. Chair, I have to run because my bus is<br/> 2 going to be here and it's not quite balmy enough for me<br/> 3 to roll home yet, so --</p> <p>4 CHAIRMAN KARY: Okay. Are there any<br/> 5 questions for Mr. Peden before --</p> <p>6 SENATOR CUFFE: Thank you. Mr. Chairman, if<br/> 7 I could just ask -- while you were just in the process<br/> 8 of talking about absentee ballots, and I think you were<br/> 9 saying it made it easier. Is that correct?</p> <p>10 MR. PEDEN: Well, it does for the general<br/> 11 public, right? Not necessarily in the form that it's<br/> 12 in for people with disabilities. It takes away a<br/> 13 little bit of the independence at times because there's<br/> 14 not the accessible voting machines for somebody that<br/> 15 needs that. And there are many, many people who need<br/> 16 assistance filling out their absentee ballots, so it<br/> 17 takes away that privacy. So -- but we're working on<br/> 18 making it better. Thank you, sir</p> <p>19 SENATOR CUFFE: Thank you.</p> <p>20 CHAIRMAN KARY: Thank you, Mr. Peden.</p> <p>21 Other opponents to House Bill 176?</p> <p>22 AUDREY MCCUE: Good afternoon, Senator Kary,<br/> 23 members of the Committee. My name is Audrey McCue.<br/> 24 That's A-U-D-R-E-Y M-C-C-U-E. And I'm the election<br/> 25 supervisor in Lewis and Clark County. I'm speaking on</p>                                                                                                                            | <p style="text-align: right;">Page 11</p> <p>1 would like to share the perspective of this not being<br/> 2 helpful administratively. To be clear on the context<br/> 3 of administering, Election Day registration is<br/> 4 certainly more work. There's no doubt about it. But<br/> 5 let's be realistic, any time someone registers and<br/> 6 vote, it's more work for us. That's the job.</p> <p>7 A presidential election is more work than a<br/> 8 city election because it's a higher turnout. We don't<br/> 9 address that by limiting who may vote in the election.<br/> 10 We address it by scaling to meet the demand.</p> <p>11 There have been some claims that this bill<br/> 12 will help with the integrity of the election because<br/> 13 Election Day's registration is a distraction. The<br/> 14 first thing to know is that we don't have problems with<br/> 15 the integrity of our elections and certainly none<br/> 16 caused by Election Day registration. The second thing<br/> 17 to keep in mind is it's not a novel service on Election<br/> 18 Day. It's a service we provide the month before the<br/> 19 election and continue to provide on Election Day. The<br/> 20 lines are long on Election Day because that's the last<br/> 21 day to do it.</p> <p>22 That's my time already? Okay. Can I say<br/> 23 really quickly? Moving those deadlines to Friday or<br/> 24 Monday with the amendment doesn't help us. There's<br/> 25 reasons that it will actually make it more difficult</p> |
| <p style="text-align: right;">Page 10</p> <p>1 behalf of myself today, and I had more than two minutes<br/> 2 prepared, so please bear with me as I try to traverse a<br/> 3 lot of ground very quickly to get everyone out of here.</p> <p>4 I do participate in our association's<br/> 5 legislative committee, and I agreed with our<br/> 6 professional stance to be neutral. But I personally am<br/> 7 against this bill. And because a lot of the proponents<br/> 8 of the bill are talking about this as helping election<br/> 9 administrators and election officials, I wanted to be<br/> 10 on the record saying that this will not help me. I<br/> 11 also want it on the record that whatever this body<br/> 12 decides, I will, of course uphold those laws. I'm just<br/> 13 hoping you decide against this bill.</p> <p>14 There are a lot of administrative, more, and<br/> 15 political arguments on House Bill 176. I know we're<br/> 16 all committed to the voters. And that's why I think<br/> 17 continuing this service to the voters is important, and<br/> 18 taking it away is a disservice to them. We know the<br/> 19 voters approved this bill on the ballot in 2014. We<br/> 20 know they use it, and we know it's grown in popularity<br/> 21 with 7,547 voters using Election Day registration in<br/> 22 2008 and 12,055 voters using it in 2016.</p> <p>23 To jump into the administrative reasons,<br/> 24 because that's really my area of expertise, let me<br/> 25 acknowledge not all of us counties agree on this, but I</p> | <p style="text-align: right;">Page 12</p> <p>1 that I don't have time, clearly, to get into. But if I<br/> 2 can submit that in writing later --</p> <p>3 CHAIRMAN KARY: You surely can.</p> <p>4 AUDREY MCCUE: Thank you.</p> <p>5 CHAIRMAN KARY: Thank you, Ms. McCue.</p> <p>6 Further opponents?</p> <p>7 SAM FORSTAG: Chairman Kary, members of the<br/> 8 Committee, Sam Forstag, F-O-R-S-T-A-G, here on behalf<br/> 9 of the American Civil Liberties Union.</p> <p>10 We oppose this bill, as we did on the House<br/> 11 side. And broadly speaking, I think most of the major<br/> 12 arguments have been made thus far. But our state<br/> 13 constitution guarantees access to free and fair<br/> 14 elections, and we should be striving towards better<br/> 15 fulfilling that constitutional goal that was set out in<br/> 16 1972. And this bill, cutting off access to a tool that<br/> 17 we know thousands of Montanans use every year to ensure<br/> 18 that they can cast a ballot if they haven't been able<br/> 19 to register under their new address, if they haven't<br/> 20 been able to get the time off work to register in<br/> 21 advance, is something that helps make sure that as many<br/> 22 Montanans as possible are exercising the franchise and<br/> 23 the right that is key to being an engaged member of<br/> 24 civil society. Our concerns most specifically are that<br/> 25 this bill has the potential to disproportionately</p>                                                  |

3 (Pages 9 to 12)

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| <p style="text-align: right;">Page 13</p> <p>1 impact Native American voters in Montana, to<br/>2 disproportionately impact young voters in Montana, and<br/>3 rural voters in Montana.<br/>4 I -- I won't belabor the point too long<br/>5 because I think that some subject matter experts have<br/>6 already spoken on it. But I do appreciate all of your<br/>7 time, and I would encourage you to vote no on House<br/>8 Bill 176. Thank you.<br/>9 CHAIRMAN KARY: Thank you, Mr. Forstg.<br/>10 Further opponents?<br/>11 KATJANA STUTZER: Good afternoon, Mr. Chair,<br/>12 members of the committee. For the record, my name is<br/>13 Katjana Stutzer. K-A-T-J-A-N-A S-T-U-T-Z-E-R. And I'm<br/>14 here on behalf of the Montana Public Interest Research<br/>15 Group, or MontPIRG. And we feel that certainly the<br/>16 right to vote is a matter of interest for every member<br/>17 of the public and that we should all be concerned about<br/>18 any law that would make it harder for Montanans to<br/>19 access the ballot. And this law would definitely do<br/>20 just that.<br/>21 It would make it harder for some eligible<br/>22 voters to cast a ballot. And we know that from the<br/>23 numbers we have from the 2020 general election, that<br/>24 3,352 voters used this service in 2020, which I think<br/>25 is clear evidence that this would indeed cause harm.</p>                                                                                                                     | <p style="text-align: right;">Page 15</p> <p>1 with bipartisan support. And after numerous reviews by<br/>2 this body and the people, the people spoke by voting no<br/>3 on LR-126 with 57 percent of voters and 80 out of 100<br/>4 legislative districts.<br/>5 Clearly, the people have spoken on this<br/>6 issue, and I would urge you that we have the greatest<br/>7 democracy in the world. It's our job to protect that<br/>8 by making sure that every single person can vote, and I<br/>9 would urge you to respect the will of Montanans by<br/>10 voting no on House Bill 176.<br/>11 CHAIRMAN KARY: Thank you, Katjana. Could<br/>12 you spell your last name one more time?<br/>13 KATJANA STUTZER: Yes, Mr. Chair. It's<br/>14 S-T-U-T-Z-E-R.<br/>15 CHAIRMAN KARY: Thank you, Ms. Stutzer.<br/>16 KATJANA STUTZER: Thank you.<br/>17 CHAIRMAN KARY: Further opponents?<br/>18 RACHEL SCHMIDT: Good afternoon, Chairman<br/>19 Kary, members of this Committee. My name is Rachel<br/>20 Schmidt. That's spelled S-C-H-M-I-D-T. And I'm here<br/>21 representing the interests of the Associated Students<br/>22 of Montana State University. Today, I rise in<br/>23 opposition of this bill because it puts an undue burden<br/>24 on student voters.<br/>25 Across the United States, we know that voter</p>                                                                                                                  |
| <p style="text-align: right;">Page 14</p> <p>1 And although there is no public data for how many<br/>2 counties used this in 2020, we do know that 54 out of<br/>3 56 counties had at least one Election Day registrant in<br/>4 2018. And in 2016, every single county did. Montanans<br/>5 across our state are using this service.<br/>6 And further, we know that 40 percent of those<br/>7 were not new registrations, of those who used that<br/>8 same-day registration. Many of those showed up to the<br/>9 polls, who were already Montana voters, to find out<br/>10 that there was an error in their registration and that<br/>11 they had to fix on that same day.<br/>12 And to further that point, there are always<br/>13 mistakes like miscommunications between transferring of<br/>14 voter registration from the DMV to our election<br/>15 offices, a simple error like not checking a box on our<br/>16 registration form that the voter isn't aware of, maybe<br/>17 it didn't get flagged, and then have to come in.<br/>18 This same-day registration is a fail-safe for<br/>19 our responsible Montana voters who have done their due<br/>20 diligence to try and be registered before Election Day<br/>21 and find out there's still a problem. I can't imagine<br/>22 that any of us want to turn those folks away.<br/>23 And I just want to finish by saying that LR-<br/>24 126, I'm sure it's all on our minds. We've had<br/>25 same-day voter registration for 15 years. It passed</p> | <p style="text-align: right;">Page 16</p> <p>1 turnout for young people is incredibly low, and we want<br/>2 to change that, especially here in Montana. At MSU,<br/>3 classes are not held on Election Day, and all offices<br/>4 are actually closed. Because students don't have<br/>5 classes on campus or work on campus on Election Day,<br/>6 they don't have obligations outside of their normal<br/>7 obligations. And so they have this new free time to go<br/>8 and register and cast their ballot in person. As much<br/>9 as we try to make sure that students do register early,<br/>10 the reality is students do use this new free time to<br/>11 make sure that they are updating their voter<br/>12 registration and casting their ballot in person because<br/>13 they don't have those other obligations.<br/>14 And while it's certainly troublesome that our<br/>15 election officials are overworked, especially on --<br/>16 during busy election seasons, I'm concerned that this<br/>17 bill addresses a problem with the wrong solution. And<br/>18 I hope that the Committee considers the unintended<br/>19 consequences of this bill, and I do urge a no vote on<br/>20 this today. Thank you.<br/>21 CHAIRMAN KARY: Thank you, Ms. Schmidt.<br/>22 Seeing no further opponents in house, we'll<br/>23 go to Zoom. And again, two minutes.<br/>24 ALEX COLAFRANCESCO: Chair, we've got Tor<br/>25 Gudmundsson.</p> |

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| <p style="text-align: right;">Page 17</p> <p>1 CHAIRMAN KARY: Mr. Gunderson. Mr. Gunder?<br/> 2 Gudmundsson? You are muted.<br/> 3 If you're speaking, we cannot hear you.<br/> 4 We'll move to the next one, please.<br/> 5 ALEX COLAFRANCESCO: Mr. Chair, we have Nancy<br/> 6 Leifer.<br/> 7 NANCY LEIFER: Mr. Chair, members of the<br/> 8 Committee. My name is Nancy Leifer, spelled<br/> 9 L-E-I-F-E-R, and I'm here today on behalf of the League<br/> 10 of Women Voters of Montana.<br/> 11 For over 100 years, the League of Women<br/> 12 Voters has promoted citizens' right to vote as the<br/> 13 hallmark of a strong democracy. There are two<br/> 14 components for election integrity. One is an accurate<br/> 15 process and the other is access for all qualified<br/> 16 voters.<br/> 17 Montana already has a strong integrity in our<br/> 18 election process. This bill would weaken the integrity<br/> 19 of our elections by limiting access for citizens to<br/> 20 vote. I agree with the comments made by previous<br/> 21 opponents and ask you to please oppose House Bill 176.<br/> 22 Thank you for this opportunity to testify.<br/> 23 CHAIRMAN KARY: Thank you, Mrs. -- Ms.<br/> 24 Leifer.<br/> 25 Further opponents?</p>                                                                                                                                                                                       | <p style="text-align: right;">Page 19</p> <p>1 registration figures are available at the Secretary of<br/> 2 State, 60,488 Montanans used same-day voter<br/> 3 registration. In 2018 alone, over 8,000 used same-day<br/> 4 voter registration in 56 out of -- in 54 of our 56<br/> 5 counties, they had at least one Election Day<br/> 6 registrant.<br/> 7 And one thing that I really want to drive<br/> 8 home is that it's not uncommon that errors happen in<br/> 9 the processing --<br/> 10 ALEX COLAFRANCESCO: Thirty seconds.<br/> 11 Did you say -- is my time up?<br/> 12 ALEX COLAFRANCESCO: No, 30 seconds.<br/> 13 LAUREN CALDWELL: It's not uncommon that<br/> 14 errors happen in the processing of voter registration<br/> 15 forms through the elections office, postal service, DMV<br/> 16 or other agencies that are involved with getting the<br/> 17 application from the voter to the office. The voter<br/> 18 would never know about those issues. So I want you to<br/> 19 consider the folks who do everything right, do it ahead<br/> 20 of time, and aren't able to cast their ballot because<br/> 21 of a clerical error.<br/> 22 This is a fail-safe for voters who have done<br/> 23 their part but suffered from that error, so. You're<br/> 24 all in a critical position. I appreciate you hearing<br/> 25 us. Thank you.</p> |
| <p style="text-align: right;">Page 18</p> <p>1 ALEX COLAFRANCESCO: Mr. Chair, we have<br/> 2 Lauren Caldwell.<br/> 3 LAUREN CALDWELL: Hello, Chair Kary and<br/> 4 members of the Committee. It's a busy committee you<br/> 5 have today. So my name is Lauren Caldwell. That's<br/> 6 L-A-U-R-E-N C-A-L-D-W-E-L-L. I am here on behalf of<br/> 7 the Montana Federation of Public Employees and the<br/> 8 public educators and public employee members that we<br/> 9 represent across Montana. I did submit written<br/> 10 testimony, so I will make it more brief here.<br/> 11 So as you've heard, this is not a new debate.<br/> 12 In 2005, nearly unanimous bipartisan majorities voted<br/> 13 to pass same-day voter registration in Senate Bill 302.<br/> 14 They passed 42 to 8 in the Senate and 89 to 8 in the<br/> 15 House. Then in 2013, your predecessors wanted to<br/> 16 review the question again. They decided to put it to a<br/> 17 vote of the people through LR-126. And in 2014,<br/> 18 Montanans voiced their opinion, loud and clear,<br/> 19 rejecting LR-126 in 80 out of 100 legislative<br/> 20 districts.<br/> 21 So a couple of other statistics that I think<br/> 22 it's important for you to know as you consider who's<br/> 23 going to be impacted by this. Between -- someone<br/> 24 provided a few different yearly statistics but in<br/> 25 total, between 2006 and 2018, which is where the late</p> | <p style="text-align: right;">Page 20</p> <p>1 CHAIRMAN KARY: Thank you, Ms. Caldwell.<br/> 2 Further opponents?<br/> 3 ALEX COLAFRANCESCO: Mr. Chair, we have<br/> 4 Lindsay Roosa.<br/> 5 LINDSEY ROOSA: Hello, Mr. Chair, members of<br/> 6 the committee. My name is Lindsey Roosa. That's<br/> 7 R-O-O-S-A. I'm a resident of Missoula, Montana and I<br/> 8 stand in opposition to House Bill 176.<br/> 9 As other opponents have already mentioned,<br/> 10 this bill disenfranchises thousands of Montana voters<br/> 11 for no legitimate reason. Let's uphold the right of<br/> 12 all Montanans to register and vote on Election Day as<br/> 13 you work to uphold all our constitutional rights.<br/> 14 Please vote no on House Bill 176. Thank you.<br/> 15 CHAIRMAN KARY: Thank you, Ms. Roosa.<br/> 16 Further opponents?<br/> 17 ALEX COLAFRANCESCO: Mr. Chair, we have<br/> 18 Jillian Richards. And I would like to ask everyone<br/> 19 who's registered to testify to raise their hands.<br/> 20 CHAIRMAN KARY: Ms. Richards.<br/> 21 MS. RICHARDS: Hi. (Audio interference) So<br/> 22 thank you, Senator Chair, members of the Committee. My<br/> 23 name is Jillian Richards, spelled R-I-C-H-A-R-D-S. I<br/> 24 am also here on behalf of the Montana Public Interest<br/> 25 Research Group, or MontPIRG.</p>                             |

5 (Pages 17 to 20)

| Page 21                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Page 23                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| <p>1 I'm in strong opposition to this bill. To</p> <p>2 me, it punishes the people of the working class and</p> <p>3 people who can't vote or, like it has been mentioned</p> <p>4 before, people who have done everything right and then</p> <p>5 something still happens.</p> <p>6 A similar bill was introduced in 2014, and it</p> <p>7 did not pass for the same reasons that this one should</p> <p>8 not. It's not what we want. It's not what voters</p> <p>9 want. And it's not what anyone wants. So like it has</p> <p>10 been mentioned, thousands of people are using same-day</p> <p>11 voter registration. And I think by voting yes on this</p> <p>12 bill, it shows that there's a lack of care and there's</p> <p>13 not a need for every vote, which is not true. Every</p> <p>14 vote counts, and it deserves to be counted even if</p> <p>15 they're registering on the same day. So I ask that you</p> <p>16 vote no on HB 176.</p> <p>17 CHAIRMAN KARY: Thank you, Ms. Richards.</p> <p>18 Further opponents?</p> <p>19 ALEX COLAFRANCESCO: Mr. Chair, we have</p> <p>20 NevinGraves.</p> <p>21 NEVIN GRAVES: Thank you, Mr. Chairman,</p> <p>22 members of the Committee. My name is Nevin Graves,</p> <p>23 spelled G-R-A-V-E-S. Speaking on my own behalf today.</p> <p>24 I need to speak in strong opposition to this</p> <p>25 bill. I've had to make use of same-day voter</p>                            | <p>1 participate in elections and by not restraining voters</p> <p>2 from registering on Election Day. The right of</p> <p>3 suffrage guaranteed in Article 2, Section 13, is a</p> <p>4 fundamental right of Montana citizens, and legislative</p> <p>5 challenges to it are generally subject to strict</p> <p>6 scrutiny. House Bill 176 cannot pass strict scrutiny</p> <p>7 because it does not possess a compelling state</p> <p>8 interest, such as preventing voter fraud, which is</p> <p>9 narrowly tailored against the fundamental right of</p> <p>10 suffrage in free and open elections.</p> <p>11 The threat of voter fraud is almost</p> <p>12 nonexistent, and House Bill 176 would negatively impact</p> <p>13 voters --</p> <p>14 ALEX COLAFRANCESCO: Thirty seconds</p> <p>15 remaining.</p> <p>16 MR. EAKIN: -- of major parties. Thus, it</p> <p>17 would not be enough to justify prohibiting Election Day</p> <p>18 registration and to pass strict scrutiny. Election Day</p> <p>19 region for Montana voters is part of the fundamental</p> <p>20 right of suffrage protected by Article 2, Section 13.</p> <p>21 House Bill 176 will go against that right.</p> <p>22 Election Day registration also supports</p> <p>23 Article 4, Section 3, of the Montana constitution,</p> <p>24 which is to ensure the purity of elections and guard</p> <p>25 against abuses of the electoral process.</p> |
| Page 22                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Page 24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>1 registration as a working adult, and my vote counts</p> <p>2 just as much as anyone who registered three months in</p> <p>3 advance. There's, you know, there's just no sense in</p> <p>4 cutting off the registration period further and</p> <p>5 implying that somehow that's going to increase voter</p> <p>6 participation. This is a bad bill and I urge you to</p> <p>7 vote no on House Bill 176. Thank you very much.</p> <p>8 CHAIRMAN KARY: Thank you, Mr. Graves.</p> <p>9 Further opponents?</p> <p>10 ALEX COLAFRANCESCO: Mr. Chair, we have Dan</p> <p>11 Eakin.</p> <p>12 DANIEL EAKIN: Good afternoon, Mr. Chairman</p> <p>13 and committee members. My name is Daniel Eakin.</p> <p>14 D-A-N-I-E-L E-A-K-I-N, and I am testifying on my own</p> <p>15 behalf in opposition of House Bill 176. House Bill 176</p> <p>16 violates Article 2, Section 13, and Article 4, Section</p> <p>17 3 of the Montana Constitution.</p> <p>18 The Montana Supreme Court has held that</p> <p>19 election statutes shall not prevent qualified voters</p> <p>20 from voting. House Bill 176 would prevent otherwise</p> <p>21 qualified voters from voting simply because they were</p> <p>22 not registered by an arbitrary day and time.</p> <p>23 Election Day registration of eligible voters</p> <p>24 keeps Montana elections open and free under Article 2,</p> <p>25 Section 13, by allowing all eligible voters to</p> | <p>1 CHAIRMAN KARY: Thank you, Mr. Eakin.</p> <p>2 MR. EAKIN: Not all eligible voters have the</p> <p>3 opportunity to register before Election Day.</p> <p>4 CHAIRMAN KARY: Are there any other opponents</p> <p>5 online?</p> <p>6 MR. EAKIN: I urge you to please oppose this</p> <p>7 bill.</p> <p>8 ALEX COLAFRANCESCO: Mr. Chair, we have</p> <p>9 Ruthie Barbour.</p> <p>10 CHAIRMAN KARY: Ms. Barbour.</p> <p>11 RUTHIE BARBOUR: Mr. Chair and members of the</p> <p>12 Committee. My name is Ruthie Barbour, spelled</p> <p>13 B-A-R-B-O-U-R, and I'm here on behalf of Forward</p> <p>14 Montana.</p> <p>15 I will keep it brief because I know it's been</p> <p>16 a long evening. But I feel like it's prudent to</p> <p>17 mention again that in the 2020 general election, 3,352</p> <p>18 people used same-day election services. That is 3,352</p> <p>19 eligible voters whose right to vote would have been</p> <p>20 denied if this bill hadn't been in place.</p> <p>21 This past election cycle, our organization</p> <p>22 aided in staffing a nonpartisan voter hotline that</p> <p>23 helped voters remedy issues with casting a ballot, like</p> <p>24 updating their address or finding their polling</p> <p>25 location. Many of the people we talked to in the days</p>                                                                                                                          |

6 (Pages 21 to 24)



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| <p style="text-align: right;">Page 25</p> <p>1 leading up to the election ultimately used same-day<br/>2 registration services to make their voice heard.<br/>3 Whether you're a single parent with limited access to<br/>4 childcare, someone who works full time or is a<br/>5 full-time student, someone who doesn't have reliable<br/>6 access to transportation, or someone who lives an<br/>7 extreme distance from their polling location, sometimes<br/>8 the only opportunity to register to vote and cast a<br/>9 ballot may be on the day of the election.<br/>10 This bill, as we've heard, is directly<br/>11 harmful to Montana seniors, folks who live in rural<br/>12 areas, young people and indigenous people. I'm just<br/>13 wondering why we would want to change a process that<br/>14 has not only been working to serve every Montanan but<br/>15 has shown no negative effects on the efficacy and the<br/>16 efficiency of our elections. The majority of Montana<br/>17 voters believe every resident of Montana should have<br/>18 the right to register to vote on the day of the<br/>19 election. I'm asking you to please honor the will of<br/>20 your constituents who have already spoken on this<br/>21 issue and vote no on House Bill 176.<br/>22 CHAIRMAN KARY: Thank you, Ms. Barbour.<br/>23 Further opponents?<br/>24 AELX: Mr. Chair, we have Laurie Little Dog.<br/>25 CHAIRMAN KARY: Ms. LittleDog.</p> | <p style="text-align: right;">Page 27</p> <p>1 Further opponents?<br/>2 ALEX COLAFRANCESCO: Mr. Chair, we have Alexa<br/>3 Runnion.<br/>4 CHAIRMAN KARY: Ms. Runnion.<br/>5 ALEXA RUNNION: Mr. Chair, members of the<br/>6 committee, my name is Alexa Runnion. That is spelled<br/>7 R-U-N-N-I-O-N. And I oppose this bill because it will<br/>8 unnecessarily hinder Montanans' constitutional right to<br/>9 vote.<br/>10 I just wanted to reiterate that Montana's<br/>11 Constitution clearly states that, quote, "all elections<br/>12 shall be free, open and no power, civil or military,<br/>13 shall at any time interfere to prevent the free<br/>14 exercise of the right of suffrage," end quote.<br/>15 An election that denies Montana voters the<br/>16 right to vote before the polls close is neither free<br/>17 nor open, and our rights as a voter should not end the<br/>18 day before an election begins. I have submitted<br/>19 written testimony, as well, and I urge you all to read<br/>20 them. Vote no on House Bill 176, and I want to thank<br/>21 you all for your time.<br/>22 CHAIRMAN KARY: Thank you, Ms. Runnion.<br/>23 Further opponents?<br/>24 ALEX COLAFRANCESCO: Mr. Chair, we have Anna<br/>25 Reely.</p>                                                                                                                                                                                               |
| <p style="text-align: right;">Page 26</p> <p>1 LAURIE LITTLE DOG: Thank you, Chair and<br/>2 Committee. This is Laurie Little Dog.<br/>3 And I really want to look at -- just a<br/>4 challenge that if we have somebody who was having their<br/>5 18th birthday on Election Day, that means that they<br/>6 would have an illegal ban on their right to vote. So<br/>7 that's something that, you know, I understand that it's<br/>8 not a very common occurrence that someone is born on<br/>9 Election Day that would be turning 18. But what do we<br/>10 do with those people? It would -- you'd make them<br/>11 wait? I mean, it doesn't make any kind of sense to me.<br/>12 And I just want to reiterate that same-day<br/>13 registration is critical for some of the most<br/>14 disenfranchised members of Montana society: Native<br/>15 American reservations, wards of the state that have<br/>16 regained their right to participate in elections.<br/>17 Those are some people that are going to be adversely<br/>18 affected.<br/>19 This past election cycle, we had a huge<br/>20 uproar about the validity of all the votes being<br/>21 counted properly. I think it was "Stop the Steal" was<br/>22 the challenge that was made. And I think that we need<br/>23 to count every vote that is cast. So I just ask you<br/>24 to please vote no on HB 176. Thank you.<br/>25 CHAIRMAN KARY: Thank you, Ms. Little Dog.</p>    | <p style="text-align: right;">Page 28</p> <p>1 CHAIRMAN KARY: Ms. Reely?<br/>2 ANNA REELY: Thank you, Mr. Chair and members<br/>3 of the committee. I appreciate you for your time.<br/>4 My name is Anna Reely. Spelled A-N-N-A, R-E-<br/>5 E-L-Y. And I am testifying on my own behalf and in<br/>6 opposition to House Bill 176.<br/>7 For the past three years, I volunteered for a<br/>8 third-party organization that registers thousands of<br/>9 voters per year. As a student, I often register young<br/>10 people at the University of Montana and across the<br/>11 state. I've seen firsthand the distress and confusion<br/>12 that the voting process causes people. Oftentimes,<br/>13 they're sheepish and ashamed of their lack of<br/>14 knowledge, and they avoid seeking information until the<br/>15 very last minute. Additionally, clerical issues do<br/>16 arise in the registration process, and without same-day<br/>17 registration, these errors would strip people of their<br/>18 right to vote.<br/>19 And then life happens. Students are<br/>20 overwhelmed with duties, drowning in studies, or lack<br/>21 transportation. For a multitude of reasons, they are<br/>22 incapable of registering until Election Day. This is<br/>23 the reality of many Montanans. People, especially<br/>24 young individuals, are extremely transient and move<br/>25 every 6 to 12 months. They're going to be one of the</p> |

7 (Pages 25 to 28)

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| <p style="text-align: right;">Page 29</p> <p>1 demographics most heavily affected by this proposed<br/>2 legislation.</p> <p>3 In the midst of a public health and economic<br/>4 crisis, it is evident that we have an obligation to<br/>5 represent and protect all Montana residents, including<br/>6 those who lack the means to register before Election<br/>7 Day. Same-day registrations benefit citizens from all<br/>8 parties and backgrounds, though it often assists<br/>9 geographically mobile, lower-income citizens, young<br/>10 voters, rural voters, and voters of color.</p> <p>11 As individuals whose livelihood are most<br/>12 often affected by policy decisions, we deserve the<br/>13 right to engage in the democratic process, as well.<br/>14 Our involvement begins with the fundamental right to<br/>15 vote. Policies that increase the opportunity and<br/>16 accessibility of voter registration are vitally<br/>17 important to a healthy democratic community.</p> <p>18 Lastly, advocacy for this bill will be<br/>19 directly going against the will of Montana voters. As<br/>20 those who went before me spoke about, 80 percent of<br/>21 legislative districts in Montana were in clear<br/>22 opposition to LR-126. While some have claimed that<br/>23 this bill is an effort to secure and better facilitate<br/>24 our elections, they have been deemed as such. Voter<br/>25 fraud allegations have been widely refuted across the</p> | <p style="text-align: right;">Page 31</p> <p>1 their disappointment with both candidates at the<br/>2 national level and all of the mudslinging in politics.<br/>3 As all of us have experienced this past year, it's far<br/>4 too easy to become exhausted and disheartened by the<br/>5 news and the politics.</p> <p>6 A buddy of mine felt this way and had never<br/>7 voted before. I encouraged him to register, to look<br/>8 into candidates, but it was hard to draw a through line<br/>9 between our day-to-day lives and who sat in what seat.<br/>10 It was hard to believe our votes would even really<br/>11 matter.</p> <p>12 And it wasn't until Election Day with<br/>13 everything going on that my friend realized they wanted<br/>14 to vote. Not for the presidency or even the national<br/>15 level Senate races, but for the people who make the<br/>16 decisions that affect us locally. And I pushed him to<br/>17 follow up to it. I drove him to the polling place, and<br/>18 we were probably the last people at Hamilton. But his<br/>19 ballot got in. And in that moment, that sudden<br/>20 realization that he wanted to be heard wasn't unique to<br/>21 us for that year.</p> <p>22 As others have pointed out, thousands of<br/>23 Montanans registered on Election Day this year. They<br/>24 realized, as the all too long political cycle came to<br/>25 an end, the same thing that my buddy did. My voice</p>                               |
| <p style="text-align: right;">Page 30</p> <p>1 state. And just as people have the ability to register<br/>2 prior to Election Day, they are also able to vote prior<br/>3 to it.</p> <p>4 CHAIRMAN KARY: Thank you, Ms. Reely.<br/>5 ANNA REELY: 176 --(indiscernible).<br/>6 CHAIRMAN KARY: Are there any other opponents<br/>7 online:?<br/>8 ANNA REELY: -- for all, and I urge you to --<br/>9 CHAIRMAN KARY: Any other opponents online?<br/>10 ALEX COLAFRANCESCO: Mr. Chair, we have Tor<br/>11 Gudmundsson? I will try to unmute him and see if his<br/>12 technology issues are fixed. If not, we have none.<br/>13 TOR GUDMUNDSSON: Mr. Chair, members of the<br/>14 committee. Can you hear me now?<br/>15 CHAIRMAN KARY: We got you.<br/>16 TOR GUDMUNDSSON: Wonderful. I apologize for<br/>17 my technological issues. My name is Tor Gudmundsson.<br/>18 That's T-O-R G-U-D-M-U-N-D-S-S-O-N. I'm a voter from<br/>19 Corvallis in the beautiful Bitterroot Valley, and I<br/>20 wanted to share a story of my own experience with same-<br/>21 day registration and underscore how removing it creates<br/>22 unnecessary difficulty in our democratic system.</p> <p>23 In 2016, I was much less invested in the<br/>24 electoral process than I am today. I was 23, and many<br/>25 of my friends were unmotivated to vote at all, citing</p>                                                                                                                          | <p style="text-align: right;">Page 32</p> <p>1 matters and I want to be heard.</p> <p>2 HB 176 creates barriers to registration and<br/>3 amends our voting process, making it more difficult to<br/>4 participate, let alone believe in. On the House floor,<br/>5 the sponsor proudly proclaimed, "We just shortened the<br/>6 lines at your polling places," as though it were<br/>7 something to celebrate. The only way to see this bill<br/>8 as a solution is to see our record voter turnout as a<br/>9 problem. Changing an unbroken system against the will<br/>10 of the electorate reinforces exactly why so many people<br/>11 are disillusioned with our elections.</p> <p>12 The supporters of this bill claim that it's<br/>13 due to laziness or a lack of personal responsibility<br/>14 and that deadlines are a perfectly normal part of our<br/>15 lives, and that's so deeply cynical. Unlike tax<br/>16 deadlines and vehicle registrations, the right to vote<br/>17 is a constitutional guarantee. It should be<br/>18 celebrated, enabled, opened up, and the people who<br/>19 manage to get to the polling place on Election Day,<br/>20 despite all of the barriers, all of the different forms<br/>21 and all the struggle, the people who show up and say<br/>22 I'm here, and my voice matters, that is patriotic to<br/>23 me. And I pray and I urge you not to pass this bill.<br/>24 Thank you.<br/>25 CHAIRMAN KARY: Thank you, Mr. Gudmundsson.</p> |

8 (Pages 29 to 32)

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| <p style="text-align: right;">Page 33</p> <p>1 Further opponents?</p> <p>2 ALEX COLAFRANCESCO: I'm seeing none, Mr.</p> <p>3 Chair.</p> <p>4 CHAIRMAN KARY: Seeing no further opponents,</p> <p>5 questions from the Committee?</p> <p>6 Oh, that's true.</p> <p>7 ALEX COLAFRANCESCO: Mr. Chair, we have an</p> <p>8 opponent that just raised their hand a little late.</p> <p>9 CHAIRMAN KARY: Go ahead.</p> <p>10 ALEX COLAFRANCESCO: Millie Robinson.</p> <p>11 CHAIRMAN KARY: Ms. Robinson. Go ahead,</p> <p>12 Ms. Robinson.</p> <p>13 MILLIE ROBINSON: Yes. Can you hear me now?</p> <p>14 CHAIRMAN KARY: Yes.</p> <p>15 MILLIE ROBINSON: Thank you, Mr. Chairman.</p> <p>16 I'm sorry about being a little bit later. My name is</p> <p>17 Millie Robinson. Last name is spelled R-O-B-I-N-S-O-N.</p> <p>18 And I live in Glendive. And I'm testifying on behalf</p> <p>19 of the Northern Plains Resource Council. I'd like to</p> <p>20 speak in opposition to House Bill 176.</p> <p>21 Northern Plains is in opposition to this bill</p> <p>22 because it contract -- contradicts our belief in a fair</p> <p>23 and transparent democracy that's accessible to all. We</p> <p>24 believe that citizens have the basic right to</p> <p>25 participate in the decisions that affect their lives</p> | <p style="text-align: right;">Page 35</p> <p>1 ***</p> <p>2 SENATOR ELLIS: Thank you, Mr. Chairman. I</p> <p>3 had a question for Ms. McCue from Lewis and Clark</p> <p>4 County.</p> <p>5 CHAIRMAN KARY: Ms. McCue. If you could get</p> <p>6 her from the hall.</p> <p>7 SENATOR ELLIS: And then, Mr. Chairman,</p> <p>8 before I asked my question, I did want to mention, for</p> <p>9 some reason the first time today the testimony that was</p> <p>10 sent out to those of us on Zoom, I couldn't access.</p> <p>11 And I don't know if I'm going to be able to access it.</p> <p>12 Because it says I don't have the right software, but</p> <p>13 I've been using it every day for a while, and I have</p> <p>14 been successfully seeing it. But a lot of people</p> <p>15 referred to having us read testimony, and I for one</p> <p>16 cannot access that information today.</p> <p>17 CHAIRMAN KARY: I will refer that to Jacelyn.</p> <p>18 JACELYN STERLING: Senator Ellis, you weren't</p> <p>19 the only one who had that problem. I don't know what</p> <p>20 happened, but I'm going to try and resubmit the</p> <p>21 testimony to you so you will have it. I was unable to</p> <p>22 resubmit it before the meeting.</p> <p>23 I'm sorry. I don't know what happened and I</p> <p>24 sent it the same as I always do. But I'm going to all</p> <p>25 IT and we'll try and figure that out so that you will</p>                                                                              |
| <p style="text-align: right;">Page 34</p> <p>1 and that our right to vote should not be made more</p> <p>2 difficult by our decisionmakers.</p> <p>3 Other speakers here have given plenty of</p> <p>4 legitimate and unforeseeable reasons why somebody might</p> <p>5 need to register on that last day. So I won't</p> <p>6 enumerate them. But none of them should be a barrier</p> <p>7 to the right to vote. We need that ability to register</p> <p>8 on Election Day. And luckily, it's something we</p> <p>9 already have. Please don't try to fix something that</p> <p>10 isn't broken and protect our right to same-day Election</p> <p>11 Day registration by voting no on House Bill 176. Thank</p> <p>12 you.</p> <p>13 CHAIRMAN KARY: Thank you, Ms. Robinson.</p> <p>14 Informational witnesses?</p> <p>15 ALEX COLAFRANCESCO: Mr. Chair, informational</p> <p>16 witnesses online?</p> <p>17 CHAIRMAN KARY: Waiting for the informational</p> <p>18 witness online.</p> <p>19 ALEX COLAFRANCESCO: Sorry, Mr. Chair. I</p> <p>20 thought you were waiting for them in the room. Our</p> <p>21 informational witness, Regina Plettenberg, has left the</p> <p>22 Zoom chat.</p> <p>23 CHAIRMAN KARY: Okay. Questions from the</p> <p>24 Committee?</p> <p>25 Senator Ellis.</p>                 | <p style="text-align: right;">Page 36</p> <p>1 have it and it doesn't happen for future meetings.</p> <p>2 SENATOR ELLIS: Thank you. Mr. Chairman.</p> <p>3 Now I'm ready for my question.</p> <p>4 CHAIRMAN KARY: Senator Ellis.</p> <p>5 SENATOR ELLIS: So -- is Ms. McCue --</p> <p>6 CHAIRMAN KARY: You can go up there.</p> <p>7 SENATOR ELLIS: Okay, Mr. Chairman,</p> <p>8 Ms. McCue. I am interested -- and I don't know if you</p> <p>9 want to finish all your testimony, but I was</p> <p>10 particularly interested in the problems you saw in</p> <p>11 closing registration either the Friday or at noon the</p> <p>12 day of, or day before elections. Because you said that</p> <p>13 there were -- it was going to create more problems.</p> <p>14 And I was particularly interested in that issue.</p> <p>15 AUDREY MCCUE: Mr. Chair, Senator Ellis.</p> <p>16 Without going through everything I was going to, I can</p> <p>17 just stick to that section. The lines are long on</p> <p>18 election day because that's the last day to do it. So</p> <p>19 moving the deadline to Friday, as the bill originally</p> <p>20 did, or Monday, as the bill stands after the amendment</p> <p>21 in the House, doesn't get rid of the long lines. It</p> <p>22 just moves them. So that's not especially helpful.</p> <p>23 I think it will be more difficult to</p> <p>24 accommodate the long lines on Monday or Friday because</p> <p>25 in a federal general election day, the rest of our</p> |

9 (Pages 33 to 36)

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| <p style="text-align: right;">Page 37</p> <p>1 building is closed for that government holiday, and<br/> 2 that allows us to take over the building and we have<br/> 3 more space to accommodate the lines and to assist the<br/> 4 higher number of voters.<br/> 5 Before election day, we can't do that. We<br/> 6 don't have access to the entire building. There's a<br/> 7 lot of work we do in the days leading up to the<br/> 8 election. As you probably know, we have to print lists<br/> 9 over the weekend of the people who can vote at the<br/> 10 polling places. And those lists have to reflect who<br/> 11 already had a ballot because they're absentee or<br/> 12 because they late-registered.<br/> 13 So after absentee closes Monday at noon, we<br/> 14 print updates to those lists to reflect those<br/> 15 additional ballots issued and late registration<br/> 16 changes. So we moved the line to Friday. That doesn't<br/> 17 save us work on that front. We still have to print<br/> 18 those lists over the weekend. We still have to print<br/> 19 the updates on Monday.<br/> 20 Moving the line to Monday at noon I think<br/> 21 will make things worse. We have to wait until everyone<br/> 22 in line at noon is done being processed before we can<br/> 23 print the updates. And that's waiting for all counties<br/> 24 across the state to finish their lines, because one of<br/> 25 my Lewis and Clark County registered voters could be in</p>            | <p style="text-align: right;">Page 39</p> <p>1 the people in charge of overseeing the most important<br/> 2 things.<br/> 3 Also of concern to me are the people who fall<br/> 4 through the cracks and thought they registered ahead of<br/> 5 time but didn't, and them having no recourse. But I<br/> 6 caught some of what the other opponents said, and I<br/> 7 think that's been covered. So I won't address that<br/> 8 part. But I guess the issue just being that it takes<br/> 9 away that failsafe.<br/> 10 CHAIRMAN KARY: Further questions from the<br/> 11 Committee?<br/> 12 Senator Ellis. Oops, she just dropped her<br/> 13 hand.<br/> 14 Vice Chair Bennett.<br/> 15 VICE CHAIRMAN BENNETT: Thank you, Mr. Chair.<br/> 16 I've got a few for the sponsor.<br/> 17 CHAIRMAN KARY: Representative Greef, Senator<br/> 18 Bennett.<br/> 19 REPRESENTATIVE GREEF: Yes. Thank you,<br/> 20 Mr. Chair. Senator.<br/> 21 VICE CHAIRMAN BENNETT: Mr. Chair and<br/> 22 Representative Greef.<br/> 23 You talked about voter fraud in your opening,<br/> 24 and you said that somehow election day registration had<br/> 25 led to voter fraud. I would like to know, A, what</p>                                                                                                                                                                     |
| <p style="text-align: right;">Page 38</p> <p>1 line in Gallatin County or in Yellowstone County or in<br/> 2 any other county to register there, and I need to know<br/> 3 that before I print my updated lists.<br/> 4 Those long -- those bigger counties now<br/> 5 sometimes have four-hour-long lines. So if we're<br/> 6 waiting for those, we can finally finish -- print our<br/> 7 lists after that.<br/> 8 But it doesn't stop there. We then have to<br/> 9 get the list to the polls by 6 a.m. the next day. That<br/> 10 means delivering lists across the county. So in my<br/> 11 county we'd be talking about driving from Helena to<br/> 12 Augusta or Helena to Lincoln. You can imagine going<br/> 13 from Bozeman to West Yellowstone. And that's waiting<br/> 14 to do the line, printing the list, and then driving it<br/> 15 out there.<br/> 16 I don't think it helps because we'll still<br/> 17 see people show up on election day. Hopefully not as<br/> 18 many as now, but we'll have unregistered citizens or<br/> 19 registered people who forgot to update, and they'll be<br/> 20 at the polls or our office. When we tell them we can't<br/> 21 vote, some of them will leave and be done, but some of<br/> 22 them won't stop. They'll call their political party.<br/> 23 They'll call their U.S. Senator. They'll call their<br/> 24 attorney. And that is certainly going to take up staff<br/> 25 time on election day, probably management-level staff,</p> | <p style="text-align: right;">Page 40</p> <p>1 proof you have of that, and B, how much there must be<br/> 2 to want to disenfranchise 60,000 people who've used the<br/> 3 service before?<br/> 4 REPRESENTATIVE GREEF: Thank you, Mr. Chair,<br/> 5 Senator.<br/> 6 First of all, we're not setting out to<br/> 7 disenfranchise anyone. When I talked about voter<br/> 8 fraud, I wasn't talking about Montana specifically. I<br/> 9 think that we all realize that there was a huge amount<br/> 10 of distrust in our national election. We are trying to<br/> 11 change this just a bit so that we in Montana have the<br/> 12 protections so that we aren't one of the states that is<br/> 13 under scrutiny that some of the states are now.<br/> 14 VICE CHAIRMAN BENNETT: Mr. Chair and<br/> 15 Representative Greef.<br/> 16 I do agree with you that there is not a<br/> 17 problem here in Montana right now. But I do want to<br/> 18 ask you about the voter suppression element to this. I<br/> 19 mean, I hear you saying that this is not about<br/> 20 disenfranchising voters.<br/> 21 REPRESENTATIVE GREEF: No.<br/> 22 VICE CHAIRMAN BENNETT: But the reality is,<br/> 23 is that if you take away opportunities for people to<br/> 24 register to vote, there will be fewer people to<br/> 25 register to vote. How does that add up?</p> |

10 (Pages 37 to 40)

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| <p style="text-align: right;">Page 41</p> <p>1 REPRESENTATIVE GREEF: Mr. Chair, Senator. I<br/>2 think what we have here is an education problem. Or<br/>3 perhaps you could even call it an advertising problem.<br/>4 We aren't taking away the one day that someone can<br/>5 register. They can register anytime. Anytime. And so<br/>6 this is really a customer service bill, but we need to<br/>7 advertise it as such, just to make it easier.<br/>8 CHAIRMAN KARY: Senator Bennett.<br/>9 VICE CHAIRMAN BENNETT: Mr. Chair and<br/>10 Representative Greef.<br/>11 I do want to talk a little bit about the<br/>12 failsafe issues that people brought up before. And to<br/>13 be clear, this is less of an education issue, and you<br/>14 are actually taking away a day when people can register<br/>15 to vote. But there is that issue of the people who go<br/>16 to the DMV. They register to vote. They think that<br/>17 they're taken care of. They do everything right. They<br/>18 do everything that they're expected to do. But we've<br/>19 heard story after story over the years that the clerk<br/>20 at the DMV doesn't bring the voter registration form<br/>21 in, or they don't get it in on time.<br/>22 Why should that person who did everything<br/>23 right, they're not irresponsible in the slightest, be<br/>24 disenfranchised from being able to cast a ballot, their<br/>25 constitutional right to vote, under this bill?</p> | <p style="text-align: right;">Page 43</p> <p>1 system, that person is not going to show up on the list<br/>2 when they're printed by our election administrator,<br/>3 like Ms. McCue was just saying.<br/>4 So I know that you're telling me over and<br/>5 over this is not about disenfranchising people. But<br/>6 why in the world would we not allow somebody to vote<br/>7 and be able to figure out that issue, figure out and<br/>8 register on election day, if they did everything right<br/>9 and it's the election administrator that made the<br/>10 mistake?<br/>11 CHAIRMAN KARY: Would you like to refer?<br/>12 REPRESENTATIVE GREEF: Mr. Chair. Yes, I<br/>13 could refer, that Mr. Corson could probably give you<br/>14 more satisfaction than I am right now, Senator. Would<br/>15 that work for you?<br/>16 VICE CHAIRMAN BENNETT: I mean, Mr. Chair, I<br/>17 -- I would certainly love to hear the technical piece<br/>18 from Mr. Corson, but I guess at the values piece, I<br/>19 want to know why a bill would be brought forward that<br/>20 does that.<br/>21 I mean, this is what this bill does, and I<br/>22 just want to hear you as the sponsor speak to why that<br/>23 person, in your belief, shouldn't be able to cast their<br/>24 ballot, be able to register to vote and cast a ballot.<br/>25 REPRESENTATIVE GREEF: Mr. Chair, Senator.</p> |
| <p style="text-align: right;">Page 42</p> <p>1 REPRESENTATIVE GREEF: Mr. Chair and Senator.<br/>2 Again, this is not to disenfranchise anyone.<br/>3 And that can certainly happen with anybody that<br/>4 registered on the last day. There could be some<br/>5 mistake that for some reason their ballot wasn't<br/>6 counted.<br/>7 We are giving them all of this extra time.<br/>8 They do not have to wait until the last day. And we're<br/>9 not wanting to take anyone's vote away. We want to<br/>10 make sure that everyone understands that. Mr. Chair.<br/>11 CHAIRMAN KARY: Thank you, Representative<br/>12 Greef.<br/>13 Are there further questions?<br/>14 VICE CHAIRMAN BENNETT: We have some more<br/>15 questions, Mr. Chair.<br/>16 CHAIRMAN KARY: One more. Then we'll move<br/>17 on. Okay?<br/>18 VICE CHAIRMAN BENNETT: Sure. So -- I'll<br/>19 come back for the rest of mine, but I do want to follow<br/>20 up on this failsafe piece. Because it's not just the<br/>21 DMV. I mean, sometimes it is error within our election<br/>22 administrator's office. I mean, we find ourselves in<br/>23 situations where people go in, they register to vote,<br/>24 they've done everything that you're saying somebody is<br/>25 supposed to do. But because of some glitch in the</p>                                                                                                                                                           | <p style="text-align: right;">Page 44</p> <p>1 Most of the states in the country do not have same-day<br/>2 registration, and it works very, very well. And so I<br/>3 think that we can look to them. We're not the only<br/>4 people that are trying to make this more efficient.<br/>5 And that's exactly what we're trying to do.<br/>6 Again, we're not trying to take away anyone's<br/>7 vote. That would be -- I wouldn't carry this bill if I<br/>8 thought that I was taking away the vote of one person.<br/>9 I couldn't do it.<br/>10 CHAIRMAN KARY: Thank you, Representative<br/>11 Greef.<br/>12 Senator Cuffe, did you have a question?<br/>13 SENATOR CUFFE: Thank you, Mr. Chairman. And<br/>14 Mr. Chairman, if I might ask questions of Dana Corson.<br/>15 CHAIRMAN KARY: Mr. Corson, Senator Cuffe.<br/>16 DANA CORSON: Mr. Chair, Senator Cuffe.<br/>17 SENATOR CUFFE: Mr. Chair, Mr. Corson.<br/>18 There was just reference to other states.<br/>19 And do you have any idea how many other states have<br/>20 same-day registration?<br/>21 DANA CORSON: Mr. Chair, Senator Cuffe. I<br/>22 believe it's 21. I looked at the NCSL data. So it's<br/>23 states like California, Colorado, Connecticut, Hawaii,<br/>24 Idaho, Illinois, ranking down to Wyoming. I'll be glad<br/>25 to leave -- give you a copy of that.</p>                                   |

11 (Pages 41 to 44)

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| <p style="text-align: right;">Page 45</p> <p>1 SENATOR CUFFE: So maybe let me ask<br/> 2 through -- Mr. Chairman, might I ask the reverse of the<br/> 3 question. How many do not have same-day registration?<br/> 4 DANA CORSON: Well, 50 minus 21, so --<br/> 5 SENATOR CUFFE: Sounds like 39.<br/> 6 DANA CORSON: 39.<br/> 7 SENATOR CUFFE: Or 29.<br/> 8 DANA CORSON: 29.<br/> 9 SENATOR CUFFE: Yeah, 29. So somehow 29<br/> 10 other states it is working, Mr. Chairman. And<br/> 11 Mr. Chairman, I seem to recall that when I<br/> 12 registered -- and for many, many, many years, when I<br/> 13 was covering courthouse beats for newspapers and<br/> 14 things, we did not have same-day registration,<br/> 15 Mr. Chairman.<br/> 16 So I'm just wondering do you -- how long have<br/> 17 we been doing this?<br/> 18 DANA CORSON: Mr. Chair and Senator Cuffe.<br/> 19 In Montana, you mean?<br/> 20 SENATOR CUFFE: Uh-huh.<br/> 21 DANA CORSON: Since about 2008, I think, was<br/> 22 the first election on that one. 2005. I just saw five<br/> 23 fingers go up over there.<br/> 24 SENATOR CUFFE: Mr. Chairman, there have been<br/> 25 references throughout various testimony regarding</p>                                                                                                                                                                           | <p style="text-align: right;">Page 47</p> <p>1 that are inconsistent with the bill, but the people who<br/> 2 are precinct to precinct, county to county, stuff like<br/> 3 that. "I've lost my ballot," all those things, are<br/> 4 still available on election day. It's the newly<br/> 5 registered, the brand new faces to the system.<br/> 6 SENATOR CUFFE: Thank you, Mr. Corson. Thank<br/> 7 you, Mr. Chairman.<br/> 8 CHAIRMAN KARY: Senator Sales.<br/> 9 SENATOR SALES: Thank you, Mr. Chair,<br/> 10 Mr. Corson.<br/> 11 Mr. Corson, I guess, could you just talk then<br/> 12 a little bit more, I think, on the fail-safes and some<br/> 13 of those issues that we heard. And it was interesting<br/> 14 to me -- I want to make sure that I understood the<br/> 15 birth date part, where it's effective on, so they could<br/> 16 still vote as long as they went in early and<br/> 17 registered, and that would then -- since their birthday<br/> 18 was happy birthday to you, now you get to vote, they're<br/> 19 going to be able to still exercise that right.<br/> 20 Correct?<br/> 21 DANA CORSON: Mr. Chair and Senator Sales,<br/> 22 yes. And you know, there's other outreach and<br/> 23 confirmation tools that are available, too. Typically,<br/> 24 when you vote, you're going to get a voter registration<br/> 25 card, things like that. There'll be communications</p> |
| <p style="text-align: right;">Page 46</p> <p>1 constitutionality. And Mr. Chairman, can you help me<br/> 2 on remembering? I believe the constitution was, what,<br/> 3 dated 1972? The point being that there were a lot of<br/> 4 years the constitution was in effect and we did not<br/> 5 have same-day registration.<br/> 6 Mr. Chairman, thank you. I might ask<br/> 7 Mr. Corson one more question.<br/> 8 CHAIRMAN KARY: Then do.<br/> 9 SENATOR CUFFE: And then I'll be done. Thank<br/> 10 you, Mr. Chairman.<br/> 11 There was mention of what if somebody has a<br/> 12 birthday on election day or in that critical time<br/> 13 period, and are there processes for that?<br/> 14 DANA CORSON: Mr. Chair, Senator Cuffe. So<br/> 15 lots of avenues for registration. They can go direct<br/> 16 to the election office. If they're doing their<br/> 17 driver's license stuff, it will show up there.<br/> 18 Typically, we don't see things that will appear on the<br/> 19 voter registration data, but their effective date,<br/> 20 their vote effective date is set to that birthday. If<br/> 21 that happens to be the election, that's the day they<br/> 22 can vote. They can register ahead of time and then<br/> 23 still show up and vote.<br/> 24 So the types of services that we're talking<br/> 25 about in this bill -- I heard some confusing things</p> | <p style="text-align: right;">Page 48</p> <p>1 from the office. So hopefully a voter or registrant<br/> 2 would be on the alert. You know, I've done something,<br/> 3 but I'm not seeing something come back.<br/> 4 You know, the other part is the MyVoter page<br/> 5 is updated daily with the previous day's data. They<br/> 6 can always check to make sure they can see themselves<br/> 7 out there, and the voter status, and if they're<br/> 8 absentee and things like that. If it's a federal<br/> 9 election year, they'll be able to see the ballot<br/> 10 they're actually going to vote on, as well, too. So --<br/> 11 SENATOR SALES: All right. Thank you.<br/> 12 CHAIRMAN KARY: I do have a question for<br/> 13 Mr. Corson. We've heard numbers from 60,000 to 3,352<br/> 14 utilized same-day registration. Is that 60,000 from<br/> 15 the date of inception when they first came out to<br/> 16 change the law? Or do we have years where we actually<br/> 17 have 60,000 individuals registered on election day in<br/> 18 Montana?<br/> 19 DANA CORSON: Yes. So, Mr. Chair, those are<br/> 20 cumulative numbers that you're hearing, from what I<br/> 21 heard today.<br/> 22 CHAIRMAN KARY: Cumulative. So that would be<br/> 23 roughly 15 years of data? So the 3,000 is not out of<br/> 24 line then?<br/> 25 DANA CORSON: Mr. Chair, no, that's not out</p>                   |

12 (Pages 45 to 48)

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| <p style="text-align: right;">Page 49</p> <p>1 of line.</p> <p>2 CHAIRMAN KARY: Okay. Another question for</p> <p>3 you, Mr. Corson. On the 3,352, we'll just say 3,000</p> <p>4 for round numbers. Those individuals, if they</p> <p>5 register, we'll just say the Friday or the Monday,</p> <p>6 either one. When they vote, that's a provisional</p> <p>7 ballot, isn't it, that they vote, when it's that close?</p> <p>8 It's not accepted because there's no way to verify</p> <p>9 everything right away?</p> <p>10 DANA CORSON: Mr. Chair, not in all cases.</p> <p>11 You know, you could end up being a provisional voter,</p> <p>12 as well, too, let alone a provisional ballot. So if</p> <p>13 the circumstances are correct on that Friday, and</p> <p>14 everything is done, and all the information lines up,</p> <p>15 there's nothing that -- piece of information that you</p> <p>16 would owe the election administrator that would not</p> <p>17 cause a provisional.</p> <p>18 CHAIRMAN KARY: However, on the day of the</p> <p>19 election, same-day registration, is that a provisional</p> <p>20 ballot?</p> <p>21 DANA CORSON: Those, on the same day, is my</p> <p>22 understanding.</p> <p>23 CHAIRMAN KARY: And I would defer -- she</p> <p>24 agrees. Okay.</p> <p>25 Any other questions?</p>                      | <p style="text-align: right;">Page 51</p> <p>1 you're a brand new late registrant on election day, you</p> <p>2 don't need a provisional ballot, because you're not</p> <p>3 going to be on a list anywhere. If you tried to go</p> <p>4 into a polling place, you couldn't vote.</p> <p>5 But if you were on a list in Precinct 1 and</p> <p>6 you came to the office to late register, you'd get a</p> <p>7 provisional ballot, and we won't count it unless we</p> <p>8 check the list -- until we check the list in Precinct</p> <p>9 1. And then the same concept from county to county.</p> <p>10 CHAIRMAN KARY: So it's provisional until</p> <p>11 it's verified.</p> <p>12 AUDREY MCCUE: Right. It's provisional until</p> <p>13 we check the lists and make sure you didn't vote twice.</p> <p>14 CHAIRMAN KARY: Okay.</p> <p>15 Further questions?</p> <p>16 SENATOR ELLIS: Yes, Mr. Chairman, for</p> <p>17 Ms. McCue.</p> <p>18 CHAIRMAN KARY: Exercise, Mr. McCue.</p> <p>19 Exercise.</p> <p>20 AUDREY MCCUE: Senator Kary, Senator Ellis.</p> <p>21 SENATOR ELLIS: Ms. McCue, first of all, I</p> <p>22 would like you to send -- I would like to see a copy --</p> <p>23 and I would guess the whole Committee would. I don't</p> <p>24 know if you would send it to our secretary and she</p> <p>25 could pass around your testimony if it's written.</p>                                                                                                                             |
| <p style="text-align: right;">Page 50</p> <p>1 Senator Ellis.</p> <p>2 SENATOR ELLIS: Thank you, Mr. Chairman. I</p> <p>3 had -- maybe Jacelyn can answer this. I wanted to know</p> <p>4 if Ms. McCue is one of the testifiers -- or people who</p> <p>5 submitted written testimony that I'll eventually be</p> <p>6 able to see.</p> <p>7 CHAIRMAN KARY: Ms. McCue --</p> <p>8 SENATOR ELLIS: And I can ask her if --</p> <p>9 CHAIRMAN KARY: She's right here.</p> <p>10 SENATOR ELLIS: Oh, okay.</p> <p>11 AUDREY MCCUE: Senator Kary, I did not. I</p> <p>12 signed up to testify online, but I was able to come in</p> <p>13 person. But I can email that to Senators, if you like.</p> <p>14 And Senator, may I clarify the provisional ballot</p> <p>15 question you just had?</p> <p>16 CHAIRMAN KARY: Yes.</p> <p>17 AUDREY MCCUE: So the provisional ballots are</p> <p>18 those lists that we print for the polling place. If</p> <p>19 the lists are already done and printed, then if</p> <p>20 somebody is somewhere on a list at a polling place, we</p> <p>21 have to give them a provisional ballot when they late</p> <p>22 register.</p> <p>23 So it's really just on election day, not the</p> <p>24 Friday or Monday. And it's actually tied in law and</p> <p>25 rule to that list being printed. So the idea there, if</p> | <p style="text-align: right;">Page 52</p> <p>1 AUDREY MCCUE: Senator Kary, Senator Ellis.</p> <p>2 I will do that. I'm assuming I can look your email up</p> <p>3 online. Okay.</p> <p>4 SENATOR ELLIS: Okay. And then the last</p> <p>5 question I have for you is can you -- in your</p> <p>6 experience, you've seen a lot of people register in</p> <p>7 Lewis and Clark County using same-day registration.</p> <p>8 And I wondered if you could give us like five reasons</p> <p>9 why people do that, that you've seen fairly commonly,</p> <p>10 just so we get a better feel.</p> <p>11 AUDREY MCCUE: Senator Kary, Senator Ellis.</p> <p>12 I think a lot of people -- for a lot of people,</p> <p>13 election day is a day. So when they make their plan to</p> <p>14 vote, they -- you know, we have a lot of people who get</p> <p>15 their absences and do it ahead of time, but a lot of</p> <p>16 people turn them in on that day, or they want to vote</p> <p>17 on that day.</p> <p>18 So if it's past the close of regular</p> <p>19 registration and they know they're going to go in</p> <p>20 person and register and vote, I think some people want</p> <p>21 to do it on that day. I think there are some people</p> <p>22 who moved and thought that their address got updated</p> <p>23 when they changed it at the post office or the DMV and</p> <p>24 it didn't, so they went on election day. I think some</p> <p>25 people just don't even think to look it up until</p> |

13 (Pages 49 to 52)

| Page 53                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Page 55                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| <p>1 election day or the night before, and so they just<br/>2 figure out that that's their option.<br/>3 We have some people who get routed from the<br/>4 polls to our office because they weren't in the<br/>5 register, and they're there to register and vote. I<br/>6 could look up the data on like how many we've had that<br/>7 are new versus county to county versus precinct to<br/>8 precinct, but it's not usually just one of those<br/>9 categories, if that answers the question.<br/>10 SENATOR ELLIS: Yes, it does. Thank you,<br/>11 Ms. McCue. Thank you, Mr. Chairman.<br/>12 CHAIRMAN KARY: Ms. McCue, if you would stay<br/>13 there for one minute. Educate me. If I came in and I<br/>14 have voted, and it was in a different -- and we just<br/>15 moved within the last six months. And I showed up.<br/>16 Would that be a late registration? That would just be<br/>17 a change of information, would it not, because I'm<br/>18 already registered?<br/>19 AUDREY MCCUE: Senator Kary, we do consider<br/>20 any changes to key voter registration information after<br/>21 the close are considered late registration. So it's<br/>22 new or it's changing your residence address or changing<br/>23 your name.<br/>24 CHAIRMAN KARY: So anything after 30 days<br/>25 before is considered that, correct?</p> | <p>1 voting on election day?<br/>2 AUDREY MCCUE: Senator Kary, Senator Cuffe.<br/>3 No. So the way kind of I explain late registration to<br/>4 voters and close of registration is if you want to vote<br/>5 at your polling place, you need to register before the<br/>6 close. In order to vote at your polling place.<br/>7 Otherwise, you go into the elections office to register<br/>8 and vote there. So what this would change is you'd<br/>9 have to do that before election day.<br/>10 SENATOR CUFFE: So they can vote -- you can<br/>11 register as early as you want. And if you vote, you<br/>12 continue to be registered.<br/>13 AUDREY MCCUE: Senator Kary, Senator Cuffe.<br/>14 That's correct. There's different ways you get<br/>15 inactivated and then cancelled based on usually not<br/>16 responding to notices or having address changes. But<br/>17 if you're registered and you're voting, you won't<br/>18 get --<br/>19 SENATOR CUFFE: Yeah. So the vast majority<br/>20 are there.<br/>21 AUDREY MCCUE: Correct.<br/>22 SENATOR CUFFE: Mr. Chairman, might I ask the<br/>23 sponsor a question? And then I'm done, Mr. Chairman.<br/>24 CHAIRMAN KARY: Okay. Senator Cuffe.<br/>25 Representative Greef.</p>                                                                                     |
| Page 54                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Page 56                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>1 AUDREY MCCUE: Yes. Usually the 30th day is<br/>2 Sunday, so the 20 -- the close ends up being the 29th<br/>3 day, and it's 28 days until election day. But any --<br/>4 CHAIRMAN KARY: So we really don't get 3,000<br/>5 people showing up to do it on election day. It's<br/>6 between the 29th day and election day. Is that<br/>7 correct?<br/>8 AUDREY MCCUE: Senator Kary, the 3,000 number<br/>9 I think is specific to election day. The data that's<br/>10 on the state's website, you can see how many total and<br/>11 how many for just election day versus the days before<br/>12 election day.<br/>13 CHAIRMAN KARY: Oh, okay.<br/>14 AUDREY MCCUE: So those numbers, I think,<br/>15 have been reported on just election day.<br/>16 CHAIRMAN KARY: Just election day. Thank<br/>17 you.<br/>18 SENATOR CUFFE: Mr. Chairman.<br/>19 CHAIRMAN KARY: Senator Cuffe.<br/>20 SENATOR CUFFE: Could I ask a question of --<br/>21 is it Audrey McCue, McCue --<br/>22 AUDREY MCCUE: Senator Cuffe, yes.<br/>23 CHAIRMAN KARY: Ms. McCue.<br/>24 SENATOR CUFFE: Yes. Anyway, if someone<br/>25 registers to vote early, does that prevent them to</p>                                                                                                                                                                             | <p>1 REPRESENTATIVE GREEF: Mr. Chair, Senator.<br/>2 SENATOR CUFFE: Representative Greef, why did<br/>3 you decide to bring this bill? Can you -- I mean<br/>4 that's really -- right now you're probably thinking<br/>5 "Why did I?"<br/>6 REPRESENTATIVE GREEF: No. Mr. Chair,<br/>7 Senator. It's something that I had been thinking about<br/>8 for a long time before we came to session. And then,<br/>9 as we went through the national elections, my<br/>10 conviction to bring this became much stronger. We<br/>11 elected a new Secretary of State. And Christi Jacobsen<br/>12 has worked for years in that office. This is a bill<br/>13 that she really, really feels strongly about passing.<br/>14 And so that convinced me, again, that this is the right<br/>15 time to bring this bill.<br/>16 SENATOR CUFFE: Thank you, Mr. Chairman.<br/>17 CHAIRMAN KARY: Vice Chair Bennett.<br/>18 VICE CHAIRMAN BENNETT: Thank you, Mr. Chair.<br/>19 Just one last question for the sponsor.<br/>20 CHAIRMAN KARY: And then you will close, so<br/>21 you can stay up there. Okay.<br/>22 VICE CHAIRMAN BENNETT: Mr. Chair and<br/>23 Representative Greef. The elephant in the room that we<br/>24 haven't had a chance to talk about yet is about six<br/>25 years ago the people of Montana had this question in</p> |

14 (Pages 53 to 56)



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| <p style="text-align: right;">Page 57</p> <p>1 front of them. And they pretty resoundingly said we<br/> 2 want to keep election day registration. We think it's<br/> 3 a good idea. Why, in the face of that, should we<br/> 4 overturn or undermine the will of the voters that were<br/> 5 so recently heard?</p> <p>6 REPRESENTATIVE GREEF: Mr. Chair and Senator.<br/> 7 A lot of things have changed in the six and a half<br/> 8 years since the voters decided that. Our population<br/> 9 has changed. The morals of the country have changed.<br/> 10 Just generally, the elections of the country have<br/> 11 changed. I want Montana's integrity to stay absolutely<br/> 12 as high as it is now. And that's why I think that this<br/> 13 bill is what we need, Senator.</p> <p>14 CHAIRMAN KARY: Thank you. Representative<br/> 15 Greef, if you would care to close.</p> <p>16 REPRESENTATIVE GREEF: I would love to,<br/> 17 Mr. Chair. People are using, I feel, same-day<br/> 18 registration because that's their habit. And I thought<br/> 19 it was interesting when Senator Ellis asked the reasons<br/> 20 why people are using this. Well, we're<br/> 21 procrastinators. I'm a procrastinator. People have<br/> 22 known that they could do this, so they do it. They<br/> 23 wait until their driver's license expires and they run<br/> 24 in the last day. They wait until mom's birthday is<br/> 25 tomorrow, and so they run in and get a birthday</p> | <p style="text-align: right;">Page 59</p> <p>1 vote will be held until the day of the election, if<br/> 2 that's the birthday. They will be able to vote.</p> <p>3 Mr. Chairman, members of the Committee, I ask<br/> 4 for a do pass on House Bill 176. Thank you.</p> <p>5 CHAIRMAN KARY: Thank you, Representative<br/> 6 Greef. And with that, we'll close the hearing on House<br/> 7 Bill 176.</p> <p>8 And members of the Committee that are left<br/> 9 here, thank you for your patience, for extending the<br/> 10 additional time. We have a full docket on Wednesday<br/> 11 again, and another full docket on Friday, and we are<br/> 12 scheduled all through next week already.</p> <p>13 So prepare to spend a little bit more time<br/> 14 than we have. Thank you, members. With that, we will<br/> 15 close the meeting.</p> <p>16 (Recording ends)<br/> 17 * * * * *</p> |
| <p style="text-align: right;">Page 58</p> <p>1 present. They wait to register because they can.<br/> 2 Like I said before, we've witnessed serious<br/> 3 threats to our election nationally. And again, we want<br/> 4 to ensure the integrity of Montana's elections.</p> <p>5 I'd like to just briefly address the<br/> 6 handicapped voters. And I can understand that there's<br/> 7 a struggle. It's hard to get out to vote if they have<br/> 8 to go and change their registration or they want to<br/> 9 vote in person. But you know what? This is making it<br/> 10 so much easier just to let them know that they don't<br/> 11 have to go on one day. They can go on just about any<br/> 12 day they want.</p> <p>13 Their caregivers or whoever helps them does<br/> 14 not have to rush to go for that one day. It's -- I<br/> 15 think it's going to be easier. We realize the effort<br/> 16 and we appreciate the effort that it takes for a<br/> 17 handicapped person to vote. Please don't make this<br/> 18 bill about taking that right away. It absolutely is<br/> 19 not.</p> <p>20 The change that will happen when this bill<br/> 21 passes will be heavily advertised. You know how<br/> 22 elections are advertised on television, through the<br/> 23 mail. I guarantee you this will be heavily advertised.</p> <p>24 And again, I'd like to address Little Dog's<br/> 25 concern about the 18-year-olds. They will -- their</p>                      | <p style="text-align: right;">Page 60</p> <p>1 CERTIFICATION</p> <p>2</p> <p>3 I, Alicia Jarrett, court-approved<br/> 4 transcriber, hereby certify that the foregoing is a<br/> 5 correct transcript from the electronic sound recording<br/> 6 provided for transcription and prepared to the best of<br/> 7 my ability.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 _____<br/> ALICIA JARRETT, AAERT NO. 428 DATE: March 29, 2021</p> <p>25</p>                                                                                                                                                                                                                                                                                                               |

15 (Pages 57 to 60)

# EXHIBIT F



# Ballot Form and Uniformity Pursuant to [13-12-202](#), MCA

## Ballot Layout Instructions and Sample Ballots (Revised December 16, 2021)

### PRIMARY ELECTION BALLOT LAYOUT

#### FEDERAL, STATE AND COUNTY PRIMARY PARTISAN ELECTIONS

Prescribed as required by Section [13-12-201](#), MCA, in accordance with provisions of Chapters 10 and 12 of Title 13, MCA.

1. The primary election ballot shall consist of the correspondingly numbered ballots of each political party entitled to nominate candidates at the primary election.
  2. A stub shall extend the entire width of the sheet and be separated from the sheet by perforations allowing the stub to be detached.
  3. The names of all candidates printed upon the ballots shall be in type of the same size and character. When the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue. The type of paper for all party ballots printed that are used in each precinct must be the same. If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot, after the nonpartisan candidate section if the nonpartisan section is printed at the end of each party's ballot, or on 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.
  4. On the face of the stub of each ballot and at the top of the first column on the left of the ballot shall be printed the following instructions:
    1. **TO VOTE, COMPLETELY FILL IN (●)THE OVAL USING A BLUE OR BLACK PEN.**
    2. To write in a name, completely fill in the oval to the left of the line provided, and on the line provided print the name of the write-in candidate for whom you wish to vote.
    3. **DO NOT MAKE AN IDENTIFYING MARK, CROSS OUT, ERASE, OR USE CORRECTION FLUID.** If you make a mistake or change your mind, exchange your ballot for a new one.
- VOTE IN ALL COLUMNS**  
**[VOTE BOTH SIDES]**
5. The stub does not need to contain instructions.
  6. On the face of the stub of the ballot of each party, for each precinct, district, or ward, as applicable, shall be printed or stamped the consecutive number of the ballot, beginning with number one and increasing in regular numerical order to the total number of ballots required for the precinct, district or ward.
  7. At the top center of each ballot shall be printed in large boldface capital letters the words "**OFFICIAL PRIMARY ELECTION BALLOT – [NAME OF PARTY] PARTY**" unless the party name is placed on the next line or follows the date of the election. Immediately beneath shall appear the name of the county and a comma followed by "Montana", followed by a hyphen and the date of the election on the same line or on the next line. Below the words a line shall extend the width of the sheet less margins.
  8. Beneath the heading, the ballot shall be divided into columns by lines extending the length of the ballot from the line to the bottom margin. The columns shall be as nearly equal in length as possible without dividing any section for an office or ballot issue and without changing the spacing of the printing.
  9. After the instructions, at the head of the first column to the left shall be printed, in boldface capital letters, the words, "**FEDERAL AND STATE**" with a line extending the entire width of the column above and below the words.
  10. **In Presidential election years**, beneath the line shall be printed, in boldface capital letters, "**FOR PRESIDENT**". (Vice presidential candidates, if any, do not appear on the primary ballot.) Names of presidential candidates, as certified by the Secretary of State, shall be listed in alphabetical order under the boldface, capitalized instruction "**(VOTE FOR ONE)**". A designated voting area shall appear to the left of the name of each candidate for president. A designated voting area followed by the capitalized words "NO PREFERENCE" shall be printed beneath the name of the last candidate. A blank write-in space, including a designated voting area shall then follow, with a line below it extending the width of the column.

11. Beneath the line, the list of federal and state offices for which nominations are to be made at the election, and the names of the respective candidates for such offices, shall be progressively printed down the column and continued to the top of the next column, if necessary, in the relative sequence prescribed by Section [13-12-207](#), MCA, excluding nonpartisan offices.
12. In Governor/Lt. Governor election years, beneath the line above the prior office shall be printed, in boldface capital letters, the words "**FOR GOVERNOR & LT. GOVERNOR**". Beneath these words shall be printed, in boldface capital letters, the words "**(VOTE IN ONE OVAL)**". A designated voting area shall appear to the left of the name of each candidate for governor. Below the name of each candidate for governor shall be indented and printed in capital letters the words "FOR GOVERNOR" and below the name of each candidate for Lt. governor shall be indented and printed in capital letters the words "FOR LT. GOVERNOR". Below the name of the last candidate, two blank write-in lines shall be provided, with the words "FOR GOVERNOR" indented and printed underneath the first line and the words "FOR LT. GOVERNOR" indented and printed underneath the second line. The section for the offices of governor and Lt. governor shall be separated from the other offices in the federal and state category by a line.
13. For other offices, beneath the title of each office shall be printed, in capital letters, the words "**(VOTE FOR [UP TO] [insert the number to be elected to such office])**" followed below by the names of each candidate of the political party for nomination to such office. A designated voting area shall be printed immediately to the left of each name. Below the name of the last candidate, blank spaces shall be provided for write-in candidates, in the same number as the number of votes the elector may cast for that particular office. Each blank write-in space is to be indicated by a line with a designated voting area immediately to the left of the line. Beneath the write-in space or spaces a line shall extend the entire width of the column.
14. Following the line below the names and spaces for the last office in the federal and state category, the word "**COUNTY**" shall be printed in boldface capital letters with a line extending the entire width of the column below the word. The titles of partisan county offices for which nominations are to be made at the election and the names of the respective candidates for nomination to such offices shall follow, in the relative sequence prescribed by Section [13-12-207](#) (2), MCA, excluding nonpartisan offices, continuing into the next column, if necessary.
15. The word "**PRECINCT**" shall be printed, in boldface capital letters, below the line beneath the names and spaces for the last office in the county category with a line extending the entire width of the column below the word. Except as provided in 13-38-201, MCA, the names of candidates for precinct committeeman and for precinct committeewoman shall be listed under the headings for the respective offices and blank spaces provided in the same manner as for the offices in the federal and state and the county categories.
16. The proper heading (**FEDERAL AND STATE** or **COUNTY** or **PRECINCT** or **BALLOT ISSUES**) shall be printed in boldface capital letters at the top of each column to the right of the first column with the word "(Continued)" printed immediately beneath, if applicable, in parentheses. Following the line at the bottom of the section for the last office at the bottom of each column, except the last one on the right of the sheet, shall be printed the words "**VOTE IN NEXT COLUMN**", [and at the bottom of the last column, "**VOTE BOTH SIDES**", if applicable] in boldface capital letters, with a line extending the width of the column above and beneath the words.
17. If, for example, in the instance of a County Commissioner position, an additional line is required to indicate the commissioner position district number, the number shall appear immediately below the position name.
18. When there is a short-term election for an office, such as an office subject to being placed on the ballot because of a vacancy occurring in the middle of the term, beneath the title of each such office (or the line containing a district number if one is required), in boldface capital letters, an appropriate statement, such as, "**UNEXPIRED TERM**" without the quotation marks shall be printed. If there are two offices with the same office name, the long-term office shall precede the short-term office on the ballot, and the first shall be printed with "**FULL TERM**" below the name of the office and the second shall be printed with "**UNEXPIRED TERM**" below the name of the office.
19. The names of the candidates for each office on the ballot shall be listed alphabetically as to surname beneath the office titles and rotated in the manner prescribed by Section [13-12-205](#), MCA. The names of all candidates shall be printed with the surname last.
20. As nearly as possible, the ballot for each political party shall be substantially in the form described above. An example is printed on a sample page at the end of these instructions. Specific written approval by the Secretary of State must be given for any substantial deviation and received by the election administrator responsible for printing of the ballot.

**See Example of Primary Election Partisan Ballot in Ballot Layout Samples Section**

**STATE AND COUNTY PRIMARY NONPARTISAN ELECTIONS**

Prescribed Ballot Format required by Section [13-14-115](#),  
in accordance with provisions of Chapters 10, 12 and 14 of Title 13

If printed separately from the partisan ballots, the Nonpartisan Primary Election Ballot may be printed as a separate ballot of a different size or color but in the same form as prescribed for the ballot for the partisan primary election ballot.

**Nonpartisan offices and ballot issues may appear on the same ballot as partisan offices if each section is clearly identified as separate and such nonpartisan offices and ballot issues appear on each party's ballot, after the last partisan office on the ballot and before ballot issues, if any. If the nonpartisan ballot is printed as a section on each party ballots, the headings "NONPARTISAN - STATE" or "NONPARTISAN - COUNTY", as applicable, should be used to differentiate the nonpartisan state offices from nonpartisan county offices.**

If printed as separate ballots, the ballots shall be numbered in the same order as the party ballot and must contain the following differences:

At the top of the ballot the words "**OFFICIAL NONPARTISAN PRIMARY BALLOT**" shall be printed in large boldface capital letters.

The nonpartisan offices to be voted on at the election, with the names of the candidates and write-in spaces, shall be printed below the line in the same form as prescribed for the partisan primary election ballots.

The heading for each office shall list the position number for that office, if applicable, and judicial district number for district court judges and justices of the peace (if applicable for justices of the peace). The word "Nonpartisan" need not be used after each candidate's name on the primary ballot since all candidates on the nonpartisan ballot or nonpartisan section of the ballot are identified as nonpartisan by the "Nonpartisan" heading.

If a ballot issue is to be voted on at the primary it appears immediately after all nonpartisan offices on the same ballot. As nearly as possible, the ballot, if printed separately from the partisan ballot, shall be substantially in the following form:

**OFFICIAL NONPARTISAN PRIMARY BALLOT**  
**\_\_\_\_\_ COUNTY**  
**June \_\_\_\_\_, 20 \_\_\_\_**

**FOR SUPREME COURT JUSTICE #1**  
**(VOTE FOR ONE)**

( ) ALBERTA BROWN

( ) RICHARD JOHNSON

( ) \_\_\_\_\_

**DISTRICT COURT JUDGE**  
**DISTRICT 5, DEPT. 1**  
**(VOTE FOR ONE)**

( ) JOHN POTTS

( ) JANE RICHARDS

( ) \_\_\_\_\_

**FOR JUSTICE OF THE PEACE DEPT. 1**  
**(VOTE FOR ONE)**

( ) MARY JONES

( ) SANDY HOUSTON

( ) \_\_\_\_\_

STUB (as prescribed for primary ballot)

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## **MUNICIPAL PRIMARY PARTISAN ELECTIONS**

Prescribed as required by Section [13-12-201](#) and [202](#), MCA, in accordance with provisions of Chapters 10 and 12 of Title 13, MCA.

Municipal primary partisan ballots shall be printed the same as state and county primary partisan election ballots, except for the following:

At the top center of each ballot shall be printed in large boldface capital letters the words "**OFFICIAL MUNICIPAL PRIMARY BALLOT**" and immediately beneath, the words "City [or Town] of \_\_\_\_\_".

Party precinct offices are **not** printed on the municipal election ballots, only on the federal partisan primary ballots.

At the head of the first column to the left shall be printed the list of offices and the names of the respective partisan candidates for such offices as determined by the election administrator pursuant to Section [13-12-207\(3\)](#), MCA.

## **MUNICIPAL PRIMARY NONPARTISAN ELECTIONS**

Prescribed as required by Section [13-12-201](#) and [202](#), MCA,  
in accordance with provisions of Chapters 10, 12 and 14 of Title 13, MCA.

Municipal primary nonpartisan ballots shall be printed the same as state and county primary nonpartisan election ballots, except for the following:

Unless the municipal primary nonpartisan ballot is printed as part of the municipal primary partisan ballot, at the top center of each ballot shall be printed in large boldface capital letters the words "**OFFICIAL MUNICIPAL PRIMARY NONPARTISAN BALLOT**" and immediately beneath, the words "City [or Town] of \_\_\_\_\_".

At the head of the first column to the left shall be printed the list of offices and the names of the respective nonpartisan candidates for such offices as determined by the election administrator pursuant to Section [13-12-207\(3\)](#), MCA.

The balance of the nonpartisan ballot shall be printed as prescribed for municipal primary partisan elections except that no party designations are to be used. The word "Nonpartisan" need not be used after each candidate's name on the primary ballot since all candidates on the nonpartisan ballot or nonpartisan section of the ballot are identified as nonpartisan by the "Nonpartisan" heading.

### FEDERAL, STATE AND COUNTY GENERAL ELECTIONS

Prescribed as required by [13-12-201](#) and [202](#), MCA, in accordance with provisions of Chapters 10 and 12 of Title 13, MCA.

1. General election ballots shall be printed the same as primary election ballots, except for the following:
2. At the top center of each ballot, shall be printed in large boldface capital letters the words "**OFFICIAL GENERAL ELECTION BALLOT**". Immediately beneath shall appear the name of the county followed by the date of the election. Below the words a line shall extend the width of the sheet less margins.
3. In **Presidential election years**, beneath the line that appears below "FEDERAL AND STATE" shall be printed, in boldface capital letters, "**FOR PRESIDENT & VICE PRESIDENT**". Beneath these words shall be printed, in boldface capital letters, the words "**VOTE IN ONE OVAL**".
4. Names of state-certified presidential and vice-presidential candidates, as certified by the Secretary of State, shall be progressively printed down the column, arranged by the surname of the candidate for president. The words "[INSERT NAME OF POLITICAL PARTY] FOR PRESIDENT" and "[INSERT NAME OF POLITICAL PARTY] FOR VICE PRESIDENT" shall be indented and printed after the name of the respective candidates and a designated voting area shall be printed immediately to the left of the name of each party's candidates for president.
5. Two blank spaces, indicated by write-in lines, with one designated voting area to the left of the first line, shall be printed below the names of the last candidates for president and vice president. Below the first blank line, in capital letters shall be indented and printed "FOR PRESIDENT". The words "FOR VICE PRESIDENT" shall be similarly indented and printed below the second blank line. The section for the offices of president and vice president shall be separated from the other offices in the federal and state category by a line.
6. The names of candidates for political offices shall be followed by their respective political affiliation. For nonpartisan offices, the words printed after the names of each of the candidates shall be "Nonpartisan". If an incumbent judicial candidate has no opposition, the retention language prescribed in Section [13-14-212](#), MCA, shall be used, if applicable.
7. Following the line below the names and spaces for the last office in the federal and state category, the word "**COUNTY**" shall be printed in boldface capital letters with a line extending the entire width of the column below the word. The titles of county offices to be filled at the election, including nonpartisan offices, and the names of the respective candidates for such offices shall follow, in the relative sequence prescribed by Section [13-12-207\(2\)](#), MCA, continuing into the next column, if necessary.
8. Party precinct offices are not printed on any general election ballots, only on the federal partisan primary ballots.
9. Following the line below the names and spaces for the last candidate office shall be printed, in boldface capital letters, the words "**BALLOT ISSUES**" with a line extending the entire width of the column below the words. The statewide ballot issues shall follow, in the relative order prescribed in Section [13-12-207\(4\)](#), MCA, and in the sequence certified by the Secretary of State.
10. Beneath the line, first shall come the name/number of the issue, second the method of placement on the ballot followed by the title, all as certified by the Secretary of State. **Due to a law change, abbreviated statewide ballot issue language is not permitted to be used.** Any titles provided by the legislature for constitutional amendments and referendums, placed on the ballot by legislative action, shall precede the Attorney General's title.
11. Beneath the titles of each issue shall be printed, in capital letters, "YES ON [insert statement from certified ballot language]" and below these words shall be printed, also in capital letters, "NO ON [insert statement from certified ballot language]". Each of the above phrases shall have a designated voting area to the left of them.

See Example of General Election Ballot at End of Ballot Layout Samples Section

## **MUNICIPAL GENERAL PARTISAN ELECTIONS**

Prescribed as required by Section [13-12-201](#) and [202](#), MCA, in accordance with provisions of Chapters 10 and 12 of Title 13, MCA.

Municipal general ballots shall be printed the same as state and county general election ballots, except for the following:

At the top center of each ballot shall be printed in large boldface capital letters the words "**OFFICIAL MUNICIPAL GENERAL BALLOT**" and immediately beneath, the words "City [or Town] of \_\_\_\_\_"

A municipal general partisan election that also includes nonpartisan offices must include each partisan and nonpartisan office sequentially as provided in [13-12-207\(3\)](#), MCA. For nonpartisan offices, the words printed after the names of the candidates shall be "Nonpartisan". If an incumbent judicial candidate has no opposition, the retainer language prescribed in Section [13-14-212](#), MCA, shall be used, if applicable.

Party precinct offices are **not** printed on the municipal election ballots, only on the federal partisan primary ballots.

At the head of the first column to the left shall be printed the list of offices and the names of the respective candidates for such offices as determined by the election administrator pursuant to Section [13-12-207\(3\)](#), MCA.

## **MUNICIPAL GENERAL NONPARTISAN ELECTIONS**

Prescribed as required by Section [13-12-201](#) and [202](#), MCA,  
in accordance with provisions of Chapters 10, 12, 14 and 27 of Title 13, MCA.

In cases in which all offices on a municipal general election ballot are nonpartisan, ballots shall be printed the same as municipal general partisan election ballots, except for the following:

At the top center of each ballot, shall be printed in large boldface capital letters the words "**OFFICIAL MUNICIPAL GENERAL NONPARTISAN BALLOT**" and immediately beneath, the words "City [or Town] of \_\_\_\_\_".

At the head of the first column to the left shall be printed the list of offices and the names of the respective candidates for such offices as determined by the election administrator pursuant to Section [13-12-207\(3\)](#), MCA. If an incumbent judicial candidate has no opposition, the retention language prescribed in Section [13-14-212](#), MCA, shall be used, if applicable.

Party precinct offices are not printed on the municipal election ballots, only on the federal partisan primary ballots.

The balance of the nonpartisan ballot shall be printed as prescribed for municipal general partisan elections except that no party designations are to be used.

## **GENERAL OR SPECIAL DISTRICT ELECTIONS**

Prescribed as required by Section [13-12-202](#), MCA

The following is an outline format to be followed in conjunction with the specific ballot requirements specified in the statute requiring the special district election or election in any other political subdivision in which a ballot format has not been prescribed.

Special district election ballots shall be printed the same as state and county primary election ballots, except for the following:

At the top center of each ballot shall be printed in large boldface capital letters the words "**(GENERAL DISTRICT BALLOT or SPECIAL DISTRICT BALLOT)**" and immediately beneath, the words "\_\_\_\_\_ District".

Beneath the line shall be printed the list of offices, the names of the respective candidates for such offices and/or ballot issues as determined by the election administrator pursuant to Section [13-12-207 \(3\)](#), MCA.



As required by [13-12-207](#), MCA

**Note: In a primary election, all partisan offices are placed on the ballot before all nonpartisan offices.**

**In a general election, partisan and nonpartisan offices are placed on the ballot as listed below.**

(1) The order on the ballot for state and federal offices must be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a line must be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party must be grouped together.

(b) United States senator;

(c) United States representative;

(d) governor and lieutenant governor;

(e) secretary of state;

(f) attorney general;

(g) state auditor;

(h) state superintendent of public instruction;

(i) public service commissioners;

(j) clerk of the supreme court;

(k) chief justice of the supreme court;

(l) justices of the supreme court;

(m) district court judges;

(n) state senators;

(o) members of the Montana house of representatives.

(2) The following order of placement must be observed for county offices:

(a) clerk of the district court;

(b) county commissioner;

(c) county clerk and recorder;

(d) sheriff;

(e) coroner;

(f) county attorney;

(g) county superintendent of schools;

(h) county auditor;

(i) public administrator;

(j) county assessor;

(k) county treasurer;

(l) surveyor;

(m) justice of the peace.

(3) The Secretary of State shall designate the order for placement on the ballot of any offices not on the above lists, except that the election administrator shall designate the order of placement for municipal, charter, or consolidated local government offices and district offices when the district is part of only one county.

(4) Constitutional amendments must be placed before statewide referendum and initiative measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide measures in the order designated by the election administrator.

(5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must be maintained.

(6) If there is a short-term and a long-term election for the same office, the long-term office must precede the short-term.

- ◆ If an appointment has been made to replace a candidate as provided by law, or if a candidate for lieutenant governor has been advanced to the candidacy for governor, after the ballots have been prepared but before the election, the election administrator may:
  - 1) Correct the ballot so that it meets the requirements of the instructions above and the sample ballots below;
  - 2) Have the entire ballot redone; or
  - 3) Have a separate ballot prepared only for the office for which the new candidate is a candidate.
- ◆ Provisions must be made as specified in the instructions above and sample ballots below for write-in candidates.
- ◆ The instructions above and sample ballots below specify the content of stubs on paper ballots. The stubs should be of the same width as the ballot and of a size that is optimal to facilitate their removal from the ballot.
- ◆ Unvoted ballots must be handled as indicated in statute and in the election judge handbook.
- ◆ The number of individuals voting and the number of ballots cast must be recorded on a form(s) or through a system provided by the election administrator for that purpose.
- ◆ The order and arrangement of voting system ballots are as specified in the instructions above and the sample ballots below.
- ◆ The names of all candidates to appear on the ballots must be in the same font size and style.
- ◆ When the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue.
- ◆ The ballots must contain the name of each candidate whose nomination is certified under law for an office and no other names, except that the names of candidates for president and vice president of the United States must appear on the ballot as provided in [13-25-101](#), MCA.

**OFFICIAL PRIMARY ELECTION BALLOT – XXXXX PARTY**  
**[NAME OF COUNTY] COUNTY, MONTANA - JUNE 2, 2020**

Remember to use the word "Continued" at the top of each column where applicable.

The instructions at right are standardized to apply to as many ballots as possible. They should NOT appear on the stub.

"FEDERAL AND STATE" is the proper heading for all federal, state and state-district offices, down to and including legislative.

In some cases, you may have a "VOTE FOR TWO" or similar option, based on the number of spots open.

Counties can choose whether to use the language "VOTE FOR TWO" or "VOTE FOR UP TO TWO".

Also, make sure you have write-in spots matching the number to be voted for.

| [NAME OF COUNTY] COUNTY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATE OF MONTANA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | [DATE OF ELECTION]                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>COUNTY</b><br>→ (Continued)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>NONPARTISAN - STATE</b><br>(Continued)                                                                                                                                                                                                                                                                                                                                                           |
| <b>INSTRUCTIONS TO VOTERS</b><br><b>1. TO VOTE, COMPLETELY FILL IN (●) THE OVAL USING A BLUE OR BLACK PEN.</b><br><b>2. To write in a name, completely fill in the oval to the left of the line provided, and on the line provided print the name of the write-in candidate for whom you wish to vote.</b><br><b>3. DO NOT MAKE AN IDENTIFYING MARK, CROSS OUT, ERASE, OR USE CORRECTION FLUID.</b> If you make a mistake or change your mind, exchange your ballot for a new one.<br><b>VOTE IN ALL COLUMNS [VOTE BOTH SIDES]</b> | <b>FOR COUNTY COMMISSIONER DISTRICT X (VOTE FOR TWO/ VOTE FOR UP TO TWO)</b><br><input type="radio"/> ANDREW JACKSON<br><input type="radio"/> MARTIN VAN BUREN<br><input type="radio"/> WILLIAM H. HARRISON<br><input type="radio"/> JOHN TYLER<br><input type="radio"/> _____<br><input type="radio"/> _____                                                                                                                                                                                                                             | <b>FOR DISTRICT COURT JUDGE DISTRICT X, DEPT X (VOTE FOR ONE)</b><br><input type="radio"/> JAMES BUCHANAN<br><input type="radio"/> ABRAHAM LINCOLN<br><input type="radio"/> _____<br><b>NONPARTISAN - COUNTY</b><br><b>FOR JUSTICE OF THE PEACE (VOTE FOR ONE)</b><br><input type="radio"/> _____                                                                                                   |
| <b>FEDERAL AND STATE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>PRECINCT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>BALLOT ISSUES</b>                                                                                                                                                                                                                                                                                                                                                                                |
| <b>FOR UNITED STATES SENATOR (VOTE FOR ONE)</b><br><input type="radio"/> JOHN ADAMS<br><input type="radio"/> GEORGE WASHINGTON<br><input type="radio"/> NO PREFERENCE<br><input type="radio"/> _____<br><b>FOR UNITED STATES REPRESENTATIVE (VOTE IN ONE OVAL)</b><br><input type="radio"/> THOMAS JEFFERSON<br>FOR GOVERNOR<br>JAMES MADISON<br>FOR LT. GOVERNOR<br><input type="radio"/> _____<br>FOR GOVERNOR<br>_____<br>FOR LT. GOVERNOR                                                                                      | <b>FOR PRECINCT COMMITTEEMAN (VOTE FOR ONE)</b><br><input type="radio"/> JAMES K. POLK<br><input type="radio"/> ZACHARY TAYLOR<br><input type="radio"/> _____<br><div>             For information on precinct offices, see Title 13, Chapter 38. Precinct offices only appear on the federal Primary election ballot, not on the General election ballot.           </div> <b>FOR PRECINCT COMMITTEEWOMAN (VOTE FOR ONE)</b><br><input type="radio"/> SARAH POLK<br><input type="radio"/> MARGARET TAYLOR<br><input type="radio"/> _____ | <b>CI-01 (VOTE IN ONE OVAL)</b><br><b>A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION</b><br>This ballot issue would change local ordinance H-101 to allow for printing of lengthy ballots on scrolls.<br>The estimated savings would be \$5,000.<br><input type="radio"/> YES on Constitutional Initiative No. CI-01<br><input type="radio"/> NO on Constitutional Initiative No. CI-01 |
| <b>COUNTY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>NONPARTISAN - STATE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>FOR CLERK OF THE DISTRICT COURT (VOTE FOR ONE)</b><br><input type="radio"/> JOHN QUINCY ADAMS<br><input type="radio"/> JAMES MONROE<br><input type="radio"/> _____                                                                                                                                                                                                                                                                                                                                                              | <b>FOR SUPREME COURT JUSTICE #1 (VOTE FOR ONE)</b><br><input type="radio"/> MILLARD FILLMORE<br><input type="radio"/> FRANKLIN PIERCE<br><input type="radio"/> _____                                                                                                                                                                                                                                                                                                                                                                      | <div>             Nonpartisan offices, if placed on each party's ballot, are placed at the end of the candidates and before any ballot issues.           </div>                                                                                                                                                                                                                                     |
| <b>VOTE IN NEXT COLUMN</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>VOTE IN NEXT COLUMN</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>[VOTE BOTH SIDES]</b>                                                                                                                                                                                                                                                                                                                                                                            |

NOTE: If you happen to have at-large positions such as county commissioners that are for different term lengths, put the full-term office(s) first, and then the shorter-term office(s). Indicate which is the longer term by using phrases such as "4-YEAR TERM" and "2-YEAR TERM" or "FULL TERM" and "UNEXPIRED TERM".

Remember to put "VOTE IN NEXT COLUMN" at the end of each column other than the final column.

NOTE: The stub, WITHOUT instructions, should be placed at the bottom of the ballot.

**OFFICIAL GENERAL ELECTION BALLOT**  
**[NAME OF COUNTY] COUNTY, MONTANA - NOVEMBER 3, 2020**

Use "Continued" at the top of each column, if applicable.

**NOTE:** Do not put precinct committeemen and women on the General election ballot. They are elected on the Federal Primary election ballot.

The instructions at right are standardized to apply to as many ballots as possible. They should **NOT** appear on the stub.

"FEDERAL AND STATE" is the proper heading for all federal, state and state-district offices, down to and including the legislative offices.

Note that in the General election, you will need to put the nonpartisan offices such as Supreme Court Justice with the partisan offices, not at the end of the ballot. Also, on the General election ballot, use the WORD "NONPARTISAN" to identify each nonpartisan candidate.

| [NAME OF COUNTY] COUNTY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STATE OF MONTANA<br>COUNTY                                                                                                                                                                                                                                                                                                                                                                                                                                | [DATE OF ELECTION]<br>BALLOT ISSUES<br>(Continued)                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>INSTRUCTIONS TO VOTERS</b><br><b>1. TO VOTE, COMPLETELY FILL IN (●) THE OVAL USING A BLUE OR BLACK PEN.</b><br><b>2.</b> To write in a name, completely fill in the oval to the left of the line provided, and on the line provided print the name of the write-in candidate for whom you wish to vote.<br><b>3. DO NOT MAKE AN IDENTIFYING MARK, CROSS OUT, ERASE, OR USE CORRECTION FLUID.</b> If you make a mistake or change your mind, exchange your ballot for a new one.<br><b>VOTE IN ALL COLUMNS [VOTE BOTH SIDES]</b> | <b>FOR CLERK OF THE DISTRICT COURT (VOTE FOR ONE)</b><br><input type="radio"/> ANDREW JACKSON DEMOCRAT<br><input type="radio"/> MARTIN VAN BUREN REPUBLICAN<br><input type="radio"/> _____<br><b>FOR COUNTY COMMISSIONER (VOTE FOR ONE)</b><br><input type="radio"/> WILLIAM HENRY HARRISON DEMOCRAT<br><input type="radio"/> JOHN TYLER REPUBLICAN<br><input type="radio"/> _____                                                                        | <b>LEGISLATIVE REFERENDUM NO. 2014 (VOTE IN ONE OVAL)</b><br><b>AN ACT REFERRED BY THE LEGISLATURE</b><br>AN ACT SUBMITTING A MILL LEVY TO THE ELECTORATE AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.<br>The Legislature submitted this proposal for a vote. The proposal asks Montana voters to continue the statewide levy. Without voter approval, the current levy will expire.<br><input type="radio"/> YES ON LEGISLATIVE REFERENDUM LR-2014<br><input type="radio"/> NO ON LEGISLATIVE REFERENDUM LR-2014 |
| <b>FEDERAL AND STATE</b><br><b>FOR UNITED STATES SENATOR (VOTE IN ONE OVAL)</b><br><input type="radio"/> THOMAS JEFFERSON REPUBLICAN FOR PRESIDENT<br>AARON BURR REPUBLICAN FOR VICE PRESIDENT<br><input type="radio"/> _____ FOR PRESIDENT<br>_____ FOR VICE PRESIDENT                                                                                                                                                                                                                                                            | <b>FOR JUSTICE OF THE PEACE (VOTE IN ONE OVAL)</b><br>Shall Justice of the Peace JAMES K. POLK of the Justice Court of the County of XXXXX of the state of Montana be retained in office for another term?<br>Fill in the oval before the word "YES" if you wish the official to remain in office.<br>Fill in the oval before the word "NO" if you do not wish the official to remain in office.<br><input type="radio"/> YES<br><input type="radio"/> NO | <b>BALLOT ISSUES</b><br><b>CONSTITUTIONAL AMENDMENT NO. 1000 (VOTE IN ONE OVAL)</b><br><b>AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE</b><br>AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO THE STATE CONSTITUTION FOR A SALES TAX.<br><input type="radio"/> YES on Constitutional Amendment No. C-1000<br><input type="radio"/> NO on Constitutional Amendment No. C-1000<br><b>Remember to put "VOTE IN NEXT COLUMN" at the end of each column, except the final column.</b>    |
| <b>FOR PUBLIC SERVICE COMMISSIONER DISTRICT 1 (VOTE FOR ONE)</b><br><input type="radio"/> ALEXANDER HAMILTON DEMOCRAT<br><input type="radio"/> JAMES MADISON REPUBLICAN<br><input type="radio"/> _____<br><b>FOR SUPREME COURT JUSTICE #5 (VOTE FOR ONE)</b><br><input type="radio"/> JOHN QUINCY ADAMS NONPARTISAN<br><input type="radio"/> JAMES MONROE NONPARTISAN<br><input type="radio"/> _____                                                                                                                               | <b>BALLOT ISSUES</b><br><b>CONSTITUTIONAL AMENDMENT NO. 1000 (VOTE IN ONE OVAL)</b><br><b>AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE</b><br>AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO THE STATE CONSTITUTION FOR A SALES TAX.<br><input type="radio"/> YES on Constitutional Amendment No. C-1000<br><input type="radio"/> NO on Constitutional Amendment No. C-1000                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>VOTE IN NEXT COLUMN</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>VOTE IN NEXT COLUMN</b>                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>VOTE BOTH SIDES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

Retainer language is used only on the General election ballot for incumbent judicial candidates with no opposition.

Ballot issues go after all candidates. You are not required to do a separate heading for each jurisdiction's (state, local, etc.) ballot issues, although this is permissible.

For the General election, the Secretary of State's office will provide to ES&S all the statewide candidates and statewide ballot issue language.

**NOTE:** When there is a short-term election for an office, such as an office subject to being placed on the ballot because of a vacancy occurring in the middle of the term, beneath the title of each such office (or the line containing a district number if one is required), in boldface capital letters, an appropriate statement, such as, "FULL TERM" or "UNEXPIRED TERM" without the quotation marks shall be printed. If there are two offices with the same office name, the long-term office shall precede the short-term office on the ballot, and the first shall be printed with "FULL TERM" below the name of the office and the second shall be printed with "UNEXPIRED TERM" below the name of the office.

**NOTE:** The stub, **WITHOUT** instructions, should be placed at the bottom of the ballot.

## BALLOT LAYOUT – VOTER INTERFACE DEVICE BALLOT

Prescribed as required by Section [13-12-201](#) and [13-3-208](#), MCA, in accordance with provisions of Chapters 10, 12, 13, & 14 of Title 13, MCA.

1. Certified Voter Interface Devices (VID) may produce a ballot that is not a Standard Ballot in size and appearance. This ballot is called a “Voter Interface Device Ballot”, “VID Ballot Card”, or can be simply known as a “ballot card”.
2. All rules and requirements of a Standard Ballot described above or elsewhere in Statute and Administrative rule apply to VID Ballots Cards except for ballot stubs. The ballot on the VID menus (visual and audio) must follow the same requirements and conventions as Standard Ballots as modified to be used on the device.
3. The order of offices and candidate names on the VID ballot must match the order and appearance for the corresponding Standard ballot used for corresponding precinct / split.
4. The VID Ballot Card may or may not have attached stubs. If stubs are used, the VID Ballot Card is issued and processed just like a Standard ballot. If the VID Ballot Card does not have attached stubs, the ballot card is handled and processed as outlined in the 2022 Election Judge handbook.
5. The printed voted VID Ballot Card must show the following information:
  - a. The county
  - b. “Montana”
  - c. The election Title
  - d. The date of the election
  - e. The precinct name and split (if used)
  - f. For a primary election ballot, an indication of which party primary was voted.
  - g. The choice of candidates selected by the voter for each voted office.

### Example Layout – VID Ballot

The diagram shows a ballot card layout with the following sections and annotations:

- County / Montana**: Points to the top section of the ballot.
- Election Title**: Points to the section containing "DEMO COUNTY/DEMO STATE DEMONSTRATION ELECTION".
- Election Date**: Points to the section containing "11/03/2020".
- Precinct (and if Split if used)**: Points to the section containing "PRECINCT 1, PRECINCT 1".
- Encoded ballot information**: Points to the barcode section.
- Voted Offices and Candidates.**: A bracket groups the following sections:
  - PRESIDENT----- ANDY ANDREWS
  - U.S. REPRESENTATIVE DISTRICT 1----- DAN DAVIS
  - GOVERNOR----- GERALDINE GEORGE
  - BOARD OF COMMISSIONERS----- JUSTINE JUICE KOREY KIWI
  - VOTING DAY QUESTION----- YES

6. The choices of the elector must be printed on the VID Ballot Card so that the elector can confirm the ballot's accuracy and so the ballot may be manually counted.
7. Instructions of how to vote on the VID must be provided to the Voter from the VID as part of the introductory menus available initially to the voter.
8. Blank VID Ballot Cards must be individually stamped with the words "official ballot" before delivering the ballot card to an elector ([13-13-116\(1\)](#), MCA). The stamp shall be placed where it will not interfere with the printing on the ballot card.

## ADDITIONAL APPLICABLE MCA STATUTES

### Sample Ballots:

[13-12-214](#), MCA: The election administrator may have sample ballots printed in a number sufficient to answer requests from the political parties, schools, and electors. Sample ballots must be duplicates of the official ballots but must be clearly distinguishable from official ballots and may not have perforated stubs or be numbered.

### Judicial Retention:

[13-14-212](#), MCA: **Form of ballot on retention of certain incumbent judicial officers.** (1) If the incumbent is the only candidate for the office of chief justice, supreme court justice, district court judge, or justice of the peace, the election administrator may not include a nonpartisan designation or write-in space for the office on the general election ballot. The name of the incumbent must be placed on the official ballot for the general election as follows:

Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the state of Montana be retained in office for another term?

(2) Following the question, provision must be made, subject to rules adopted pursuant to [13-12-202](#), for a voter to indicate a “yes” or “no” vote.

[13-14-213](#), MCA: **Form of ballot on retention for other judicial offices.** The election administrator or secretary of state shall use the form prescribed in [13-14-212](#) to place the name of an unopposed incumbent for a judicial office on the general election ballot if such office is subject to the provisions of [Article VII, Section 8](#), of The Constitution of the State of Montana.

### Correction of Ballots:

[13-12-204](#), MCA: **Method of correction of ballot.** If an appointment has been made to replace a candidate, as provided in [13-10-326](#), [13-10-327](#), or [13-10-328](#), or if a candidate for lieutenant governor has been advanced to the candidacy for governor, as provided in [13-10-328](#), after the ballots have been prepared but before the election, the election administrator may:

- (1) correct the ballot in a manner consistent with rules adopted under [13-12-202](#);
- (2) have the entire ballot redone; or
- (3) have a separate ballot prepared only for the office for which the new candidate is a candidate.

## ADDITIONAL RESOURCES

Below is a set of Montana Best Practices for Montana Election Administrators working with ES&S:

This Best Practice document is intended to be used as a guide while completing the myES&S Customer Portal and not all items are included below. All services used in Montana are reflected but may not be required by all Counties for completion.

**Election Forms** - Each myES&S Portal form has a [FORMS GUIDE](#) button located in the upper right-hand corner for your reference.

**Note:** When completing your myES&S Customer Portal forms, ALL Layout and Programming forms must be submitted before proofing will begin. Layout and Programming forms include: Pre-election Questionnaire, Precinct List, Contests & Candidates, Questions & Referenda, Ballot Assignment Chart, Pronunciation Guide/Waiver, Programming Form, On-Site Election Event Support.

- **Pre-Election Questionnaire:**

- General Information

- Published Election Calendar dates will prepopulate here.
      - In lieu of the Election Calendar and a date is not applicable, but field is required, enter the election date.
      - If time is not applicable, but field is required, Open Time: 12am; Close Time: 12pm
    - Paper Ballot Preferences
      - Statewide Standard ballot 14" w/ 1–3" stub
      - Election By\* – Precinct ID

- Equipment

- Media - The total quantity of media will include ERM/Election Reporting, EQC and all Equipment that will be sent to ES&S for programming
    - For ONLY those counties using Unity for Tabulation and Electionware for ExpressVotes, select the following:
      - Software: Unity
      - Equipment: Select ALL types of equipment to be used for this election no matter the software. If it does not prepopulate, select the ADD EQUIPMENT button.
        - This will enable all equipment to be available for you in the Programming Form.
        - If use of ExpressVotes is indicated, ES&S knows to code these for Electionware.

- ES&S Services Requested

- The system is preset with the services ES&S has completed for you in your most recent election, please review and apply changes as necessary.
    - Paper Ballot Layout – If using ExpressVote Only, select YES. The Contest and Candidates, Questions and Referenda and Ballot Assignment Chart forms will populate for you to Submit.
    - Will you provide pronunciations?
      - Statewide Elections ONLY – The State will provide a Pronunciation Guide for State office candidates ONLY.
        - For all other races (i.e., Legislative, county & precinct), a Pronunciation Guide or Waiver will need to be completed.
    - ExpressVotes Activation Card Stock: If you will need to purchase additional Card Stock for use this election, select YES.

- Shipping and Contacts

- If a new contact is needed, select Add Contact, do not edit an existing contact with a new contacts information.

- **Precinct List:**
  - Ensure Precinct Names are entered in the Portal in ALL CAPS.
  - For ALL Elections, the precincts/splits will be entered, even if the Montana Votes database will be provided.
  - Statewide Elections Only – If the Precinct Name entered in this form does not match the Montana Votes Precinct name, please enter in the Montana Votes Name in the Additional Text field.
  
- **Contest & Candidates:**
  - Statewide Elections ONLY - Montana Votes database is provided to ES&S.
    - Add 1 Contest – Enter “Montana Votes” for the Contest Title (displayed on ballot) \*, assign all precincts and Save. Submit the form with only this information listed.
    - Statewide Elections – You may submit your own rotations. This will be emailed to ES&S at the time you SUMBIT this form. Otherwise, Standard Rotations will be used.
      - Standard Rotations – NO rotations within splits.
  - Local/Special Elections – All races are to be entered in separately as a unique code is assigned to the race. I.e., Mayor for each Town.
  
- **Questions & Referenda:**
  - Statewide Elections – ONLY - Since this information is provided in the Montana Votes database, submit this form blank.
  - Local/Special Elections - ALL Referenda must be entered in the Portal separately as a unique code is assigned.
  
- **Ballot Assignment Chart:**
  - Statewide Election Only – You must still SUBMIT this form with the single race “Montana Votes” so a  appears next to it in the list of Service Forms.
  
- **Layout Signoff:**
  - Proofs will be provided via email. If the file is too large to email, it will be uploaded to the SFT (Secure File Transfer) site to access and download.
    - To ensure you receive notification emails, your SFT account must be in active status/password has not expired. Note: If your email address has changed, contact ES&S to update your credentials.
  - **Ballot Change Requests** will be provided via email to your Election Services Associate.
  
- **Pronunciation Guide/Waiver:**
  - Statewide Elections ONLY – The State will provide a Pronunciation Guide for State office candidates ONLY via Montana Votes database.
    - For all other races (I.e., Legislative, county & precinct), a Pronunciation Guide or Waiver will need to be completed.
  
- **Programming Form:**
  - Ballot Handling Options - Since state statute does not allow unmarked write-ins, the Count Unmarked Write-ins\* should always be set to “No”.
  - Polling Place Information
    - A Polling Place Name cannot be used more than once, use abbreviation for the type of Poll it is and provide a description if needed:
      - Clerks Office EV (Early Vote location)
      - Clerks Office ED (Election Day location)
    - The below are stick quantities not included in the Polling Place Stick totals, enter the name of the stick as the Polling Place Name, assign ALL precincts/splits, and enter the number of sticks needed. Minimum is 1. This will assist with the quantity of sticks to ship to ES&S for the election. See Example Image below.



- EQC - The Number of Qualification sticks entered in the Memory Device Options section of this form.
- ERM/Election Reporting - If using end of night reporting for the election:
  - o Unity Users - Enter ERM.
  - o Electionware Users – Enter Election Reporting
    - If requesting files via a thumb drive, enter quantity needed.
    - If requesting files uploaded to the SFT site, leave quantity at 0.

**Note:** These Polling Places will NOT reflect as polling locations in your final Database.

| ID   | Polling Place Name     | Polling Place Type | Precinct Count | M100 Cards | M100 Spare Cards | DS200 Sticks | DS200 Spare Sticks | ExpressVote Sticks | ExpressVote Spare Sticks | Central Count Sticks | Central Count Spare Sticks | Summary Total of Media |  |  |
|------|------------------------|--------------------|----------------|------------|------------------|--------------|--------------------|--------------------|--------------------------|----------------------|----------------------------|------------------------|--|--|
| 0001 | EQC                    |                    | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 0                    | 1                          | 1                      |  |  |
| 0002 | ERM/Election Reporting |                    | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 0                    | 1                          | 1                      |  |  |

- Reporting Groups:
  - o Central Count (Electionware Users -DS450 &DS850) - If you are using end of night reporting, assign each of the Reporting Groups needed for the Election (I.e., Election Day, Absentee, Early Vote, Provisional) for each polling location. A minimum of 1 Central Count stick is needed per reporting group. See example below:

| Polling Place Name       | Polling Place Type | Reporting Group | Precinct Count | M100 Cards | M100 Spare Cards | DS200 Sticks | DS200 Spare Sticks | ExpressVote Sticks | ExpressVote Spare Sticks | Central Count Sticks | Central Count Spare Sticks | Summary Total of Media |  |
|--------------------------|--------------------|-----------------|----------------|------------|------------------|--------------|--------------------|--------------------|--------------------------|----------------------|----------------------------|------------------------|--|
| EQC                      |                    |                 | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 0                    | 1                          | 1                      |  |
| ERM/Election Reporting   |                    |                 | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 0                    | 1                          | 1                      |  |
| Absentee                 | Absentee           | Absentee        | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 2                    | 0                          | 2                      |  |
| Clerk's Office EV        | Early Voting       | Early Voting    | ALL            | 0          | 0                | 0            | 0                  | 1                  | 0                        | 1                    | 0                          | 2                      |  |
| Provisional Report Group | Election Day       | Provisional     | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 1                    | 0                          | 1                      |  |
| Clerk's Office ED        | Election Day       | Election Day    | ALL            | 0          | 0                | 0            | 0                  | 0                  | 0                        | 2                    | 0                          | 2                      |  |

[Manage Groups]



| Polling Place Name | Polling Place Type | Reporting Group | Precinct Count | M100 Cards | M100 Spare Cards | DS200 Sticks | DS200 Spare Sticks | ExpressVote Sticks | ExpressVote Spare Sticks | Central Count Sticks | Central Count Spare Sticks | Summary Total of Media |
|--------------------|--------------------|-----------------|----------------|------------|------------------|--------------|--------------------|--------------------|--------------------------|----------------------|----------------------------|------------------------|
| Precinct 1         | Election Day       | None            | 1              | 2          | 0                | 0            | 0                  | 1                  | 0                        | 0                    | 0                          | 3                      |

- **Printing Information:**
  - o Reference the approved ballot PDFs to enter and verify the Type, Sequence, Split information.
  - o Primary Elections – Complete a BQRL for each party (e.g. Democratic, Nonpartisan, Republican, etc..)
    - Each Party will have a separate ballot Type, use the approved ballot PDFs to enter and verify the Type, Sequence, Split information matches each Party BQRL on the myES&S Portal.
  - o Add-on Ballot Orders will be entered via the Portal by accessing your previously submitted BQRL and selecting Add-on to enter Type and Quantities of ballots needed.
- **Ballot on Demand:**
  - o Ballot Stock and Printer Consumables may be ordered via the Portal at this time. Once the form has been submitted, any orders including add-on orders will need to be submitted via email to ES&S.
- **Ballot on Demand Signoff:**
  - o Form will be submitted via the Portal and no longer emailed to Balotar Production Representative.
- **Ballot on Demand Change Request:**
  - o Upon review of your Balotar setup, provide all changes required via this form collectively rather than one at a time. This process will continue until the Ballot on Demand Signoff form is submitted.

**Additional Ballot Proofing Tips:**

- 1) “Vote For” language on all local issues.
- 2) Verify that “Continued” is placed in all applicable column headers. Ensure that it is in parenthesis.
- 3) All candidate names are spelled according to their candidate filing paperwork filed with office.
- 4) Ensure that columns are labeled correctly:
  - a. “VOTE IN NEXT COLUMN” is labeled clearly if there is more than one column.
  - b. “VOTE BOTH SIDES” is labeled clearly if there is more than one side.
  - c. “END OF BALLOT” is labeled clearly after the last race.

If you have any questions, please contact the Secretary of State’s office at 406-444-9608 or [soselections@mt.gov](mailto:soselections@mt.gov)

# EXHIBIT G

## LC0182 JUNQUE COVER SHEET

1. Initial Request
  - 1.2. Bill request
2. Draft for approval
3. Emails
4. SB182 Language provided by requester
5. LC 0182 LRN
6. LC0182\_2025\_Legal\_Review\_01
7. LC0182\_2025\_Editor\_Review\_01
8. LC0182\_2025\_Editor\_Review\_02
9. LC0182\_2025\_Editor\_Review\_03
10. LC0182\_2025\_Drafter\_Review\_01
11. LC0182\_2025\_Editor\_Review\_04
12. LC0182\_2025\_Editor\_Review\_05
13. LC0182\_2025\_Intro\_Proofing\_01
14. LC0182\_2025\_Draft\_For\_Approval\_02
15. LC0182\_2025\_Draft\_For\_Approval\_03
16. LC0182\_2025\_Editor\_Review\_06
17. LC0182\_2025\_Editor\_Review\_07
18. LC0182\_2025\_Editor\_Review\_08
19. LC0182\_2025.Preformatting.01
20. LC0182\_2025\_Info\_Proofing\_01
21. LC0182\_2025\_Final\_Review\_01
22. LC0182\_2025
23. BDM Review

## Bill Draft Request

Requester: Cuffe, Mike

Submitted Date: 2024-09-06T13:48:47.806

By Request Of:

Subject: ELEC

Priority: priority

Position Request: false

Position: null

Short Title: Revise election laws regarding closure of registration

Description: HB 176 (2021)

Uploaded Documents:

Drafter: Andria Hardin

Contact People:

Name:

Phone Number:

Email:

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; PROVIDING THAT A BALLOT WILL NOT BE ISSUED AFTER 8 P.M. TO ELECTORS REGISTERING ON THE SAME DAY OF A FEDERAL ELECTION; AMENDING SECTION 13-2-304, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and subsection (2) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator. No ballot will be issued after 8 p.m. the day of a federal election to an elector who registers or changes the elector's voter information on the same day that a federal election is held.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

## Hardin, Andria

---

**From:** Hardin, Andria  
**Sent:** Friday, November 8, 2024 5:18 PM  
**To:** Cuffe, Mike  
**Subject:** Bill Draft Request LC 182

Good afternoon Senator Cuffe:

I am assigned to the above-reference priority bill draft seeking to revise election laws regarding closure of registration. The requester description references HB 176 (2021), which ended election day voter registration. The Montana Supreme Court struck down that provision in Montana Democratic Party v. Jacobsen stating it severely burdened the right to vote and did not further a compelling state interest. Furthermore, the Court stated the provision violates equal protection by disproportionately burdening Native American and young voters. The case is currently being appealed to the U.S. Supreme Court.

Let me know your thoughts on how you would like to approach this draft.

Respectfully,



**Andria Hardin**

*Legislative Attorney*

MONTANA LEGISLATIVE SERVICES DIVISION  
LEGAL SERVICES OFFICE

(406) 444-4464 | [Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov) |

## Hardin, Andria

---

**From:** Hardin, Andria  
**Sent:** Thursday, January 30, 2025 5:35 PM  
**To:** James, Austin  
**Subject:** RE:

No problem. Draft coming your way!



*Andria Hardin*

**Legislative Attorney**

**Legal Services Office**

**LEGISLATIVE SERVICES DIVISION**

(406) 444-4464

[Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov)

---

**From:** James, Austin <Austin.James@mt.gov>  
**Sent:** Thursday, January 30, 2025 12:45 PM  
**To:** Hardin, Andria <Andria.Hardin@legmt.gov>  
**Subject:**

Andria,

One more thing--will you specify in the ballots issuance/registration cutoff at 8PM bill the applicability to federal elections only?

Best,



**Austin Markus James** | Chief Legal Counsel | Director of Elections  
Secretary of State Christi Jacobsen  
State Capitol Building  
Helena, MT 59601  
PHONE 406.444.6197

[website](#) | [email](#) | [map](#)

**CONFIDENTIALITY NOTICE:**

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## Hardin, Andria

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**From:** Hardin, Andria  
**Sent:** Wednesday, February 19, 2025 8:42 AM  
**To:** James, Austin; Cuffe, Mike  
**Subject:** RE: LC0182 Draft  
**Attachments:** LC0182 2nd draft.pdf

Here is the new draft that I have moved to edit based on the print out I received from Sen. Cuffe this morning.

Thank you,



*Andria Hardin*

Legislative Attorney

Legal Services Office

LEGISLATIVE SERVICES DIVISION

(406) 444-4464

[Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov)

---

**From:** Hardin, Andria  
**Sent:** Sunday, February 16, 2025 6:33 PM  
**To:** James, Austin <Austin.James@mt.gov>; Cuffe, Mike <Mike.Cuffe@legmt.gov>  
**Subject:** RE: LC0182 Draft

Good evening gentlemen:

A couple of weeks ago Senator Cuffe came to my office and the result of that conversation was to hold off on LC0182 as there was some disagreement or misunderstanding about the direction of the bill. Senator Cuffe stated he wanted to talk to Regina Plettenberg and you Austin to iron some things out.

I'm reaching out as Feb. 20<sup>th</sup> is our last day to get drafts into editing in order to ensure they will be ready for introduction prior to the deadline.

Please advise how you would like to proceed.

Respectfully,

*Andria Hardin*

Legislative Attorney

---



Legal Services Office  
LEGISLATIVE SERVICES DIVISION

(406) 444-4464

[Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov)

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**From:** James, Austin <[Austin.James@mt.gov](mailto:Austin.James@mt.gov)>  
**Sent:** Thursday, January 30, 2025 7:43 PM  
**To:** Hardin, Andria <[Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov)>; Cuffe, Mike <[Mike.Cuffe@legmt.gov](mailto:Mike.Cuffe@legmt.gov)>  
**Subject:** Re: LC0182 Draft

Yes, please. Pursuant to the 2019 MCA.

Thanks!

---

**From:** Hardin, Andria <[Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov)>  
**Sent:** Thursday, January 30, 2025 5:37:31 PM  
**To:** Cuffe, Mike <[Mike.Cuffe@legmt.gov](mailto:Mike.Cuffe@legmt.gov)>; James, Austin <[Austin.James@mt.gov](mailto:Austin.James@mt.gov)>  
**Subject:** [EXTERNAL] LC0182 Draft

Good evening gentleman:

Please find attached a draft for LC0182. Did you want me to revise the statute back to the language prior to HB 176 to comply with the supreme court decision, or leave as is?

Let me know if any other changes are needed.

Respectfully,



*Andria Hardin*

Legislative Attorney

Legal Services Office  
LEGISLATIVE SERVICES DIVISION

(406) 444-4464

[Andria.Hardin@legmt.gov](mailto:Andria.Hardin@legmt.gov)

1           (i)       before election day, to a location designated by the county election administrator or school  
2 clerk if the election is administered by the school district; or

3           (ii)       on election day, to the election office or to any polling place in the county where the elector is  
4 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
5 election is being conducted.

6 (2) If an elector has already been issued a ballot for the election, the elector may change the  
7 elector's voter registration information only if the original voted ballot has not been received at the county  
8 election office, or received by the school district if the district is administering the election, and if the original  
9 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
10 the school district if the district is administering the election, prior to the change."

- END -

## **Montana's Bi-Partisan Voter Registration Solution to expand opportunity, create efficiencies, and reform the failure of the status quo.**

**p13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and subsection (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

**(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:**

**(a) Prior to the close of business on the Friday before the election.**

**(b) Between 8 AM and 5PM on the Saturday before the election.**

**(c) Prior to noon on the day before the election; or**

**(d) Prior to noon on the day of the election.**

## LEGAL REVIEW NOTE

**Bill No.:**

**LC#:** LC 0182, To Legal Review Copy, as  
of February 19, 2025

**Short Title:** Revise election laws regarding  
late registration

**Attorney Reviewer:** Todd Everts  
Julie Johnson

**Date:** February 20, 2025

### CONFORMITY WITH STATE AND FEDERAL CONSTITUTIONS

*As required pursuant to section 5-11-112(1)(c), MCA, it is the Legislative Services Division's statutory responsibility to conduct "legal review of draft bills". The comments noted below regarding conformity with state and federal constitutions are provided to assist the Legislature in making its own determination as to the constitutionality of the bill. The comments are based on an analysis of jurisdictionally relevant state and federal constitutional law as applied to the bill. The comments are not written for the purpose of influencing whether the bill should become law but are written to provide information relevant to the Legislature's consideration of this bill. The comments are not a formal legal opinion and are not a substitute for the judgment of the judiciary, which has the authority to determine the constitutionality of a law in the context of a specific case.*

*This review is intended to inform the bill draft requestor of potential constitutional conformity issues that may be raised by the bill as drafted. This review IS NOT dispositive of the issue of constitutional conformity and the general rule as repeatedly stated by the Montana Supreme Court is that an enactment of the Legislature is presumed to be constitutional unless it is proven beyond a reasonable doubt that the enactment is unconstitutional. See Alexander v. Bozeman Motors, Inc., 356 Mont. 439, 234 P.3d 880 (2010); Eklund v. Wheatland County, 351 Mont. 370, 212 P.3d 297 (2009); St. v. Pyette, 337 Mont. 265, 159 P.3d 232 (2007); and Elliott v. Dept. of Revenue, 334 Mont. 195, 146 P.3d 741 (2006).*

### Legal Reviewer Comments:

LC 182, as drafted revises timelines for voter registration, including election day voter registration. LC 180 amends 13-2-304 to include a new subsection (3) that provides:

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and

vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

- (a) prior to the close of business on the Friday before the election;
- (b) between 8 a.m. and 5 p.m. on the Saturday before the election;
- (c) prior to noon on the day before the election; or
- (d) prior to noon on the day of the election.

Prior to 2021, 13-2-304 provided for late registration “prior to the close of the polls on election day.” 13-2-304(1)(a) (2019). In 2021, the Legislature enacted House Bill No. 176, which amended 13-2-304 to move the deadline for voter registration from the close of the polls on election day to noon the day before election day. (HB 176, section 2.) Litigation over the constitutionality of HB 176 ensued and ultimately reached the Montana Supreme Court in *Montana Democratic Party v. Jacobsen*, 2024 MT 66, (*Jacobsen*).

While in *Jacobsen*, the Supreme Court acknowledged that Art. IV, section 3, of the Montana Constitution provides that the Legislature “may provide for a system of poll booth registration”, the Court concluded that this provision does not mean that the Legislature has “unfettered authority to terminate [registration] outside of constitutional constraints.” *MDP* at ¶ 65 and ¶ 68. Ultimately, the Supreme Court held that “13-2-304, MCA, impermissibly interferes with the right to vote” and did “not survive strict scrutiny and is therefore unconstitutional on its face.” *MDP* at ¶ 68 and ¶ 84.

LC 182, as drafted, limits election day registration to “prior to noon on the day of the election” instead of “prior to the close of the polls on election day” as provided by 13-2-304(1)(a) before the enactment of HB 176. Therefore, LC 182 may raise a potential constitutional conformity question as to whether this legislation conflicts the holding in *Montana Democratic Party v. Jacobsen*.

**Requester Comments:**

Unofficial Draft Copy - To Legal Review

\*\*\*\*

As of: 02/20/2025, 08:29:28

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; PROVIDING THAT A BALLOT WILL NOT BE ISSUED AFTER 8 P.M. TO ELECTORS REGISTERING ON THE SAME DAY OF A FEDERAL ELECTION; AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2) subsections (2) and (3)~~ of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

# Unofficial Draft Copy - To Legal Review

\*\*\*\*

As of: 02/20/2025, 08:29:28

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election;

(c) prior to noon on the day before the election; or

(d) prior to noon on the day of the election."

**Section 2.** Section 13-19-207, MCA, is amended to read:

**"13-19-207. When materials to be mailed.** (1) Except as provided in 13-13-205(2) and subsection (2) of this section, for any election conducted by mail, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day.

(2) All ballots mailed to electors on the active list and the provisionally registered list must be mailed the same day.

(3) (a) At any time before noon on the day before election day, a ballot may be mailed or, on request, provided in person at the election administrator's office to

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222-; or

(ii) an individual who registers under late registration provided for in 13-2-304.



(b) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

(4) An elector who registers pursuant to 13-2-304 must receive the ballot at the election administrator's office."

**Section 3.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

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69th Legislature 2025

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As of: 02/20/2025, 08:29:28

Drafter: Andria Hardin, \*\*\*\*

LC 0182

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- END -

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As of: 02/21/2025, 10:03:28

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; PROVIDING THAT A BALLOT WILL NOT BE ISSUED AFTER 8 P.M. TO ELECTORS REGISTERING ON THE SAME DAY OF A FEDERAL ELECTION; AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2) subsections (2) and (3)~~ of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

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69th Legislature 2025

LC 0182

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election;

(c) prior to noon on the day before the election; or

(d) prior to noon on the day of the election."

**Section 2.** Section 13-19-207, MCA, is amended to read:

**"13-19-207. When materials to be mailed.** (1) Except as provided in 13-13-205(2) and subsection (2) of this section, for any election conducted by mail, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day.

(2) All ballots mailed to electors on the active list and the provisionally registered list must be mailed the same day.

(3) (a) At any time before noon on the day before election day, a ballot may be mailed or, on request, provided in person at the election administrator's office to

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222-; or

(ii) an individual who registers under late registration provided for in 13-2-304.

(b) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

(4) An elector who registers pursuant to 13-2-304 must receive the ballot at the election administrator's office."

**Section 3.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

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69th Legislature 2025

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Drafter: Andria Hardin, \*\*\*\*

LC 0182

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As of: 02/21/2025, 10:26:00  
Drafter: Andria Hardin, \*\*\*\*

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; PROVIDING THAT A BALLOT WILL NOT BE ISSUED AFTER 8 P.M. TO ELECTORS REGISTERING ON THE SAME DAY OF A FEDERAL ELECTION; AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2) subsections (2) and (3)~~ of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

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69th Legislature 2025

As of: 02/21/2025, 10:26:00  
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LC 0182

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election;

(c) prior to noon on the day before the election; or

(d) prior to noon on the day of the election."

**Section 2.** Section 13-19-207, MCA, is amended to read:

**"13-19-207. When materials to be mailed.** (1) Except as provided in 13-13-205(2) and subsection (2) of this section, for any election conducted by mail, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day.

(2) All ballots mailed to electors on the active list and the provisionally registered list must be mailed the same day.

(3) (a) At any time before noon on the day before election day, a ballot may be mailed or, on request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual who registers under late registration provided for in 13-2-304.



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69th Legislature 2025

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LC 0182

(b) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

(4) An elector who registers pursuant to 13-2-304 must receive the ballot at the election administrator's office."

**Commented [KK1]:** Andria: Subsection (3) now says someone who registers under 13-2-304 can have a ballot mailed or provided in person, but subsection (4) says they have to receive the ballot in person. Should we just strike (4)?

**Section 3.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

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Drafter: Andria Hardin, \*\*\*\*

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; PROVIDING THAT A BALLOT WILL NOT BE ISSUED AFTER 8 P.M. TO ELECTORS REGISTERING ON THE SAME DAY OF A FEDERAL ELECTION; AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2) subsections (2) and (3)~~ of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

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69th Legislature 2025

As of: 02/21/2025, 10:26:09  
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LC 0182

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election;

(c) prior to noon on the day before the election; or

(d) prior to noon on the day of the election."

**Section 2.** Section 13-19-207, MCA, is amended to read:

**"13-19-207. When materials to be mailed.** (1) Except as provided in 13-13-205(2) and subsection (2) of this section, for any election conducted by mail, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day.

(2) All ballots mailed to electors on the active list and the provisionally registered list must be mailed the same day.

(3) (a) At any time before noon on the day before election day, a ballot may be mailed or, on request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual who registers under late registration provided for in 13-2-304.

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69th Legislature 2025

As of: 02/21/2025, 10:26:09  
Drafter: Andria Hardin, \*\*\*\*

LC 0182

(b) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

(4) An elector who registers pursuant to 13-2-304 must receive the ballot at the election administrator's office."

**Commented [KK1]:** Andria: Subsection (3) now says someone who registers under 13-2-304 can have a ballot mailed or provided in person, but subsection (4) says they have to receive the ballot in person. Should we just strike (4)?

**Section 3.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

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As of: 02/24/2025, 09:47:58  
Drafter: Andria Hardin, \*\*\*\*

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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69th Legislature 2025

As of: 02/24/2025, 09:47:58  
Drafter: Andria Hardin, \*\*\*\*

LC 0182

1 clerk if the election is administered by the school district; or  
2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;  
15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election;  
16 (c) prior to noon on the day before the election; or  
17 (d) prior to noon on the day of the election."

18  
19 **Section 2.** Section 13-19-207, MCA, is amended to read:

20 **"13-19-207. When materials to be mailed.** (1) Except as provided in 13-13-205(2) and subsection  
21 (2) of this section, for any election conducted by mail, ballots must be mailed no sooner than the 20th day and  
22 no later than the 15th day before election day.

23 (2) All ballots mailed to electors on the active list and the provisionally registered list must be  
24 mailed the same day.

25 (3) (a) At any time before noon on the day before election day, a ballot may be mailed or, on  
26 request, provided in person at the election administrator's office to an elector on the inactive list after the elector  
27 reactivates the elector's registration as provided in 13-2-222.

28 (b) An elector on the inactive list shall vote at the election administrator's office on election day if



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Drafter: Andria Hardin, \*\*\*\*

LC 0182

the elector reactivates the elector's registration after noon on the day before election day.

(4) An elector who registers pursuant to 13-2-304 must receive the ballot at the election administrator's office."

**Section 3.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana

Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

- END -

**Commented [KK1]:** Andria: Subsection (3) now says someone who registers under 13-2-304 can have a ballot mailed or provided in person, but subsection (4) says they have to receive the ballot in person. Should we just strike (4)?

**Commented [AH2R1]:** After consulting w/ Cuffe and Austin James at SOS, they prefer to keep (4) and take out the option to mail in (3). I made this change here.

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As of: 02/24/2025, 10:02:56

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election;

(c) prior to noon on the day before the election; or

(d) prior to noon on the day of the election."

**Section 2.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may subject to 13-2-304, register and vote up to the time that the polls close

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Drafter: Andria Hardin, \*\*\*\*

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LC 0182

1 on election day;

2 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
3 registration information or eligibility to vote;

4 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
5 provided in 13-21-107; and

6 (f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
7 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
8 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
9 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

10 (3) The secretary of state may apply for and receive a grant of funds from any agency or office of  
11 the United States government or from any other public or private source and may use the money for the  
12 purpose of implementing this chapter."

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- END -

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As of: 02/24/2025, 10:03:03

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election;

16 (c) prior to noon on the day before the election; or

17 (d) prior to noon on the day of the election."

18

19 **Section 2.** Section 13-21-104, MCA, is amended to read:

20 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

21 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana  
22 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

23 (2) The rules must provide that:

24 (a) there are uniform statewide standards concerning electronic registration and voting;

25 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
26 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
27 to 13-13-205;

28 (c) a covered voter may subject to 13-2-304, register and vote up to the time that the polls close

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69th Legislature 2025

LC 0182

1 on election day;

2 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
3 registration information or eligibility to vote;

4 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
5 provided in 13-21-107; and

6 (f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
7 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
8 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
9 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

10 (3) The secretary of state may apply for and receive a grant of funds from any agency or office of  
11 the United States government or from any other public or private source and may use the money for the  
12 purpose of implementing this chapter."

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69th Legislature 2025

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\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school



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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election;

16 (c) prior to noon on the day before the election; or

17 (d) prior to noon on the day of the election."

18

19 **Section 2.** Section 13-21-104, MCA, is amended to read:

20 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

21 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana  
22 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

23 (2) The rules must provide that:

24 (a) there are uniform statewide standards concerning electronic registration and voting;

25 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
26 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
27 to 13-13-205;

28 (c) a covered voter may subject to 13-2-304, register and vote up to the time that the polls close

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69th Legislature 2025

LC 0182

1 on election day;

2 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
3 registration information or eligibility to vote;

4 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
5 provided in 13-21-107; and

6 (f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
7 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
8 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
9 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

10 (3) The secretary of state may apply for and receive a grant of funds from any agency or office of  
11 the United States government or from any other public or private source and may use the money for the  
12 purpose of implementing this chapter."

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

16 (c) prior to noon on the day of the election."

17  
18 **Section 2.** Section 13-21-104, MCA, is amended to read:

19 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

20 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana  
21 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

22 (2) The rules must provide that:

23 (a) there are uniform statewide standards concerning electronic registration and voting;

24 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
25 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
26 to 13-13-205;

27 (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close  
28 on election day;

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69th Legislature 2025

LC 0182

1           (d)       a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3           (e)       a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

5           (f)       a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
6 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
7 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
8 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9           (3)       The secretary of state may apply for and receive a grant of funds from any agency or office of  
10 the United States government or from any other public or private source and may use the money for the  
11 purpose of implementing this chapter."

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- END -

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As of: 02/24/2025, 11:11:11

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

(c) prior to noon on the day of the election."

**Section 2.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

- END -



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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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69th Legislature 2025

LC 0182

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

16 (c) prior to noon on the day of the election."

17  
18 **Section 2.** Section 13-21-104, MCA, is amended to read:

19 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

20 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana  
21 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

22 (2) The rules must provide that:

23 (a) there are uniform statewide standards concerning electronic registration and voting;

24 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
25 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
26 to 13-13-205;

27 (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close  
28 on election day;

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As of: 02/24/2025, 11:15:41

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

5 (f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
6 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
7 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
8 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9 (3) The secretary of state may apply for and receive a grant of funds from any agency or office of  
10 the United States government or from any other public or private source and may use the money for the  
11 purpose of implementing this chapter."

12  
13 - END -

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As of: 02/24/2025, 11:17:40  
Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

16 (c) prior to noon on the day of the election."

17  
18 **Section 2.** Section 13-21-104, MCA, is amended to read:

19 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

20 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana  
21 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

22 (2) The rules must provide that:

23 (a) there are uniform statewide standards concerning electronic registration and voting;

24 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
25 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
26 to 13-13-205;

27 (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close  
28 on election day;

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As of: 02/24/2025, 11:17:40

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

5 (f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
6 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
7 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
8 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9 (3) The secretary of state may apply for and receive a grant of funds from any agency or office of  
10 the United States government or from any other public or private source and may use the money for the  
11 purpose of implementing this chapter."

12  
13 - END -

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As of: 02/24/2025, 11:17:45  
Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

(c) prior to noon on the day of the election."

**Section 2.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;



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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1           (d)     a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3           (e)     a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

5           (f)     a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
6 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
7 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
8 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9           (3)     The secretary of state may apply for and receive a grant of funds from any agency or office of  
10 the United States government or from any other public or private source and may use the money for the  
11 purpose of implementing this chapter."

12

13

- END -

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As of: 02/24/2025, 11:19:56

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND ~~AMENDING SECTIONS 13-2-304, 13-19-207, AND 13-21-104, MCA;~~ AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA."

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

**Section 1.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~ subsections (2) and (3) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school

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As of: 02/24/2025, 11:19:56

Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:

(a) prior to the close of business on the Friday before the election;

(b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

(c) prior to noon on the day of the election."

**Section 2.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may subject to 13-2-304, register and vote up to the time that the polls close on election day;

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Drafter: Andria Hardin, \*\*\*\*

69th Legislature 2025

LC 0182

1           (d)       a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3           (e)       a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

5           (f)       a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
6 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
7 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
8 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9           (3)       The secretary of state may apply for and receive a grant of funds from any agency or office of  
10 the United States government or from any other public or private source and may use the money for the  
11 purpose of implementing this chapter."

12

13

- END -

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS  
5 AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION  
6 INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304 AND 13-21-  
7 104, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 13-2-304, MCA, is amended to read:

12 **"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~  
13 subsections (2) and (3) of this section, the following provisions apply:

14 (a) An elector may register or change the elector's voter registration information after the close of  
15 regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county  
16 where the elector resides receives and verifies the elector's voter registration information prior to noon the day  
17 before the election.

18 (b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who  
19 registers or changes the elector's voter information pursuant to this section may vote in the election if the  
20 elector obtains the ballot from the location designated by the county election administrator.

21 (c) With respect to an elector who registers late pursuant to this section for a school election  
22 conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county  
23 election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late  
24 registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to  
25 the elector and enter the verification document as part of the official register.

26 (d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot  
27 as follows:

28 (i) before election day, to a location designated by the county election administrator or school

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

16 (c) prior to noon on the day of the election."

17

18 **Section 2.** Section 13-21-104, MCA, is amended to read:

19 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

20 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana

21 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

22 (2) The rules must provide that:

23 (a) there are uniform statewide standards concerning electronic registration and voting;

24 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
25 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
26 to 13-13-205;

27 (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close  
28 on election day;

1 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9           (3)       The secretary of state may apply for and receive a grant of funds from any agency or office of  
10   the United States government or from any other public or private source and may use the money for the  
11   purpose of implementing this chapter."

12 - END -

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS  
5 AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION  
6 INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304 AND 13-21-  
7 104, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 13-2-304, MCA, is amended to read:

12 **"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~  
13 subsections (2) and (3) of this section, the following provisions apply:

14 (a) An elector may register or change the elector's voter registration information after the close of  
15 regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county  
16 where the elector resides receives and verifies the elector's voter registration information prior to noon the day  
17 before the election.

18 (b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who  
19 registers or changes the elector's voter information pursuant to this section may vote in the election if the  
20 elector obtains the ballot from the location designated by the county election administrator.

21 (c) With respect to an elector who registers late pursuant to this section for a school election  
22 conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county  
23 election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late  
24 registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to  
25 the elector and enter the verification document as part of the official register.

26 (d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot  
27 as follows:

28 (i) before election day, to a location designated by the county election administrator or school



1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

16 (c) prior to noon on the day of the election."

17

18 **Section 2.** Section 13-21-104, MCA, is amended to read:

19 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

20 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana

21 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

22 (2) The rules must provide that:

23 (a) there are uniform statewide standards concerning electronic registration and voting;

24 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
25 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
26 to 13-13-205;

27 (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close  
28 on election day;

1 (d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3 (e) a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9           (3)       The secretary of state may apply for and receive a grant of funds from any agency or office of  
10   the United States government or from any other public or private source and may use the money for the  
11   purpose of implementing this chapter."

12 - END -

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS  
5 AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION  
6 INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304 AND 13-21-  
7 104, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 13-2-304, MCA, is amended to read:

12 **"13-2-304. Late registration -- late changes.** (1) Except as provided in 13-21-104 and ~~subsection (2)~~  
13 subsections (2) and (3) of this section, the following provisions apply:

14 (a) An elector may register or change the elector's voter registration information after the close of  
15 regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county  
16 where the elector resides receives and verifies the elector's voter registration information prior to noon the day  
17 before the election.

18 (b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who  
19 registers or changes the elector's voter information pursuant to this section may vote in the election if the  
20 elector obtains the ballot from the location designated by the county election administrator.

21 (c) With respect to an elector who registers late pursuant to this section for a school election  
22 conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county  
23 election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late  
24 registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to  
25 the elector and enter the verification document as part of the official register.

26 (d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot  
27 as follows:

28 (i) before election day, to a location designated by the county election administrator or school

1 clerk if the election is administered by the school district; or

2 (ii) on election day, to the election office or to any polling place in the county where the elector is  
3 registered to vote or, if the ballot is for a school election, to any polling place in the school district where the  
4 election is being conducted.

5 (2) If an elector has already been issued a ballot for the election, the elector may change the  
6 elector's voter registration information only if the original voted ballot has not been received at the county  
7 election office, or received by the school district if the district is administering the election, and if the original  
8 ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by  
9 the school district if the district is administering the election, prior to the change.

10 (3) In a federal election, an elector may register or change the elector's voter registration  
11 information after the close of regular registration as provided in 13-2-301 and vote in the election if the election  
12 administrator in the county where the elector resides receives and verifies the elector's voter registration  
13 information:

14 (a) prior to the close of business on the Friday before the election;

15 (b) between 8 a.m. and 5 p.m. on the Saturday before the election; or

16 (c) prior to noon on the day of the election."

17

18 **Section 2.** Section 13-21-104, MCA, is amended to read:

19 **"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1)**

20 The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana

21 Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

22 (2) The rules must provide that:

23 (a) there are uniform statewide standards concerning electronic registration and voting;

24 (b) regular absentee ballots for a primary, general, or special election are available in a format that  
25 allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant  
26 to 13-13-205;

27 (c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close  
28 on election day;

1           (d)     a covered voter is allowed to cast a provisional ballot if there is a question about the elector's  
2 registration information or eligibility to vote;

3           (e)     a covered voter with a digital signature is allowed the option of using the digital signature as  
4 provided in 13-21-107; and

5           (f)     a ballot cast by a covered voter and transmitted electronically will remain secret, as required by  
6 Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules  
7 establishing administrative procedures on how electronically transmitted votes must be transcribed to an official  
8 ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

9           (3)     The secretary of state may apply for and receive a grant of funds from any agency or office of  
10 the United States government or from any other public or private source and may use the money for the  
11 purpose of implementing this chapter."

12

13

- END -

## Bill Draft Workflow LC 182

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|           |               |                                                                                                                                                                         |                                                                                                                                                                         |
|-----------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2/25/2025 | Todd Everts   | On to assembly                                                                                                                                                          |   |
| 2/24/2025 | Andria Hardin | final drafter review                                                                                                                                                    |   |
| 2/24/2025 | Kip Rusek     | Proofed - to Final Drafter Review!                                                                                                                                      |   |
| 2/24/2025 | Andria Hardin | Reviewed draft. Back to Kip!                                                                                                                                            |   |
| 2/24/2025 | Karl Krempel  | Change looks good. No new changes from me. Back to Andria.                                                                                                              |   |
| 2/24/2025 | Andria Hardin | SOS requested to strike (3)(c) - provision allowing registration on Monday before election. Made this change and back to Karl.                                          |   |
| 2/24/2025 | Andria Hardin | Reviewed edits. Looks good!                                                                                                                                             |   |
| 2/24/2025 | Karl Krempel  | Section 13-19-207 no longer had any changes so I removed it from the bill and cleaned up the title. To Drafter Review.                                                  |   |
| 2/24/2025 | Andria Hardin | Consulted with requester and SOS. Got direction on how to deal with conflict in statute. Made the change and responded to Karl's comment. Sent back to Karl for review. |   |
| 2/21/2025 | Karl Krempel  | To Drafter Review with a query.                                                                                                                                         |   |
| 2/20/2025 | Julie Johnson | Drafted LRN sent to Andria and uploaded to junque.                                                                                                                      |   |

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## Bill Draft Workflow LC 182

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| Date      | Reviewer      | Comments                                                                                                                                                                |                                                                                                                                                                         |
|-----------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2/24/2025 | Andria Hardin | SOS requested to strike (3)(c) - provision allowing registration on Monday before election. Made this change and back to Karl.                                          |   |
| 2/24/2025 | Andria Hardin | Reviewed edits. Looks good!                                                                                                                                             |   |
| 2/24/2025 | Karl Krempel  | Section 13-19-207 no longer had any changes so I removed it from the bill and cleaned up the title. To Drafter Review.                                                  |   |
| 2/24/2025 | Andria Hardin | Consulted with requester and SOS. Got direction on how to deal with conflict in statute. Made the change and responded to Karl's comment. Sent back to Karl for review. |   |
| 2/21/2025 | Karl Krempel  | To Drafter Review with a query.                                                                                                                                         |   |
| 2/20/2025 | Julie Johnson | Drafted LRN sent to Andria and uploaded to junque.                                                                                                                      |   |
| 2/19/2025 | Julie Johnson | Drafting LRN based on shortening same day registration to noon based on Mont. Dem. Party v. Jacobsen.                                                                   |   |
| 2/19/2025 | Andria Hardin | Sen. Cuffe came to office with a print out for a new draft. Gave approval to move it forward once changes were implemented.                                             |   |

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# EXHIBIT H





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# Transcript of Senate Standing Committee

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TRANSCRIPT OF COMMITTEE HEARING OF THE  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

MARCH 1, 2025

Job No.: 601174

Pages: 1 - 156

Transcribed by: Christian Naaden

1 P R O C E E D I N G S

2 MDM. CHAIR: Senate State administration  
3 will come to order please. Miss Olsen, will you  
4 please take the roll? Thank you.

5 SECRETARY: Thank you, Madam Chair. Madam  
6 Chair Manzella?

7 MDM. CHAIR: Here.

8 SECRETARY: Senator McKamey?

9 SEN. MCKAMEY: Here.

10 SECRETARY: Senator Hayman?

11 MDM. CHAIR: Excused.

12 SECRETARY: Senator Morigeau?

13 MDM. CHAIR: Excused.

14 SECRETARY: Senator Phalen?

15 SEN. PHALEN: Here.

16 SECRETARY: Senator Regier?

17 MDM. CHAIR: Excused.

18 SECRETARY: Senator Tezak?

19 SEN. TEZAK: Here.

20 SECRETARY: Senator Vance?

21 SEN. VANCE: Here. Senator Ellis is here.

22 SECRETARY: Senator Ellis, thank you.

1           MDM. CHAIR: All right, thank you. We have  
2 a quorum and we're ready for business with our  
3 mouths full a little bit, please excuse us. We are  
4 approaching transmittal, and things are a little bit  
5 crazier than usual around here.

6           We have seven bills to hear today, and the  
7 order is basically posted behind me on -- on the  
8 board. However, if -- because there's so many  
9 committee hearings going on, if people aren't -- if  
10 a sponsor isn't here and ready to go, we'll switch  
11 the order up to accommodate the sponsors schedules  
12 as they become available.

13           If you are going to testify, please sign up  
14 on the list outside the door. Be sure to spell and  
15 state your last name for the -- excuse me, state and  
16 spell your last name for the record.

17           If you step to the podium -- to the  
18 microphone and if you have to take a phone call,  
19 please take it outside the room. As you can hear,  
20 the room echoes.

21           We -- we do have some problems hearing  
22 people at the microphone, so make sure that that

1 microphone is pulled right up to your mouth when you  
2 speak into it because of the acoustics.

3 All right. And we've had a -- kind of a  
4 special request for a short bill presentation on  
5 Senate Bill 527. So we will now open the hearing on  
6 Senate Bill 527. Welcome, Senator Smith.

7 SEN. SMITH: Good afternoon, Madam Chair.  
8 Members of the committee. My name is Laura Smith, S-  
9 m-i-t-h. I represent parts of Jefferson County and  
10 Lewis Clark County, and I request that you table SB-  
11 527. Thank you.

12 MDM. CHAIR: All right. Thank you. Per  
13 proper rules of conduct and order, we are going to  
14 give the bill a short hearing because it has been  
15 posted, and if there are proponents and opponents  
16 and informational witnesses who wish to speak, this  
17 is your opportunity to do so.

18 So first we will call for proponents on  
19 Senate Bill 527. Miss Olsen, do we have any  
20 proponents online?

21 SECRETARY: We have a Regina Plettenberg  
22 online.

1 MDM. CHAIR: Signed up for this bill?

2 SECRETARY: 527, yes.

3 MDM. CHAIR: Okay. Please admit her.

4 MS. PLETTENBERG: Madam Chair, I don't  
5 believe I signed up for this one.

6 MDM. CHAIR: Okay, which ones are you here  
7 for? Miss Plettenberg?

8 MS. PLETTENBERG: So 490 -- 98 or 99, 470  
9 and 490. Does that sound right? Do I have the right  
10 numbers?

11 MDM. CHAIR: Probably. The election bills.

12 MS. PLETTENBERG: Oh, right, yeah.

13 MDM. CHAIR: Okay. All right. We'll make  
14 those adjustments. Let's see. Miss Olsen, are there  
15 any other possibles?

16 SECRETARY: There is an opponent, Lola  
17 Sheldon, but not a proponent.

18 MDM. CHAIR: Okay. All right. Seeing --  
19 seeing no proponents in the room or online, then we  
20 will call for opponents of Senate Bill 527.

21 MR. LUSSENHEIDE: Thank you, Madam  
22 Chairman. [Ph] here, L-u-s-s-e-n-h-e-i-d-e. And I

1 want to state briefly, very nice to see this  
2 (inaudible) chamber. (Inaudible). Am I (inaudible)?

3 MDM. CHAIR: Doesn't sound like it.

4 MR. LUSSENHEIDE: There we go. Again,  
5 Lussenheide, L-u-s-s-e-n-h-e-i-d-e, representing  
6 Ravalli County as a committee man.

7 Certainly very nice to see a young lady  
8 here with her mom. Beautiful. And I'm sure we would  
9 all agree that every little girl like this should  
10 have a pink bicycle. Am I in agreement with that?

11 So, pink bike with a -- with a white wall  
12 tires and the little basket and the bell and the  
13 little ribbons coming off of it? I think that would  
14 be wonderful. And if she doesn't have one already, I  
15 hope she gets one soon. But the question is, is this  
16 the role of government? Should government provide  
17 nice pink bikes?

18 Beyond the very serious and ethical  
19 questions of IVF, it's not the role of government to  
20 fund every want or desire of -- of society. No  
21 matter how nice it is, no matter how good it is,  
22 etc. But there's some serious ethical and moral

1 concerns about IVF that need to be addressed, I know  
2 others will.

3 We're in financial trouble in this country  
4 on all levels. To add another burden of the IVF,  
5 which is an elective situation, we just can't afford  
6 it. Pink bikes are great. Little girls are great.  
7 But taxpayers paying for things that are elective  
8 should be off the table, especially at this time in  
9 the history of our country. I'm advocating for a  
10 vote on SB-527.

11 MDM. CHAIR: Thank you, Mr. Lussenheide.  
12 Next opponent?

13 MS. SERTELL: Thank you, Madam Chair. I'll  
14 pull this back down into my hemisphere here. Madam  
15 Chair, members of the Committee, thank you for  
16 allowing me to speak in opposition to this bill.

17 My name is Robin Sertell. Spelled S as in  
18 Sam, e-r-t-e-l-l, and I come to you this morning --  
19 excuse me, this afternoon now -- on behalf of myself  
20 and Montanans for Life.

21 It is heartbreaking to have difficulty  
22 conceiving. However, IVF is not always the answer,



1 and doing it at taxpayer expense is burdensome for  
2 taxpayers who are already stretched thin.

3 I have specific concerns about section  
4 three of this bill and the no exclusions or  
5 limitations that it's for lifetime care, and the  
6 amount given is just massive for Montana taxpayers.

7 In addition, the IVF industry reports \$35  
8 billion profits annually while eugenics-based  
9 practices are being performed, such as sex  
10 selection, eye color, skin color, and the like.

11 Conservatives who don't understand the  
12 practice may see it as pro-life, not understanding  
13 that it's an industry, just like the abortion  
14 industry, that relies on the death of countless  
15 children.

16 For every one IVF baby that is born -- and  
17 there is one in my family whom I love dearly --  
18 unfortunately for every one, there are at least 49  
19 others that are thrown away. After the rest of these  
20 otherwise healthy IVF babies are created, those who  
21 don't have the desired eyes, skin or hair color are  
22 discarded.

1           In 2021, the CDC reported that 4 million  
2 plus babies were killed, while only 2.3 percent  
3 survived. That's sickening. I can't in good  
4 conscience support the death of countless children  
5 at taxpayer expense.

6           This bill makes hard working Montanans  
7 financially responsible for others use of IVF  
8 through Medicaid, and we just cannot support that.  
9 So we urge you do not pass on this bill. Madam  
10 Chair, thank you.

11           MDM. CHAIR: Okay. Thank you, Miss Sertell.  
12 Do we have any other opponents to Senate bill 527?  
13 Seeing none in the room, Miss Olson, do we have any  
14 online? I believe we do.

15           SECRETARY: Madam Chair, there is one  
16 online, but I don't think she showed up. She's --  
17 she's listed, but I don't think she's there.

18           FEMALE1: Madam Chair, she is not on Zoom.

19           MDM. CHAIR: Jane and (inaudible). Okay,  
20 thank you, appreciate that. Okay. Informational  
21 witnesses? Any informational witnesses in the room  
22 for 527? Any informational witnesses online?

1 FEMALE1: Madam Chair, there are none  
2 online.

3 MDM. CHAIR: Okay. Thank you. Questions  
4 from the committee? Seeing no questions, would you  
5 like to close on your bill?

6 SEN. SMITH: I was hoping to make a new PR  
7 for shortest hearing, but I don't think I quite got  
8 there. Madam Chair, members of the committee --  
9 members of the committee, appreciate the brief  
10 hearing. I don't think I'll respond to some of the  
11 concerns.

12 There were some inaccuracies factually that  
13 just given the fact that I'm going to request  
14 tabling it, we don't need to take your and the  
15 committee's time on. So I again request that this  
16 bill be tabled, thank you.

17 MDM. CHAIR: Thank you, Senator Smith. We  
18 will dispose of it at the end of day today, thank  
19 you so much. Appreciate your integrity on that. That  
20 was what one.

21 All right, that closes the hearing on  
22 Senate Bill 527, and we will now open the hearing on

1 Senate Bill 490. Welcome, Senator Cuffe.

2 SEN. CUFFE: No.

3 MDM. CHAIR: There you go.

4 SEN. CUFFE: Thank you Madam Chair. My name  
5 is Mike Cuffe, State Senator, Senate District One,  
6 the northwest corner, which borders on British  
7 Columbia, borders on Idaho. And I'm bringing a bill  
8 today, an act revising late voter registration,  
9 revising days and times we might register.

10 So, Miss -- Madam Chair, in a nutshell,  
11 this is a good common sense, kind of a bill that  
12 allows the -- the county officials conducting an  
13 election to do their job in a timely, efficient,  
14 less crazy manner.

15 Worked -- worked hard with a number of  
16 folks at the Secretary of state's office and - and  
17 election folks, clerks and recorders. So what this  
18 would do in a federal election might register or  
19 change the voter registration after the close of  
20 regular -- as provided in 13-2-301.

21 And so basically what it does is you can  
22 register coming up to the election all day on the

1 Friday prior to the -- to the election.

2 Now big, big change is we open also 8 to 5  
3 on Saturday morning before the election. And then  
4 the offices would be closed on Monday to allow the  
5 election officials to catch things up, and I think  
6 there may be some proponents that will explain that  
7 a little -- a little better. But it gives them time  
8 to -- to do a lot of the work that they have to  
9 frantically do in our past system.

10 And then again, election registration would  
11 open on Tuesday morning, the day of the election, at  
12 8:00, and, uh, would close by noon on that day.

13 So Madam Chair, that is the general themes  
14 of the bill. I don't think there's anything else of  
15 significant change. So I will take a seat, and we'll  
16 listen to proponents and opponents, if you are so  
17 rule.

18 MDM. CHAIR: Thank you, Senator Cuffe. I  
19 appreciate you bringing this good bill. First  
20 proponent?

21 SEN. JAMES: Good morning and happy  
22 Saturday, Madam Chair, members of the committee.

1 Austin James, J-a-m-e-s, on behalf of Madam  
2 Secretary of State Christi Jacobsen. I'm excited to  
3 stand before to support Senate Bill 490 which is an  
4 exciting opportunity for voter registration, same  
5 voter -- same weekend registration.

6 So expand opportunities for Montanans who  
7 are otherwise unable to register to vote or have  
8 difficulty registering to vote, and alleviate  
9 concerns so that we can have a more well - well-run  
10 election.

11 Saturday allows for those who are working  
12 throughout the week, who are attending school, who  
13 are in rural communities or tribal communities that  
14 have to go far distances to have an opportunity  
15 where we can have a resounding registration effort  
16 and get ready for a great election.

17 I want to point something out very  
18 specifically. This bill does not reduce the amount  
19 of registration hours by one minute of current  
20 registration time. It instead reallocates --  
21 reallocating those hours in order to provide for  
22 election officials to be able to provide for voters

1       that are currently disenfranchized.

2               I'll tell you personally, I'm a little  
3       bummed that I see some of the opponents registered  
4       here today because I worked really hard to make a  
5       Montana solution that will accommodate the harms  
6       that we have heard, the discussions that we have had  
7       on this topic, and bring the relief that is needed  
8       to our clerks. On Election Day, I assisted on the  
9       phones.

10              And if any of you were to be on the phones,  
11       you will hear stories all day from folks who go to  
12       the election office. They needed a replacement  
13       ballot, they're a registered voter and they --  
14       because of the lines, they are not voting and they  
15       are upset.

16              Routinely, people's right to vote is  
17       infringed based on the current process trying to do  
18       all of the same things at the same time. And the  
19       narrative is that we somehow go towards one or the  
20       other, and the reality is this bill helps us serve  
21       the most amount of voters in Montana so that we can  
22       have maximum participation in our elections and have

1 those elections be ran efficiently.

2 The system is broken from a management  
3 perspective. We have to do something. Counties are  
4 there until 3:00 in the morning registering and then  
5 have to begin tabulation, meaning that we have some  
6 clerks who have been awake for three days in a row.

7 Let's go back and reflect a little bit.  
8 There was a policy adopted that -- and that was to  
9 remove same day registration and end it at noon the  
10 day before. And we are now past that time period,  
11 but I can tell you a fact. And that is after the  
12 primary election in 2022, when we surveyed counties  
13 and said, "What made this election successful for  
14 you?"

15 There was a resoundingly consistent answer:  
16 "The end of same day registration." And in the last  
17 two federal elections since then, we have surveyed  
18 counties and said, "What is your biggest obstacle  
19 and challenge in serving your voters?" And it is a  
20 resoundingly consistent answer: "Same day  
21 registration."

22 When we took counties to meet with the



1 governor as part of our leadership team, we talked  
2 to reflect on this last election. And there were  
3 workers from some counties that my understanding of  
4 -- that may oppose this bill today, that all  
5 collectively, when we sit down and talk about it,  
6 agree that the current system of late registration  
7 is hurting our voters. And we have to do something.

8 We throw almost a half \$1 million to hire  
9 up additional help for the counties this year  
10 through Hava grant funds. We recruited almost 500  
11 additional election judges and volunteers. And  
12 despite the fact that we added more money and more  
13 people to the process, we still are unable to solve  
14 the problem that same day registration has  
15 developed.

16 We've seen academic arguments made by  
17 expert witnesses that we're wrong, that historically  
18 high turnout existed when it was the close the day  
19 before, and then sub-average when Election Day  
20 registration was added back in.

21 Now this bill is a small, narrow  
22 improvement. It still provides same day

1 registration. It reduces registration on a day that  
2 the clerks will consistently tell you is able to --  
3 to get them in a position to maximally serve both  
4 their polling place and absentee voters on Election  
5 Day.

6 And it makes people like my father, who run  
7 a small business, and my friends that are in the  
8 university situations in all walks of life have an  
9 added opportunity.

10 Because when you concentrate all of Montana  
11 who is unavailable in between 8:00 and 5:00 into in  
12 between 5:00 and 3:00 in the morning on Election  
13 Day, you're concentrating all of that into one time  
14 period. We instead can concentrate that into  
15 Election Day.

16 We will -- now, I know that there's a  
17 transition, but the goal of this is to make the most  
18 amount of Montana voters vote. This topic has become  
19 political, and it need not be. It's our  
20 constitutional duty in the Federal Constitution for  
21 you to revise when it is necessary, how and when the  
22 system needs improvement. And I'd ask you to do that

1 with the passage of Senate Bill 490.

2 MDM. CHAIR: Thank you, Director James.

3 Next proponent for Senate Bill 490?

4 SEN. PAULSEN: Madam Chair, members of the  
5 committee, my name is Angie Paulsen, P-a-u-l-s-e-n.  
6 I am Roberts County Clerk and Recorder and Election  
7 Administrator. I'm here today in support of Senate  
8 Bill 405. This bill does not take away from the  
9 voter. It shifts and frees up the Monday before the  
10 election. For us election administrators to print  
11 our registers for each precinct, which is a timely  
12 task.

13 It also helps for my county, specifically  
14 because I have six election machines for -- so I  
15 have one for each precinct, so I have to prep those  
16 the Monday before. And as you know, that is -- takes  
17 a lot of work. I have to zero total those machines,  
18 get them ready for Election Day.

19 And have to distribute those to the polling  
20 locations. It just helps me the Monday before to  
21 have time to get supplies ready to each polling  
22 location. And, you know, the night before an

1 election, I sleep three to four hours because these  
2 types of tasks, you cannot do those too far in  
3 advance. You have to wait until the Monday before  
4 the election.

5 The day of the election, I work 24 hours  
6 straight. An I'm considered a smaller county, I have  
7 6000 registered voters. So in my opinion, Election  
8 Day is for voting. And I have two staff members,  
9 permanent staff members in my office.

10 They are there to accept ballots, to check  
11 signatures, they separate the ballots into precincts  
12 on Election Day, and they have to get those ready  
13 into batches for absentee counter.

14 So for them to be able to process the bulk  
15 of those registrations on Saturday would help our  
16 voters long lines, and also the votes to be counted  
17 faster, which I know is extremely important to the  
18 state of Montana.

19 Sometimes my absentee counselors would come  
20 in and say, "Angie, we need more ballots." And we  
21 had lines out the door even in Broadwater County.  
22 And, I mean, I had to prep even more rooms because

1 we had that much people waiting to register to vote.

2 So -- you know, and when we didn't have  
3 this Election Day as registration day, people were  
4 registering to vote earlier. The turnout for the  
5 previous election was even a higher voter turnout  
6 than this last presidential election, so keep that  
7 in mind also.

8 In addition to my permanent staff, I have  
9 approximately 40 election judges and maintenance  
10 workers on the day of election, and I have to  
11 coordinate all of them on Monday, the day before.  
12 Where they need to be going, and I have to get their  
13 polling places ready, their supplies ready. And if  
14 you know Broadwater County, we're quite spread out.

15 Our precincts, some -- some of them are 20  
16 to 30 minutes away from the courthouse. So I have to  
17 travel to those precincts on Election Day. And I  
18 can't always be there at the courthouse to help that  
19 line out the door and let those people know, "Hey,  
20 are you here to register or you here just to drop  
21 off your ballot?"

22 So, in closing, voters want results timely,

1 and this will help with that. And it will help  
2 mitigate the long lines on election nights, and also  
3 will help with less provisional voters due to  
4 addressing issues that arise when somebody has to  
5 update their registration.

6 And, our offices -- the rest of our  
7 courthouse is closed on Election Day, so our GIS  
8 department is not available to confirm addresses if  
9 somebody's registering for the first time. So for  
10 those reasons, I support Senate Bill 405. Thank you  
11 for your time.

12 MDM. CHAIR: Thank you, Miss Paulsen. Next  
13 proponent?

14 SEN. STOCKTON: Hello. My name is Becky  
15 Stockton. B-e-c-k-y S-t-o-c-k-t-o-n and I live here  
16 in Lewis Clark County, and I'm a Chief Election  
17 Judge. This would really help the election staff  
18 because there's so much happening on Monday that we  
19 -- chief judges have to sit around and wait for all  
20 that printing to be done so we can take it to the  
21 polls the following day.

22 It would really help to alleviate it. Was -

1 - in this election, the election before, the copy  
2 machine broke down. So Lewis and Clark County is a  
3 huge county, and to print those registers and all of  
4 that, it is so time consuming, so having this  
5 earlier would really help all of our election staff  
6 all the way around. So, thank you.

7 MDM. CHAIR: Thank you, Miss Stockton. Next  
8 proponent? Any further proponents in the room? We  
9 have some online. Miss O'Neill?

10 MRS. O'NEILL: Madam Chair, there are none  
11 online.

12 MDM. CHAIR: There are none online? Okay.

13 SECRETARY: Madam Chair, we have opponents  
14 online.

15 MDM. CHAIR: Okay. All right. Seeing no  
16 further proponents in the room or online, we'll move  
17 to opponents. Opponents for Senate Bill 490.

18 SEN. SEATON: Madam Chair, it's odd to be  
19 here in the afternoon. I'm so used to the morning.  
20 Madam Chair, members, my name is Henry Seaton, S-e-  
21 a-t-o-n. I am representing the ACLU of Montana today  
22 in our opposition to Senate Bill 490, and I will be

1 negating a lot of the statements that the  
2 Secretary's office has said.

3 So Election Day registration is  
4 disproportionately utilized by historically  
5 disadvantaged groups, including indigenous voters,  
6 disabled voters, and young voters. Indigenous voters  
7 in particular face numerous obstacles to the ballot  
8 box. This is something I do agree with the  
9 Secretary's office on.

10 Many indigenous voters living on rural  
11 reservations do not have residential mail delivery.  
12 Many live in areas that are many miles away from  
13 county elections offices, and many experienced  
14 discrimination when they travel to the polls to  
15 vote.

16 The elimination of Election Day  
17 registration creates an unnecessary additional  
18 barrier to the ballot box that may ultimately result  
19 in denying the right to vote. And of course, in  
20 2021, this legislature attempted to eliminate  
21 Election Day registration by passing House Bill 176.

22 A number of organizations challenged HB-



1 176, arguing that it violated our constitutional  
2 right to vote. The right to vote has been deemed to  
3 be one of our most fundamental rights, and the  
4 Montana Supreme Court has held that any burden on  
5 that right is subject to strict scrutiny.

6 That means any law burdening the right to  
7 vote must be justified by a compelling state  
8 interest, and the purported burdens on election  
9 officials that have been spoken to today resulting  
10 from Election Day registration have already been  
11 rejected by the courts as not a compelling reason  
12 for eliminating same day registration.

13 So if the legislature passes SB-490, it  
14 will suffer the same fate as House Bill 176. No  
15 doubt the courts will deem it unconstitutional and  
16 enjoin it from taking effect. But more importantly,  
17 the legislature should be working to expand the  
18 franchise, not arbitrarily restrict it.

19 The easier we can make it for Montanans to  
20 vote, the healthier our democracy will be. So for  
21 these reasons, we will be urging a no vote on Senate  
22 Bill 490.

1 MDM. CHAIR: Thank you, Mr. Seaton. Next  
2 opponent.

3 SEN. YAWAKIE: Good afternoon -- or good  
4 afternoon, Madam Chair. Members of the State  
5 Administration Committee, my name is Patrick  
6 Yawakie, last name spelled Y-a-w-a-k-i-e. I here  
7 representing the Blackfeet tribe, Fort Belknap  
8 Indian Community, as well as the Rocky Boy tribe in  
9 opposition to Senate Bill 390.

10 Montana's constitution guarantees stronger  
11 voter protections than the US Constitution. Recent  
12 case law provides indisputable evidence that  
13 explains how bills such as Senate Bill 490 can place  
14 an undue burden on voters in Montana, and in several  
15 cases, threaten to disenfranchise young and  
16 indigenous voters, in particular.

17 In Montana, the deadline for regular  
18 registration is 30 days before an election, but if  
19 you miss that deadline, you can still register and  
20 vote in the election by registering at your county  
21 election office through the close of polls on  
22 Election Day.

1           Senate Bill 409 would restrict the option  
2     to register on Election Day. Repealing that would be  
3     especially harmful in tribal communities. Native  
4     American voters must overcome a disproportionate  
5     number of obstacles to participate in the US  
6     political system, often driving twice as far as  
7     other citizens to register to vote.

8           Voters also work during regular Election  
9     Office business hours. Residents who live on tribal  
10    reservations within the borders of Montana work on  
11    Saturdays and struggle with limited mail delivery,  
12    and also with internet service. Combined with great  
13    distances from voter registration polling centers,  
14    these are very tangible restrictions for a vote.

15          In some reservations communities, tribal  
16    members have to travel hundreds of miles round trip  
17    to access voting machines. For many of our  
18    registered registration residents, that cushion on  
19    Election Day can mean the difference between having  
20    their voice heard or being silenced due to  
21    circumstances that have little control over.

22          Voting rights are under attack this session

1 as state legislators attempt to pass voter  
2 suppression laws under the pretext of preventing  
3 voter fraud and safeguarding election integrity.  
4 These voter suppression laws include identification,  
5 proof of citizen requirements, and others. These  
6 fears are unfounded.

7 Studies in previous years have shown  
8 Montana elections are some of the most secure in  
9 state -- or in the country. This bill undermines the  
10 decision Montana voters made in 2014 general  
11 election, when they voted on LR-126, a legislative  
12 referendum that would have eliminated Election Day  
13 voter registration, and this would disenfranchise  
14 thousands of Montana voters. The referendum was  
15 defeated overwhelmingly and was proven to be very  
16 valuable for Montana voters.

17 Also, similar legislation House Bill 176,  
18 which became law during the 2021 67th legislation  
19 would have ended Election Day registration. Montana  
20 Supreme Court struck this down and found the law  
21 violated Montana's electors right to vote and equal  
22 protections under Montana Constitution. For these

1 reasons, we oppose Senate Bill 490. Thank you.

2 MDM. CHAIR: Thank you, Mr. Yawakie. Next  
3 opponent to Senate Bill 490. Seeing none in the  
4 room, we have some online. Miss Olsen?

5 MRS. OLSEN: Madam Chair, we have two  
6 opponents online.

7 MDM. CHAIR: Would you please admit them?  
8 Mr. Beasant, present? Please.

9 SEN. BEASANT: Yes.

10 MDM. CHAIR: Go ahead.

11 SEN. BEASANT: Hello and good afternoon,  
12 Madam Chair and other esteemed members of this  
13 committee. My name is John Besant, spelled B-e-a-s-  
14 a-n-t, and I am testifying on behalf of Forward  
15 Montana. Our organization is the largest grassroots  
16 youth-led youth-focused civic engagement  
17 organization, and we urge you to oppose Senate Bill  
18 490.

19 Same day voter registration is a critical  
20 safeguard that ensures all Montanan (inaudible)  
21 students, rural voters, seniors, working families,  
22 have a fair chance to cast their ballot (inaudible)

1 -- same day voter registration has been (inaudible)  
2 those folks who work 9 to 5 juggle schedules  
3 (inaudible) voting for the very first time, and  
4 changing the rules now would create unnecessary  
5 (inaudible) -- for the very people our democracy  
6 should be working to welcome in. Not only --

7 MDM. CHAIR: Mr. Beasant, excuse me, we're  
8 having -- you're breaking up a bit on our end, so I  
9 don't know if you're moving or --

10 SEN. BEASANT: I am - here, let me - can --  
11 can you hear me now better?

12 MDM. CHAIR: Possibly. Proceed and we'll --  
13 I'll let you know.

14 SEN. BEASANT: Okay. So, not only is this  
15 bill bad policy, but it is unconstitutional. We have  
16 heard from prior opponents if this law moves  
17 forward, it will likely be challenged and waste  
18 taxpayer money and time on a fight we likely know  
19 the outcome for.

20 The legal precedent is clear restrictions  
21 on same day voter registration undermine the  
22 fundamental rights to vote, and have no place in

1 Montana law.

2 This bill also raises serious concerns  
3 about election accessibility. The proposed changes,  
4 while marked as offering additional options, create  
5 confusion, restricts flexibility, and impose  
6 artificial deadlines that disproportionately impact  
7 young voters, rural voters, indigenous communities,  
8 and those who already face significant barriers to  
9 casting their ballot.

10 Ensuring that all eligible voters can  
11 register and vote through Election Day is not only  
12 about convenience, it is about upholding the core  
13 values of a representative democracy.

14 For these reasons, Forward Montana strongly  
15 urges you to vote no on SB-490. Protecting the right  
16 to vote means maintaining same day voter  
17 registration, not restricting it.

18 We ask you not to undermine the democratic  
19 principles of our state that we have long  
20 championed, and instead prioritize policies that  
21 expand rather than restrict access to the ballot for  
22 all Montanans, especially young and first-time

1 voters (inaudible) future of our democracy. Thank  
2 you very much.

3 MDM. CHAIR: Thank you, Mr. Besant. Next  
4 opponent, Mr. Sunchild?

5 SEN. SUNCHILD: Good afternoon, Madam  
6 Chair, members of the committee. Keaton Sunchild, S-  
7 u-n-c-h-i-l-d, representing Western Native Voice.  
8 I'm not going to rehash the good proponent -- or  
9 opponent testimony that went before us.

10 But just hope that you guys consider the  
11 legal ramifications that this would have if voted  
12 into law and urge a no vote on this. Thank you guys.

13 MDM. CHAIR: Thank you, Mr. Sunchild. Any  
14 further opponents online?

15 MS. O'NEILL: Madam Chair, there are none.

16 MDM. CHAIR: Okay. Thank you, Miss O'Neill.  
17 Okay, seeing no further opponents in the or are  
18 online, informational witnesses? Do we have any  
19 informational witnesses online Miss O'Neill?

20 MS. O'NEILL: Madam Chair, we do have one.

21 MDM. CHAIR: We have one, okay. Miss  
22 Plettenberg, go ahead.



1 MS. PLETTENBERG: Madam Chair, members of  
2 the committee. Regina Plettenberg, P-l-e-t-t-e-n-b-  
3 e-r-g, here on behalf of the Montana Association of  
4 Court Reporters to answer questions.

5 MDM. CHAIR: Miss Plettenberg, we're having  
6 a real difficult time hearing you as well, and I'm  
7 sure you'll get some questions. So please adjust so  
8 we can hear you.

9 MS. PLETTENBERG: Okay. Can you hear me  
10 better, Madam Chair?

11 MDM. CHAIR: Yes, yes.

12 MS. PLETTENBERG: There. Okay. Thank you.

13 MDM. CHAIR: All right. Questions from the  
14 committee? Mr. James, I have one for you. I have a  
15 couple for you, actually.

16 SEN. JAMES: Madam Chair.

17 MDM. CHAIR: Thank you. What do we have Mr.  
18 James for evidence concerning what amounted to chaos  
19 and unmanageable crowds at some of our election  
20 places? Do we have tangible written evidence  
21 concerning that and how many counties were affected?

22 SEN. JAMES: Madam Chair, I think you just

1 heard an election administrator testify to that, and  
2 that story is so familiar.

3 MDM. CHAIR: Okay. But my specific question  
4 would be, do we have it well organized? Because I  
5 believe if we do pass this and I - I -- I'm going to  
6 listen to the rest of the testifiers, but it seems  
7 like a reasonable idea to me.

8 And of course, it probably will be  
9 challenged, so I suspect we're going to need  
10 organized evidence. So that's why I'm asking how  
11 many counties were affected in that way.

12 SEN. JAMES: Madam Chair and members of the  
13 committee, I will speak on that for a few -- for a  
14 few things. First of all, I did see that it said it  
15 could be challenged. And I think it's unfortunate  
16 that in the state election bills that were passed  
17 decades ago are getting challenged because we're in  
18 a litigious election law environment unfortunately.

19 I disagree with the findings of that, but I  
20 want to make one thing very, very clear, that it  
21 appears that my -- my good friends with the ACLU and  
22 the Western Native Voice, at least who prepared

1 their testimony looked past.

2 This applies to federal elections, not  
3 state elections. It is -- would be in federal court,  
4 and federal courts have routinely upheld laws like  
5 this. Thank you.

6 MDM. CHAIR: Excellent. Wait, before you go  
7 away -- that's a great answer. Thank you for that  
8 compelling -- compelling state interest. Is that  
9 still applicable at the federal court level?

10 SEN. JAMES: Your -- Madam Chair, it would  
11 be what is referred to as the Anderson verdict  
12 standard. However, I do believe that we -- for one,  
13 this bill does not remove same day registration. It  
14 still keeps same day registration. It works on what  
15 is currently registration till the day after the  
16 close of the polls.

17 And that is an issue that we need to  
18 address because it's not only harming our voters,  
19 but it's creating disruption in the process. It's  
20 also creating a large aspect of error, and it is  
21 confusing. We can make more voters vote by making  
22 our process better, and that's what this bill aims

1 to achieve.

2 MDM. CHAIR: Thank you, Mr. James. Miss  
3 Plettenberg, I have that question for you. How was -  
4 - how was -- how were you affected in Ravalli County  
5 this election cycle? Were you -- were you affected  
6 as some of the other counties that we heard up until  
7 4:00 in the morning?

8 MS. PLETTENBERG: Madam Chair, so I had a  
9 line. Our line from 7 a.m. until 8 p.m. was just  
10 wrapped around our hall. I mean, it was just -- it  
11 was -- I don't even know. It's longer than I've ever  
12 seen it.

13 But we were able to get our line. We had to  
14 add more computers, we were able to do that, and  
15 just -- I had to go down there and work, so I  
16 couldn't be anywhere else because I had to -- I had  
17 to stand opposed to get late registration done. But  
18 we were able to get ours done by about 8:30. So --  
19 but I know other counties were longer and some were  
20 right at eight, so.

21 MDM. CHAIR: Thank you. Do - is -  
22 currently, you don't normally work on Saturdays. Is

1       that correct?

2               MS. PLETTENBERG:   Madam Chair, I --  
3       normally we aren't open to the public on Saturday. I  
4       mean, a lot of us have duties that we -- you know,  
5       are different jobs we may get done.

6               And that is one thing that -- that is one  
7       reason our association wasn't -- we were -- there  
8       were parts of this we like. The Monday for sure, but  
9       some were concerned about the Saturday that maybe  
10      they -- especially like smaller counties that -- and  
11      even large counties that get their stuff ready for  
12      the poll that day or are able just to rest. So that  
13      was -- that was a concern.

14              MDM. CHAIR:   So it's kind of a trade.  
15      You're trading open -- being open to the public on  
16      Saturday for being closed to the public on Monday,  
17      and Monday allows you to be the great hostess and  
18      prepare for your huge party that you -- that you're  
19      hosting? Correct. Is that right -- is that the --

20              MS. PLETTENBERG:   Madam Chair, that -- that  
21      is the way that -- that some look at it. Not all.  
22      I'm one that looks at it that way, but not all do,

1 and I want to be clear on that.

2 MDM. CHAIR: Okay. Thank you. Further  
3 questions from the committee? Senator Vance?

4 SEN. VANCE: Thank you, Madam Chair. I  
5 think I'm going to start with, Miss Paulsen, please.

6 SEN. PAULSEN: Madam Chair, Senator Vance.

7 SEN. VANCE: Thank you, Madam Chair. Miss  
8 Paulsen, thank you for coming. I appreciate that  
9 very much. And I know your next-door neighbor to my  
10 county, and so I'm kind of in an indirect way asking  
11 if you've had conversations with my county.

12 I know on the November election we went  
13 late, but I personally do not know if it was past  
14 midnight or longer. Do you have any information  
15 about that?

16 SEN. PAULSEN: Madam Chair, Senator Vance,  
17 yes, I do. I was actually called on Election Day to  
18 see if I had any extra help. Not from Gallatin  
19 County, but I had a few people call me to see if I  
20 could disburse workers to either Cascade or  
21 Gallatin. So I do know it was an issue. I know they  
22 -- they went past -- well past midnight, as far as

1 their line went.

2 SECRETARY: Okay.

3 SEN. VANCE: Thank you very much. Follow  
4 up, Madam Chair?

5 MDM. CHAIR: Follow up.

6 SEN. VANCE: Thank you. So, Madam Chair and  
7 Miss Paulson, the way that I'm reading this bill --  
8 and I just want it to be very, very clear -- what we  
9 are doing is we're going to -- like we always do, or  
10 we always have done, the county's always have done -  
11 - they will be open for voter registration the  
12 Friday before Election Day up until 5 p.m..

13 What is changing is we are going to open up  
14 -- I'm sorry, not we -- the counties are going to  
15 open up their offices to the public on Saturday  
16 between 8 a.m. and 5 p.m. for voter registration  
17 purposes.

18 And I just saw this ad, and they are going  
19 to open up their offices on Election Day until noon  
20 for the purpose of -- of voter registration. Is --  
21 do I -- do I have this correct?

22 SEN. PAULSEN: Madam Chair, Senator Vance,

1 some of this I will refer to the Secretary of  
2 State's office, but is my understanding that the  
3 voter registration is open those times. So Friday,  
4 Saturday, and then closes down that Monday, and then  
5 reopens again on Election Day from 8:00 to noon.

6 SEN. VANCE: That's what -- that's -- thank  
7 you very much to make that clear. Thank you.

8 MDM. CHAIR: Miss Paulsen, I have a  
9 question for you before you leave the podium chair.  
10 Do you track how many voters actually participate in  
11 same day registration? Do you -- is that something  
12 you track?

13 SEN. PAULSEN: Madam Chair, yes.

14 MDM. CHAIR: Do you -- can you recall the  
15 number by any chance? For the last election?

16 SEN. PAULSEN: Madam Chair, I was hoping my  
17 staff was in today so that I could get those  
18 numbers. I do -- it was a significantly high number  
19 this go around.

20 MDM. CHAIR: Okay, thank you.

21 SEN. PAULSEN: Yes.

22 MDM. CHAIR: Appreciate that. Miss



1 Plettenberg, I'm going to ask you the same thing. Do  
2 you track same day voter registration?

3 MS. PLETTENBERG: Yes, Madam Chair, I do,  
4 and I'm the same with Miss Paulsen. I'm testifying  
5 here from home, so I don't have that number, but we  
6 can -- I can get it for you. I know you're probably  
7 going to take executive today, though, so probably  
8 won't help.

9 MDM. CHAIR: I'm just thinking about  
10 potential future challenges, legal challenges, and  
11 it's interesting --

12 MS. PLETTENBERG: It was hundreds, so I can  
13 tell you that it was -- I want to say we were  
14 upwards towards 500.

15 MDM. CHAIR: Tracking those numbers gives  
16 us tangible evidence, so I think it's -- I'm glad to  
17 hear that we are tracking that and that we can  
18 compile those numbers. So, thank you. Okay, any  
19 other questions? Senator Ellis.

20 SEN. ELLIS: For the sponsor please.

21 SEN. CUFFE: Madam Chair, Senator Ellis.

22 SEN. ELLIS: So Madam Chair and Senator

1 Cuffe, on page two, we were told that they -- this  
2 measure was not going to reduce hours at all of what  
3 is currently allowed. But when I read lines 14, 15,  
4 and 16, on line 15, there's an or. Not an and,  
5 there's an or.

6 So it seems like what happens is it's  
7 offering clerk and recorders the ability to choose  
8 one of these time slots, but not any other ones.  
9 It's not all three. And I wondered if you could  
10 comment on that.

11 SEN. CUFFE: Well, Madam Chair, the way I  
12 read line 14, "But they are able to come in until  
13 the close of business on the Friday before  
14 election." No question. They will be open from 8  
15 a.m. and 5 p.m. on Saturday before the election.

16 SEN. ELLIS: Or.

17 SEN. CUFFE: What?

18 SEN. ELLIS: There's an or. It's not an  
19 end.

20 SEN. CUFFE: "Time before the election."  
21 Okay. I would accept that if that's a problem, Madam  
22 Chair, it reads pretty clear to me. But what we're

1 doing is being open all day Saturday before the  
2 election, closed on Monday before the election, and  
3 open from 8:00 to noon on the day of the election.

4 That's the full intent, and that's the way  
5 I read it. If Madam Chair or the members of the  
6 committee feel that that needs to be clarified, we  
7 can certainly do that, but that's the whole purpose  
8 and intent of what we're trying to do.

9 SEN. ELLIS: Can I ask a follow up?

10 MDM. CHAIR: Follow up.

11 SEN. ELLIS: Madam Chair and Senator Cuffe,  
12 we received an amendment, and I don't understand it  
13 at all. And I wondered if you're aware, or maybe  
14 Miss Hardin needs to clarify what that does, because  
15 it seems like it takes out that whole subsection  
16 three, and just does a severability clause. And I'm  
17 just -- I don't -- I just don't understand what's  
18 being proposed, I guess.

19 SEN. CUFFE: I believe I can address that -  
20 -

21 MDM. CHAIR: Please do.

22 SEN. CUFFE: -- or perhaps we should have

1 your -- the -- your staff address it, and then I  
2 could explain it, but I believe I know what it is.

3 FEMALE3: Madam Chair. Senator Cuffe, I'd  
4 be happy to. I think maybe some of the confusion is  
5 that the handout of the amendment is a condensed  
6 version, so it just doesn't include page two.

7 The amendment in its entirety still has  
8 that language in it. The only addition and the only  
9 thing this amendment is changing is adding in a non-  
10 severability clause so that if any part of this bill  
11 is found unconstitutional, the whole thing is  
12 unconstitutional.

13 SEN. ELLIS: Thank you. I -- I hadn't  
14 noticed that I thought this was the whole bill and I  
15 hadn't noticed the page numbering. Thank you.

16 SEN. CUFFE: Thank you, Madam Chair.

17 MDM. CHAIR: Non - non-severability.  
18 Something we're less familiar with. Senator McKamey.

19 SEN. MCKAMEY: It was answered.

20 MDM. CHAIR: Oh, it was? Okay. Your  
21 question was answered? Are there any further  
22 questions from the committee? No further questions

1 from the committee. Seems like I had one, but it's  
2 gone now. Okay. Senator Cuffe, would you like to  
3 close on your bill?

4 SEN. CUFFE: Yes, Madam Chair, I could, and  
5 if I might start by clarifying some of the questions  
6 that came up earlier in regard to Gallatin County.  
7 This is according to Channel 7 KBZK.

8 Same-day registration in Gallatin County  
9 reached an eight hour wait times. The last vote cast  
10 was at 4 a.m. Wednesday Madam Chair, so I think that  
11 -- that does show the kind of hours that go in.

12 And, Madam Chair, there were questions  
13 about the -- you know, how hectic does it get? And  
14 any of us that go through a lot of times it is very  
15 busy in the election place. So election time means  
16 hectic life in the election offices.

17 Three of us in this room went to - to a big  
18 town a few miles south of us on I-15 to observe a  
19 recount because of a mistake, a very simple mistake,  
20 by a hardworking, well-intentioned person in the  
21 middle of the primary election.

22 Can I say that was just because of same day

1 registration? No, I can't, but that adds to it. And  
2 I know of another mistake where in the middle of a -  
3 - that was a general election.

4 And because of -- and I can say because of  
5 last minute registration, the clerk and recorder and  
6 the election administrator had driven from Libby to  
7 Eureka to take care of last minute registration  
8 there.

9 This happened to be the COVID election,  
10 when there had been drop boxes available, and one of  
11 the drop boxes got left behind when they loaded up  
12 to go to -- to the county seat. And it was  
13 mistakenly left behind, but it was in the hectic and  
14 they were up there because of last minute  
15 registration.

16 Late in the day after the polls had closed,  
17 they were grabbing everything to go down and it got  
18 left behind. It was found within the period of time,  
19 but it had some upset -- I had a lot of telephone  
20 calls about "Where's my ballot?" It was not showing  
21 up. So the question about who have observed it?  
22 Well, I personally have observed those two, I've

1       been told of a number of other cases.

2               And Madam Chair, I'd like to say that  
3       earlier in my corporate career -- and I managed some  
4       pretty -- pretty large hectic operations with  
5       sizable crews -- and one of the early things I  
6       learned is that the job of leadership -- and to an  
7       extent -- certain extent, we are some of the  
8       leadership -- is to remove the obstacles of the  
9       workers so they can do the job with the quality and  
10      volume we need them to do it. That's what this is  
11      about.

12              This is not trying to cut anybody out of  
13      anything. We worked hard at saying, How can we --  
14      how can we make it add hours?" So we added the  
15      Saturday in.

16              The Monday came at the request of clerk and  
17      recorders who have been -- who have this -- would  
18      love to have some time to focus on the things that  
19      they need to complete on Monday, and then add in the  
20      half a day the following on Election Day.

21              So put a lot of work into it. The full  
22      intent is to make a good process better. We want to

1 have this election process as absolute good as we  
2 can. I believe this is a -- a good step forward.

3 And Madam Chair, thank you for your  
4 attention, thank you for the good questions. And I  
5 say thank you to all the folks who spoke today,  
6 because I think they have that at heart also. And  
7 with that, I close.

8 MDM. CHAIR: This closes the hearing on  
9 Senate Bill 490. Thank you, Senator Cuffe. I don't  
10 see any -- I don't see any sponsors standing by. Hm?  
11 Senator -- Senator Cuffe have another one? Oh,  
12 McKamey does. You do. Okay. We will open the hearing  
13 on Senate Bill 498. Welcome, Senator McKamey.

14 SEN. MCKAMEY: Thank you very much, Madam  
15 Chair. It is a pleasure to be here before my state  
16 administration committee and with you as Chair. And  
17 I am Wendy McKamey, Senate District 12 is where I  
18 represent and it is the south side of Great Falls,  
19 Montana. And I'm happy to be here, happy to serve.

20 The bill I bring before you today is Senate  
21 Bill 498. And 498 is an act revising preparation  
22 procedures for primary elections and amending a



1 little section and providing an immediate effective  
2 date for obvious reasons. What this is in short form  
3 is that in some counties, ballots are solely counted  
4 by hand, and so this will not pertain to them.

5 They can continue with the procedures that  
6 they are doing themselves right now as hand count --  
7 hand count -- hand counting their ballots. However,  
8 in areas large - large, I should call them -- I  
9 should call them urban instead of -- they're not --  
10 yeah. What was that?

11 FEMALE4: Metropolitan.

12 MDM. CHAIR: Can I have a cosmopolitan?

13 SEN. MCKAMEY: No, just metropolitan areas.  
14 Just urban areas. Larger urban areas. We call it. We  
15 could call them the big seven, the big nine,  
16 whatever, but it requires an awful lot of  
17 duplication.

18 So what this is, is it's just an efficiency  
19 measure to -- if they have counting machines,  
20 tabulating machines, not to have to separate the  
21 ballots into Democrat and Republican piles.

22 Because it is redundant, and that's the

1 essence of the bill, Madam Chair. I'm going to just  
2 sit down and -- and I don't know if there's any  
3 opponents or proponents or informational witnesses,  
4 but we'll see what shakes out. Thank you, Madam  
5 Chair.

6 MDM. CHAIR: Thank you, Senator McKamey.  
7 Proponents on the bill? Seeing no proponents in the  
8 room, do we have any online, Miss O'Neill?

9 MS. O'NEILL: Madam chair, we have one  
10 proponent online.

11 MDM. CHAIR: Okay.

12 MS. PLETTENBERG: Madam Chair, members of  
13 the committee, Regina Plettenberg, P-l-e-t-t-e-n-b-  
14 e-r-g, here --

15 MDM. CHAIR: I'm having trouble hearing  
16 you, Miss Plettenberg.

17 MS. PLETTENBERG: Can you hear me now?

18 MDM. CHAIR: Yep. Well -- go ahead. A  
19 little closer, maybe.

20 MS. PLETTENBERG: Okay. Madam Chair,  
21 members of the committee, Regina Plettenberg, on  
22 behalf of the Montana Association of Clerk Recorder.

1 We do support this bill. It's really just an  
2 administrative measure.

3 Currently, we have to separate the ballots  
4 in the law, but the machine doesn't need -- the  
5 machines don't need that separation. And so this  
6 just saves us that step.

7 Now, down the road, there's other statutes  
8 that we have to do hand count procedures, like the  
9 post-election audit, or possibly recount. And those  
10 are hand count and we separate, but this just is a  
11 time saver for us on Election Day.

12 As we've talked, we're looking for just  
13 ways that won't affect the process but just are more  
14 efficient. So with that, Madam Chair, we are  
15 (inaudible) pass. Thank you.

16 MDM. CHAIR: Thank you. Seeing no further  
17 proponents online and none in the room, we'll go to  
18 opponents. Any opponents in the room? Any opponents  
19 online?

20 MS. O'NEILL: Madam Chair, there are none.

21 MDM. CHAIR: Okay. Informational witnesses?  
22 Seeing none in the room, Miss O'Neill, do we have

1 any online?

2 MS. O'NEILL: Madam Chair, there are none.

3 MDM. CHAIR: Okay. Questions from the  
4 committee. I have a question for Miss Plettenberg, I  
5 guess, please?

6 MS. PLETTENBERG: Madam Chair.

7 MDM. CHAIR: Okay. Thank you. So take me  
8 through your current -- your current process in  
9 Ravalli County. We - just -- please.

10 MS. PLETTENBERG: Yes, Madam Chair and  
11 members. So this would apply to whether it's  
12 absentee or poll ballots. You know, we get the  
13 ballots in, we open the absentees, separate those,  
14 we get the poll, but it's just not necessary for the  
15 machines to do that. They -- they know which ballots  
16 are which.

17 And this would not affect reconciliation,  
18 Madam Chair. I know that's a big concern that you  
19 have. This would not affect that. We're still  
20 looking at how many ballots from a precinct, and  
21 this would really just be for the primary election.  
22 I hope that answers the question.

1 MDM. CHAIR: When do you start opening the  
2 ballots?

3 MS. PLETTENBERG: Madam Chair, we open the  
4 ballots -- the larger counties, it depends on the  
5 size of the county. If it's a larger county, we can  
6 start opening either on the Thursday or Friday.

7 And not that this won't save us time on  
8 those days, but it will really save us time on  
9 Election Day.

10 MDM. CHAIR: So on the Thursday and Friday  
11 when you're opening the ballots, that's when you  
12 start to segregate them into their parties? At that  
13 -- at that moment?

14 MS. PLETTENBERG: Yeah. And that --  
15 that's,, by law when we -- when we should, you know,  
16 all through the process.

17 But -- but, like I said, it's -- it's an  
18 unnecessary step when you have tabulators, even at  
19 the polls, because think about it. If you like -- I  
20 think the prior -- in the prior bill, Miss Paulsen  
21 was saying she has precinct tabulators.

22 They don't need it. You know, a voter may

1     come up with one party ballot, and right behind  
2     them, another voter may come up with another party  
3     ballot. You know, the machine recognizes each party  
4     ballot. I hope that answers the question.

5             MDM. CHAIR: Thank you. Any further  
6     questions from the committee? Senator McKamey, would  
7     you like to close on your bill?

8             SEN. MCKAMEY: Thank you, Madam Chair. Yes,  
9     I would. It really is as simple as what Miss  
10    Plettenberg was explaining.

11            And it is an efficiency measure, especially  
12    for large counties, and I think it will free up some  
13    time for those individuals who have to do so many  
14    more tasks. I think it will be a very good thing for  
15    them.

16            Thank you, Madam Chair. With this, I urge a  
17    due pass on Senate Bill 448. Is that correct? Is it  
18    449?

19            MDM. CHAIR: 4 - 498.

20            SEN. MCKAMEY: Excuse me, 498, sorry.

21            MDM. CHAIR: Okay. Thank you. This  
22    concludes the hearing on Senate Bill 498. Ready?

1     Okay. This opens the hearing on Senate Bill 499.

2     Welcome, Senator McKamey.

3             SEN. MCKAMEY: Thank you. I am Wendy  
4     McKamey, representing Senate District 12, which is  
5     the south side of Great Falls. I'm happy to be here,  
6     happy to serve in this capacity, and to present this  
7     bill to my state administration committee and -- and  
8     colleagues.

9             I do have to tell you that this is a really  
10    important piece. However, because of -- due to the  
11    fact that this is going to be able to be done -- I  
12    would say internally by the Secretary of State -- we  
13    will, at the end of this hearing, be requesting it  
14    to be tabled.

15            However, because it was already scheduled,  
16    we did not want to simply act like we don't have  
17    anything to say about this. So this is what I do  
18    have to say about this bill.

19            This was requested really on behalf of the  
20    election administrator from Yellowstone County. She  
21    thought that some of her snowbirds were showing up  
22    on the NVRA notice when they were using the NCOA

1 check, and that this is a process that needed to be  
2 done.

3 This is a possible technical fix in Elect  
4 Montana instead of having a law change, and so we're  
5 really hoping that Secretary of State can make this  
6 fix in the Elect Montana and have it -- instead of  
7 having a law change.

8 The NCOA return codes don't cleanly give an  
9 indication of a temporary forward, but in  
10 combination with another code, there may be a  
11 solution. So what is happening is there are plenty  
12 of people who are snowbirds, and they come back, and  
13 they find out that they have been taken off of the  
14 rolls.

15 The rolls need to be updated clearly and  
16 they are updated every two years. However, they want  
17 to be able to establish a permanent address. The  
18 permanent address is established with the driver's  
19 license, which they hold, and if they hold a  
20 driver's license from Montana, their Montana address  
21 is their permanent address.

22 If they hold a -- say they are a snowbird



1 and they go to Arizona or Florida or whomever --  
2 wherever, and they hold, instead, a driver's license  
3 from that particular area, my understanding is --  
4 and someone can correct me if I'm incorrect on this,  
5 by all means -- that if they hold a different  
6 driver's license, that they cannot necessarily claim  
7 that Montana -- the Montana address is their  
8 permanent address.

9 And with that, Madam Chair, I'm going to  
10 just sit and listen. It's not going to be a very  
11 long hearing.

12 MDM. CHAIR: Okay. Before you sit down,  
13 would you please -- we have new members on the  
14 committee. So NVRA, National Voter Registration --

15 SEN. MCKAMEY: Yes.

16 MDM. CHAIR: -- Act. And NCOA is what?

17 SEN. MCKAMEY: I'm going to ask Shelley to  
18 help me with that a little bit. I always get these  
19 acronyms always mixed up. I don't do acronyms well  
20 on the NCOA or maybe I can ask Regina Plettenberg.

21 MDM. CHAIR: National Change of Address, I  
22 believe.

1           SEN. MCKAMEY: Yes, it's National Change of  
2 Address, but yeah. Yeah, okay, good.

3           MDM. CHAIR: Okay. Proponents? For Senate  
4 Bill 499? Proponents? Any online? I'm not seeing any  
5 hands online. Oh, there's --

6           MRS. O'NEILL: Madam Chair, we have one.

7           MDM. CHAIR: Okay. Go ahead, Miss  
8 Plettenberg.

9           MS. PLETTENBERG: Madam Chair, members of  
10 the committee. Maybe just to clarify, because I know  
11 the bill is going to get tabled, but the association  
12 is in support of this bill's concept, which is to  
13 ensure that voters who temporarily (inaudible) their  
14 residents should not be targeted for the NVRA, which  
15 is the list (inaudible) process.

16          MDM. CHAIR: Okay. Miss Plettenberg, I'm  
17 going to ask you to start over because it's I want  
18 to hear what you're saying and I didn't catch the  
19 first part, so please start over.

20          MS. PLETTENBERG: Okay. Can you hear me  
21 now? I'm not sure what's going on.

22          MDM. CHAIR: Okay. Yeah, now you sound nice

1 -- nice and close.

2 MS. PLETTENBERG: Okay, good. The  
3 association is in support of the bill's concept,  
4 which is to ensure that voters who temporarily leave  
5 their residence should not be targeted for list  
6 maintenance, which is that NVRA process you talked  
7 about merely because they file a temporary change of  
8 address with the post office. So we're talking about  
9 our snowbirds here.

10 MDM. CHAIR: Yeah, okay.

11 MS. PLETTENBERG: (Inaudible) voters who  
12 file a permanent change of address with the post  
13 office and who we know have moved. Montana has a lot  
14 of snowbirds who may go to a place like Arizona or  
15 Florida. If you've never been there, I've been to  
16 Yuma.

17 There's just a line of RVs. It's  
18 incredible, so. These voters routinely notify the  
19 post office that they are temporarily away to  
20 another address for a specific period of time, but  
21 their intention is always to return home.

22 Unfortunately, because they file that

1 change of address, even though it's temporary,  
2 they're being pulled into the list maintenance  
3 procedure on our -- even through that we do just  
4 with NCOA. So they voted the prior year, but NCOA  
5 pulls them in. So -- and they get growly. Let me  
6 tell you, they get growly.

7 So, therefore, ensuring our snowbirds are  
8 targeted are -- are targeted for change just because  
9 they filed a temporary change of address with the  
10 post office. We believe that's reasonable.

11 And the Secretary of State believes they  
12 have a simple solution to this problem, and we  
13 support any solution that will ensure these voters  
14 don't get erroneously targeted.

15 So -- and they have showed us there's  
16 different codes depending on how you file your  
17 address change with the post office. So I think they  
18 can target (inaudible) voters and help us so that  
19 we're not sending them those constant notices. So  
20 thank you, Madam Chair.

21 MDM. CHAIR: All right, thank you for the  
22 explanation. Any further questions from the

1 committee? Seeing none, Senator McKamey, would you  
2 like to close on your bill? Wait, did I do that  
3 right? Did I ask for opponents?

4 I don't think I did. I need to ask for  
5 opponents, I apologize. Any opponents in the room? I  
6 see none online. Or -- let's see. There is -- Miss  
7 O'Neill, is -- do we have any opponents online?

8 MS. O'NEILL: Madam -- we do not, Madam  
9 Chair.

10 MDM. CHAIR: Okay. Informational witnesses?  
11 In the room or online?

12 MS. O'NEILL: Madam Chair, there are none  
13 online.

14 MDM. CHAIR: Okay. And still no questions  
15 from the committee? Okay. Now, you can close on your  
16 bill, Senator McKamey.

17 SEN. MCKAMEY: Thank you, Madam Chair. This  
18 will be probably the only bill that I say please  
19 table. But I need to add that this bill just was  
20 adding the word permanent in front of the address in  
21 13-2-220 so that the NVRA list maintenance and the -  
22 - and then in also 13-13-212 the absentee list

1 maintenance.

2           Anyway, it's to give correct notice that  
3 there is a permanent address and that these  
4 individuals are -- are Montana residents.

5           And -- but this bill, on behalf of the --  
6 especially the clerks and recorders in the larger  
7 counties, will benefit from this because they have a  
8 sizable portion of people who do become snowbirds.

9           And if this is a technical -- a possible  
10 technical fix through elect Montana, that the state  
11 -- that the Secretary of State can implement instead  
12 of having a law change, I really applaud that. I  
13 love not having to insert laws, additional laws into  
14 our system.

15           But -- so I really excited about this. And  
16 the NCOA return codes don't necessarily -- don't  
17 clean -- don't cleanly give an indication of a  
18 temporary forward, but in combination with another  
19 code, there may be a solution.

20           So I'm looking for that solution that the  
21 Secretary of State is so kindly offered to give. And  
22 with that, Madam Chair, I move to table. Senate Bill

1 499. Thank you, Madam Chair.

2 MDM. CHAIR: Okay, thank you. We will take  
3 executive action and dispose of the bill properly.  
4 This concludes the hearing on Senate Bill 499. All  
5 right, now I see we have two sponsors.

6 Did you guys decide who wants to be first?  
7 Okay. All right. We will open the hearing on Senate  
8 Bill 314? Is that what we're doing? Or 379? 314, got  
9 it, 314. Welcome, Senator Morigeau.

10 SEN. MORIGEAU: Thank you, Madam Chair. I  
11 have to flip through my bills, too, because I am  
12 doing four this afternoon.

13 MDM. CHAIR: So I know how that feels.

14 SEN. MORIGEAU: Yeah. As I'm walking  
15 around, I'm like, "Why am I torturing myself like  
16 this?" But -- because some of them are important,  
17 that's why. This one is -- is pretty  
18 straightforward, Madam Chair, Senator Morigeau, M-o-  
19 r-i-g-e-a-u. You have before you Senate Bill 314.

20 This is a pretty vanilla bill. All it does  
21 is on line three, it adds, "If a candidate is  
22 disqualified pursuant to article --" -- what is

1     that, four? "Section eight of Montana Constitution,  
2     if no candidate for nomination by that party filed  
3     for the office before the primary election, or if  
4     the deadline for certifying candidate names for the  
5     ballot pursuant to 13-10-208 has passed." And  
6     really, all this bill is getting at is if you filed  
7     for office and you were ineligible to file for  
8     office, and then the primary or the election closes  
9     - well, it'll be the primary by the point you get to  
10    the general, it's a non-issue.

11           But if you were ineligible, termed out, for  
12    example, or not eligible to even put in for that  
13    seat, live out the district or whatever it might be,  
14    essentially you -- like, if it then closes, you  
15    can't -- neither party or any party can now come in  
16    and say, "We're going to fill it with, you know,  
17    Jane or John to fill that person spot."

18           And that's simply because that person was  
19    never an eligible candidate, and and you can't  
20    replace an eligible candidate with somebody -- an  
21    ineligible candidate with somebody if they were  
22    never eligible.



1           And so that's all this is trying to do. I  
2     think this goes both ways for or multiple ways for  
3     any party in Montana. If someone puts in and they're  
4     not eligible, and then they're like -- find out  
5     later, "Oh, I wasn't eligible. I'm just going to  
6     have my buddy John take my spot."

7           Well, you can't have John take your spot if  
8     you weren't never eligible. So I think this is just  
9     a cleanup bill for our elections. It restricts that  
10    kind of shenanigans from happening.

11          And it did happen last cycle. I'm not going  
12    to go into the -- the issue of -- because I don't  
13    necessarily think the person did it intentionally,  
14    and I don't think it was something that they -- they  
15    did, but they should have been found eligible. And  
16    because of that, there should have never been a  
17    replacement for that ineligible candidate, in my  
18    opinion. So that's what this bill does.

19          MDM. CHAIR: Okay. Thank you. Before you --  
20    before you walk away from the podium, I guess I'll -  
21    - I'll clarify. So does that spot just remain vacant  
22    then?

1           SEN. MORIGEAU:  Yep, yeah. Madam Chair,  
2     that would just -- you know, that -- you wouldn't be  
3     able to just plug in somebody for that, so it would  
4     just be vacant, yep. And that doesn't happen very  
5     often. This is -- we're talking one in whatever  
6     elections that this would ever happen.

7           But if it happens again, at least now we  
8     have guidance on what should happen. People chose  
9     not to go and, like, litigate it, and I think this  
10    is just a simple way to clean that up for everybody.

11          MDM. CHAIR:  So currently, if you are -- if  
12    you resign or are unable to -- if you are elected  
13    but you're unable to fulfill your obligation, then  
14    the process is the Central Committee chooses three  
15    people?

16          SEN. MORIGEAU:  Yes, Madam Chair, this  
17    doesn't -- this doesn't impact any of that process  
18    or those procedures that would go into place. This  
19    just simply for, you know, the -- the upcoming  
20    election, you can't appoint someone to fill the spot  
21    that they weren't eligible to -- to fill. So if  
22    someone resigns, they were-- and they were an

1 eligible candidate, so if someone gets sick or  
2 something, which happens - right -- you would just  
3 go through the process to replace them.

4 MDM. CHAIR: Okay, thank you. All right,  
5 proponents. Proponents for Senate Bill 314. Any  
6 proponents in the room? Seeing none. Do we have any  
7 online, Miss O'Neil?

8 MS. O'NEILL: Madam Chair, we do not.

9 MDM. CHAIR: Okay. Thank you. Seeing no  
10 proponents, do we have any opponents to Senate Bill  
11 314? Seeing none in the room. Do we have any online,  
12 Miss O'Neil?

13 MS. O'NEILL: Madam Chair, we do not.

14 MDM. CHAIR: Okay. Informational witnesses?  
15 Seeing none, do we have any online?

16 MS. O'NEILL: Madam Chair, there are none.

17 MDM. CHAIR: Okay. Questions from the  
18 committee. Questions from the committee, Senator  
19 Vance.

20 SEN. VANCE: Thank you, Madam Chair, for  
21 the sponsor, please?

22 SEN. MORIGEAU: Senator - Chair, Senator

1 Vance.

2 SEN. VANCE: Thank you. Madam Chair, good  
3 sponsor, I'm not certain if I'm going too far down  
4 on this, but I know I remember one time many, many,  
5 many, many years ago in my county, it was a county  
6 commission race. Let's see here now. Okay.

7 What -- I think what I want to ask is what  
8 about situations -- because this happened in my  
9 county, but the -- I think the law reads that -- so  
10 in a county commission race, you had to be a  
11 resident of the county -- of the district of the  
12 county. And -- oh, gosh, it was such a long time  
13 ago. I'm not sure if I have my facts right now.

14 But I know there was a great big dispute  
15 about the -- about the eligibility of the candidate,  
16 because there was question about whether he actually  
17 resided in the district, and there was a great big  
18 brouhaha about it.

19 But if I'm not mistaken, I think I remember  
20 something in that particular statute for  
21 qualifications is -- oh, I hope I'm not wrong on  
22 this, because I don't like misleading the committee

1 at all -- but my -- my head's just -- but my -- but  
2 my -- what my question is, is I think there was  
3 something in statute that said after the election,  
4 if the -- that's when the candidate -- after it was  
5 determined who got elected, the then the eligibility  
6 status part came into play. Do you -- are you  
7 familiar with any of those guys? I'm sorry. Are you  
8 --

9 SEN. MORIGEAU: No worries. Senator --  
10 Senator Vance, I am a little bit. And for -- for  
11 this, like, I didn't get into, like, those specific  
12 eligibility things because I think some of that is  
13 sometimes a very fact specific type of thing.

14 You know, where -- you know, I've actually  
15 had people talk to me about a candidate up in an  
16 area where I grew up and said, "Well, they think the  
17 person lives out of district, but their mailbox is  
18 in the district, you know?"

19 And so, like, it gets down to stuff like  
20 that, you know? Where we're really kind of in these  
21 gray areas that people are trying to interpret. And  
22 so I didn't really -- this bill didn't really get

1       into that kind of -- those sorts of nuances.

2               It really - it -- it references to that,  
3       because you have to be eligible and we have the  
4       criteria of what people need to meet to be eligible.  
5       This is just saying, like, if you weren't eligible  
6       under that criteria, and then you got put on the  
7       ballot, that should have never happened.

8               And because of that, you -- you weren't  
9       considered an eligible candidate to be on there, and  
10      you can't now just come in and replace them with,  
11      you know, whoever you want. That's all this is  
12      trying to do.

13              MDM. CHAIR:   Further questions? Okay.  
14      Senator Tyzack.

15              SEN. TYZACK:   Chairman, Senator Morigeau,  
16      so say you -- say you are eligible when you do, but  
17      then you move out of district, then you become  
18      ineligible. Does that change how this works, then?

19              SEN. MORIGEAU:  No. Madam Chair, Senator  
20      Tyzack, that would then -- there's a process for  
21      those sorts of replacements that wouldn't trigger  
22      and make someone ineligible to be replaced in this

1     circumstance.

2             This is just if they were disqualified  
3     pursuant to this, just weren't an eligible -- so the  
4     criteria that it's referencing to in section eight  
5     is like what you need to meet to actually be able to  
6     run for office. A

7             and so that's a little bit different than,  
8     you know, if you get sick or you pass away or you  
9     move or something, then you're going to go to the  
10    county commission process or it's a -- it can -- we  
11    could spend the whole time on that too.

12            But there's some different criteria  
13    depending on whether you live -- and your district  
14    covers multiple counties or is just in one county,  
15    and then you have like this number of support you  
16    have to get in all the different places. It would go  
17    through that analysis and assessment for getting  
18    your replace.

19            So this is just were you actually eligible  
20    in the first place? You know, are you, you know --  
21    for example, eight or more years -- so the section  
22    is -- I'm just pulling it up here for the -- for the

1 article that it's referencing.

2 And it -- limitations on terms of office is  
3 what this is talking about. And so this specifically  
4 for us is like limitations on terms of office for  
5 what this is cited to would be someone who is termed  
6 out.

7 So if you've termed out of a seat, and  
8 you're not eligible to run, so if you've served in,  
9 you know, your eight years or the 16 years or  
10 however that works anymore -- people going back and  
11 forth -- you know, this specifically cites to that  
12 section.

13 So the criteria is specifically like, "Hey,  
14 if you -- if you termed out and then you went and  
15 put in accidentally and then you -- you tried to get  
16 on the ballot, and you were not eligible to do so,  
17 then you wouldn't be able to get replaced by  
18 somebody." It doesn't account for those  
19 circumstances you're talking about. Does that make  
20 makes sense?

21 SEN. TYZACK: Yes, thank you. Senator,  
22 Chairman.



1 MDM. CHAIR: Okay. Further questions? Okay,  
2 seeing no further questions, would you like to close  
3 on your bill?

4 SEN. MORIGEAU: I'll close, Madam Chair. I  
5 don't want to say more and confuse -- confuse anyone  
6 any more than I have to. So I got told earlier I'm  
7 talking like I'm getting paid by the word, so I'll  
8 stop there. And it was a joke, by the way by the  
9 senator. But I can -- I can take a good joke when --  
10 when they come. So thank you. I hope you guys pass  
11 this out.

12 MDM. CHAIR: Okay. Thank you, Senator  
13 Morigeau. This closes the hearing on Senate Bill  
14 314. Where's my list? 379? Yes. Okay. Welcome good  
15 sponsor. This opens the bill hearing on Senate Bill  
16 379.

17 SEN. WEBER: Good afternoon committee. It's  
18 been a long day already, and I'll just try to make  
19 this as short as I possibly can. My name is Susan  
20 Weber, Senate District eight. I -- I represent parts  
21 of four counties from Glacier all the way to  
22 Missoula County and two Indian reservations, the

1 Blackfeet and Confederated Salish and Kootenai. So I  
2 have a big, big area, like we all do, I guess.

3 I bring to you today SB-379, and it's a  
4 tribal consultation bill. This bill just basically  
5 serves to define what tribal consultation is. You  
6 know, I've been on the floor whining around the  
7 topic of tribal consultation, and this just defines  
8 it for departments and agencies.

9 And so section one is a definition, and  
10 this is the definition of consultation so that we  
11 have a concise consultation definition. That would  
12 help a lot so people won't be confused when we say,  
13 "Okay did you -- did you conduct tribal  
14 consultation?" And -- and then they'll say, "Oh,  
15 what is that?" And then there's the definition of  
16 what it is.

17 The second part of this bill basically is -  
18 - it came from the consultation and training, which  
19 is 215143 in the MCA. And so in the MCA has general  
20 provisions, part one, training and consultation, so  
21 that just came from there. And we just kind of  
22 relooked at it.

1           But we also added the tribal liaison. And  
2     this came from the -- basically from, I believe, the  
3     state of Washington, how they do theirs. And what  
4     the liaison -- the department liaison basically does  
5     -- just to help them out, it's just a guideline.

6           And then, on the back or on page three, it  
7     has the current written consultation policy pursuant  
8     to this section documented on 20 -- or no. Okay. On  
9     two -- title two, part -- or chapter 15, executive  
10    branch officers and agencies. And then that just has  
11    -- that's the reporting.

12           It's already in statute. But basically this  
13    bill just does -- the definition of what tribal  
14    consultation is, just so that we have it And there's  
15    no, interpretations, we just have it cut in stone  
16    here or actually in the MCA. And so that's -- that's  
17    all it does.

18           And then, like I said, it gives some  
19    guidance, and it also has the reporting  
20    requirements, which basically is already in statute.  
21    And I ask for a due pass.

22           MDM. CHAIR: Thank you, Senator Weber.

1 First proponent on Senate Bill 379. First proponent?

2 SEN. YAWAKIE: Good afternoon, Madam Chair,  
3 members of the Senate, State Administration  
4 Committee. My name is Patrick Yawakie, last name  
5 spelled Y-a-w-a-c-k-i-e. I'm representing the  
6 Blackfeet tribe, Fort Belknap Indian Community, as  
7 well as the Rocky or Chippewa Cree tribe of Rocky  
8 Boy today in support of Senate Bill 379. Just like  
9 the good senator stated, what we as tribes are  
10 looking for in this state is a much stronger  
11 relationship with the state of Montana.

12 Unfortunately, there is a learning curve in  
13 the -- in the state in terms of how we as tribes and  
14 state could be working more closer together, and  
15 understanding each other, and how we can shape  
16 legislation or state policy within our agencies or  
17 other Montana state branches of governments to be  
18 able to shift the narrative from somewhere that has  
19 been much more combative against our tribes to -- to  
20 one that is working hand in hand, meeting goals that  
21 are similar within our - each -- each of our  
22 communities.

1           What we want between the state of Montana  
2           and our tribes is much more conversations that are  
3           built around the term good faith, ensuring that when  
4           we're meeting together that it's done in regular  
5           communication, it's done in a respectful way, again,  
6           respecting each other's identities and working in a  
7           cooperative way to meet -- to meet a common ground.  
8           So with all these purposes, please support Senate  
9           Bill 379 with a due pass. Thank you.

10           MDM. CHAIR: Thank you, Mr. Yawakie. Next  
11           proponent for Senate Bill 379? I see none in the  
12           room, but there's someone who has their hand raised  
13           online. Miss O'Neill, would you please admit them?

14           SEN. KINDNESS-COLEMAN: Good afternoon,  
15           Madam Chair, and members of the committee. My name  
16           is -- can you all hear me?

17           MDM. CHAIR: Well, you started out very  
18           strong, and then you faded right out, so --

19           SEN. KINDNESS-COLEMAN: Okay. I've been  
20           listening and been trouble with the audio. My name  
21           is Kindness-Coleman. That's -- for the record --  
22           spelled K-i-n-d-n-e-s-s hyphen C-o-l-e-m-a-n. I'm a

1 citizen of the Crow tribe, as well as a state tribal  
2 policy analyst here on behalf of the Montana Budget  
3 and Policy Center. I'm here today in support of SB-  
4 379.

5 First and foremost, we want to thank the  
6 sponsor for bringing this bill forward. At the root  
7 of this policy, the sponsor is addressing an issue  
8 that has often been overlooked or not as understood  
9 on the state level.

10 First, tribal nations are sovereign and  
11 autonomous. They are all unique with their own  
12 government structures, constitutions, and self-  
13 determination goals. Montana is home to 12 tribal  
14 nations.

15 So although tribes are free from state  
16 control, many federal programs administered by state  
17 agencies (inaudible) policies directly affect tribal  
18 citizens. This includes topics like education  
19 policy, (inaudible), Medicaid, ICWA, voting, and  
20 redistricting, just to name a few.

21 When tribal consultation does not occur,  
22 tribal nations are left on critical decision-making

1 processes that can determine funding for essential  
2 programs or impact the well-being of their citizens.

3           However, it is also unfair to believe that  
4 state agencies can approach these complex issues  
5 without guidelines and connections that clearly  
6 support them in their work.

7           These agencies have people who choose to  
8 dedicate their careers to serving others and leaving  
9 them without proper resources or how to conduct  
10 consultation is not only a disservice to tribal  
11 nations, but it also affects those who dedicate  
12 tireless hours to public service.

13           Not only is this bill necessary, but we  
14 believe it is thorough and well written. It  
15 acknowledges the need for precise administrative  
16 policy while recognizing the autonomy of both state  
17 agencies and tribal nations. It also acknowledges  
18 that tribal liaisons or specialized staff are key to  
19 making consultation a success and building  
20 institutional knowledge that is lacking in some  
21 departments.

22           Lastly, I just wanted to reiterate that

1 consultation does not mean engaging with tribal  
2 nations solely for the aspect of obtaining consent.  
3 It means asking for advice and seeking an opinion at  
4 every step of the way. This policy is one step  
5 closer to achieving that goal. Thank you for your  
6 time and consideration. We urge a due pass for SB-  
7 379.

8 MDM. CHAIR: Thank you, Miss Kindness-  
9 Coleman. Additional proponents for Senate Bill 379?  
10 I had originally been told we had three. Are there  
11 any more online, miss O'Neill?

12 MS. O'NEILL: Madam Chair, there are not.

13 MDM. CHAIR: Okay. Okay, opponents for  
14 Senate Bill 379? Opponents in the room? Seeing none,  
15 do we have any opponents online, Miss O'Neill?

16 MS. O'NEILL: Madam Chair, there are none.

17 MDM. CHAIR: Okay. Informational witnesses?  
18 Seeing none in the room, do we have any online, Miss  
19 O'Neill?

20 MS. O'NEILL: Madam Chair, there are none.

21 MDM. CHAIR: Thank you so much. Questions  
22 from the committee? Senator Vance.



1           SEN. VANCE: Thank you, Madam Chair, for  
2 the sponsor, please.

3           SEN. WEBER: Madam Chair, Senator Vance.

4           SEN. VANCE: Thank you, Madam Chair.  
5 Senator Weber, I really appreciate the definitions  
6 that you have here in the beginning of the -- of the  
7 -- on -- on the first line. I -- I think that will  
8 help. Should this go forward, I believe that that  
9 will put meat into what everyone's trying to -- or  
10 what you're trying to accomplish.

11           So I want -- I have a couple questions for  
12 you on page two. Madam Chair, Senator Weber, my  
13 first question has to do with sub C. Let's see, I'm  
14 starting on line six, "Develop a written  
15 consultation policy in coordination with  
16 representative -- representative of each tribe that  
17 is -- that is used by the agency." So my first  
18 question is -- let me see here. We're going to back  
19 up before I ask you that question.

20           Is the vision -- is your vision to have the  
21 state of Montana or its -- all of its agencies,  
22 like, there might be Department of Commerce or

1 Department of Transportation, or, you know, other  
2 departments. Is that -- is it one state and all of  
3 the tribes, or is it all agencies of the state and  
4 individual -- with individual tribes? Do you  
5 understand?

6 SEN. WEBER: Yes I do.

7 SEN. VANCE: Okay. Thank you.

8 SEN. WEBER: Thank you, Madam Chair and  
9 Senator. I had this conversation yesterday with the  
10 American Indian Affairs Director. And they were --  
11 there was several -- well, couple, anyway --  
12 agencies, departments that came to her concerned  
13 about this. And what I told her, this doesn't say  
14 that they have to have separate -- and a couple of  
15 the agencies came to me when they heard about this  
16 and said, "Okay, we can deal with tribal  
17 consultation. We already have our own. We just want  
18 to make sure that that doesn't interfere with what  
19 we already have."

20 And they didn't have any problem with the  
21 definition or the -- the activities because most of  
22 them were doing these anyway. And also the -- on

1 line nine, just to look at it, no less than  
2 biannually every two years. So that - because just  
3 like us, tribal governments change or situations  
4 change. So I told them one of the more boisterous  
5 opponents was going to be the Department of  
6 Administration, but we could just have one omnibus  
7 consultation policy because -- for all of the  
8 departments under the umbrella.

9 And then, basically, if there's some little  
10 issue that one tribe has to another tribe, then we  
11 can fix it. The department that it's affecting can  
12 fix that little component.

13 But the consultations there doesn't say we  
14 have to have all these little consultations. There's  
15 some departments and agencies that only have five  
16 people. That would be ludicrous, you know, to have  
17 all of these little consultation policies.

18 So I'm just thinking just a huge umbrella  
19 consultation policy that every agency follows and  
20 gives them guidelines. So -- and then it'll save  
21 money. It'll save time for everybody, that if the  
22 Department of Administration does it, then all of

1 the other departments will fall, will have that as a  
2 -- as their consultation policy. Did I answer your  
3 question?

4 SEN. VANCE: Sort of. Follow up, Madam  
5 Chair?

6 MDM. CHAIR: Follow up.

7 SEN. VANCE: Madam Chair, Senator Weber, so  
8 I'm probably going to get the name wrong, so I do  
9 apologize in advance. I believe it would be the  
10 Bureau of Indian Affairs? We would have the state of  
11 Montana and the Bureau of Indian Affairs as the --  
12 kind of the umbrella. And then from there, would go  
13 down?

14 SEN. WEBER: Excuse me, Madam Chair, may I  
15 refer that to Mr. Yawakie, please?

16 MDM. CHAIR: Okay.

17 SEN. YAWAKIE: I want to -- Madam Chair,  
18 Senator Vance, to answer your question, I want to  
19 shape this around wildlife management plans between  
20 tribes and fish and wildlife and parks, per se.

21 When the state is - is -- considers  
22 engagement with the tribe, that may be as simple as

1 sending an e-mail out. Tribal nations are fully  
2 functional governments who oversee many different  
3 departments and programs and services for their  
4 tribe. So whenever those e-mails enter into those --  
5 into those lists, they may get lost.

6 And so, to answer your question, an agency  
7 such as Fish, Wildlife and Parks focusing on a  
8 specific species of animal, might have to engage and  
9 consult with multiple tribes. It may be -- the issue  
10 may pertain to only one tribe, but if the -- if the  
11 issue pertains to multiple tribes, then they would  
12 have to properly engage and consult with each of  
13 those tribes in a meaningful way, not just through  
14 e-mail, but in person. Thank you.

15 MDM. CHAIR: Follow up?

16 SEN. VANCE: Madam Chair, I do have another  
17 question. I'm going to try the sponsor again. And if  
18 you want to re-refer, that's totally fine.

19 SEN. WEBER: Thank you, Madam Chair,  
20 Senator Vance.

21 SEN. VANCE: Yes, Madam Chair, Senator  
22 Weber, on line 12 listed here, it says, "Designate

1 an agency employee to act as the tribal liaison." So  
2 I'm --- if I understand that line there, we are  
3 talking about someone from state government that is  
4 solely responsible to coordinate with tribal  
5 government.

6 SEN. WEBER: Madam Chair, Senator Vance,  
7 that's from the agency. It's not like the Indian  
8 affairs director. Indian Affairs director is  
9 basically the governor's liaison. It's - she's not  
10 the department liaisons. This required -- well, the  
11 agency, like, say, Fish, Wildlife and Parks to have  
12 one person.

13 That person probably knows what's best for  
14 -- and what's going on in that department. Better  
15 than, say, the Indian Affairs director. She knows  
16 what's going on in the governor's office, but she  
17 does not know what's going on in the Fish, Wildlife  
18 and Parks.

19 So that person would be the best to  
20 represent their tribe, or -- their tribe -- their  
21 agency, and vice versa. You know, the tribes usually  
22 have a designee that they send to Fish, Wildlife and

1 Parks. I was just -- before a session, I was just at  
2 a meeting with them, and they -- they did have their  
3 liaisons coming in.

4 So we know that -- and then they go back to  
5 the tribes. So I just want to make that clear that  
6 the American Indian Affairs Director is the  
7 governor's representative, not the different  
8 agencies representative.

9 SEN. VANCE: Madam Chair, follow up,  
10 please?

11 MDM. CHAIR: Follow up.

12 SEN. VANCE: Thank you very much for  
13 correcting me. I knew I didn't have the right  
14 terminology. So I'm going to back up a little bit  
15 because you're right, Bureau of Indian Affairs is  
16 under the governor's office, so I'm sorry.

17 I don't know how to ask this. I'm trying to  
18 be as politically correct as I can. I don't want to  
19 offend, but what is the term for -- that -- who's the  
20 head of the tribal leaders? Or -- I mean that the  
21 title, not the person's name.

22 SEN. WEBER: Madam Chair, for my tribe,

1 it's Chairman.

2 SEN. VANCE: Okay.

3 SEN. WEBER: For the Crow, it's president.

4 SEN. VANCE: I'll have to look at my --

5 SEN. WEBER: Any others?

6 SEN. YAWAKIE: (Inaudible) Chairman. For  
7 Cheyennes, it's president.

8 SEN. WEBER: Yeah. So it's either president  
9 or Chairman.

10 SEN. VANCE: Okay.

11 SEN. WEBER: So there's -- there's no  
12 chief. I'll have to tell you that. Did I answer your  
13 question?

14 SEN. VANCE: Follow up, Madam Chair.

15 MDM. CHAIR: Follow up.

16 SEN. VANCE: Okay. So what -- what -- I'm  
17 trying to get at, I'm trying to get the picture of  
18 the intent of what this bill is doing. So may I just  
19 ask you is there a fiscal note that goes with this  
20 bill?

21 SEN. WEBER: Madam Chair, Senator Vance,  
22 no, because this is a lot of these departments



1 already have a designee within their -- within their  
2 department. We're not asking for another FTE. What  
3 we're asking them is to -- is to send their  
4 representative.

5 And that's already an employee. They're the  
6 ones that know that department best. And so that --  
7 that's why there's no fiscal note, and the rest of  
8 this on page two just gives them guidance.

9 They don't have to follow it, but it gives  
10 them guidance to how to develop that -- that tribal  
11 liaison. Most of the departments already have that  
12 person, and -- and -- but the most important part of  
13 this bill is the definition of tribal consultation.

14 SEN. VANCE: Thank you.

15 MDM. CHAIR: Further questions. Any further  
16 questions? Oh, follow up? Another question?

17 SEN. VANCE: Not for the sponsor. Madam  
18 Chair, there's Director of the Governor's Office.  
19 It's a couple of them, actually, that are here, and  
20 I'm wondering if I could ask them a question. I  
21 would ask for the Commissioner of Labor first?

22 MDM. CHAIR: Without objection?

1 COM. SWANSON: Thank you. Sincere  
2 apologies, Madam Chair. I intended to be here  
3 informationally, and came running down the hall  
4 after you started.

5 MDM. CHAIR: Okay.

6 COM. SWANSON: Thank you, Sarah Swanson,  
7 for the record. S-w-a-n-s-o-n, I'm the Commissioner  
8 of Montana's Department of Labor and Industry. I'm  
9 also joined by my colleague, Director Dorrington,  
10 who also intended to be here and came running from  
11 the fourth floor.

12 MDM. CHAIR: Go ahead.

13 SEN. VANCE: Thank you, Madam Chair. So  
14 Commissioner Swanson, do you have a designated agent  
15 at this time, or would there be a situation that you  
16 would need additional assistance in order to comply  
17 with the change in this -- in the law?

18 COM. SWANSON: Thank you for the question,  
19 Madam Chair, Senator Vance. Yes, the Department of  
20 Labor and Industry does have an office of the tribal  
21 leadership. However, it is very new. I was appointed  
22 commissioner in October - or, excuse me, August of

1 2023. And to my knowledge, we had not had one before  
2 then.

3 One of the missions that we have at the  
4 Department of Labor is to empower every Montanan  
5 through work and opportunity. And so when we look at  
6 the labor force participation rates across the  
7 state, they are lowest in our tribal communities.

8 And so for that reason, working together  
9 with my leadership team, I made the decision to use  
10 one of the positions within my executive team in the  
11 Commissioner's office to create the office of the  
12 Tribal Liaison.

13 I posted a competitive posting, I hired a  
14 gentleman by the name of Donnie Wetzel, who had been  
15 a tribal liaison for the Office of Public  
16 Instruction for about a decade before I brought him  
17 over to the department. He's an enrolled member of  
18 the Blackfeet tribe, and he leads our tribal  
19 engagement for us.

20 We're on a bit of a journey. We're in month  
21 13 of having him with us. We've since expanded his  
22 office to add a young lady to his team who was born

1 and raised in the Fort Belknap Indian Community.

2 She's our tribal youth engagement  
3 coordinator, focused on building a career  
4 exploration for middle and high school students in  
5 those communities. But yes, I uniquely am one of the  
6 agencies that does have an Office of Tribal Liaison  
7 within my executive team.

8 I funded that with existing resources.  
9 Previous commissioners had used a policy position in  
10 their office. I made this choice because my  
11 commitment to the state of Montana is to increase  
12 the labor force participation rate.

13 So putting that focus in the communities  
14 where they have the highest need of career  
15 exploration and job skill building, that -- that's a  
16 decision that we made.

17 It was no additional spend for the agency  
18 or the general fund because it was existing state  
19 special revenue. And we are on a journey, as I said,  
20 in how we implement tribal consultation. We've  
21 learned so much.

22 I think the good senator and members of

1 the caucus who have helped us along, that we've got  
2 great successes to share. But yes, I have one, and I  
3 had to do it within existing resources in my  
4 executive office.

5 SEN. VANCE: Thank you.

6 COM. SWANSON: Thank you.

7 MDM. CHAIR: Follow up.

8 SEN. VANCE: Madam Chair, may I please ask  
9 Director Dorrington?

10 DIR. DORRINGTON: Madam Chair, members of  
11 the committee, I'm Chris Dorrington, D-o-r-r-i-n-g-  
12 t-o-n. I'm the Director of Transportation. Also, my  
13 apologies, Madam Chair. In another bill with the  
14 good senator behind me. Same time, different place.

15 Madam Chair, Senator Vance, good question.  
16 We -- we do not have a -- a position titled tribal  
17 liaison. We have an individual in our legal team  
18 that works extensively with our transportation work  
19 that goes through and affects our impacts our  
20 tribes. They work through the contracting side. Most  
21 of our work then is on the environmental impact  
22 side.

1           Our environmental engineers and scientists  
2     work closely with tribes, try to do our best to  
3     understand the impacts of of natural, cultural,  
4     historical resources when a transportation project  
5     goes through and affects tribal Indian country.

6           The last is our district administrator. So  
7     I have five districts and a headquarters office.  
8     Each of the district administrators attempts and  
9     strives to maintain a good and lasting relationship  
10    with the tribes, especially as our -- our  
11    transportation system impacts Indian country.

12           In this case, I don't -- I don't -- to your  
13    -- to your question, which is a good one, I think  
14    each agency has just a slightly different footprint.  
15    I think all of us are well intended. I don't think  
16    every agency is the same as -- as a good  
17    commissioner had talked about her -- her tribal  
18    liaison is exceptional. Donny's awesome. He does --  
19    he works really hard, he's very focused, and he has  
20    -- has and sustains good relationships.

21           In our situation, I don't know that I would  
22    want to hire a tribal liaison, and it's not for any

1 reason to impugn the intent of the bill. Not at all.  
2 What I wouldn't want to do is take away the  
3 relationship, the knowledge, and the intimacy of the  
4 -- of the district administrators with tribal  
5 leadership.

6 And I don't -- there's nothing -- nothing  
7 taken away from the bill at all. I think it's well  
8 intended, just structurally, I don't think I'd hire  
9 one person when we have such an extensive footprint  
10 and impact on -- on Indian Country for our projects.  
11 Thank you for the question.

12 MDM. CHAIR: Okay. Senator - Senator  
13 McKamey, go ahead.

14 SEN. MCKAMEY: Thank you, Madam Chair. A  
15 question for Miss Swanson please.

16 COM. SWANSON: Madam Chair, Senator  
17 McKamey.

18 SEN. MCKAMEY: Thank you, Madam Chair and  
19 Miss Swanson. Tell me whether or not other agencies  
20 could easily replicate what you have done in your  
21 Department of Labor.

22 COM. SWANSON: Thank you Senator, really

1 great question. And Madam Chair, as we're currently  
2 organized, I don't know if it would be as easy for  
3 every agency to do that. The Department of Labor is  
4 a big agency. We have about 674 employees, so it's  
5 easier for me within my footprint to find a position  
6 within my executive office versus some of the  
7 smaller agencies that only have, say, 100 employees.

8 So part of that was economies of scale and  
9 how I chose to staff -- staff my personal office.  
10 But also the technical knowledge is so important. I  
11 think Director Dorrington hit on it the best when he  
12 said that our tribal liaison at the department  
13 really is one of the best.

14 He's worked in this field for decades, he's  
15 got strong relationships with every tribal council  
16 and Chairman in Montana, he formerly worked at Rocky  
17 Mountain Tribal Leaders, he's close with a number of  
18 tribal caucus legislators. So that brings a unique  
19 skill set to our department.

20 Simply posting a tribal liaison position  
21 and hoping you get what we were fortunate enough to  
22 get isn't as easy as that, and having the resources



1 to staff it wouldn't be as easy as that. I would --  
2 I would be remiss to say that this is replicable  
3 today in every agency. Is it a great goal?

4 Absolutely. Are we achieving incredible  
5 milestones at the department under Donnie's  
6 leadership? Absolutely, but we had a couple of  
7 dominoes all fall right in order. Having the  
8 position, having the money, having the best of the  
9 best apply, really set us up for success.

10 I -- I don't know if you've ever been on  
11 the other side of a hiring panel for the state, but  
12 sometimes we don't always get the applicants we're  
13 hoping for. And so the who is the most important  
14 part, and do they have the relationships with  
15 counsel? And that's really the important part. It  
16 allowed me to set forth an expectation in our  
17 agency.

18 We have so many folks that are excited to  
19 work in tribal communities, right? The opportunity  
20 to expand economic mobility through work is an  
21 exciting one. My folks just get really jazzed about  
22 that opportunity to help families through work.

1           But we -- by having somebody of the skill  
2     set of Donny, we're able to tell the entire team,  
3     "Stop. If you have an idea in a tribal community,  
4     your idea starts with Donny. Donny will go first. He  
5     will go to the Tribal Council focused on readiness."

6           We have so many complex programs across our  
7     agency that the councils and the leaders aren't  
8     always ready to hear about them, they don't  
9     understand. Donnie will go to council in a good way  
10    and work on getting them ready.

11          How does unemployment work? How does WIOA  
12    work? Whatever the program is that we're talking  
13    about, he starts with readiness. Sometimes that  
14    takes a week, sometimes that takes months to get  
15    them ready, and then we send our team in on  
16    invitation.

17          I think that's the right way, but we are,  
18    like I said, we're on a journey. I don't know if I  
19    could assist or be helpful in hiring 12 more people  
20    across the state agencies and get the same results.

21          This is really a case by case with the  
22    individual and the relationships. I know we're on to

1 something and I hope we can bottle it. I don't know  
2 if every other director is well suited to do that  
3 just yet.

4 SEN. MCKAMEY: Thank you, Director Swanson,  
5 Madam Chair. I think that's probably it. Okay, there  
6 is something else --

7 MDM. CHAIR: All right.

8 SEN. MCKAMEY: -- but afterwards.

9 MDM. CHAIR: Okay. Okay, so I have question  
10 for Miss Swanson, I guess, please.

11 COM. SWANSON: Madam Chair.

12 MDM. CHAIR: So what I'm hearing you saying  
13 in my very tired state of being is that you actually  
14 didn't need a law put in place to initiate what  
15 you've done, and it's working well for you. You  
16 don't know that it'll work the same for other  
17 agencies. Have you looked at the bill? Have you read  
18 the definition of consultation?

19 COM. SWANSON: Thank you, Madam Chair. I  
20 have read the bill.

21 MDM. CHAIR: Okay. Would you -- would you  
22 support that as being an accurate definition of what

1     you -- you are doing in your agency?

2             COM. SWANSON: Thank you, Madam Chair. This  
3     is very similar to what we are doing. A formal  
4     consultative approach with leaders first.

5             SEN. ZOLLENKOPF: Okay.

6             MDM. CHAIR: Okay, so you support the  
7     definition, but not necessarily Section two? Is that  
8     --

9             COM. SWANSON: As -- Madam Chair,  
10    respectfully, as an informational witness, I would  
11    prefer not to support or oppose.

12            MDM. CHAIR: Okay.

13            COM. SWANSON: We are able to do this at  
14    the Department of Labor right now. Although I know  
15    that I've worked in other agencies. You know, I -- I  
16    -- before I came to the Department of Labor, for  
17    example, I was at OPI.

18            And just like we work on readiness with our  
19    tribal nations, not every agency is ready for this  
20    yet, either. This is really the model of what we're  
21    trying to do at the Department of Labor, but I would  
22    not want to lend an opinion further than that.

1 MDM. CHAIR: All right. Thank you. I  
2 appreciate that. Did you have something else? Mr.  
3 Yawakie, you would like to share something?

4 SEN. YAWAKIE: Yes. I just wanted to thank  
5 you, Madam Chair, for enlightening this. I think  
6 we're getting away from the intent of the bill.  
7 We're not necessarily trying to follow what the  
8 commissioner has -- has implemented within her  
9 agency.

10 But what we're asking for is that someone  
11 within the -- I guess -- the executive or the  
12 administrative part of that agency that -- that that  
13 individual is just designated. That there isn't a  
14 like --the sponsor has stated -- that a full time  
15 employee wouldn't be created out of this  
16 legislation, but just simply the fact that a  
17 individual within the agency would be designated to  
18 carry out these activities.

19 One of the -- and I want to also touch on  
20 the -- on the portion of the legislation that  
21 documents the policies that agencies will follow,  
22 and then also the documentation of consultation

1 between tribes.

2 And that -- that's all we're asking for is  
3 just to create, I guess, greater - greater, or --  
4 greater strength to what is already in statute. And  
5 then also, yeah, just to create better conversations  
6 between tribes and agencies. Thank you.

7 MDM. CHAIR: Okay. Thank you. Any further  
8 questions? Did you have another one? Okay. All  
9 right. Seeing no further questions, Senator Weber,  
10 would you like to close on your bill?

11 SEN. WEBER: Thank you, Madam Chair and  
12 committee. Basically, just like I said before, the  
13 important part of this bill really is the definition  
14 of tribal consultation. And I am so glad that  
15 Commissioner Swanson is doing what she's doing.  
16 She's light years ahead of everybody else, but  
17 that's creativity and imagination and using  
18 resources effectively.

19 The Department of Transportation, I -- when  
20 we -- when I was looking at this, I never thought of  
21 what fits departments like his. I work really well  
22 with our local Department of Transportation.

1           People in my neck of the woods, they're  
2     from Harvard, and they come over and they're  
3     wonderful, wonderful people to work with. Actually,  
4     I had a -- they helped me a lot when I had the  
5     highway -- Memorial Highway, things that were that  
6     came up before.

7           I will not be able -- I will not be  
8     carrying another memorial highway thing, but -- but,  
9     you know, we could fit this instead of the liaison,  
10    you know, designee or however, maybe the Department  
11    of Transportation would want to help me.

12          But the second part of this is basically  
13    just -- just a guideline. It's not that -- but the  
14    most important part of this bill is the definition  
15    so that we all are on the same page, the same  
16    paragraph, and that's all we wanted to do. And with  
17    that, I ask for a due pass.

18          MDM. CHAIR: Thank you, Senator Weber. This  
19    closes the hearing on Senate Bill 379. Okay, all  
20    right. Well, we will open the hearing on Senate Bill  
21    470. Welcome, Mr. Zollenkopf.

22          SEN. ZOLLENKOPF: Thank you, Madam Chair,

1 members of the committee. Daniels Zollenkopf, Senate  
2 district 22 out of Billings. I just want to thank the  
3 Director Dorrington for coming in and supporting my  
4 piece of legislation.

5 He's not here for me. So, yeah. You know,  
6 what I like about today is we get to be in three  
7 committees, sometimes all at the same time. So this  
8 legislature can break the space time continuum and  
9 says -- well, maybe that's the same thing. I'm not a  
10 science guy.

11 So what is in front of us today, I ran a  
12 bill last session to try to clarify something  
13 regarding removal of election judges and clarifying  
14 how they're appointed. I'm going to say this is not  
15 a perfect draft right now, but I want to run through  
16 this bill and then go from there.

17 This, of course, is not my area. I just  
18 said last session let's try to do something here.  
19 And, uh, that bill ended up dying 50-50 in the House  
20 after amendments were put on. And I think it was a  
21 punitive, not about the legislation. Believe that or  
22 not. So I'm glad one person was catching on --



1 MDM. CHAIR: We wouldn't do that.

2 SEN. ZOLLENKOPF: -- (inaudible) to my bad  
3 humor. All right, so that's section one. Removal of  
4 an election judge, notification if election judge is  
5 permanently removed from the judge's duties for  
6 provision of title 13 or for causing disruption in  
7 polling place.

8 And if they're nominated by the county  
9 central committee, they have to - they -- the  
10 election administrator has to notify that county  
11 central committee of the removal. So that's good  
12 transparency. That way there's got to be reason and  
13 communication. You just can't pick people off and  
14 say, "Nope, no good here."

15 And I'm going to take a step back. Sorry  
16 about that. But election judges are important  
17 because you want some from each Central Committee,  
18 and maybe some other folks sprinkled in who may have  
19 already been qualified in doing this for years.

20 Because if you have people from both  
21 political parties overseeing the election process  
22 and they both say, "Thumbs up, this went right",

1 then there's trust. If it seems like they're not  
2 allowed in or they're pushed out, or that door was  
3 never even opened in the first place, and you say,  
4 "Well, why not?"

5 What is going on here creates skepticism,  
6 lack of trust, people start questioning things, and  
7 an election process that could have gone 100 percent  
8 perfect can now be questioned, and that's what we're  
9 trying to alleviate here.

10 So the next one's a complaint. A county  
11 central committee can register an official complaint  
12 with the governing body if they did not receive a  
13 notification from -- or if the list provided by the  
14 county central committee was not used in the  
15 selection of judges.

16 We'll get to the next portion of the bill,  
17 but the Central Committee should be able to select  
18 judges if they want to and submit those names to  
19 then be trained and moved forward.

20 So the question that has come up numerous  
21 times since this bill dropped was what is a  
22 governing body? And I believe that's supposed to be

1 county commissioners, if not the election.

2 I think it's supposed to be the county  
3 commissioners. Another question was brought up, too,  
4 which is the first idea of an amendment.

5 If I can get this bill to the (inaudible),  
6 they would have to respond within a certain amount  
7 of time, because apparently some people have asked  
8 about why a complaint or why a decision has been  
9 made, and they bring it to the governing body and  
10 then they get no response. So, as you dig in on  
11 these issues, you learn more and more.

12 So 90 days prior to the deadline in -- in  
13 this bill, which I think is 45 days before the  
14 primary election, the election administrator would  
15 have to notify each county central committee of the  
16 requirement to submit a list of election judge  
17 nominees.

18 So 90 days before 45 days and say, "Hey,  
19 you guys got election judges? Give us a list." And  
20 then they will be able to provide training for them  
21 so that they can get a whole list of people for  
22 these elections. So that's section three.

1           This does alleviate last time a little bit  
2     from last -- the last bill and this says the  
3     governor and body may also choose election judges  
4     from list of individuals who submit their own names  
5     for consideration. So that's because there have been  
6     previous people in the past doing this.

7           And this is trying to say each party gets  
8     to choose, but some people may not be affiliated  
9     with the party or been doing it for years. So if  
10    that list is there as well, they'd be able to choose  
11    from this -- or involve people from this other list  
12    who've just been doing it for a period of time.

13          That's kind of a give, just as a balanced  
14    approach to make sure the election administrators  
15    feel like it's not just party A, party B, but allow  
16    some other people sprinkled in.

17          Let's see. I'm trying to get to the meat of  
18    the bill. So to the extent possible, each county  
19    central committee that submitted this must be  
20    represented on each election board. No more than the  
21    number of election judges needed to obtain a simple  
22    majority may be appointed from one political party.

1           That -- that clarifies it. And then,  
2           qualifications, experience and availability of an  
3           election judge may be considered making an  
4           appointment to a specific election board.

5           Election boards are not something I have  
6           any background in, so hopefully I'm preaching to the  
7           choir when I'm pointing this out. If you ask me  
8           questions on it, I will ask one of my expert  
9           witnesses here, just to clarify. Again, I worked  
10          with a lot of people in the bill two years ago.

11          Last portion talks about section -- or  
12          section four, number four, page three, is each  
13          individual who attends a training session not  
14          nominated by a central committee must be asked of  
15          their -- if they prefer to affiliate with a  
16          political party that way.

17          Or if they prefer to be an independent that  
18          way, they actually know where people are  
19          independent, Democrat, Republican, to ensure that  
20          one party does not have the majority. Again, that  
21          seemed to make sense, and I'll defer to you.

22          And last one, in emergencies, the election

1 administrator shall attempt to fill open positions  
2 with individuals with current certificates before  
3 seeking individuals without current certificates.

4 So if you get party A and party B, and they  
5 put in their list and they do their training, that  
6 should be where you start from, not where you end  
7 at. So with that, Madam Chair, members of the  
8 committee, I think that was a pretty good breakdown  
9 and I'm here for any questions.

10 MDM. CHAIR: Good. Thank you, Senator  
11 Zollenkopf. Okay, proponents of Senate Bill 470?  
12 Proponents?

13 MS. CARLSON: Thank you, Madam Chair,  
14 members of the committee. My name is Johanna  
15 Carlson, C-a-r-l-s-o-n. I am a junior at Manhattan  
16 High School and I rise in support of Senate Bill 470  
17 as presented by Senator Zollenkopf.

18 I support this bill as it allows  
19 individuals who are not affiliated with the  
20 political party to train and become election judges,  
21 something that is currently not allowed under title  
22 13. Please vote in support of Senate Bill 470 and

1 allow these individuals the ability to fulfill their  
2 civic duty. Thank you.

3 MDM. CHAIR: Thank you, Miss Carlson, well  
4 done. Next proponent. Next proponent for Senate Bill  
5 470? Okay, do we have any proponents online? Miss  
6 Plettenberg has her hand raised.

7 MS. PLETTENBERG: Madam Chair, can you hear  
8 me? I switched to my phone. I hope it's better.

9 MDM. CHAIR: We can, yes.

10 MS. PLETTENBERG: Okay, all right. Regina  
11 Plettenberg, P-l-e-t-t-e-n-b-e-r-g here, on behalf  
12 of myself. The -- I want to make it clear the  
13 association's neutral on this bill, but I -- the  
14 sponsor did work with me on this bill, and I do  
15 support the bill.

16 I think he did a great job going through  
17 it, so I'm not going to go back over it other than I  
18 do -- after hearing I did hear from one of my  
19 constituents, we all did yesterday on the zoom for  
20 one of the bills last night, and I think the  
21 confusion lies in 13-4-102. And I want to explain  
22 this.

1           So the bill adds that at least 90 days we  
2       must reach out to the parties. And then it says and  
3       they must submit it at least 45 days. And so my  
4       understanding in speaking with an attorney friend  
5       and maybe Miss Harden, if she disagrees, can let you  
6       know, but at least means we can do it before, but  
7       not later then. And a lot of us, especially large  
8       counties, I'm one of them, we do our trainings  
9       earlier. I do my trainings in March.

10           I know there are some that do it in  
11       February, but I do that because I run school  
12       elections. Many of us do, and we're trying to get  
13       our judges trained and our list set before those  
14       school elections.

15           And so maybe if we need -- if there is an  
16       amendment needed, we maybe need to clarify that, but  
17       that's the reason for that. We still want to allow  
18       enough time to reach out to our parties and get  
19       names, that's vitally important. But, you know, we  
20       have to be able to get those trainings done in a  
21       time that works with the election cycle.

22           So there's that issue. And then down with



1 the training. And actually I want to go first to  
2 page two, line 20 qualifications, experience and  
3 availability. That is very -- I've heard that from  
4 many clerks.

5 They like that. They -- we do rely on  
6 judges who are trained and who have worked with us  
7 before, like our chief judges, and others that maybe  
8 work at, like the provisional table and other areas  
9 like that.

10 We also try to balance our tables with new  
11 and experienced judges as well as different party  
12 affiliations. And the training. We really wanted to  
13 make that clear, that the training we think is  
14 vital, and we hope you do too, but I definitely  
15 think it's vital.

16 So with that, Madam Chair, I -- I do urge I  
17 think this is a good bill. I think it kind of makes  
18 it clear to both the parties and it makes it clear  
19 to the election administrators that even if we're  
20 using judges that aren't -- because some election  
21 administrators, that was their concern -- they don't  
22 have a party. Maybe they have one party and not the

1 other.

2 And so this makes it clear if you are  
3 getting judges that maybe aren't affiliated with a  
4 party, you should still be asking for their party.  
5 You know, what way they lean.

6 So -- but it but it also opens it up for,  
7 like, the prior proponent who maybe doesn't  
8 affiliate with a party but wants to be involved in  
9 the process. We don't want to exclude anyone. So  
10 with that, Madam Chair, I urge a due pass, thank  
11 you.

12 MDM. CHAIR: Thank you, Miss Plettenberg.  
13 Additional proponents to Senate Bill 470. Miss  
14 O'Neill. Do we have Miss Bennett online?

15 MRS. O'NEILL: Madam Chair --

16 SEN. BENNETT: This is Miss Bennett. Miss  
17 Bennett, though, is an opponent to the bill, so I'm  
18 not sure if you'd like me to wait.

19 MDM. CHAIR: Okay. You'll be up  
20 momentarily, I believe. Do we have any more  
21 proponents in the room or online?

22 MS. O'NEILL: Madam Chair, there are no

1 more online.

2 MDM. CHAIR: Okay. Then we will move to  
3 opponents. We have one in the room, so hold tight,  
4 Miss Bennett.

5 SEN. STOCKTON: Madam. Sorry, sit there for  
6 a long time, you can't talk. Madam Chair and members  
7 of the committee, my name is Becky Stockton. That's  
8 B-e-c-k-y S-t-o-c-k-t-o-n, and I'm a resident of  
9 Lewis Clark County. And I'm also a chief election  
10 judge and a central committee member.

11 The sponsor and I had this bill last  
12 session, but I haven't had time to do much this  
13 session. I've had a lot of other obligations. So I  
14 just happened to see this last night, so I'm not  
15 super prepared on everything, but I just want to  
16 point out a few things.

17 I didn't know what a governing body was,  
18 and it's not specified by a number in here  
19 associated with that governor body, because I looked  
20 in title 13, but that goes into Title VII? Correct?  
21 Or something like that.

22 So I did not know what that meant, and I

1 finally found out earlier today what that meant. So  
2 when you have a governing body, they can make and  
3 choose it to be administrative district or a  
4 commission board, and it can be elected or  
5 appointed. And every county has a different way of  
6 doing everything, too. Not everybody follows the  
7 same local county way of doing things.

8 And one of my concerns was the Board of  
9 County Canvassers, which is 13-15-401, I can't even  
10 find my Board of County Canvassers. Who's that  
11 listing?

12 And I don't know if they're county  
13 employees, or if they're people at large in the  
14 county. I have no idea. So I kind of -- I want to  
15 know that beforehand before deciding that this is  
16 the proper way of going about it. Just some  
17 information with that.

18 I also want to look at, like, section  
19 three. It's page two, line three. Let's see. What  
20 did I get? And it says at the end there, "...  
21 individuals who prefer not to affiliate with a  
22 political party eligible to nominate candidates in

1 the primaries." Not just the primary.

2 It's all elections, general elections, city  
3 and county elections, fire districts, or whatever.  
4 And that is --

5 MDM. CHAIR: I'm sorry, Miss Stockton,  
6 where are you?

7 SEN. STOCKTON: On page two, line three.

8 MDM. CHAIR: Okay.

9 SEN. STOCKTON: At the very end, it says  
10 the word primary.

11 MDM. CHAIR: Mhm, okay.

12 SEN. STOCKTON: And then we have down on  
13 that same page line 18, it says, "... and the primary  
14 must be represented on each board." Well, that would  
15 be all elections. You know, general election,  
16 however you want to specify that. And then I think  
17 there was one other line.

18 Page three, line 19 is another place where  
19 it says primary. This doesn't just happen the  
20 primary. It's just that election judges are selected  
21 prior -- prior to the primary, but then they're used  
22 for all elections for the next two years. So it's

1 not just for the primary.

2 And then we're into definitions.

3 Affiliation. I don't know if that's defined anywhere  
4 in code, affiliation. So I guess that's kind of my  
5 beef for right now - sorry -- in regards to that.

6 And I'm not saying that it's a bad bill or anything.

7 I'm just saying there's different things  
8 that need to be looked at and thought about. And I  
9 haven't been able to talk to my precinct or my  
10 Central Committee in regards to going through the  
11 way with the governing body, because I had no idea  
12 what that meant. But (inaudible), thank you

13 MDM. CHAIR: Thank you Miss Stockton. Thank  
14 you for sharing your experience and expertise.  
15 Additional opponents? Seeing none in the room, Miss  
16 O'Neill, we have Miss Bennett online.

17 SEN. BENNETT: Thank you Madam Chair and  
18 members of the committee, Lisa Bennett, B-e-n-n-e-t-  
19 t from Carbon County. I believe the idea of the bill  
20 to correct some deficiencies is laudable, and I wish  
21 I could support this bill.

22 The concerns that I have are that in

1 various counties, you end up with a situation where  
2 the purpose of citizen election judges is for the  
3 transparency and fairness of the election, for it to  
4 be impartial, and for those of us who are judges to  
5 be witnesses to that effect.

6 As soon as you start playing games as an  
7 election administrator, which can happen whether  
8 it's intentional or not, you end up with the  
9 citizens not trusting the election.

10 So this bill is vitally important to make  
11 sure that whatever changes we make, it's to make it  
12 better for the public. Not better for the election  
13 administrator, not better for the government, but  
14 better for the public.

15 The idea of having citizen judges is for  
16 this reason and this reason alone. The issues that  
17 we have is we oftentimes have election  
18 administrators who hire county employees, or their  
19 staff, and have them do many of the election  
20 functions that are supposed to be done by judges.

21 Who also have them play games where they  
22 will put one party or the other, and inconsequential

1 judge, positions like going around to collect  
2 ballots or being in some far flung 100 percent  
3 Republican or Democrat precinct where there's really  
4 not much for them to observe instead of on the  
5 counting boards.

6 The balance needs to be in every judge  
7 position, not just overall when you add up how many  
8 Republicans and Democrats, but are they fairly  
9 represented in every single aspect of the judge  
10 positions evenly and fairly?

11 Additionally, the way the language reads,  
12 you could have just one Democrat or just one  
13 Republican, and you have met the goal because the  
14 language doesn't clearly say that you can't fill 99  
15 percent of the spots with independents and give a  
16 token Republican and a token Democrat here or there.

17 The Democrats and Republicans are the  
18 majority party in the state. They should outweigh  
19 the independents that are assigned to these judge  
20 positions.

21 The reason why I'm opposed to independents  
22 having a large number of seats is because 99 percent



1 of the time, they truly are not independent. They  
2 are declaring so just so that they can get a  
3 position as a judge.

4 A lot of us -- I'd say almost all of us --  
5 have a bias one way or another, whether we declare  
6 ourselves independent or not. And so I don't believe  
7 that it is fair to have more than a token  
8 independent here or there. I think that -- that we  
9 need to make sure that things are balanced, and a  
10 lot of EAs prefer to use independence in one party  
11 or the other.

12 We also have the problem that in certain  
13 counties, especially those with low populations like  
14 Petroleum, Weibo, etc., those counties a lot of  
15 times are self-declared 90-99 percent Republicans,  
16 so it would be hard to find Democrats to serve. But  
17 the training is the big issue for me.

18 There is -- in a different section in the  
19 law. It says you need to be a certified judge. The  
20 normal judge training that they do does not qualify  
21 you to be on the boards like the tabulator board or  
22 the adjudication board. That's specialized training

1 that's done at a different time than the one that is  
2 noticed to the public.

3 And a lot of times EAs will -- going back  
4 to what Regina Plettenberg said earlier, how  
5 important training -- is a lot of times the EAs will  
6 skirt around, putting certain people in as a judge  
7 by never offering them that specialized training  
8 that's needed on the -- the certain boards that are  
9 out there. And this bill doesn't address any of  
10 those problems or the lack of transparency.

11 And additionally, every single county  
12 commission usually, generally speaking, doesn't  
13 really -- and that would be like the county  
14 commissioners -- doesn't necessarily understand  
15 election law and relies completely on their clerk  
16 and recorder and election administrators to guide  
17 them.

18 And as a result, they will always back and  
19 support them over anyone from the general public,  
20 whether or not the general public has a good  
21 complaint or issue to bring to their attention. So I  
22 don't like the idea necessarily of having a board

1 that is going to be based on the county  
2 commissioners making the decisions on this.

3 Then going back to the early training. I  
4 don't -- I understand election administrators need  
5 to do the training early. That is fine, but then we  
6 need to make sure that the central committees --  
7 that we move the dates back so that the central  
8 committees still have plenty of time to respond  
9 before the training dates are announced, to be able  
10 to find people to get people to those meetings.

11 I'm in one of those counties where my  
12 election administrator held the training in early  
13 February, which only gave our Central Committee one  
14 week to get people to those trainings in order to be  
15 qualified, and she never offered another training  
16 after that.

17 I also am opposed to last minute  
18 substitutions of judges that have not been trained,  
19 and in this bill it allows for them to do so. I  
20 think everyone needs to go through election training  
21 and the EA needs to do a substitution, then they  
22 need to hold a new training class and inform the

1 central committees. Thank you.

2 MDM. CHAIR: Thank you, Miss Bennett. Any  
3 further opponents?

4 MS. O'NEILL: Madam Chair, there are none.

5 MDM. CHAIR: Okay. Seeing no further  
6 opponents, informational witnesses? Seeing no  
7 informational witnesses in the room, I don't see any  
8 online either. Okay, moving to questions from the  
9 committee. Senator McKamey.

10 SEN. MCKAMEY: Thank you, Madam Chair.  
11 Let's see. For the sponsor first, then I have a  
12 couple more questions.

13 SEN. ZOLLENKOPF: Madam Chair, Senator,  
14 please be gentle.

15 SEN. MCKAMEY: Oh, we'll see about that.

16 SEN. ZOLLENKOPF: Okay.

17 SEN. MCKAMEY: Of course, I really  
18 appreciate you bringing this bill. I think this is a  
19 great bill, a great idea. I do think that it's  
20 probably, as was indicated by Miss Bennett just in  
21 her recent testimony and also in Miss Stockton's  
22 testimony, that there are some things that need to

1 be considered.

2 And so I think that it's probably too late  
3 to do either an amendment, conceptual amendment or  
4 otherwise. And I -- but I still want you to know, I  
5 really applaud this idea.

6 I think that it's really important to have  
7 the training, I think that it's important to have  
8 early training, I think it's important to have the  
9 definitions and the -- the -- the designations of --  
10 of all the individuals in judges. But there is  
11 something I really do worry about in this, and that  
12 is that the central committees are kind of --  
13 they're a little bit at a disadvantage, and I think  
14 that is a real concern.

15 And I also think it's a little bit of a  
16 concern to have the specialty judges -- the  
17 specialty judges training is -- is very important.  
18 That is something that is not the usual training.  
19 And I can understand that. So the question is would  
20 you be willing to table this?

21 SEN. ZOLLENKOPF: Madam Chair, Senator, I  
22 am willing to accept whatever you all decide to do.

1 Keep it alive, work on it, don't. I'm open to  
2 whatever this committee wants. And that was the only  
3 question, so I can't answer anything more. I guess I  
4 could go further into detail within this bill with  
5 other questions.

6 SEN. MCKAMEY: Thank you, thank you Senator  
7 and kind sponsor.

8 MDM. CHAIR: Senator Phalen?

9 SEN. PHALEN: Thank you, Madam Chair, for  
10 the sponsor. Mr. -- Mr. Sponsor, you heard that --  
11 about the primary, so would you like to address the  
12 word primary in the bill?

13 SEN. ZOLLENKOPF: Yeah. Madam Chair,  
14 Senator, so I think the -- this is - again, my  
15 assumption you guys work in this world more than I  
16 do -- but isn't it typically the primary before  
17 that, they were talking about March, they start  
18 training all their judges for the next two years, so  
19 I think that may be why it's in there? But if it's -  
20 - also should be opened up more or adjusted,  
21 obviously that makes sense.

22 But I thought that was why you start, it's

1 -- you got to do it for the main primary and then  
2 you go back in time, then you notify that list or  
3 you notify the Central Committee 90 days prior to  
4 the deadline so they can form that list and then  
5 bring the list forward and then get them trained,  
6 and then now they're basically ready for the next  
7 two years.

8 So that may have been why that was put in  
9 there. I cannot remember, but if it's more than  
10 that, then that's one of my three list -- things on  
11 the list to fix if it's problematic.

12 MDM. CHAIR: Would you like to redirect  
13 that question to Miss Plettenberg?

14 SEN. PHALEN: No, I'd like to address that  
15 to Miss Stock -- Stockton.

16 MDM. CHAIR: Okay.

17 SEN. STOCKTON: Madam Chair, Senator, can  
18 you give me the question again?

19 SEN. PHALEN: Yes, I was -- Madam Chair,  
20 Miss Stockton, and I just wanted to know -- you  
21 heard what the sponsor said. He did not really --  
22 you know, he used primary and went back 90 days, I'm

1 assuming. Is that correct? Basically? And so --

2 SEN. STOCKTON: I think part in the open,  
3 what's in law right now I think that was probably in  
4 there, so that's why he's thinking that. So it's not  
5 necessarily his fault. It's just that every two  
6 years we do training.

7 And so it's not just training for the  
8 primary, it's -- it's before the primary, and  
9 everything has to be done before the primary in  
10 order for us to have that training and the -- the  
11 judges up and running for that one and later.

12 We also -- in our county -- we've been  
13 having trainings before the general elections too if  
14 they're short of judges. So then we're looking for  
15 more judges and have them trained even for the  
16 general. And it's super important to have to --

17 SEN. PHALEN: Follow up?

18 MDM. CHAIR: Follow up.

19 SEN. PHALEN: Thank you, Madam Chair. So  
20 you're just wanting to make sure that the general  
21 and the school elections are added, correct?

22 SEN. STOCKTON: Correct.



1 SEN. PHALEN: Okay.

2 SEN. STOCKTON: You need to specify in law  
3 that we have not just a primary election, we have  
4 all of these elections. And all of our judges are  
5 used for those elections, so.

6 SEN. PHALEN: Thank you, Madam Chair.

7 MDM. CHAIR: Thank you. Questions, Senator  
8 Vance?

9 SEN. VANCE: Thank you for -- Miss  
10 Plettenberg, please.

11 MDM. CHAIR: Miss Plettenberg, are you  
12 still on? Yes she is.

13 MS. PLETTENBERG: Madam Chair, Senator  
14 Vance.

15 SEN. VANCE: Thank you, Madam Chair, Miss  
16 Plettenberg, I understand very clearly what the good  
17 sponsor of the bill is trying to get accomplished.  
18 And I understand dilemmas that clerks and recorders  
19 have, and I understand the struggles that we have  
20 with training election judges.

21 So in your -- if - if -- if this were a  
22 perfect world, and you were allowed to get your list

1 from your central committees, how soon would you  
2 like to get that list of potential election judges  
3 in order to comply with the statute?

4 MS. PLETTENBERG: So Madam Chair and  
5 Senator Vance, that -- that's what we were trying to  
6 add here, is just that 90 days before the -- the  
7 date we're talking about is the 45 days before the  
8 primary election in even numbered years. That's in  
9 current statute.

10 SEN. VANCE: Right.

11 MS. PLETTENBERG: And so to me, what I try  
12 to do, I do ask my central committees, both of them,  
13 and I'm lucky that both of them do give me lists,  
14 that I get it by February 15th. I send out -- I  
15 actually send the notice out to them in December,  
16 end of December, and then I ask for it.

17 So I give them six weeks, because they need  
18 enough time, you know. So -- and then if I can get  
19 it February 15th, that gives me a month before the  
20 training to send letters out to everyone, inviting  
21 them to the training.

22 SEN. VANCE: Follow up, Madam Chair?

1           SEN. ZOLLENKOPF: Follow up.

2           SEN. VANCE: Thank you. Madam Chair, Miss -  
3           - Miss Plettenberg. So I think I'm -- I think this  
4           is starting to sink into me, so I'm going to -- do  
5           you have the bill in front of you?

6           MS. PLETTENBERG: I do.

7           SEN. VANCE: Okay. Madam Chair, follow up  
8           please.

9           MDM. CHAIR: Follow up.

10          SEN. VANCE: Thank you, Madam Chair and  
11          Miss Plettenberg. So basically, what -- what the  
12          intent of this bill would do on line 28, submitted  
13          at least 45 days before the primary, were adding to  
14          that --

15          MS. PLETTENBERG: 90 days?

16          SEN. VANCE: Yeah, at least 90 days prior  
17          to that deadline, and that deadline meaning the 45  
18          days. Is that --

19          MS. PLETTENBERG: Madam Chair and Senator  
20          Vance, yes, that is my understanding, we were trying  
21          to give plenty of notice. And just to be clear, we  
22          don't have to add all the elections. Once we do the

1 training, the certificate is good for two years for  
2 any election. So I don't think we have to add the  
3 other elections in. Not that we can't, but then  
4 there's also going to be special elections,  
5 municipal elections, and all kinds of things, so.

6 SEN. VANCE: Madam Chair, Miss Plettenberg,  
7 thank you very much. That was an additional  
8 question, and I didn't have to ask it, because I  
9 wanted that clarity on the record. Thank you.

10 MDM. CHAIR: Further questions? I have a  
11 question for the good sponsor or Miss Plettenberg,  
12 whoever can answer it. Miss Plettenberg, he's  
13 deferring to you.

14 MS. PLETTENBERG: Okay.

15 MDM. CHAIR: Governing body. What was  
16 intended by governing body? (Inaudible) --

17 MS. PLETTENBERG: Madam -- Madam Chair,  
18 thank you for asking that, because governing body is  
19 in the current statute. So we just -- it just -- it  
20 just continued. Currently it is the commissioners.  
21 So for most, I agree. I guess you do have like Butte  
22 Silver Bow that has a little different, but it's

1 still a -- you know, it's still their governing  
2 body, which is their city, county, you know,  
3 commissioners.

4 So, I -- that's how it is currently. So  
5 this was -- yeah. It -- just to clarify that. Madam  
6 Chair, I hope that helps. And it's in -- it's in --  
7 it is in Title VII. One second here and I'll give  
8 you the exact statute. 7-4-502.

9 MDM. CHAIR: Thank you. Okay. Another  
10 question for you, Miss Plettenberg. I can certainly  
11 understand why you would want to attempt to keep  
12 your election judges balance between the parties,  
13 and I like the idea of adding in an option for  
14 people who are not affiliated.

15 But you heard the concern that was  
16 expressed. A couple of concerns, actually. One is  
17 that using Ravalli County as an example -- and you  
18 and I have discussed this -- we're about 70 percent  
19 Republican in our county, and it makes it harder to  
20 find -- and find Democrat judges and -- and balance  
21 the -- the sides, the teams. Is -- would you say  
22 that's an accurate statement?

1 MS. PLETTENBERG: Madam Chair, I think --  
2 and I've heard that amongst many counties, and  
3 that's where the -- I think that's where having  
4 maybe the no affiliation independent, no party,  
5 whatever you want to call them to help.

6 You -- and -- and you're right. I mean,  
7 people may lean away, but at least it's trying not  
8 to put people who are openly affiliating with the  
9 party and trying to balance the board.

10 But yes, we do -- we do struggle with that.  
11 Many counties do. And some counties have told me  
12 they don't have either central Committee. So it's a  
13 struggle for sure.

14 MDM. CHAIR: Okay. Okay. So would you be  
15 supportive of something to the effect of, I don't  
16 know, appointing the -- what we've recently done in  
17 the legislature is we have balanced the committees  
18 commensurate to the percentages of the parties in  
19 represented. I don't know if that's appropriate for  
20 elections or what are your, just, initial thoughts  
21 on that?

22 MS. PLETTENBERG: Madam Chair, I guess my

1 biggest concern -- I guess I have a concern with  
2 that of at least trying to do what we can do.

3 But more importantly, my biggest concern is  
4 that we include a balance of everyone who wants to  
5 be involved. I don't like to exclude anyone who may  
6 come to my counter and say, "I want to serve as an  
7 election judge." I always ask them their party  
8 affiliation. I just want to be able to include  
9 everyone, but I definitely want to work with my  
10 parties.

11 MDM. CHAIR: This is not necessarily on the  
12 bill, but where do we find the listing of our Board  
13 of County Canvassers?

14 MS. PLETTENBERG: Madam Chair, that -- the  
15 Board of County Canvassers is the governing body, so  
16 it's the Board of County commissioners. I don't have  
17 that statute in front of me, I'm sorry.

18 MDM. CHAIR: Okay. Okay. Currently there  
19 was -- it was expressed that there needs to be some  
20 balancing in the additional -- the continued  
21 education, the continued -- the specialized boards.  
22 Currently, do you have any set criteria, rules,

1 protocol that you follow for establishing your  
2 board, and your adjudication board, and all your  
3 specialized training boards?

4 MS. PLETTENBERG: Madam Chair, so I do try  
5 to again just pull -- pull people as we need them.  
6 We do have a lot of experienced people on those  
7 boards, but I'm open to that. I just -- same with  
8 the auditing.

9 The audit committee currently in statute,  
10 it does say you can use, you know, county employees.  
11 But as you know, I choose to go out to the parties  
12 to get members for that board. So I don't -- I get -  
13 - I think right now that's been county by county  
14 selection.

15 MDM. CHAIR: Okay. All right. I think  
16 that's all I have for the moment. Senator Phalen has  
17 another question.

18 SEN. PHALEN: Thank you, Mr. Chair, for  
19 Miss Plettenberg. This might be off the bill a  
20 little bit, but just -- you had one, so.

21 MDM. CHAIR: Yeah. Fair's fair.

22 SEN. PHALEN: Anyway, we heard last night



1 from some of your people that -- that went through  
2 the training and then have been passed over and  
3 given to a position to someone else. Do you want to  
4 reply?

5 MS. PLETTENBERG: Madam Chair and -- and  
6 Senator Phalen, thanks for the question. I maybe  
7 didn't understand that -- her concern the same way.  
8 I thought the concern was the amount of time which  
9 we've been discussing with the 45 days, so -- and  
10 the early training.

11 But I felt that was the -- I -- I do try to  
12 include -- I don't know of anyone we didn't include,  
13 including the -- the -- the lady that was on the  
14 zoom. I -- she is one of my election judges, so --

15 SEN. PHALEN: Okay, thank you.

16 MS. PLETTENBERG: -- I'm not sure.

17 SEN. PHALEN: Appreciate it. Bye.

18 MDM. CHAIR: All right, thank you. Any  
19 further questions from the committee? Seeing none,  
20 Senator Zollenkopf, would you like to close on your  
21 bill?

22 SEN. ZOLLENKOPF: Oh, yes, Madam Chair,

1 members of the committee. I thought that was fun.  
2 So, again, this came up last time, and I did request  
3 it early on, but as you know, our bill drafting  
4 process has been a little slow.

5           So -- and it's not anybody's fault, like,  
6 because the technology was behind and things got  
7 behind. It was a later LC number, so I was just  
8 trying to repeat what I worked on last time, and  
9 then try to get some buy-in. I know that trying to  
10 reach a middle ground on some of this stuff isn't  
11 always easy, but I just want to point out a few  
12 things.

13           This does include a new section on -- on  
14 notifying if there's removal of election judge. So I  
15 would say that's a positive because now the Central  
16 Committee has to be notified if something happens.

17           That's positive gain. Next one, a complaint  
18 has to be -- can be filed if the Central Committee  
19 does not receive a notification about removal. So --  
20 or -- and that could be tightened up in saying that  
21 the governing body would have to respond to that.

22           But again, we're trying to move the needle

1 forward. The next needle -- the next needle being  
2 moved forward is that 45 days prior to the primary,  
3 and then you take 90 days prior to that -- that 45  
4 days, that's when they have to notify every Central  
5 committee to submit a list.

6 So you have 90 days, they get -- they get  
7 notified to figure out a list, and then I think they  
8 have up till day -- they have those 90 days to do  
9 that, and then to reach that deadline of day 45  
10 prior -- prior to -- what is it? The -- the primary  
11 election.

12 So what that does is notify central  
13 committees with plenty of time. "Hey, we need a  
14 list." It's not like, "Hey, you guys got two days to  
15 figure out a list." It's "You have a lot of time to  
16 figure out a list." That's helpful. I think that  
17 moves the needle forward.

18 Again, the governing body does get to  
19 choose election judges from lists to submit their  
20 own names. So if there's independent people, or just  
21 people who've traditionally done that doesn't cut  
22 out that process. Is that perfect? I don't know, but

1 I think that's a fair balance. What was and what  
2 we're trying to move towards, I think that's a good  
3 balance.

4 The other one is letting people at least  
5 affiliate so they -- if they are already one of  
6 those independent folks, they can say, "Hey, I am a  
7 Republican", or, "I'm a Democrat", or, "I'm an  
8 independent."

9 And by independent, it could just mean  
10 anything else, but maybe they just like to do it for  
11 the social activity in their small town, and they  
12 don't like to be politically affiliated. Good on  
13 them.

14 So I would say that, you know, do what you  
15 want with this bill. It's not perfect, but if you  
16 look at the language in there versus the language of  
17 what's in law today, I'm guessing this moves the  
18 needle forward, and that's the point.

19 So, I will respect what this body -- or  
20 what this committee does. This is me waiting in a  
21 deep water, I know that, so if it's not ready, do  
22 what you want. If you think it's a good step

1 forward, do what you want. I will respect the  
2 decision. And with that, I close, thank you.

3 MDM. CHAIR: Thank you, Senator Zollenkopf.  
4 This closes the hearing on Senate Bill 470.  
5 Committee, I need about a five-minute recess, and  
6 then I would like to take some executive action on a  
7 few of these without objection.

8 But if you want to wait, and we have a very  
9 full day on Monday. But if you want to wait till  
10 Monday -- no, you're wanting to roll it. Okay, all  
11 right, then I would -- are you okay with taking  
12 executive action?

13 UNKNOWN: Yes I am.

14 MDM. CHAIR: Okay, there's a couple of them  
15 that I'm going to want to hold, but, I hope you  
16 don't mind. I need to take a five-minute recess. And  
17 we will enter into executive action, and our first  
18 on our list is Senate Bill 527. Madam Vice Chair,  
19 would you please move 527 to the table?

20 SEN. MCKAMEY: Happily, thank you, Madam  
21 Chair. I move Senate Bill 527 to table.

22 MDM. CHAIR: Without objection, so ordered.

1 Madam Vice Chair, would you please move Senate Bill  
2 499 to the table?

3 SEN. MCKAMEY: Thank you. Madam Chair and  
4 Committee, I move Senate Bill 499 to the table.

5 MDM. CHAIR: Without objection, so ordered.  
6 See how nice and smooth that is? That's the new way.

7 MADAN VICE CHAIR: We love it.

8 MDM. CHAIR: Okay. All right. Madam Chair,  
9 would you please move Senate Bill 490 due pass?

10 SEN. MCKAMEY: Yes. Thank you, Madam Chair  
11 and committee, I move Senate Bill 490 due pass.

12 MDM. CHAIR: Okay. Discussion on Senate  
13 bill, oh -- we have a -- we have an amendment. So,  
14 Madam Vice Chair, would you please move the  
15 amendment?

16 SEN. MCKAMEY: Oh. Where did the amendment  
17 go?

18 MDM. CHAIR: Do you need to read mine?

19 SEN. MCKAMEY: Just a second. Yes, thank  
20 yes. Yes, Madam Chair and -- and committee, I move  
21 Senate Bill 490 -- amendment 490.001.001 due pass.

22 MDM. CHAIR: Thank you. May I please have

1 that back?

2 SEN. MCKAMEY: (Inaudible) sure.

3 MDM. CHAIR: Thank you. Discussion on the  
4 amendment? Any discussion on the amendment, which is  
5 the non-severability clause at the end? Okay. All  
6 those in favor of amending Senate Bill 490, with SB-  
7 0490.001.001, signify by saying aye.

8 ALL: Aye.

9 MDM. CHAIR: Opposed, same sign, Senator  
10 Regier is aye by proxy. Okay, so the amendment --

11 SEN. ELLIS: And Madam Chair, Senator  
12 Morigeau and Hayman -- I got to figure out what I'm  
13 doing - Hayman vote aye by proxy.

14 MDM. CHAIR: Okay.

15 SEN. MCKAMEY: Okay. Madam Chair and  
16 committee, I move that Senate bill 490, once  
17 amended, due pass.

18 MDM. CHAIR: Okay. Discussion on the bill  
19 as amended? Senator Vance.

20 SEN. VANCE: Madam Chair, I -- I noticed on  
21 page two, line 15, in our -- when we were  
22 questioning people, I believe -- for me personally,

1 I believe this is a an error in the -- the word or.  
2 And I want guidance on entertaining a conceptual  
3 amendment to change the word from or strike it and  
4 put in the word and, a-n-d.

5 MDM. CHAIR: Okay. Senator Ellis did make  
6 that question. I wasn't clear on the response. Were  
7 you Senator Ellis?

8 SEN. ELLIS: Good question. I wasn't sure  
9 the sponsor was clear --

10 MDM. CHAIR: On the question.

11 SEN. ELLIS: -- but it looked like Mr.  
12 James was clear that it needed an and.

13 MDM. CHAIR: It should have been an and?  
14 Okay, Miss Hardin, what are your thoughts on that?

15 SEN. HARDIN: Thank you, Madam Chair,  
16 members of the committee. I understand, you know, in  
17 legal terms and stuff usually there is a great  
18 discrepancy between having or and and. I don't think  
19 amending this to and would necessarily hurt.

20 I guess the only thing I would say is in my  
21 reading of this since an elector -- this is focused  
22 on an elector taking action, and since they can only



1 register or vote one time, there's only one option  
2 that they have. They can't go in and do this every  
3 single day.

4 On the flip side of that, if this language  
5 was more focused on what the election administrator  
6 were doing, I would see more of an issue. Because I  
7 would see how it would be constraining the election  
8 administrator to only taking action on one of those  
9 days.

10 Again, I don't think it would hurt to -- to  
11 amend that. I don't see it contextually within the  
12 context of -- of this language it hampering you very  
13 much in the meaning of the language.

14 I was just informed that conceptual  
15 amendments today are considered amendments, and all  
16 bills with amendments were required to be passed out  
17 of committee as of yesterday. I'd be happy to  
18 entertain any floor amendments. Thank you, Madam  
19 Chair.

20 MDM. CHAIR: Thank you for that  
21 comprehensive explanation, Senator Vance?

22 SEN. VANCE: Thank you, Madam Chair. I --

1 we've tried a couple times to accommodate our  
2 citizens and make it an opportunity for them to be  
3 able to register to vote.

4 In addition to that, we've tried to be  
5 respectful of the duties and the constraints of time  
6 that election administrators have to get their work  
7 done, which is more than voter registration, it's  
8 counting our ballots.

9 And I want to -- it's my desire to try to  
10 make this bill the best bill that we can make it and  
11 have it clear, very clear, to everyone.

12 I think Miss Hardin did a very good job of  
13 making me understand that there's almost two  
14 interpretations to this bill. You could be talking  
15 about the rights of the citizen to register to vote.

16 On the other hand, you could be talking  
17 about the duties of the election administrator and  
18 what time periods they will be open for voter  
19 registration. I'm not sure what to do with the bill.

20 I would be willing to try to carry an  
21 amendment on the floor if the committee wants to go  
22 forward with the bill, but I just want this to be as

1 clear as possible that I believe that to be the  
2 intent of the bill.

3 MDM. CHAIR: I think if you actually read  
4 the whole paragraph starting in -- with sub-three,  
5 it becomes pretty clear that it is talking about the  
6 elector may register or change the electors voter  
7 registration information after the close of regular  
8 registration as provided.

9 So I think Miss Hardin's explanation is  
10 spot on, and -- and or is acceptable. Unless someone  
11 disagrees. Senator Vance?

12 SEN. VANCE: Madam Chair, I do not disagree  
13 at all. Wholeheartedly, I just wanted to make  
14 statements on the record for the future of what the  
15 intent of this bill is going to be.

16 MDM. CHAIR: Okay. All right. Any further  
17 discussion needed? Do we need a roll call vote?

18 UNKNOWN: Yes.

19 MDM. CHAIR: Okay, roll call vote on the  
20 passage of Senate Bill 490 as amended once. Please.

21 SECRETARY: Thank you, Madam Chair. Senator  
22 Regier?

1 MDM. CHAIR: Is aye by proxy.

2 SECRETARY: Senator Phelan?

3 SEN. PHALEN: Yes.

4 SECRETARY: Senator Tezak?

5 SEN. TEZAK: Yes.

6 SECRETARY: Senator Vance?

7 SEN. VANCE: Yes.

8 SECRETARY: Senator Morigeau?

9 UNKNOWN: No by proxy.

10 SECRETARY: Senator Ellis?

11 SEN. ELLIS: No.

12 SECRETARY: Senator Hayman?

13 UNKNOWN: No by proxy.

14 SECRETARY: Senator McKamey?

15 SEN. MCKAMEY: Aye.

16 SECRETARY: Senator - Chair Manzella?

17 MDM. CHAIR: Yes.

18 SECRETARY: The vote count is three, four -  
19 - six to three.

20 MDM. CHAIR: Okay. Senate Bill 490 has  
21 passed.

22 SEN. MCKAMEY: Madam Chair, I move that

1 Senate bill 314 due pass.

2 MDM. CHAIR: Okay. Discussion. There's no  
3 amendments on Senate Bill 314 that I'm aware of. So  
4 discussion on Senate Bill 314? I found it  
5 interesting that when the -- when we actually looked  
6 at article four, section eight, it became a much  
7 more important issue. Any -- any discussion needed?  
8 Senator Vance?

9 SEN. VANCE: Madam Chair, would you please  
10 read that to us since you have it handy?

11 MDM. CHAIR: (Inaudible) handy.

12 SEN. VANCE: I know, it's like -- well, I  
13 don't carry my constitution with me every second.

14 MDM. CHAIR: It's quite lengthy. Let me  
15 adjust my eyeballs that are bleeding. Limitation on  
16 terms of office. This is article four, section eight  
17 of the Montana Constitution. "Limitation on terms of  
18 office. The Secretary of State or other authorized  
19 officials shall not certify a candidate's nomination  
20 or election to, or print, or cause to be printed on  
21 any ballot the name of a candidate for one of the  
22 following offices. If and at the end of the current

1 term of office, the candidate will have served in  
2 that office, or have -- or had he not resigned or  
3 been recalled would have served in that office, a,  
4 eight or more years in any 16 year period as  
5 governor, lieutenant governor, secretary of state,  
6 state auditor, attorney general, or superintendent  
7 of Public instruction.

8 "B, eight or more years in any 16 year  
9 period as a state representative, c, eight or more  
10 years in any 16 year period as a State Senator, d,  
11 six or more years in any 12 year period as a member  
12 of the United States House of Representatives, and  
13 e, 12 or more years in any 24 year period as a  
14 member of the US Senate."

15 Going on, "Sub-two, when computing time  
16 served for purposes of subsection one, the  
17 provisions of subsection one do not apply to time  
18 served in terms that end during or prior to January  
19 1993. Sub-three, nothing contained herein shall  
20 preclude an otherwise qualified candidate from being  
21 certified as nominated or elected by virtue of write  
22 in votes cast for said candidate."

1 SEN. VANCE: Thanks.

2 MDM. CHAIR: So, term limits become an  
3 issue, I believe. (Inaudible). Well, that's -  
4 (inaudible) - a political party may not appoint a  
5 candidate for an office if a candidate is  
6 disqualified pursuant to what I just read.

7 SEN. VANCE: Right, right. (Inaudible) --

8 MDM. CHAIR: Go ahead. Stand on the  
9 microphone so everybody can (inaudible).

10 SEN. VANCE: Madam Chair, just a question  
11 here. This is -- while what you read is absolutely  
12 correct, the political party -- that's not the point  
13 here as much as the replacement of the candidate. Am  
14 I incorrect? Okay. So the other is in addition to--  
15 I mean, yes, article four is -- is definitely part  
16 of that, but it's not the central issue, correct?

17 MDM. CHAIR: The new language that's  
18 underlined is if a candidate is disqualified  
19 pursuant to article four, section eight of the  
20 Montana Constitution, and that is specific to term  
21 limits. Limitations on terms of office. Miss Hardin,  
22 do we need help? Senator Vance?

1           SEN. VANCE: Madam Chair, the way I'm - I -  
2   - I'll tell you on the -- I was going to put -- I  
3   don't want to put this on the record. What I was  
4   going to say, thank you for reciting our  
5   constitution for us. And the way I'm reading this is  
6   it's simply -- so let's say somebody files for --  
7   for office, and they were technically term limited.  
8   But anyway, they filed for office. Their name went  
9   on the -- you know, they filed.

10           And then the filing deadline came --  
11   followed through, and no one else filed, just that  
12   one -- one candidate filed. And then it was found  
13   after the close of filing that the person was  
14   disqualified according to this new line here. It's  
15   saying that the political party which is in our --  
16   which is our constitution -- the political party  
17   wouldn't be able to fill the vacancy. That's kind of  
18   how I'm reading that.

19           I mean, I'm reading that. But our  
20   Constitution says it, so -- so I do -- I do kind of  
21   -- I see where this -- where -- I see the need for  
22   this. Because sometimes people file for office that



1     tactic -- that we find after the close that they are  
2     not qualified to be on the ballot.

3             MDM. CHAIR: Okay. Let me ask you this  
4     question. We have people in this establishment that  
5     go back and forth and don't respect, in my opinion,  
6     the term limits that are set forth here. Would they  
7     be considered disqualified pursuant to article four,  
8     section eight? You know what I mean?

9             I don't know. I'm not sure if this if it's  
10    ever been adjudicated in a court of law concerning  
11    the eight or more years in any 16-year period. We  
12    have some people that go serve eight years in the  
13    Senate and eight years in the House, and then they  
14    sit out eight years because that's the way they  
15    interpret this to mean.

16            And then we have other people that serve  
17    eight years in the House and eight years in the  
18    Senate, and then they just -- they don't sit out.  
19    They go back and forth and back and forth and back  
20    and forth. We have several of those. So I -- I  
21    believe that passing this may call that into  
22    question.

1 SEN. MCKAMEY: Madam Chair.

2 MDM. CHAIR: Madam Vice Chair.

3 SEN. MCKAMEY: Thank you very much. In  
4 reading the title of the bill, it says a bill for an  
5 act -- an act prohibiting a political party from  
6 nominating a replacement candidate when the original  
7 candidate is found to be ineligible.

8 And I think this is based on the  
9 replacement candidate, and the fact that the  
10 replacement candidate is ineligible because the  
11 original candidate is also ineligible, correct?

12 MDM. CHAIR: Senator Ellis.

13 SEN. ELLIS: What Senator McKamey says, I  
14 think is accurate. And what I was thinking it was,  
15 is just to prevent shenanigans. Like, somebody not  
16 recruiting a candidate, putting in somebody who's  
17 not eligible, hoping that eventually they'll find a  
18 candidate that can run in that district, and that's  
19 why I think it's important to pass this bill.

20 MDM. CHAIR: Any further discussion? I just  
21 want to make sure that we understand.

22 SEN. ELLIS: (Inaudible) either party.

1 MDM. CHAIR: What's that?

2 SEN. ELLIS: Shenanigans could happen on  
3 either party. I just --

4 MDM. CHAIR: I just want to -- I just want  
5 to make sure we understand the intent of the bill.  
6 Okay, any further discussion? Okay, seeing none, can  
7 we do a voice vote? Okay. All those in favor of  
8 passage of Senate Bill 314 signify by saying aye.

9 MANY: Aye.

10 MDM. CHAIR: Opposed same sign.

11 MALE1: Aye.

12 MDM. CHAIR: Senator Regier is aye by  
13 proxy.

14 SEN. ELLIS: Senator Hayman and Morigeau  
15 are aye by proxy.

16 MDM. CHAIR: Senator Phalen votes no, okay.  
17 So that passes. Senate Bill 314 has passed.

18 Okay, Committee, I'm going to do a little  
19 bit more research on these other three and good  
20 work. Thanks for sticking it out the past couple of  
21 days. And we have another very full day on Monday,  
22 so get a good night's -- couple of good night's

1 sleep.

2 And is there anything else for the good of  
3 the committee before we adjourn? Okay, we are  
4 adjourned. Thank you. All right.

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CERTIFICATE OF TRANSCRIBER

I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability from the audio recordings and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome, the above 155 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.



Chris Naaden

September 25, 2025

(601174, MT Senate State Administration Committee hearing, 3-1-25)

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

157

| A               |                      |                     |                     |
|-----------------|----------------------|---------------------|---------------------|
| <b>a-n-d</b>    | 117:8, 123:15,       | <b>achieving</b>    | <b>adding</b>       |
| 143:4           | 124:11, 125:11,      | 79:5, 96:4          | 43:9, 60:20,        |
| <b>a-n-t</b>    | 125:17, 129:7,       | <b>acknowledges</b> | 130:13, 132:13      |
| 28:14           | 132:18, 137:19,      | 78:15, 78:17        | <b>addition</b>     |
| <b>a-t-o-n</b>  | 140:5, 145:15,       | <b>aclu</b>         | 8:7, 20:8,          |
| 22:21           | 145:17, 146:5        | 22:21, 33:21        | 43:8, 145:4,        |
| <b>ability</b>  | <b>above</b>         | <b>acoustics</b>    | 150:14              |
| 41:7, 110:1,    | 156:8                | 4:2                 | <b>additional</b>   |
| 156:4           | <b>absentee</b>      | <b>acronyms</b>     | 16:9, 16:11,        |
| <b>able</b>     | 17:4, 19:13,         | 56:19               | 23:17, 30:4,        |
| 13:22, 17:2,    | 19:19, 51:12,        | <b>across</b>       | 61:13, 79:9,        |
| 19:14, 35:13,   | 60:22                | 90:6, 97:6,         | 89:16, 91:17,       |
| 35:14, 35:18,   | <b>absentees</b>     | 97:20               | 113:13, 117:15,     |
| 36:12, 41:12,   | 51:13                | <b>act</b>          | 131:7, 134:20       |
| 54:11, 55:17,   | <b>absolute</b>      | 11:8, 47:21,        | <b>additionally</b> |
| 65:3, 70:5,     | 47:1                 | 54:16, 56:16,       | 119:11, 121:11      |
| 71:17, 75:18,   | <b>absolutely</b>    | 85:1, 153:5         | <b>address</b>      |
| 97:2, 99:13,    | 96:4, 96:6,          | <b>action</b>       | 34:18, 42:19,       |
| 102:7, 105:17,  | 150:11               | 62:3, 140:6,        | 43:1, 55:17,        |
| 106:20, 107:10, | <b>academic</b>      | 140:12, 140:17,     | 55:18, 55:20,       |
| 111:20, 117:9,  | 16:16                | 143:22, 144:8,      | 55:21, 56:7,        |
| 122:9, 134:8,   | <b>accept</b>        | 156:14              | 56:8, 56:21,        |
| 145:3, 151:17   | 19:10, 41:21,        | <b>activities</b>   | 57:2, 58:8,         |
| <b>abortion</b> | 124:22               | 81:21, 100:18       | 58:12, 58:20,       |
| 8:13            | <b>acceptable</b>    | <b>activity</b>     | 59:1, 59:9,         |
| <b>about</b>    | 146:10               | 139:11              | 59:17, 60:20,       |
| 7:1, 8:3, 16:5, | <b>access</b>        | <b>actually</b>     | 61:3, 121:9,        |
| 30:3, 30:12,    | 26:17, 30:21         | 32:15, 37:17,       | 125:11, 126:14      |
| 35:18, 36:9,    | <b>accessibility</b> | 39:10, 67:16,       | <b>addressed</b>    |
| 37:15, 40:9,    | 30:3                 | 68:14, 70:5,        | 7:1                 |
| 44:13, 45:20,   | <b>accidentally</b>  | 70:19, 74:16,       | <b>addresses</b>    |
| 45:21, 46:11,   | 71:15                | 88:19, 98:13,       | 21:8                |
| 52:19, 54:17,   | <b>accommodate</b>   | 102:3, 108:18,      | <b>addressing</b>   |
| 54:18, 58:7,    | 3:11, 14:5,          | 112:1, 129:15,      | 21:4, 77:7          |
| 58:8, 61:15,    | 145:1                | 132:16, 146:3,      | <b>adds</b>         |
| 67:8, 67:15,    | <b>accomplish</b>    | 148:5               | 45:1, 62:21,        |
| 67:16, 67:18,   | 80:10                | <b>ad</b>           | 111:1               |
| 68:15, 71:3,    | <b>accomplished</b>  | 38:18               | <b>adjourn</b>      |
| 71:19, 81:13,   | 128:17               | <b>add</b>          | 155:3               |
| 81:15, 85:3,    | <b>according</b>     | 7:4, 35:14,         | <b>adjourned</b>    |
| 90:16, 93:17,   | 44:7, 151:14         | 46:14, 46:19,       | 155:4               |
| 95:4, 96:21,    | <b>account</b>       | 60:19, 90:22,       | <b>adjudicated</b>  |
| 97:8, 97:13,    | 71:18                | 119:7, 129:6,       | 152:10              |
| 103:6, 103:21,  | <b>accurate</b>      | 130:22, 131:2       | <b>adjudication</b> |
| 104:16, 106:8,  | 98:22, 132:22,       | <b>added</b>        | 120:22, 135:2       |
| 108:11, 115:16, | 153:14               | 16:12, 16:20,       | <b>adjust</b>       |
|                 | <b>achieve</b>       | 17:9, 46:14,        | 32:7, 148:15        |
|                 | 35:1                 | 74:1, 127:21        | <b>adjusted</b>     |
|                 |                      |                     | 125:20              |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

158

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>adjustments</b><br>5:14<br><b>administered</b><br>77:16<br><b>administration</b><br>1:7, 2:2, 25:5,<br>47:16, 54:7,<br>75:3, 82:6,<br>82:22, 156:21<br><b>administrative</b><br>50:2, 78:15,<br>100:12, 115:3<br><b>administrator</b><br>18:7, 33:1,<br>45:6, 54:20,<br>93:6, 104:10,<br>106:14, 109:1,<br>118:7, 118:13,<br>122:12, 144:5,<br>144:8, 145:17<br><b>administrators</b><br>18:10, 93:8,<br>94:4, 107:14,<br>112:19, 112:21,<br>118:18, 121:16,<br>122:4, 145:6<br><b>admit</b><br>5:3, 28:7,<br>76:13<br><b>adopted</b><br>15:8<br><b>advance</b><br>19:3, 83:9<br><b>advice</b><br>79:3<br><b>advocating</b><br>7:9<br><b>affairs</b><br>81:10, 83:10,<br>83:11, 85:8,<br>85:15, 86:6,<br>86:15<br><b>affect</b><br>50:13, 51:17,<br>51:19, 77:17<br><b>affected</b><br>32:21, 33:11,<br>35:4, 35:5 | <b>affecting</b><br>82:11<br><b>affects</b><br>78:11, 92:19,<br>93:5<br><b>affiliate</b><br>108:15, 113:8,<br>115:21, 139:5<br><b>affiliated</b><br>107:8, 109:19,<br>113:3, 132:14,<br>139:12<br><b>affiliating</b><br>133:8<br><b>affiliation</b><br>117:3, 117:4,<br>133:4, 134:8<br><b>affiliations</b><br>112:12<br><b>afford</b><br>7:5<br><b>after</b><br>8:19, 11:19,<br>15:11, 34:15,<br>45:16, 68:3,<br>68:4, 89:4,<br>103:20, 110:18,<br>122:16, 146:7,<br>151:13, 152:1<br><b>afternoon</b><br>4:7, 7:19,<br>22:19, 25:3,<br>25:4, 28:11,<br>31:5, 62:12,<br>72:17, 75:2,<br>76:14<br><b>afterwards</b><br>98:8<br><b>again</b><br>6:4, 10:15,<br>12:10, 39:5,<br>65:7, 76:5,<br>84:17, 108:9,<br>108:20, 125:14,<br>126:18, 135:5,<br>137:2, 137:22,<br>138:18, 144:10<br><b>against</b><br>75:19 | <b>agencies</b><br>73:8, 74:10,<br>75:16, 77:17,<br>78:4, 78:7,<br>78:17, 80:21,<br>81:3, 81:12,<br>81:15, 82:15,<br>86:8, 91:6,<br>94:19, 95:7,<br>97:20, 98:17,<br>99:15, 100:21,<br>101:6<br><b>agency</b><br>80:17, 82:19,<br>84:6, 85:1,<br>85:7, 85:11,<br>85:21, 91:17,<br>93:14, 93:16,<br>95:3, 95:4,<br>96:3, 96:17,<br>97:7, 99:1,<br>99:19, 100:9,<br>100:12, 100:17<br><b>agent</b><br>89:14<br><b>ago</b><br>33:17, 67:5,<br>67:13, 108:10<br><b>agree</b><br>6:9, 16:6,<br>23:8, 131:21<br><b>agreement</b><br>6:10<br><b>ahead</b><br>28:10, 31:22,<br>49:18, 57:7,<br>89:12, 94:13,<br>101:16, 150:8<br><b>aims</b><br>34:22<br><b>alive</b><br>125:1<br><b>all</b><br>3:1, 4:3, 4:12,<br>5:13, 5:18, 6:9,<br>7:4, 10:21,<br>11:22, 14:11,<br>14:18, 16:4,<br>17:8, 17:10,<br>17:13, 20:11,<br>21:19, 22:3,<br>22:5, 22:6,<br>22:15, 28:20,<br>30:10, 30:22,<br>32:13, 33:14,<br>36:21, 36:22,<br>41:2, 41:9,<br>42:1, 42:13,<br>47:5, 52:16,<br>56:5, 59:21,<br>62:4, 62:7,<br>62:20, 63:6,<br>64:1, 66:4,<br>68:1, 69:11,<br>70:16, 72:21,<br>73:2, 74:17,<br>76:8, 76:16,<br>77:11, 80:21,<br>81:2, 81:3,<br>82:7, 82:14,<br>82:17, 82:22,<br>93:15, 94:1,<br>94:7, 96:7,<br>98:7, 100:1,<br>101:2, 101:8,<br>102:15, 102:16,<br>102:19, 103:7,<br>104:3, 110:10,<br>110:19, 116:2,<br>116:15, 116:22,<br>120:4, 124:10,<br>124:22, 125:18,<br>128:4, 130:22,<br>131:5, 135:2,<br>135:15, 135:16,<br>136:18, 140:10,<br>141:8, 142:5,<br>142:8, 144:15,<br>146:13, 146:16,<br>154:7, 155:4<br><b>alleviate</b><br>13:8, 21:22,<br>105:9, 107:1<br><b>allow</b><br>12:4, 107:15,<br>110:1, 111:17 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

159

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>allowed</b><br/>41:3, 96:16,<br/>105:2, 109:21,<br/>128:22<br/><b>allowing</b><br/>7:16<br/><b>allows</b><br/>11:12, 13:11,<br/>36:17, 109:18,<br/>122:19<br/><b>almost</b><br/>16:8, 16:10,<br/>120:4, 145:13<br/><b>alone</b><br/>118:16<br/><b>along</b><br/>92:1<br/><b>already</b><br/>6:14, 8:2,<br/>24:10, 30:8,<br/>54:15, 72:18,<br/>74:12, 74:20,<br/>81:17, 81:19,<br/>88:1, 88:5,<br/>88:11, 101:4,<br/>104:19, 139:5<br/><b>also</b><br/>12:2, 18:13,<br/>19:16, 20:7,<br/>21:2, 26:8,<br/>26:12, 27:17,<br/>30:2, 34:20,<br/>47:6, 60:22,<br/>74:1, 74:19,<br/>78:3, 78:11,<br/>78:17, 81:22,<br/>89:9, 89:10,<br/>92:12, 95:10,<br/>100:19, 100:22,<br/>101:5, 107:3,<br/>112:10, 113:6,<br/>114:9, 115:18,<br/>118:21, 120:12,<br/>122:17, 123:21,<br/>124:15, 125:20,<br/>127:12, 131:4,<br/>153:11<br/><b>although</b><br/>77:15, 99:14</p> | <p><b>always</b><br/>7:22, 20:18,<br/>38:9, 38:10,<br/>56:18, 56:19,<br/>58:21, 96:12,<br/>97:8, 121:18,<br/>134:7, 137:11<br/><b>amend</b><br/>144:11<br/><b>amended</b><br/>142:17, 142:19,<br/>146:20<br/><b>amending</b><br/>47:22, 142:6,<br/>143:19<br/><b>amendment</b><br/>42:12, 43:5,<br/>43:7, 43:9,<br/>106:4, 111:16,<br/>124:3, 141:13,<br/>141:15, 141:16,<br/>141:21, 142:4,<br/>142:10, 143:3,<br/>145:21<br/><b>amendments</b><br/>103:20, 144:15,<br/>144:16, 144:18,<br/>148:3<br/><b>american</b><br/>26:4, 81:10,<br/>86:6<br/><b>amongst</b><br/>133:2<br/><b>amount</b><br/>8:6, 13:18,<br/>14:21, 17:18,<br/>106:6, 136:8<br/><b>amounted</b><br/>32:18<br/><b>analysis</b><br/>70:17<br/><b>analyst</b><br/>77:2<br/><b>anderson</b><br/>34:11<br/><b>angie</b><br/>18:5, 19:20<br/><b>animal</b><br/>84:8</p> | <p><b>announced</b><br/>122:9<br/><b>annually</b><br/>8:8<br/><b>another</b><br/>7:4, 45:2,<br/>47:11, 53:2,<br/>55:10, 58:20,<br/>61:18, 82:10,<br/>84:16, 88:2,<br/>88:16, 92:13,<br/>101:8, 102:8,<br/>106:3, 116:18,<br/>120:5, 122:15,<br/>132:9, 135:17,<br/>154:21<br/><b>answer</b><br/>7:22, 15:15,<br/>15:20, 32:4,<br/>34:7, 83:2,<br/>83:18, 84:6,<br/>87:12, 125:3,<br/>131:12<br/><b>answered</b><br/>43:19, 43:21<br/><b>answers</b><br/>51:22, 53:4<br/><b>any</b><br/>4:19, 5:15,<br/>9:12, 9:13,<br/>9:21, 9:22,<br/>14:10, 22:8,<br/>24:4, 24:6,<br/>31:13, 31:18,<br/>37:14, 37:18,<br/>39:15, 40:18,<br/>41:8, 43:10,<br/>43:21, 44:14,<br/>47:10, 49:2,<br/>49:8, 50:18,<br/>51:1, 53:5,<br/>57:4, 59:13,<br/>59:22, 60:5,<br/>60:7, 63:15,<br/>64:3, 65:17,<br/>66:5, 66:6,<br/>66:10, 66:11,<br/>66:15, 68:7,</p> | <p>72:6, 79:11,<br/>79:15, 79:18,<br/>81:20, 87:5,<br/>88:15, 93:22,<br/>101:7, 108:6,<br/>109:9, 110:5,<br/>113:20, 121:9,<br/>123:2, 123:7,<br/>131:2, 134:22,<br/>136:18, 142:4,<br/>144:18, 146:16,<br/>148:7, 148:21,<br/>149:4, 149:8,<br/>149:10, 149:11,<br/>149:13, 152:11,<br/>153:20, 154:6,<br/>156:6<br/><b>anybody</b><br/>46:12<br/><b>anybody's</b><br/>137:5<br/><b>anymore</b><br/>71:10<br/><b>anyone</b><br/>72:5, 113:9,<br/>121:19, 134:5,<br/>136:12<br/><b>anything</b><br/>12:14, 46:13,<br/>54:17, 117:6,<br/>125:3, 139:10,<br/>155:2<br/><b>anyway</b><br/>61:2, 81:11,<br/>81:22, 135:22,<br/>151:8<br/><b>anywhere</b><br/>35:16, 117:3<br/><b>apologies</b><br/>89:2, 92:13<br/><b>apologize</b><br/>60:5, 83:9<br/><b>apparently</b><br/>106:7<br/><b>appears</b><br/>33:21<br/><b>applaud</b><br/>61:12, 124:5</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of Senate Standing Committee  
Conducted on March 1, 2025

160

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>applicable</b><br>34:9<br><b>applicants</b><br>96:12<br><b>applies</b><br>34:2<br><b>apply</b><br>51:11, 96:9,<br>149:17<br><b>appoint</b><br>65:20, 150:4<br><b>appointed</b><br>89:21, 103:14,<br>107:22, 115:5<br><b>appointing</b><br>133:16<br><b>appointment</b><br>108:4<br><b>appreciate</b><br>9:20, 10:9,<br>10:19, 12:19,<br>37:8, 39:22,<br>80:5, 100:2,<br>123:18, 136:17<br><b>approach</b><br>78:4, 99:4,<br>107:14<br><b>approaching</b><br>3:4<br><b>appropriate</b><br>133:19<br><b>approximately</b><br>20:9<br><b>arbitrarily</b><br>24:18<br><b>area</b><br>56:3, 68:16,<br>73:2, 103:17<br><b>areas</b><br>23:12, 48:8,<br>48:13, 48:14,<br>68:21, 112:8<br><b>aren't</b><br>3:9, 36:3,<br>97:7, 112:20,<br>113:3<br><b>arguing</b><br>24:1 | <b>arguments</b><br>16:16<br><b>arise</b><br>21:4<br><b>arizona</b><br>56:1, 58:14<br><b>around</b><br>3:5, 21:19,<br>22:6, 35:10,<br>39:19, 62:15,<br>73:6, 76:3,<br>83:19, 119:1,<br>121:6<br><b>article</b><br>62:22, 71:1,<br>148:6, 148:16,<br>150:15, 150:19,<br>152:7<br><b>artificial</b><br>30:6<br><b>asked</b><br>106:7, 108:14<br><b>asking</b><br>33:10, 37:10,<br>79:3, 88:2,<br>88:3, 100:10,<br>101:2, 113:4,<br>131:18<br><b>aspect</b><br>34:20, 79:2,<br>119:9<br><b>assessment</b><br>70:17<br><b>assigned</b><br>119:19<br><b>assist</b><br>97:19<br><b>assistance</b><br>89:16<br><b>assisted</b><br>14:8<br><b>associated</b><br>114:19<br><b>association</b><br>32:3, 36:7,<br>49:22, 57:11,<br>58:3<br><b>association's</b><br>110:13 | <b>assuming</b><br>127:1<br><b>assumption</b><br>125:15<br><b>attack</b><br>26:22<br><b>attempt</b><br>27:1, 109:1,<br>132:11<br><b>attempted</b><br>23:20<br><b>attempts</b><br>93:8<br><b>attending</b><br>13:12<br><b>attends</b><br>108:13<br><b>attention</b><br>47:4, 121:21<br><b>attorney</b><br>111:4, 149:6<br><b>audio</b><br>76:20, 156:4<br><b>audit</b><br>50:9, 135:9<br><b>auditing</b><br>135:8<br><b>auditor</b><br>149:6<br><b>august</b><br>89:22<br><b>austin</b><br>13:1<br><b>authorized</b><br>148:18<br><b>autonomous</b><br>77:11<br><b>autonomy</b><br>78:16<br><b>availability</b><br>108:2, 112:3<br><b>available</b><br>3:12, 21:8,<br>45:10<br><b>awake</b><br>15:6<br><b>aware</b><br>42:13, 148:3 | <b>away</b><br>8:19, 18:8,<br>20:16, 23:12,<br>34:7, 58:19,<br>64:20, 70:8,<br>94:2, 94:7,<br>100:6, 133:7<br><b>awesome</b><br>93:18<br><b>awful</b><br>48:16<br><b>aye</b><br>142:7, 142:8,<br>142:10, 142:13,<br>147:1, 147:15,<br>154:8, 154:9,<br>154:11, 154:12,<br>154:15<br><hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <b>b</b><br>149:8<br><b>b-e-a-s</b><br>28:13<br><b>b-e-c-k-y</b><br>21:15, 114:8<br><b>b-e-n-n-e-t</b><br>117:18<br><b>babies</b><br>8:20, 9:2<br><b>baby</b><br>8:16<br><b>back</b><br>7:14, 15:7,<br>16:20, 55:12,<br>71:10, 74:6,<br>80:18, 86:4,<br>86:14, 104:15,<br>110:17, 121:3,<br>121:18, 122:3,<br>122:7, 126:2,<br>126:22, 142:1,<br>152:5, 152:19<br><b>background</b><br>108:6<br><b>bad</b><br>29:15, 104:2,<br>117:6 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

161

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>balance</b><br>112:10, 119:6,<br>132:12, 132:20,<br>133:9, 134:4,<br>139:1, 139:3<br><b>balanced</b><br>107:13, 120:9,<br>133:17<br><b>balancing</b><br>134:20<br><b>ballot</b><br>14:13, 20:21,<br>23:7, 23:18,<br>28:22, 30:9,<br>30:21, 45:20,<br>53:1, 53:3,<br>53:4, 63:5,<br>69:7, 71:16,<br>148:21, 152:2<br><b>ballots</b><br>19:10, 19:11,<br>19:20, 48:3,<br>48:7, 48:21,<br>50:3, 51:12,<br>51:13, 51:15,<br>51:20, 52:2,<br>52:4, 52:11,<br>119:2, 145:8<br><b>barrier</b><br>23:18<br><b>barriers</b><br>30:8<br><b>based</b><br>14:17, 122:1,<br>153:8<br><b>basically</b><br>3:7, 11:21,<br>73:4, 73:17,<br>74:2, 74:4,<br>74:12, 74:20,<br>82:9, 85:9,<br>101:12, 102:12,<br>126:6, 127:1,<br>130:11<br><b>basket</b><br>6:12<br><b>batches</b><br>19:13 | <b>beasant</b><br>28:8, 28:9,<br>28:11, 29:7,<br>29:10, 29:14<br><b>beautiful</b><br>6:8<br><b>became</b><br>27:18, 148:6<br><b>because</b><br>3:8, 4:2, 4:14,<br>14:4, 14:14,<br>17:10, 18:14,<br>19:1, 19:22,<br>21:18, 33:4,<br>33:17, 34:18,<br>35:16, 42:14,<br>44:19, 44:22,<br>45:4, 45:14,<br>47:6, 48:22,<br>52:19, 54:10,<br>54:15, 57:10,<br>57:17, 58:7,<br>58:22, 59:8,<br>61:7, 62:11,<br>62:16, 63:18,<br>64:12, 64:16,<br>67:8, 67:16,<br>67:22, 68:12,<br>69:3, 69:8,<br>81:21, 82:2,<br>82:7, 86:15,<br>87:22, 91:10,<br>91:18, 104:17,<br>104:20, 106:7,<br>107:5, 111:11,<br>112:20, 114:19,<br>117:11, 119:13,<br>119:22, 129:17,<br>131:8, 131:18,<br>137:6, 137:15,<br>144:6, 151:22,<br>152:14, 153:10<br><b>becky</b><br>21:14, 114:7<br><b>become</b><br>3:12, 17:18,<br>61:8, 69:17,<br>109:20, 150:2 | <b>becomes</b><br>146:5<br><b>beef</b><br>117:5<br><b>been</b><br>4:14, 15:6,<br>24:2, 24:9,<br>24:10, 29:1,<br>45:10, 46:1,<br>46:17, 55:13,<br>58:15, 64:15,<br>64:16, 72:18,<br>73:6, 75:19,<br>76:19, 76:20,<br>77:8, 79:10,<br>90:14, 96:10,<br>104:19, 106:8,<br>107:5, 107:9,<br>107:12, 117:9,<br>122:18, 126:8,<br>127:12, 135:13,<br>136:2, 136:9,<br>137:4, 143:13,<br>149:3, 152:10<br><b>before</b><br>12:3, 13:3,<br>15:10, 16:19,<br>18:9, 18:16,<br>18:20, 18:22,<br>19:3, 20:11,<br>22:1, 25:18,<br>31:9, 34:6,<br>38:12, 39:9,<br>41:13, 41:15,<br>41:20, 42:1,<br>42:2, 47:15,<br>47:20, 56:12,<br>62:19, 63:3,<br>64:19, 64:20,<br>80:19, 86:1,<br>90:1, 90:16,<br>99:16, 101:12,<br>102:6, 106:13,<br>106:18, 109:2,<br>111:6, 111:13,<br>112:7, 115:15,<br>122:9, 125:16,<br>127:8, 127:9,<br>127:13, 129:6,<br>129:7, 129:19,<br>130:13, 155:3<br><b>beforehand</b><br>115:15<br><b>begin</b><br>15:5<br><b>beginning</b><br>80:6<br><b>behalf</b><br>7:19, 13:1,<br>28:14, 32:3,<br>49:22, 54:19,<br>61:5, 77:2,<br>110:11<br><b>behind</b><br>3:7, 45:11,<br>45:13, 45:18,<br>53:1, 92:14,<br>137:6, 137:7<br><b>being</b><br>8:9, 26:20,<br>36:15, 36:16,<br>42:1, 42:18,<br>59:2, 98:13,<br>98:22, 119:2,<br>138:1, 149:20<br><b>believe</b><br>5:5, 9:14,<br>33:5, 34:12,<br>42:19, 43:2,<br>47:2, 56:22,<br>59:10, 74:2,<br>78:3, 78:14,<br>80:8, 83:9,<br>103:21, 105:22,<br>113:20, 117:19,<br>120:6, 142:22,<br>143:1, 146:1,<br>150:3, 152:21<br><b>believes</b><br>59:11<br><b>belknap</b><br>25:7, 75:6,<br>91:1<br><b>bell</b><br>6:12<br><b>benefit</b><br>61:7 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

162

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>bennett</b><br>113:14, 113:16,<br>113:17, 114:4,<br>117:16, 117:17,<br>117:18, 123:2,<br>123:20<br><b>besant</b><br>28:13, 31:3<br><b>best</b><br>85:13, 85:19,<br>88:6, 93:2,<br>95:11, 95:13,<br>96:8, 96:9,<br>145:10, 156:3<br><b>better</b><br>12:7, 29:11,<br>32:10, 34:22,<br>46:22, 85:14,<br>101:5, 110:8,<br>118:12, 118:13,<br>118:14<br><b>between</b><br>17:11, 17:12,<br>26:19, 38:16,<br>76:1, 83:19,<br>101:1, 101:6,<br>132:12, 143:18<br><b>beyond</b><br>6:18<br><b>biannually</b><br>82:2<br><b>bias</b><br>120:5<br><b>bicycle</b><br>6:10<br><b>big</b><br>12:2, 44:17,<br>48:15, 51:18,<br>67:14, 67:17,<br>73:2, 95:4,<br>120:17<br><b>biggest</b><br>15:18, 134:1,<br>134:3<br><b>bike</b><br>6:11<br><b>bikes</b><br>6:17, 7:6 | <b>bill's</b><br>57:12, 58:3<br><b>billings</b><br>103:2<br><b>billion</b><br>8:8<br><b>bills</b><br>3:6, 5:11,<br>25:13, 33:16,<br>62:11, 110:20,<br>144:16<br><b>bit</b><br>3:3, 3:4, 15:7,<br>29:8, 56:18,<br>68:10, 70:7,<br>86:14, 90:20,<br>107:1, 124:13,<br>124:15, 135:20,<br>154:19<br><b>blackfeet</b><br>25:7, 73:1,<br>75:6, 90:18<br><b>bleeding</b><br>148:15<br><b>board</b><br>3:8, 107:20,<br>108:4, 115:4,<br>115:8, 115:10,<br>116:14, 120:21,<br>120:22, 121:22,<br>133:9, 134:12,<br>134:15, 134:16,<br>135:2, 135:12<br><b>boards</b><br>108:5, 119:5,<br>120:21, 121:8,<br>134:21, 135:3,<br>135:7<br><b>body</b><br>105:12, 105:22,<br>106:9, 107:3,<br>114:17, 114:19,<br>115:2, 117:11,<br>131:15, 131:16,<br>131:18, 132:2,<br>134:15, 137:21,<br>138:18, 139:19<br><b>boisterous</b><br>82:4 | <b>borders</b><br>11:6, 11:7,<br>26:10<br><b>born</b><br>8:16, 90:22<br><b>both</b><br>17:3, 64:2,<br>78:16, 104:20,<br>104:22, 112:18,<br>129:12, 129:13<br><b>bottle</b><br>98:1<br><b>bow</b><br>131:22<br><b>box</b><br>23:8, 23:18<br><b>boxes</b><br>45:10, 45:11<br><b>boy</b><br>25:8, 75:8<br><b>branch</b><br>74:10<br><b>branches</b><br>75:17<br><b>break</b><br>103:8<br><b>breakdown</b><br>109:8<br><b>breaking</b><br>29:8<br><b>brief</b><br>10:9<br><b>briefly</b><br>6:1<br><b>bring</b><br>14:7, 47:20,<br>73:3, 106:9,<br>121:21, 126:5<br><b>bringing</b><br>11:7, 12:19,<br>77:6, 123:18<br><b>brings</b><br>95:18<br><b>british</b><br>11:6<br><b>broadwater</b><br>19:21, 20:14<br><b>broke</b><br>22:2 | <b>broken</b><br>15:2<br><b>brought</b><br>90:16, 106:3<br><b>brouhaha</b><br>67:18<br><b>buddy</b><br>64:6<br><b>budget</b><br>77:2<br><b>building</b><br>78:19, 91:3,<br>91:15<br><b>built</b><br>76:3<br><b>bulk</b><br>19:14<br><b>bummed</b><br>14:3<br><b>burden</b><br>7:4, 24:4,<br>25:14<br><b>burdening</b><br>24:6<br><b>burdens</b><br>24:8<br><b>burdensome</b><br>8:1<br><b>bureau</b><br>83:10, 83:11,<br>86:15<br><b>business</b><br>3:2, 17:7,<br>26:9, 41:13<br><b>busy</b><br>44:15<br><b>butte</b><br>131:21<br><b>buy-in</b><br>137:9<br><b>bye</b><br>136:17<br><hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <b>c-a-r-l-s-o-n</b><br>109:15<br><b>c-o-l-e-m-a-n</b><br>76:22 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

163

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>call</b><br>3:18, 4:18,<br>5:20, 37:19,<br>48:8, 48:9,<br>48:14, 48:15,<br>133:5, 146:17,<br>146:19, 152:21<br><b>called</b><br>37:17<br><b>calls</b><br>45:20<br><b>came</b><br>44:6, 46:16,<br>68:6, 73:18,<br>73:21, 74:2,<br>81:12, 81:15,<br>89:3, 89:10,<br>99:16, 102:6,<br>137:2, 151:10<br><b>can't</b><br>7:5, 9:3,<br>20:18, 45:1,<br>63:15, 63:19,<br>64:7, 65:20,<br>69:10, 104:13,<br>114:6, 115:9,<br>119:14, 125:3,<br>131:3, 144:2<br><b>candidate</b><br>62:21, 63:2,<br>63:4, 63:19,<br>63:20, 63:21,<br>64:17, 66:1,<br>67:15, 68:4,<br>68:15, 69:9,<br>148:21, 149:1,<br>149:20, 149:22,<br>150:5, 150:13,<br>150:18, 151:12,<br>153:6, 153:7,<br>153:9, 153:10,<br>153:11, 153:16,<br>153:18<br><b>candidate's</b><br>148:19<br><b>candidates</b><br>115:22<br><b>cannot</b><br>9:8, 19:2, | 56:6, 126:9<br><b>canvassers</b><br>115:9, 115:10,<br>134:13, 134:15<br><b>capacity</b><br>54:6<br><b>caption</b><br>156:11<br><b>carbon</b><br>117:19<br><b>care</b><br>8:5, 45:7<br><b>career</b><br>46:3, 91:3,<br>91:14<br><b>careers</b><br>78:8<br><b>carlson</b><br>109:13, 109:15,<br>110:3<br><b>carry</b><br>100:18, 145:20,<br>148:13<br><b>carrying</b><br>102:8<br><b>cascade</b><br>37:20<br><b>case</b><br>25:12, 93:12,<br>97:21, 156:7<br><b>cases</b><br>25:15, 46:1<br><b>cast</b><br>28:22, 44:9,<br>149:22<br><b>casting</b><br>30:9<br><b>catch</b><br>12:5, 57:18<br><b>catching</b><br>103:22<br><b>caucus</b><br>92:1, 95:18<br><b>cause</b><br>148:20<br><b>causing</b><br>104:6<br><b>cdc</b><br>9:1 | <b>center</b><br>77:3<br><b>centers</b><br>26:13<br><b>central</b><br>65:14, 104:9,<br>104:11, 104:17,<br>105:11, 105:14,<br>105:17, 106:15,<br>107:19, 108:14,<br>114:10, 117:10,<br>122:6, 122:7,<br>122:13, 123:1,<br>124:12, 126:3,<br>129:1, 129:12,<br>133:12, 137:15,<br>137:18, 138:4,<br>138:12, 150:16<br><b>certain</b><br>46:7, 67:3,<br>106:6, 120:12,<br>121:6, 121:8<br><b>certainly</b><br>6:7, 42:7,<br>132:10<br><b>certificate</b><br>131:1, 156:1<br><b>certificates</b><br>109:2, 109:3<br><b>certified</b><br>120:19, 149:21<br><b>certify</b><br>148:19<br><b>certifying</b><br>63:4<br><b>chairman</b><br>5:22, 69:15,<br>71:22, 87:1,<br>87:6, 87:9,<br>95:16<br><b>challenge</b><br>15:19<br><b>challenged</b><br>23:22, 29:17,<br>33:9, 33:15,<br>33:17<br><b>challenges</b><br>40:10 | <b>chamber</b><br>6:2<br><b>championed</b><br>30:20<br><b>chance</b><br>28:22, 39:15<br><b>change</b><br>11:19, 12:2,<br>12:15, 55:4,<br>55:7, 56:21,<br>57:1, 58:7,<br>58:12, 59:1,<br>59:8, 59:9,<br>59:17, 61:12,<br>69:18, 82:3,<br>82:4, 89:17,<br>143:3, 146:6<br><b>changes</b><br>30:3, 118:11<br><b>changing</b><br>29:4, 38:13,<br>43:9<br><b>channel</b><br>44:7<br><b>chaos</b><br>32:18<br><b>chapter</b><br>74:9<br><b>check</b><br>19:10, 55:1<br><b>cheyennes</b><br>87:7<br><b>chief</b><br>21:16, 21:19,<br>87:12, 112:7,<br>114:9<br><b>children</b><br>8:15, 9:4<br><b>chippewa</b><br>75:7<br><b>choice</b><br>91:10<br><b>choir</b><br>108:7<br><b>choose</b><br>41:7, 78:7,<br>107:3, 107:8,<br>107:10, 115:3, |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

164

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>135:11, 138:19<br/><b>chooses</b><br/>65:14<br/><b>chose</b><br/>65:8, 95:9<br/><b>chris</b><br/>92:11, 156:2,<br/>156:18<br/><b>christi</b><br/>13:2<br/><b>christian</b><br/>1:22<br/><b>circumstance</b><br/>70:1<br/><b>circumstances</b><br/>26:21, 71:19<br/><b>cited</b><br/>71:5<br/><b>cites</b><br/>71:11<br/><b>citizen</b><br/>27:5, 77:1,<br/>118:2, 118:15,<br/>145:15<br/><b>citizens</b><br/>26:7, 77:18,<br/>78:2, 118:9,<br/>145:2<br/><b>city</b><br/>116:2, 132:2<br/><b>civic</b><br/>28:16, 110:2<br/><b>claim</b><br/>56:6<br/><b>clarified</b><br/>42:6<br/><b>clarifies</b><br/>108:1<br/><b>clarify</b><br/>42:14, 57:10,<br/>64:21, 103:12,<br/>108:9, 111:16,<br/>132:5<br/><b>clarifying</b><br/>44:5, 103:13<br/><b>clarity</b><br/>131:9<br/><b>clark</b><br/>4:10, 21:16,</p> | <p>22:2, 114:9<br/><b>class</b><br/>122:22<br/><b>clause</b><br/>42:16, 43:10,<br/>142:5<br/><b>clean</b><br/>61:17, 65:10<br/><b>cleanly</b><br/>55:8, 61:17<br/><b>cleanup</b><br/>64:9<br/><b>clear</b><br/>29:20, 33:20,<br/>37:1, 38:8,<br/>39:7, 41:22,<br/>86:5, 110:12,<br/>112:13, 112:18,<br/>113:2, 130:21,<br/>143:6, 143:9,<br/>143:12, 145:11,<br/>146:1, 146:5<br/><b>clearly</b><br/>55:15, 78:5,<br/>119:14, 128:16<br/><b>clerk</b><br/>18:6, 41:7,<br/>45:5, 46:16,<br/>49:22, 121:15<br/><b>clerks</b><br/>11:17, 14:8,<br/>15:6, 17:2,<br/>61:6, 112:4,<br/>128:18<br/><b>close</b><br/>10:5, 11:19,<br/>12:12, 16:18,<br/>25:21, 34:16,<br/>41:13, 44:3,<br/>47:7, 53:7,<br/>58:1, 60:2,<br/>60:15, 72:2,<br/>72:4, 95:17,<br/>101:10, 136:20,<br/>140:2, 146:7,<br/>151:13, 152:1<br/><b>closed</b><br/>12:4, 21:7,</p> | <p>36:16, 42:2,<br/>45:16<br/><b>closely</b><br/>93:2<br/><b>closer</b><br/>49:19, 75:14,<br/>79:5<br/><b>closes</b><br/>10:21, 39:4,<br/>47:8, 63:8,<br/>63:14, 72:13,<br/>102:19, 140:4<br/><b>closing</b><br/>20:22<br/><b>code</b><br/>55:10, 61:19,<br/>117:4<br/><b>codes</b><br/>55:8, 59:16,<br/>61:16<br/><b>coleman</b><br/>79:9<br/><b>colleague</b><br/>89:9<br/><b>colleagues</b><br/>54:8<br/><b>collect</b><br/>119:1<br/><b>collectively</b><br/>16:5<br/><b>color</b><br/>8:10, 8:21<br/><b>columbia</b><br/>11:7<br/><b>com</b><br/>89:1, 89:6,<br/>89:18, 92:6,<br/>94:16, 94:22,<br/>98:11, 98:19,<br/>99:2, 99:9,<br/>99:13<br/><b>combative</b><br/>75:19<br/><b>combination</b><br/>55:10, 61:18<br/><b>combined</b><br/>26:12<br/><b>come</b><br/>2:3, 7:18,</p> | <p>19:19, 41:12,<br/>53:1, 53:2,<br/>55:12, 63:15,<br/>69:10, 72:10,<br/>102:2, 105:20,<br/>134:6<br/><b>coming</b><br/>6:13, 11:22,<br/>37:8, 86:3,<br/>103:3<br/><b>commensurate</b><br/>133:18<br/><b>comment</b><br/>41:10<br/><b>commerce</b><br/>80:22<br/><b>commission</b><br/>67:6, 67:10,<br/>70:10, 115:4,<br/>121:12<br/><b>commissioner</b><br/>88:21, 89:7,<br/>89:14, 89:22,<br/>93:17, 100:8,<br/>101:15<br/><b>commissioner's</b><br/>90:11<br/><b>commissioners</b><br/>91:9, 106:1,<br/>106:3, 121:14,<br/>122:2, 131:20,<br/>132:3, 134:16<br/><b>commitment</b><br/>91:11<br/><b>committee</b><br/>1:6, 1:7, 3:9,<br/>4:8, 6:6, 7:15,<br/>10:4, 10:8,<br/>10:9, 12:22,<br/>18:5, 25:5,<br/>28:13, 31:6,<br/>32:2, 32:14,<br/>33:13, 37:3,<br/>42:6, 43:22,<br/>44:1, 47:16,<br/>49:13, 49:21,<br/>51:4, 53:6,<br/>54:7, 56:14,</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

165

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>57:10, 60:1,<br/>60:15, 65:14,<br/>66:18, 67:22,<br/>72:17, 75:4,<br/>76:15, 79:22,<br/>92:11, 101:12,<br/>103:1, 104:9,<br/>104:11, 104:17,<br/>105:11, 105:14,<br/>105:17, 106:15,<br/>107:19, 108:14,<br/>109:8, 109:14,<br/>114:7, 114:10,<br/>117:10, 117:18,<br/>122:13, 123:9,<br/>125:2, 126:3,<br/>133:12, 135:9,<br/>136:19, 137:1,<br/>137:16, 137:18,<br/>138:5, 139:20,<br/>140:5, 141:4,<br/>141:11, 141:20,<br/>142:16, 143:16,<br/>144:17, 145:21,<br/>154:18, 155:3,<br/>156:21<br/><b>committee's</b><br/>10:15<br/><b>committees</b><br/>103:7, 122:6,<br/>122:8, 123:1,<br/>124:12, 129:1,<br/>129:12, 133:17,<br/>138:13<br/><b>common</b><br/>11:11, 76:7<br/><b>communication</b><br/>76:5, 104:13<br/><b>communities</b><br/>13:13, 26:3,<br/>26:15, 30:7,<br/>75:22, 90:7,<br/>91:5, 91:13,<br/>96:19<br/><b>community</b><br/>25:8, 75:6,<br/>91:1, 97:3<br/><b>compelling</b><br/>24:7, 24:11,</p> | <p>34:8<br/><b>competitive</b><br/>90:13<br/><b>compile</b><br/>40:18<br/><b>complaint</b><br/>105:10, 105:11,<br/>106:8, 121:21,<br/>137:17<br/><b>complete</b><br/>46:19<br/><b>completely</b><br/>121:15<br/><b>complex</b><br/>78:4, 97:6<br/><b>comply</b><br/>89:16, 129:3<br/><b>component</b><br/>82:12<br/><b>comprehensive</b><br/>144:21<br/><b>computers</b><br/>35:14<br/><b>computing</b><br/>149:15<br/><b>conceiving</b><br/>7:22<br/><b>concentrate</b><br/>17:10, 17:14<br/><b>concentrating</b><br/>17:13<br/><b>concept</b><br/>57:12, 58:3<br/><b>conceptual</b><br/>124:3, 143:2,<br/>144:14<br/><b>concern</b><br/>36:13, 51:18,<br/>112:21, 124:14,<br/>124:16, 132:15,<br/>134:1, 134:3,<br/>136:7, 136:8<br/><b>concerned</b><br/>36:9, 81:12<br/><b>concerning</b><br/>32:18, 32:21,<br/>152:10<br/><b>concerns</b><br/>7:1, 8:3,</p> | <p>10:11, 13:9,<br/>30:2, 115:8,<br/>117:22, 132:16<br/><b>concise</b><br/>73:11<br/><b>concludes</b><br/>53:22, 62:4<br/><b>condensed</b><br/>43:5<br/><b>conduct</b><br/>4:13, 73:13,<br/>78:9<br/><b>conducting</b><br/>11:12<br/><b>confederated</b><br/>73:1<br/><b>confirm</b><br/>21:8<br/><b>confuse</b><br/>72:5<br/><b>confused</b><br/>73:12<br/><b>confusing</b><br/>34:21<br/><b>confusion</b><br/>30:5, 43:4,<br/>110:21<br/><b>connections</b><br/>78:5<br/><b>science</b><br/>9:4<br/><b>consent</b><br/>79:2<br/><b>conservatives</b><br/>8:11<br/><b>consider</b><br/>31:10<br/><b>consideration</b><br/>79:6, 107:5<br/><b>considered</b><br/>19:6, 69:9,<br/>108:3, 124:1,<br/>144:15, 152:7<br/><b>considers</b><br/>83:21<br/><b>consistent</b><br/>15:15, 15:20<br/><b>consistently</b><br/>17:2</p> | <p><b>constant</b><br/>59:19<br/><b>constituents</b><br/>110:19<br/><b>constitution</b><br/>17:20, 25:10,<br/>25:11, 27:22,<br/>63:1, 148:13,<br/>148:17, 150:20,<br/>151:5, 151:16,<br/>151:20<br/><b>constitutional</b><br/>17:20, 24:1<br/><b>constitutions</b><br/>77:12<br/><b>constraining</b><br/>144:7<br/><b>constraints</b><br/>145:5<br/><b>consult</b><br/>84:9, 84:12<br/><b>consultation</b><br/>73:4, 73:5,<br/>73:7, 73:10,<br/>73:11, 73:14,<br/>73:18, 73:20,<br/>74:7, 74:14,<br/>77:21, 78:10,<br/>78:19, 79:1,<br/>80:15, 81:17,<br/>82:7, 82:17,<br/>82:19, 83:2,<br/>88:13, 91:20,<br/>98:18, 100:22,<br/>101:14<br/><b>consultations</b><br/>82:13, 82:14<br/><b>consultative</b><br/>99:4<br/><b>consuming</b><br/>22:4<br/><b>contain</b><br/>156:9<br/><b>contained</b><br/>149:19<br/><b>context</b><br/>144:12<br/><b>contextually</b><br/>144:11</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

166

|                                                                                                                                                           |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| <b>continue</b><br>48:5                                                                                                                                   | 39:17, 41:9,<br>43:2, 44:4,                                                                                                                                                                                                              | <b>country</b><br>7:3, 7:9, 27:9,<br>93:5, 93:11,<br>94:10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>court</b><br>24:4, 27:20,<br>32:4, 34:3,<br>34:9, 152:10     |
| <b>continued</b><br>131:20, 134:20,<br>134:21                                                                                                             | 48:15, 70:11,<br>75:14, 82:6,<br>88:20, 94:20,                                                                                                                                                                                           | <b>county</b><br>4:9, 4:10, 6:6,<br>11:12, 18:6,<br>18:13, 19:6,<br>19:21, 20:14,<br>21:16, 22:2,<br>22:3, 23:13,<br>25:20, 35:4,<br>37:10, 37:11,<br>37:19, 44:6,<br>44:8, 45:12,<br>51:9, 52:5,<br>54:20, 67:5,<br>67:9, 67:10,<br>67:11, 67:12,<br>70:10, 70:14,<br>72:22, 104:8,<br>104:10, 105:10,<br>105:14, 106:1,<br>106:2, 106:15,<br>107:18, 114:9,<br>115:5, 115:7,<br>115:9, 115:10,<br>115:12, 115:14,<br>116:3, 117:19,<br>118:18, 121:11,<br>121:13, 122:1,<br>127:12, 132:2,<br>132:17, 132:19,<br>134:13, 134:15,<br>134:16, 135:10,<br>135:13 | <b>courthouse</b><br>20:16, 20:18,<br>21:7                      |
| <b>continuum</b><br>103:8                                                                                                                                 | 97:19, 102:9,<br>105:7, 117:21,<br>119:12, 125:4,<br>137:20, 139:9,<br>145:14, 145:16,<br>154:2                                                                                                                                          | <b>county's</b><br>38:10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>courts</b><br>24:11, 24:15,<br>34:4                          |
| <b>contracting</b><br>92:20                                                                                                                               | <b>couldn't</b><br>35:16                                                                                                                                                                                                                 | <b>couple</b><br>32:15, 80:11,<br>81:11, 81:14,<br>88:19, 96:6,<br>123:12, 132:16,<br>140:14, 145:1,<br>154:20, 154:22                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>covers</b><br>70:14                                          |
| <b>control</b><br>26:21, 77:16                                                                                                                            | <b>council</b><br>95:15, 97:5,<br>97:9                                                                                                                                                                                                   | <b>course</b><br>23:19, 33:8,<br>103:17, 123:17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>covid</b><br>45:9                                            |
| <b>convenience</b><br>30:12                                                                                                                               | <b>councils</b><br>97:7                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>crazier</b><br>3:5                                           |
| <b>conversation</b><br>81:9                                                                                                                               | <b>counsel</b><br>96:15, 156:5                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>crazy</b><br>11:14                                           |
| <b>conversations</b><br>37:11, 76:2,<br>101:5                                                                                                             | <b>counselors</b><br>19:19                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>create</b><br>29:4, 30:4,<br>90:11, 101:3,<br>101:5          |
| <b>cooperative</b><br>76:7                                                                                                                                | <b>count</b><br>48:6, 48:7,<br>50:8, 50:10,<br>147:18                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>created</b><br>8:20, 100:15                                  |
| <b>coordinate</b><br>20:11, 85:4                                                                                                                          | <b>counted</b><br>19:16, 48:3                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>creates</b><br>23:17, 105:5                                  |
| <b>coordination</b><br>80:15                                                                                                                              | <b>counter</b><br>19:13, 134:6                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>creating</b><br>34:19, 34:20                                 |
| <b>coordinator</b><br>91:3                                                                                                                                | <b>counties</b><br>15:3, 15:12,<br>15:18, 15:22,<br>16:3, 16:9,<br>32:21, 33:11,<br>35:6, 35:19,<br>36:10, 36:11,<br>38:14, 48:3,<br>52:4, 53:12,<br>61:7, 70:14,<br>72:21, 111:8,<br>118:1, 120:13,<br>120:14, 122:11,<br>133:2, 133:11 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>creativity</b><br>101:17                                     |
| <b>copy</b><br>22:1                                                                                                                                       | <b>counting</b><br>48:7, 48:19,<br>119:5, 145:8                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>cree</b><br>75:7                                             |
| <b>core</b><br>30:12                                                                                                                                      | <b>countless</b><br>8:14, 9:4                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>crews</b><br>46:5                                            |
| <b>corner</b><br>11:6                                                                                                                                     |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>criteria</b><br>69:4, 69:6,<br>70:4, 70:12,<br>71:13, 134:22 |
| <b>corporate</b><br>46:3                                                                                                                                  |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>critical</b><br>28:19, 77:22                                 |
| <b>correct</b><br>36:1, 36:19,<br>38:21, 53:17,<br>56:4, 61:2,<br>86:18, 114:20,<br>117:20, 127:1,<br>127:21, 127:22,<br>150:12, 150:16,<br>153:11, 156:9 |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>crow</b><br>77:1, 87:3                                       |
| <b>correcting</b><br>86:13                                                                                                                                |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>crowds</b><br>32:19                                          |
| <b>cosmopolitan</b><br>48:12                                                                                                                              |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>cuffe</b><br>11:1, 11:2,<br>11:4, 11:5,<br>12:18, 40:21,     |
| <b>could</b><br>33:15, 37:20,                                                                                                                             |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                 |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

167

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 41:1, 41:11,<br>41:17, 41:20,<br>42:11, 42:19,<br>42:22, 43:3,<br>43:16, 44:2,<br>44:4, 47:9,<br>47:11<br><b>cultural</b><br>93:3<br><b>current</b><br>13:19, 14:17,<br>16:6, 51:8,<br>74:7, 109:2,<br>109:3, 129:9,<br>131:19, 148:22<br><b>currently</b><br>14:1, 34:15,<br>35:22, 41:3,<br>50:3, 65:11,<br>95:1, 109:21,<br>131:20, 132:4,<br>134:18, 134:22,<br>135:9<br><b>curve</b><br>75:12<br><b>cushion</b><br>26:18<br><b>cut</b><br>46:12, 74:15,<br>138:21<br><b>cycle</b><br>35:5, 64:11,<br>111:21<br><hr/> <b>D</b><br><hr/> <b>d-o-r-r-i-n-g</b><br>92:11<br><b>daniels</b><br>103:1<br><b>date</b><br>48:2, 129:7<br><b>dates</b><br>122:7, 122:9<br><b>day</b><br>10:18, 11:22,<br>12:11, 12:12,<br>14:8, 14:11,<br>15:9, 15:10, | 15:16, 15:20,<br>16:14, 16:18,<br>16:19, 16:22,<br>17:1, 17:5,<br>17:13, 17:15,<br>18:18, 19:5,<br>19:8, 19:12,<br>20:3, 20:10,<br>20:11, 20:17,<br>21:7, 21:21,<br>23:3, 23:16,<br>23:21, 24:10,<br>24:12, 25:22,<br>26:2, 26:19,<br>27:12, 27:19,<br>28:19, 29:1,<br>29:21, 30:11,<br>30:16, 34:13,<br>34:14, 34:15,<br>36:12, 37:17,<br>38:12, 38:19,<br>39:5, 39:11,<br>40:2, 42:1,<br>42:3, 44:22,<br>45:16, 46:20,<br>50:11, 52:9,<br>72:18, 138:8,<br>138:9, 140:9,<br>144:3, 154:21<br><b>days</b><br>11:9, 15:6,<br>25:18, 52:8,<br>106:12, 106:13,<br>106:18, 111:1,<br>111:3, 126:3,<br>126:22, 129:6,<br>129:7, 130:13,<br>130:15, 130:16,<br>130:18, 136:9,<br>138:2, 138:3,<br>138:4, 138:6,<br>138:8, 138:14,<br>144:9, 154:21<br><b>deadline</b><br>25:17, 25:19,<br>63:4, 106:12,<br>126:4, 130:17,<br>138:9, 151:10 | <b>deadlines</b><br>30:6<br><b>deal</b><br>81:16<br><b>dearly</b><br>8:17<br><b>death</b><br>8:14, 9:4<br><b>decade</b><br>90:16<br><b>decades</b><br>33:17, 95:14<br><b>december</b><br>129:15, 129:16<br><b>decide</b><br>62:6, 124:22<br><b>deciding</b><br>115:15<br><b>decision</b><br>27:10, 90:9,<br>91:16, 106:8,<br>140:2<br><b>decision-making</b><br>77:22<br><b>decisions</b><br>122:2<br><b>declare</b><br>120:5, 156:2,<br>156:13<br><b>declaring</b><br>120:2<br><b>dedicate</b><br>78:8, 78:11<br><b>deem</b><br>24:15<br><b>deemed</b><br>24:2<br><b>deep</b><br>139:21<br><b>defeated</b><br>27:15<br><b>defer</b><br>108:21<br><b>deferring</b><br>131:13<br><b>deficiencies</b><br>117:20<br><b>define</b><br>73:5 | <b>defined</b><br>117:3<br><b>defines</b><br>73:7<br><b>definitely</b><br>112:14, 134:9,<br>150:15<br><b>definition</b><br>73:9, 73:10,<br>73:11, 73:15,<br>74:13, 81:21,<br>88:13, 98:18,<br>98:22, 99:7,<br>101:13, 102:14<br><b>definitions</b><br>80:5, 117:2,<br>124:9<br><b>delivery</b><br>23:11, 26:11<br><b>democracy</b><br>24:20, 29:5,<br>30:13, 31:1<br><b>democrat</b><br>48:21, 108:19,<br>119:3, 119:12,<br>119:16, 132:20,<br>139:7<br><b>democratic</b><br>30:18<br><b>democrats</b><br>119:8, 119:17,<br>120:16<br><b>denying</b><br>23:19<br><b>department</b><br>21:8, 74:4,<br>80:22, 81:1,<br>82:5, 82:11,<br>82:22, 85:10,<br>85:14, 88:2,<br>88:6, 89:8,<br>89:19, 90:4,<br>90:17, 94:21,<br>95:3, 95:12,<br>95:19, 96:5,<br>99:14, 99:16,<br>99:21, 101:19,<br>101:22, 102:10 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of Senate Standing Committee  
Conducted on March 1, 2025

168

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>departments</b><br>73:8, 78:21,<br>81:2, 81:12,<br>82:8, 82:15,<br>83:1, 84:3,<br>87:22, 88:11,<br>101:21<br><b>depending</b><br>59:16, 70:13<br><b>depends</b><br>52:4<br><b>designate</b><br>84:22<br><b>designated</b><br>89:14, 100:13,<br>100:17<br><b>designations</b><br>124:9<br><b>designee</b><br>85:22, 88:1,<br>102:10<br><b>desire</b><br>6:20, 145:9<br><b>desired</b><br>8:21<br><b>despite</b><br>16:12<br><b>detail</b><br>125:4<br><b>determination</b><br>77:13<br><b>determine</b><br>78:1<br><b>determined</b><br>68:5<br><b>develop</b><br>80:14, 88:10<br><b>developed</b><br>16:15<br><b>difference</b><br>26:19<br><b>different</b><br>36:5, 56:5,<br>59:16, 70:7,<br>70:12, 70:16,<br>84:2, 86:7,<br>92:14, 93:14,<br>112:11, 115:5, | 117:7, 120:18,<br>121:1, 131:22<br><b>difficult</b><br>32:6<br><b>difficulty</b><br>7:21, 13:8<br><b>dig</b><br>106:10<br><b>dilemmas</b><br>128:18<br><b>dir</b><br>92:10<br><b>directly</b><br>77:17<br><b>director</b><br>18:2, 81:10,<br>85:8, 85:15,<br>86:6, 88:18,<br>89:9, 92:9,<br>92:12, 95:11,<br>98:2, 98:4,<br>103:3<br><b>disabled</b><br>23:6<br><b>disadvantage</b><br>124:13<br><b>disadvantaged</b><br>23:5<br><b>disagree</b><br>33:19, 146:12<br><b>disagrees</b><br>111:5, 146:11<br><b>disburse</b><br>37:20<br><b>discarded</b><br>8:22<br><b>discrepancy</b><br>143:18<br><b>discrimination</b><br>23:14<br><b>discussed</b><br>132:18<br><b>discussing</b><br>136:9<br><b>discussion</b><br>141:12, 142:3,<br>142:4, 142:18,<br>146:17, 148:2, | 148:4, 148:7,<br>153:20, 154:6<br><b>discussions</b><br>14:6<br><b>disenfranchise</b><br>27:13<br><b>disenfranchise</b><br>25:15<br><b>disenfranchized</b><br>14:1<br><b>dispose</b><br>10:18, 62:3<br><b>disproportionate</b><br>26:4<br><b>disproportionate-</b><br><b>ly</b><br>23:4, 30:6<br><b>dispute</b><br>67:14<br><b>disqualified</b><br>62:22, 70:2,<br>150:6, 150:18,<br>151:14, 152:7<br><b>disruption</b><br>34:19, 104:6<br><b>disservice</b><br>78:10<br><b>distances</b><br>13:14, 26:13<br><b>distribute</b><br>18:19<br><b>district</b><br>11:5, 47:17,<br>54:4, 63:13,<br>67:11, 67:17,<br>68:17, 68:18,<br>69:17, 70:13,<br>72:20, 93:6,<br>93:8, 94:4,<br>103:2, 115:3,<br>153:18<br><b>districts</b><br>93:7, 116:3<br><b>documentation</b><br>100:22<br><b>documented</b><br>74:8<br><b>documents</b><br>100:21 | <b>doing</b><br>8:1, 38:9,<br>42:1, 48:6,<br>62:8, 62:12,<br>81:22, 87:18,<br>99:1, 99:3,<br>101:15, 104:19,<br>107:6, 107:9,<br>107:12, 115:6,<br>115:7, 142:13,<br>144:6<br><b>dominoes</b><br>96:7<br><b>done</b><br>21:20, 35:17,<br>35:18, 36:5,<br>38:10, 54:11,<br>55:2, 76:4,<br>76:5, 94:20,<br>98:15, 110:4,<br>111:20, 118:20,<br>121:1, 127:9,<br>133:16, 138:21,<br>145:7<br><b>donnie</b><br>90:14, 97:9<br><b>donnie's</b><br>96:5<br><b>donny</b><br>97:2, 97:4<br><b>donny's</b><br>93:18<br><b>door</b><br>3:14, 19:21,<br>20:19, 105:2<br><b>dorrington</b><br>89:9, 92:9,<br>92:10, 92:11,<br>95:11, 103:3<br><b>doubt</b><br>24:15<br><b>down</b><br>7:14, 16:5,<br>22:2, 27:20,<br>35:15, 39:4,<br>45:17, 49:2,<br>50:7, 56:12,<br>67:3, 68:19, |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

169

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 83:13, 89:3,<br>111:22, 116:12<br><b>draft</b><br>103:15<br><b>drafting</b><br>137:3<br><b>driven</b><br>45:6<br><b>driver's</b><br>55:18, 55:20,<br>56:2, 56:6<br><b>driving</b><br>26:6<br><b>drop</b><br>20:20, 45:10,<br>45:11<br><b>dropped</b><br>105:21<br><b>due</b><br>21:3, 26:20,<br>53:17, 54:10,<br>74:21, 76:9,<br>79:6, 102:17,<br>113:10, 141:9,<br>141:11, 141:21,<br>142:17, 148:1<br><b>duplication</b><br>48:17<br><b>during</b><br>26:8, 27:18,<br>149:18<br><b>duties</b><br>36:4, 104:5,<br>145:5, 145:17<br><b>duty</b><br>17:20, 110:2<br><b>dying</b><br>103:19 | <b>ea</b><br>122:21<br><b>each</b><br>18:11, 18:15,<br>18:21, 53:3,<br>75:15, 75:21,<br>76:6, 80:16,<br>84:12, 93:8,<br>93:14, 104:17,<br>106:15, 107:7,<br>107:18, 107:20,<br>108:12, 116:14<br><b>earlier</b><br>20:4, 22:5,<br>44:6, 46:3,<br>72:6, 111:9,<br>115:1, 121:4<br><b>early</b><br>46:5, 122:3,<br>122:5, 122:12,<br>124:8, 136:10,<br>137:3<br><b>eas</b><br>120:10, 121:3,<br>121:5<br><b>easier</b><br>24:19, 95:5<br><b>easily</b><br>94:20<br><b>easy</b><br>95:2, 95:22,<br>96:1, 137:11<br><b>echoes</b><br>3:20<br><b>economic</b><br>96:20<br><b>economies</b><br>95:8<br><b>education</b><br>77:18, 134:21<br><b>effect</b><br>24:16, 118:5,<br>133:15<br><b>effective</b><br>48:1<br><b>effectively</b><br>101:18<br><b>efficiency</b><br>48:18, 53:11 | <b>efficient</b><br>11:13, 50:14<br><b>efficiently</b><br>15:1<br><b>effort</b><br>13:15<br><b>eight</b><br>35:20, 44:9,<br>63:1, 70:4,<br>70:21, 71:9,<br>72:20, 148:6,<br>148:16, 149:4,<br>149:8, 149:9,<br>150:19, 152:8,<br>152:11, 152:12,<br>152:13, 152:14,<br>152:17<br><b>either</b><br>37:20, 52:6,<br>87:8, 99:20,<br>123:8, 124:3,<br>133:12, 153:22,<br>154:3<br><b>elect</b><br>55:3, 55:6,<br>61:10<br><b>elected</b><br>65:12, 68:5,<br>115:4, 149:21<br><b>elections</b><br>14:22, 15:1,<br>15:17, 23:13,<br>27:8, 34:2,<br>34:3, 47:22,<br>64:9, 65:6,<br>106:22, 111:12,<br>111:14, 116:2,<br>116:3, 116:15,<br>116:22, 127:13,<br>127:21, 128:4,<br>128:5, 130:22,<br>131:3, 131:4,<br>131:5, 133:20<br><b>elective</b><br>7:5, 7:7<br><b>elector</b><br>143:21, 143:22,<br>146:6 | <b>electors</b><br>27:21, 146:6<br><b>eligibility</b><br>67:15, 68:5,<br>68:12<br><b>eligible</b><br>30:10, 63:12,<br>63:19, 63:20,<br>63:22, 64:4,<br>64:5, 64:8,<br>64:15, 65:21,<br>66:1, 69:3,<br>69:4, 69:5,<br>69:9, 69:16,<br>70:3, 70:19,<br>71:8, 71:16,<br>115:22, 153:17<br><b>eliminate</b><br>23:20<br><b>eliminated</b><br>27:12<br><b>eliminating</b><br>24:12<br><b>elimination</b><br>23:16<br><b>ellis</b><br>2:21, 2:22,<br>40:19, 40:20,<br>40:21, 40:22,<br>41:16, 41:18,<br>42:9, 42:11,<br>43:13, 142:11,<br>143:5, 143:7,<br>143:8, 143:11,<br>147:10, 147:11,<br>153:12, 153:13,<br>153:22, 154:2,<br>154:14<br><b>else</b><br>12:14, 35:16,<br>98:6, 100:2,<br>101:16, 136:3,<br>139:10, 151:11,<br>155:2<br><b>emergencies</b><br>108:22<br><b>employed</b><br>156:6 |
| <b>E</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>e-mail</b><br>84:1, 84:14<br><b>e-mails</b><br>84:4<br><b>e-r-g</b><br>32:3, 49:14<br><b>e-r-t-e-l-l</b><br>7:18                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

170

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>employee</b><br/>85:1, 88:5,<br/>100:15<br/><b>employees</b><br/>95:4, 95:7,<br/>115:13, 118:18,<br/>135:10<br/><b>empower</b><br/>90:4<br/><b>end</b><br/>10:18, 15:9,<br/>15:16, 29:8,<br/>41:19, 54:13,<br/>109:6, 115:20,<br/>116:9, 118:1,<br/>118:8, 129:16,<br/>142:5, 148:22,<br/>149:18<br/><b>ended</b><br/>27:19, 103:19<br/><b>engage</b><br/>84:8, 84:12<br/><b>engagement</b><br/>28:16, 83:22,<br/>90:19, 91:2<br/><b>engaging</b><br/>79:1<br/><b>engineers</b><br/>93:1<br/><b>enjoin</b><br/>24:16<br/><b>enlightening</b><br/>100:5<br/><b>enough</b><br/>95:21, 111:18,<br/>129:18<br/><b>enrolled</b><br/>90:17<br/><b>ensure</b><br/>57:13, 58:4,<br/>59:13, 108:19<br/><b>ensures</b><br/>28:20<br/><b>ensuring</b><br/>30:10, 59:7,<br/>76:3<br/><b>enter</b><br/>84:4, 140:17</p> | <p><b>entertain</b><br/>144:18<br/><b>entertaining</b><br/>143:2<br/><b>entire</b><br/>97:2<br/><b>entirety</b><br/>43:7<br/><b>environment</b><br/>33:18<br/><b>environmental</b><br/>92:21, 93:1<br/><b>equal</b><br/>27:21<br/><b>erroneously</b><br/>59:14<br/><b>error</b><br/>34:20, 143:1<br/><b>especially</b><br/>7:8, 26:3,<br/>30:22, 36:10,<br/>53:11, 61:6,<br/>93:10, 111:7,<br/>120:13<br/><b>essence</b><br/>49:1<br/><b>essential</b><br/>78:1<br/><b>essentially</b><br/>63:14<br/><b>establish</b><br/>55:17<br/><b>established</b><br/>55:18<br/><b>establishing</b><br/>135:1<br/><b>establishment</b><br/>152:4<br/><b>esteemed</b><br/>28:12<br/><b>etc</b><br/>6:22, 120:14<br/><b>ethical</b><br/>6:18, 6:22<br/><b>eugenics-based</b><br/>8:8<br/><b>eureka</b><br/>45:7</p> | <p><b>even</b><br/>19:21, 19:22,<br/>20:5, 35:11,<br/>36:11, 52:18,<br/>59:1, 59:3,<br/>63:12, 105:3,<br/>112:19, 115:9,<br/>127:15, 129:8<br/><b>evenly</b><br/>119:10<br/><b>event</b><br/>156:11, 156:14<br/><b>eventually</b><br/>153:17<br/><b>ever</b><br/>35:11, 65:6,<br/>96:10, 152:10<br/><b>every</b><br/>6:9, 6:20,<br/>8:16, 8:18,<br/>55:16, 79:4,<br/>82:2, 82:19,<br/>90:4, 93:16,<br/>95:3, 95:15,<br/>96:3, 98:2,<br/>99:19, 115:5,<br/>119:6, 119:9,<br/>121:11, 127:5,<br/>138:4, 144:2,<br/>148:13<br/><b>everybody</b><br/>65:10, 82:21,<br/>101:16, 115:6,<br/>150:9<br/><b>everyone</b><br/>122:20, 129:20,<br/>134:4, 134:9,<br/>145:11<br/><b>everyone's</b><br/>80:9<br/><b>everything</b><br/>45:17, 114:15,<br/>115:6, 127:9<br/><b>evidence</b><br/>25:12, 32:18,<br/>32:20, 33:10,<br/>40:16<br/><b>exact</b><br/>132:8</p> | <p><b>example</b><br/>63:12, 70:21,<br/>99:17, 132:17<br/><b>excellent</b><br/>34:6<br/><b>exceptional</b><br/>93:18<br/><b>excited</b><br/>13:2, 61:15,<br/>96:18<br/><b>exciting</b><br/>13:4, 96:21<br/><b>exclude</b><br/>113:9, 134:5<br/><b>exclusions</b><br/>8:4<br/><b>excuse</b><br/>3:3, 3:15,<br/>7:19, 29:7,<br/>53:20, 83:14,<br/>89:22<br/><b>excused</b><br/>2:11, 2:13,<br/>2:17<br/><b>executive</b><br/>40:7, 62:3,<br/>74:9, 90:10,<br/>91:7, 92:4,<br/>95:6, 100:11,<br/>140:6, 140:12,<br/>140:17<br/><b>existed</b><br/>16:18<br/><b>existing</b><br/>91:8, 91:18,<br/>92:3<br/><b>expand</b><br/>13:6, 24:17,<br/>30:21, 96:20<br/><b>expanded</b><br/>90:21<br/><b>expectation</b><br/>96:16<br/><b>expense</b><br/>8:1, 9:5<br/><b>experience</b><br/>108:2, 112:2,<br/>117:14</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

171

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>experienced</b><br>23:13, 112:11,<br>135:6<br><b>expert</b><br>16:17, 108:8<br><b>expertise</b><br>117:14<br><b>explain</b><br>12:6, 43:2,<br>110:21<br><b>explaining</b><br>53:10<br><b>explains</b><br>25:13<br><b>explanation</b><br>59:22, 144:21,<br>146:9<br><b>exploration</b><br>91:4, 91:15<br><b>expressed</b><br>132:16, 134:19<br><b>extensive</b><br>94:9<br><b>extensively</b><br>92:18<br><b>extent</b><br>46:7, 107:18<br><b>extra</b><br>37:18<br><b>extremely</b><br>19:17<br><b>eye</b><br>8:10<br><b>eyeballs</b><br>148:15<br><b>eyes</b><br>8:21 | <b>factually</b><br>10:12<br><b>faded</b><br>76:18<br><b>fair</b><br>28:22, 120:7,<br>135:21, 139:1<br><b>fairly</b><br>119:8, 119:10<br><b>fairness</b><br>118:3<br><b>fair's</b><br>135:21<br><b>faith</b><br>76:3<br><b>fall</b><br>83:1, 96:7<br><b>falls</b><br>47:18, 54:5<br><b>familiar</b><br>33:2, 43:18,<br>68:7<br><b>families</b><br>28:21, 96:22<br><b>family</b><br>8:17<br><b>far</b><br>13:14, 19:2,<br>26:6, 37:22,<br>67:3, 119:2<br><b>faster</b><br>19:17<br><b>fate</b><br>24:14<br><b>father</b><br>17:6<br><b>fault</b><br>127:5, 137:5<br><b>favor</b><br>142:6, 154:7<br><b>fears</b><br>27:6<br><b>february</b><br>111:11, 122:13,<br>129:14, 129:19<br><b>federal</b><br>11:18, 15:17,<br>17:20, 34:2, | 34:3, 34:4,<br>34:9, 77:16<br><b>feel</b><br>42:6, 107:15<br><b>feels</b><br>62:13<br><b>felt</b><br>136:11<br><b>female1</b><br>9:18, 10:1<br><b>female3</b><br>43:3<br><b>female4</b><br>48:11<br><b>few</b><br>33:13, 33:14,<br>37:19, 44:18,<br>77:20, 114:16,<br>137:11, 140:7<br><b>field</b><br>95:14<br><b>fight</b><br>29:18<br><b>figure</b><br>138:7, 138:15,<br>138:16, 142:12<br><b>file</b><br>58:7, 58:12,<br>58:22, 59:16,<br>63:7, 151:22<br><b>filed</b><br>59:9, 63:2,<br>63:6, 137:18,<br>151:8, 151:9,<br>151:11, 151:12<br><b>files</b><br>151:6<br><b>filing</b><br>151:10, 151:13<br><b>fill</b><br>63:16, 63:17,<br>65:20, 65:21,<br>109:1, 119:14,<br>151:17<br><b>finally</b><br>115:1<br><b>financial</b><br>7:3, 156:7 | <b>financially</b><br>9:7<br><b>find</b><br>55:13, 64:4,<br>95:5, 115:10,<br>120:16, 122:10,<br>132:20, 134:12,<br>152:1, 153:17<br><b>findings</b><br>33:19<br><b>fine</b><br>84:18, 122:5<br><b>fire</b><br>116:3<br><b>first</b><br>4:18, 12:19,<br>21:9, 29:3,<br>33:14, 57:19,<br>62:6, 70:20,<br>75:1, 77:5,<br>77:10, 80:7,<br>80:13, 80:17,<br>88:21, 97:4,<br>99:4, 105:3,<br>106:4, 112:1,<br>123:11, 140:17<br><b>first-time</b><br>30:22<br><b>fiscal</b><br>87:19, 88:7<br><b>fish</b><br>83:20, 84:7,<br>85:11, 85:17,<br>85:22<br><b>fit</b><br>102:9<br><b>fits</b><br>101:21<br><b>five</b><br>82:15, 93:7<br><b>five-minute</b><br>140:5, 140:16<br><b>fix</b><br>55:3, 55:6,<br>61:10, 82:11,<br>82:12, 126:11<br><b>flexibility</b><br>30:5 |
| <b>F</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>face</b><br>23:7, 30:8<br><b>fact</b><br>10:13, 15:11,<br>16:12, 54:11,<br>68:13, 100:16,<br>153:9<br><b>facts</b><br>67:13                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

172

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>flip</b><br>62:11, 144:4<br><b>floor</b><br>73:6, 89:11,<br>144:18, 145:21<br><b>florida</b><br>56:1, 58:15<br><b>flung</b><br>119:2<br><b>focus</b><br>46:18, 91:13<br><b>focused</b><br>91:3, 93:19,<br>97:5, 143:21,<br>144:5<br><b>focusing</b><br>84:7<br><b>folks</b><br>11:16, 11:17,<br>14:11, 29:2,<br>47:5, 96:18,<br>96:21, 104:18,<br>139:6<br><b>follow</b><br>38:3, 38:5,<br>42:9, 42:10,<br>83:4, 83:6,<br>84:15, 86:9,<br>86:11, 87:14,<br>87:15, 88:9,<br>88:16, 92:7,<br>100:7, 100:21,<br>127:17, 127:18,<br>129:22, 130:1,<br>130:7, 130:9,<br>135:1<br><b>followed</b><br>151:11<br><b>following</b><br>21:21, 46:20,<br>148:22<br><b>follows</b><br>82:19, 115:6<br><b>footprint</b><br>93:14, 94:9,<br>95:5<br><b>force</b><br>90:6, 91:12 | <b>foremost</b><br>77:5<br><b>form</b><br>48:2, 126:4<br><b>formal</b><br>99:3<br><b>formerly</b><br>95:16<br><b>fort</b><br>25:7, 75:6,<br>91:1<br><b>forth</b><br>71:11, 96:16,<br>152:5, 152:6,<br>152:19, 152:20<br><b>fortunate</b><br>95:21<br><b>forward</b><br>28:14, 29:17,<br>30:14, 47:2,<br>55:9, 61:18,<br>77:6, 80:8,<br>105:19, 126:5,<br>138:1, 138:2,<br>138:17, 139:18,<br>140:1, 145:22<br><b>found</b><br>27:20, 43:11,<br>45:18, 64:15,<br>115:1, 148:4,<br>151:12, 153:7<br><b>four</b><br>19:1, 62:12,<br>63:1, 72:21,<br>108:12, 147:18,<br>148:6, 148:16,<br>150:15, 150:19,<br>152:7<br><b>fourth</b><br>89:11<br><b>franchise</b><br>24:18<br><b>frantically</b><br>12:9<br><b>fraud</b><br>27:3<br><b>free</b><br>53:12, 77:15 | <b>frees</b><br>18:9<br><b>friday</b><br>12:1, 38:12,<br>39:3, 41:13,<br>52:6, 52:10<br><b>friend</b><br>111:4<br><b>friends</b><br>17:7, 33:21<br><b>front</b><br>60:20, 103:11,<br>130:5, 134:17<br><b>fte</b><br>88:2<br><b>fulfill</b><br>65:13, 110:1<br><b>full</b><br>3:3, 42:4,<br>46:21, 100:14,<br>140:9, 154:21,<br>156:9<br><b>fully</b><br>84:1<br><b>fun</b><br>137:1<br><b>functional</b><br>84:2<br><b>functions</b><br>118:20<br><b>fund</b><br>6:20, 91:18<br><b>fundamental</b><br>24:3, 29:22<br><b>funded</b><br>91:8<br><b>funding</b><br>78:1<br><b>funds</b><br>16:10<br><b>further</b><br>22:8, 22:16,<br>31:14, 31:17,<br>37:2, 43:21,<br>43:22, 50:16,<br>53:5, 59:22,<br>69:13, 72:1,<br>72:2, 88:15,<br>99:22, 101:7,<br>101:9, 123:3,<br>123:5, 125:4,<br>131:10, 136:19,<br>146:16, 153:20,<br>154:6, 156:13<br><b>future</b><br>31:1, 40:10,<br>146:14 | <hr/> <b>G</b><br><hr/> <b>gain</b><br>137:17<br><b>gallatin</b><br>37:18, 37:21,<br>44:6, 44:8<br><b>games</b><br>118:6, 118:21<br><b>gave</b><br>122:13<br><b>general</b><br>12:13, 27:10,<br>45:3, 63:10,<br>73:19, 91:18,<br>116:2, 116:15,<br>121:19, 121:20,<br>127:13, 127:16,<br>127:20, 149:6<br><b>generally</b><br>121:12<br><b>gentle</b><br>123:14<br><b>gentleman</b><br>90:14<br><b>getting</b><br>33:17, 63:6,<br>70:17, 72:7,<br>97:10, 100:6,<br>113:3<br><b>girl</b><br>6:9<br><b>girls</b><br>7:6<br><b>gis</b><br>21:7<br><b>give</b><br>4:14, 55:8,<br>61:2, 61:17, |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

173

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 61:21, 106:19,<br>107:13, 119:15,<br>126:18, 129:13,<br>129:17, 130:21,<br>132:7<br><b>given</b><br>8:6, 10:13,<br>136:3<br><b>gives</b><br>12:7, 40:15,<br>74:18, 82:20,<br>88:8, 88:9,<br>129:19<br><b>glacier</b><br>72:21<br><b>glad</b><br>40:16, 101:14,<br>103:22<br><b>go</b><br>3:10, 6:4,<br>11:3, 13:14,<br>14:11, 14:19,<br>15:7, 28:10,<br>31:22, 34:6,<br>35:15, 39:19,<br>44:11, 44:14,<br>45:12, 45:17,<br>49:18, 50:17,<br>56:1, 57:7,<br>58:14, 64:12,<br>65:9, 65:18,<br>66:3, 70:9,<br>70:16, 80:8,<br>83:12, 86:4,<br>89:12, 94:13,<br>97:4, 97:5,<br>97:9, 103:16,<br>110:17, 112:1,<br>122:20, 125:4,<br>126:2, 135:11,<br>141:17, 144:2,<br>145:21, 150:8,<br>152:5, 152:12,<br>152:19<br><b>goal</b><br>17:17, 79:5,<br>96:3, 119:13<br><b>goals</b><br>75:20, 77:13 | <b>goes</b><br>64:2, 87:19,<br>92:19, 93:5,<br>114:20<br><b>going</b><br>3:9, 3:13,<br>4:13, 10:13,<br>20:12, 31:8,<br>33:5, 33:9,<br>37:5, 38:9,<br>38:13, 38:14,<br>38:18, 40:1,<br>40:7, 41:2,<br>49:1, 54:11,<br>56:9, 56:10,<br>56:17, 57:11,<br>57:17, 57:21,<br>63:16, 64:5,<br>64:11, 67:3,<br>70:9, 71:10,<br>80:18, 82:5,<br>83:8, 84:17,<br>85:14, 85:16,<br>85:17, 86:14,<br>103:14, 104:15,<br>105:5, 110:16,<br>110:17, 115:16,<br>117:10, 119:1,<br>121:3, 122:1,<br>122:3, 130:4,<br>131:4, 140:15,<br>146:15, 149:15,<br>151:2, 151:4,<br>154:18<br><b>gone</b><br>44:2, 105:7<br><b>good</b><br>4:7, 6:21, 9:3,<br>11:11, 12:19,<br>12:21, 25:3,<br>28:11, 31:5,<br>31:8, 33:21,<br>46:22, 47:1,<br>47:2, 47:4,<br>53:14, 57:2,<br>58:2, 67:2,<br>72:9, 72:14,<br>72:17, 75:2, | 75:9, 76:3,<br>76:14, 91:22,<br>92:14, 92:15,<br>93:9, 93:13,<br>93:16, 93:20,<br>97:9, 104:11,<br>104:14, 109:8,<br>109:10, 112:17,<br>121:20, 128:16,<br>131:1, 131:11,<br>139:2, 139:12,<br>139:22, 143:8,<br>145:12, 154:19,<br>154:22, 155:2<br><b>gosh</b><br>67:12<br><b>governing</b><br>105:12, 105:22,<br>106:9, 114:17,<br>115:2, 117:11,<br>131:15, 131:16,<br>131:18, 132:1,<br>134:15, 137:21,<br>138:18<br><b>government</b><br>6:16, 6:19,<br>77:12, 85:3,<br>85:5, 118:13<br><b>governments</b><br>75:17, 82:3,<br>84:2<br><b>governor</b><br>16:1, 107:3,<br>114:19, 149:5<br><b>governor's</b><br>85:9, 85:16,<br>86:7, 86:16,<br>88:18<br><b>grabbing</b><br>45:17<br><b>grant</b><br>16:10<br><b>grassroots</b><br>28:15<br><b>gray</b><br>68:21<br><b>great</b><br>7:6, 13:16, | 26:12, 34:7,<br>36:17, 47:18,<br>54:5, 67:14,<br>67:17, 92:2,<br>95:1, 96:3,<br>110:16, 123:19,<br>143:17<br><b>greater</b><br>101:3, 101:4<br><b>grew</b><br>68:16<br><b>ground</b><br>76:7, 137:10<br><b>groups</b><br>23:5<br><b>growly</b><br>59:5, 59:6<br><b>guarantees</b><br>25:10<br><b>guess</b><br>42:18, 51:5,<br>64:20, 73:2,<br>98:10, 100:11,<br>101:3, 117:4,<br>125:3, 131:21,<br>133:22, 134:1,<br>143:20<br><b>guessing</b><br>139:17<br><b>guidance</b><br>65:8, 74:19,<br>88:8, 88:10,<br>143:2<br><b>guide</b><br>121:16<br><b>guideline</b><br>74:5, 102:13<br><b>guidelines</b><br>78:5, 82:20<br><b>guy</b><br>103:10<br><b>guys</b><br>31:10, 31:12,<br>62:6, 68:7,<br>72:10, 106:19,<br>125:15, 138:14<br><hr/> <b>H</b> <hr/> <b>hair</b><br>8:21 |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

174

|                                                                                       |                                                                                                                              |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>half</b><br>16:8, 46:20                                                            | 143:15, 145:12,<br>150:21                                                                                                    | 4:14, 10:7,<br>10:10, 10:21,<br>10:22, 32:6,<br>47:8, 47:12,<br>49:15, 53:22,<br>54:1, 54:13,<br>56:11, 62:4,<br>62:7, 72:13,<br>72:15, 98:12,<br>102:19, 102:20,<br>110:18, 140:4,<br>156:22 | 2:19, 2:21, 3:5,<br>3:10, 5:6, 5:22,<br>6:8, 7:14, 14:4,<br>18:7, 20:20,<br>21:15, 22:19,<br>25:6, 29:10,<br>32:3, 40:5,<br>47:15, 47:19,<br>49:14, 54:5,<br>58:9, 67:6,<br>70:22, 74:16,<br>77:2, 77:3,<br>80:6, 80:18,<br>84:22, 88:19,<br>89:2, 89:10,<br>103:5, 103:18,<br>104:14, 105:5,<br>105:9, 108:9,<br>109:9, 110:11,<br>114:18, 119:16,<br>120:8, 129:6,<br>132:7, 150:11,<br>150:13, 151:14,<br>152:6 |
| <b>hall</b><br>35:10, 89:3                                                            | <b>hardin's</b><br>146:9                                                                                                     | <b>hearings</b><br>3:9                                                                                                                                                                        | <b>hereby</b><br>156:2                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>hampering</b><br>144:12                                                            | <b>hardworking</b><br>44:20                                                                                                  | <b>heart</b><br>47:6                                                                                                                                                                          | <b>herein</b><br>149:19                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>hand</b><br>48:4, 48:6,<br>48:7, 50:8,<br>50:10, 75:20,<br>76:12, 110:6,<br>145:16 | <b>harmful</b><br>26:3                                                                                                       | <b>heartbreaking</b><br>7:21                                                                                                                                                                  | <b>hey</b><br>20:19, 71:13,<br>106:18, 138:13,<br>138:14, 139:6                                                                                                                                                                                                                                                                                                                                                    |
| <b>handout</b><br>43:5                                                                | <b>harming</b><br>34:18                                                                                                      | <b>hectic</b><br>44:13, 44:16,<br>45:13, 46:4                                                                                                                                                 | <b>high</b><br>16:18, 39:18,<br>91:4, 109:16                                                                                                                                                                                                                                                                                                                                                                       |
| <b>hands</b><br>57:5                                                                  | <b>harms</b><br>14:5                                                                                                         | <b>held</b><br>24:4, 122:12                                                                                                                                                                   | <b>higher</b><br>20:5                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>handy</b><br>148:10, 148:11                                                        | <b>harvard</b><br>102:2                                                                                                      | <b>hello</b><br>21:14, 28:11                                                                                                                                                                  | <b>highest</b><br>91:14                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>happen</b><br>64:11, 65:4,<br>65:6, 65:8,<br>116:19, 118:7,<br>154:2               | <b>hava</b><br>16:10                                                                                                         | <b>help</b><br>16:9, 19:15,<br>20:18, 21:1,<br>21:3, 21:17,<br>21:22, 22:5,<br>37:18, 40:8,<br>56:18, 59:18,<br>73:12, 74:5,<br>80:8, 96:22,<br>102:11, 133:5,<br>150:22                      | <b>highway</b><br>102:5, 102:8                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>happened</b><br>45:9, 67:8,<br>69:7, 114:14                                        | <b>hayman</b><br>2:10, 142:12,<br>142:13, 147:12,<br>154:14                                                                  | <b>helpful</b><br>92:1, 102:4                                                                                                                                                                 | <b>hire</b><br>16:8, 93:22,<br>94:8, 118:18                                                                                                                                                                                                                                                                                                                                                                        |
| <b>happening</b><br>21:18, 55:11,<br>64:10                                            | <b>hb</b><br>23:22                                                                                                           | <b>helps</b><br>14:20, 18:13,<br>18:20, 132:6                                                                                                                                                 | <b>hired</b><br>90:13                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>happens</b><br>41:6, 65:7,<br>66:2, 137:16                                         | <b>head</b><br>86:20                                                                                                         | <b>hemisphere</b><br>7:14                                                                                                                                                                     | <b>hiring</b><br>96:11, 97:19                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>happily</b><br>140:20                                                              | <b>head's</b><br>68:1                                                                                                        |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>happy</b><br>12:21, 43:4,<br>47:19, 54:5,<br>54:6, 144:17                          | <b>headquarters</b><br>93:7                                                                                                  |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>hard</b><br>9:6, 11:15,<br>14:4, 46:13,<br>93:19, 120:16                           | <b>healthier</b><br>24:20                                                                                                    |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>harden</b><br>111:5                                                                | <b>healthy</b><br>8:20                                                                                                       |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>harder</b><br>132:19                                                               | <b>hear</b><br>3:6, 3:19,<br>14:11, 29:11,<br>32:8, 32:9,<br>40:17, 49:17,<br>57:18, 57:20,<br>76:16, 97:8,<br>110:7, 110:18 |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>hardin</b><br>42:14, 143:14,                                                       | <b>heard</b><br>14:6, 26:20,<br>29:16, 33:1,<br>35:6, 81:15,<br>112:3, 125:10,<br>126:21, 132:15,<br>133:2, 135:22           |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                                       | <b>hearing</b><br>1:6, 3:21, 4:5,                                                                                            |                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

175

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>historical</b><br>93:4<br><b>historically</b><br>16:17, 23:4<br><b>history</b><br>7:9<br><b>hit</b><br>95:11<br><b>hm</b><br>47:10<br><b>hold</b><br>55:19, 55:22,<br>56:2, 56:5,<br>114:3, 122:22,<br>140:15<br><b>home</b><br>40:5, 58:21,<br>77:13<br><b>hope</b><br>6:15, 31:10,<br>51:22, 53:4,<br>67:21, 72:10,<br>98:1, 110:8,<br>112:14, 132:6,<br>140:15<br><b>hopefully</b><br>108:6<br><b>hoping</b><br>10:6, 39:16,<br>55:5, 95:21,<br>96:13, 153:17<br><b>hostess</b><br>36:17<br><b>hosting</b><br>36:19<br><b>hour</b><br>44:9<br><b>hours</b><br>13:19, 13:21,<br>19:1, 19:5,<br>26:9, 41:2,<br>44:11, 46:14,<br>78:12<br><b>house</b><br>23:21, 24:14,<br>27:17, 103:19,<br>149:12, 152:13,<br>152:17 | <b>however</b><br>3:8, 7:22,<br>34:12, 48:7,<br>54:10, 54:15,<br>55:16, 71:10,<br>78:3, 89:21,<br>102:10, 116:16<br><b>huge</b><br>22:3, 36:18,<br>82:18<br><b>humor</b><br>104:3<br><b>hundreds</b><br>26:16, 40:12<br><b>hurt</b><br>143:19, 144:10<br><b>hurting</b><br>16:7<br><b>hyphen</b><br>76:22<br><hr/> <b>I</b><br><hr/> <b>icwa</b><br>77:19<br><b>idaho</b><br>11:7<br><b>idea</b><br>33:7, 97:3,<br>97:4, 106:4,<br>115:14, 117:11,<br>117:19, 118:15,<br>121:22, 123:19,<br>124:5, 132:13<br><b>identification</b><br>27:4<br><b>identities</b><br>76:6<br><b>imagination</b><br>101:17<br><b>immediate</b><br>48:1<br><b>impact</b><br>30:6, 65:17,<br>78:2, 92:21,<br>94:10<br><b>impacts</b><br>92:19, 93:3,<br>93:11 | <b>impartial</b><br>118:4<br><b>implement</b><br>61:11, 91:20<br><b>implemented</b><br>100:8<br><b>important</b><br>19:17, 54:10,<br>62:16, 88:12,<br>95:10, 96:13,<br>96:15, 101:13,<br>102:14, 104:16,<br>111:19, 118:10,<br>121:5, 124:6,<br>124:7, 124:8,<br>124:17, 127:16,<br>148:7, 153:19<br><b>importantly</b><br>24:16, 134:3<br><b>impose</b><br>30:5<br><b>improvement</b><br>16:22, 17:22<br><b>impugn</b><br>94:1<br><b>inaccuracies</b><br>10:12<br><b>include</b><br>27:4, 43:6,<br>134:4, 134:8,<br>136:12, 137:13<br><b>includes</b><br>77:18<br><b>including</b><br>23:5, 136:13<br><b>inconsequential</b><br>118:22<br><b>incorrect</b><br>56:4, 150:14<br><b>increase</b><br>91:11<br><b>incredible</b><br>58:18, 96:4<br><b>independence</b><br>120:10<br><b>independent</b><br>108:17, 108:19,<br>120:1, 120:6,<br>120:8, 133:4,<br>138:20, 139:6,<br>139:8, 139:9<br><b>independents</b><br>119:15, 119:19,<br>119:21<br><b>indian</b><br>25:8, 72:22,<br>75:6, 81:10,<br>83:10, 83:11,<br>85:7, 85:8,<br>85:15, 86:6,<br>86:15, 91:1,<br>93:5, 93:11,<br>94:10<br><b>indicated</b><br>123:20<br><b>indication</b><br>55:9, 61:17<br><b>indigenous</b><br>23:5, 23:6,<br>23:10, 25:16,<br>30:7<br><b>indirect</b><br>37:10<br><b>indisputable</b><br>25:12<br><b>individual</b><br>81:4, 92:17,<br>97:22, 100:13,<br>100:17, 108:13<br><b>individuals</b><br>53:13, 61:4,<br>107:4, 109:2,<br>109:3, 109:19,<br>110:1, 115:21,<br>124:10<br><b>industry</b><br>8:7, 8:13,<br>8:14, 89:8,<br>89:20<br><b>ineligible</b><br>63:7, 63:11,<br>63:21, 64:17,<br>69:18, 69:22,<br>153:7, 153:10,<br>153:11<br><b>inform</b><br>122:22 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of Senate Standing Committee  
Conducted on March 1, 2025

176

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>information</b><br>37:14, 115:17,<br>146:7, 156:5<br><b>informational</b><br>4:16, 9:20,<br>9:21, 9:22,<br>31:18, 31:19,<br>49:3, 50:21,<br>60:10, 66:14,<br>79:17, 99:10,<br>123:6, 123:7<br><b>informationally</b><br>89:3<br><b>informed</b><br>144:14<br><b>infringed</b><br>14:17<br><b>initial</b><br>133:20<br><b>initiate</b><br>98:14<br><b>insert</b><br>61:13<br><b>instead</b><br>13:20, 17:14,<br>30:20, 48:9,<br>55:4, 55:6,<br>56:2, 61:11,<br>102:9, 119:4<br><b>institutional</b><br>78:20<br><b>instruction</b><br>90:16, 149:7<br><b>integrity</b><br>10:19, 27:3<br><b>intended</b><br>89:2, 89:10,<br>93:15, 94:8,<br>131:16<br><b>intent</b><br>42:4, 42:8,<br>46:22, 87:18,<br>94:1, 100:6,<br>130:12, 146:2,<br>146:15, 154:5<br><b>intention</b><br>58:21<br><b>intentional</b><br>118:8 | <b>intentionally</b><br>64:13<br><b>interest</b><br>24:8, 34:8,<br>156:7, 156:13<br><b>interesting</b><br>40:11, 148:5<br><b>interfere</b><br>81:18<br><b>internally</b><br>54:12<br><b>internet</b><br>26:12<br><b>interpret</b><br>68:21, 152:15<br><b>interpretations</b><br>74:15, 145:14<br><b>intimacy</b><br>94:3<br><b>invitation</b><br>97:16<br><b>inviting</b><br>129:20<br><b>involve</b><br>107:11<br><b>involved</b><br>113:8, 134:5<br><b>issue</b><br>34:17, 37:21,<br>64:12, 77:7,<br>82:10, 84:9,<br>84:11, 111:22,<br>120:17, 121:21,<br>144:6, 148:7,<br>150:3, 150:16<br><b>issues</b><br>21:4, 78:4,<br>106:11, 118:16<br><b>it'll</b><br>82:20, 82:21,<br>98:16<br><b>it'll</b><br>63:9<br><b>it's</b><br>72:17, 85:9,<br>87:7<br><b>ivf</b><br>6:19, 7:1, 7:4, | 7:22, 8:7, 8:16,<br>8:20, 9:7<br><b>i'll</b><br>87:4<br><b>i'm</b><br>72:6, 86:16<br><hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <b>j-a-m-e-s</b><br>13:1<br><b>jacobsen</b><br>13:2<br><b>james</b><br>12:21, 13:1,<br>18:2, 32:14,<br>32:16, 32:18,<br>32:22, 33:12,<br>34:10, 35:2,<br>143:12<br><b>jane</b><br>9:19, 63:17<br><b>january</b><br>149:18<br><b>jazzed</b><br>96:21<br><b>jefferson</b><br>4:9<br><b>job</b><br>1:20, 11:13,<br>46:6, 46:9,<br>91:15, 110:16,<br>145:12<br><b>jobs</b><br>36:5<br><b>johanna</b><br>109:14<br><b>john</b><br>28:13, 63:17,<br>64:6, 64:7<br><b>joined</b><br>89:9<br><b>joke</b><br>72:8, 72:9<br><b>journey</b><br>90:20, 91:19,<br>97:18<br><b>judge</b><br>21:17, 104:4, | 106:16, 108:3,<br>114:10, 119:1,<br>119:6, 119:9,<br>119:19, 120:3,<br>120:19, 120:20,<br>121:6, 134:7,<br>137:14<br><b>judge's</b><br>104:5<br><b>judges</b><br>16:11, 20:9,<br>21:19, 103:13,<br>104:16, 105:15,<br>105:18, 106:19,<br>107:3, 107:21,<br>109:20, 111:13,<br>112:6, 112:7,<br>112:11, 112:20,<br>113:3, 116:20,<br>118:2, 118:4,<br>118:15, 118:20,<br>122:18, 124:10,<br>124:16, 124:17,<br>125:18, 127:11,<br>127:14, 127:15,<br>128:4, 128:20,<br>129:2, 132:12,<br>132:20, 136:14,<br>138:19<br><b>juggle</b><br>29:2<br><b>junior</b><br>109:15<br><b>justified</b><br>24:7<br><hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <b>k-i-n-d-n-e-s-s</b><br>76:22<br><b>kbzk</b><br>44:7<br><b>keaton</b><br>31:6<br><b>keep</b><br>20:6, 125:1,<br>132:11<br><b>keeps</b><br>34:14 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

177

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>key</b><br>78:18<br><b>killed</b><br>9:2<br><b>kind</b><br>4:3, 11:11,<br>36:14, 37:10,<br>44:11, 64:10,<br>68:20, 69:1,<br>73:21, 83:12,<br>107:13, 112:17,<br>115:14, 117:4,<br>124:12, 125:7,<br>151:17, 151:20<br><b>kindly</b><br>61:21<br><b>kindness</b><br>79:8<br><b>kindness-coleman</b><br>76:14, 76:19,<br>76:21<br><b>kinds</b><br>131:5<br><b>knew</b><br>86:13<br><b>know</b><br>7:1, 17:16,<br>18:16, 18:22,<br>19:17, 20:2,<br>20:14, 20:19,<br>29:9, 29:13,<br>29:18, 35:11,<br>35:19, 36:4,<br>37:9, 37:12,<br>37:13, 37:21,<br>40:6, 43:2,<br>44:13, 45:2,<br>49:2, 51:12,<br>51:15, 51:18,<br>52:15, 52:22,<br>53:3, 57:10,<br>58:13, 62:13,<br>63:16, 65:2,<br>65:19, 67:4,<br>67:14, 68:14,<br>68:18, 68:20,<br>69:11, 70:8,<br>70:20, 71:9, | 71:11, 73:6,<br>81:1, 82:16,<br>85:17, 85:21,<br>86:4, 86:17,<br>88:6, 93:21,<br>95:2, 96:10,<br>97:18, 97:22,<br>98:1, 98:16,<br>99:14, 99:15,<br>102:9, 102:10,<br>103:5, 108:18,<br>111:6, 111:10,<br>111:19, 113:5,<br>114:17, 114:22,<br>115:12, 115:15,<br>116:15, 117:3,<br>124:4, 126:20,<br>126:22, 129:18,<br>132:1, 132:2,<br>133:16, 133:19,<br>135:10, 135:11,<br>136:12, 137:3,<br>137:9, 138:22,<br>139:14, 139:21,<br>143:16, 148:12,<br>151:9, 152:8,<br>152:9<br><b>knowledge</b><br>78:20, 90:1,<br>94:3, 95:10<br><b>knows</b><br>85:13, 85:15<br><b>kootenai</b><br>73:1<br><hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <b>l-u-s-s-e-n-h-e--</b><br><b>i-d-e</b><br>5:22, 6:5<br><b>labor</b><br>88:21, 89:8,<br>89:20, 90:4,<br>90:6, 91:12,<br>94:21, 95:3,<br>99:14, 99:16,<br>99:21<br><b>lack</b><br>105:6, 121:10 | <b>lacking</b><br>78:20<br><b>lady</b><br>6:7, 90:22,<br>136:13<br><b>language</b><br>43:8, 119:11,<br>119:14, 139:16,<br>144:4, 144:12,<br>144:13, 150:17<br><b>large</b><br>34:20, 36:11,<br>46:4, 48:8,<br>53:12, 111:7,<br>115:13, 119:22<br><b>larger</b><br>48:14, 52:4,<br>52:5, 61:6<br><b>largest</b><br>28:15<br><b>last</b><br>3:15, 3:16,<br>15:16, 16:2,<br>20:6, 25:6,<br>39:15, 44:9,<br>45:5, 45:7,<br>45:14, 64:11,<br>75:4, 93:6,<br>103:12, 103:18,<br>107:1, 107:2,<br>108:11, 108:22,<br>110:20, 114:11,<br>114:14, 122:17,<br>135:22, 137:2,<br>137:8<br><b>lasting</b><br>93:9<br><b>lastly</b><br>78:22<br><b>late</b><br>11:8, 16:6,<br>35:17, 37:13,<br>45:16, 124:2<br><b>later</b><br>64:5, 111:7,<br>127:11, 137:7<br><b>laudable</b><br>117:20 | <b>laura</b><br>4:8<br><b>law</b><br>24:6, 25:12,<br>27:18, 27:20,<br>29:16, 30:1,<br>31:12, 33:18,<br>50:4, 52:15,<br>55:4, 55:7,<br>61:12, 67:9,<br>89:17, 98:14,<br>120:19, 121:15,<br>127:3, 128:2,<br>139:17, 152:10<br><b>laws</b><br>27:2, 27:4,<br>34:4, 61:13<br><b>lc</b><br>137:7<br><b>leaders</b><br>86:20, 95:17,<br>97:7, 99:4<br><b>leadership</b><br>16:1, 46:6,<br>46:8, 89:21,<br>90:9, 94:5, 96:6<br><b>leads</b><br>90:18<br><b>lean</b><br>113:5, 133:7<br><b>learn</b><br>106:11<br><b>learned</b><br>46:6, 91:21<br><b>learning</b><br>75:12<br><b>least</b><br>8:18, 33:22,<br>65:7, 111:1,<br>111:3, 111:6,<br>130:13, 130:16,<br>133:7, 134:2,<br>139:4<br><b>leave</b><br>39:9, 58:4<br><b>leaving</b><br>78:8<br><b>left</b><br>45:11, 45:13, |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

178

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>45:18, 77:22<br/> <b>legal</b><br/> 29:20, 31:11,<br/> 40:10, 92:17,<br/> 143:17<br/> <b>legislation</b><br/> 27:17, 27:18,<br/> 75:16, 100:16,<br/> 100:20, 103:4,<br/> 103:21<br/> <b>legislative</b><br/> 27:11<br/> <b>legislators</b><br/> 27:1, 95:18<br/> <b>legislature</b><br/> 23:20, 24:13,<br/> 24:17, 103:8,<br/> 133:17<br/> <b>lend</b><br/> 99:22<br/> <b>lengthy</b><br/> 148:14<br/> <b>less</b><br/> 11:14, 21:3,<br/> 43:18, 82:1<br/> <b>let's</b><br/> 5:14, 15:7,<br/> 60:6, 67:6,<br/> 103:18, 107:17,<br/> 115:19, 123:11,<br/> 151:6<br/> <b>letters</b><br/> 129:20<br/> <b>letting</b><br/> 139:4<br/> <b>let's</b><br/> 80:13<br/> <b>level</b><br/> 34:9, 77:9<br/> <b>levels</b><br/> 7:4<br/> <b>lewis</b><br/> 4:10, 21:16,<br/> 22:2, 114:9<br/> <b>liaison</b><br/> 74:1, 74:4,<br/> 85:1, 85:9,<br/> 88:11, 90:12,</p> | <p>90:15, 91:6,<br/> 92:17, 93:18,<br/> 93:22, 95:12,<br/> 95:20, 102:9<br/> <b>liaisons</b><br/> 78:18, 85:10,<br/> 86:3<br/> <b>libby</b><br/> 45:6<br/> <b>license</b><br/> 55:19, 55:20,<br/> 56:2, 56:6<br/> <b>lies</b><br/> 110:21<br/> <b>lieutenant</b><br/> 149:5<br/> <b>life</b><br/> 7:20, 17:8,<br/> 44:16<br/> <b>lifetime</b><br/> 8:5<br/> <b>light</b><br/> 101:16<br/> <b>likely</b><br/> 29:17, 29:18<br/> <b>limitation</b><br/> 148:15, 148:17<br/> <b>limitations</b><br/> 8:5, 71:2,<br/> 71:4, 150:21<br/> <b>limited</b><br/> 26:11, 151:7<br/> <b>limits</b><br/> 150:2, 150:21,<br/> 152:6<br/> <b>line</b><br/> 20:19, 35:9,<br/> 35:13, 38:1,<br/> 41:4, 41:12,<br/> 58:17, 62:21,<br/> 80:7, 80:14,<br/> 82:1, 84:22,<br/> 85:2, 112:2,<br/> 115:19, 116:7,<br/> 116:13, 116:17,<br/> 116:18, 130:12,<br/> 142:21, 151:14<br/> <b>lines</b><br/> 14:14, 19:16,</p> | <p>19:21, 21:2,<br/> 41:3<br/> <b>lisa</b><br/> 117:18<br/> <b>list</b><br/> 3:14, 57:15,<br/> 58:5, 59:2,<br/> 60:21, 60:22,<br/> 72:14, 105:13,<br/> 106:16, 106:19,<br/> 106:21, 107:4,<br/> 107:10, 107:11,<br/> 109:5, 111:13,<br/> 126:2, 126:4,<br/> 126:5, 126:10,<br/> 126:11, 128:22,<br/> 129:2, 138:5,<br/> 138:7, 138:14,<br/> 138:15, 138:16,<br/> 140:18<br/> <b>listed</b><br/> 9:17, 84:22,<br/> 156:11<br/> <b>listen</b><br/> 12:16, 33:6,<br/> 56:10<br/> <b>listening</b><br/> 76:20<br/> <b>listing</b><br/> 115:11, 134:12<br/> <b>lists</b><br/> 84:5, 129:13,<br/> 138:19<br/> <b>litigate</b><br/> 65:9<br/> <b>litigious</b><br/> 33:18<br/> <b>little</b><br/> 3:3, 3:4, 6:9,<br/> 6:12, 6:13, 7:6,<br/> 12:7, 14:2,<br/> 15:7, 26:21,<br/> 48:1, 49:19,<br/> 56:18, 68:10,<br/> 70:7, 82:9,<br/> 82:12, 82:14,<br/> 82:17, 86:14,<br/> 107:1, 124:13,</p> | <p>124:15, 131:22,<br/> 135:20, 137:4,<br/> 154:18<br/> <b>live</b><br/> 21:15, 23:12,<br/> 26:9, 63:13,<br/> 70:13<br/> <b>lives</b><br/> 68:17<br/> <b>living</b><br/> 23:10<br/> <b>loaded</b><br/> 45:11<br/> <b>local</b><br/> 101:22, 115:7<br/> <b>location</b><br/> 18:22<br/> <b>locations</b><br/> 18:20<br/> <b>lola</b><br/> 5:16<br/> <b>long</b><br/> 19:16, 21:2,<br/> 30:19, 56:11,<br/> 67:12, 72:18,<br/> 114:6<br/> <b>longer</b><br/> 35:11, 35:19,<br/> 37:14<br/> <b>look</b><br/> 36:21, 82:1,<br/> 87:4, 90:5,<br/> 115:18, 139:16<br/> <b>looked</b><br/> 34:1, 98:17,<br/> 114:19, 117:8,<br/> 143:11, 148:5<br/> <b>looking</b><br/> 50:12, 51:20,<br/> 61:20, 75:10,<br/> 101:20, 127:14<br/> <b>looks</b><br/> 36:22<br/> <b>lost</b><br/> 84:5<br/> <b>lot</b><br/> 12:8, 18:17,<br/> 23:1, 36:4,</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

179

|                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 44:14, 45:19,<br>46:21, 48:16,<br>58:13, 73:12,<br>87:22, 102:4,<br>108:10, 111:7,<br>114:13, 120:4,<br>120:10, 120:14,<br>121:3, 121:5,<br>135:6, 138:15<br><b>love</b><br>8:17, 46:18,<br>61:13, 141:7<br><b>low</b><br>120:13<br><b>lowest</b><br>90:7<br><b>lr</b><br>27:11<br><b>lucky</b><br>129:13<br><b>ludicrous</b><br>82:16<br><b>lussenheide</b><br>5:21, 6:4, 6:5,<br>7:11 | <b>mailbox</b><br>68:17<br><b>main</b><br>126:1<br><b>maintain</b><br>93:9<br><b>maintaining</b><br>30:16<br><b>maintenance</b><br>20:9, 58:6,<br>59:2, 60:21,<br>61:1<br><b>majority</b><br>107:22, 108:20,<br>119:18<br><b>make</b><br>3:22, 5:13,<br>10:6, 14:4,<br>17:17, 24:19,<br>33:20, 34:21,<br>39:7, 46:14,<br>46:22, 55:5,<br>69:22, 71:19,<br>72:18, 81:18,<br>86:5, 107:14,<br>108:21, 110:12,<br>112:13, 115:2,<br>118:10, 118:11,<br>120:9, 122:6,<br>127:20, 143:5,<br>145:2, 145:10,<br>146:13, 153:21,<br>154:5<br><b>makes</b><br>9:6, 17:6,<br>71:20, 112:17,<br>112:18, 113:2,<br>125:21, 132:19<br><b>making</b><br>34:21, 78:19,<br>108:3, 122:2,<br>145:13<br><b>male1</b><br>154:11<br><b>man</b><br>6:6<br><b>managed</b><br>46:3 | <b>management</b><br>15:2, 83:19<br><b>manhattan</b><br>109:15<br><b>manner</b><br>11:14<br><b>many</b><br>3:8, 23:10,<br>23:12, 23:13,<br>26:17, 32:21,<br>33:11, 39:10,<br>51:20, 53:13,<br>67:4, 67:5,<br>77:16, 84:2,<br>96:18, 97:6,<br>111:12, 112:4,<br>118:19, 119:7,<br>133:2, 133:11,<br>154:9<br><b>manzella</b><br>2:6, 147:16<br><b>march</b><br>1:11, 111:9,<br>125:17<br><b>marked</b><br>30:4<br><b>massive</b><br>8:6<br><b>matter</b><br>6:21<br><b>maximally</b><br>17:3<br><b>maximum</b><br>14:22<br><b>maybe</b><br>36:9, 42:13,<br>43:4, 49:19,<br>56:20, 57:10,<br>102:10, 103:9,<br>104:18, 111:5,<br>111:15, 111:16,<br>112:7, 112:22,<br>113:3, 113:7,<br>133:4, 136:6,<br>139:10<br><b>mca</b><br>73:19, 74:16<br><b>mckamey</b><br>2:8, 2:9, | 43:18, 43:19,<br>47:12, 47:13,<br>47:14, 47:17,<br>48:13, 49:6,<br>53:6, 53:8,<br>53:20, 54:2,<br>54:3, 54:4,<br>56:15, 56:17,<br>57:1, 60:1,<br>60:16, 60:17,<br>94:13, 94:14,<br>94:17, 94:18,<br>98:4, 98:8,<br>123:9, 123:10,<br>123:15, 123:17,<br>125:6, 140:20,<br>141:3, 141:10,<br>141:16, 141:19,<br>142:2, 142:15,<br>147:14, 147:15,<br>147:22, 153:1,<br>153:3, 153:13<br><b>mean</b><br>19:22, 26:19,<br>35:10, 36:4,<br>79:1, 86:20,<br>133:6, 139:9,<br>150:15, 151:19,<br>152:8, 152:15<br><b>meaning</b><br>15:5, 130:17,<br>144:13<br><b>meaningful</b><br>84:13<br><b>means</b><br>24:6, 30:16,<br>44:15, 56:5,<br>79:3, 111:6<br><b>meant</b><br>114:22, 115:1,<br>117:12<br><b>measure</b><br>41:2, 48:19,<br>50:2, 53:11<br><b>meat</b><br>80:9, 107:17<br><b>medicaid</b><br>9:8, 77:19 |
| <b>M</b>                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>m-i-t-h</b><br>4:9<br><b>m-o</b><br>62:18<br><b>machine</b><br>22:2, 50:4,<br>53:3<br><b>machines</b><br>18:14, 18:17,<br>26:17, 48:19,<br>48:20, 50:5,<br>51:15<br><b>madan</b><br>141:7<br><b>made</b><br>15:13, 16:16,<br>27:10, 90:9,<br>91:10, 91:16,<br>106:9<br><b>mail</b><br>23:11, 26:11                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

180

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p><b>meet</b><br/>15:22, 69:4,<br/>70:5, 76:7<br/><b>meeting</b><br/>75:20, 76:4,<br/>86:2<br/><b>meetings</b><br/>122:10<br/><b>member</b><br/>90:17, 114:10,<br/>149:11, 149:14<br/><b>members</b><br/>4:8, 7:15,<br/>10:8, 10:9,<br/>12:22, 18:4,<br/>19:8, 19:9,<br/>22:20, 25:4,<br/>26:16, 28:12,<br/>31:6, 32:1,<br/>33:12, 42:5,<br/>49:12, 49:21,<br/>51:11, 56:13,<br/>57:9, 75:3,<br/>76:15, 91:22,<br/>92:10, 103:1,<br/>109:7, 109:14,<br/>114:6, 117:18,<br/>135:12, 137:1,<br/>143:16<br/><b>memorial</b><br/>102:5, 102:8<br/><b>merely</b><br/>58:7<br/><b>met</b><br/>119:13<br/><b>metropolitan</b><br/>48:11, 48:13<br/><b>mhm</b><br/>116:11<br/><b>microphone</b><br/>3:18, 3:22,<br/>4:1, 150:9<br/><b>middle</b><br/>44:21, 45:2,<br/>91:4, 137:10<br/><b>midnight</b><br/>37:14, 37:22<br/><b>might</b><br/>11:9, 11:18,</p> | <p>44:5, 63:13,<br/>80:22, 84:8,<br/>135:19<br/><b>mike</b><br/>11:5<br/><b>miles</b><br/>23:12, 26:16,<br/>44:18<br/><b>milestones</b><br/>96:5<br/><b>million</b><br/>9:1, 16:8<br/><b>mind</b><br/>20:7, 140:16<br/><b>mine</b><br/>141:18<br/><b>minute</b><br/>13:19, 45:5,<br/>45:7, 45:14,<br/>122:17<br/><b>minutes</b><br/>20:16<br/><b>misleading</b><br/>67:22<br/><b>miss</b><br/>2:3, 4:19, 5:7,<br/>5:14, 9:11,<br/>9:13, 11:10,<br/>21:12, 22:7,<br/>22:9, 25:19,<br/>28:4, 31:16,<br/>31:19, 31:21,<br/>32:5, 35:2,<br/>37:5, 37:7,<br/>38:7, 39:8,<br/>39:22, 40:4,<br/>42:14, 49:8,<br/>49:16, 50:22,<br/>51:4, 52:20,<br/>53:9, 57:7,<br/>57:16, 60:6,<br/>66:7, 66:12,<br/>76:13, 79:8,<br/>79:11, 79:15,<br/>79:18, 94:15,<br/>94:19, 98:10,<br/>110:3, 110:5,<br/>111:5, 113:12,</p> | <p>113:13, 113:14,<br/>113:16, 114:4,<br/>116:5, 117:13,<br/>117:15, 117:16,<br/>123:2, 123:20,<br/>123:21, 126:13,<br/>126:15, 126:20,<br/>128:9, 128:11,<br/>128:15, 130:2,<br/>130:3, 130:11,<br/>131:6, 131:11,<br/>131:12, 132:10,<br/>135:19, 143:14,<br/>145:12, 146:9,<br/>150:21<br/><b>missions</b><br/>90:3<br/><b>missoula</b><br/>72:22<br/><b>mistake</b><br/>44:19, 45:2<br/><b>mistaken</b><br/>67:19<br/><b>mistakenly</b><br/>45:13<br/><b>mitigate</b><br/>21:2<br/><b>mixed</b><br/>56:19<br/><b>mobility</b><br/>96:20<br/><b>model</b><br/>99:20<br/><b>mom</b><br/>6:8<br/><b>moment</b><br/>52:13, 135:16<br/><b>momentarily</b><br/>113:20<br/><b>monday</b><br/>12:4, 18:9,<br/>18:16, 18:20,<br/>19:3, 20:11,<br/>21:18, 36:8,<br/>36:16, 36:17,<br/>39:4, 42:2,<br/>46:16, 46:19,<br/>140:9, 140:10,</p> | <p>154:21<br/><b>money</b><br/>16:12, 29:18,<br/>82:21, 96:8<br/><b>montana</b><br/>1:8, 8:6, 14:5,<br/>14:21, 17:10,<br/>17:18, 19:18,<br/>22:21, 24:4,<br/>25:14, 25:17,<br/>26:10, 27:8,<br/>27:10, 27:14,<br/>27:16, 27:19,<br/>27:22, 28:15,<br/>30:1, 30:14,<br/>32:3, 47:19,<br/>49:22, 55:4,<br/>55:6, 55:20,<br/>56:7, 58:13,<br/>61:4, 61:10,<br/>63:1, 64:3,<br/>75:11, 75:17,<br/>76:1, 77:2,<br/>77:13, 80:21,<br/>83:11, 91:11,<br/>95:16, 148:17,<br/>150:20<br/><b>montana's</b><br/>25:10, 27:21,<br/>89:8<br/><b>montanan</b><br/>28:20, 90:4<br/><b>montanans</b><br/>7:20, 9:6,<br/>13:6, 24:19,<br/>30:22<br/><b>month</b><br/>90:20, 129:19<br/><b>months</b><br/>97:14<br/><b>moral</b><br/>6:22<br/><b>more</b><br/>13:9, 16:12,<br/>19:20, 19:22,<br/>24:16, 34:21,<br/>35:14, 50:13,<br/>53:14, 70:21,</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

181

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 72:5, 72:6,<br>75:14, 75:19,<br>76:2, 79:11,<br>82:4, 97:19,<br>106:11, 107:20,<br>113:20, 114:1,<br>120:7, 123:12,<br>125:3, 125:15,<br>125:20, 126:9,<br>127:15, 134:3,<br>144:5, 144:6,<br>145:7, 148:7,<br>149:4, 149:8,<br>149:9, 149:11,<br>149:13, 152:11,<br>154:19<br><b>morigeau</b><br>2:12, 62:9,<br>62:10, 62:14,<br>62:18, 65:1,<br>65:16, 66:22,<br>68:9, 69:15,<br>69:19, 72:4,<br>72:13, 142:12,<br>147:8, 154:14<br><b>morning</b><br>7:18, 12:3,<br>12:11, 12:21,<br>15:4, 17:12,<br>22:19, 35:7<br><b>most</b><br>14:21, 17:17,<br>24:3, 27:8,<br>81:21, 88:11,<br>88:12, 92:20,<br>96:13, 102:14,<br>131:21<br><b>mountain</b><br>95:17<br><b>mouth</b><br>4:1<br><b>mouths</b><br>3:3<br><b>move</b><br>22:16, 61:22,<br>69:17, 70:9,<br>114:2, 122:7,<br>137:22, 139:2, | 140:19, 140:21,<br>141:1, 141:4,<br>141:9, 141:11,<br>141:14, 141:20,<br>142:16, 147:22<br><b>moved</b><br>58:13, 105:19,<br>138:2<br><b>moves</b><br>29:16, 138:17,<br>139:17<br><b>moving</b><br>29:9, 123:8<br><b>mt</b><br>156:21<br><b>much</b><br>10:19, 20:1,<br>21:18, 31:2,<br>37:9, 38:3,<br>39:7, 47:14,<br>75:10, 75:19,<br>76:2, 79:21,<br>86:12, 91:21,<br>114:12, 119:4,<br>131:7, 144:13,<br>148:6, 150:13,<br>153:3<br><b>multiple</b><br>64:2, 70:14,<br>84:9, 84:11<br><b>municipal</b><br>131:5<br><b>must</b><br>24:7, 26:4,<br>107:19, 108:14,<br>111:2, 111:3,<br>116:14<br><b>myself</b><br>7:19, 62:15,<br>110:12<br><hr/> <b>N</b> <hr/> <b>naaden</b><br>1:22, 156:2,<br>156:18<br><b>name</b><br>3:15, 3:16,<br>4:8, 7:17, 11:4, | 18:5, 21:14,<br>22:20, 25:5,<br>25:6, 28:13,<br>72:19, 75:4,<br>76:15, 76:20,<br>77:20, 83:8,<br>86:21, 90:14,<br>109:14, 114:7,<br>148:21, 151:8<br><b>names</b><br>63:4, 105:18,<br>107:4, 111:19,<br>138:20<br><b>narrative</b><br>14:19, 75:18<br><b>narrow</b><br>16:21<br><b>national</b><br>56:14, 56:21,<br>57:1<br><b>nations</b><br>77:10, 77:14,<br>77:22, 78:11,<br>78:17, 79:2,<br>84:1, 99:19<br><b>native</b><br>26:3, 31:7,<br>33:22<br><b>natural</b><br>93:3<br><b>ncoa</b><br>54:22, 55:8,<br>56:16, 56:20,<br>59:4, 61:16<br><b>nd</b><br>70:7<br><b>necessarily</b><br>56:6, 61:16,<br>64:13, 99:7,<br>100:7, 121:14,<br>121:22, 127:5,<br>134:11, 143:19<br><b>necessary</b><br>17:21, 51:14,<br>78:13<br><b>neck</b><br>102:1<br><b>need</b><br>7:1, 10:14, | 17:19, 19:20,<br>20:12, 33:9,<br>34:17, 46:10,<br>46:19, 50:4,<br>50:5, 52:22,<br>55:15, 60:4,<br>60:19, 69:4,<br>70:5, 78:15,<br>89:16, 91:14,<br>98:14, 111:15,<br>111:16, 117:8,<br>120:9, 120:19,<br>122:4, 122:6,<br>122:22, 123:22,<br>128:2, 129:17,<br>135:5, 138:13,<br>140:5, 140:16,<br>141:18, 146:17,<br>150:22, 151:21<br><b>needed</b><br>14:7, 14:12,<br>55:1, 107:21,<br>111:16, 121:8,<br>143:12, 146:17,<br>148:7<br><b>needle</b><br>137:22, 138:1,<br>138:17, 139:18<br><b>needs</b><br>17:22, 42:6,<br>42:14, 119:6,<br>122:20, 122:21,<br>134:19<br><b>negating</b><br>23:1<br><b>neighbor</b><br>37:9<br><b>neither</b><br>63:15, 156:5<br><b>neutral</b><br>110:13<br><b>never</b><br>58:15, 63:19,<br>63:22, 64:8,<br>64:16, 69:7,<br>101:20, 105:3,<br>121:7, 122:15<br><b>new</b><br>10:6, 56:13, |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

182

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 89:21, 112:10,<br>122:22, 137:13,<br>141:6, 150:17,<br>151:14<br><b>next</b><br>7:12, 18:3,<br>21:12, 22:7,<br>25:1, 28:2,<br>31:3, 76:10,<br>105:10, 105:16,<br>110:4, 116:22,<br>125:18, 126:6,<br>137:17, 138:1<br><b>next-door</b><br>37:9<br><b>nice</b><br>6:1, 6:7, 6:17,<br>6:21, 57:22,<br>58:1, 141:6<br><b>night</b><br>18:22, 110:20,<br>114:14, 135:22<br><b>night's</b><br>154:22<br><b>nights</b><br>21:2<br><b>nine</b><br>48:15, 82:1<br><b>nominate</b><br>115:22<br><b>nominated</b><br>104:8, 108:14,<br>149:21<br><b>nominating</b><br>153:6<br><b>nomination</b><br>63:2, 148:19<br><b>nominees</b><br>106:17<br><b>non</b><br>43:9, 43:17<br><b>non-issue</b><br>63:10<br><b>non-severability</b><br>43:17, 142:5<br><b>none</b><br>9:13, 10:1,<br>22:10, 22:12, | 28:3, 31:15,<br>50:17, 50:20,<br>50:22, 51:2,<br>60:1, 60:6,<br>60:12, 66:6,<br>66:11, 66:15,<br>66:16, 76:11,<br>79:14, 79:16,<br>79:18, 79:20,<br>117:15, 123:4,<br>136:19, 154:6<br><b>noon</b><br>12:12, 15:9,<br>38:19, 39:5,<br>42:3<br><b>nope</b><br>104:14<br><b>normal</b><br>120:20<br><b>normally</b><br>35:22, 36:3<br><b>northwest</b><br>11:6<br><b>note</b><br>87:19, 88:7<br><b>nothing</b><br>94:6, 149:19<br><b>notice</b><br>54:22, 61:2,<br>129:15, 130:21<br><b>noticed</b><br>43:14, 43:15,<br>121:2, 142:20<br><b>notices</b><br>59:19<br><b>notification</b><br>104:4, 105:13,<br>137:19<br><b>notified</b><br>137:16, 138:7<br><b>notify</b><br>58:18, 104:10,<br>106:15, 126:2,<br>126:3, 138:4,<br>138:12<br><b>notifying</b><br>137:14<br><b>november</b><br>37:12 | <b>nuances</b><br>69:1<br><b>number</b><br>11:15, 23:22,<br>26:5, 39:15,<br>39:18, 40:5,<br>46:1, 70:15,<br>95:17, 107:21,<br>108:12, 114:18,<br>119:22, 137:7<br><b>numbered</b><br>129:8<br><b>numbering</b><br>43:15<br><b>numbers</b><br>5:10, 39:18,<br>40:15, 40:18<br><b>numerous</b><br>23:7, 105:20<br><b>nutshell</b><br>11:10<br><b>nvra</b><br>54:22, 56:14,<br>57:14, 58:6,<br>60:21<br><hr/> <b>O</b> <hr/> <b>o'neil</b><br>66:7, 66:12<br><b>o'neill</b><br>22:9, 31:16,<br>31:19, 49:8,<br>50:22, 60:7,<br>76:13, 79:11,<br>79:15, 79:19,<br>113:14, 117:16<br><b>objection</b><br>88:22, 140:7,<br>140:22, 141:5<br><b>obligation</b><br>65:13<br><b>obligations</b><br>114:13<br><b>observe</b><br>44:18, 119:4<br><b>observed</b><br>45:21, 45:22<br><b>obstacle</b><br>15:18 | <b>obstacles</b><br>23:7, 26:5,<br>46:8<br><b>obtain</b><br>107:21<br><b>obtaining</b><br>79:2<br><b>obvious</b><br>48:2<br><b>obviously</b><br>125:21<br><b>occur</b><br>77:21<br><b>october</b><br>89:22<br><b>odd</b><br>22:18<br><b>offend</b><br>86:19<br><b>offered</b><br>61:21, 122:15<br><b>offering</b><br>30:4, 41:7,<br>121:7<br><b>office</b><br>11:16, 14:12,<br>19:9, 23:2,<br>23:9, 25:21,<br>26:9, 39:2,<br>58:8, 58:13,<br>58:19, 59:10,<br>59:17, 63:3,<br>63:7, 63:8,<br>70:6, 71:2,<br>71:4, 85:16,<br>86:16, 88:18,<br>89:20, 90:11,<br>90:15, 90:22,<br>91:6, 91:10,<br>92:4, 93:7,<br>95:6, 95:9,<br>148:16, 148:18,<br>149:1, 149:2,<br>149:3, 150:5,<br>150:21, 151:7,<br>151:8, 151:22<br><b>officers</b><br>74:10 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

183

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <b>offices</b><br>12:4, 21:6,<br>23:13, 38:15,<br>38:19, 44:16,<br>148:22<br><b>official</b><br>105:11<br><b>officials</b><br>11:12, 12:5,<br>13:22, 24:9,<br>148:19<br><b>often</b><br>26:6, 65:5,<br>77:8<br><b>oftentimes</b><br>118:17<br><b>oh</b><br>5:12, 43:20,<br>47:11, 57:5,<br>64:5, 67:12,<br>67:21, 73:14,<br>88:16, 123:15,<br>136:22, 141:13,<br>141:16<br><b>olsen</b><br>2:3, 4:19,<br>5:14, 28:4, 28:5<br><b>olson</b><br>9:13<br><b>omnibus</b><br>82:6<br><b>once</b><br>130:22, 142:16,<br>146:20<br><b>one</b><br>5:5, 6:14,<br>6:15, 8:16,<br>8:17, 8:18,<br>9:15, 10:20,<br>11:5, 13:19,<br>14:19, 17:13,<br>18:15, 24:3,<br>31:20, 31:21,<br>32:14, 33:20,<br>34:12, 36:6,<br>36:22, 41:8,<br>44:1, 45:10,<br>46:5, 47:11, | 49:9, 53:1,<br>57:6, 62:17,<br>65:5, 67:4,<br>70:14, 73:9,<br>73:20, 75:20,<br>79:4, 81:2,<br>82:4, 82:6,<br>82:10, 84:10,<br>85:12, 90:1,<br>90:3, 90:10,<br>91:5, 92:2,<br>93:13, 94:9,<br>95:13, 96:21,<br>100:19, 101:8,<br>103:22, 104:3,<br>107:22, 108:8,<br>108:20, 108:22,<br>110:18, 110:20,<br>111:8, 112:22,<br>114:3, 115:8,<br>116:17, 118:22,<br>119:12, 120:5,<br>120:10, 121:1,<br>122:11, 122:13,<br>126:10, 127:11,<br>132:7, 132:16,<br>135:20, 136:14,<br>137:17, 139:4,<br>139:5, 144:1,<br>144:8, 148:21,<br>149:16, 149:17,<br>151:11, 151:12<br><b>one's</b><br>105:10<br><b>ones</b><br>5:6, 41:8, 88:6<br><b>online</b><br>4:20, 4:22,<br>5:19, 9:14,<br>9:16, 9:22,<br>10:2, 22:9,<br>22:11, 22:12,<br>22:14, 22:16,<br>28:4, 28:6,<br>31:14, 31:18,<br>31:19, 49:8,<br>49:10, 50:17,<br>50:19, 51:1, | 57:4, 57:5,<br>60:6, 60:7,<br>60:11, 60:13,<br>66:7, 66:11,<br>66:15, 76:13,<br>79:11, 79:15,<br>79:18, 110:5,<br>113:14, 113:21,<br>114:1, 117:16,<br>123:8<br><b>only</b><br>9:2, 29:6,<br>29:14, 30:11,<br>34:18, 43:8,<br>60:18, 78:10,<br>78:13, 82:15,<br>84:10, 95:7,<br>122:13, 125:2,<br>143:20, 143:22,<br>144:1, 144:8<br><b>open</b><br>4:5, 10:22,<br>12:2, 12:11,<br>36:3, 36:15,<br>38:11, 38:13,<br>38:15, 38:19,<br>39:3, 41:14,<br>42:1, 42:3,<br>47:12, 51:13,<br>52:3, 62:7,<br>102:20, 109:1,<br>125:1, 127:2,<br>135:7, 145:18<br><b>opened</b><br>105:3, 125:20<br><b>opening</b><br>52:1, 52:6,<br>52:11<br><b>openly</b><br>133:8<br><b>opens</b><br>54:1, 72:15,<br>113:6<br><b>operations</b><br>46:4<br><b>opi</b><br>99:17<br><b>opinion</b><br>19:7, 64:18, | 79:3, 99:22,<br>152:5<br><b>opponent</b><br>5:16, 7:12,<br>25:2, 28:3,<br>31:4, 31:9,<br>113:17<br><b>opponents</b><br>4:15, 5:20,<br>9:12, 12:16,<br>14:3, 22:13,<br>22:17, 28:6,<br>29:16, 31:14,<br>31:17, 49:3,<br>50:18, 60:3,<br>60:5, 60:7,<br>66:10, 79:13,<br>79:14, 79:15,<br>82:5, 114:3,<br>117:15, 123:3,<br>123:6<br><b>opportunities</b><br>13:6<br><b>opportunity</b><br>4:17, 13:4,<br>13:14, 17:9,<br>90:5, 96:19,<br>96:22, 145:2<br><b>oppose</b><br>16:4, 28:1,<br>28:17, 99:11<br><b>opposed</b><br>35:17, 119:21,<br>122:17, 142:9,<br>154:10<br><b>opposition</b><br>7:16, 22:22,<br>25:9<br><b>option</b><br>26:1, 132:13,<br>144:1<br><b>options</b><br>30:4<br><b>order</b><br>2:3, 3:7, 3:11,<br>4:13, 13:21,<br>89:16, 96:7,<br>122:14, 127:10, |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of Senate Standing Committee  
Conducted on March 1, 2025

184

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>129:3<br/><b>ordered</b><br/>140:22, 141:5<br/><b>organization</b><br/>28:15, 28:17<br/><b>organizations</b><br/>23:22<br/><b>organized</b><br/>33:4, 33:10,<br/>95:2<br/><b>original</b><br/>153:6, 153:11<br/><b>originally</b><br/>79:10<br/><b>other</b><br/>5:15, 9:12,<br/>14:20, 26:7,<br/>28:12, 35:6,<br/>35:19, 40:19,<br/>41:8, 46:1,<br/>50:7, 75:15,<br/>75:17, 81:1,<br/>83:1, 94:19,<br/>96:11, 98:2,<br/>98:16, 99:15,<br/>104:18, 107:11,<br/>107:16, 110:17,<br/>112:8, 113:1,<br/>114:13, 116:17,<br/>118:22, 120:11,<br/>125:5, 131:3,<br/>139:4, 145:16,<br/>148:18, 150:14,<br/>152:16, 154:19<br/><b>other's</b><br/>76:6<br/><b>others</b><br/>7:2, 8:19, 9:7,<br/>27:5, 78:8,<br/>87:5, 112:7<br/><b>otherwise</b><br/>8:20, 13:7,<br/>124:4, 149:20,<br/>156:8<br/><b>ourselves</b><br/>120:6<br/><b>out</b><br/>13:17, 19:21,</p> | <p>20:14, 20:19,<br/>42:15, 46:12,<br/>49:4, 55:13,<br/>63:11, 63:13,<br/>64:4, 68:17,<br/>69:17, 71:6,<br/>71:7, 71:14,<br/>72:11, 74:5,<br/>76:17, 76:18,<br/>84:1, 100:15,<br/>100:18, 103:2,<br/>105:2, 108:7,<br/>111:2, 111:18,<br/>114:16, 115:1,<br/>121:9, 129:14,<br/>129:15, 129:20,<br/>135:11, 137:11,<br/>138:7, 138:15,<br/>138:16, 138:22,<br/>142:12, 144:16,<br/>152:14, 152:18,<br/>154:20<br/><b>outcome</b><br/>29:19, 156:8<br/><b>outside</b><br/>3:14, 3:19<br/><b>outweigh</b><br/>119:18<br/><b>over</b><br/>26:21, 57:17,<br/>57:19, 90:17,<br/>102:2, 110:17,<br/>121:19, 136:2<br/><b>overall</b><br/>119:7<br/><b>overcome</b><br/>26:4<br/><b>overlooked</b><br/>77:8<br/><b>oversee</b><br/>84:2<br/><b>overseeing</b><br/>104:21<br/><b>overwhelmingly</b><br/>27:15<br/><b>own</b><br/>77:11, 81:17,<br/>107:4, 138:20</p> | <p><b>o'neill</b><br/>22:10, 31:15,<br/>31:20, 49:9,<br/>50:20, 51:2,<br/>57:6, 60:8,<br/>60:12, 66:8,<br/>66:13, 66:16,<br/>79:12, 79:16,<br/>79:20, 113:15,<br/>113:22, 123:4</p> <hr/> <p><b>P</b></p> <hr/> <p><b>p-a-u-l-s-e-n</b><br/>18:5<br/><b>p-l-e-t-t-e-n-b</b><br/>32:2, 49:13<br/><b>p-l-e-t-t-e-n-b--</b><br/><b>e-r-g</b><br/>110:11<br/><b>page</b><br/>41:1, 43:6,<br/>43:15, 74:6,<br/>80:12, 88:8,<br/>102:15, 108:12,<br/>112:2, 115:19,<br/>116:7, 116:13,<br/>116:18, 142:21,<br/>156:11<br/><b>pages</b><br/>1:21, 156:8<br/><b>paid</b><br/>72:7<br/><b>panel</b><br/>96:11<br/><b>paragraph</b><br/>102:16, 146:4<br/><b>parks</b><br/>83:20, 84:7,<br/>85:11, 85:18,<br/>86:1<br/><b>part</b><br/>16:1, 43:10,<br/>57:19, 68:6,<br/>73:17, 73:20,<br/>74:9, 88:12,<br/>95:8, 96:14,<br/>96:15, 100:12,<br/>101:13, 102:12,</p> | <p>102:14, 127:2,<br/>150:15<br/><b>participate</b><br/>26:5, 39:10<br/><b>participation</b><br/>14:22, 90:6,<br/>91:12<br/><b>particular</b><br/>23:7, 25:16,<br/>56:3, 67:20<br/><b>parties</b><br/>52:12, 104:21,<br/>111:2, 111:18,<br/>112:18, 132:12,<br/>133:18, 134:10,<br/>135:11, 156:6<br/><b>parts</b><br/>4:9, 36:8,<br/>72:20<br/><b>party</b><br/>36:18, 53:1,<br/>53:2, 53:3,<br/>63:2, 63:15,<br/>64:3, 107:7,<br/>107:9, 107:15,<br/>107:22, 108:16,<br/>108:20, 109:4,<br/>109:20, 112:11,<br/>112:22, 113:4,<br/>113:8, 115:22,<br/>118:22, 119:18,<br/>120:10, 133:4,<br/>133:9, 134:7,<br/>150:4, 150:12,<br/>151:15, 151:16,<br/>153:5, 153:22,<br/>154:3<br/><b>pass</b><br/>9:9, 27:1,<br/>33:5, 50:15,<br/>53:17, 70:8,<br/>72:10, 74:21,<br/>76:9, 79:6,<br/>102:17, 113:10,<br/>141:9, 141:11,<br/>141:21, 142:17,<br/>148:1, 153:19<br/><b>passage</b><br/>18:1, 146:20,</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

185

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>154:8<br/><b>passed</b><br/>33:16, 63:5,<br/>136:2, 144:16,<br/>147:21, 154:17<br/><b>passes</b><br/>24:13, 154:17<br/><b>passing</b><br/>23:21, 152:21<br/><b>past</b><br/>12:9, 15:10,<br/>34:1, 37:13,<br/>37:22, 107:6,<br/>154:20<br/><b>patrick</b><br/>25:5, 75:4<br/><b>paulsen</b><br/>18:4, 18:5,<br/>21:12, 37:5,<br/>37:6, 37:8,<br/>37:16, 38:22,<br/>39:8, 39:13,<br/>39:16, 39:21,<br/>40:4, 52:20<br/><b>paulson</b><br/>38:7<br/><b>paying</b><br/>7:7<br/><b>penalty</b><br/>156:3<br/><b>people</b><br/>3:9, 3:22,<br/>16:13, 17:6,<br/>20:1, 20:3,<br/>20:19, 29:5,<br/>37:19, 55:12,<br/>61:8, 65:8,<br/>65:15, 68:15,<br/>68:21, 69:4,<br/>71:10, 73:12,<br/>78:7, 82:16,<br/>97:19, 102:1,<br/>102:3, 104:13,<br/>104:20, 105:6,<br/>106:7, 106:21,<br/>107:6, 107:8,<br/>107:11, 107:16,<br/>108:10, 108:18,</p> | <p>115:13, 121:6,<br/>122:10, 122:14,<br/>132:14, 133:7,<br/>133:8, 135:5,<br/>135:6, 136:1,<br/>138:20, 138:21,<br/>139:4, 142:22,<br/>151:22, 152:4,<br/>152:12, 152:16<br/><b>people's</b><br/>14:16<br/><b>percent</b><br/>9:2, 105:7,<br/>119:2, 119:15,<br/>119:22, 120:15,<br/>132:18<br/><b>percentages</b><br/>133:18<br/><b>perfect</b><br/>103:15, 105:8,<br/>128:22, 138:22,<br/>139:15<br/><b>performed</b><br/>8:9<br/><b>perhaps</b><br/>42:22<br/><b>period</b><br/>15:10, 17:14,<br/>45:18, 58:20,<br/>107:12, 149:4,<br/>149:9, 149:10,<br/>149:11, 149:13,<br/>152:11<br/><b>periods</b><br/>145:18<br/><b>perjury</b><br/>156:3<br/><b>permanent</b><br/>19:9, 20:8,<br/>55:17, 55:18,<br/>55:21, 56:8,<br/>58:12, 60:20,<br/>61:3<br/><b>permanently</b><br/>104:5<br/><b>person</b><br/>44:20, 63:17,<br/>63:18, 64:13,</p> | <p>68:17, 84:14,<br/>85:12, 85:13,<br/>85:19, 88:12,<br/>94:9, 103:22,<br/>151:13<br/><b>person's</b><br/>86:21<br/><b>personal</b><br/>95:9<br/><b>personally</b><br/>14:2, 37:13,<br/>45:22, 142:22<br/><b>perspective</b><br/>15:3<br/><b>pertain</b><br/>48:4, 84:10<br/><b>pertains</b><br/>84:11<br/><b>petroleum</b><br/>120:14<br/><b>ph</b><br/>5:22<br/><b>phalen</b><br/>2:14, 2:15,<br/>125:8, 125:9,<br/>126:14, 126:19,<br/>127:17, 127:19,<br/>128:1, 128:6,<br/>135:16, 135:18,<br/>135:22, 136:6,<br/>136:15, 136:17,<br/>147:3, 154:16<br/><b>phelan</b><br/>147:2<br/><b>phone</b><br/>3:18, 110:8<br/><b>phones</b><br/>14:9, 14:10<br/><b>pick</b><br/>104:13<br/><b>picture</b><br/>87:17<br/><b>piece</b><br/>54:10, 103:4<br/><b>piles</b><br/>48:21<br/><b>pink</b><br/>6:10, 6:11,</p> | <p>6:17, 7:6<br/><b>place</b><br/>17:4, 25:13,<br/>29:22, 44:15,<br/>58:14, 65:18,<br/>70:20, 92:14,<br/>98:14, 104:7,<br/>105:3, 116:18<br/><b>places</b><br/>20:13, 32:20,<br/>70:16<br/><b>plans</b><br/>83:19<br/><b>play</b><br/>68:6, 118:21<br/><b>playing</b><br/>118:6<br/><b>please</b><br/>2:3, 2:4, 3:3,<br/>3:13, 3:19, 5:3,<br/>28:7, 28:8,<br/>32:7, 37:5,<br/>40:20, 42:21,<br/>51:5, 51:9,<br/>56:13, 57:19,<br/>60:18, 66:21,<br/>76:8, 76:13,<br/>80:2, 83:15,<br/>86:10, 92:8,<br/>94:15, 98:10,<br/>109:22, 123:14,<br/>128:10, 130:8,<br/>140:19, 141:1,<br/>141:9, 141:14,<br/>141:22, 146:20,<br/>148:9<br/><b>pleasure</b><br/>47:15<br/><b>plenty</b><br/>55:11, 122:8,<br/>130:21, 138:13<br/><b>plettenberg</b><br/>4:21, 5:4, 5:7,<br/>5:8, 5:12,<br/>31:22, 32:1,<br/>32:2, 32:5,<br/>32:9, 32:12,<br/>35:3, 35:8,</p> |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

186

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <p>36:2, 36:20,<br/>40:1, 40:3,<br/>40:12, 49:12,<br/>49:13, 49:16,<br/>49:17, 49:20,<br/>49:21, 51:4,<br/>51:6, 51:10,<br/>52:3, 52:14,<br/>53:10, 56:20,<br/>57:8, 57:9,<br/>57:16, 57:20,<br/>58:2, 58:11,<br/>110:6, 110:7,<br/>110:10, 110:11,<br/>113:12, 121:4,<br/>126:13, 128:10,<br/>128:11, 128:13,<br/>128:16, 129:4,<br/>129:11, 130:3,<br/>130:6, 130:11,<br/>130:15, 130:19,<br/>131:6, 131:11,<br/>131:12, 131:14,<br/>131:17, 132:10,<br/>133:1, 133:22,<br/>134:14, 135:4,<br/>135:19, 136:5,<br/>136:16</p> <p><b>plug</b><br/>65:3</p> <p><b>plus</b><br/>9:2</p> <p><b>podium</b><br/>3:17, 39:9,<br/>64:20</p> <p><b>point</b><br/>13:17, 63:9,<br/>114:16, 137:11,<br/>139:18, 150:12</p> <p><b>pointing</b><br/>108:7</p> <p><b>policies</b><br/>30:20, 77:17,<br/>82:17, 100:21</p> <p><b>policy</b><br/>15:8, 29:15,<br/>74:7, 75:16,<br/>77:2, 77:3,</p> | <p>77:7, 77:19,<br/>78:16, 79:4,<br/>80:15, 82:7,<br/>82:19, 83:2,<br/>91:9</p> <p><b>political</b><br/>17:19, 26:6,<br/>104:21, 107:22,<br/>108:16, 109:20,<br/>115:22, 150:4,<br/>150:12, 151:15,<br/>151:16, 153:5</p> <p><b>politically</b><br/>86:18, 139:12</p> <p><b>poll</b><br/>36:12, 51:12,<br/>51:14</p> <p><b>polling</b><br/>17:4, 18:19,<br/>18:21, 20:13,<br/>26:13, 104:7</p> <p><b>polls</b><br/>21:21, 23:14,<br/>25:21, 34:16,<br/>45:16, 52:19</p> <p><b>populations</b><br/>120:13</p> <p><b>portion</b><br/>61:8, 100:20,<br/>105:16, 108:11</p> <p><b>position</b><br/>17:3, 91:9,<br/>92:16, 95:5,<br/>95:20, 96:8,<br/>119:7, 120:3,<br/>136:3</p> <p><b>positions</b><br/>90:10, 109:1,<br/>119:1, 119:10,<br/>119:20</p> <p><b>positive</b><br/>137:15, 137:17</p> <p><b>possible</b><br/>55:3, 61:9,<br/>107:18, 146:1</p> <p><b>possibles</b><br/>5:15</p> <p><b>possibly</b><br/>29:12, 50:9,</p> | <p>72:19</p> <p><b>post</b><br/>58:8, 58:12,<br/>58:19, 59:10,<br/>59:17</p> <p><b>post-election</b><br/>50:9</p> <p><b>posted</b><br/>3:7, 4:15,<br/>90:13</p> <p><b>posting</b><br/>90:13, 95:20</p> <p><b>potential</b><br/>40:10, 129:2</p> <p><b>pr</b><br/>10:6</p> <p><b>practice</b><br/>8:12</p> <p><b>practices</b><br/>8:9</p> <p><b>preaching</b><br/>108:6</p> <p><b>precedent</b><br/>29:20</p> <p><b>precinct</b><br/>18:11, 18:15,<br/>51:20, 52:21,<br/>117:9, 119:3</p> <p><b>precincts</b><br/>19:11, 20:15,<br/>20:17</p> <p><b>precise</b><br/>78:15</p> <p><b>preclude</b><br/>149:20</p> <p><b>prefer</b><br/>99:11, 108:15,<br/>108:17, 115:21,<br/>120:10</p> <p><b>prep</b><br/>18:15, 19:22</p> <p><b>preparation</b><br/>47:21</p> <p><b>prepare</b><br/>36:18</p> <p><b>prepared</b><br/>33:22, 114:15</p> <p><b>present</b><br/>28:8, 54:6</p> | <p><b>presentation</b><br/>4:4</p> <p><b>presented</b><br/>109:17</p> <p><b>president</b><br/>87:3, 87:7,<br/>87:8</p> <p><b>presidential</b><br/>20:6</p> <p><b>pretext</b><br/>27:2</p> <p><b>pretty</b><br/>41:22, 46:4,<br/>62:17, 62:20,<br/>109:8, 146:5</p> <p><b>prevent</b><br/>153:15</p> <p><b>preventing</b><br/>27:2</p> <p><b>previous</b><br/>20:5, 27:7,<br/>91:9, 107:6</p> <p><b>primaries</b><br/>116:1</p> <p><b>primary</b><br/>15:12, 44:21,<br/>47:22, 51:21,<br/>63:3, 63:8,<br/>63:9, 106:14,<br/>116:1, 116:10,<br/>116:13, 116:19,<br/>116:20, 116:21,<br/>117:1, 125:11,<br/>125:12, 125:16,<br/>126:1, 126:22,<br/>127:8, 127:9,<br/>128:3, 129:8,<br/>130:13, 138:2,<br/>138:10</p> <p><b>principles</b><br/>30:19</p> <p><b>print</b><br/>18:10, 22:3,<br/>148:20</p> <p><b>printed</b><br/>148:20</p> <p><b>printing</b><br/>21:20</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

187

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>prior</b><br/>12:1, 29:16,<br/>52:20, 59:4,<br/>106:12, 113:7,<br/>116:21, 126:3,<br/>130:16, 138:2,<br/>138:3, 138:10,<br/>149:18</p> <p><b>prioritize</b><br/>30:20</p> <p><b>pro-life</b><br/>8:12</p> <p><b>probably</b><br/>5:11, 33:8,<br/>40:6, 40:7,<br/>60:18, 83:8,<br/>85:13, 98:5,<br/>123:20, 124:2,<br/>127:3</p> <p><b>problem</b><br/>16:14, 41:21,<br/>59:12, 81:20,<br/>120:12</p> <p><b>problematic</b><br/>126:11</p> <p><b>problems</b><br/>3:21, 121:10</p> <p><b>procedure</b><br/>59:3</p> <p><b>procedures</b><br/>47:22, 48:5,<br/>50:8, 65:18</p> <p><b>proceed</b><br/>29:12</p> <p><b>process</b><br/>14:17, 16:13,<br/>19:14, 34:19,<br/>34:22, 46:22,<br/>47:1, 50:13,<br/>51:8, 52:16,<br/>55:1, 57:15,<br/>58:6, 65:14,<br/>65:17, 66:3,<br/>69:20, 70:10,<br/>104:21, 105:7,<br/>113:9, 137:4,<br/>138:22</p> <p><b>processes</b><br/>78:1</p> | <p><b>profits</b><br/>8:8</p> <p><b>program</b><br/>97:12</p> <p><b>programs</b><br/>77:16, 78:2,<br/>84:3, 97:6</p> <p><b>prohibiting</b><br/>153:5</p> <p><b>project</b><br/>93:4</p> <p><b>projects</b><br/>94:10</p> <p><b>proof</b><br/>27:5</p> <p><b>proper</b><br/>4:13, 78:9,<br/>115:16</p> <p><b>properly</b><br/>62:3, 84:12</p> <p><b>proponent</b><br/>5:17, 12:20,<br/>18:3, 21:13,<br/>22:8, 31:8,<br/>49:10, 75:1,<br/>76:11, 110:4,<br/>113:7</p> <p><b>proponents</b><br/>4:15, 4:18,<br/>4:20, 5:19,<br/>12:6, 12:16,<br/>22:8, 22:16,<br/>49:3, 49:7,<br/>50:17, 57:3,<br/>57:4, 66:5,<br/>66:6, 66:10,<br/>79:9, 109:11,<br/>109:12, 110:5,<br/>113:13, 113:21</p> <p><b>proposed</b><br/>30:3, 42:18</p> <p><b>protecting</b><br/>30:15</p> <p><b>protections</b><br/>25:11, 27:22</p> <p><b>protocol</b><br/>135:1</p> <p><b>proven</b><br/>27:15</p> | <p><b>provide</b><br/>6:16, 13:21,<br/>13:22, 106:20</p> <p><b>provided</b><br/>11:20, 105:13,<br/>146:8</p> <p><b>provides</b><br/>16:22, 25:12</p> <p><b>providing</b><br/>48:1</p> <p><b>provision</b><br/>104:6</p> <p><b>provisional</b><br/>21:3, 112:8</p> <p><b>provisions</b><br/>73:20, 149:17</p> <p><b>proxy</b><br/>142:10, 142:13,<br/>147:1, 147:9,<br/>147:13, 154:13,<br/>154:15</p> <p><b>public</b><br/>36:3, 36:15,<br/>36:16, 38:15,<br/>78:12, 90:15,<br/>118:12, 118:14,<br/>121:2, 121:19,<br/>121:20, 149:7</p> <p><b>pull</b><br/>7:14, 135:5</p> <p><b>pulled</b><br/>4:1, 59:2</p> <p><b>pulling</b><br/>70:22</p> <p><b>pulls</b><br/>59:5</p> <p><b>punitive</b><br/>103:21</p> <p><b>purported</b><br/>24:8</p> <p><b>purpose</b><br/>38:20, 42:7,<br/>118:2</p> <p><b>purposes</b><br/>38:17, 76:8,<br/>149:16</p> <p><b>pursuant</b><br/>62:22, 63:5,</p> | <p>70:3, 74:7,<br/>150:6, 150:19,<br/>152:7</p> <p><b>pushed</b><br/>105:2</p> <p><b>put</b><br/>46:21, 63:12,<br/>69:6, 71:15,<br/>80:9, 98:14,<br/>103:20, 109:5,<br/>118:22, 126:8,<br/>133:8, 143:4,<br/>151:2, 151:3</p> <p><b>puts</b><br/>64:3</p> <p><b>putting</b><br/>91:13, 121:6,<br/>153:16</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>qualifications</b><br/>67:21, 108:2,<br/>112:2</p> <p><b>qualified</b><br/>104:19, 122:15,<br/>149:20, 152:2</p> <p><b>qualify</b><br/>120:20</p> <p><b>quality</b><br/>46:9</p> <p><b>question</b><br/>6:15, 33:3,<br/>35:3, 39:9,<br/>41:14, 43:21,<br/>45:21, 51:4,<br/>51:22, 53:4,<br/>67:16, 68:2,<br/>80:13, 80:18,<br/>80:19, 83:3,<br/>83:18, 84:6,<br/>84:17, 87:13,<br/>88:16, 88:20,<br/>89:18, 92:15,<br/>93:13, 94:11,<br/>94:15, 95:1,<br/>98:9, 105:20,<br/>106:3, 124:19,<br/>125:3, 126:13,</p> |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

188

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 126:18, 131:8,<br>131:11, 132:10,<br>135:17, 136:6,<br>143:6, 143:8,<br>143:10, 150:10,<br>152:4, 152:22<br><b>questioned</b><br>105:8<br><b>questioning</b><br>105:6, 142:22<br><b>questions</b><br>6:19, 10:3,<br>10:4, 32:4,<br>32:7, 32:13,<br>37:3, 40:19,<br>43:22, 44:5,<br>44:12, 47:4,<br>51:3, 53:6,<br>59:22, 60:14,<br>66:17, 66:18,<br>69:13, 72:1,<br>72:2, 79:21,<br>80:11, 88:15,<br>88:16, 101:8,<br>101:9, 108:8,<br>109:9, 123:8,<br>123:12, 125:5,<br>128:7, 131:10,<br>136:19<br><b>quite</b><br>10:7, 20:14,<br>148:14<br><b>quorum</b><br>3:2 | <b>rate</b><br>91:12<br><b>rates</b><br>90:6<br><b>rather</b><br>30:21<br><b>ravalli</b><br>6:6, 35:4,<br>51:9, 132:17<br><b>re-refer</b><br>84:18<br><b>reach</b><br>111:2, 111:18,<br>137:10, 138:9<br><b>reached</b><br>44:9<br><b>read</b><br>41:3, 41:12,<br>42:5, 98:17,<br>98:20, 141:18,<br>146:3, 148:10,<br>150:6, 150:11<br><b>readiness</b><br>97:5, 97:13,<br>99:18<br><b>reading</b><br>38:7, 143:21,<br>151:5, 151:18,<br>151:19, 153:4<br><b>reads</b><br>41:22, 67:9,<br>119:11<br><b>ready</b><br>3:2, 3:10,<br>13:16, 18:18,<br>18:21, 19:12,<br>20:13, 36:11,<br>53:22, 97:8,<br>97:10, 97:15,<br>99:19, 126:6,<br>139:21<br><b>real</b><br>32:6, 124:14<br><b>reality</b><br>14:20<br><b>reallocates</b><br>13:20<br><b>reallocating</b><br>13:21 | <b>really</b><br>14:4, 21:17,<br>21:22, 22:5,<br>50:1, 51:21,<br>52:8, 53:9,<br>54:9, 54:19,<br>55:5, 61:12,<br>61:15, 63:6,<br>68:20, 68:22,<br>69:2, 80:5,<br>93:19, 94:22,<br>95:13, 96:9,<br>96:15, 96:21,<br>97:21, 99:20,<br>101:13, 101:21,<br>112:12, 119:3,<br>121:13, 123:17,<br>124:5, 124:6,<br>124:11, 126:21<br><b>reason</b><br>24:11, 36:7,<br>90:8, 94:1,<br>104:12, 111:17,<br>118:16, 119:21<br><b>reasonable</b><br>33:7, 59:10<br><b>reasons</b><br>21:10, 24:21,<br>28:1, 30:14,<br>48:2<br><b>recall</b><br>39:14<br><b>recalled</b><br>149:3<br><b>receive</b><br>105:12, 137:19<br><b>received</b><br>42:12, 156:10<br><b>recent</b><br>25:11, 123:21<br><b>recently</b><br>133:16<br><b>recess</b><br>140:5, 140:16<br><b>reciting</b><br>151:4<br><b>recognizes</b><br>53:3 | <b>recognizing</b><br>78:16<br><b>reconciliation</b><br>51:17<br><b>record</b><br>3:16, 76:21,<br>89:7, 131:9,<br>146:14, 151:3<br><b>recorder</b><br>18:6, 45:5,<br>49:22, 121:16<br><b>recorders</b><br>11:17, 41:7,<br>46:17, 61:6,<br>128:18<br><b>recordings</b><br>156:4<br><b>recount</b><br>44:19, 50:9<br><b>recruited</b><br>16:10<br><b>recruiting</b><br>153:16<br><b>redirect</b><br>126:12<br><b>redistricting</b><br>77:20<br><b>reduce</b><br>13:18, 41:2<br><b>reduces</b><br>17:1<br><b>redundant</b><br>48:22<br><b>refer</b><br>39:1, 83:15<br><b>references</b><br>69:2<br><b>referencing</b><br>70:4, 71:1<br><b>referendum</b><br>27:12, 27:14<br><b>referred</b><br>34:11<br><b>reflect</b><br>15:7, 16:2<br><b>regard</b><br>44:6<br><b>regarding</b><br>103:13, 156:10 |
| <b>R</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>r-i-g-e-a-u</b><br>62:19<br><b>race</b><br>67:6, 67:10<br><b>raised</b><br>76:12, 91:1,<br>110:6<br><b>raises</b><br>30:2<br><b>ramifications</b><br>31:11<br><b>ran</b><br>15:1, 103:11                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

189

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>regards</b><br/>117:5, 117:10<br/><b>regier</b><br/>2:16, 142:10,<br/>146:22, 154:12<br/><b>regina</b><br/>4:21, 32:2,<br/>49:13, 49:21,<br/>56:20, 110:10,<br/>121:4<br/><b>register</b><br/>11:9, 11:18,<br/>11:22, 13:7,<br/>20:1, 20:20,<br/>25:19, 26:2,<br/>26:7, 30:11,<br/>105:11, 144:1,<br/>145:3, 145:15,<br/>146:6<br/><b>registered</b><br/>14:3, 14:13,<br/>19:7, 26:18<br/><b>registering</b><br/>13:8, 15:4,<br/>20:4, 21:9,<br/>25:20<br/><b>registers</b><br/>18:11, 22:3<br/><b>registration</b><br/>11:8, 11:19,<br/>12:10, 13:4,<br/>13:5, 13:15,<br/>13:19, 13:20,<br/>15:9, 15:16,<br/>15:21, 16:6,<br/>16:14, 16:20,<br/>17:1, 20:3,<br/>21:5, 23:3,<br/>23:17, 23:21,<br/>24:10, 24:12,<br/>25:18, 26:13,<br/>26:18, 27:13,<br/>27:19, 28:19,<br/>29:1, 29:21,<br/>30:17, 34:13,<br/>34:14, 34:15,<br/>35:17, 38:11,<br/>38:16, 38:20,</p> | <p>39:3, 39:11,<br/>40:2, 44:8,<br/>45:1, 45:5,<br/>45:7, 45:15,<br/>56:14, 145:7,<br/>145:19, 146:7,<br/>146:8<br/><b>registrations</b><br/>19:15<br/><b>regular</b><br/>11:20, 25:17,<br/>26:8, 76:4,<br/>146:7<br/><b>rehash</b><br/>31:8<br/><b>reiterate</b><br/>78:22<br/><b>rejected</b><br/>24:11<br/><b>related</b><br/>156:6<br/><b>relationship</b><br/>75:11, 93:9,<br/>94:3<br/><b>relationships</b><br/>93:20, 95:15,<br/>96:14, 97:22<br/><b>relief</b><br/>14:7<br/><b>relies</b><br/>8:14, 121:15<br/><b>relooked</b><br/>73:22<br/><b>rely</b><br/>112:5<br/><b>remain</b><br/>64:21<br/><b>remember</b><br/>67:4, 67:19,<br/>126:9<br/><b>remiss</b><br/>96:2<br/><b>removal</b><br/>103:13, 104:3,<br/>104:11, 137:14,<br/>137:19<br/><b>remove</b><br/>15:9, 34:13,</p> | <p>46:8<br/><b>removed</b><br/>104:5<br/><b>reopens</b><br/>39:5<br/><b>repealing</b><br/>26:2<br/><b>repeat</b><br/>137:8<br/><b>replace</b><br/>63:20, 66:3,<br/>69:10, 70:18<br/><b>replaced</b><br/>69:22, 71:17<br/><b>replacement</b><br/>14:12, 64:17,<br/>150:13, 153:6,<br/>153:9, 153:10<br/><b>replacements</b><br/>69:21<br/><b>replicable</b><br/>96:2<br/><b>replicate</b><br/>94:20<br/><b>reply</b><br/>136:4<br/><b>reported</b><br/>9:1<br/><b>reporters</b><br/>32:4<br/><b>reporting</b><br/>74:11, 74:19<br/><b>reports</b><br/>8:7<br/><b>represent</b><br/>4:9, 47:18,<br/>72:20, 85:20<br/><b>representative</b><br/>30:13, 80:16,<br/>86:7, 86:8,<br/>88:4, 149:9<br/><b>representatives</b><br/>149:12<br/><b>represented</b><br/>107:20, 116:14,<br/>119:9, 133:19<br/><b>representing</b><br/>6:5, 22:21,</p> | <p>25:7, 31:7,<br/>54:4, 75:5<br/><b>republican</b><br/>48:21, 108:19,<br/>119:3, 119:13,<br/>119:16, 132:19,<br/>139:7<br/><b>republicans</b><br/>119:8, 119:17,<br/>120:15<br/><b>request</b><br/>4:4, 4:10,<br/>10:13, 10:15,<br/>46:16, 137:2<br/><b>requested</b><br/>54:19<br/><b>requesting</b><br/>54:13<br/><b>required</b><br/>85:10, 144:16<br/><b>requirement</b><br/>106:16<br/><b>requirements</b><br/>27:5, 74:20<br/><b>requires</b><br/>48:16<br/><b>research</b><br/>154:19<br/><b>reservations</b><br/>23:11, 26:10,<br/>26:15, 72:22<br/><b>resided</b><br/>67:17<br/><b>residence</b><br/>58:5<br/><b>resident</b><br/>67:11, 114:8<br/><b>residential</b><br/>23:11<br/><b>residents</b><br/>26:9, 26:18,<br/>57:14, 61:4<br/><b>resign</b><br/>65:12<br/><b>resigned</b><br/>149:2<br/><b>resigns</b><br/>65:22</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

190

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>resounding</b><br>13:15<br><b>resoundingly</b><br>15:15, 15:20<br><b>resources</b><br>78:9, 91:8,<br>92:3, 93:4,<br>95:22, 101:18<br><b>respect</b><br>139:19, 140:1,<br>152:5<br><b>respectful</b><br>76:5, 145:5<br><b>respectfully</b><br>99:10<br><b>respecting</b><br>76:6<br><b>respond</b><br>10:10, 106:6,<br>122:8, 137:21<br><b>response</b><br>106:10, 143:6<br><b>responsible</b><br>9:7, 85:4<br><b>rest</b><br>8:19, 21:6,<br>33:6, 36:12,<br>88:7<br><b>restrict</b><br>24:18, 26:1,<br>30:21<br><b>restricting</b><br>30:17<br><b>restrictions</b><br>26:14, 29:20<br><b>restricts</b><br>30:5, 64:9<br><b>result</b><br>23:18, 121:18<br><b>resulting</b><br>24:9<br><b>results</b><br>20:22, 97:20<br><b>return</b><br>55:8, 58:21,<br>61:16<br><b>revenue</b><br>91:19 | <b>revise</b><br>17:21<br><b>revising</b><br>11:8, 11:9,<br>47:21<br><b>ribbons</b><br>6:13<br><b>right</b><br>3:1, 4:1, 4:3,<br>4:12, 5:9, 5:12,<br>5:13, 5:18,<br>10:21, 14:16,<br>22:15, 23:19,<br>24:2, 24:5,<br>24:6, 27:21,<br>30:15, 32:13,<br>35:20, 36:19,<br>48:6, 53:1,<br>59:21, 60:3,<br>62:5, 62:7,<br>66:2, 66:4,<br>67:13, 76:18,<br>86:13, 86:15,<br>96:7, 96:19,<br>97:17, 98:7,<br>99:14, 100:1,<br>101:9, 102:20,<br>103:15, 104:3,<br>104:22, 110:10,<br>117:5, 127:3,<br>129:10, 133:6,<br>135:13, 135:15,<br>136:18, 140:11,<br>141:8, 146:16,<br>150:7, 155:4<br><b>rights</b><br>24:3, 26:22,<br>29:22, 145:15<br><b>rise</b><br>109:16<br><b>road</b><br>50:7<br><b>roberts</b><br>18:6<br><b>robin</b><br>7:17<br><b>rocky</b><br>25:8, 75:7, | 95:16<br><b>role</b><br>6:16, 6:19<br><b>roll</b><br>2:4, 140:10,<br>146:17, 146:19<br><b>rolls</b><br>55:14, 55:15<br><b>room</b><br>3:19, 3:20,<br>5:19, 9:13,<br>9:21, 22:8,<br>22:16, 28:4,<br>44:17, 49:8,<br>50:17, 50:18,<br>50:22, 60:5,<br>60:11, 66:6,<br>66:11, 76:12,<br>79:14, 79:18,<br>113:21, 114:3,<br>117:15, 123:7<br><b>rooms</b><br>19:22<br><b>root</b><br>77:6<br><b>round</b><br>26:16<br><b>routinely</b><br>14:16, 34:4,<br>58:18<br><b>row</b><br>15:6<br><b>rule</b><br>12:17<br><b>rules</b><br>4:13, 29:4,<br>134:22<br><b>run</b><br>17:6, 70:6,<br>71:8, 103:15,<br>111:11, 153:18<br><b>running</b><br>89:3, 89:10,<br>127:11<br><b>rural</b><br>13:13, 23:10,<br>28:21, 30:7<br><b>rvs</b><br>58:17 | <hr/> <b>S</b><br><hr/> <b>s</b><br>4:8, 31:6<br><b>s-e</b><br>22:20<br><b>s-t-o-c-k-t-o-n</b><br>21:15, 114:8<br><b>s-w-a-n-s-o-n</b><br>89:7<br><b>safeguard</b><br>28:20<br><b>safeguarding</b><br>27:3<br><b>said</b><br>15:13, 15:18,<br>23:2, 33:14,<br>52:17, 68:3,<br>68:16, 74:18,<br>81:16, 91:19,<br>95:12, 97:18,<br>101:12, 103:18,<br>121:4, 126:21,<br>149:22<br><b>salish</b><br>73:1<br><b>sam</b><br>7:18<br><b>same</b><br>13:4, 13:5,<br>14:18, 15:9,<br>15:16, 15:20,<br>16:14, 16:22,<br>24:12, 24:14,<br>28:19, 29:1,<br>29:21, 30:16,<br>34:13, 34:14,<br>39:11, 40:1,<br>40:2, 40:4,<br>44:22, 92:14,<br>93:16, 97:20,<br>98:16, 102:15,<br>103:7, 103:9,<br>115:7, 116:13,<br>135:7, 136:7,<br>142:9, 154:10<br><b>same-day</b><br>44:8 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

191

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>sarah</b><br/>89:6<br/><b>saturday</b><br/>12:3, 12:22,<br/>13:11, 19:15,<br/>36:3, 36:9,<br/>36:16, 38:15,<br/>39:4, 41:15,<br/>42:1, 46:15<br/><b>saturdays</b><br/>26:11, 35:22<br/><b>save</b><br/>52:7, 52:8,<br/>82:20, 82:21<br/><b>saver</b><br/>50:11<br/><b>saves</b><br/>50:6<br/><b>saw</b><br/>38:18<br/><b>say</b><br/>19:20, 40:13,<br/>44:22, 45:4,<br/>46:2, 47:5,<br/>54:12, 54:17,<br/>54:18, 55:22,<br/>60:18, 63:16,<br/>69:16, 72:5,<br/>73:12, 73:14,<br/>81:13, 82:13,<br/>85:11, 85:15,<br/>95:7, 96:2,<br/>103:14, 104:14,<br/>104:22, 105:3,<br/>106:18, 107:7,<br/>119:14, 120:4,<br/>132:21, 134:6,<br/>135:10, 137:15,<br/>139:6, 139:14,<br/>143:20, 151:4,<br/>151:6<br/><b>saying</b><br/>46:13, 52:21,<br/>57:18, 69:5,<br/>98:12, 117:6,<br/>117:7, 137:20,<br/>142:7, 151:15,<br/>154:8</p> | <p><b>says</b><br/>84:22, 103:9,<br/>107:2, 111:2,<br/>115:20, 116:9,<br/>116:13, 116:19,<br/>120:19, 151:20,<br/>153:4, 153:13<br/><b>sb</b><br/>4:10, 7:10,<br/>24:13, 30:15,<br/>73:3, 77:3,<br/>79:6, 142:6<br/><b>scale</b><br/>95:8<br/><b>scheduled</b><br/>54:15<br/><b>schedules</b><br/>3:11, 29:2<br/><b>school</b><br/>13:12, 91:4,<br/>109:16, 111:11,<br/>111:14, 127:21<br/><b>science</b><br/>103:10<br/><b>scientists</b><br/>93:1<br/><b>scrutiny</b><br/>24:5<br/><b>se</b><br/>83:20<br/><b>seat</b><br/>12:15, 45:12,<br/>63:13, 71:7<br/><b>seaton</b><br/>22:18, 22:20,<br/>25:1<br/><b>seats</b><br/>119:22<br/><b>second</b><br/>73:17, 102:12,<br/>132:7, 141:19,<br/>148:13<br/><b>secretary</b><br/>2:5, 2:8, 2:10,<br/>2:12, 2:14,<br/>2:16, 2:18,<br/>2:20, 2:22,<br/>4:21, 5:2, 5:16,</p> | <p>9:15, 11:16,<br/>13:2, 22:13,<br/>38:2, 39:1,<br/>54:12, 55:5,<br/>59:11, 61:11,<br/>61:21, 146:21,<br/>147:2, 147:4,<br/>147:6, 147:8,<br/>147:10, 147:12,<br/>147:14, 147:16,<br/>147:18, 148:18,<br/>149:5<br/><b>secretary's</b><br/>23:2, 23:9<br/><b>section</b><br/>8:3, 48:1,<br/>63:1, 70:4,<br/>70:21, 71:12,<br/>73:9, 74:8,<br/>99:7, 104:3,<br/>106:22, 108:11,<br/>108:12, 115:18,<br/>120:18, 137:13,<br/>148:6, 148:16,<br/>150:19, 152:8<br/><b>secure</b><br/>27:8<br/><b>see</b><br/>5:14, 6:1, 6:7,<br/>8:12, 14:3,<br/>33:14, 37:18,<br/>37:19, 47:10,<br/>49:4, 60:6,<br/>62:5, 67:6,<br/>76:11, 80:13,<br/>80:18, 107:17,<br/>114:14, 115:19,<br/>123:7, 123:11,<br/>123:15, 141:6,<br/>144:6, 144:7,<br/>144:11, 151:21<br/><b>seeing</b><br/>5:18, 5:19,<br/>9:13, 10:4,<br/>22:15, 28:3,<br/>31:17, 49:7,<br/>50:16, 50:22,<br/>57:4, 60:1,</p> | <p>66:6, 66:9,<br/>66:11, 66:15,<br/>72:2, 79:14,<br/>79:18, 101:9,<br/>117:15, 123:5,<br/>123:6, 136:19,<br/>154:6<br/><b>seeking</b><br/>79:3, 109:3<br/><b>seemed</b><br/>108:21<br/><b>seems</b><br/>33:6, 41:6,<br/>42:15, 44:1,<br/>105:1<br/><b>seen</b><br/>16:16, 35:12<br/><b>segregate</b><br/>52:12<br/><b>select</b><br/>105:17<br/><b>selected</b><br/>116:20<br/><b>selection</b><br/>8:10, 105:15,<br/>135:14<br/><b>self</b><br/>77:12<br/><b>self-declared</b><br/>120:15<br/><b>senate</b><br/>1:8, 2:2, 4:5,<br/>4:6, 4:19, 5:20,<br/>9:12, 10:22,<br/>11:1, 11:5,<br/>13:3, 18:1,<br/>18:3, 18:7,<br/>21:10, 22:17,<br/>22:22, 24:21,<br/>25:9, 25:13,<br/>26:1, 28:1,<br/>28:3, 28:17,<br/>47:9, 47:13,<br/>47:17, 47:20,<br/>53:17, 53:22,<br/>54:1, 54:4,<br/>57:3, 61:22,<br/>62:4, 62:7,</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of Senate Standing Committee  
Conducted on March 1, 2025

192

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 62:19, 66:5,<br>66:10, 72:13,<br>72:15, 72:20,<br>75:1, 75:3,<br>75:8, 76:8,<br>76:11, 79:9,<br>79:14, 102:19,<br>102:20, 103:1,<br>109:11, 109:16,<br>109:22, 110:4,<br>113:13, 140:4,<br>140:18, 140:21,<br>141:1, 141:4,<br>141:9, 141:11,<br>141:12, 141:21,<br>142:6, 142:16,<br>146:20, 147:20,<br>148:1, 148:3,<br>148:4, 149:14,<br>152:13, 152:18,<br>154:8, 154:17,<br>156:21<br><b>send</b><br>85:22, 88:3,<br>97:15, 129:14,<br>129:15, 129:20<br><b>sending</b><br>59:19, 84:1<br><b>seniors</b><br>28:21<br><b>sense</b><br>11:11, 71:20,<br>108:21, 125:21<br><b>separate</b><br>19:11, 48:20,<br>50:3, 50:10,<br>51:13, 81:14<br><b>separation</b><br>50:5<br><b>september</b><br>156:19<br><b>serious</b><br>6:18, 6:22,<br>30:2<br><b>sertell</b><br>7:13, 7:17,<br>9:11<br><b>serve</b><br>14:20, 17:3, | 47:19, 54:6,<br>120:16, 134:6,<br>152:12, 152:16<br><b>served</b><br>71:8, 149:1,<br>149:3, 149:16,<br>149:18<br><b>serves</b><br>73:5<br><b>service</b><br>26:12, 78:12<br><b>services</b><br>84:3<br><b>serving</b><br>15:19, 78:8<br><b>session</b><br>26:22, 86:1,<br>103:12, 103:18,<br>108:13, 114:12,<br>114:13<br><b>set</b><br>95:19, 96:9,<br>96:16, 97:2,<br>111:13, 134:22,<br>152:6<br><b>seven</b><br>3:6, 48:15<br><b>severability</b><br>42:16, 43:10<br><b>several</b><br>25:14, 81:11,<br>152:20<br><b>sex</b><br>8:9<br><b>shakes</b><br>49:4<br><b>shall</b><br>109:1, 148:19,<br>149:19<br><b>shape</b><br>75:15, 83:19<br><b>share</b><br>92:2, 100:3<br><b>sharing</b><br>117:14<br><b>sheldon</b><br>5:17<br><b>shelley</b><br>56:17 | <b>shenanigans</b><br>64:10, 153:15,<br>154:2<br><b>she's</b><br>85:9<br><b>shift</b><br>75:18<br><b>shifts</b><br>18:9<br><b>short</b><br>4:4, 4:14,<br>48:2, 72:19,<br>127:14<br><b>shortest</b><br>10:7<br><b>should</b><br>6:9, 6:16, 7:8,<br>24:17, 29:6,<br>42:22, 48:8,<br>48:9, 52:15,<br>57:14, 58:5,<br>64:15, 64:16,<br>65:8, 69:7,<br>80:8, 105:17,<br>109:6, 113:4,<br>119:18, 125:20,<br>143:13<br><b>show</b><br>44:11<br><b>showed</b><br>9:16, 59:15<br><b>showing</b><br>45:20, 54:21<br><b>shown</b><br>27:7<br><b>sick</b><br>66:1, 70:8<br><b>sickening</b><br>9:3<br><b>side</b><br>47:18, 54:5,<br>92:20, 92:22,<br>96:11, 144:4<br><b>sides</b><br>132:21<br><b>sign</b><br>3:13, 142:9,<br>154:10 | <b>signature-kcnbo</b><br>156:16<br><b>signatures</b><br>19:11<br><b>signed</b><br>5:1, 5:5<br><b>significant</b><br>12:15, 30:8<br><b>significantly</b><br>39:18<br><b>signify</b><br>142:7, 154:8<br><b>silenced</b><br>26:20<br><b>silver</b><br>131:22<br><b>similar</b><br>27:17, 75:21,<br>99:3<br><b>simple</b><br>44:19, 53:9,<br>59:12, 65:10,<br>83:22, 107:21<br><b>simply</b><br>54:16, 63:18,<br>65:19, 95:20,<br>100:16, 151:6<br><b>since</b><br>15:17, 90:21,<br>105:21, 143:21,<br>143:22, 148:10<br><b>sincere</b><br>89:1<br><b>single</b><br>119:9, 121:11,<br>144:3<br><b>sink</b><br>130:4<br><b>sit</b><br>16:5, 21:19,<br>49:2, 56:10,<br>56:12, 114:5,<br>152:14, 152:18<br><b>situation</b><br>7:5, 89:15,<br>93:21, 118:1<br><b>situations</b><br>17:8, 67:8, |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

193

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>82:3<br/><b>six</b><br/>18:14, 80:14,<br/>129:17, 147:19,<br/>149:11<br/><b>sizable</b><br/>46:5, 61:8<br/><b>size</b><br/>52:5<br/><b>skepticism</b><br/>105:5<br/><b>skill</b><br/>91:15, 95:19,<br/>97:1<br/><b>skin</b><br/>8:10, 8:21<br/><b>skirt</b><br/>121:6<br/><b>sleep</b><br/>19:1, 155:1<br/><b>slightly</b><br/>93:14<br/><b>slots</b><br/>41:8<br/><b>slow</b><br/>137:4<br/><b>small</b><br/>16:21, 17:7,<br/>139:11<br/><b>smaller</b><br/>19:6, 36:10,<br/>95:7<br/><b>smith</b><br/>4:6, 4:7, 4:8,<br/>10:6, 10:17<br/><b>smooth</b><br/>141:6<br/><b>snowbird</b><br/>55:22<br/><b>snowbirds</b><br/>54:21, 55:12,<br/>58:9, 58:14,<br/>59:7, 61:8<br/><b>social</b><br/>139:11<br/><b>society</b><br/>6:20<br/><b>solely</b><br/>48:3, 79:2,</p> | <p>85:4<br/><b>solution</b><br/>14:5, 55:11,<br/>59:12, 59:13,<br/>61:19, 61:20<br/><b>solve</b><br/>16:13<br/><b>some</b><br/>3:21, 6:22,<br/>10:10, 10:12,<br/>12:6, 14:3,<br/>15:5, 16:3,<br/>20:15, 22:9,<br/>26:15, 27:8,<br/>28:4, 32:7,<br/>32:19, 35:6,<br/>35:19, 36:9,<br/>36:21, 39:1,<br/>43:4, 44:5,<br/>45:19, 46:3,<br/>46:7, 46:18,<br/>48:3, 53:12,<br/>54:21, 62:16,<br/>68:12, 70:12,<br/>74:18, 78:20,<br/>82:9, 82:15,<br/>95:6, 104:17,<br/>104:18, 106:7,<br/>107:8, 107:16,<br/>111:10, 112:20,<br/>115:16, 117:20,<br/>119:2, 123:22,<br/>133:11, 134:19,<br/>136:1, 137:9,<br/>137:10, 140:6,<br/>152:12<br/><b>somebody</b><br/>21:4, 63:20,<br/>63:21, 65:3,<br/>71:18, 97:1,<br/>151:6, 153:15,<br/>153:16<br/><b>somebody's</b><br/>21:9<br/><b>somehow</b><br/>14:19<br/><b>someone</b><br/>56:4, 64:3,</p> | <p>65:20, 65:22,<br/>66:1, 69:22,<br/>71:5, 76:12,<br/>85:3, 100:10,<br/>136:3, 146:10<br/><b>something</b><br/>13:17, 15:3,<br/>16:7, 23:8,<br/>39:11, 43:18,<br/>64:14, 66:2,<br/>67:20, 68:3,<br/>70:9, 98:1,<br/>98:6, 100:2,<br/>100:3, 103:12,<br/>103:18, 108:5,<br/>109:21, 114:21,<br/>124:11, 124:18,<br/>133:15, 137:16<br/><b>sometimes</b><br/>19:19, 68:13,<br/>96:12, 97:13,<br/>97:14, 103:7,<br/>151:22<br/><b>somewhere</b><br/>75:18<br/><b>soon</b><br/>6:15, 118:6,<br/>129:1<br/><b>sorry</b><br/>38:14, 53:20,<br/>68:7, 86:16,<br/>104:15, 114:5,<br/>116:5, 117:5,<br/>134:17<br/><b>sort</b><br/>83:4<br/><b>sorts</b><br/>69:1, 69:21<br/><b>sound</b><br/>5:9, 6:3, 57:22<br/><b>south</b><br/>44:18, 47:18,<br/>54:5<br/><b>sovereign</b><br/>77:10<br/><b>space</b><br/>103:8<br/><b>speak</b><br/>4:2, 4:16,</p> | <p>7:16, 33:13<br/><b>speaking</b><br/>111:4, 121:12<br/><b>special</b><br/>4:4, 91:19,<br/>131:4<br/><b>specialized</b><br/>78:18, 120:22,<br/>121:7, 134:21,<br/>135:3<br/><b>specialty</b><br/>124:16, 124:17<br/><b>species</b><br/>84:8<br/><b>specific</b><br/>8:3, 33:3,<br/>58:20, 68:11,<br/>68:13, 84:8,<br/>108:4, 150:20<br/><b>specifically</b><br/>13:18, 18:13,<br/>71:3, 71:11,<br/>71:13<br/><b>specified</b><br/>114:18<br/><b>specify</b><br/>116:16, 128:2<br/><b>spell</b><br/>3:14, 3:16<br/><b>spelled</b><br/>7:17, 25:6,<br/>28:13, 75:5,<br/>76:22<br/><b>spend</b><br/>70:11, 91:17<br/><b>spoke</b><br/>47:5<br/><b>spoken</b><br/>24:9<br/><b>sponsor</b><br/>3:10, 40:20,<br/>66:21, 67:3,<br/>72:15, 77:6,<br/>77:7, 80:2,<br/>84:17, 88:17,<br/>100:14, 110:14,<br/>114:11, 123:11,<br/>125:7, 125:10,</p> |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

194

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>126:21, 128:17,<br/>131:11, 143:9<br/><b>sponsors</b><br/>3:11, 47:10,<br/>62:5<br/><b>spot</b><br/>63:17, 64:6,<br/>64:7, 64:21,<br/>65:20, 146:10<br/><b>spots</b><br/>119:15<br/><b>spread</b><br/>20:14<br/><b>sprinkled</b><br/>104:18, 107:16<br/><b>staff</b><br/>19:8, 19:9,<br/>20:8, 21:17,<br/>22:5, 39:17,<br/>43:1, 78:18,<br/>95:9, 96:1,<br/>118:19<br/><b>stand</b><br/>13:3, 35:17,<br/>150:8<br/><b>standard</b><br/>34:12<br/><b>standing</b><br/>47:10<br/><b>start</b><br/>37:5, 44:5,<br/>52:1, 52:6,<br/>52:12, 57:17,<br/>57:19, 105:6,<br/>109:6, 118:6,<br/>125:17, 125:22<br/><b>started</b><br/>76:17, 89:4<br/><b>starting</b><br/>80:14, 130:4,<br/>146:4<br/><b>starts</b><br/>97:4, 97:13<br/><b>state</b><br/>1:7, 1:8, 2:2,<br/>3:15, 6:1, 11:5,<br/>13:2, 19:18,<br/>24:7, 25:4,</p> | <p>27:1, 27:9,<br/>30:19, 33:16,<br/>34:3, 34:8,<br/>47:15, 54:7,<br/>54:12, 55:5,<br/>59:11, 61:10,<br/>61:11, 61:21,<br/>74:3, 75:3,<br/>75:10, 75:11,<br/>75:13, 75:14,<br/>75:16, 75:17,<br/>76:1, 77:1,<br/>77:9, 77:15,<br/>77:16, 78:4,<br/>78:16, 80:21,<br/>81:2, 81:3,<br/>83:10, 83:21,<br/>85:3, 90:7,<br/>91:11, 91:18,<br/>96:11, 97:20,<br/>98:13, 119:18,<br/>148:18, 149:5,<br/>149:6, 149:9,<br/>149:10, 156:21<br/><b>state's</b><br/>11:16, 39:2<br/><b>stated</b><br/>75:9, 100:14<br/><b>statement</b><br/>132:22<br/><b>statements</b><br/>23:1, 146:14<br/><b>states</b><br/>149:12<br/><b>status</b><br/>68:6<br/><b>statute</b><br/>67:20, 68:3,<br/>74:12, 74:20,<br/>101:4, 129:3,<br/>129:9, 131:19,<br/>132:8, 134:17,<br/>135:9<br/><b>statutes</b><br/>50:7<br/><b>step</b><br/>3:17, 47:2,<br/>50:6, 52:18,</p> | <p>79:4, 104:15,<br/>139:22<br/><b>sticking</b><br/>154:20<br/><b>still</b><br/>16:13, 16:22,<br/>25:19, 34:9,<br/>34:14, 43:7,<br/>51:19, 60:14,<br/>111:17, 113:4,<br/>122:8, 124:4,<br/>128:12, 132:1<br/><b>stock</b><br/>126:15<br/><b>stockton</b><br/>21:14, 21:15,<br/>22:7, 114:5,<br/>114:7, 116:5,<br/>116:7, 116:9,<br/>116:12, 117:13,<br/>126:15, 126:17,<br/>126:20, 127:2,<br/>127:22, 128:2<br/><b>stockton's</b><br/>123:21<br/><b>stone</b><br/>74:15<br/><b>stop</b><br/>72:8, 97:3<br/><b>stories</b><br/>14:11<br/><b>story</b><br/>33:2<br/><b>straight</b><br/>19:6<br/><b>straightforward</b><br/>62:18<br/><b>strength</b><br/>101:4<br/><b>stretched</b><br/>8:2<br/><b>strict</b><br/>24:5<br/><b>strike</b><br/>143:3<br/><b>strives</b><br/>93:9<br/><b>strong</b><br/>76:18, 95:15</p> | <p><b>stronger</b><br/>25:10, 75:10<br/><b>strongly</b><br/>30:14<br/><b>struck</b><br/>27:20<br/><b>structurally</b><br/>94:8<br/><b>structures</b><br/>77:12<br/><b>struggle</b><br/>26:11, 133:10,<br/>133:13<br/><b>struggles</b><br/>128:19<br/><b>students</b><br/>28:21, 91:4<br/><b>studies</b><br/>27:7<br/><b>stuff</b><br/>36:11, 68:19,<br/>137:10, 143:17<br/><b>sub</b><br/>80:13<br/><b>sub-average</b><br/>16:19<br/><b>sub-three</b><br/>146:4, 149:19<br/><b>sub-two</b><br/>149:15<br/><b>subject</b><br/>24:5<br/><b>submit</b><br/>105:18, 106:16,<br/>107:4, 111:3,<br/>138:5, 138:19<br/><b>submitted</b><br/>107:19, 130:12<br/><b>subsection</b><br/>42:15, 149:16,<br/>149:17<br/><b>substitution</b><br/>122:21<br/><b>substitutions</b><br/>122:18<br/><b>success</b><br/>78:19, 96:9<br/><b>successes</b><br/>92:2</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

195

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>successful</b><br>15:13<br><b>suffer</b><br>24:14<br><b>suited</b><br>98:2<br><b>sunchild</b><br>31:4, 31:5,<br>31:6, 31:13<br><b>super</b><br>114:15, 127:16<br><b>superintendent</b><br>149:6<br><b>supplies</b><br>18:21, 20:13<br><b>support</b><br>9:4, 9:8, 13:3,<br>18:7, 21:10,<br>50:1, 57:12,<br>58:3, 59:13,<br>70:15, 75:8,<br>76:8, 77:3,<br>78:6, 98:22,<br>99:6, 99:11,<br>109:16, 109:18,<br>109:22, 110:15,<br>117:21, 121:19<br><b>supporting</b><br>103:3, 156:4<br><b>supportive</b><br>133:15<br><b>supposed</b><br>105:22, 106:2,<br>118:20<br><b>suppression</b><br>27:2, 27:4<br><b>supreme</b><br>24:4, 27:20<br><b>sure</b><br>3:14, 3:22,<br>6:8, 32:7, 36:8,<br>57:21, 67:13,<br>81:18, 107:14,<br>113:18, 118:11,<br>120:9, 122:6,<br>127:20, 133:13,<br>136:16, 142:2,<br>143:8, 145:19, | 152:9, 153:21,<br>154:5<br><b>surveyed</b><br>15:12, 15:17<br><b>survived</b><br>9:3<br><b>susan</b><br>72:19<br><b>suspect</b><br>33:9<br><b>sustains</b><br>93:20<br><b>swanson</b><br>89:1, 89:6,<br>89:14, 89:18,<br>92:6, 94:15,<br>94:16, 94:19,<br>94:22, 98:4,<br>98:10, 98:11,<br>98:19, 99:2,<br>99:9, 99:13,<br>101:15<br><b>switch</b><br>3:10<br><b>switched</b><br>110:8<br><b>system</b><br>12:9, 15:2,<br>16:6, 17:22,<br>26:6, 61:14,<br>93:11<br><hr/> <b>T</b><br><hr/> <b>t-o-n</b><br>92:12<br><b>table</b><br>4:10, 7:8,<br>60:19, 61:22,<br>112:8, 124:20,<br>140:19, 140:21,<br>141:2, 141:4<br><b>tabled</b><br>10:16, 54:14,<br>57:11<br><b>tables</b><br>112:10<br><b>tabling</b><br>10:14 | <b>tabulating</b><br>48:20<br><b>tabulation</b><br>15:5<br><b>tabulator</b><br>120:21<br><b>tabulators</b><br>52:18, 52:21<br><b>tactic</b><br>152:1<br><b>take</b><br>2:4, 3:18,<br>3:19, 10:14,<br>12:15, 18:8,<br>21:20, 40:7,<br>45:7, 51:7,<br>62:2, 64:6,<br>64:7, 72:9,<br>94:2, 104:15,<br>138:3, 140:6,<br>140:16<br><b>taken</b><br>55:13, 94:7<br><b>takes</b><br>18:16, 42:15,<br>97:14<br><b>taking</b><br>24:16, 140:11,<br>143:22, 144:8<br><b>talk</b><br>16:5, 68:15,<br>114:6, 117:9<br><b>talked</b><br>16:1, 50:12,<br>58:6, 93:17<br><b>talking</b><br>58:8, 65:5,<br>71:3, 71:19,<br>72:7, 85:3,<br>97:12, 125:17,<br>129:7, 145:14,<br>145:16, 146:5<br><b>talks</b><br>108:11<br><b>tangible</b><br>26:14, 32:20,<br>40:16<br><b>tape-recording</b><br>156:10 | <b>target</b><br>59:18<br><b>targeted</b><br>57:14, 58:5,<br>59:8, 59:14<br><b>task</b><br>18:12<br><b>tasks</b><br>19:2, 53:14<br><b>taxpayer</b><br>8:1, 9:5, 29:18<br><b>taxpayers</b><br>7:7, 8:2, 8:6<br><b>team</b><br>16:1, 90:9,<br>90:10, 90:22,<br>91:7, 92:17,<br>97:2, 97:15<br><b>teams</b><br>132:21<br><b>technical</b><br>55:3, 61:9,<br>61:10, 95:10<br><b>technically</b><br>151:7<br><b>technology</b><br>137:6<br><b>telephone</b><br>45:19<br><b>tell</b><br>14:2, 15:11,<br>17:2, 40:13,<br>54:9, 59:6,<br>87:12, 94:19,<br>97:2, 151:2<br><b>temporarily</b><br>57:13, 58:4,<br>58:19<br><b>temporary</b><br>55:9, 58:7,<br>59:1, 59:9,<br>61:18<br><b>term</b><br>76:3, 86:19,<br>149:1, 150:2,<br>150:20, 151:7,<br>152:6<br><b>termed</b><br>63:11, 71:5, |
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Transcript of Senate Standing Committee  
Conducted on March 1, 2025

196

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| 71:7, 71:14<br><b>terminology</b><br>86:14<br><b>terms</b><br>71:2, 71:4,<br>75:13, 143:17,<br>148:16, 148:17,<br>149:18, 150:21<br><b>testifiers</b><br>33:6<br><b>testify</b><br>3:13, 33:1<br><b>testifying</b><br>28:14, 40:4<br><b>testimony</b><br>31:9, 34:1,<br>123:21, 123:22<br><b>tezak</b><br>2:18, 2:19,<br>147:4, 147:5<br><b>th</b><br>27:18, 129:14,<br>129:19<br><b>thanks</b><br>136:6, 150:1,<br>154:20<br><b>theirs</b><br>74:3<br><b>themes</b><br>12:13<br><b>themselves</b><br>48:6<br><b>therefore</b><br>59:7<br><b>they'd</b><br>107:10<br><b>thin</b><br>8:2<br><b>thing</b><br>33:20, 36:6,<br>40:1, 43:9,<br>43:11, 53:14,<br>68:13, 102:8,<br>103:9, 143:20<br><b>things</b><br>3:4, 7:7, 12:5,<br>14:18, 33:14,<br>46:5, 46:18, | 68:12, 102:5,<br>105:6, 114:16,<br>115:7, 117:7,<br>120:9, 123:22,<br>126:10, 131:5,<br>137:6, 137:12<br><b>think</b><br>6:13, 9:16,<br>9:17, 10:7,<br>10:10, 12:5,<br>12:14, 32:22,<br>33:15, 37:5,<br>40:16, 43:4,<br>44:10, 47:6,<br>52:19, 52:20,<br>53:12, 53:14,<br>59:17, 60:4,<br>64:2, 64:8,<br>64:13, 64:14,<br>65:9, 67:7,<br>67:9, 67:19,<br>68:2, 68:12,<br>68:16, 80:7,<br>91:22, 93:13,<br>93:15, 94:7,<br>94:8, 95:11,<br>97:17, 98:5,<br>100:5, 103:20,<br>106:2, 106:13,<br>109:8, 110:16,<br>110:20, 112:13,<br>112:15, 112:17,<br>116:16, 120:8,<br>122:20, 123:18,<br>123:19, 124:2,<br>124:6, 124:7,<br>124:8, 124:13,<br>124:15, 125:14,<br>125:19, 127:2,<br>127:3, 130:3,<br>131:2, 133:1,<br>133:3, 135:13,<br>135:15, 138:7,<br>138:16, 139:1,<br>139:2, 139:22,<br>143:18, 144:10,<br>145:12, 146:3,<br>146:9, 153:8, | 153:14, 153:19<br><b>thinking</b><br>40:9, 82:18,<br>127:4, 153:14<br><b>thorough</b><br>78:14<br><b>thought</b><br>43:14, 54:21,<br>101:20, 117:8,<br>125:22, 136:8,<br>137:1<br><b>thoughts</b><br>133:20, 143:14<br><b>thousands</b><br>27:14<br><b>threaten</b><br>25:15<br><b>three</b><br>8:4, 15:6,<br>19:1, 41:9,<br>42:16, 44:17,<br>62:21, 65:14,<br>74:6, 79:10,<br>103:6, 106:22,<br>108:12, 115:19,<br>116:7, 116:18,<br>126:10, 147:18,<br>147:19, 154:19<br><b>through</b><br>9:8, 16:10,<br>25:21, 30:11,<br>44:14, 51:8,<br>52:16, 59:3,<br>61:10, 62:11,<br>66:3, 70:17,<br>84:13, 90:5,<br>92:19, 92:20,<br>93:5, 96:20,<br>96:22, 103:15,<br>110:16, 117:10,<br>122:20, 136:1,<br>151:11<br><b>throughout</b><br>13:12<br><b>throw</b><br>16:8<br><b>thrown</b><br>8:19 | <b>thumbs</b><br>104:22<br><b>thursday</b><br>52:6, 52:10<br><b>tight</b><br>114:3<br><b>tightened</b><br>137:20<br><b>till</b><br>34:15, 138:8,<br>140:9<br><b>time</b><br>7:8, 10:15,<br>12:7, 13:20,<br>14:18, 15:10,<br>17:13, 18:21,<br>21:9, 21:11,<br>22:4, 29:3,<br>29:18, 32:6,<br>41:8, 41:20,<br>44:15, 45:18,<br>46:18, 50:11,<br>52:7, 52:8,<br>53:13, 58:20,<br>67:4, 67:12,<br>70:11, 79:6,<br>82:21, 89:15,<br>92:14, 100:14,<br>103:7, 103:8,<br>106:7, 107:1,<br>107:12, 111:18,<br>111:21, 114:6,<br>114:12, 120:1,<br>121:1, 122:8,<br>126:2, 129:18,<br>136:8, 137:2,<br>137:8, 138:13,<br>138:15, 144:1,<br>145:5, 145:18,<br>149:15, 149:17<br><b>timely</b><br>11:13, 18:11,<br>20:22<br><b>times</b><br>11:9, 39:3,<br>44:9, 44:14,<br>105:21, 120:15,<br>121:3, 121:5, |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

197

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 145:1<br><b>tired</b><br>98:13<br><b>tireless</b><br>78:12<br><b>tires</b><br>6:12<br><b>title</b><br>74:9, 86:21,<br>104:6, 109:21,<br>114:20, 132:7,<br>153:4<br><b>titled</b><br>92:16<br><b>to-</b><br>150:14<br><b>today</b><br>3:6, 10:18,<br>11:8, 14:4,<br>16:4, 18:7,<br>22:21, 24:9,<br>39:17, 40:7,<br>47:5, 47:20,<br>73:3, 75:8,<br>77:3, 96:3,<br>103:6, 103:11,<br>115:1, 139:17,<br>144:15<br><b>together</b><br>75:14, 76:4,<br>90:8<br><b>token</b><br>119:16, 120:7<br><b>told</b><br>41:1, 46:1,<br>72:6, 79:10,<br>81:13, 82:4,<br>133:11<br><b>took</b><br>15:22<br><b>topic</b><br>14:7, 17:18,<br>73:7<br><b>topics</b><br>77:18<br><b>torturing</b><br>62:15<br><b>total</b><br>18:17 | <b>totally</b><br>84:18<br><b>touch</b><br>100:19<br><b>towards</b><br>14:19, 40:14,<br>139:2<br><b>town</b><br>44:18, 139:11<br><b>track</b><br>39:10, 39:12,<br>40:2<br><b>tracking</b><br>40:15, 40:17<br><b>trade</b><br>36:14<br><b>trading</b><br>36:15<br><b>traditionally</b><br>138:21<br><b>train</b><br>109:20<br><b>trained</b><br>105:19, 111:13,<br>112:6, 122:18,<br>126:5, 127:15<br><b>training</b><br>73:18, 73:20,<br>106:20, 108:13,<br>109:5, 112:1,<br>112:12, 112:13,<br>120:17, 120:20,<br>120:22, 121:5,<br>121:7, 122:3,<br>122:5, 122:9,<br>122:12, 122:15,<br>122:20, 122:22,<br>124:7, 124:8,<br>124:17, 124:18,<br>125:18, 127:6,<br>127:7, 127:10,<br>128:20, 129:20,<br>129:21, 131:1,<br>135:3, 136:2,<br>136:10<br><b>trainings</b><br>111:8, 111:9,<br>111:20, 122:14, | 127:13<br><b>transcribed</b><br>1:22<br><b>transcriber</b><br>156:1, 156:2<br><b>transcript</b><br>1:6<br><b>transcription</b><br>156:9<br><b>transition</b><br>17:17<br><b>transmittal</b><br>3:4<br><b>transparency</b><br>104:12, 118:3,<br>121:10<br><b>transportation</b><br>81:1, 92:12,<br>92:18, 93:4,<br>93:11, 101:19,<br>101:22, 102:11<br><b>travel</b><br>20:17, 23:14,<br>26:16<br><b>tribal</b><br>13:13, 26:3,<br>26:9, 26:15,<br>73:4, 73:5,<br>73:7, 73:13,<br>74:1, 74:13,<br>77:1, 77:10,<br>77:13, 77:17,<br>77:21, 77:22,<br>78:10, 78:17,<br>78:18, 79:1,<br>81:16, 82:3,<br>84:1, 85:1,<br>85:4, 86:20,<br>88:10, 88:13,<br>89:20, 90:7,<br>90:12, 90:15,<br>90:18, 91:2,<br>91:6, 91:20,<br>92:16, 93:5,<br>93:17, 93:22,<br>94:4, 95:12,<br>95:15, 95:17,<br>95:18, 95:20, | 96:19, 97:3,<br>97:5, 99:19,<br>101:14<br><b>tribe</b><br>25:7, 25:8,<br>75:6, 75:7,<br>77:1, 80:16,<br>82:10, 83:22,<br>84:4, 84:10,<br>85:20, 86:22,<br>90:18<br><b>tribes</b><br>75:9, 75:13,<br>75:19, 76:2,<br>77:15, 81:3,<br>81:4, 83:20,<br>84:9, 84:11,<br>84:13, 85:21,<br>86:5, 92:20,<br>93:2, 93:10,<br>101:1, 101:6<br><b>tried</b><br>71:15, 145:1,<br>145:4<br><b>trigger</b><br>69:21<br><b>trip</b><br>26:16<br><b>trouble</b><br>7:3, 49:15,<br>76:20<br><b>true</b><br>156:9<br><b>truly</b><br>120:1<br><b>trust</b><br>105:1, 105:6<br><b>trusting</b><br>118:9<br><b>try</b><br>72:18, 84:17,<br>93:2, 103:12,<br>103:18, 112:10,<br>129:11, 135:4,<br>136:11, 137:9,<br>145:9, 145:20<br><b>trying</b><br>14:17, 42:8, |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

198

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 46:12, 64:1,<br>68:21, 69:12,<br>80:9, 80:10,<br>86:17, 87:17,<br>99:21, 100:7,<br>105:9, 107:7,<br>107:17, 111:12,<br>128:17, 129:5,<br>130:20, 133:7,<br>133:9, 134:2,<br>137:8, 137:9,<br>137:22, 139:2<br><b>tuesday</b><br>12:11<br><b>turnout</b><br>16:18, 20:4,<br>20:5<br><b>twice</b><br>26:6<br><b>two</b><br>15:17, 19:8,<br>28:5, 41:1,<br>43:6, 45:22,<br>55:16, 62:5,<br>72:22, 74:9,<br>80:12, 82:2,<br>88:8, 99:7,<br>108:10, 112:2,<br>115:19, 116:7,<br>116:22, 125:18,<br>126:7, 127:5,<br>131:1, 138:14,<br>142:21, 145:13<br><b>type</b><br>68:13<br><b>types</b><br>19:2<br><b>typically</b><br>125:16<br><b>tyzack</b><br>69:14, 69:15,<br>69:20, 71:21<br><hr/> <b>U</b><br><hr/> <b>u-n-c-h-i-l-d</b><br>31:7<br><b>uh</b><br>12:12, 103:19 | <b>unknown</b><br>147:9<br><b>ultimately</b><br>23:18<br><b>umbrella</b><br>82:8, 82:18,<br>83:12<br><b>unable</b><br>13:7, 16:13,<br>65:12, 65:13<br><b>unavailable</b><br>17:11<br><b>unconstitutional</b><br>24:15, 29:15,<br>43:11, 43:12<br><b>under</b><br>26:22, 27:2,<br>27:22, 69:6,<br>82:8, 86:16,<br>96:5, 109:21,<br>156:3<br><b>underlined</b><br>150:18<br><b>undermine</b><br>29:21, 30:18<br><b>undermines</b><br>27:9<br><b>understand</b><br>8:11, 42:12,<br>42:17, 81:5,<br>85:2, 93:3,<br>97:9, 121:14,<br>122:4, 124:19,<br>128:16, 128:18,<br>128:19, 132:11,<br>136:7, 143:16,<br>145:13, 153:21,<br>154:5<br><b>understanding</b><br>8:12, 16:3,<br>39:2, 56:3,<br>75:15, 111:4,<br>130:20<br><b>understood</b><br>77:8<br><b>undue</b><br>25:14<br><b>unemployment</b><br>97:11 | <b>unfair</b><br>78:3<br><b>unfortunate</b><br>33:15<br><b>unfortunately</b><br>8:18, 33:18,<br>58:22, 75:12<br><b>unfounded</b><br>27:6<br><b>unique</b><br>77:11, 95:18<br><b>uniquely</b><br>91:5<br><b>united</b><br>149:12<br><b>university</b><br>17:8<br><b>unknown</b><br>140:13, 146:18,<br>147:13<br><b>unless</b><br>146:10<br><b>unmanageable</b><br>32:19<br><b>unnecessary</b><br>23:17, 29:4,<br>52:18<br><b>until</b><br>15:4, 19:3,<br>35:6, 35:9,<br>38:12, 38:19,<br>41:12<br><b>upcoming</b><br>65:19<br><b>update</b><br>21:5<br><b>updated</b><br>55:15, 55:16<br><b>upheld</b><br>34:4<br><b>upholding</b><br>30:12<br><b>upset</b><br>14:15, 45:19<br><b>upwards</b><br>40:14<br><b>urban</b><br>48:9, 48:14 | <b>urge</b><br>9:9, 28:17,<br>31:12, 53:16,<br>79:6, 112:16,<br>113:10<br><b>urges</b><br>30:15<br><b>urging</b><br>24:21<br><b>use</b><br>9:7, 90:9,<br>120:10, 135:10<br><b>using</b><br>54:22, 101:17,<br>112:20, 132:17<br><b>usual</b><br>3:5, 124:18<br><b>usually</b><br>85:21, 121:12,<br>143:17<br><b>utilized</b><br>23:4<br><hr/> <b>V</b><br><hr/> <b>vacancy</b><br>151:17<br><b>vacant</b><br>64:21, 65:4<br><b>valuable</b><br>27:16<br><b>values</b><br>30:13<br><b>vance</b><br>2:20, 2:21,<br>37:3, 37:4,<br>37:6, 37:7,<br>37:16, 38:3,<br>38:6, 38:22,<br>39:6, 66:19,<br>66:20, 67:1,<br>67:2, 68:10,<br>79:22, 80:1,<br>80:3, 80:4,<br>81:7, 83:4,<br>83:7, 83:18,<br>84:16, 84:20,<br>84:21, 85:6,<br>86:9, 86:12, |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

199

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 87:2, 87:4,<br>87:10, 87:14,<br>87:16, 87:21,<br>88:14, 88:17,<br>89:13, 89:19,<br>92:5, 92:8,<br>92:15, 128:8,<br>128:9, 128:14,<br>128:15, 129:5,<br>129:10, 129:22,<br>130:2, 130:7,<br>130:10, 130:16,<br>130:20, 131:6,<br>142:19, 142:20,<br>144:21, 144:22,<br>146:11, 146:12,<br>147:6, 147:7,<br>148:8, 148:9,<br>148:12, 150:1,<br>150:7, 150:10,<br>150:22, 151:1<br><b>vanilla</b><br>62:20<br><b>various</b><br>118:1<br><b>verdict</b><br>34:11<br><b>versa</b><br>85:21<br><b>version</b><br>43:6<br><b>versus</b><br>95:6, 139:16<br><b>vice</b><br>85:21, 140:18,<br>141:1, 141:7,<br>141:14, 153:2<br><b>vii</b><br>114:20, 132:7<br><b>violated</b><br>24:1, 27:21<br><b>virtue</b><br>149:21<br><b>vision</b><br>80:20<br><b>vital</b><br>112:14, 112:15<br><b>vitally</b><br>111:19, 118:10 | <b>voice</b><br>26:20, 31:7,<br>33:22, 154:7<br><b>volume</b><br>46:10<br><b>volunteers</b><br>16:11<br><b>vote</b><br>7:10, 13:7,<br>13:8, 14:16,<br>17:18, 20:1,<br>20:4, 23:15,<br>23:19, 24:2,<br>24:7, 24:20,<br>24:21, 25:20,<br>26:7, 26:14,<br>27:21, 29:22,<br>30:11, 30:15,<br>30:16, 31:12,<br>34:21, 44:9,<br>109:22, 142:13,<br>144:1, 145:3,<br>145:15, 146:17,<br>146:19, 147:18,<br>154:7<br><b>voted</b><br>27:11, 31:11,<br>59:4<br><b>voter</b><br>11:8, 11:19,<br>13:4, 13:5,<br>14:13, 18:9,<br>20:5, 25:11,<br>26:13, 27:1,<br>27:3, 27:4,<br>27:13, 28:19,<br>29:1, 29:21,<br>30:16, 38:11,<br>38:16, 38:20,<br>39:3, 40:2,<br>52:22, 53:2,<br>56:14, 145:7,<br>145:18, 146:6<br><b>voters</b><br>13:22, 14:21,<br>15:19, 16:7,<br>17:4, 17:18,<br>19:7, 20:22, | 21:3, 23:5,<br>23:6, 23:10,<br>25:14, 25:16,<br>26:4, 26:8,<br>27:10, 27:14,<br>27:16, 28:21,<br>30:7, 30:10,<br>31:1, 34:18,<br>34:21, 39:10,<br>57:13, 58:4,<br>58:11, 58:18,<br>59:13, 59:18<br><b>voterss</b><br>19:16<br><b>votes</b><br>19:16, 149:22,<br>154:16<br><b>voting</b><br>14:14, 19:8,<br>26:17, 26:22,<br>29:3, 77:19<br><hr/> <b>W</b> <hr/> <b>wait</b><br>19:3, 21:19,<br>34:6, 44:9,<br>60:2, 113:18,<br>140:8, 140:9<br><b>waiting</b><br>20:1, 139:20<br><b>walk</b><br>64:20<br><b>walking</b><br>62:14<br><b>walks</b><br>17:8<br><b>wall</b><br>6:11<br><b>want</b><br>6:1, 6:20,<br>13:17, 20:22,<br>33:20, 37:1,<br>38:8, 40:13,<br>46:22, 54:16,<br>55:16, 57:17,<br>67:7, 69:11,<br>72:5, 76:1,<br>77:5, 80:11, | 81:17, 83:17,<br>83:18, 84:18,<br>86:5, 86:18,<br>93:22, 94:2,<br>99:22, 100:19,<br>102:11, 103:2,<br>103:15, 104:17,<br>105:18, 110:12,<br>110:21, 111:17,<br>112:1, 113:9,<br>114:15, 115:14,<br>115:18, 116:16,<br>124:4, 132:11,<br>133:5, 134:6,<br>134:8, 134:9,<br>136:3, 137:11,<br>139:15, 139:22,<br>140:1, 140:8,<br>140:9, 140:15,<br>143:2, 145:9,<br>145:22, 151:3,<br>153:21, 154:4<br><b>wanted</b><br>78:22, 100:4,<br>102:16, 112:12,<br>126:20, 131:9,<br>146:13<br><b>wanting</b><br>127:20, 140:10<br><b>wants</b><br>62:6, 113:8,<br>125:2, 134:4,<br>145:21<br><b>washington</b><br>74:3<br><b>waste</b><br>29:17<br><b>water</b><br>139:21<br><b>way</b><br>22:6, 33:11,<br>36:21, 36:22,<br>37:10, 38:7,<br>41:11, 42:4,<br>65:10, 72:8,<br>72:21, 76:5,<br>76:7, 79:4,<br>84:13, 97:9, |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



Transcript of Senate Standing Committee  
Conducted on March 1, 2025

200

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>97:17, 104:12,<br/>108:16, 108:18,<br/>113:5, 115:5,<br/>115:7, 115:16,<br/>117:11, 119:11,<br/>120:5, 136:7,<br/>141:6, 151:1,<br/>151:5, 152:14<br/><b>ways</b><br/>50:13, 64:2<br/><b>we'll</b><br/>3:10, 5:13,<br/>12:15, 29:12,<br/>49:4, 50:17,<br/>105:16, 123:15<br/><b>we're</b><br/>3:2, 7:3,<br/>20:14, 29:7,<br/>32:5, 33:9,<br/>33:17, 41:22,<br/>42:8, 43:18,<br/>50:12, 51:19,<br/>55:4, 58:8,<br/>59:19, 62:8,<br/>63:16, 65:5,<br/>68:20, 76:4,<br/>80:18, 88:2,<br/>88:3, 90:20,<br/>95:1, 96:12,<br/>97:2, 97:12,<br/>97:18, 97:22,<br/>99:20, 100:6,<br/>100:7, 100:10,<br/>101:2, 105:8,<br/>111:12, 112:19,<br/>117:2, 127:14,<br/>129:7, 132:18,<br/>137:22, 139:2<br/><b>we've</b><br/>4:3, 16:16,<br/>50:12, 90:21,<br/>91:20, 92:1,<br/>127:12, 133:16,<br/>136:9, 145:1,<br/>145:4<br/><b>weber</b><br/>72:17, 72:20,<br/>74:22, 80:3,</p> | <p>80:5, 80:12,<br/>81:6, 81:8,<br/>83:7, 83:14,<br/>84:19, 84:22,<br/>85:6, 86:22,<br/>87:3, 87:5,<br/>87:8, 87:11,<br/>87:21, 101:9,<br/>101:11, 102:18<br/><b>wednesday</b><br/>44:10<br/><b>week</b><br/>13:12, 97:14,<br/>122:14<br/><b>weekend</b><br/>13:5<br/><b>weeks</b><br/>129:17<br/><b>weibo</b><br/>120:14<br/><b>welcome</b><br/>4:6, 11:1,<br/>29:6, 47:13,<br/>54:2, 62:9,<br/>72:14, 102:21<br/><b>well-being</b><br/>78:2<br/><b>well-intentioned</b><br/>44:20<br/><b>well-run</b><br/>13:9<br/><b>wendy</b><br/>47:17, 54:3<br/><b>went</b><br/>31:9, 37:12,<br/>37:22, 38:1,<br/>44:17, 71:14,<br/>104:22, 126:22,<br/>136:1, 151:8<br/><b>were-</b><br/>65:22<br/><b>weren't</b><br/>64:8, 65:21,<br/>69:5, 69:8, 70:3<br/><b>western</b><br/>31:7, 33:22<br/><b>wetzel</b><br/>90:14</p> | <p><b>we'll</b><br/>22:16<br/><b>we're</b><br/>16:17, 38:9<br/><b>whatever</b><br/>48:16, 63:13,<br/>65:5, 97:12,<br/>116:3, 118:11,<br/>124:22, 125:2,<br/>133:5<br/><b>whenever</b><br/>84:4<br/><b>wherever</b><br/>56:2<br/><b>whether</b><br/>51:11, 67:16,<br/>70:13, 94:19,<br/>118:7, 120:5,<br/>121:20<br/><b>whining</b><br/>73:6<br/><b>white</b><br/>6:11<br/><b>who've</b><br/>107:12, 138:21<br/><b>whoever</b><br/>69:11, 131:12<br/><b>whole</b><br/>42:7, 42:15,<br/>43:11, 43:14,<br/>70:11, 106:21,<br/>146:4<br/><b>wholeheartedly</b><br/>146:13<br/><b>whomever</b><br/>56:1<br/><b>wildlife</b><br/>83:19, 83:20,<br/>84:7, 85:11,<br/>85:17, 85:22<br/><b>willing</b><br/>124:20, 124:22,<br/>145:20<br/><b>wioa</b><br/>97:11<br/><b>wish</b><br/>4:16, 117:20<br/><b>within</b><br/>26:10, 45:18,</p> | <p>75:16, 75:21,<br/>88:1, 90:10,<br/>91:7, 92:3,<br/>95:5, 95:6,<br/>100:8, 100:11,<br/>100:17, 106:6,<br/>125:4, 144:11<br/><b>without</b><br/>78:5, 78:9,<br/>88:22, 109:3,<br/>140:7, 140:22,<br/>141:5<br/><b>witness</b><br/>99:10<br/><b>witnesses</b><br/>4:16, 9:21,<br/>9:22, 16:17,<br/>31:18, 31:19,<br/>49:3, 50:21,<br/>60:10, 66:14,<br/>79:17, 108:9,<br/>118:5, 123:6,<br/>123:7<br/><b>wondered</b><br/>41:9, 42:13<br/><b>wonderful</b><br/>6:14, 102:3<br/><b>wondering</b><br/>88:20<br/><b>woods</b><br/>102:1<br/><b>word</b><br/>60:20, 72:7,<br/>116:10, 125:12,<br/>143:1, 143:3,<br/>143:4<br/><b>work</b><br/>12:8, 18:17,<br/>19:5, 26:8,<br/>26:10, 29:2,<br/>35:15, 35:22,<br/>46:21, 78:6,<br/>90:5, 92:18,<br/>92:20, 92:21,<br/>93:2, 96:19,<br/>96:20, 96:22,<br/>97:10, 97:11,<br/>97:12, 98:16,</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

201

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 99:18, 101:21,<br>102:3, 110:14,<br>112:8, 125:1,<br>125:15, 134:9,<br>145:6, 154:20<br><b>worked</b><br>11:15, 14:4,<br>46:13, 95:14,<br>95:16, 99:15,<br>108:9, 112:6,<br>137:8<br><b>workers</b><br>16:3, 20:10,<br>37:20, 46:9<br><b>working</b><br>9:6, 13:11,<br>24:17, 28:21,<br>29:6, 75:14,<br>75:20, 76:6,<br>90:8, 98:15<br><b>works</b><br>34:14, 69:18,<br>71:10, 92:18,<br>93:19, 111:21<br><b>world</b><br>125:15, 128:22<br><b>worries</b><br>68:9<br><b>worry</b><br>124:11<br><b>wouldn't</b><br>65:2, 69:21,<br>71:17, 94:2,<br>96:1, 100:15,<br>104:1, 151:17<br><b>wrapped</b><br>35:10<br><b>write</b><br>149:21<br><b>written</b><br>32:20, 74:7,<br>78:14, 80:14<br><b>wrong</b><br>16:17, 67:21,<br>83:8 | <b>y-a-w-a-k-i-e</b><br>25:6<br><b>yawakie</b><br>25:3, 25:6,<br>28:2, 75:2,<br>75:4, 76:10,<br>83:15, 83:17,<br>87:6, 100:3,<br>100:4<br><b>yeah</b><br>5:12, 48:10,<br>52:14, 57:2,<br>57:22, 58:10,<br>62:14, 65:1,<br>87:8, 101:5,<br>103:5, 125:13,<br>130:16, 132:5,<br>135:21<br><b>year</b><br>16:9, 59:4,<br>149:4, 149:8,<br>149:10, 149:11,<br>149:13, 152:11<br><b>years</b><br>27:7, 55:16,<br>67:5, 70:21,<br>71:9, 82:2,<br>101:16, 104:19,<br>107:9, 108:10,<br>116:22, 125:18,<br>126:7, 127:6,<br>129:8, 131:1,<br>149:4, 149:8,<br>149:10, 149:11,<br>149:13, 152:11,<br>152:12, 152:13,<br>152:14, 152:17<br><b>yellowstone</b><br>54:20<br><b>yep</b><br>49:18, 65:1,<br>65:4<br><b>yesterday</b><br>81:9, 110:19,<br>144:17<br><b>young</b><br>6:7, 23:6,<br>25:15, 30:7, | 30:22, 90:22<br><b>youth</b><br>91:2<br><b>youth-focused</b><br>28:16<br><b>youth-led</b><br>28:16<br><b>yuma</b><br>58:16<br><hr/> <b>Z</b> <hr/> <b>zero</b><br>18:17<br><b>zollenkopf</b><br>99:5, 102:21,<br>102:22, 103:1,<br>104:2, 109:11,<br>109:17, 123:13,<br>123:16, 124:21,<br>125:13, 130:1,<br>136:20, 136:22,<br>140:3<br><b>zoom</b><br>9:18, 110:19,<br>136:14<br><hr/> <b>\$</b> <hr/> <b>\$1</b><br>16:8<br><b>\$35</b><br>8:7<br><hr/> <b>.</b> <hr/> <b>.001</b><br>141:21, 142:7<br><hr/> <b>0</b> <hr/> <b>00</b><br>12:12, 15:4,<br>17:11, 17:12,<br>35:7, 39:5, 42:3<br><b>0490.001</b><br>142:7<br><hr/> <b>1</b> <hr/> <b>10</b><br>63:5<br><b>100</b><br>95:7, 105:7, | 119:2<br><b>102</b><br>110:21<br><b>12</b><br>47:17, 54:4,<br>77:13, 84:22,<br>97:19, 149:11,<br>149:13<br><b>126</b><br>27:11<br><b>13</b><br>11:20, 60:21,<br>60:22, 63:5,<br>90:21, 104:6,<br>109:22, 110:21,<br>114:20, 115:9<br><b>14</b><br>41:3, 41:12<br><b>15</b><br>41:3, 41:4,<br>44:18, 74:9,<br>115:9, 129:14,<br>129:19, 142:21<br><b>155</b><br>156:8<br><b>156</b><br>1:21<br><b>16</b><br>41:4, 71:9,<br>149:4, 149:8,<br>149:10, 152:11<br><b>176</b><br>23:21, 24:1,<br>24:14, 27:17<br><b>18</b><br>116:13<br><b>19</b><br>116:18<br><b>1993</b><br>149:19<br><hr/> <b>2</b> <hr/> <b>2</b><br>11:20, 60:21<br><b>2.3</b><br>9:2<br><b>20</b><br>20:15, 74:8, |
| <hr/> <b>Y</b> <hr/> <b>y-a-w-a-c-k-i-e</b><br>75:5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

Transcript of Senate Standing Committee  
Conducted on March 1, 2025

202

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 112:2, 156:19<br><b>2014</b><br>27:10<br><b>2021</b><br>9:1, 23:20,<br>27:18<br><b>2022</b><br>15:12<br><b>2023</b><br>90:1<br><b>2025</b><br>1:11, 156:19<br><b>208</b><br>63:5<br><b>212</b><br>60:22<br><b>215143</b><br>73:19<br><b>22</b><br>103:2<br><b>220</b><br>60:21<br><b>24</b><br>19:5, 149:13<br><b>25</b><br>156:19, 156:22<br><b>28</b><br>130:12<br><hr/> <b>3</b><br><b>3</b><br>15:4, 17:12<br><b>3-1</b><br>156:22<br><b>30</b><br>20:16, 25:18,<br>35:18<br><b>301</b><br>11:20<br><b>314</b><br>62:8, 62:9,<br>62:19, 66:5,<br>66:11, 72:14,<br>148:1, 148:3,<br>148:4, 154:8,<br>154:17<br><b>379</b><br>62:8, 72:14, | 72:16, 73:3,<br>75:1, 75:8,<br>76:9, 76:11,<br>77:4, 79:7,<br>79:9, 79:14,<br>102:19<br><b>390</b><br>25:9<br><hr/> <b>4</b><br><b>4</b><br>35:7, 110:21<br><b>40</b><br>20:9<br><b>401</b><br>115:9<br><b>405</b><br>18:8, 21:10<br><b>409</b><br>26:1<br><b>448</b><br>53:17<br><b>449</b><br>53:18<br><b>45</b><br>106:13, 106:18,<br>111:3, 129:7,<br>130:13, 130:17,<br>136:9, 138:2,<br>138:3, 138:9<br><b>470</b><br>5:8, 102:21,<br>109:11, 109:16,<br>109:22, 110:5,<br>113:13, 140:4<br><b>49</b><br>8:18<br><b>490</b><br>5:8, 5:9, 11:1,<br>13:3, 18:1,<br>18:3, 22:17,<br>22:22, 24:13,<br>24:22, 25:13,<br>28:1, 28:3,<br>28:18, 30:15,<br>47:9, 141:9,<br>141:11, 141:21,<br>142:6, 142:16, | 146:20, 147:20<br><b>490.001</b><br>141:21<br><b>498</b><br>47:13, 47:21,<br>53:19, 53:20,<br>53:22<br><b>499</b><br>54:1, 57:4,<br>62:1, 62:4,<br>141:2, 141:4<br><hr/> <b>5</b><br><b>5</b><br>17:11, 17:12<br><b>50</b><br>103:19<br><b>500</b><br>16:10, 40:14<br><b>502</b><br>132:8<br><b>527</b><br>4:5, 4:6, 4:11,<br>4:19, 5:2, 5:20,<br>7:10, 9:12,<br>9:22, 10:22,<br>140:18, 140:19,<br>140:21<br><hr/> <b>6</b><br><b>6000</b><br>19:7<br><b>601174</b><br>1:20, 156:21<br><b>67</b><br>27:18<br><b>674</b><br>95:4<br><hr/> <b>7</b><br><b>7-4</b><br>132:8<br><b>70</b><br>132:18<br><hr/> <b>8</b><br><b>8</b><br>12:12, 17:11, | 35:18, 39:5,<br>42:3<br><hr/> <b>9</b><br><b>90</b><br>106:12, 106:18,<br>111:1, 120:15,<br>126:3, 126:22,<br>129:6, 130:15,<br>130:16, 138:3,<br>138:6, 138:8<br><b>98</b><br>5:8<br><b>99</b><br>5:8, 119:14,<br>119:22, 120:15<br><hr/> <b>-</b><br><b>-</b><br>62:22<br><hr/> <b>...</b><br><b>...</b><br>115:20, 116:13 |
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# EXHIBIT I

# Daily **Montanan**

## Committee considers repealing continuous ballot count provision

Election administrators testified to difficulties in finding staff and increased errors due to sleep deprivation

BY: **MICAH DREW** - JANUARY 22, 2025 6:00 AM



📷 Voting signs at a polling location at the Lewis and Clark County Fairgrounds on Nov. 5, 2024. (Photo by Blair Miller, Daily Montanan)

On Election Day last November, lines of prospective voters waiting to register and cast their ballots stretched around the block from the Gallatin County Courthouse amid snow flurries. It wasn't until 4 a.m. the next day that all voters had registered and cast their ballots.

But the work for election staff was far from over, according to Eric Semerad, the county's election administrator.

Semerad and his election manager worked for 53 hours to ensure that they followed a law passed by the 2023 Legislature that requires county election staff count ballots “without adjournment,” until all votes are tallied – an idea meant to [enhance trust in ballot counting](#).

“It was an extraordinarily long election for us,” Semerad told members of the House State Administration Committee on Tuesday morning. “My election manager ... and myself, were

actually running tabulators through Wednesday night because we didn't have anyone to continue that count. It's just not maintainable long-term to do these kinds of processes."

Semerad was testifying in the hearing for House Bill 187, which would remove the continuous tabulation requirement for future elections.

Rep. Bob Carter, D-Missoula, told the committee that especially when looking at the largest counties, the provision created conditions where there is a higher likelihood for errors in the election process.

"It's inviting problems to happen," Carter said. "I submit to you, this actually erodes voter confidence to do things this way."

The 2023 Legislature passed the law requiring continuous tabulation in the name of restoring voter trust, according to former Rep. Lyn Hellegaard, who carried the bill.

At the time, many county clerk and recorders, and election administrators testified against the change, saying it would place additional burdens on their departments and workers — concerns that played out last November.

Missoula County Elections Administrator Bradley Seaman said it was difficult to recruit workers willing to pull the overnight shifts, even with an increased wage, and tired staff made small errors.

While none of the errors impacted the validity of the results, Seaman said it was easy to see how bigger errors happen.

"As people get tired, simple tasks can become more complicated, and it maximizes the opportunity to make large mistakes that could impact the validity of the election," he said.

Instead, he said, allowing staff to go home late at night, rest up, and return to work is a better option.

In Lewis and Clark County, election administrator Amy Reeves said that many temporary workers ended up working for more than 24 hours straight, and several longtime election workers decided not to come back in 2024, which she framed as a bigger security risk than taking breaks from counting.

"The votes are just like money or gold. You have to protect them. You have to make sure they're accurate, they're counted," she said. "You can't rely on a temp to just come in and fill their shoes."

Election staff in Lewis and Clark County worked for about 36 hours straight, according to elections supervisor Connor Fitzpatrick. He said he slept for more than 17 hours straight after

getting home.

Removing the continuous count provision “gives us a chance to recombobulate ourselves,” he said, and when they return in the morning “this problem that perhaps seemed so vexing the night before, might have an easy answer.”

Fitzpatrick said having election departments file a plan with the Secretary of State’s office of how they plan to handle any issues that arise, as well as a chain of contact, could be a way to add a layer of security. He also added that just because counties wouldn’t be required to count continuously, it doesn’t mean they couldn’t.

“If we can finish by 2 or 3 a.m., we want to finish so our team doesn’t have to come back in the morning,” Seaman said, adding that for the sake of voters waiting for results, election staff across the state are dedicated to providing expedient, accurate results.

In closing, Carter stated that 18 county election administrators told him they supported the bill, of the 19 he had been able to contact. Carter also reiterated the need to allow election staff to take breaks, sleep, recuperate and return to safely and securely conducting their election work.

“Impaired cognitive ability from lack of sleep is very important. We don’t allow truck drivers to do this, we don’t allow physicians to do this. We don’t let other professions do this. OSHA would have a field day,” he said. “We shouldn’t let zombies be counting ballots.”

# EXHIBIT J



## HOUSE BILL NO. 187

INTRODUCED BY B. CARTER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELECTION LAWS RELATED TO BALLOT TABULATION; REMOVING THE CONTINUOUS TABULATION REQUIREMENT; AMENDING SECTION 13-15-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 13-15-101, MCA, is amended to read:

**"13-15-101. Votes to be publicly counted -- return forms.** (1) (a) Any official vote count must be open to public observation, including but not limited to resolution and counting areas.

(b) Counties that perform tabulation using a vote-counting machine on the day prior to the election shall continue until all available ballots that can be legally counted ~~have been~~ are tabulated or 5 p.m., whichever is earlier. The results of the tabulation may not be made publicly available until after the close of polls on election day and only after all voters have completed voting on election day in the county.

(c) ~~(i) On election day, tabulation must begin and continue without adjournment until all available ballots that can be legally counted have been tabulated except pending unresolved resolution board ballots, provisional ballots, or military overseas ballots.~~

~~(ii)(i)~~ (i) Immediately ~~once~~ after all voters in a county have completed voting on election day, but no earlier than 8 p.m., the election administrator in the county shall provide the initial results to the public and continue to provide updated results at least once every 3 hours until completion. However, if the election is for at least one statewide race or statewide ballot issue, the election administrator's public reporting of any results must first be provided to the secretary of state's election night reporting system.

~~(iii)(ii)~~ (ii) All documents must be secured, with no person allowed access outside regular business hours.

~~(d) (i) A county that performs tabulation pursuant to 13-15-107, 13-21-206, or 13-21-226 shall continue without adjournment until all available ballots that can be legally counted have been tabulated.~~

(ii)(d) ~~Once~~After tabulation ~~has been~~is completed, the results must be immediately publicly declared. However, if the election is for at least one statewide race or statewide ballot issue, the election administrator's public reporting of the results must first be provided to the secretary of state's election night reporting system.

(2) Immediately after all the ballots are counted by 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 display one of the return forms at the place of counting and return a copy to the election administrator. Both forms must be signed by all the election judges completing the count.

(4) The secretary of state may adopt rules providing for notifications to the secretary of state concerning vote total updates or associated delays during the counting of votes, including the prioritization of reporting results through the state's election night reporting system, but the rules may not require more frequent reporting of votes counted than otherwise provided in this section."

**NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

- END -

# EXHIBIT K

**Subject:** RE: Right to Know Request

**Date:** Thursday, October 23, 2025 at 3:52:57 PM Mountain Daylight Time

**From:** Connor Fitzpatrick

**To:** KN McCleary

**CC:** Molly Danahy

Good afternoon K,

We are in receipt of your records request and, upon review of our records, we do not have the following:

- All practices and methodologies you have in place related to delivering a federal election ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after noon on election day.
- Any guidance from the Secretary of State related to delivering a federal election ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after noon on election day.

This is because a voter is currently only issued a ballot containing all races they are eligible for in a federal election, there hasn't been a split cutoff time in the past, and guidance towards a split ballot styles like this has not been issued to our office.

Please let me know if you have any questions.

Thanks,

Connor Fitzpatrick  
Elections Division Supervisor  
Lewis and Clark County  
316 North Park Ave. – Room 168  
Helena, MT 59623  
(406) 447-8338  
[cfitzpatrick@lccountymt.gov](mailto:cfitzpatrick@lccountymt.gov)

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**From:** KN McCleary <[KN@uppersevenlaw.com](mailto:KN@uppersevenlaw.com)>

**Sent:** Wednesday, October 22, 2025 1:42 PM

**To:** Connor Fitzpatrick <[cfitzpatrick@lccountymt.gov](mailto:cfitzpatrick@lccountymt.gov)>

**Cc:** Molly Danahy <[Molly@uppersevenlaw.com](mailto:Molly@uppersevenlaw.com)>

**Subject:** Right to Know Request

You don't often get email from [kn@uppersevenlaw.com](mailto:kn@uppersevenlaw.com). [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Connor,

Pursuant to Article II, Section 9 of the Montana Constitution and implementing statutes, Upper Seven Law writes on behalf of our clients Forward Montana and MontPIRG to request:

- All practices and methodologies you have in place related to delivering a federal election ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after noon on election day.
- Any guidance from the Secretary of State related to delivering a federal election ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after noon on election day.

If any documentation or records will take longer to produce than the rest of the requested materials, please identify any materials that will take additional time and release any materials that can be produced immediately. We will accept production of any delayed materials once they become available.

Because Forward Montana and MontPIRG are nonprofit organizations, we request a waiver of all fees. If a waiver is not granted, we request notification of the cost to fulfill this request as soon as possible.

Please let us know if you have any questions.

Sincerely,  
K

K.N. McCleary  
they/them  
Legal Fellow  
[Upper Seven Law](#)

(406) 298-2109

[kn@uppersevenlaw.com](mailto:kn@uppersevenlaw.com)

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# EXHIBIT L

[Skip to main content](#)

Missoula County, Montana



Request Visibility: Published

# Request 25-660 Closed



## Dates

Received

October 22, 2025 via web

## Requester

 K.N. McCleary kn@uppersevenlaw.com P.O. Box 31, Helena, MT, 59624 (406) 298-2109 Upper Seven Law

## Invoices

No invoices due

## Staff assigned

## Request

Pursuant to Article II, Section 9 of the Montana Constitution and implementing statutes, Upper Seven Law writes on behalf of our clients Forward Montana and MontPIRG to request:

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- Any guidance from the Secretary of State related to delivering a federal election ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after...

[Show more](#)

## Timeline

## Documents

**Request published** Anyone with access to this request

## Departments

Elections Office

## Point of contact

Allison Franz

October 23, 2025, 5:07pm by Staff



### Request closed

Anyone with access to this request

Hello,

Missoula County does not have any responsive documents.

Thank you,

Missoula County

October 23, 2025, 5:07pm by Staff



### Department assignment

Anyone with access to this request

Added: Elections Office.

October 22, 2025, 2:08pm by Staff



### Message to requester

Requester + Staff

Missoula County has received your public records request and is routing it to the appropriate department/staff. Missoula County strives to fulfill all requests within two weeks; however, your request may take longer depending on the scope of the request and current staff workloads.

In accordance with [MCA 2-6-1006](#), the County may charge a fee to fulfill a public records request. If the records or information you request are not readily available, Missoula County will provide you with an estimate of this fee and require payment before fulfilling the request, in accordance with the [Missoula County Public Records Request Policy](#).

**Please use this online portal to communicate about your request.** To submit additional information about your



request, you can reply to this email. Do not submit a new request to communicate about this one.

Thank you,

Missoula County

October 22, 2025, 2:08pm by Staff



## Request opened

Anyone with access to this request

Request received via web

October 22, 2025, 1:53pm by the requester

**Other records**

**Help**

**Privacy**

**Terms**

**Missoula County**



**CIVICPLUS**

**NextRequest**

# EXHIBIT M

**Subject:** RE: Right to Know Request

**Date:** Friday, November 14, 2025 at 10:58:02 AM Mountain Standard Time

**From:** Semerad, Eric

**To:** KN McCleary

**CC:** Molly Danahy, Hall, Jasmine

Hi KN,

Sorry for the lateness of this response to your request. It got pushed by the election and I neglected to get back to it. At this time, we have not developed any specific processes for the timeframes before and after noon on election day since the passage of this new requirement, nor have we received any guidance from the SOS about this.

We do have guidance from the SOS dated on 10-25-2022 and our inhouse policy from 2023 which don't anticipate the end of late registration at noon on election day. Let me know if you want this additional information that doesn't appear to address your specific request.

Eric Semerad  
Clerk & Recorder/Surveyor/Election Administrator  
Gallatin County, Montana  
311 West Main, Room 203  
Bozeman, MT 59715  
(406)582-3050  
[eric.semerad@gallatin.mt.gov](mailto:eric.semerad@gallatin.mt.gov)

---

**From:** KN McCleary <[KN@uppersevenlaw.com](mailto:KN@uppersevenlaw.com)>

**Sent:** Wednesday, October 22, 2025 1:42 PM

**To:** Semerad, Eric <[Eric.Semerad@gallatin.mt.gov](mailto:Eric.Semerad@gallatin.mt.gov)>

**Cc:** Molly Danahy <[Molly@uppersevenlaw.com](mailto:Molly@uppersevenlaw.com)>

**Subject:** Right to Know Request

**CAUTION:** This email came from outside Gallatin County. Exercise diligence with any attachments or links.

Dear Eric,

Pursuant to Article II, Section 9 of the Montana Constitution and implementing statutes, Upper Seven Law writes on behalf of our clients Forward Montana and MontPIRG to request:

- All practices and methodologies you have in place related to delivering a federal election ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after noon on election day.
- Any guidance from the Secretary of State related to delivering a federal election

ballot to any elector registering to vote before noon on election day and a state election ballot to any elector registering to vote after noon on election day.

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Please let us know if you have any questions.

Sincerely,  
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K.N. McCleary  
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Legal Fellow  
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(406) 298-2109

[kn@uppersevenlaw.com](mailto:kn@uppersevenlaw.com)

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# EXHIBIT N



**CHRISTI JACOBSEN**  
MONTANA SECRETARY OF STATE



# UNIFORM BALLOT AND VOTING SYSTEMS PROCEDURES GUIDE

Security, Testing, Inventory, and Troubleshooting

*Montana Secretary of State*

[sosmt.gov](http://sosmt.gov) • [soselections@mt.gov](mailto:soselections@mt.gov)

## **CONTACT INFORMATION**

### **Secretary of State's Office (444-9608)**

- **Dana Corson, Director of Elections**
  - **(406) 444-3334**
- **Stuart Fuller, Elections and Voter Services Manager**
  - **(406) 444-4282**

### **Election Systems & Software**

- **Customer Service**
  - **(877) 377-8683 (option 6)**
    - **Hardware and Software (option 4)**
- **Lori Mommaerts, Regional Sales Manager (206) 250-4318**

---

## **Contents**

|                                                                      |    |
|----------------------------------------------------------------------|----|
| PHYSICAL SECURITY .....                                              | 3  |
| Chain of Custody .....                                               | 3  |
| Chain of Custody – Ballots & Election Definition Media Card.....     | 3  |
| Chain of Custody – Voting Equipment.....                             | 3  |
| Security Seal Log.....                                               | 4  |
| Security Seal Placement – Voting Systems .....                       | 4  |
| Delivery of Voting Systems, Ballots, and Election Materials.....     | 7  |
| Early Pick Up of Ballots Prior to the Close of Polls .....           | 8  |
| Return of Voted Ballots and Voting Systems after Close of Polls..... | 8  |
| Secured Storage .....                                                | 9  |
| CYBERSECURITY.....                                                   | 11 |
| Cyber Threats .....                                                  | 11 |
| Internet Connections .....                                           | 11 |
| Spam .....                                                           | 11 |
| Phishing.....                                                        | 11 |
| Malware.....                                                         | 11 |

|                                                             |    |
|-------------------------------------------------------------|----|
| Best Practices .....                                        | 12 |
| Login and Passwords .....                                   | 12 |
| Accounts Management.....                                    | 12 |
| Restrict Administrative Privileges.....                     | 12 |
| Limiting Exposure .....                                     | 13 |
| VOTING SYSTEMS TESTING .....                                | 14 |
| Voting Systems .....                                        | 14 |
| Performance Testing.....                                    | 14 |
| Acceptance Testing.....                                     | 14 |
| Internal Testing .....                                      | 15 |
| Public Testing .....                                        | 15 |
| Election Day Testing .....                                  | 15 |
| Testing Methodology.....                                    | 15 |
| Test Deck.....                                              | 16 |
| Test Deck Ballot Matrix.....                                | 16 |
| Testing Procedures by Voting System .....                   | 17 |
| Ballot Marking Device (AutoMARK).....                       | 17 |
| Ballot Marking Device (ExpressVote).....                    | 18 |
| Tabulators (M100/DS200/M650/DS450/DS850) .....              | 19 |
| Election Management System (Election Results Manager) ..... | 20 |
| VOTING EQUIPMENT INVENTORY .....                            | 21 |
| TROUBLESHOOTING .....                                       | 23 |
| M100 Troubleshooting .....                                  | 23 |
| DS200 Troubleshooting .....                                 | 27 |
| DS450 & DS850 Troubleshooting .....                         | 29 |
| AutoMARK Troubleshooting .....                              | 34 |
| Express Vote Troubleshooting .....                          | 38 |



## **PHYSICAL SECURITY**

There are a number of security procedures that can be implemented to make election processes significantly more secure while mitigating concerns about tampering, sabotage, and conspiracy.

### **Chain of Custody**

In regard to elections, a chain of custody is chronological documentation that shows the control, transfer, and disposition of sensitive election-related materials. Voting equipment and ballots should be sealed using tamper-evident seals and the seal number should be entered onto a chain of custody log. The chain of custody should be maintained by the Election Administrator in order to ensure the security of sensitive materials (i.e. ballots, election definition media card, and voting systems) and to provide evidence that access to voting equipment and ballots is properly controlled throughout the election process.

The chain of custody form includes four sections:

- the preparation of materials by the Election Administrator
- the receipt of materials at the polling place
- the preparation of materials after the close of polls
- the return receipt of materials by the Election Administrator

### **Chain of Custody – Ballots & Election Definition Media Card**

Upon receipt of ballots and election media, these materials should be sealed in their respective containers until use and should be stored in a secure location with limited access. Record the seal number on the Ballots and Election Materials Chain of Custody & Security Seal Log form.

### **Chain of Custody – Voting Equipment**

Once acceptance testing of voting equipment has been completed, access points should be sealed with serial numbered, tamper-evident security seals and recorded on the chain of custody log. At the conclusion of Internal Testing, the election definition media card should be sealed in each machine. The security seal serial number should be recorded on the chain of custody log. After the first portion of the chain of custody log is complete, voting systems can be transported to the polling place where the Polling Place Manager or Chief Election Judge and another election judge will verify that the seal numbers listed on the form are the same as those on the machine. This individual and the other election judge will complete the second portion of the chain of custody log.

## Security Seal Log

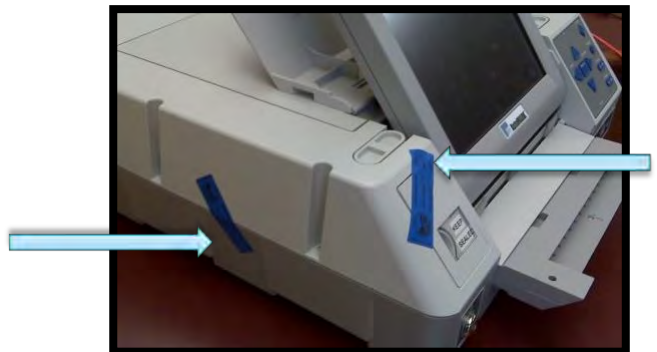
In order to provide greater evidence of the replacement of tamper-evident seals, the chain of custody log is accompanied by a security seal log. When a security seal is removed from sensitive items and replaced with a new security seal, the used security seal should be placed and recorded on the security seal log. DO NOT THROW AWAY USED SECURITY SEALS.

## Security Seal Placement – Voting Systems

Once acceptance testing is complete, tamper-evident seals should be placed over the points of potential access on a voting system. Detailed below are diagrams of where security seals should be placed on respective voting systems.

### AutoMARK

- Election media access panel
- Across the case halves
- DO NOT place seal over ADA port



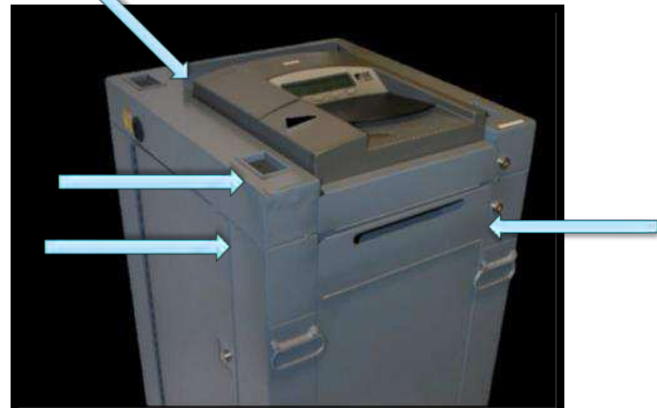
### M100

- Access slots
- Printer/Key access
- Ballot box
  - Ballot access doors (2)
  - Accessory bin (1)
  - All storage access points (4)



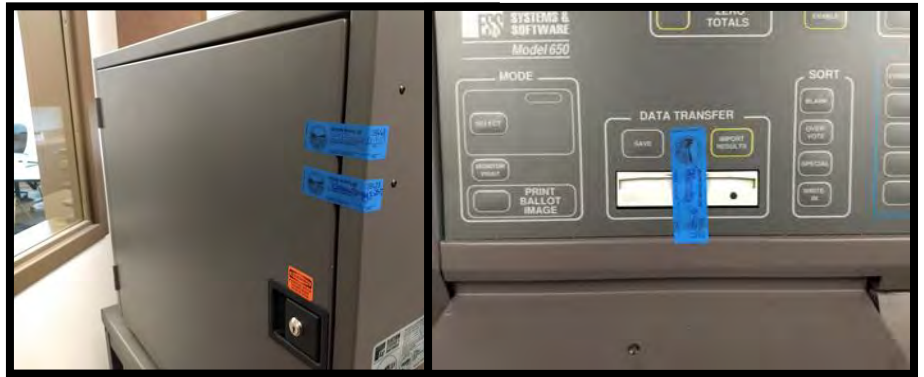
### DS200

- Seal on USB/Power latch (1)
- Across the case halves (1)
- Ballot box
  - All storage access points (4)



### M650

- Across media port (1)
- Across rear door (1)



### DS450

- Right-hand side of machine (1)
  - Seal on outer door
- Left-hand side of machine (1)
  - Seal on outer door
- Back hatch of machine (1)



### DS850

- Right-hand side of machine
  - Seal on each USB door (3)
- Left-hand side of machine
  - Seal on outer door (1)
- Back hatch of machine (1)



## Election Management Hardware

- Across all access points, including USB ports
- Ensure that this computer is never connected to the internet or internal network



## ExpressVote

- Access Compartment
- Access Compartment Door
- Paper Path
- Rear USB port
- Front Lock



Torx Screw and  
Protective Slide



Secure Seal



Secure Seal



Keyed Lock



Secure Seal

## **Delivery of Voting Systems, Ballots, and Election Materials**

When delivering voting systems, ballots, and election materials to polling places, the following procedures shall apply:

- At a time determined by the Election Administrator, at least two designated election officials or one designated election official and a law enforcement officer shall deliver the voting systems, ballots, and other materials to the polling place. The Election Administrator may employ other individuals to assist in these deliveries. However, these individuals must be directly supervised by sworn election officials.
- The Election Administrator shall administer the oath to anyone designated to deliver voting systems, ballots, and other materials to polling places.
- Voting systems, ballots, and other materials should be transported by at least two election officials or one designated election official and a law enforcement officer at all times.

The individuals responsible for transporting voting systems, ballots, and other materials shall:

- Verify that all the supplies provided by the Election Administrator are present. Ensure that the Certificate of Number of Ballots and the Chain of Custody and Security Seal Log forms are included.
- Examine the security seals on the voting systems, ballots, and other materials for evidence of damage, tampering, or removal.
- Verify that the security seal numbers match the chain of custody log. Report any discrepancies to the Election Administrator.
- Without opening the ballot package, ensure the ballots intended for delivery are the correct ballots for the respective polling place.
- Transport the voting systems, ballots, and other materials to the polling place.
- If delivery to the polling place occurs before election day, the voting systems, ballots, and other materials must be stored in a temporary secure location. At no time shall the voting systems, ballots, or other materials be stored in a location other than the temporary secure location determined by the Election Administrator.
- Upon arrival at the polling place, deliver the voting systems, ballots, and other materials to the Chief Election Judge.
- Ask polling place officials to examine the security seals on the voting systems, ballots, and other materials for evidence of damage, tampering, or removal and verify that the seal numbers match the seals on the log.
- Complete the second sections of the respective chain of custody and security seal logs.

## **Early Pick Up of Ballots Prior to the Close of Polls**

If directed by the Election Administrator, arrangements may be made to pick up ballots and return them to the election office or designated tabulation location before the close of polls. When applicable for post-election audit purposes, follow the Election Administrator's instructions regarding sorting and tracking ballots based on the tabulator(s) that scanned the ballots.

For each early pick up of ballots, the following steps must be conducted:

- Election officials shall seal the ballot box or place the ballots in the designated container with numbered security seals. The seal numbers must be recorded on the chain of custody and security seal log.
  - Using the *Ballot Reconciliation Report*, ensure that all ballots issued and marked in the poll book prior to the early pick up are sealed for return to the election office or designated tabulation location.
  - As ballots are removed from tabulators, ensure that ballots and tabulator reports are separated and marked according to your county's post-election audit procedures (e.g. color coded, numbered, precinct name, etc.).
    - When printing early pick up tabulator reports, be sure to NOT clear the totals, unless instructed to do so by your election administrator.
- Two election officials or one designated election official and a law enforcement officer must transport the ballot box or ballot container to the election office or designated tabulation location.
  - Upon arrival at the election office or the designated tabulation location, the receiving election officials must ensure that the seals on the ballots, voting equipment (when applicable), and election materials are intact and that the seal numbers match the numbers recorded on the chain of custody and security seal log. Any discrepancy should be noted on the log and explained in writing.

## **Return of Voted Ballots and Voting Systems after Close of Polls**

Upon the close of polls, the following steps must be conducted:

- Check the Auxiliary Bin for ballots and scan any ballots deposited in the Auxiliary Bin unless directed otherwise by the election administrator.
- Print tabulator reports according to election administrator procedures and according to this guide.

- Shut down the tabulator.
- Counties using precinct tabulators may choose to either:
  - Return the tabulator to the election office with the election definition media card sealed in the tabulator; or
  - Remove the election definition media card and return it in a sealed container with the tabulator's ballots and report. This scenario would be applicable if the tabulator is being returned to the election office at a later time.
    - If the election definition media card is returned separately from the tabulator, ensure that the tabulator's media card slot is re-sealed and the chain of custody and security seal log is updated.
    - NOTE: The AutoMARK election definition media card should remain sealed in the unit, as there are no results contained on an AutoMARK's media card.
- Remove ballots from the tabulator ballot box(es) and seal in a transportation ballot container.
  - As ballots are removed from tabulators, ensure that ballots and machine reports are separated and marked according to the county's post-election audit procedures (e.g. color coded, numbers, precinct name, etc.).
  - Place write-in ballots from the Write-In Bin in an envelope or container marked "Write-In Bin." Place the envelope in the ballot container with the other voted ballots.
  - Seal the transportation ballot container using a tamper-evident security seal and record the seal number on the chain of custody and security seal log.
- Ensure all security seal numbers are recorded on the chain of custody and security seal log. Verify that the log is completed and returned with the ballots to the election office or tabulation location.
- Upon arrival at the election office or the designated tabulation location, the receiving election official must ensure that all security seals are intact and match the seal numbers recorded on the chain of custody and security seal log. Any discrepancies should be noted on the log and explained in writing.

## **Secured Storage**

Voting systems, ballots, and election materials should be stored in a location that is locked at all times, has access controlled by the Election Administrator, and has a log that details access. This log should include the name of the person accessing the secured storage, date of access, entry and exit times, and the purpose for the visit. Non-election staff should be accompanied by a member of the election office at all times whenever equipment in secured storage is

accessed. Voting equipment that cannot be contained in secured storage should be housed in a room with controlled access.

When storing voting systems, verify the following:

- All additional equipment used with a particular voting system is accounted for.
- Security seal numbers match the numbers recorded on the chain of custody log and the machine has been visually inspected for signs of unauthorized access.
- Replace any security seals that were removed and record the seal number(s) on the chain of custody log.
- Examine the unit for cracks, dents, and structural deficiencies (case, cover, latches, hinges, wheels, stand, power cord and plug, etc.).
- Schedule maintenance for any equipment in need of repair or replacement parts.
- Seal and store ballots and election related materials.
- Secure election definition media card until all post-election audits and canvass are complete.

When storing ballots, verify the following:

- Collect and label all ballots for storage according to the county's post-election audit guidelines (e.g. color-coded, numbers, precinct name, etc.).
- Seal the labeled ballot containers and record the security seal numbers on the chain of custody and security seal log describing the contents of the container (e.g. which ballots, which tabulator counted the ballots, etc.).
- Collect, label, and seal all of the related election materials (e.g. logs, sets of test ballots, etc.). Record these security seal numbers on a log describing the materials.
- Store the ballots and other election materials in a secure location with limited access.



## **CYBERSECURITY**

As technology becomes more interwoven with elections, cybersecurity is a growing concern. Elections professionals are now expected to have in-depth knowledge, if not expertise, in information technology relative to how elections are conducted.

Understanding information technology involves learning about cyber threats and the best practices that can be put into place in order to mitigate potential cybersecurity issues.

### **Cyber Threats**

With increased access to voting and election offices via information technology, measures must be taken to protect computer systems from attack and unauthorized access to hardware and software.

### **Internet Connections**

The Internet is the avenue by which cyber threats can access elections technology. There are a number of attack vectors, or paths, by which hackers can gain access to a computer or network in order to deliver a malicious payload. Some examples of these potential attack vectors include spam, phishing, malware, ransomware, and spyware.

### **Spam**

Email is one of the ways in which voters communicate with election officials. Along with all the valid emails that an election office receives, many of the messages can be considered spam – unsolicited junk email that is often sent for commercial purposes. Some of these messages, however, contain malicious content intended to disrupt operations.

### **Phishing**

One type of cyber threat that comes with email is spear phishing, commonly referred to as just phishing. Phishing is the practice of sending fraudulent emails purporting to be from a reputable source in order to manipulate users into clicking on a malicious link or downloading a malicious file attachment. Systems infected by phishing attacks act as an entry point for viruses and other threats to spread through an organization and potentially obtain voter's personally identifiable information.

### **Malware**

Malicious software that is intended to damage or disable computers and computer systems is referred to as malware.

Ransomware is a type of malware designed to block access to a computer system and data until a sum of money is paid. This type of threat can spread to shared storage drives and other systems to which it can gain access. Even if the demands are met, the system or data may remain unavailable or deleted.

Spyware is software that enables a user to obtain information about a computer's activities by transmitting data covertly from the hard drive.

## **Best Practices**

Cybersecurity is not an issue that is specific to counties with the most voters. Every county election office has the same level of vulnerability to cyber threats. Regardless of geographic location or number of voters, every election office has the same level of risk to cyber threats.

Good "cyber hygiene" practices can protect networks against threats from malicious actors and maintain the integrity of election systems and, therefore, the public's trust in election administration. It is imperative that all county election offices adopt similar policies and put them into action in order to keep the state's collective election offices safe from cyber threats.

## **Login and Passwords**

On the rare occasion that an attacker gains physical access to your workstation, they will immediately begin looking for written passwords and authentication material. This risk arises not only from a completely unknown outsider, but also from internal staff or others that have access to your office and malicious intent.

## **Accounts Management**

Unused or seldom used accounts make excellent targets for those who are attempting to access secured systems. In order to minimize the possibility of illicit access, it is important to remove or disable accounts that are no longer in use or are only used periodically. Accounts should be linked to a specific person and never shared amongst other coworkers.

## **Restrict Administrative Privileges**

Election administrators are responsible for creating many of the county personnel's user accounts and appropriate permissions. This is generally referred to as a role – a group of access permissions relative to a database or application. These roles can be built to suit a particular individual or developed for a position within the elections office. For security purposes, it is recommended that each role be granted the minimum level of access required in order to perform necessary tasks.

## **Limiting Exposure**

External devices such as personal jump drives, tablets, iPods, and smartphones, can pose a threat to the computer systems and networks of an election office. These devices should never be connected to office hardware, as this is a potential attack vector.

Also, using an office computer to view personal email accounts, social networks, and retail websites can expose systems to cyber threats. Office email accounts are carefully managed and secured by policies to minimize the risk of potential attacks. Bypassing these safeguards puts not only the user's system at risk, but other systems can become infected as well. If a malicious attachment or link that was originally intended for an individual is opened on an office computer, the threat has been extended to the entire enterprise. Workstations that are used to access county email accounts should never be exposed to these potential vulnerabilities.

# **VOTING SYSTEMS TESTING**

## **Voting Systems**

A voting system is defined by the Election Assistance Commission's Voluntary Voting Systems Guidelines (VVSG) as the total combination of mechanical, electromechanical, and electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to create ballot definitions; to cast and count votes; to report or display election results; and to maintain and produce any audit trail information.

Montana's Code Annotated provides a simpler definition – any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot.

For the purposes of this manual, voting systems will include tabulators (precinct and central-count), Voter Assist Terminals (AutoMARKs & Express Vote), and Election Reports Manager (ERM).

## **Performance Testing**

Sometimes referred to as “logic and accuracy” testing, performance testing analyzes a voting system's ability to properly locate each ballot position for every ballot style and ensures a tabulator's ability to accurately compile returns from each ballot.

Testing should be conducted by the election administrator or a qualified member of the county election office staff. Under no circumstances should performance testing be conducted by a vendor. The four types of performance testing are as follows:

- Acceptance Testing
- Internal Testing
- Public Testing
- Election Day Testing

## **Acceptance Testing**

Acceptance testing is the examination of a voting system to validate that the equipment delivered by the vendor functions in accordance with Federal and State certifications, and to ensure that the device meets the requirements stipulated in the contract with the vendor.

Also, acceptance testing should be performed any time a device is returned after it leaves the possession and control of the election administrator. For example, if a device such as an AutoMARK or ExpressVote is loaned to an outside group or organization for demonstration purposes, acceptance testing should be completed before the device is placed back into the election office's inventory.

Acceptance testing should be performed:

- When a device is first received into inventory;
- After maintenance;
- Anytime a device is returned after it leaves the possession and control of the county election administrator.

## Internal Testing

The purpose of these tests is to ensure that the election definition media card is correctly reading ballots and tabulating accurately. Internal testing should be performed as soon as ballots and media are received in order to allow adequate time for corrections, if necessary. Every ballot style should be tested on each tabulator/ballot marking device. A complete test deck should be used during this test. This test is considered a rehearsal for the Public Test.

## Public Testing

13-17-212, MCA requires county election administrators to publicly test and certify that each machine is performing properly. This test must be conducted no more than 30 days prior to an election in which the voting systems are used. This test should mimic the Internal Test in every way – all ballot styles should be tested on all media on all machines, both those systems in use and those reserved as back-ups.

## Election Day Testing

On election day, 5% of each type of voting system must be tested (*ARM 44.3.1713*). These systems should be chosen at random. **If 5% is less than one, a minimum of one device must be tested.** All voting systems, both backup equipment and equipment in-use, should be considered when performing this test.

## Testing Methodology

There are three different types of analyses that should be conducted when testing: physical analysis, diagnostic analysis, and functional analysis.

### *Physical Analysis:*

- Ensures the device is not physically damaged
- Inspection of the exterior of the device and the case containing the device
- Inspection of latches and hinges of the device and the case containing the device
- Inspection of all doors and locks

#### *Diagnostic Analysis:*

- Ensures that all of the electrical and mechanical components of the device are operating correctly
- Testing of all input/output devices (e.g. card readers, printers, earphones, and personal accessibility devices)
- Testing of all ballot feed paths
- Testing of all touchscreens for clarity and calibration
- Testing all time and date settings

#### *Functional Analysis:*

- Testing to ensure that the correct versions of software/firmware are installed on the device
- Testing to verify that the device is recognizing each ballot position
- For tabulators, using a test deck to ensure that the device is correctly compiling results

### **Test Deck**

A test deck is the tool used to determine the logic and accuracy (i.e. functionality) of a tabulator. A test deck is comprised of marked ballots with a predetermined outcome set forth in a matrix. Test decks should include every ballot style for a given election and be prepared by the election administrator, **not the vendor**.

Test decks should include the following types of ballots:

- Voted ballots
- Blank ballot
- Overvoted ballot
- Undervoted ballot
- Marginal mark ballot
- Folded ballots (folded in the same manner as absentee ballots)

### **Test Deck Ballot Matrix**

In order to construct a test deck, a ballot matrix must first be developed. The matrix is a spreadsheet that contains every candidate/choice for each contest on all ballot styles (e.g. every precinct/split, each party's ballot in a primary election, etc.). The number of ballots in a test deck will vary based on the number of contests, candidates, and ballot styles. Each candidate/choice should receive at least one vote. In order to determine accuracy of tabulation, each candidate/choice should receive a different number of votes.

| Precinct | Race      | Candidate   | Votes | Ballot 1 | Ballot 2 | Ballot 3 | Ballot 4 | Ballot 5 | Ballot 6 | Ballot 7 | Ballot 8 | Ballot 9 | Ballot 10 | Ballot 11 | Ballot 12 | Ballot 13 | Ballot 14 | Ballot 15 |
|----------|-----------|-------------|-------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 1        | Contest A | Candidate 1 | 5     |          |          |          |          | X        | X        | X        | X        | X        |           |           |           |           |           |           |
| 1        | Contest A | Candidate 2 | 4     |          |          |          | X        |          |          |          |          |          | X         | X         | X         |           |           |           |
| 1        | Contest A | Candidate 3 | 3     |          |          | X        |          |          |          |          |          |          |           |           |           | X         | X         |           |
| 1        | Contest A | Candidate 4 | 2     |          | X        |          |          |          |          |          |          |          |           |           |           |           |           | X         |
| 1        | Contest A | Write In    | 1     | X        |          |          |          |          |          |          |          |          |           |           |           |           |           |           |
| 1        | Contest B | Candidate 5 | 4     |          |          |          | X        | X        | X        | X        |          |          |           |           |           |           |           |           |
| 1        | Contest B | Candidate 6 | 3     |          |          | X        |          |          |          |          | X        | X        |           |           |           |           |           |           |
| 1        | Contest B | Candidate 7 | 2     |          | X        |          |          |          |          |          |          |          | X         |           |           |           |           |           |
| 1        | Contest B | Write In    | 1     | X        |          |          |          |          |          |          |          |          |           |           |           |           |           |           |
| 1        | Contest C | Candidate 8 | 3     |          |          | X        | X        | X        |          |          |          |          |           |           |           |           |           |           |
| 1        | Contest C | Candidate 9 | 2     |          | X        |          |          |          | X        |          |          |          |           |           |           |           |           |           |
| 1        | Contest C | Write In    | 1     | X        |          |          |          |          |          |          |          |          |           |           |           |           |           |           |
| 1        | Contest D | Choice 10   | 2     |          | X        | X        | O        |          |          |          |          |          |           |           |           |           |           |           |
| 1        | Contest D | Choice 11   | 1     | X        |          |          | O        |          |          |          |          |          |           |           |           |           |           |           |

The sample matrix above shows examples of overvoted ballots (red cells), undervoted ballots (green cells), and the method for ensuring that each candidate/choice for each contest receives a different number of votes. This example is for one ballot style (e.g. precinct) and should be modified for each applicable ballot style.

## Testing Procedures by Voting System

### Ballot Marking Device (AutoMARK)

#### Physical Analysis:

Conduct the following with the ballot scanner turned OFF.

- Examine the unit for cracks, dents, and structural deficiencies (*Case, cover, latches, hinges, wheels, stand, power cord, plug, etc.*).
- Verify that there is a sufficient amount of paper in the printer.
- Ensure that there is an ink cartridge in the printer and that the print head is clean.

#### Diagnostic Analysis:

Use the silver barrel key to access the flashcard drive and insert the flashcard. Ensure that the flashcard is inserted with the tail pointing towards the touch screen. Do not force the flash card into the drive as this can damage the unit.

- Turn the voter assist terminal ON and, as it boots up, verify that the correct versions of the operating system and firmware are installed.
- Verify that the date and time are correct.
- Verify the screen condition, clarity, and calibration (calibrate if necessary).
- When screen displays "Insert Your Ballot," turn the mode switch key to the "TEST" position.
- Print a test ballot to verify that the printer is operating correctly.
- Unplug the unit and verify that it will operate on battery power alone.
- Verify that the battery charger will charge the battery.
- Test access ports and flash card slot (*e.g. headphone jack, personal device ports, etc.*).

### Functional Analysis:

- Remove ballot stub and insert a ballot into the terminal.
- Insert test ballots in different orientations (face up and face down, backwards and forwards, etc.).
- Manually enter one vote for each candidate or issue and verify that each candidate and issue has received exactly one vote (test for blank ballots, overvotes, undervotes, and write-ins).
- Test all user functions (touch screen buttons, keypad keys, headphone commands, etc.).
- Mark votes and print votes for all candidates and ballot issues. *Be sure to test for blank ballots, overvotes, undervotes, and write-in votes).*
- Print voted test ballots to verify that the printer is accurately marking selections and operating correctly.
- Using additional ballots, repeat steps above until each selection has been selected and printed. *Insert additional ballots in different orientations (face up and face down, forwards and backwards).*
- Use pre-marked ballots to verify the terminal's ability to accurately identify pre-marked ballots. *Be sure to test for blank ballots, overvotes, undervotes, and write-in votes.*
- Turn the mode switch key to the "OFF" position.

### **Ballot Marking Device (ExpressVote)**

#### Physical Analysis:

Conduct the following with the ExpressVote turned OFF.

- Examine the unit for cracks, dents, and structural deficiencies (*Case, cover, latches, hinges, stand (if provided), power cord, plug, etc.*).

#### Diagnostic Analysis:

- Use the key to access the usb ports. Use a T10 star-shaped screwdriver to loosen the Torx screw and move the protective slide to expose the USB ports. Insert the USB flash drive(s). Do not force the USB flash drive into the port as this can damage the unit.
- Turn the voter assist terminal ON and, as it boots up, verify that the correct versions of the operating system and firmware are installed.
- Verify that the date and time are correct.
- Verify the screen condition, clarity, and calibration (calibrate if necessary).
- Enter the corresponding election code.
- Initiate a voting session by inserting an unmarked ballot card into the paper ballot feed.
- Choose precinct to vote if programed with multiple precincts/splits.
- Vote and print one ballot card.
- Confirm that the ballot card has the corresponding races and printing is legible.
- Unplug the unit and verify that it will operate on battery power alone.
- Test access ports and secondary devices (*e.g. headphones, directional pad, personal device ports, etc.*).



#### Functional Analysis:

- With the machine on and in voting mode, insert a ballot card into the terminal.
- Manually enter one vote for each candidate or issue and verify that each candidate and issue has received exactly one vote (test for blank ballots, overvotes, undervotes, and write-ins).
- Test all user functions (touch screen buttons, keypad keys, headphone commands, etc.).
- Mark votes and print votes for all candidates and ballot issues. *Be sure to test for blank ballots, overvotes, undervotes, and write-in votes).*
- Examine voted test ballot cards to verify that the device is accurately recording selections and operating correctly.
- Using additional ballots, repeat steps above until each selection has been selected and printed.
- Test inserting additional ballot cards in different orientations (face up and face down, forwards and backwards).
- Use printed / voted ballot cards to verify the terminal's ability to accurately identify printed ballots.
- Turn the machine off.

#### **Tabulators (M100/DS200/M650/DS450/DS850)**

##### Physical Analysis:

Conduct the following with the tabulator turned OFF.

- Examine the unit for cracks, dents, and structural deficiencies (*Case, cover, latches, hinges, wheels, stand, power cord, plug, etc.*).
- Verify that there is a sufficient amount of paper in the printer.

##### Diagnostic Analysis:

Conduct the following with the tabulator turned ON. Some of these tests may require manager/administrator privilege.

- Install the election definition media card and turn the mode switch key to "OPEN Poll."
- Use the "Initial State Report" to verify the date, time, and firmware version.
- Verify that the date and time are correct.
- Verify the screen condition, clarity, and calibration (calibrate if necessary).
- Print a test output to verify that the printer is operating correctly.
- Unplug the tabulator and verify that it will operate on battery power alone.
- Verify that the battery charger will charge the battery.
- Test all ports and card slots (*e.g. serial ports, media card slots, etc.*).

##### Functional Analysis:

Conduct the following with the ballot scanner turned on Election (TEST) mode. Install the election setup for the test ballot, then:

- Open the polls (if asked by the system).

- If prompted, turn the mode switch key to “VOTE” (if applicable)
- Zero totals.
- Print zero tape.
- Use the pre-marked test deck of ballots to process a significant number of ballots on the tabulator.
- Close the election on the tabulator.
- Print the results.
- Verify the vote counts are correct.
- Zero totals.

## **Election Management System (Election Results Manager)**

### Physical Analysis:

- Verify that all hardware components of the EMS computer are turned on and functioning properly (including printer(s), disk drives, etc.).

### Diagnostic Analysis:

- Turn on the EMS computer.
- Verify that the correct versions of the computer’s operating system and the EMS software are installed.

### Functional Analysis:

- Verify that the EMS program is installed and that the computer is not connected to any network.
- If not already completed, load the election definition database on the EMS computer.
- Verify the date, time, and software version are correct.
- Verify that the ballot tabulators will support election definition media card prepared at the county.
- Load election definition media card into the tabulator and run the test deck through the tabulator in order to count the ballots.
- Close the election on the tabulator and print the vote totals.
- Use the county method for transporting the media.
- Once the media has been transported, load vote totals from the tabulator media onto the EMS computer.
- Print the EMS reports and verify that they match the tabulator’s printed totals.
- Zero the election totals and close the election on the EMS computer.

## VOTING EQUIPMENT INVENTORY

As required by the Help America Vote Act (HAVA), inventory of equipment used in elections must be recorded. The title is vested with the county upon acquisition, regardless of funding. Changes to county voting equipment shall be recorded on the county's property records and reported to the Secretary of State's Office. Furthermore, equipment shall be used in the purpose for which it was acquired as long as needed, whether or not the program continues to receive Federal funding.

Inventory controls – the procedures for managing and replacing equipment – for voting systems must meet the following minimum requirements:

- Maintain property records which include the following information:
  - Model Number
  - Status (In Use/Not In Use)
  - Serial Number
  - Storage Location
  - Election Day Location
  - Condition
  - Current Hardware Management Agreement (HMA)
  - HMA Expiration
  - Title Holder
  - Acquisition Date
  - Cost
  - Federal Share (Percentage, if any)
  - State Share (Percentage, if any)
  - County Share (Percentage, if any)
- Conduct and reconcile a physical inventory of the property at least once every two years and provide a copy to the Secretary of State's Office.
- Develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- Proper procedures for the sale, trade-in, or disposal of equipment must be established and followed to ensure the highest possible return.
  - For voting systems purchased in whole or in part with Federal grant funds, there may be an obligation to report the disposition of voting systems to the grantor (i.e. Secretary of State's Office). When voting systems are being sold, traded-in, or otherwise disposed of, the collective value of all of the machines will determine the county's reporting obligation.

- If the combined fair market value of all machines is less than \$5,000, Federal grant policy allows a county to sell, trade, or dispose of the equipment without obligation for reporting.
- If the combined fair market value of all machines is \$5,000 or more, Federal grant policy requires the county to report the sale, trade, or disposal of the equipment to the Secretary of State's Office.

## TROUBLESHOOTING

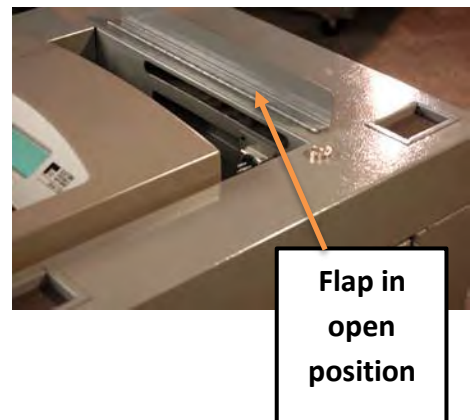
The following information has been provided by Election Systems & Software (ES&S) from their troubleshooting guidelines. Not all voting systems and election equipment are covered in this chapter and this office advises contacting ES&S directly when attempting to resolve issues with voting systems. Issues with voting systems functionality should be reported to ES&S for resolution and to the Secretary of State's Office for documentation.

### M100 Troubleshooting

**Problem:** Ballots will not feed into the M100. They go in part way and are returned with the message "Missed Timing Mark Error (101)."

**Cause:** The ballot cannot pass from the M100 to the ballot box because the flap covering the entrance to the ballot box is in the closed position.

**Solution:** Without turning off or unplugging the M100 equipment, unlock the front access panel. Slide the M100 forward, lift the flap and slide the M100 back into place, assuring the diverter connection is firmly seated. The M100 Precinct Scanner can now process ballots.



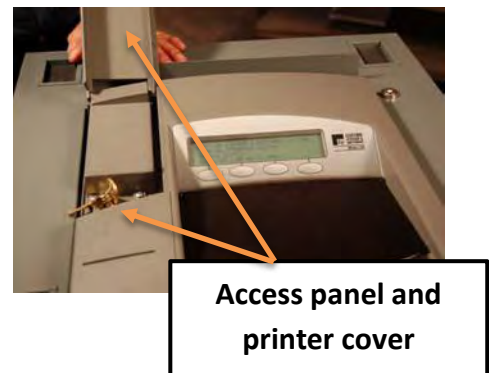
**Problem:** When printing the results report, the message "Printer Time Out – Abort Printing?" appears. Why and how should I answer the question "Yes" or "Continue?"

**Cause:** The thermal paper in the M100 cannot advance because the printer is out of paper, there is a paper jam, or the paper release lever is in the up position.

**Solution:** Open the access panel and remove the printer cover on the M100. If the printer is out of paper, install a new roll. If there is a paper jam, remove the jammed paper and re-thread the paper. If the gray paper release lever is in the up position, push it down so the tension on the feed rollers is resumed.

Choosing "Yes" or "Continue" is the choice of the operator. "Yes" means printing will cease after the buffer is empty. Printing of the report will need to be manually restarted.

Choosing "Continue" will allow the report to continue printing once the paper issue is resolved.



**Problem:** During the opening of the polls, the error message “Diverter Not Found” appears. What does that mean and should I press “Continue?”

**Cause:** The M100 is not fully seated into the ballot box via the electronic diverter connector.

**Solution:** Turn the Mode Key to the off position. Unlock and open the front access panel. Slide the M100 forward and inspect the diverter connection for damage. If no visible damage, slide the M100 back into position making sure it is firmly in position. Turn the Mode Key to the Open/Close Polls position. If the error message is received a second time, contact ES&S Customer Service for further instructions.

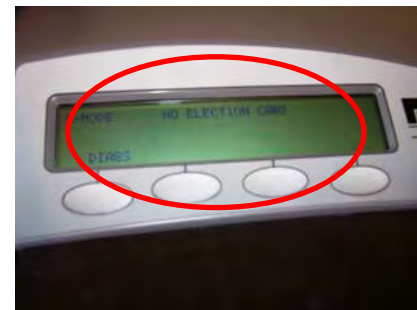
Pressing “Continue” will cause the diverter functionality to not be available. All ballots will fall to the left side of the ballot box. Write-ins and/or blank ballots will then need to be hand sorted. Do not press “Continue” unless instructed to do so by ES&S Customer Service.



**Problem:** The scanner has been turned on and the message “No Election Card” appears. What does this mean? Can polls be opened for voting?

**Cause:** The PCMCIA card is missing, blank, or not installed correctly.

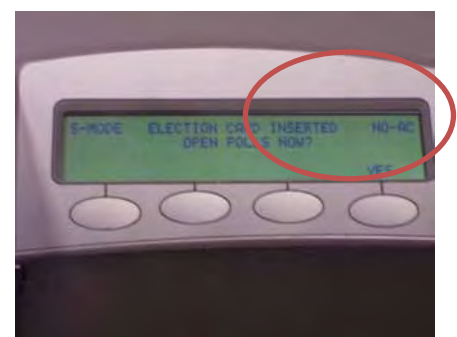
**Solution:** Ensure the PCMCIA card is installed correctly in one of the two slots available. A small black button to the right of the card will pop out and be flush with the end of the card if it is correctly and fully installed. If the M100 is still unable to detect the card, contact ES&S Customer Service for another PCMCIA card. The M100 will not be ready for voters to use until a working card is obtained, as the poll opening process cannot be completed. Utilize the Emergency/Uncounted Ballot Bin until the alternate card is delivered and installed.



**Problem:** After turning on the M100 the screen shows “No A/C” in the right hand corner. What does this mean?

**Cause:** The M100 is not plugged into the AC power cord or the wall outlet is defective.

**Solution:** Assure all power cords are plugged in securely. Test all outlets using a nightlight or other small electrical device. If using a strip power cord (not recommended),



ensure the strip is turned on. Check M100 power cord for damage. If damage is found, replace the cord.

**Problem:** There is a “Ballot Jam” error message appearing on the equipment. How can this be resolved?

**Cause:** Ballots may become jammed due to damaged ballots, debris in the ballot feed area, or diverter issues inside the ballot box itself.

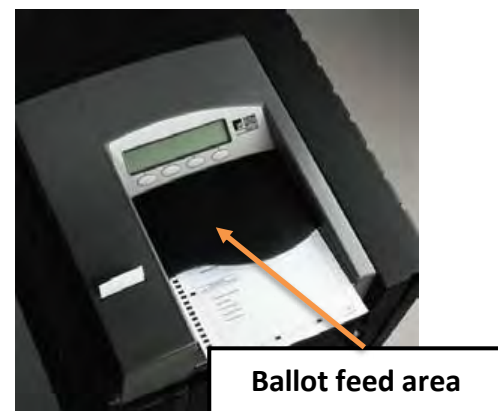
**Solution:** Part of the ballot should be visible either in the front ballot feed area or from the back slot of the M100. Tug gently from the front if you are able to grasp enough of the ballot. To retrieve from the back, unlock the access door in the front of the ballot box. Slide the M100 equipment forward. Retrieve the ballot by tugging gently. Once removed, slide the M100 back into the ballot box, then close and lock the access panel. Clean the feed area with canned pressurized air to ensure the path is free of debris.

For ballots jammed in the ballot box area – the diverter equipment sometimes causes the ballots to not drop into the ballot box. When ballots do not drop, they accumulate on the diverter slope and back up until a ballot jam is caused. IF ALLOWED, open the ballot box, retrieve the ballots caught on the diverter slope. Since these ballots have been tallied, do not send through the M100 again. Follow your jurisdiction procedures on handling jammed ballots. Some will have the poll worker sort the jammed ballots into the correct ballot box side and some will have the poll worker place the ballots into an envelope, then store in the ballot box. Those ballots are then sorted at election central.

Lock all ballot box doors, secure the key, and continue with the voting process.



**Emergency  
uncounted ballot  
bin**



**Ballot feed area**



**Diverter area**

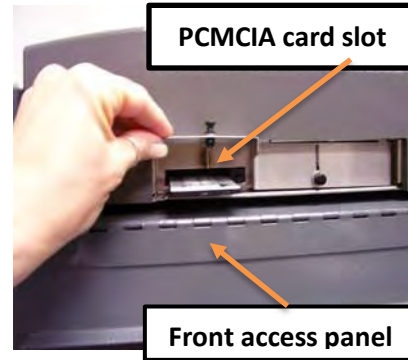
**Problem:** What can be used to clean the exterior of the M100 including the LCD-message panel?

**Solution:** The M100 LCD Panel and exterior can be cleaned with isopropyl alcohol wipes or isopropyl alcohol on a soft cloth. **Do not use products containing ammonia** (e.g. glass cleaners). This can cause deterioration over time.

**Problem:** The M100 equipment has failed and is being replaced by another unit. What steps are needed to preserve the votes and ballots already cast by voters?

**Cause:** The M100 equipment is inoperable due to equipment failure or ballot jammed scenario.

**Solution:** Typically, ES&S personnel deal with the replacement of equipment along with appropriate polling place people and witnesses. As a poll worker, if you are asked to replace the equipment, follow the steps below.



- If not already OFF, insert and turn the Mode Key to the OFF position. It is not necessary to close the polls, just turn off the equipment.
- Unlock the front access panel.
- Remove the PCMCIA card from the front of the equipment. **Note:** The PCMCIA card may be secured in the equipment and the seal will need to be broken. Be sure to follow all jurisdiction procedures for breaking and re-securing the seal.
- Slide the M100 forward and unplug the power cord.
- Label and pack the inoperable equipment in the transport case.
- Install replacement M100 onto the ballot box.
- Insert the PCMCIA card (retrieved from the inoperable piece of equipment) into the slot.
- Close and lock the front access panel.
- Turn the Mode Key to VOTE.
- Voters can now use the new equipment to process ballots. **Note:** The PCMCIA card retrieved from the inoperable equipment contains the results of the ballots in the ballot box. Do not rescan the ballots.

**Problem:** The ballot box is getting full. What should be done?

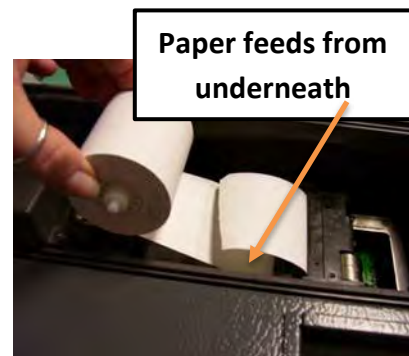
**Cause:** The ballot box holds approximately 3,000 14"-ballots on each side. Check the number of voters on the M100 equipment periodically to determine if the ballot box has the potential to become full.

**Solution:** Follow your jurisdiction's procedures on removing the ballots from the ballot box and securing until the polls close.

**Problem:** The reports are generating, but no printing is visible on the paper. What's wrong?

**Cause:** The M100 printer uses thermal paper and heat transfer to print the information. Printer functionality without visible print means the paper roll is inserted incorrectly.

**Solution:** Reinsert the paper roll. Be sure the paper comes from underneath into the tension rollers. Reprint report(s) as necessary.





**Problem:** Occasionally, when a voter inserts their ballot, an error message of “Ballot Too Long” is appearing. Why does this happen and what steps are needed to fix?

**Cause:** Two scenarios cause this to happen. First, the voter could be holding onto their ballot too long and the rollers are not able to advance the ballot properly. Secondly, if stubs are used on your jurisdiction’s ballots, the stub was not removed.

**Solution:** Remove the ballot stubs in accordance with your jurisdiction’s procedures. Ask the voter to re-insert their ballot.



## DS200 Troubleshooting

**Problem:** Ballots will not feed into the DS200. They go in part way and are returned with the message “Missed Timing Mark Error (101).”

**Cause:** The ballot cannot pass from the DS200 into the ballot box because the flap covering the entrance to the ballot box is in the ‘locked’ position.

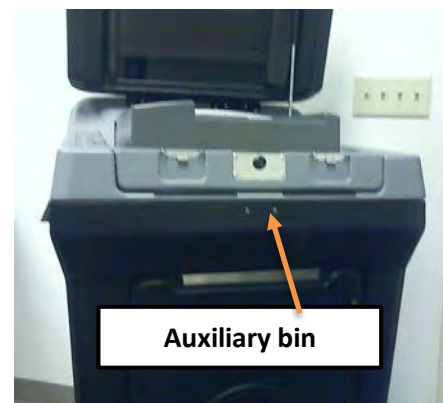
**Solution:** Without turning off or unplugging the DS200 equipment, go to the back of the DS200 Ballot Box to access the Power Cord Compartment. Move the silver bar to the down or to the ‘unlocked’ position. The DS200 Precinct Scanner can now process ballots.



**Problem:** The scanner has been turned on and the message “Election Definition Not Found” appears. What does this mean? Can polls be opened for voting?

**Cause:** The USB memory drive is missing, blank or not installed correctly.

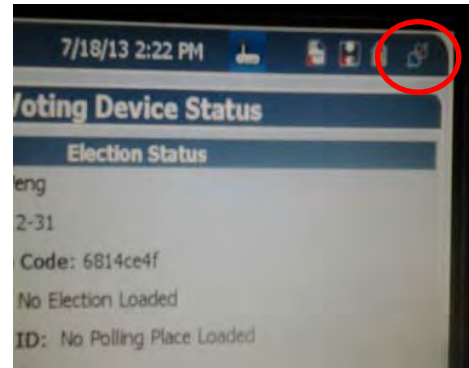
**Solution:** Assure the USB memory drive is installed correctly in one of the slots available. If the DS200 is still unable to detect the card, contact Election Central for another USB memory drive. The DS200 will not be ready for voters to use until a working drive is obtained, as the poll opening process cannot be completed. Utilize the auxiliary ballot bin until the alternate USB memory drive is delivered and installed.



**Problem:** After turning on the DS200 the screen power icon on the top right of the screen shows the plug is not connected. What does this mean?

**Cause:** The DS200 is not plugged into the AC power cord or the wall outlet is defective.

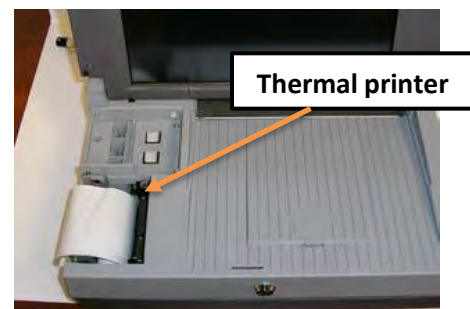
**Solution:** Assure all power cords are plugged in securely. Reminder: there are two parts to the DS200 power supply, make sure the transformer is plugged into the cord. Test all outlets using a nightlight or other small electrical device. If using a strip power cord (not recommended) assure the strip is turned on. Check DS200 power cord for damage. If damage is found, replace the cord.



**Problem:** The reports are generating, but no printing is visible on the paper. What's wrong?

**Cause:** The DS200 printer uses thermal paper and heat transfer to print the information. Printer functionality without visible print means the paper roll is inserted incorrectly.

**Solution:** Reinsert the paper roll. Reprint report(s) as necessary.



**Problem:** What can be used to clean the exterior of the DS200 including the touchscreen?

**Solution:** The DS200 touchscreen and exterior can be cleaned with isopropyl alcohol wipes or isopropyl alcohol on a soft cloth. **Do not use products containing ammonia** (e.g. glass cleaners). This can cause deterioration over time.

**Problem:** The DS200 equipment has failed and is being replaced by another unit. What steps are needed to preserve the votes and ballots already cast by voters?

**Cause:** The DS200 equipment is inoperable due to equipment failure or ballot jammed scenario.

**Solution:** Typically, ES&S personnel deal with the replacement of equipment along with appropriate polling place people and witnesses. As a poll worker, if you are asked to replace the equipment, follow the steps below.

- If not already turned off, press the power button to turn the unit to "Off". It is not necessary to close



the polls, just turn off the equipment.

- Unlock the access door on the left side of the scanner.
- Remove the USB memory drive from the equipment.

The USB memory drive may be secured in the equipment and the seal will need to be broken. Be sure to follow all jurisdiction procedures for breaking and re-securing the seal.

- Unlock the front access panel to remove the DS200 unit.
- Slide the DS200 unit forward and unplug the power cord.
- Label and pack the inoperable unit in the transport case.
- Unpack the new DS200 unit and install onto the ballot box being sure to plug in the power cord.
- Insert the USB memory drive (retrieved from the other inoperable unit) into the slot.
- Close and lock the front access panel.
- Press the power button inside the USB memory drive area to turn on the scanner.
- Press “Resume Voting” to continue with the voting process.

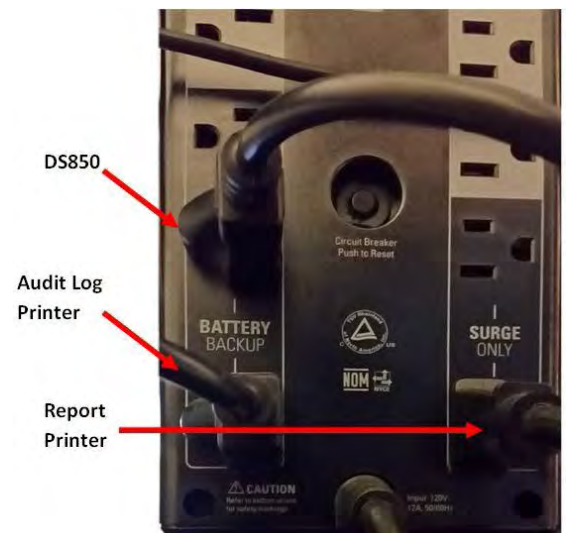
The USB memory drive retrieved from the inoperable equipment contains the results of the ballots in the ballot box. Do not rescan the ballots.

## DS450 & DS850 Troubleshooting

**Problem:** The power cords for the DS450/DS850, printers, and UPS are all plugged in to electrical receptacles, but the DS450/DS850 screen indicates that it is on battery backup.

**Cause:** The report printer may be plugged into a receptacle for battery backup on the UPS unit. When the report printer starts up from being cold, it draws too much current and throws the UPS into switching over to battery backup, which then sends a message to the DS450/DS850 saying that it is on battery backup.

**Solution:** See the diagram on the right for the correct connections for the UPS unit.



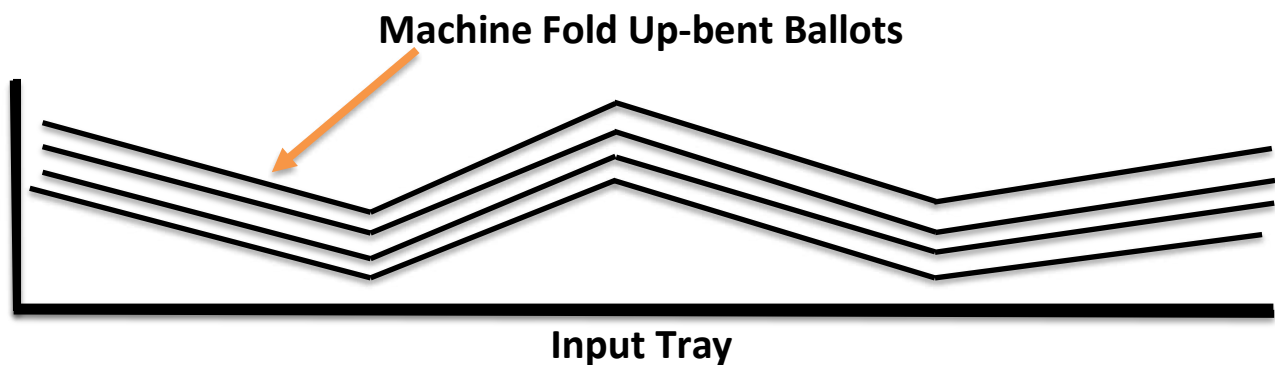
**Problem:** When processing folded ballots on the DS450/DS850 pick errors and ballot jams occur.

**Cause:** Improper preprocessing and loading of folded ballots into the DS450/DS850.

**Solution:** The following guide lines will minimize potential issues when processing folded ballots.

- **Ballot Orientation** - Folded ballots must be stacked in the same orientation for proper processing in the DS450/DS850. If the ballots have corner cuts use this corner to align all of the ballots in the stack. If the ballots have no corner cuts place the ballots on their side. Examine the way the ballots are nested. Ballots orientated in different directions can easily be seen.

- **Back Bending** - Each machine fold must be completely bent back in the opposite direction of the machine fold, to break the grain of the paper. Back bend in stacks of 100 or less ballots. Each operator should only back bend as many ballots as they are capable of at a time. For some operators this may be as few as 10 ballots.
  - If a ballot is properly back bent, breaking the grain of the paper, each fold will move as easily in either direction. If a fold moves easier in the direction of the machine fold, it is not properly back bent.
- **Loading Ballots On Input Tray** - Only load stacks of 100 ballots or less into the input tray. Larger stacks may result in improper picking of ballots and increase the chances of jamming in the output tray.
  - When placing ballots into the input tray, ensure the ballots are loaded in such a way that the first fold is a machine fold up-bend. Also try to load the ballots in an orientation that minimizes the printing under the pick mechanism. The ballots shown in the diagram below are for illustration purposes only. Properly back bent ballots will appear flat in the input tray.



**Note:** When a ballot jam occurs you may need to rescan all of the ballots in a batch or just a few.

If you see **4** instruction screens, you need to rescan **ALL** of the ballots on unit including the bottom and middle bins.

If you see **2** instruction screens, you need to rescan the top tray and the input tray. However, the middle and bottom trays have been tabulated and **DO NOT** need to be rescanned.

**Problem:** Wrong Bin error when ballots feed to the wrong output tray.

**Cause:** This can occur if the edge closest to the back plate is damaged or if the corner is severely bent over. Dirty light barriers can produce this error as well.

**Solution:** Check the overall integrity of the ballots in a stack before scanning. Make sure the DS450/DS850 is routinely dusted and cleaned.

**Problem:** Ballot Jam message when no jam present.

**Cause:** This occurs when one or more of the light barriers get dirty with paper dust.

**Solution:** Blow out all 15 sets of light barriers with compressed air to make sure all light barriers are clean.



**Problem:** Output tray getting full of jammed ballots

**Cause:** This can occur for multiple reasons, cut ballots, not all folded ballots are the same orientation, or a ballot didn't clear the lead-in of the output tray.

**Solution:** When this happens, the tray must be emptied before the input tray fully lowers. (You have about 3 seconds to pull out the jammed ballots).

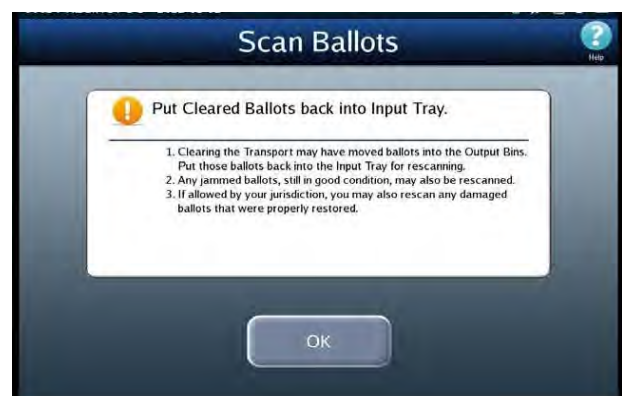
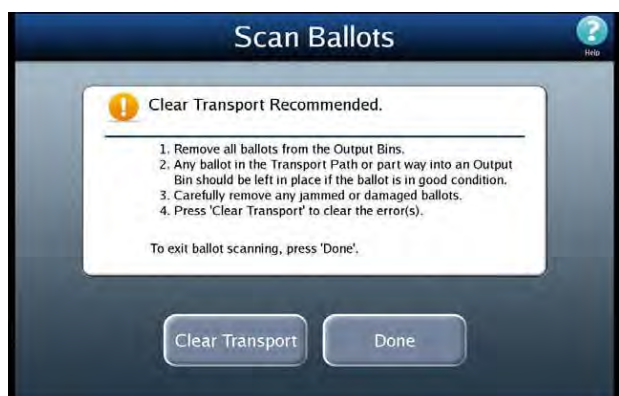
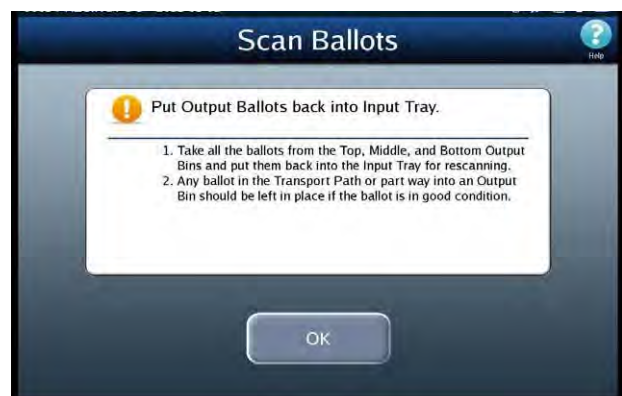
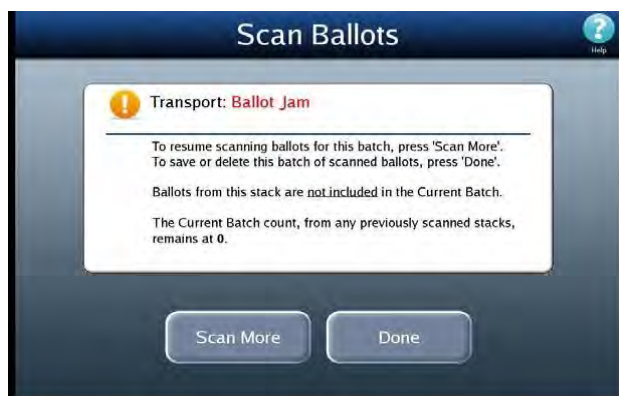
If the ballots are not removed in time, a *TRANSPORTER NO RESPONSE* error message will be displayed and a shutdown will be required. This is because the bin full arm must clear the top sensor for the transport to respond to the firmware in the time it expects it to. So if the output tray arm is held fully up by ballots, the sensor is not cleared and the transport doesn't respond and the error message is displayed.

If you're not able to clear the jammed ballots before the input tray lowers, shutdown the machine as indicated on the screen. Reboot and the machine will still have the current batch count that was present before the jam occurred. The ballots that were being scanned at the time of the jam will need to be rescanned as they were not processed.

**Problem:** Ballots have jammed in the Ballot Transporter.

**Cause:** Ballots may jam for a variety of reasons.

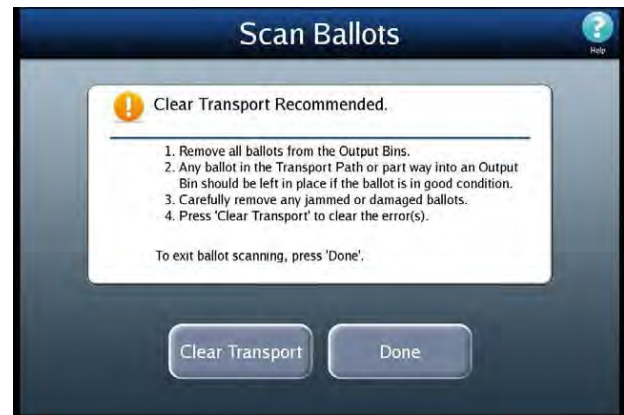
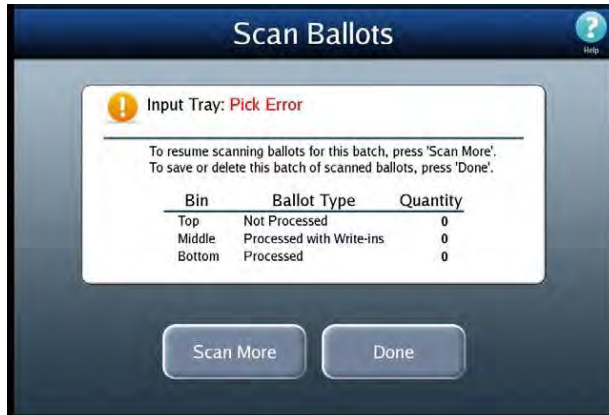
**Solution:** Regardless of the reason for the jam, follow the on-screen directions (below) to clear the jam.



**Problem:** Pick failed to grab ballots.

**Cause:** Dirty rollers, dense toner on ballot, input tray not set high enough, folded ballots not prepped correctly.

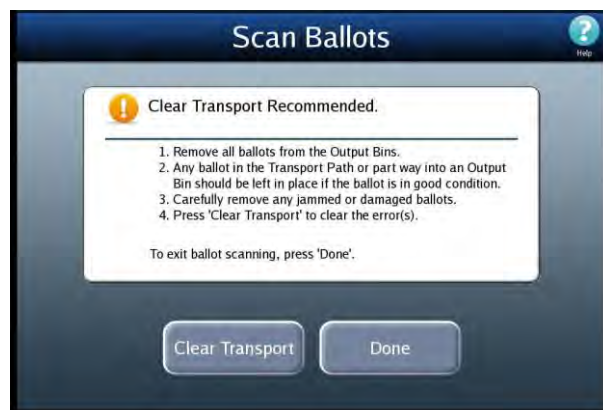
**Solution:** Follow on-screen directions (below).



**Problem:** One of the output trays is full.

**Cause:** The output tray is full or ballots didn't stack properly and started to fold upon themselves.

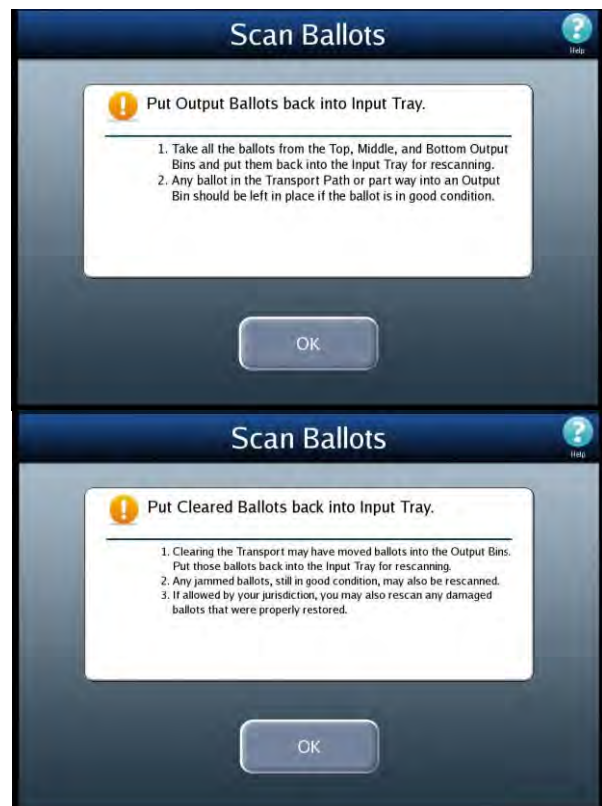
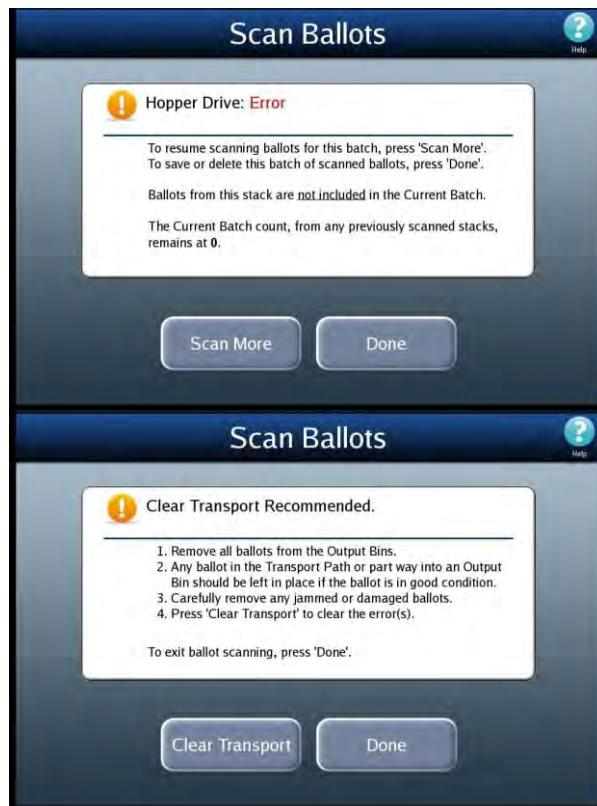
**Solution:** Follow on-screen directions (below).



**Problem:** Hopper Drive Error

**Cause:** Can occur if ballots are not far enough forward in the Input tray/hopper.

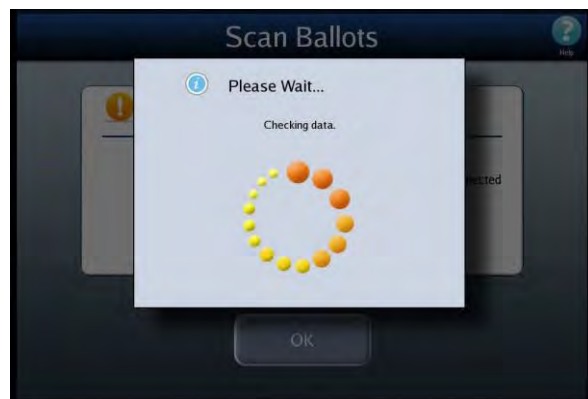
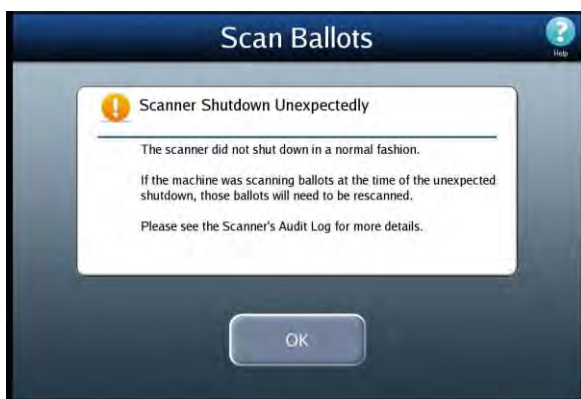
**Solution:** Follow on-screen directions (below).



**Problem:** DS850 scanner was shut down without using the shutdown feature.

**Cause:** User didn't use the on-screen "shut down" button.

**Solution:** Follow on-screen directions (below).

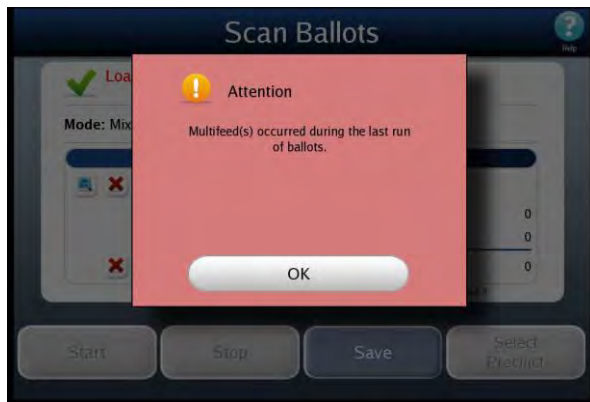


**Note:** After logging in, the DS450/DS850 will complete a data integrity check to make sure the counts are correct. This is to prevent the totals ever being different on the screen and what is reported on a Totals report.

**Problem:** The pick mechanism fed multiple ballots into the scanner.

**Cause:** Folded ballots may have nested or stuck together. The reverse Belt tension may be set too loose.

**Solution:** The DS850 scanner may be configured to stop when multifeed occurs, which will automatically stop the scanner, and the following message will appear on the screen:



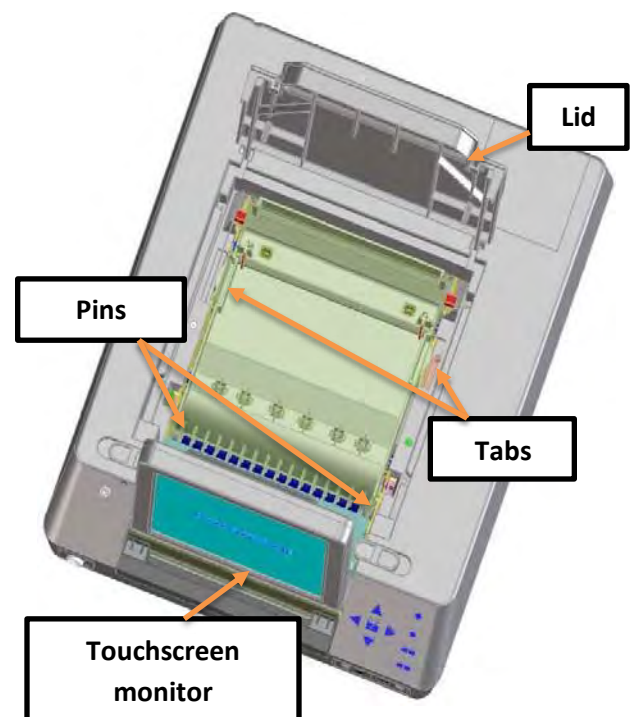
## AutoMARK Troubleshooting

**Problem:** The ballot is jammed inside the AutoMARK equipment. What steps do I take to retrieve the ballot?

**Cause:** Although causes vary, the ballot input incorrectly or AutoMARK rollers not functioning properly are the more typical reasons for ballot jams.

**Solution:** Insert and turn Mode Key to "TEST." Once the Main Menu appears, press the "EJECT BALLOT" button. If the ballot does not eject, follow these instructions to retrieve the ballot from within the AutoMARK.

- Tilt the touchscreen monitor forward and lift the lid to the open position.
- Locate the two tabs on the right and left side of the top cleanout tray.
- While pushing the tabs inward, lift up to remove the top cleanout tray.
- Remove ballot or paper jam being careful to not rip the paper.
- To re-install the tray, align the two front pins with the guides. Lower the top cleanout tray and press into place.
- Follow your jurisdiction's procedures for spoiling and issuing a new ballot (if necessary).





**Problem:** An error message saying, *“Alert: An error has occurred. Files have been tampered with or a wrong access code has been entered.”* How do I correct this so the files can be accessed?

**Cause:** Each AutoMARK flash card is locked with a password when the election definition is created.

**Solution:** Follow these steps to unlock the flash card:

- Turn the Mode Key to TEST.
- From the Main Menu, choose UNLOCK FLASH CARD.
- Press the white box to retrieve a key entry pad.

Enter the generic flash card code of “12345678” or the jurisdiction specific flash code given to you by ES&S.

**Problem:** The voter pushes the oval/arrow for one candidate and another candidate is selected. What’s wrong?

**Cause:** The alignment of the touchscreen with the point of touch is not adjusted correctly. This alignment process is called calibration.

**Solution:** Calibration of the touchscreen is completed by following these steps:

- Insert and turn the Mode Key to TEST.
- From the Main Menu, choose CALIBRATE TOUCH SCREEN.
- Choose CALIBRATE to confirm the action.
- Align the touch points by pressing and releasing the center of each cross-hair that appears on the screen.
- If satisfied with the actions, press anywhere on the screen to continue.  
Repeat if necessary.

**Problem:** The flash card is not installed. How do I insert the flash card?

**Solution:** Insert the flash card ensuring the label is to the left and the connection edge (with holes) goes into the unit. **Warning:** There is only one direction to install the flash card. Do not force the card into the equipment.



**Problem:** During elections, we received errors related to the ink cartridge. What practices can be done to help avoid ink problems?

**Solution:** Because ink is a necessary part of the AutoMARK processing, there are several items that would be considered “good practices.”

- Know and practice the correct way to install the ink cartridge.
- Always use a new ink cartridge for election day.
- Have extra ink cartridge available.



**Problem:** The touch screen on the AutoMARK has many fingerprints and smudges. How do I clean the equipment?

**Solution:** The AutoMARK touch screen and exterior can be cleaned with isopropyl alcohol wipes or isopropyl alcohol on a soft cloth. **Warning:** Do not use products containing ammonia (e.g. glass cleaner). This can cause the screen to deteriorate over time.

**Problem:** After several minutes, the following message appears on the AutoMARK screen:

*“Alert! A problem has occurred. Please notify an election official. Election Official: A previous voting session has expired and the ballot is being held within the Voter Assist Terminal. Use the Test Mode to eject the ballot.”*

Why did it do this and how do I correct the issue?

**Cause:** This error message appears after the AutoMARK has been idle, with a ballot inserted for 10 minutes.

**Solution:** If a voter is still using the AutoMARK, the poll worker will need to insert and turn the Mode Key to TEST. The ballot will be returned unmarked. Reinsert the ballot into the AutoMARK or follow your jurisdiction’s spoiling procedures and issue a new ballot. If the voter has left the polling place, follow the steps above to retrieve the ballot and follow the spoil procedures. **Note:** The feature was designed for the walk-away voter situation. This way, no other voter will have access to the ballot and potentially vote twice.

**Problem:** When the voter feeds their ballot, the AutoMARK is not accepting the ballot. What could be wrong?

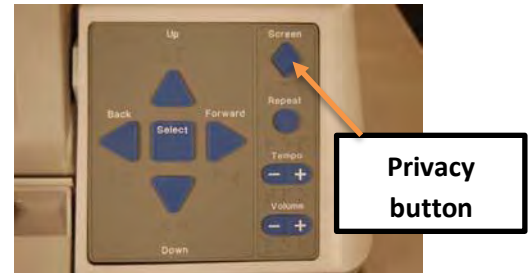
**Cause:** There are many issues that could cause the ballot to not be accepted by the AutoMARK including damaged ballots, feed path is dirty or obstructed and feeding of the ballot incorrectly. These issues can cause many different error messages including “Paper misfeed” and “Ballot not recognized”.

**Solution:** Depending on the problem, one or more of these suggestions may help:

- Check the ballot to assure there is no damage. If damaged follow your spoiled ballot procedures and issue another ballot to the voter.
- Try inserting the ballot with another orientation.
- Assure the correct type of ballot has been given to the voter. Occasionally, ballots for another polling place are delivered to the wrong precinct. Contact your Election Central official if the incorrect ballots have been delivered.
- Try re-feeding the ballot into the ballot tray, being careful to feed it as straight as possible.
- Clean the ballot feed tray with pressurized air.

**Problem:** As a poll worker I don't want to invade the voter's privacy when answering their questions. How can I preserve their privacy?

**Solution:** The AutoMARK is equipped with a privacy key which will turn the screen black when viewing. The diamond shaped key at the top-right of the keypad allows the screen to be un-viewable. This will preserve the privacy for the voters who are using only the audio feature to select their votes or for voters who request assistance from a poll worker. Poll workers can easily access the button when approaching the AutoMARK from behind. Make sure you tell the voter who is using a visual ballot to press the button again to resume the ballot on the screen.



**Problem:** The AutoMARK is difficult to move. How do I properly move the equipment?

**Solution:** Because the AutoMARK is approximately 48 pounds and large, it is recommended that two people move the AutoMARK using the built in handles along each side of the equipment. **Warning!!** Do not pick up the AutoMARK by the corners.

**Problem:** Our jurisdiction uses ballots with stubs. What are the best practices for using these types of ballots with the AutoMARK?

**Solution:** On occasion, tearing off the stub will cause the AutoMARK to misread the edge of the page and give an error message. Using the 1, 2, 3, 4 fold method (folding the stub at the perforation back and forth 4 times), then tearing off the stub helps define the edge so the AutoMARK can identify the edge. The AutoMARK's firmware does allow for ballots with stubs attached provided the election definition is coded to accommodate the additional length.

## Express Vote Troubleshooting

(ES&S Support 1-800-247-8683)

# Appendix A: Troubleshooting the ExpressVote

## Jammed Ballot Card

**PROBLEM:** The card is jammed inside the ExpressVote equipment.

**CAUSE:** Although causes vary, the more typical reasons for card jams are:

- The card was inserted incorrectly, or
- The ExpressVote rollers are not functioning properly.

**SOLUTION:** Open the security compartment on the left side of the machine. Change the Mode Switch to **OFFICIAL**. Once the Main Menu appears, press the **EJECT CARD** button.

If the card does not eject, open the security panel on the right side of the machine. Locate the card and gently pull the card out of the machine. Remove the card jam being careful to not rip the paper. Close and re-lock the security panel. Follow your jurisdiction's procedures for spoiling and issuing a new card if necessary.

## Screen Calibration Issues

**PROBLEM:** The voter pushes the oval for one candidate and another candidate is selected.

**CAUSE:** This could be caused by a dirty touch screen, or the alignment of the touch screen is not adjusted correctly.

**SOLUTION:** Put isopropyl alcohol on a soft cloth and wipe clean.

**WARNING:** Do not use products containing ammonia, such as Windex. This can cause the screen to become deteriorated over time. Use only isopropyl alcohol for cleaning the touch screen and scanner.

If the screen calibration issue is not due to a dirty screen, please contact your Election Administrator.

## Idle Error Message

**PROBLEM:** After several minutes, the following message appears on the ExpressVote screen:

*"Continue Voting? There has been no activity for five minutes."*

*Next Step: To continue voting, touch 'Previous'. To receive your card without printed selections, touch 'Exit'."*

**CAUSE:** This error message appears after the ExpressVote has been idle, with a card inserted for 5 minutes.

**SOLUTION:** If a voter is still using the ExpressVote, the poll worker will need to open the left security compartment and switch the Mode to **Official**. The card can be returned to the voter and be reinserted. Reinsert the card or follow your jurisdiction's spoiling procedures and issue a new card. If the voter has left the polling place, follow the steps above to retrieve the card and follow the spoil procedures.

**NOTE:** The option to go back to previous screen in Voter mode only exists after 5 minutes of inactivity. If the terminal is inactive for another 5 minutes, you will need to go to Official mode and eject the card from the Main Menu.

# EXHIBIT O

**BALLOT LANGUAGE FOR LEGISLATIVE REFERENDUM NO. 126 (LR-126)**

LEGISLATIVE REFERENDUM NO. 126

AN ACT REFERRED BY THE LEGISLATURE

AN ACT PROTECTING THE INTEGRITY OF MONTANA ELECTIONS BY ENDING LATE VOTER REGISTRATION ON THE FRIDAY BEFORE ELECTION DAY AND ELIMINATING ELECTION DAY REGISTRATION; ENSURING COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT THE GENERAL ELECTION TO BE HELD IN NOVEMBER 2014; AMENDING SECTIONS 13-2-301, 13-2-304, 13-19-207, AND 61-5-107, MCA; AND PROVIDING AN EFFECTIVE DATE.

The 2013 Legislature submitted this proposal for a vote. LR-126 changes the deadline for late voter registration from the close of polls on election day to 5:00 p.m. on the Friday before the election. LR-126 also moves the deadline for changes to an elector's voter registration information from the close of polls on election day to 5:00 p.m. on the Friday before the election. The National Voter Registration Act referenced in the title of LR-126 does not require elimination of election-day registration, and does not require moving the deadline for changes to an elector's voter registration information.

☐ YES on Legislative Referendum LR-126

☐ NO on Legislative Referendum LR-126

## THE COMPLETE TEXT OF SENATE BILL NO. 405, REFERRED BY LR-126

AN ACT PROTECTING THE INTEGRITY OF MONTANA ELECTIONS BY ENDING LATE VOTER REGISTRATION ON THE FRIDAY BEFORE ELECTION DAY AND ELIMINATING ELECTION DAY REGISTRATION; ENSURING COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT THE GENERAL ELECTION TO BE HELD IN NOVEMBER 2014; AMENDING SECTIONS 13-2-301, 13-2-304, 13-19-207, AND 61-5-107, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 13-2-301, MCA, is amended to read:

**"13-2-301. Close of regular registration -- notice -- changes.** (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

(4) An individual who submits a completed registration form to the election administrator before the deadlines provided in this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then eligible to vote in the election.

(5) An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, ~~except as otherwise~~ as provided in 13-2-304."

**Section 2.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes -- nonapplicability for school elections.** (1) Except as provided in subsections (2) and (3), the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election

administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to ~~the close of the polls on election day.~~

~~(b) Late registration is closed from noon to 5 p.m. on the day Friday before the election.~~

~~(c)~~(b) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector obtains the ballot from and returns it to the location designated by the county election administrator.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration database prior to the change.

(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20."

**Section 3.** Section 13-19-207, MCA, is amended to read:

**"13-19-207. When materials to be mailed.** (1) Except as provided in subsection (2), for any election conducted by mail, ballots must be mailed no sooner than the 25th day and no later than the 15th day before election day.

(2) (a) All ballots mailed to electors on the active list and provisionally registered list must be mailed the same day.

(b) At any time before noon on the day before election day, a ballot may be mailed or, upon request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual who registers under the late registration option provided for in 13-2-304.

(c) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

~~(d) An elector who registers pursuant to 13-2-304 on election day or on the day before election day must receive the ballot and vote it at the election administrator's office."~~

**Section 4.** Section 61-5-107, MCA, is amended to read:

**"61-5-107. Application for license, instruction permit, or motorcycle endorsement.** (1) Each application for an instruction permit, driver's license, commercial driver's license, or motorcycle endorsement must be made upon a form furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state and in compliance with the National Voter Registration Act of 1993, Public Law 103-31, 42



U.S.C. 1973gg, et seq., must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must include the full legal name, date of birth, sex, residence address of the applicant [and the applicant's social security number], must include a brief description of the applicant, and must provide the following additional information:

(a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the application;

(b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

(c) a brief description of any physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and

(e) if the applicant is a foreign national whose presence in the United States is temporarily authorized under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship and immigration services of the department of homeland security authorizing the applicant's presence in the United States.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium.

(b) When received, the driving records must be appended to the driver's record created and maintained in this state. The department may rely on information contained in driving records received under this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.

(5) An individual who is under 26 years of age but at least 15 years of age and who is required to register in compliance with the federal Military Selective Service Act,

50 App. U.S.C. 453, must be provided an opportunity to fulfill those registration requirements in conjunction with an application for an instruction permit, driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15 years of age, an individual must be provided an opportunity to be registered by the selective service system upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by the department to the selective service system. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

**Section 5. Effective date.** [This act] is effective upon approval by the electorate.

**Section 6. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2014 by printing on the ballot the full title of [this act] and the following:

☐ YES on Legislative Referendum No. \_\_\_\_

☐ NO on Legislative Referendum No. \_\_\_\_

**Section 7. Coordination instruction.** If House Bill No. 30 is passed and approved, then [this act] is void.

- END -

# EXHIBIT P



69th Legislature 2025 Session  
HB187-Status-01-19-26

| Status Date         | Action                                           | Committee                | Hearing Date                   | Yes Votes | No Votes |
|---------------------|--------------------------------------------------|--------------------------|--------------------------------|-----------|----------|
| 05/20/2025 11:00 am | (H) Died in Process                              |                          |                                |           |          |
| 03/12/2025 01:00 pm | (H) Missed Deadline for General Bill Transmittal |                          |                                |           |          |
| 01/31/2025 11:24 am | (H) Tabled in Committee                          | (H) State Administration |                                | 19        |          |
| 01/15/2025 04:51 pm | (H) Hearing                                      | (H) State Administration | 01/21/2025 10:00 am   Room 455 |           |          |
| 01/14/2025 01:07 pm | (H) First Reading                                |                          |                                |           |          |
| 01/14/2025 10:16 am | (H) Referred to Committee                        | (H) State Administration |                                |           |          |
| 01/13/2025 04:07 pm | (H) Introduced                                   |                          |                                |           |          |
| 01/10/2025 12:33 pm | (LC) Draft Delivered to Requester                |                          |                                |           |          |
| 12/24/2024 08:35 am | (LC) Draft Ready for Delivery                    |                          |                                |           |          |
| 12/23/2024 01:56 pm | (LC) Draft in Assembly                           |                          |                                |           |          |
| 12/23/2024 01:41 pm | (LC) Draft in Final Drafter Review               |                          |                                |           |          |
| 12/23/2024 10:31 am | (LC) Draft in Input/Proofing                     |                          |                                |           |          |
| 12/19/2024 02:18 pm | (LC) Draft in Edit                               |                          |                                |           |          |
| 12/16/2024 10:22 am | (LC) Draft in Legal Review                       |                          |                                |           |          |
| 11/29/2024 08:46 am | (LC) Drafter Assigned                            |                          |                                |           |          |

# EXHIBIT Q



69th Legislature 2025 Session  
SB490-Status-01-19-26

| Status Date         | Action                                         | Committee                | Hearing Date                   | Yes Votes | No Votes |
|---------------------|------------------------------------------------|--------------------------|--------------------------------|-----------|----------|
| 05/08/2025 03:42 pm | Chapter Number Assigned                        |                          |                                |           |          |
| 05/05/2025 01:14 pm | (S) Signed by Governor                         |                          |                                |           |          |
| 04/25/2025 03:18 pm | (S) Transmitted to Governor                    |                          |                                |           |          |
| 04/25/2025 02:40 pm | (H) Signed by Speaker                          |                          |                                |           |          |
| 04/21/2025 04:00 pm | (S) Signed by President                        |                          |                                |           |          |
| 04/13/2025 12:14 am | (S) Returned from Enrolling                    |                          |                                |           |          |
| 04/11/2025 05:34 pm | (S) Sent to Enrolling                          |                          |                                |           |          |
| 04/11/2025 05:34 pm | (H) 3rd Reading Concurred                      |                          |                                | 58        | 41       |
| 04/11/2025 03:00 pm | (H) Scheduled for 3rd Reading                  |                          |                                |           |          |
| 04/10/2025 11:17 am | (H) 2nd Reading Concurred                      |                          |                                | 58        | 42       |
| 04/10/2025 08:30 am | (H) Scheduled for 2nd Reading                  |                          |                                |           |          |
| 03/28/2025 02:02 pm | (H) Committee Report--Bill Concurred           |                          |                                |           |          |
| 03/28/2025 10:44 am | (H) Committee Executive Action--Bill Concurred | (H) State Administration |                                | 11        | 8        |
| 03/20/2025 10:51 am | (H) Hearing                                    | (H) State Administration | 03/26/2025 10:00 am   Room 455 |           |          |
| 03/17/2025 01:15 pm | (H) First Reading                              |                          |                                |           |          |
| 03/17/2025 09:25 am | (H) Referred to Committee                      | (H) State Administration |                                |           |          |
| 03/07/2025 09:19 am | (S) Transmitted to House                       |                          |                                |           |          |
| 03/06/2025 06:43 pm | (S) 3rd Reading Passed                         |                          |                                | 33        | 16       |
| 03/06/2025 05:30 pm | (S) Scheduled for 3rd Reading                  |                          |                                |           |          |
| 03/05/2025 10:25 am | (S) 2nd Reading Passed as Amended              |                          |                                | 33        | 17       |
| 03/05/2025 10:15 am | (S) 2nd Reading Motion to Amend Carried        |                          |                                | 49        | 1        |
| 03/05/2025 08:30 am | (S) Scheduled for 2nd Reading                  |                          |                                |           |          |
| 03/03/2025 03:37 pm | (S) Committee Report--Bill Passed as Amended   |                          |                                |           |          |

| Status Date         | Action                                                 | Committee                | Hearing Date                            | Yes Votes | No Votes |
|---------------------|--------------------------------------------------------|--------------------------|-----------------------------------------|-----------|----------|
| 03/01/2025 03:42 pm | (S) Committee Executive Action--Bill Passed as Amended | (S) State Administration |                                         | 6         | 3        |
| 03/01/2025 10:52 am | (S) Hearing                                            | (S) State Administration | 03/01/2025 10:00 am   RM 335            |           |          |
| 02/27/2025 08:41 am | (S) Hearing Canceled                                   | (S) State Administration |                                         |           |          |
| 02/26/2025 06:58 pm | (S) Hearing                                            | (S) State Administration | 02/01/2025 10:00 am - CANCELED   RM 335 |           |          |
| 02/26/2025 01:28 pm | (S) Referred to Committee                              | (S) State Administration |                                         |           |          |
| 02/26/2025 01:27 pm | (S) First Reading                                      |                          |                                         |           |          |
| 02/25/2025 12:06 pm | (S) Introduced                                         |                          |                                         |           |          |
| 02/25/2025 11:56 am | (LC) Draft Delivered to Requester                      |                          |                                         |           |          |
| 02/25/2025 08:26 am | (LC) Draft Ready for Delivery                          |                          |                                         |           |          |
| 02/25/2025 05:53 am | (LC) Draft in Assembly                                 |                          |                                         |           |          |
| 02/24/2025 10:15 pm | (LC) Draft in Final Drafter Review                     |                          |                                         |           |          |
| 02/24/2025 10:32 am | (LC) Draft in Input/Proofing                           |                          |                                         |           |          |
| 02/20/2025 08:29 am | (LC) Draft in Edit                                     |                          |                                         |           |          |
| 02/19/2025 08:42 am | (LC) Draft in Legal Review                             |                          |                                         |           |          |
| 09/06/2024 08:45 am | (LC) Drafter Assigned                                  |                          |                                         |           |          |

# EXHIBIT R



# **MONTANA ELECTION HANDBOOK 2024**



**CHRISTI JACOBSEN**  
MONTANA SECRETARY OF STATE





## **CHRISTI JACOBSEN**

### **MONTANA SECRETARY OF STATE**

Dear Montana Election Official,

Election season is upon us, and soon our Montana family, friends, and neighbors will have their voices heard by casting votes in local, state, and federal races. Exercising our responsibility to vote is one of the greatest civic duties called upon us, and I'm thankful I was born and raised in Montana where my voice can be heard through the ballot box.

I'm also grateful for Montana's election officials, workers, and volunteers and the important role they play in our electoral process. Working on the front lines during an election is a tremendous responsibility, one that ensures our elections will be safe, secure, and transparent.

The Handbook that follows provides comprehensive details regarding the role and responsibilities of our election workers, with critical information ranging from the polling place to assisting electors with disabilities. Election officials are responsible for several essential procedures during an election, beginning with the opening of polls and continuing until every eligible vote has been counted. This Handbook will serve as your guide, while our office and local election officials are also available to provide the necessary support and resources.

On behalf of the hundreds of thousands of voters across Montana, thank you again for your dedication. I'm excited to join state and local election officials in a commitment to provide safe, protected, and accessible elections to all Montanans.

With my gratitude,

A handwritten signature in cursive script that reads "Christi Jacobsen".

Christi Jacobsen  
Montana Secretary of State

## Table of Contents

***Disclaimer:** This handbook does not cover all Election Administrator duties and responsibilities. Election Administrators and Election Judges are obligated to follow Montana law.*

|                                                                                   |           |
|-----------------------------------------------------------------------------------|-----------|
| <b>The Election Judge .....</b>                                                   | <b>7</b>  |
| Serving as an Election Judge .....                                                | 8         |
| Chief Election Judge.....                                                         | 10        |
| Register Judge.....                                                               | 10        |
| Provisional Judge .....                                                           | 15        |
| Poll Book Judge.....                                                              | 15        |
| Ballot Judge.....                                                                 | 16        |
| Elector Requires Assistance to Vote .....                                         | 18        |
| Polling Place Voting Flow Chart .....                                             | 19        |
| <b>Election Day at the Polls .....</b>                                            | <b>21</b> |
| Polling Place Supplies Checklist .....                                            | 22        |
| Election Day .....                                                                | 23        |
| Setup for All Elections.....                                                      | 24        |
| Sample Chain of Custody and Security Seal Log .....                               | 27        |
| Opening the Polls.....                                                            | 28        |
| General Procedures at the Polls .....                                             | 28        |
| DS200®/DS300® Precinct-Level Ballot Tabulator Voting Procedures.....              | 29        |
| Poll Watchers.....                                                                | 30        |
| Early Counting of Ballots on Election Day.....                                    | 31        |
| Early Pickup of Ballots.....                                                      | 32        |
| ExpressVote® Voter Assistance Terminal Ballot Cards .....                         | 33        |
| <b>Absentee Voting and Absentee Ballots .....</b>                                 | <b>35</b> |
| Absentee Voters at the Polls .....                                                | 36        |
| Delivery and Recording of Absentee Ballots.....                                   | 37        |
| Processing Absentee Ballots Delivered to the Polls from the Election Office ..... | 37        |
| Absentee Ballot Counting Board .....                                              | 39        |

|                                                                      |           |
|----------------------------------------------------------------------|-----------|
| Rejected Absentee Ballots .....                                      | 40        |
| Unopened Absentee Ballot in Ballot Box.....                          | 40        |
| <b>Provisional Voting .....</b>                                      | <b>41</b> |
| Casting a Provisional Ballot.....                                    | 42        |
| Provisionally Registered Electors.....                               | 42        |
| Elector Has Been Issued an Absentee Ballot .....                     | 43        |
| Elector Has Been Challenged.....                                     | 43        |
| Elector Does Not Have ID .....                                       | 43        |
| Elector Omitted from Register in Error .....                         | 43        |
| Provisional Ballot Voting Procedure .....                            | 43        |
| Resolving the Provisional Ballot.....                                | 44        |
| Provisional Ballot Cover Sheet/Outer Envelope Sample .....           | 45        |
| Provisional Voting Flow Chart.....                                   | 46        |
| <b>Assisting Electors with Disabilities .....</b>                    | <b>47</b> |
| Assistance from Election Judges.....                                 | 48        |
| Elector Unable to Sign the Precinct Register .....                   | 48        |
| Elector Unable to Enter the Polling Place.....                       | 49        |
| Using ExpressVote® Voter Assist Terminals .....                      | 50        |
| Preparing the ExpressVote® for Voting .....                          | 51        |
| Voting on the ExpressVote .....                                      | 54        |
| Powering Down the ExpressVote .....                                  | 55        |
| Troubleshooting the ExpressVote® .....                               | 55        |
| <b>Special Situations .....</b>                                      | <b>59</b> |
| Resolving Challenges .....                                           | 60        |
| Spoiled Ballots .....                                                | 61        |
| Erroneous Omission from Precinct Register.....                       | 62        |
| Summary of Process for Submitting, Accepting or Rejecting an ID..... | 63        |
| Polling Place Identification .....                                   | 64        |
| Late Registration.....                                               | 65        |

|                                                                                                |            |
|------------------------------------------------------------------------------------------------|------------|
| <b>Closing the Polls .....</b>                                                                 | <b>67</b>  |
| Close of Polls.....                                                                            | 68         |
| Procedures for Close of Polls for ExpressVote® .....                                           | 68         |
| Procedures for Close of Polls for Model DS200®/DS300® Ballot Tabulators .....                  | 69         |
| <b>Ballot Counting and Tabulating .....</b>                                                    | <b>71</b>  |
| General Counting/Tabulating Procedures .....                                                   | 72         |
| Handling Voting Machine Error During Count.....                                                | 74         |
| Counting Ballots by Hand .....                                                                 | 75         |
| DS200®/DS300® Voting System Setup, Use, and Troubleshooting .....                              | 76         |
| Tabulating with Model DS450®/DS850®/DS950® Central Tabulators.....                             | 79         |
| Tabulation Boards.....                                                                         | 80         |
| Close of Tabulating Center .....                                                               | 83         |
| <b>Technical References .....</b>                                                              | <b>85</b>  |
| Determining a Valid Vote.....                                                                  | 86         |
| Determining a Valid Write-In Vote .....                                                        | 89         |
| Determining a Valid Vote on an ExpressVote® .....                                              | 92         |
| Determining a Valid Vote on a Voting System.....                                               | 92         |
| Determining a Valid Vote on a Federal Write-In Absentee Ballot .....                           | 93         |
| Handling Unvoted Primary Ballots or Multiple Ballots .....                                     | 94         |
| Guidance to Election Officials Regarding Official Poll Watchers and Election<br>Observers..... | 96         |
| Electioneering and Signature Gathering.....                                                    | 99         |
| Frequently Asked Questions.....                                                                | 100        |
| <b>Appendix.....</b>                                                                           | <b>103</b> |
| List of Envelopes for Ballots and Supplies .....                                               | 104        |
| Polling Place Contingency Plan .....                                                           | 105        |
| Additional Resources for Election Judges.....                                                  | 106        |

# The Election Judge

|                                           |          |
|-------------------------------------------|----------|
| <b>The Election Judge .....</b>           | <b>7</b> |
| Serving as an Election Judge .....        | 8        |
| Chief Election Judge.....                 | 10       |
| Register Judge.....                       | 10       |
| Provisional Judge .....                   | 15       |
| Poll Book Judge.....                      | 15       |
| Ballot Judge.....                         | 16       |
| Elector Requires Assistance to Vote ..... | 18       |
| Polling Place Voting Flow Chart .....     | 19       |

## Serving as an Election Judge

There are few roles as critical to our democracy as the job of an election judge. On election day, a citizen's right to cast a ballot and have the vote count rests in the hands of the election judge.

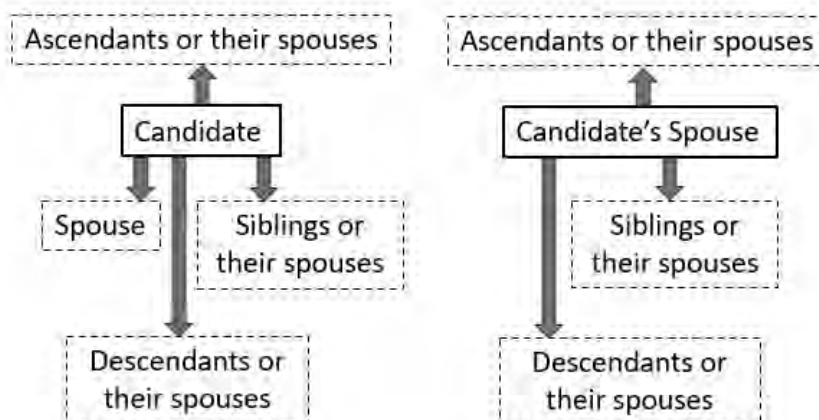
### Qualifications

To qualify to serve as an election judge, individuals must be registered to vote in the county and precinct where they are serving and attend training conducted by the county Election Administrator. In the event of insufficiencies or vacancies, a judge may be appointed to serve outside their precinct.

A person may not be an election judge in a precinct where they are also a candidate, a spouse of a candidate, or an immediate family member of a candidate where the candidate's name appears on the ballot. This prohibition does not apply to candidates for precinct office.

*13-4-107(2) MCA: No election judge may be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate or a candidate's spouse or the spouse of any of these in an election precinct where the candidate's name appears on the ballot. However, this does not apply to candidates for precinct offices.*

The following individuals may not be an election judge in a precinct where the candidate's name appears on the ballot:





## Roles of the Election Judge

Election judges are responsible for the administration of election procedures in the polling place on election day. The roles of election judges are varied, each one helping Montanans cast their ballot privately and independently, ensuring elections remain secure, fair, accurate, and accessible to all electors.

Judges are appointed by the county governing body. The appointments are from lists of electors submitted by county central committees of qualified political parties. The Election Administrator may also appoint judges if a list submitted by a political party is insufficient for the staffing requirements or to fill vacancies (13-4-102, MCA). The Election Administrator will notify the judges of their appointment and the time set for training. Each election judge completing the training will be given a certificate of completion. No one may serve as an election judge without a valid certificate unless filling vacancies in emergencies. Election judges must be trained and recertified before each even-year primary election.

The Election Administrator will assign the election judges their roles. Not all counties use every type of judge. The Election Administrator will set up their election day process based on the county's resources and available election workers. A judge may perform multiple roles on election day.



The most common types of election judges are the Chief Election Judge, Register Judge, Poll Book Judge, Ballot Judge, and Provisional Judge. The Election Administrator may appoint additional judges as members of tabulating, counting, and resolution boards or as marshals or monitors as needed to fulfill the requirements of the election process. **See *Tabulation Boards*, page 80.**

The election judge must be ready for polling place situations that arise on election day. Ideally, the elector will go to their polling place, provide acceptable ID, and successfully receive, mark, and return their voted ballot. On occasion, an elector may forget their ID or fail to bring a form that meets the identification

requirement. An elector may need to update their registration to receive a ballot. Perhaps, the elector has moved and will now vote in a different precinct, or entirely different county. An absentee voter may arrive with their absentee ballot or may have misplaced, spoiled, or not received their ballot. Sometimes, the register shows an elector's status as inactive due to voter inactivity or an elector's name may not appear in the register at all. Individuals may go to the polling place wanting to register on election day, or an elector may show up at the wrong polling place. The election judge needs to know how to respond in these unique situations.

## Chief Election Judge

Of the election judges appointed for each precinct, one must be designated as Chief Election Judge. The Chief Election Judge may also be referred to as a Polling Place Manager. In some instances where several precincts are gathered in the same location, a Polling Place Manager may provide oversight or coordination for the Chief Election Judges to help ensure a standardized process.

The Chief Election Judge (or Polling Place Manager) will open and close the polls and is responsible for the conduct of the proceedings in the polling place. The Chief Election Judge will assign duties to other members of the board of election judges, and, unless otherwise assigned, is responsible for the return of, or for arranging the return of, all ballots and election supplies to the Election Administrator.

The Chief Election Judge provides support for the other election judges, resolving issues, and making decisions within the scope of the law and applicable procedures for the polling place.



## Register Judge

Montana statute defines an elector as an individual qualified to vote under state law. One important component of the qualification process is identification. All electors must present acceptable identification to vote at the polls on election day.

By requiring proper identification, election officials verify a voter's eligibility and defend against fraudulent activities.

The Register Judge's job is to confirm the elector's identity and eligibility to vote. Montana permits electors a wide variety of options to identify themselves for voting. The Register Judge requests the elector's ID and verifies it is an acceptable form of identification.

## Polling Place Identification

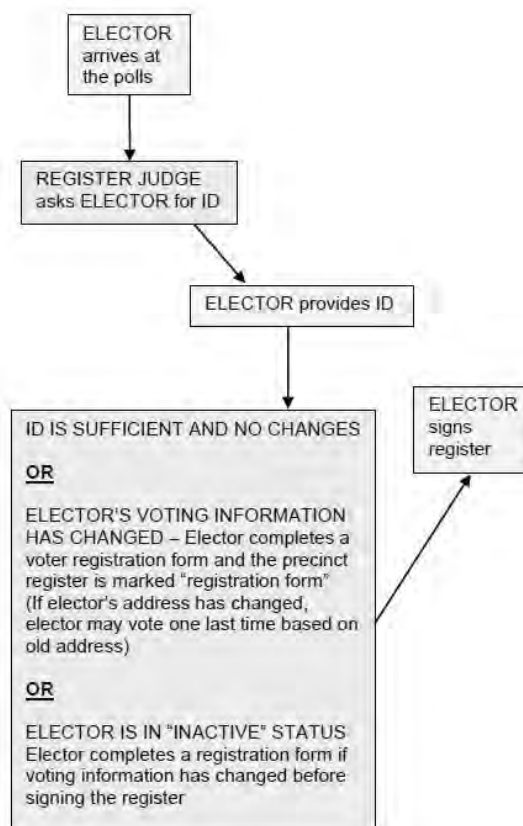
*\*Pursuant to a September 30, 2022, District Court Order, acceptable polling place identification for a voter is reverted to rules according to the 2017 statute. The 2021 statute is enjoined from enforcement.*

An elector typically identifies themselves by presenting a driver's license or State ID card. Occasionally, election judges will also process voters that present other identification including tribal, student, military, or other alternative documents.

**See *Polling Place Identification in Special Situations*, page 64.**

## Signing the Register

The Register Judge instructs the elector to state their name and address, locates the elector's name in the register and, if the identification process is successful, instructs the elector to sign the register.



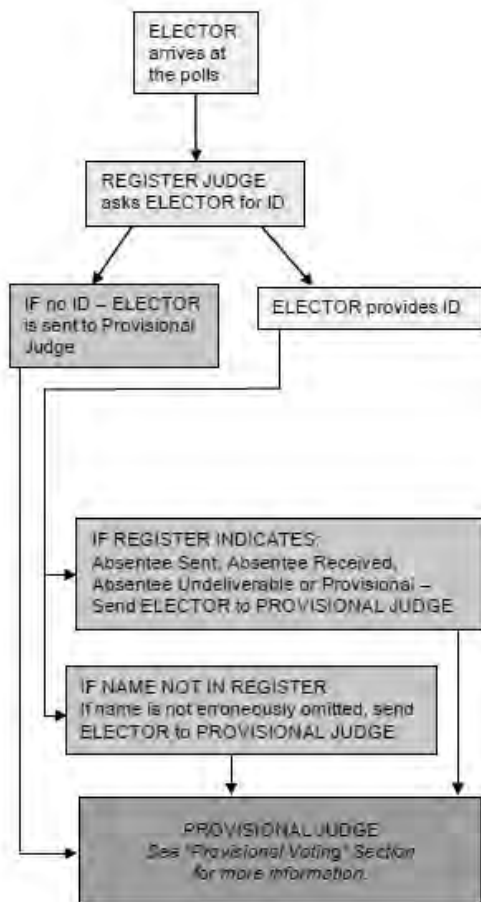
### The elector is unable to sign the register:

If an elector is unable to sign the register, instruct them to mark the spot with a fingerprint or another identifying mark like an X.

Note in the register you witnessed the elector marking the register. If the elector is unable to provide a fingerprint or identifying mark and does not have a designated agent, the election judge (or the Election Administrator) may sign for the elector after verifying the elector's ID.

## Assisting Electors with Voting Eligibility

On election day, election judges will encounter situations that must be resolved before the elector may cast their ballot. The following are common situations experienced by election judges in a polling place setting:



### The elector's ID differs from information in the register:

If the elector's ID has information that differs from the register, but the election judge determines the information provided is enough to verify the elector's identity and eligibility to vote, the elector may sign the register and vote a **regular ballot**.

If the information in the register is incorrect, have the elector fill out a voter registration form with their correct information and they may vote a **regular ballot**.

**Note:** *If the elector has moved outside of the county, they may vote one last time based on their former address (13-2-512, MCA).*

### The elector did not bring an acceptable form of ID or the information presented is insufficient to verify the elector's identity and eligibility to vote:

If the elector did not bring an acceptable form of ID, the elector may choose to return to the polling place with the required identification and vote a **regular ballot** or, if the elector is unable to meet the ID requirement, the elector may vote a **provisional ballot**.

### The elector's name is not in the register:

If the elector's name is not in the register, call the election office to verify if the elector's name was omitted erroneously.

- If the elector was omitted erroneously from the register, have the elector complete the *Certificate of Erroneous Omission* form. The elector votes a **regular ballot**. ([ARM 44.3.2111](#))
- If the election office cannot confirm the elector was erroneously omitted from the register, the elector may vote a **provisional ballot**.

**Note:** *If the elector chooses to **not** vote a **provisional ballot**, direct them to the election office or designated location to resolve the omission.*

#### An inactive elector appears at the polling place to vote:

An elector can be placed in "Inactive" status for a variety of reasons established in law ([13-2-220, MCA](#), [ARM 44.3.2014](#)). These reasons include not responding to correspondence during annual voter list maintenance or having a ballot returned to the election office as undeliverable in a mail ballot election.

An **inactive** elector may reactivate their registration on election day by appearing at the polling place or by requesting an absentee ballot. The elector may vote a **regular ballot** on election day at the county election administrator's office or a central location designated by the county Election Administrator (which may include the polling place). See [13-2-222, MCA](#) and [ARM 44.3.2015](#).

**Note:** *An **inactive** elector should fill out a voter registration form if any information in their voter record has changed.*

#### The register says elector was issued an absentee ballot:

If the register indicates the elector was sent an absentee ballot, an absentee ballot was received for the elector, or the ballot was returned as undeliverable, send the elector to the Provisional Judge.



The elector must vote a **provisional ballot**. Inform the elector the **provisional ballot** will be counted if the **absentee ballot** was not returned.

#### Elector brings a voted absentee ballot to drop off at the polls:

On election day, electors may return **absentee ballots** to the election office or any polling place in the county where the elector is registered to vote.

- For school districts, ballots can be returned to any polling place in the school district.

- An **absentee ballot** dropped off at a polling place other than the one in which the elector appears on the register must be:
  - delivered to the election office by the election judges for signature verification and tabulation if tabulation of **absentee ballots** is done at a central location or handled as directed by the Election Administrator; or
  - delivered to the election office by the election judges for signature verification. If all counting is done at the precinct location, the election office will then deliver the ballot to the correct precinct or handle as directed by the Election Administrator.

**Absentee ballots** dropped off at the polling place must be sealed in a secrecy envelope and then in an affirmation signature envelope. The signature envelope must be signed and dated by the elector.

See *Absentee Voting and Absentee Ballots* section, page 35, for further guidance.

#### The register notes “Provisional” status for the elector:

If the provisionally registered elector provides required polling place ID or other missing information and this is verified by the Election Administrator, the elector can vote a **regular ballot**.

If the provisionally registered elector does not provide a form of required ID or the ID number or other missing information, the elector may vote a **provisional ballot**.

- Inform the elector the **provisional ballot** will be counted if the elector provides verifiable ID and any applicable missing registration information to the election office by 5pm the day following the election.

See *Provisional Voting* for detailed instructions, page 41.

#### The elector is challenged:

An elector’s right to vote may be challenged by another registered elector by submitting an affidavit of challenge. If an elector has been challenged and the challenge is resolved, the elector may vote a **regular ballot**. If the challenge is not resolved, the elector may vote a **provisional ballot**.

**Reminder!** *If the challenge is based on residency, an elector may vote one last time based on their former address. The voter must complete a voter registration form with their new address.*

See *Resolving Challenges* section for additional information, page 60.

Provisional Judge

The Provisional Judge is responsible for assisting electors who are required to vote a provisional ballot because they do not meet the eligibility to vote a regular ballot.

See *Provisional Voting* section, page 41, for further guidance.

## Poll Book Judge

The poll book is the official record used to reconcile the number of electors to the ballots issued. After the Register Judge processes the elector, the Poll Book Judge writes the elector's name in the poll book beside the ballot number provided by the Ballot Judge.



Ballot numbers should not be pre-entered. The number on the next ballot stub must match the number in the poll book. If a ballot number is missing from the ballot, or if the ballot is voided, this is clearly noted in the poll book.

For example, when a ballot is spoiled, the Poll Book Judge will coordinate with the Ballot Judge to document the spoiled ballot and enter the elector's new ballot number in the poll book.

| COUNTY _____                                                                                                                                                                                                                                                                                      |       | PRECINCT _____                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>BALLOT RECONCILIATION REPORT</b></p> <p>This form is included in the back of each poll book and is used to reconcile ballots on Election Day.</p>                                                                                                                                           |       |                                                                                                                                                                                                                         |
| <b>PART 1</b>                                                                                                                                                                                                                                                                                     |       |                                                                                                                                                                                                                         |
| 1. List ballot number issues                                                                                                                                                                                                                                                                      | _____ | <b>Ballot Reconciliation Report:</b><br>Place this form at the back of each poll book. 2 copies are required. One copy is to be sealed and returned with each poll book and one copy is for the Election Administrator. |
| 2. Absentee Vote and Spoiled Ballots:                                                                                                                                                                                                                                                             | _____ |                                                                                                                                                                                                                         |
| 3. Subtotal                                                                                                                                                                                                                                                                                       | _____ |                                                                                                                                                                                                                         |
| 4. Subtotal number of ballots received for Absentees voting - see Certificate of Number of Ballots Sent to Polling Place Form (use the number from that form)                                                                                                                                     | _____ |                                                                                                                                                                                                                         |
| 5. Total number of paper ballots issued                                                                                                                                                                                                                                                           | _____ |                                                                                                                                                                                                                         |
| <b>PART 2</b>                                                                                                                                                                                                                                                                                     |       |                                                                                                                                                                                                                         |
| 6. Total number of paper ballots issued (same as Part 1, No.)                                                                                                                                                                                                                                     | _____ | <b>These 2 totals should match!</b>                                                                                                                                                                                     |
| 7. Subtract total number of unreturned provisional ballots                                                                                                                                                                                                                                        | _____ |                                                                                                                                                                                                                         |
| 8. Total number of ballots less unresolved provisional ballots                                                                                                                                                                                                                                    | _____ |                                                                                                                                                                                                                         |
| 9. Total number of ballots in ballot box (Sheet 1) (Sheet 2)                                                                                                                                                                                                                                      | _____ |                                                                                                                                                                                                                         |
| <p>This total should be the actual number of ballots counted = the number of sheet 1 and sheet 2 ballots may be different.</p> <p>* If #6 and #9 do not match, if they do not, fill out the reason below:</p>                                                                                     |       |                                                                                                                                                                                                                         |
| <p>If the number of ballots hand counted does not reconcile with the number of ballots from the poll book ballot reconciliation, check below if any money ballots are short or in error and the reason for the discrepancy (if known):</p><br><p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |       |                                                                                                                                                                                                                         |
| Signatures of Judges: _____                                                                                                                                                                                                                                                                       |       |                                                                                                                                                                                                                         |

At the end of the day, the poll book must be reconciled to the number of ballots issued using the Ballot Reconciliation Report.

**Note:** *If there is early pickup of ballots for counting, additional poll books will be required.*

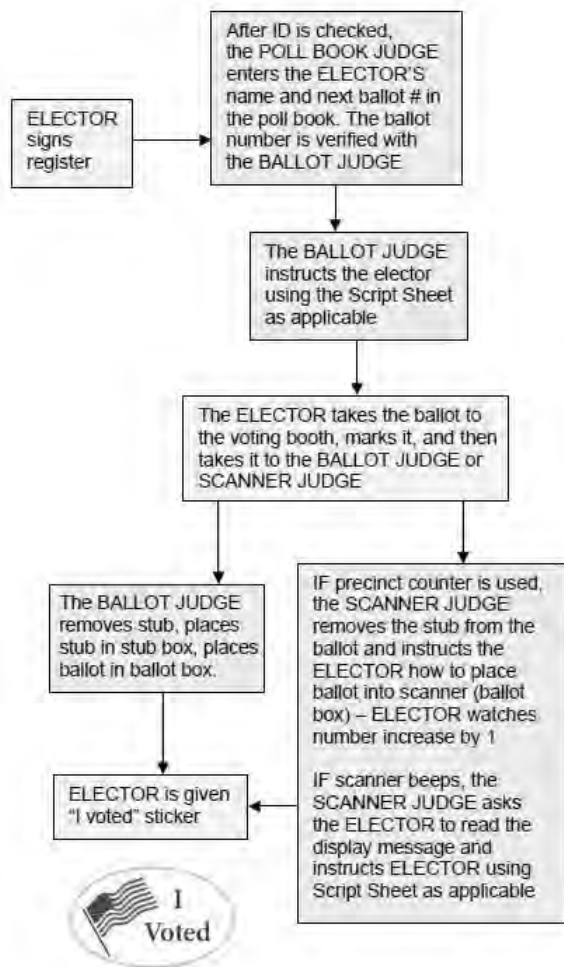
- The Poll Book Judge will start subsequent poll books where the prior poll book finished.
- All judges must sign the poll book(s) before each pickup.
- The Ballot Reconciliation Report is completed before the poll book and ballots are released for counting.

## Ballot Judge

The Ballot Judge issues ballots to electors in sequential order, providing the ballot numbers to the Poll Book Judge. Each ballot is stamped with the official ballot stamp, ensuring no part of the stamp appears on the stub.



The Ballot Judge demonstrates to the elector the procedure for marking the ballot, placing the voted ballot into the secrecy sleeve, and returning the voted ballot to the appropriate judge.



When the elector returns the ballot, the stub is removed and placed in stub box. The voted ballot is placed into the ballot box in a manner that ensures no part of the voted ballot is visible.

**Note:** In a **primary election**, the elector is given one ballot for each Party.

- ✓ The stub numbers on each Party's ballot must match.
- ✓ The elector is instructed to vote only one Party's ballot.
- ✓ The voted ballot and all unvoted party ballots are returned to the Ballot Judge.

The unvoted ballots will be placed in the stub box or in the unvoted ballot box, depending on the polling place setup or as directed by the Election Administrator.



**A ballot is missing or blank:**

If the next sequential ballot is missing, the Poll Book Judge must note this by writing “missing” next to the number in the poll book.

If the ballot is missing a number due to misprint, fold and place the ballot in a “spoiled” ballot envelope. The envelope is then placed in the ballot box with the stub attached. The Ballot Judge will verify the next ballot has the correct sequential number. If not, repeat these steps for the next ballot.

**Elector asks about write-in candidates:**

The Election Administrator will provide the Chief Election Judge at each precinct a list of declared write-in candidates along with copies of the filing form with name variations. The list may be shown to any elector who requests the information.

**Note:** Lists *may not* be posted in the polling place or in a voting booth.

The Election Administrator will also provide copies of filing forms listing name variations to ballot tabulating judges.

**Elector makes a mistake on the ballot (See also *Special Situations* section):**

If an elector spoils or damages their ballot, a new ballot must be provided to the elector upon request.

The Ballot Judge will write “spoiled” on the ballot stub and the elector will write “spoiled” on the spoiled ballot. The Ballot Judge will remove the stub and the elector will place the spoiled ballot in an envelope marked “spoiled.”

The Ballot Judge will instruct the Poll Book Judge to mark the poll book accordingly for the spoiled ballot. The word “spoiled” must be noted in the poll book beside the elector’s name for that ballot number in the poll book.

The Ballot Judge will give the elector a new ballot and provide the new ballot number to the Poll Book Judge to enter in the poll book.

**Note:** Stickers or labels *may not* be placed by an election judge or elector to cover up or correct errors on the spoiled ballot. A new ballot must be issued.

## Elector Requires Assistance to Vote

The polling place is for everyone. The elections process in Montana accommodates voters with disabilities in a variety of ways.



Avoid making assumptions about ability. Listen to understand which part of the voting process an elector may need help. Be accommodating and talk with the Chief Election Judge about ways that you can assist electors with disabilities with the voting process.

The elector may use the ExpressVote® Universal Voting System. **See *ExpressVote® Poll Worker Quick Start Guide* for system setup, use, and troubleshooting, page 50.**

The elector may request the designated assistance of an individual to aid the elector in the marking of the elector's ballot. A properly designated agent may assist the elector with the voting process in a variety of ways with a few requisites.

*The individual chosen as a designated agent **may not** be the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union. The agent designated to assist the elector shall sign the agent's name on the precinct register beside the name of the elector assisted.*

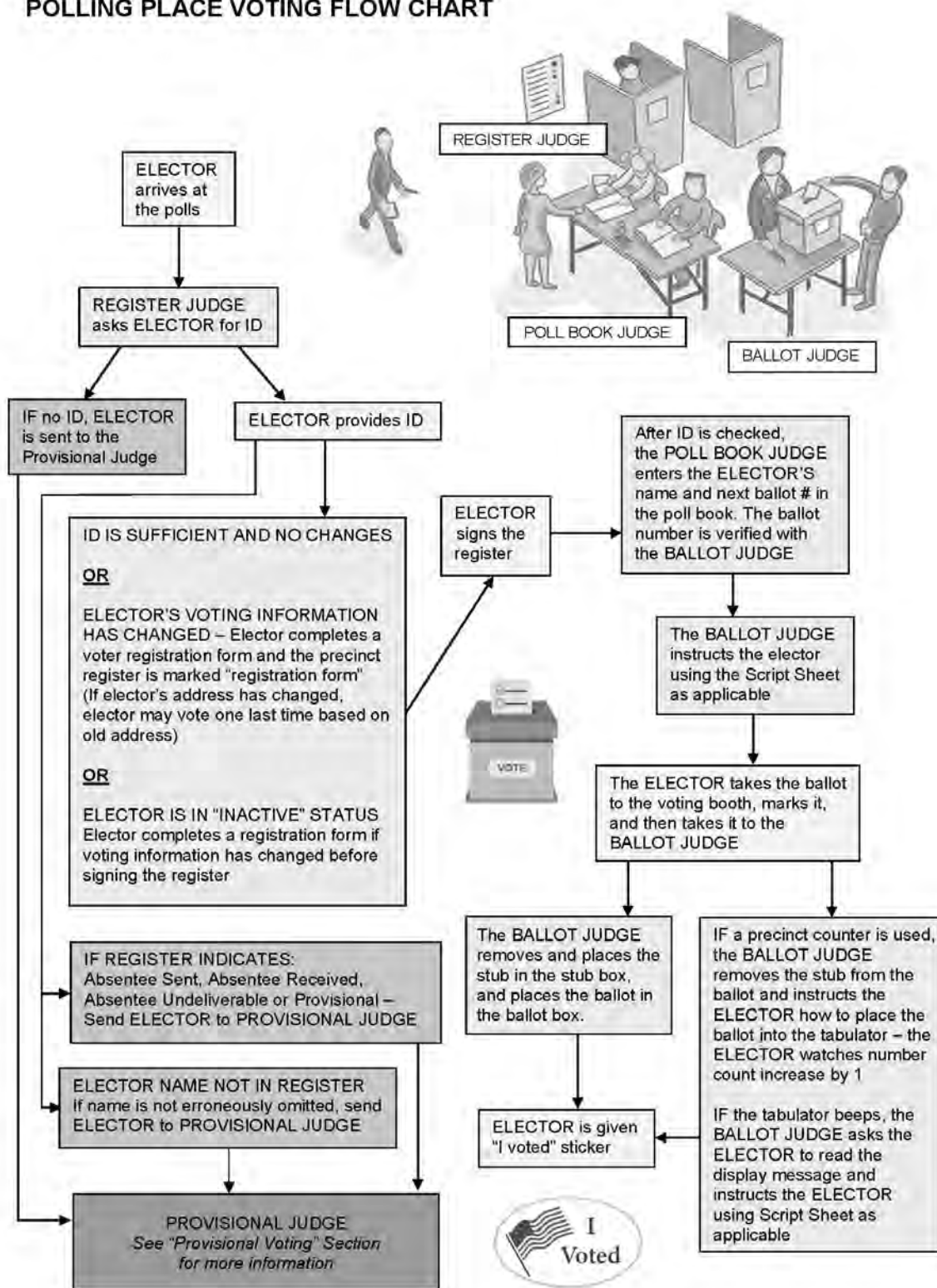
The elector also has the option to be **assisted by two election judges** who represent different parties. The elector and assigned judges will complete the “Oath of Elector Needing Assistance within Polling Place” section of “*Oath of Elector Unable to Enter Polling Place*” form.

*If election judges who represent different political parties are not available, the Chief Election Judge shall appoint two election judges to assist the elector (13-13-119, MCA). The judges appointed must make a notation on the voter's signature line in the register and file the signed form in the designated section of the register binder.*

If an elector has **difficulty entering the polling place**, the elector may cast their ballot by requesting a ballot be delivered to them outside the building where the polling place is located.

After identifying the elector and confirming registration status, the Chief Election Judge shall appoint two election judges (representing different political parties, if possible) to take the ballot to the elector. The elector must sign the *Oath of Elector Unable to Enter Polling Place* form. The appointed judges must make a notation on the elector's signature line in the register and file the signed *Oath of Elector Unable to Enter Polling Place* form in the designated section of the register binder.

# POLLING PLACE VOTING FLOW CHART





# Election Day at the Polls

|                                                                      |           |
|----------------------------------------------------------------------|-----------|
| <b>Election Day at the Polls .....</b>                               | <b>21</b> |
| Polling Place Supplies Checklist .....                               | 22        |
| Election Day .....                                                   | 23        |
| Setup for All Elections.....                                         | 24        |
| Sample Chain of Custody and Security Seal Log .....                  | 27        |
| Opening the Polls.....                                               | 28        |
| General Procedures at the Polls .....                                | 28        |
| DS200®/DS300® Precinct-Level Ballot Tabulator Voting Procedures..... | 29        |
| Poll Watchers.....                                                   | 30        |
| Early Counting of Ballots on Election Day.....                       | 31        |
| Early Pickup of Ballots.....                                         | 32        |
| ExpressVote® Voter Assistance Terminal Ballot Cards .....            | 33        |



## Polling Place Supplies Checklist

*Checklist for election judges may include items not needed at all polling places and may not include all polling place supplies required.*

### Paper:

- ☐ Absentee Elector Lists
- ☐ Absentee Secrecy and Signature Envelopes
- ☐ Absentee Voter Applications
- ☐ ExpressVote® Tally Sheets (tracking)
- ☐ Ballots
- ☐ Challenge Forms
- ☐ Checklists for Opening and Closing of Polls
- ☐ Curbside Voting Materials
- ☐ Election Handbooks
- ☐ Election Judge Time Sheets
- ☐ Election Judge Oath Forms
- ☐ Emergency Contact Lists
- ☐ Envelopes for Close of Polls
- ☐ Envelopes for Hand-Count Ballots (if any)
- ☐ Envelopes for Spoiled and Unvoted Ballots
- ☐ List of All Registered Electors
- ☐ List of Challenges
- ☐ List of Election Judges
- ☐ List of Registered Electors at the Polling Place
- ☐ Maps: Precinct Maps, Road Maps, etc.
- ☐ Poll Location List
- ☐ Poll Book and Reconciliation Worksheets
- ☐ Polling Place Emergency Relocation Checklist
- ☐ Poll Watcher/Election Observer Early Count Oath Forms
- ☐ Precinct Register
- ☐ Provisional Ballot Envelopes
- ☐ Register Erroneous Omission Forms
- ☐ Sample Ballots
- ☐ Security Seals and Seal Log
- ☐ Signs for Electors with Disabilities
- ☐ Sticky Notes
- ☐ Title 13 Election Law Books
- ☐ Voter Information Pamphlets
- ☐ Voter Registration Applications
- ☐ Voting Instructions and Warning Posters

### Items:

- ☐ 100-Foot String to Avoid Electioneering
- ☐ ExpressVote® Secrecy Sleeves
- ☐ Badges and Name Tags
- ☐ Calculators
- ☐ Cell Phones/Phone Cards/Quarters for Phone Booths
- ☐ Clipboards
- ☐ Duct Tape
- ☐ Envelope Dampeners
- ☐ Extension Cord
- ☐ Eye Drops
- ☐ Feather Duster
- ☐ Finger Adhesive
- ☐ First Aid Kit
- ☐ Flashlight and Extra Batteries
- ☐ Food and Coffee for Election Judges
- ☐ Hand Sanitizer and Lotion
- ☐ Highlighters
- ☐ "I Voted" Stickers
- ☐ Ink Pads
- ☐ Isopropyl Rubbing Alcohol Cleaning Pads
- ☐ Keys
- ☐ Lanyards
- ☐ Letter Openers
- ☐ Light Bulbs
- ☐ Magnifying Glass and Magnifying Sheet
- ☐ Numbered Security Ties
- ☐ "Official Ballot" Stamps
- ☐ Paper Clips
- ☐ Pens, including blue, black, and red
- ☐ Permanent Marker
- ☐ Photocopier (optional)
- ☐ Plastic Electrical Cord Adapters
- ☐ Poll Booths
- ☐ Poster Tack
- ☐ Pressurized Can of Air
- ☐ Reading Glasses
- ☐ Rubber Bands
- ☐ Rubber Thumbs
- ☐ Rulers
- ☐ Scissors
- ☐ Scotch Tape
- ☐ Signature Line Rectangle (for Blind/Low-Vision)
- ☐ Spindles
- ☐ Staple Remover
- ☐ Thumb Tacks
- ☐ Toilet Paper and Tissues
- ☐ Tool Kits
- ☐ Voting Systems
- ☐ Other: \_\_\_\_\_

## Election Day

On election day, the election judge is the connection to the process for the elector and the voice of the election office.

The election judges shall meet at their assigned polling places at the time set by the Election Administrator. The judges shall take and subscribe the official oath prescribed by the Constitution. They may administer the oath to each other. The judges shall check all supplies and complete preparations for voting before the time set for opening the polls, under the direction of the Chief Election Judge.



### Oath of Office for Election Judges

*To serve as an election judge, an individual must possess a current certification of completion of instruction and subscribe the Oath of Office for Election Judges.*

**OATH TO BE FILED WITH COUNTY ELECTION ADMINISTRATOR**

Election judges must take and subscribe this Oath prior to the opening of polls. The completed Oath must be returned to the election administrator at the end of election day. Each judge taking and subscribing this Oath must sign this form and their signature be witnessed by the election administrator or chief election judge.

State of Montana \_\_\_\_\_  
County of \_\_\_\_\_

Election serving: \_\_\_\_\_

*"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution of the United States and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity (so help me God)."*

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

The signed affirmations above are hereby witnessed by \_\_\_\_\_  
*Printed Name of Election Administrator or Chief Election Judge*

dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, Montana  
*City*

\_\_\_\_\_  
*Signature of Election Administrator or Chief Election Judge*

## Setup for All Elections

Prior to the opening of the polls, election judges should:

1. Meet at the polling place at a time set by the Election Administrator (13-13-101, MCA).
2. Take and subscribe to the judges' official oath in the poll book. The judges may administer the oath to each other (13-4-105 and 13-13-101, MCA).
3. Check supplies provided by the Election Administrator using the checklist provided by the Election Administrator (13-13-101, MCA).
4. Verify the number of ballots including ExpressVote® Ballot cards delivered on the ballot certification report and ExpressVote® activation card report.
5. Verify all seal numbers on the Chain of Custody and Security Seal Log.
6. Check ballots to confirm they are the correct ballots for your precinct and the ballots are correctly numbered.
7. The Chief Election Judge or Ballot Judge will verify the Ballot Certification Report with ballots delivered to the polling place and will verify and update the ballot seal log and the voting system seal log.
  - Notify the Election Administrator **immediately** if the number of ballots delivered does not match the number on the Ballot Certification Report.
8. **If the register is not already marked**, mark the signature lines in the precinct register for anyone issued a ballot after the registers were printed.

**See also *Absentee Voting and Absentee Ballots* for additional information pertaining to absentee voting, page 35.**

9. Set up the official table or tables with:
  - Ballots in numerical order and according to the instructions received from the Election Administrator
  - Official ballot stamp and pad
  - Secrecy sleeves/envelopes
  - Precinct register
  - Poll book
  - Voter information pamphlets (during Federal General elections)
  - One copy of the registered elector list
  - One copy of the list of absentee electors
  - Ballot box
  - Box for ballot stubs and unvoted ballots



- Supply of registration forms, provisional ballot supplies, envelopes, provisional ballot instructions, polling place elector identification forms, and all other miscellaneous supplies as directed by the Election Administrator
  - List of any filed write-in candidates. *Reminder - **DO NOT** post write-in list in plain view. (13-35-211(3), MCA)*
10. Check voting equipment; make sure it is set-up, plugged in, properly sealed, and ready for use.
11. Post or display at the polling place:
- A list of the registered electors in the precinct (13-2-115(3), MCA)
  - A list of absentee electors in a conspicuous location (13-13-233, MCA)
  - Sample ballots for the precincts in at least one conspicuous location (13-13-112(5), MCA)
  - The Montana Voter Information poster in each poll booth and elsewhere in the polling place (13-13-112, MCA)

**Post the Montana Voter Information poster in each voting booth and elsewhere in the polling place.**



**Important Voter Information**

Montana Voter Hotlines:  
1-888-884-8663  
State Local Election Office

**When You Enter the Polling Place:**

- Find your precinct.
- You must show identification.

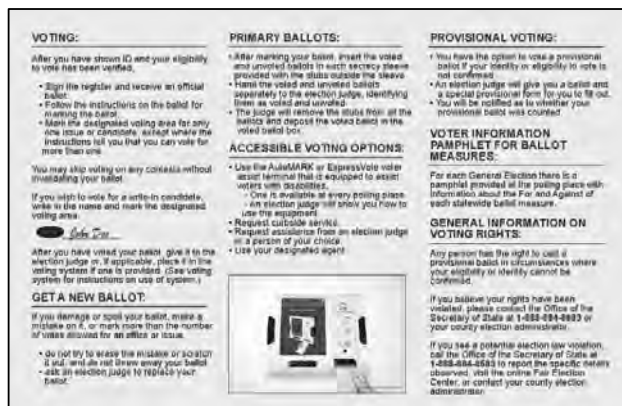
**IDENTIFICATION:**

- An election judge will request your identification and verify that it is an acceptable form of identification.
- Typically, an elector identifies themselves with a Montana driver's license or a Montana state ID card.
- If you have questions about what qualifies as an acceptable form of identification, please ask to see an election judge who will assist you.
- You may also use your phone camera to scan the QR code to view acceptable forms of identification.

**IF YOU FORGET YOUR ID:**

- Return to the polls when you have it, or
- Ask to see an election judge who will assist you. The election judge can also provide assistance for voting a provisional ballot, which will be counted if your identity can be verified by the county election office.

Visit [VoteMT.gov](http://VoteMT.gov) to confirm your voter registration information.



**VOTING:**

After you have shown ID and your eligibility to vote has been verified:

- Sign the register and receive an official ballot.
- Follow the instructions on the ballot for marking the ballot.
- Mark the designated voting area for only one issue or candidate, except where the instructions tell you that you can vote for more than one.

You may skip voting on any contest without invalidating your ballot.

If you wish to vote for a write-in candidate, write in the name and mark the designated voting area.

After you have marked your ballot, give it to the election judge or, if applicable, place it in the voting system if one is provided. Give voting system for instructions on use of system.

**GET A NEW BALLOT:**

If you damage or spoil your ballot, make a mistake on it, or mark more than the number of votes allowed for an office or issue:

- Do not try to erase the mistake or scratch it out, and do not throw away your ballot.
- Ask an election judge to replace your ballot.

**PRIMARY BALLOTS:**

- After marking your ballot, insert the voted and unvoted ballots in each secrecy sleeve provided with the state outline map device.
- Hand the voted and unvoted ballots separately to the election judge, identifying them as voted and unvoted.
- The judge will remove the state folder, fill the ballot and deposit the voted ballot in the voted ballot box.

**ACCESSIBLE VOTING OPTIONS:**

- Use the **AutoMARK** or **ExpressVote** voter assist terminal that is equipped to assist voters with disabilities.
  - One is available at every polling station.
  - An election judge will show you how to use the equipment.
- Request audible ballots.
- Request assistance from an election judge or a person of your choice.
- Use your designated agent.

**PROVISIONAL VOTING:**

- You have the option to use a provisional ballot if your identity or eligibility to vote is not confirmed.
- An election judge will give you a ballot and a special provisional form for you to fill out.
- You will be notified as to whether your provisional ballot was counted.

**VOTER INFORMATION PAMPHLET FOR BALLOT MEASURES:**

For each General Election there is a pamphlet provided at the polling place with information about the For and Against of each statewide ballot measure.

**GENERAL INFORMATION ON VOTING RIGHTS:**

Any person has the right to call if provisional ballots in circumstances where your eligibility or identity cannot be confirmed.

If you believe your rights have been violated, please contact the Office of the Secretary of State at 1-888-884-8663 or your county election administrator.

If you see a potential election law violation, call the Office of the Secretary of State at 1-888-884-8663 to report the specific activity observed, visit the online Fair Election Center, or contact your county election administrator.

- "Warning" notices in conspicuous locations (13-13-113, MCA)

**Post the Warning in  
conspicuous locations  
around the polling place.**

**WARNING**

The sections of law printed below list specific conduct or actions which may cause an elector to be subject to criminal prosecution. This is not intended to be a complete listing of all laws pertaining to election violations. By law, this warning notice must be posted in conspicuous places in the polling place.

**INFORMATION ON STATE LAWS REGARDING PROHIBITIONS ON ACTS OF FRAUD AND MISREPRESENTATION**

**13-13-201. Election and ballot.** (1) An elector may not know the contents of the elector's ballot to anyone other than an election judge and may not place any mark upon the ballot by which it may be identified as the one voted by the elector.

(2) An elector may not receive a ballot from any person other than an election judge and may not vote any ballot except one received from an election judge. A person other than an election judge may not deliver a ballot to an elector.

(3) A person may not solicit an elector to share the elector's ballot after it is marked.

(4) An elector who does not vote a ballot delivered to the elector shall, before leaving the polling place, return the ballot to an election judge.

**13-13-202. (Revoked) of assistance.** (1) An elector may not receive assistance or election workers. No election official or election worker may not.

(2) A person in a ballot box a paper ballot that is not marked as official.

(3) An elector may not place a ballot before putting the ballot in the ballot box.

(4) Look at any mark made by the elector upon the ballot.

(5) Make or place any mark or device on any ballot with the intent to ascertain how the elector has voted.

(6) Allow any individual other than the elector to be present at the marking of the ballot except as provided in 13-13-116, 13-13-118, 13-13-119, and 13-13-223, or

(7) Make a false statement in a certificate regarding affirmation.

**13-13-203. Injury to election equipment, materials and records.** A person is guilty of criminal mischief or tampering with public records and information, as appropriate, and is punishable, as provided in 45-6-101 or 45-7-208, as applicable, whenever the person:

(1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance with the provisions of the law;

(2) during an election:

(a) removes or defaces instructions for the voter;

(b) removes or destroys any of the supplies or other conveniences placed in the voting station for the purpose of enabling a voter to prepare the voter's ballot;

(c) removes any ballots from the polling place before the closing of the polls with the purpose of changing the result of the election;

(d) carries away or destroys any poll lists, envelopes, ballots, ballot boxes, or other equipment for the purpose of changing or invalidating an election;

(e) knowingly defaces, mutilates, alters, or destroys any election returns;

(f) mutilates, destroys, destroys, or alters election records, except as provided by law;

(g) tampers with, disarranges, detaches, injures, or impairs a voting system with the intent to alter the outcome of an election;

(h) mutilates, injures, or destroys a ballot or certificate used in connection with a voting system;

(i) fraudulently obtains or displays a declaration or certificate of nomination.

**13-13-211. Electioneering - soliciting information from electors.** (1) A person may not do any electioneering on election day within any polling place or any building in which an election is being held or within 100 feet of any entrance to the building in which the polling place is located that aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) On election day, a candidate, a family member of a candidate, or a volunteer for the candidate's campaign may not distribute awards, tokens, food, drink, or anything of value to a voter within a polling place or a building in which an election is being held or within 100 feet of an entrance to the building in which the polling place is located.

(3) A person may not buy, sell, give, wear, or display at or about the polls on any election day any badge, button, or other insignia that is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.

(4) A person within a polling place or any building in which an election is being held may not solicit from an elector before or after the elector has marked a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue.

**13-13-214. Bribe or influence of voters.** A person may not knowingly or purposely, directly or indirectly, individually or through any other person, for any election, in order to induce any elector to vote or refrain from voting or to vote for or against any particular candidate, political party, ballot, or ballot issue:

(1) give, lend, agree to give or lend, offer, or promise any money, loan, or valuable consideration or promise or endeavor to procure any money, liquor, or valuable consideration; or

(2) promise to appoint another person or promise to secure or aid in securing the appointment, nomination, or election of another person to a public or private position or employment or to a position of honor, trust, or emolument in order to aid or promote the candidate's nomination or election, except that the candidate for governor may publicly announce or define the candidate's choice for lieutenant governor.

**13-13-217. Offense not to influence voter.** An officer, while acting in an official capacity, may not, by menace, reward, or promise of reward, induce or attempt to induce any elector to cast a vote contrary to the elector's original intention or desire.

**13-13-218. Coercion or undue influence or violence.** (1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may not:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) induce or threaten to induce, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(2) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give up or refrain from giving the elector's vote at any election.

(3) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully counted.

(4) A person on election day may not obstruct the doors or entries of any polling place or engage in any conduct of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place.

**INFORMATION ON FEDERAL LAWS REGARDING PROHIBITIONS ON ACTS OF FRAUD AND MISREPRESENTATION**

Federal authorities may become involved in election fraud or misrepresentation issues when a state prosecutor asks for federal assistance or when allegations arise that criminal voter fraud has occurred in a federal election. If you have information about voter fraud, contact the nearest office of the FBI or your local U.S. Attorney's office.

Montana Secretary of State  
12/14/23 MSO  
1/18/24 MSO

- Open the ballot box and stub boxes and ascertain they are empty. Replace the security seal. Record the security seal number on the Chain of Custody and Security Seal Log.
- Prepare supplies (secrecy sleeves, unvoted envelopes, and proper writing tools to be used by the elector to mark their ballot).
- Set up polling booth. Ensure voters with disabilities have sufficient space for accessing the booth.
- Call your county Election office **immediately** if you are missing any supplies.

## Sample Chain of Custody and Security Seal Log

### For Ballots and Election Materials

Chain of Custody and Security Seal Log (Page 1). This form must be used to track the chain of custody and ballots and media, and to track security seals.

Election Day  
at the Polls



### Ballots and Election Materials Chain of Custody & Security Seal Log

*For the purpose of showing the control, transfer, and disposition of ballots and election materials during an election. Security seals, when removed, should be placed on the attached security seal log.*

County: \_\_\_\_\_ Election Date: \_\_\_\_\_  
Precinct: \_\_\_\_\_ Polling Place: \_\_\_\_\_

**PART 1: Materials prepared at election office to be delivered to polling place (completed by Election Administrator)**

| Election Material Type | Security Seal Serial # |
|------------------------|------------------------|
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |

Signature of Election Administrator: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**PART 2: Materials received at polling place (completed by Polling Place Manager before polls open)**

| Election Material Type | Security Seal Serial # |
|------------------------|------------------------|
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |

Signature of Polling Place Manager: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**PART 3: Materials leaving polling place (completed by election Judge or Polling Place Manager after polls close)**

| Election Material Type | Security Seal Serial # |
|------------------------|------------------------|
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |

Signature of Polling Place Manager: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**PART 4: Materials returned to election office (completed by Election Administrator)**

| Election Material Type | Security Seal Serial # |
|------------------------|------------------------|
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |
|                        |                        |

Signature of Election Administrator: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

NOTE: IF EARLY PICK-UP OF BALLOTS, THIS FORM MUST ACCOMPANY BALLOTS TO COUNTING LOCATION. A SECOND FORM SHOULD REMAIN WITH SEALED BALLOT CONTAINER TO BE COMPLETED FOR THE NEXT OR FINAL TRANSPORT.

**Part 1:** To be completed by the Election Administrator before delivery to polling place.

**Part 2:** To be completed by the Chief Election Judge before the polls open.

**Part 3:** To be completed by the Chief Election Judge before transport back to the election office.

**Part 4:** To be completed by the Election Administrator upon return to the election office.

## Security Procedures

1. Ensure all voting system access points are sealed while polls are open.
2. Ensure all ballot box access points are sealed while polls are open.
3. Before removing or breaking a security seal, ensure more than one judge is present, (preferably one from each party).
4. Record on the log provided the number of the security seal removed and replacement seal as well as the reason for removing seal.

## Opening the Polls

The Chief Election Judge (or Polling Place Manager) will proclaim the opening of the polls aloud at the time set for opening ([13-13-101\(2\), MCA](#) and [13-1-106, MCA](#)).

## General Procedures at the Polls

Voting stations must be arranged in a manner to prohibit any other individual from seeing how the elector votes or has voted. Ensure voting stations for electors in wheelchairs have sufficient space and are the correct height. No more than one individual may occupy a voting station at one time, except when assistance is furnished to an elector as provided by law. An individual may not occupy a voting station longer than is reasonably necessary to prepare the elector's ballot, after which the election judges may affect the removal of the elector from the station ([13-13-111, MCA](#)).



- Check from time to time to ensure no stickers or campaign materials have been stuck on or in the voting booth or device ([13-35-211, MCA](#)).
- Check to ensure sample ballots are not marked.
- If tabulators or ExpressVote® are used, periodically check they are in good working order ([13-35-206, MCA](#)).

## DS200®/DS300® Precinct-Level Ballot Tabulator Voting Procedures

1. The elector shall place the voted ballots (with stubs attached) in the secrecy sleeve/envelope, and the Ballot Judge or designated judge shall remove the stub(s).
  - a) Ballots are tabulated by the elector inserting them into the ballot tabulator entry slot in any direction.
  - b) The tabulator will display a message(s) if the voter needs to take further action before the ballot is tabulated.

**See *Voting System Setup, Use, and Troubleshooting* for the DS200® and DS300® Ballot Tabulators on page 76.**

- c) The ballot count on the display increases whenever the tabulator successfully scans a ballot.

**Note:** *In a **partisan primary election**, each elector will hand the unmarked ballots separately to the election judge, identifying them as unmarked ballots. The election judge shall, in the presence of the elector:*

- a) *remove the stub(s) from all ballots; **and***
  - b) *deposit the unmarked ballot(s) and the stubs in the appropriate container.*

2. The secrecy of the elector's ballot must be protected throughout the voting process. Position yourself so that you do not view the elector's ballot.

***An election judge or voting system (when a precinct level ballot tabulator is being used at the polling place) shall place the ballot in the ballot box immediately without allowing anyone to examine the ballot. Nothing other than a ballot may be put in a ballot box (13-13-117(2)(b), MCA).***

## Poll Watchers

The role of the poll watcher is to observe and monitor the election without violating voter privacy or disrupting the election. Poll watchers may observe the steps of the election process including all the vote counting procedures of the election judges after the closing of the polls and all entries of the results of the elections. Please note the following:

- A candidate may not be a poll watcher at a polling place where electors are voting on ballots with the candidate's name on them. (13-13-120, MCA)
- A candidate, family member of a candidate, or worker or volunteer for a candidate's campaign may not distribute alcohol, tobacco, food, drink, or anything of value to an elector within a polling place or a building in which an election is being held or within 100 feet of an entrance to a polling place. (13-35-211, MCA and ARM 44.11.606)
- At the time when each elector signs their name, the Register Judge shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name.
- Poll watchers may obtain permission from the Chief Election Judge to view the register during a time that does not interfere with any voting with permission of the Chief Election Judge.
- Poll watchers and observers are entitled to observe all vote counting procedures.
- Poll watchers and observers for early tabulation before the polls close must sign the prescribed affirmation and may not disclose results learned prior to polls closing on election day under penalty of law. (13-15-207(4), MCA)
- Access to an electronic system containing early tabulation results is limited to the Election Administrator and the Elections Administrator's designee.
  - Results may not be released prior to the close of polls on election day.
- Poll watchers may challenge any elector using the prescribed form.
- Poll watchers and observers may speak to an election judge at a polling place to discuss application or interpretation of election procedures or laws, providing it **does not interfere** with election procedures as determined by the Chief Election Judge.
- Poll watchers and observers may not solicit information or promote an issue or candidate to electors in the polling place.
- If cell phones are allowed, poll watchers, observers, and signature gatherers using cell phones should be asked to go to a secluded area or outside the polling place, where electors will not hear the call and will not be distracted. Cameras or

other electronic devices should be handled in a similar fashion. The elector must be able to vote in secrecy and without interruption.

- If you encounter an issue with a poll watcher, observer, or signature gatherer, contact the county election office.

See *Guidance to Election Officials Regarding Official Poll Watchers and Election Observers* for additional information, page 96.

## Early Counting of Ballots on Election Day

Counting votes cast may begin before the polls close, if directed by the Election Administrator. Election judges, ideally one from at least two parties, shall meet at a place designated by the Election Administrator. Judges doing the tabulating shall be in a separate room from where ballots are being cast.

The Election Administrator may appoint extra election judges as marshals to be responsible for exchanging ballot boxes and poll books and monitoring the counting board room and election observers.

When votes are being counted prior to the close of the polls, in addition to the official oath taken and subscribed to by the election judges, the members of the counting board shall complete and sign the following affirmation:

***“I, \_\_\_\_\_, will not discuss the results of the early counting of votes at any time prior to the closing of the polls on election day.” (13-15-207(4)(a), MCA)***

Election observers may not disclose any results learned before the close of polls on election day under penalty of law. Observers of early counting shall complete and sign the following affirmation:

***“I, \_\_\_\_\_, will not discuss the results of the early counting of votes at any time prior to the closing of the polls on election day.” (13-15-207(4)(a), MCA)***

The vote count must be open to public observation and continue without adjournment until votes for all candidates and ballot issues have been counted (13-15-101, MCA). The county canvass board must meet within 14 days of the election to canvass the returns.

## Early Pickup of Ballots

**Note:** *Make sure all ballots issued and marked in the poll book prior to the early pick-up are deposited in the (early pick-up) ballot box before the box is removed.*

1. After verifying the security seal number on the Chain of Custody and Security Seal Log, open the ballot box, remove, and count the ballots to compare the total ballots in the ballot box with the number issued as recorded in the poll book, and record the numbers on the Ballot Reconciliation Report. The form must be given to the Chief Election Judge or designee to be delivered to the election office.
2. Check the ballots to ensure the official ballot stamp appears on them.
3. Judges for counties that hand-count ballots at the polls will count all votes on ballots in the first box. That box and the poll book should then be exchanged for subsequent boxes and poll books, as necessary, reconciling total ballots to total issued in poll book each time.
4. Election judges using a central tabulation center must:
  - Place the ballots and poll book in the "Early Pick-up" container, marking the precinct number and total number of ballots enclosed (after reconciling on the Ballot Reconciliation Report the total number of ballots with total issued in the poll book) on the outside of the container;
  - Officially seal the container as required and record the seal number on the Chain of Custody and Security Seal Log; **and**
  - Relinquish the "Early Pick-up" container to authorized personnel for delivery to the counting center and obtain a receipt if required by the Election Administrator.





## ExpressVote® Voter Assistance Terminal Ballot Cards

The specific procedures for handling ExpressVote® ballot cards will vary depending on the type of tabulation equipment. Please consult with your Election Administrator regarding which option is used.

There are four options to track and reconcile ExpressVote® ballot cards:

1. If the ExpressVote® ballot cards have attached stubs, the ballot cards are handled and issued just like a regular ballot. The stub number is tracked and recorded in the poll book.
2. If the tabulation machines are not configured to read an ExpressVote® ballot card, the ballot card is handled as a transcription ballot. (13-3-208(3), MCA) The ballot card is placed in a secrecy envelope and placed in the ballot box (or other depository for these ballots designated by the Election Administrator). The ExpressVote® ballot card issued is noted in the poll book. The secrecy envelope containing the ballot card is sent to the transcription board for transcribing and tabulation.
3. If the ExpressVote® ballot card doesn't come with a stub or if it will be hand-counted, the ballot card is processed as a regular ballot. However, for each ExpressVote® ballot card issued, a corresponding regular ballot and ballot stub number is issued and marked in the poll book with a notation that the ballot voted was an ExpressVote® ballot card. The blank unvoted regular ballot is marked by an election judge as "Voted by Express Vote" and placed into a depository designated by the Election Administrator. The corresponding stub is placed in the appropriate container. The voted ExpressVote® ballot card is placed in the ballot box.
4. A county may use an alternative option to track, record, and manage ExpressVote® ballot cards. This alternative procedure must be approved 45 days in advance of the election in writing by the Secretary of State's office. Please consult with your Election Administrator if your county is using an alternative ExpressVote® ballot card tracking option.



# Absentee Voting and Absentee Ballots

|                                                                                   |           |
|-----------------------------------------------------------------------------------|-----------|
| <b>Absentee Voting and Absentee Ballots .....</b>                                 | <b>35</b> |
| Absentee Voters at the Polls .....                                                | 36        |
| Delivery and Recording of Absentee Ballots.....                                   | 37        |
| Processing Absentee Ballots Delivered to the Polls from the Election Office ..... | 37        |
| Absentee Ballot Counting Board .....                                              | 39        |
| Rejected Absentee Ballots .....                                                   | 40        |
| Unopened Absentee Ballot in Ballot Box.....                                       | 40        |

## Absentee Voters at the Polls

Electors must be allowed to drop off absentee ballots at the election office or any polling place in the county that issued the ballot. This also applies to late registrants. For school district elections, ballots may be returned to any polling place in the school district.

- An absentee or late registration ballot dropped off at a polling place other than the one in which the elector appears on the register must be placed in an absentee ballot box or other depository designated by the Election Administrator.

**Note:** *An absentee or late registration ballot dropped off at the polling place that is not in the absentee signature envelope must be placed in a secrecy envelope, then placed in an absentee signature envelope, and signed by the elector.*

*Ballots not in signature envelopes or that have unsigned signature envelopes must be treated as provisional ballots until the elector resolves the issue.*

When absentee electors want to vote at a polling place:

- If the elector has their unmarked absentee ballot, direct them to the voting booth. The elector should mark their ballot, place and seal it in the secrecy envelope, and then in the signature envelope. The elector must sign and date the signature envelope. When the elector is finished, confirm the envelope has been signed, then place it in the absentee ballot box or other depository designated by the Election Administrator.

**Note:** *If the elector does not have their secrecy and signature envelopes, replacements should be provided. If replacement absentee envelopes are not available, handle the ballot as a provisional ballot so the ballot totals match at the end of the night. Do not deposit the ballot in a ballot box if it is not in an absentee envelope.*

- If the elector does not have their absentee ballot and affirms it was not received, or was spoiled, lost, or destroyed, the elector must be issued a **provisional ballot**. The elector should be advised that if their absentee ballot was received by the election office, the provisional ballot will be rejected.

## Delivery and Recording of Absentee Ballots

(13-13-233(3) and 13-13-204(1), MCA)

*(This section is for counties that do NOT have an appointed Absentee Ballot Counting Board. For the counties that DO, please reference page 39 for instructions.)*

The Chief Election Judge shall receive in supplies a container with voted absentee ballots received by the Election Administrator prior to election day, with a certificate stating:

- the number of absentee ballots delivered,
- the number of ballots retained for late absentee voting, **and**
- the names and number of electors receiving an absentee ballot.

See also *Provisional Voting* section, page 41.

## Processing Absentee Ballots Delivered to the Polls from the Election Office

Signature verification will likely take place at the election office before ballots are delivered to the polls from the election office (13-13-241, MCA). If a county is tabulating absentee ballots at a central location, the county election office will not deliver absentee ballots to the polls.

- If verification is not completed by the election office prior to absentee ballots being delivered to the polling place, compare the signature of the elector on the absentee ballot request form or voter registration form with the signature on the elector's signature envelope. The signature must match, and the affirmation must be completed.
- If the signature does not appear to match or if there is no signature, and if, after the elector is notified pursuant to 13-13-241(5), MCA, the elector fails to affirm or provide the signature by the close of polls, handle the ballot as a provisional ballot.

See also *Provisional Voting* section, page 41.

1. Open the verified absentee ballot signature envelope without opening the secrecy envelope.
2. If the elector is listed in the register **and is not listed as provisionally registered**, handle the ballot as a regular ballot by either placing the secrecy envelope in the

voted ballot box, or by placing the secrecy envelope in a container specified by the Election Administrator for absentee ballots delivered to the polls.

3. If the elector is listed in the register as **provisionally registered**, confirm evidence of eligibility, elector identification form, or copies of ID are enclosed as required.

See also the *Provisional Voting*, page 41 and *Polling Place Identification in Special Situations*, page 64.

4. After opening the absentee ballot signature envelope and if the ballot has not been placed in a secrecy envelope, without unfolding the ballot or permitting it to be examined, place the ballot in a secrecy envelope, and place the secrecy envelope in the proper ballot box.

**Note:** *In a **primary election**, unvoted absentee ballots, if returned, must be deposited in the unvoted ballot box without being removed from the "For Unvoted Party Ballot(s)" envelopes.*

5. Place emptied absentee ballot signature envelopes in the envelope or container marked for that purpose.



## Absentee Ballot Counting Board

(13-13-241, 13-15-104, and 13-15-207, MCA)

(For counties WITH an appointed Absentee Ballot Counting Board.)

Absentee ballots may be counted one day prior to election day by tabulator. If hand counting, absentee ballots are counted on election day.

At the Election Administrator's discretion, absentee ballots may be opened and prepared for tabulation up to three business days before the election.

**Note:** *For counties with less than 8,000 registered electors or less than 5,000 absentee electors at the close of regular registration, absentee ballots may be opened and prepared no sooner than one business day before the election.*

Election judges and any individuals having access to information may not disclose any results of early absentee counting at any time prior to the closing of the polls on election day.

When votes are being counted prior to the close of the polls, in addition to the official oath taken and subscribed to by the election judges, the members of the counting board will complete and sign the following affirmation:

***"I, \_\_\_\_\_, will not discuss the results of the early counting of votes any time prior to the closing of the polls on election day."*** (13-15-207(4)(a), MCA)

If counting is to begin before the polls close, the counting board must be in a room separate from where ballots are being cast to ensure election results cannot be provided before the close of polls.

- The board will start the count of all absentee ballots for all precincts at the time set by the Election Administrator.
- Election observers must also complete and sign the following affirmation administered by the Chief Election Judge:

***"I, \_\_\_\_\_, will not discuss the results of the early counting of votes any time prior to the closing of the polls on election day."***

## Rejected Absentee Ballots

(13-15-108 and 13-13-245, MCA)

An absentee ballot is invalid if:

- problems with the ballot have not been resolved; or
- identifying marks are placed on the ballot by the elector, which must result in the immediate rejection of the ballot without notice to the elector; or
- more than one ballot is enclosed in a single signature or secrecy envelope.

### **Exceptions!**

- *There are multiple elections being held at the same time and the envelope contains only one ballot for each election.*
- *The signature envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the signature envelope contains a valid signature for each elector who has returned a ballot.*

**See also *Handling Unvoted Primary Ballots or Multiple Ballots*, page 94.**

Absentee ballots rejected by the counting board must be enclosed in an envelope marked "REJECTED BALLOT(S) OF ABSENTEE ELECTORS." Include the application, if any, and all envelopes. The rejected ballots must then be secured in a container in which the voted ballots are to be placed or within the same secure area, and the container sealed, dated, and marked.

## Unopened Absentee Ballot in Ballot Box

(13-13-244, MCA)

If a signature envelope containing an absentee ballot is found unopened in the ballot box and the envelope has not been marked "Rejected," it shall be opened, and the ballot counted after verification of the signature.

**See *Processing Absentee Ballots Delivered to the Polls from the Election Office* section, page 37.**



# Provisional Voting

|                                                            |           |
|------------------------------------------------------------|-----------|
| <b>Provisional Voting .....</b>                            | <b>41</b> |
| Casting a Provisional Ballot.....                          | 42        |
| Provisionally Registered Electors.....                     | 42        |
| Elector Has Been Issued an Absentee Ballot .....           | 43        |
| Elector Has Been Challenged.....                           | 43        |
| Elector Does Not Have ID .....                             | 43        |
| Elector Omitted from Register in Error .....               | 43        |
| Provisional Ballot Voting Procedure .....                  | 43        |
| Resolving the Provisional Ballot.....                      | 44        |
| Provisional Ballot Cover Sheet/Outer Envelope Sample ..... | 45        |
| Provisional Voting Flow Chart.....                         | 46        |

## Casting a Provisional Ballot

Casting a provisional ballot allows the elector the opportunity to vote when there is ID or eligibility verification that can be remedied by the requirement deadline.

There are several reasons an elector will cast a provisional ballot:

- Elector appears in the precinct register as having been issued an absentee ballot but stated the absentee ballot was not received or was spoiled, lost, or destroyed.
- Elector late registers on the day of election in another county.
- Precinct register indicates elector is provisionally registered, which could not be resolved.
- Elector stated they registered to vote with the Motor Vehicle Division or other government agency which could not be confirmed.
- Elector's identification or registration information was incorrect or insufficient.
- Elector's right to vote was challenged.  
*See **Resolving Challenges in Special Situations**, page 60 for guidance.*
- Individual's name is not in the precinct register.  
*See **Erroneous Omission from Precinct Register**, page 62, for guidance.*

## Provisionally Registered Electors

If a provisionally registered elector provides required identification or other missing information **and this is verified by the Election Administrator**, the elector can vote a **regular ballot**.

If a provisionally registered elector does not provide the required identification or the other missing information cannot be verified by the Election Administrator, the elector may vote a **provisional ballot**.

**Note:** *Inform the elector the **provisional ballot** will be counted if the elector provides verifiable ID and any applicable missing registration information to the election office by 5pm the day following the election.*

## Elector Has Been Issued an Absentee Ballot

If the elector requested an absentee ballot and wants to vote at the polling place because they did not receive, spoiled, lost, or destroyed the absentee ballot, the elector must complete the provisional ballot form and mark a **provisional ballot**.

- Provide the provisional ballot instructions to the elector outlining their responsibilities to have their provisional ballot counted.

Under normal circumstances, the Election Administrator will count the provisional ballot unless it is determined the elector has already voted by previously submitting their absentee ballot.

## Elector Has Been Challenged

If the elector was challenged by another elector and the challenge was not resolved (*see **Resolving Challenges in Special Situations**, page 60*), have the challenged elector complete the provisional ballot form, and give the elector the instructions on the elector's responsibility to have the elector's ballot counted.

## Elector Does Not Have ID

If the elector is unable to provide identification including an acceptable alternative form of identification, the elector may vote a **provisional ballot**.

## Elector Omitted from Register in Error

See *Erroneous Omission from Precinct Register* in the *Special Situations* section, page 62.

## Provisional Ballot Voting Procedure

Once the elector has received the instructions and completed the Provisional Ballot form, they will return to the Register Judge and sign the register. If their name is not in the register, they will sign the back of the register, or a location specified by the Election Administrator.

The Ballot Judge will instruct the elector how to mark their ballot. The Ballot Judge will remove the stub(s) from the ballot(s) and place them inside the Provisional Ballot Outer Envelope. When the elector returns with the voted ballot (and

unvoted other party ballot(s) in a primary election), the elector will place the secrecy envelope in the Provisional Ballot Outer Envelope with the stub(s) and seal the provisional envelope. The Ballot Judge will then place the Provisional Ballot Outer Envelope in the Unverified Provisional Ballot Container.

### Resolving the Provisional Ballot

If the elector returns to the polling place on election day and resolves the issue that led to their ballot being voted provisionally, an election judge will:

- retrieve the envelope from the Unverified Provisional Ballot Container;
- instruct the elector to remove the ballot from the secrecy envelope and place it in a secrecy sleeve to be placed in ballot box, **and**
- update the polling place register to ensure elector receives voter credit.

# Provisional Ballot Cover Sheet/Outer Envelope Sample



## Provisional Ballot Cover Sheet/Outer Envelope

*This envelope is to be filled out at the polling place or election office by the election judge/official and the elector and provided to the election administrator with polling place materials.*

**SECTION 1: ELECTOR INFORMATION**

Printed Name: \_\_\_\_\_ Former Name (if applicable): \_\_\_\_\_

Montana Driver's License Number or State ID number: \_\_\_\_\_

Alternate form of acceptable ID provided in lieu of Montana Driver's License/State ID: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

City/zip: \_\_\_\_\_

Any other information, regarding your voter registration that would help resolve the provisional ballot: \_\_\_\_\_

I am eligible to vote in this election and precinct, all the information I provided on this form is true to the best of my belief, and I am aware of the penalty for false swearing.

Elector signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SECTION 2: ELECTION JUDGE/OFFICIAL**

Precinct/Ward/District Name/Number: \_\_\_\_\_

Elector was instructed to cast a provisional ballot for the following reasons: (check all that apply)

|                                                                                                                                     |                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Name not in official register and not erroneously omitted                                                  | <input type="checkbox"/> Register indicates provisionally registered, which could not be confirmed                      |
| <input type="checkbox"/> Elector claims registration with Motor Vehicle Division or government agency, which could not be confirmed | <input type="checkbox"/> Elector affirmed absentee ballot was not received, or was signed by someone other than elector |
| <input type="checkbox"/> Elector failed to sign register                                                                            | <input type="checkbox"/> Elector's identification was insufficient                                                      |
| <input type="checkbox"/> Elector failed to sign absentee ballot envelope                                                            | <input type="checkbox"/> County-to-county late registration in election office due to late registration                 |
| <input type="checkbox"/> Elector's absentee signature was not verified                                                              | <input type="checkbox"/> Precinct-to-precinct late registration in election office                                      |
| <input type="checkbox"/> Elector's right to vote was challenged                                                                     | <input type="checkbox"/> Other: _____                                                                                   |

Election Judge/Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SECTION 3: PROVISIONAL BALLOT RESOLUTION INFORMATION**

Elector registered in Precinct/Ward/District Name/# \_\_\_\_\_ Voted in Precinct/Ward/District Name/# \_\_\_\_\_

Voter ID# \_\_\_\_\_

Provisional Ballot Accepted: Yes ☐ No ☐

| Reasons Ballot Accepted: (circle all that apply)                              | Reasons Ballot Was Rejected: (circle all that apply)                                          |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Not registered in error                                                       | Not registered (circle, if applicable), canceled/wrong precinct, district, ward/ wrong county |
| Motor Vehicle Division or other government agency error                       | Motor Vehicle Division or other government agency has no record of registration               |
| Elector did not provide signature                                             | Elector did not provide signature                                                             |
| Elector did not sign absentee ballot envelope                                 | Elector did not sign absentee ballot envelope                                                 |
| Elector's absentee signature was verified                                     | Elector's absentee signature was not verified                                                 |
| Challenge resolved in challenger's favor                                      | Challenge resolved in elector's favor                                                         |
| Provisional registration was not resolved                                     | Provisional registration was not resolved                                                     |
| Absentee ballot was not received                                              | Absentee ballot received and accepted                                                         |
| Elector provided sufficient identification                                    | Elector never provided sufficient identification                                              |
| Confirmed county-to-county late registrant did not vote in prior county       | Confirmed county-to-county late registrant voted in prior county                              |
| Confirmed precinct-to-precinct late registrant did not vote in prior precinct | Confirmed precinct-to-precinct late registrant voted in prior precinct                        |
| Other: _____                                                                  | Other: _____                                                                                  |

Processed by: \_\_\_\_\_ Date processed for resolution: \_\_\_\_\_ Date voter notified: \_\_\_\_\_

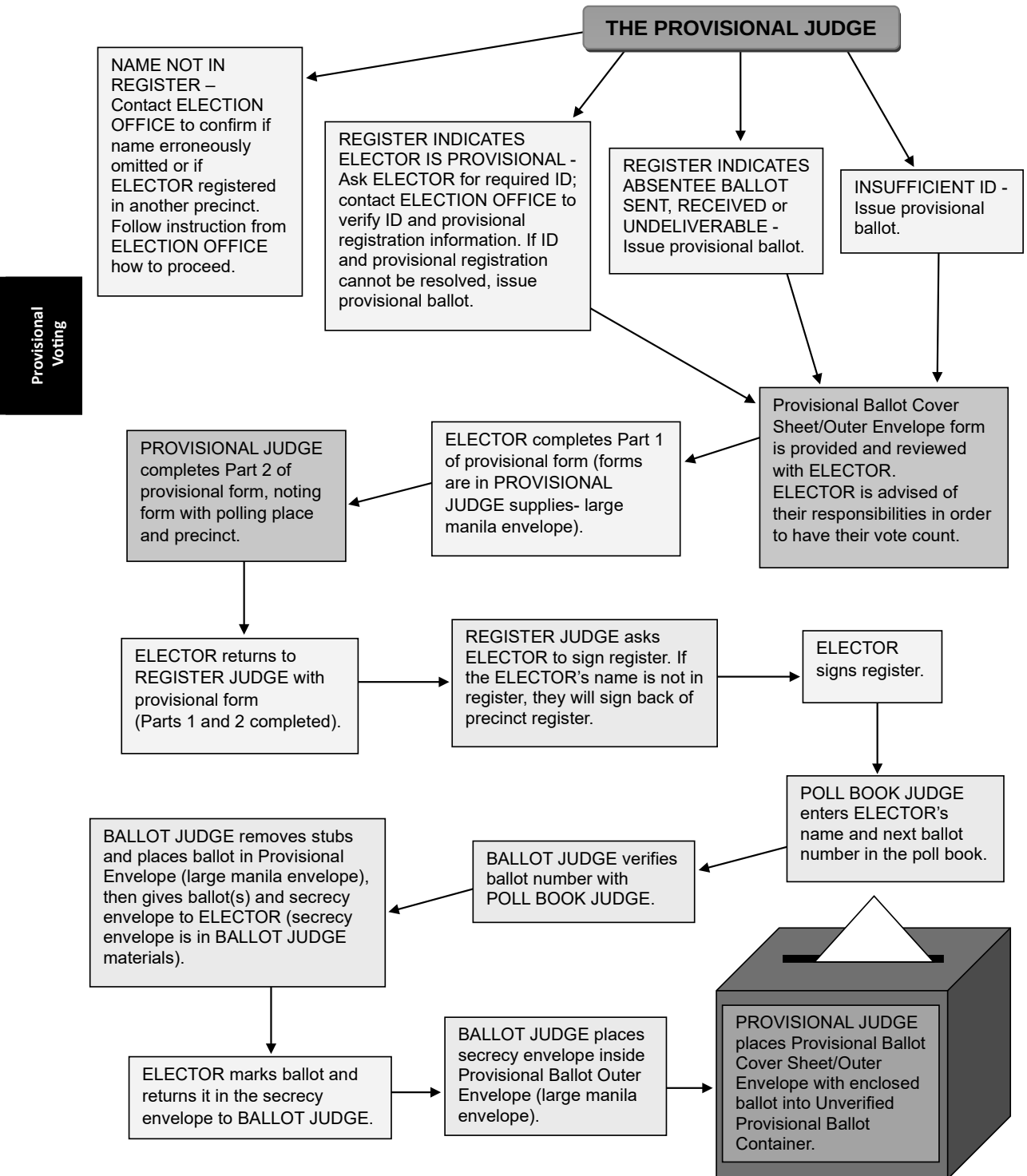
The Provisional Judge assists the elector in completing the top section of this form, making sure the elector signs where indicated.

The Provisional Judge completes Section 2, signs and gives the form to the elector to take back to the Register Judge.

Section 3 is completed by the election official when resolved.

Provisional  
Voting

## PROVISIONAL VOTING FLOW CHART



# Assisting Electors with Disabilities

|                                                    |    |
|----------------------------------------------------|----|
| Assisting Electors with Disabilities .....         | 47 |
| Assistance from Election Judges.....               | 48 |
| Elector Unable to Sign the Precinct Register ..... | 48 |
| Elector Unable to Enter the Polling Place.....     | 49 |
| Using ExpressVote® Voter Assist Terminals .....    | 50 |
| ExpressVote® Universal System.....                 | 50 |
| Preparing the ExpressVote® for Voting .....        | 51 |
| Voting on the ExpressVote .....                    | 54 |
| Powering Down the ExpressVote .....                | 55 |
| Troubleshooting the ExpressVote® .....             | 55 |

## Assistance from Election Judges

(13-13-119, MCA)

When an elector asks for assistance, the election judge should ask what type of assistance is needed. Avoid making assumptions about ability. Listen to understand which part of the voting process an elector may need help with.

An elector who needs assistance in marking their ballot because of disability or inability to read or write may choose a person to assist, including an election judge, persons under the voting age, persons not registered to vote, **or an agent as designated on a form prescribed by the Secretary of State.** (13-1-116, MCA)

**Exception!** *The elector **MAY NOT** be assisted by the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union. Ask whether the person helping is the elector's employer, employer's agent, or officer or agent of the elector's union. If the person offering to assist is one of those individuals, the elector must choose someone else to assist.*

If the elector asks for assistance with voting from election judges, it is preferable that two judges from different political parties assist. If the elector objects to two judges, assistance may be given by one judge. The election judges and the elector will complete the “*Oath of Elector Needing Assistance within Polling Place*”.

**See *Oath of Elector Unable to Enter Polling Place & Oath of Elector Needing Assistance at Polling Place* form in the supplies provided by the Election Administrator.**

**Note:** *Indicate next to the elector's name in the precinct register that the ballot was marked with assistance. The person assisting the elector must also sign next to the name of the elector in the precinct register. No one assisting the elector may reveal information about the elector's ballot.*

### Elector Unable to Sign the Precinct Register

(13-1-116, MCA)

An elector unable to sign their name **CANNOT** be denied the right to vote because of an inability to sign the precinct register.

A notation must be made in the precinct register on the signature line for an elector who is unable to sign.



- Ask the elector to make a mark of some sort on the signature line by their name. Unless the elector objects, the best mark would be a thumbprint or fingerprint from the elector. The judges should enter a notation next to the fingerprint that the elector was unable to sign the register.

**Note:** *At a minimum, judges must enter on the signature line by the elector's name the words "Elector unable to sign register" and the time of day this individual voted.*

## Elector Unable to Enter the Polling Place

(13-13-118, MCA)

The Chief Election Judge may appoint two election judges who represent different political parties (if available) to take a ballot to an elector who is able to come to the premises where a polling place is located but is unable to enter because of a disability.

1. An elector who is unable to enter the polling place will sign the *Oath of Elector Unable to Enter Polling Place*.
2. The judges will bring the ballot to the elector and ask for identification.
3. The elector will mark and fold the ballot or place the ballot in a secrecy sleeve.
4. The judges will immediately take the ballot into the polling place and give it to the Ballot Judge who will remove the stub and place the ballot and stub in the proper boxes.
5. The elector's identification information will be compared to the information printed in the precinct register and the standard procedure for a poll voter will be followed.
6. In the precinct register next to the elector's name, note: *"Voted on the premises by oath."* The judges will sign their names on the form and in the precinct register. The signed oath will be taped near the elector's name in the precinct register. These actions eliminate the need to take the precinct register out to the elector.

## Using ExpressVote® Voter Assist Terminals

(Note: Information below is from Election Systems & Software)

Each absentee voting location and polling place must have accessible voting equipment available. The equipment approved for use in Montana is the ExpressVote®, specialized voting machine that allow any elector to mark their ballot **privately** and **independently**.

The ExpressVote® features include:

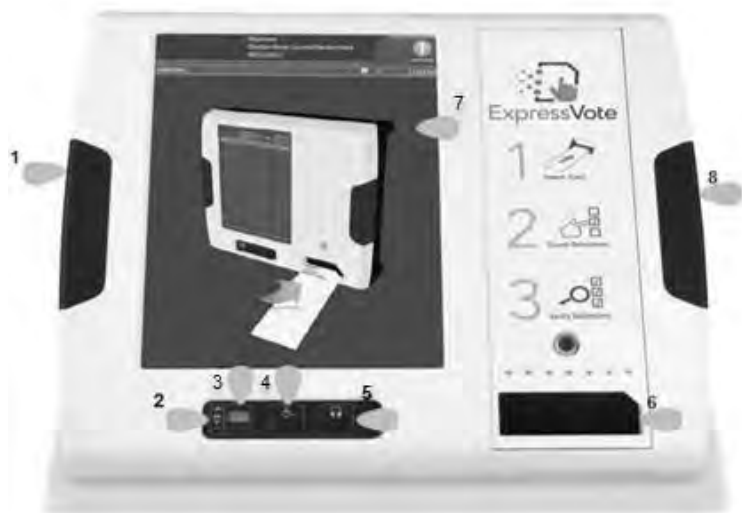
- ✓ touchscreen,
- ✓ large-print display,
- ✓ Braille keypad,
- ✓ earphones for audio reading of the ballot, **and**
- ✓ capability for connection to personal ADA devices such as a “Sip and Puff” device.

The ExpressVote® records votes on a separate ballot card that can be verified by the voter and tabulated.

### ExpressVote® Universal System Setup, Use, and Troubleshooting

Ballot Marking Configuration Poll Worker Quick Start Guide:

1. Access Compartment
2. Power source indicator
3. Battery status indicator
4. Accessibility device port
5. Headphone jack
6. Paper ballot feed
7. Touch screen
8. Paper path access door



## Preparing the ExpressVote® for Voting

1. Unlock and open the Access Compartment door. Turn the power switch to the ON position. Allow the ExpressVote® to complete its power-up process. Ensure the mode switch is set to VOTER to prepare the machine for voting. Close and lock the Access Compartment.
  - a. Follow your jurisdiction requirements for securing the Access Compartment with seals.
  - b. Ensure the Security Seals have not been tampered with and that the numbers on the seals match the numbers on Chain of Custody and Security Seal Log.
2. ExpressVote® HARDWARE 2.1 LOCK AND SEAL RECOMMENDATIONS –  
The Access Compartment door can be locked and sealed with tamper-evident devices. Access to this compartment should be controlled, monitored, and logged at all times.
  - a. A protective slide inside the Access Compartment helps to secure any installed USB flash drives, such as the election definition flash drive. Use a T10 star-shaped screwdriver to loosen and tighten the retaining Torx screw on the slide.
  - b. Insert the necessary USB flash drive(s) into either of the two USB ports in the Access Compartment on the left side of the ExpressVote® unit. Once inserted, position the protective slide over the USB flash drive(s) and tighten the retaining screw.
3. On Election Day, secure slide with a seal.

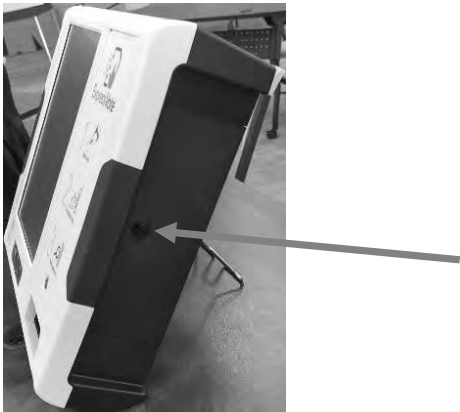


Torx Screw and Protective Slide

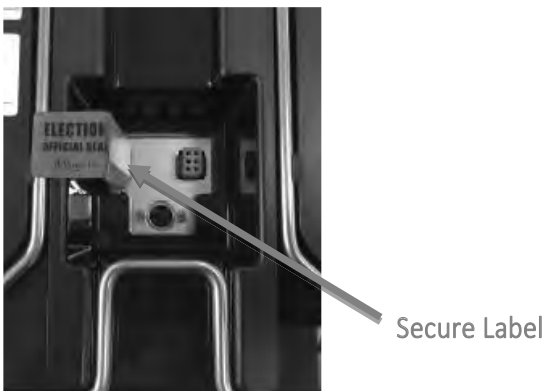
4. Close the Access Compartment door. Use the medium barrel key to lock it.



5. Use the medium barrel key to lock the right-side paper path access door.



6. When the ExpressVote® is configured on a standard table, secure the rear USB port by affixing a tamper-evident label seal as noted below in the photo.



7. Ensure that the access door to the printer transport (on the front of the unit) is closed and locked with the medium barrel key to prevent access to the printing path.



8. Power and Mode switches: ES&S provides additional protection in the form of a protective slide to cover the USB flash drive ports. This device prevents unauthorized removal of the election definition flash drive while the compartment door is open.
9. When you receive a new ExpressVote® Hardware 2.1, a metal protective slide is already installed. The protective slide may be constructed of metal or plastic.
10. Ensure the Security Seals have not been tampered with and the numbers on the seals match the numbers on Chain of Custody and Security Seal Log.
11. If the Election Administrator has indicated this machine was randomly selected as part of the required election day testing, follow the instructions provided by the Election Administrator and refer to the appropriate testing checklist and certification form in the Uniform Voting Systems Guide.

## Voting on the ExpressVote



### Vote Card Using Touch Screen

On the voting screens, touch the candidate or other contest choice to select. If there are more candidates than will fit on the screen, a yellow **More** bar appears at the bottom of the screen. Touch this to see remaining candidates.

To navigate between contests, touch the **Next** or **Previous** buttons in the Navigation Bar.

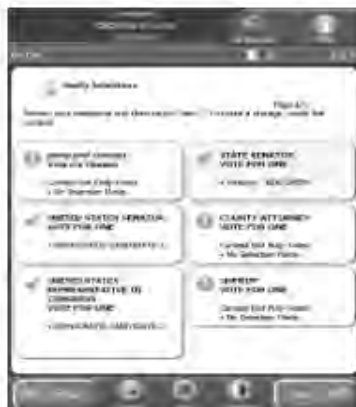
If you want to do a write-in vote, touch the **Write-In** option and use the on-screen keyboard to enter your write-in name. Touch **Accept**.

### Vote Card Using Audio-Tactile Keypad

If you are using the ExpressVote for an accessible voting session, make sure the headphones are plugged into the Headphone Jack.

Use the controls on the Audio-Tactile Keypad to navigate the ballot, as instructed on page 16.

For contests allowing write-in votes, the letters will be read in alphabetical order on the ballot audio as you select letters for your write-in.



### Editing Vote Selections & Casting a Ballot

Once all selections have been entered, the Verify Selections screen will display a summary of your ballot selections.

If needed, touch the contest for which you wish to make changes. Make the desired changes, and return to the Verify Selections screen.

When done verifying selections, the Print Card screen displays. Touch **Print Card** to print the completed ballot onto the activation card.

## Powering Down the ExpressVote



### Powering Down & Storing the ExpressVote

Using the barrel key, open the Access Compartment and set the Power Switch to **Off**. Remove the Election Definition media. Lock the Access Compartment door and remove the key.

Ensure all doors on the machine are locked.

Unplug the headphones and power cord from the ExpressVote system. Store according to the jurisdictional instructions.

*More information: ExpressVote Operator's Guide, p. 33*

### Troubleshooting the ExpressVote®

(A copy of the Troubleshooting Guide must be kept with each Election Systems and Software (ES&S) ExpressVote®. )

The system manufacturer and Secretary of State election office are available to help with ExpressVote® troubleshooting.

## Appendix A: Troubleshooting the ExpressVote

### Jammed Ballot Card

**PROBLEM:** The card is jammed inside the ExpressVote equipment.

**CAUSE:** Although causes vary, the more typical reasons for card jams are:

- The card was inserted incorrectly, or
- The ExpressVote rollers are not functioning properly.

**SOLUTION:** Open the security compartment on the left side of the machine. Change the Mode Switch to **OFFICIAL**. Once the Main Menu appears, press the **EJECT CARD** button.

If the card does not eject, open the security panel on the right side of the machine. Locate the card and gently pull the card out of the machine. Remove the card jam being careful to not rip the paper. Close and re-lock the security panel. Follow your jurisdiction's procedures for spoiling and issuing a new card if necessary.

### Screen Calibration Issues

**PROBLEM:** The voter pushes the oval for one candidate and another candidate is selected.

**CAUSE:** This could be caused by a dirty touch screen, or the alignment of the touch screen is not adjusted correctly.

**SOLUTION:** Put isopropyl alcohol on a soft cloth and wipe clean.

**WARNING:** Do not use products containing ammonia, such as Windex. This can cause the screen to become deteriorated over time. Use only isopropyl alcohol for cleaning the touch screen and scanner.

If the screen calibration issue is not due to a dirty screen, please contact your Election Administrator.

### Idle Error Message

**PROBLEM:** After several minutes, the following message appears on the ExpressVote screen:

*"Continue Voting? There has been no activity for five minutes.*

*Next Step: To continue voting, touch 'Previous'. To receive your card without printed selections, touch 'Exit'."*

**CAUSE:** This error message appears after the ExpressVote has been idle, with a card inserted for 5 minutes.

**SOLUTION:** If a voter is still using the ExpressVote, the poll worker will need to open the left security compartment and switch the Mode to **Official**. The card can be returned to the voter and be reinserted. Reinsert the card or follow your jurisdiction's spoiling procedures and issue a new card. If the voter has left the polling place, follow the steps above to retrieve the card and follow the spoil procedures.

**NOTE:** The option to go back to previous screen in Voter mode only exists after 5 minutes of inactivity. If the terminal is inactive for another 5 minutes, you will need to go to Official mode and eject the card from the Main Menu.



## Appendix A: Troubleshooting *(continued)*

### Protecting Privacy While Assisting Voters

**PROBLEM:** As a poll worker I don't want to invade the voters privacy when answering their questions.

**SOLUTION:** The ExpressVote Keypad is equipped with a privacy key which will turn the screen black when viewing. The diamond shaped key at the top-right of the keypad allows the screen to be not viewable.

If the Keypad is connected, this will preserve the privacy for the voters who are using only the audio feature to select their votes or for voters who request assistance from a poll worker. Poll workers can easily access the button when approaching the ExpressVote™ from behind as long as the keypad is connected.

Make sure you tell the voter who is using a visual card to press the button again to resume the card on the screen.

### Report Printer Runs Out of Paper

**PROBLEM:** The Report Printer in the front of the kiosk has run out of paper.

**SOLUTION:** Open the Report Printer Door by pushing down on the green lever to the right of the printer door. Remove the empty paper spool from the Report Printer compartment.

Insert a new paper roll with the thermal treated side facing up. You can test which side of the paper is treated for thermal printing by scratching it with your fingernail. The treated side will leave a grey mark on the paper.

Feed the paper over the roller on the printer door and hold it as you close the door. You can test the printer function by touching Test Options under the Main Menu. Touch **Report Printer** and touch **Reset Printer**. You can then print a test report to verify the paper roll was installed correctly.

## Appendix B: Additional Accessible Voting Options

### Voting with the Rocker Switch Device



The rocker switch is a large-button, two-position switch assistive technology that can assist voter's who are unable to use the ExpressVote touch screen or the audio-tactile keypad. The rocker switch device can be hand-held, placed on a table, or placed on the floor for foot operation.

Voters can use **Scroll/NO** and **Select/YES** buttons to navigate on-screen ballot contests and select their voting choices. The rocker switch buttons feature both visible text and embossed Braille identification labels. The voter can use the following rocker switch controls to conduct the voting session.

To vote using the rocker switch, press the **NO** switch to sequentially scroll through the on-screen elements in a clockwise direction. If the voter scrolls past the desired selection, press **NO** to scroll through all subsequent clockwise selections to return to the desired voting choice.

Press the **YES** switch to highlight the desired on-screen element.

When the desired element is highlighted, press **YES** again to select the choice.

### Voting with the Sip & Puff Device



Sip-and-puff refers to the assistive technology device commonly used by individuals with motor disabilities or limited dexterity. Voters use a mouthpiece to navigate on-screen ballot contests with inhalations (sips) and make their selections with exhalations (puffs).

The air tube is attached to a small switch box connected to the ExpressVote's auxiliary panel. The switch box converts sips and puffs into electrical signals that correspond to selection and navigation commands.

The voter should **sip** to sequentially scroll through the on-screen elements in a clockwise direction. Each sip highlights the next on-screen element. If the voter scrolls past the desired selection, the voter should **sip** through all subsequent clockwise selections to return to the desired voting choice.

The voter should **puff** to select the desired on-screen element.

# Special Situations

|                                                                      |           |
|----------------------------------------------------------------------|-----------|
| <b>Special Situations .....</b>                                      | <b>59</b> |
| Resolving Challenges .....                                           | 60        |
| Spoiled Ballots .....                                                | 61        |
| Erroneous Omission from Precinct Register.....                       | 62        |
| Summary of Process for Submitting, Accepting or Rejecting an ID..... | 63        |
| Polling Place Identification .....                                   | 64        |
| Late Registration.....                                               | 65        |

## Special Situations

This section provides additional information and instruction for required election processes when certain polling place situations occur.

### Resolving Challenges

An elector's right to vote may be challenged at any time by any registered elector. The challenger must complete and sign an affidavit stating the grounds of the challenge and provide any evidence supporting the challenge to the Election Administrator or, on election day, to an election judge. (13-13-301, MCA)

If the challenge at issue is resolved in the challenged elector's favor before the time the elector is issued a ballot, the elector is no longer a challenged elector and may vote a **regular ballot**.

If a challenge is not resolved, "*...after the close of registration, the Election Administrator, or on election day, either the Election Administrator or an election judge shall allow the challenged elector to cast a **provisional paper ballot**, which must be handled as provided in 13-15-107, MCA."* (13-13-301(3)(b), MCA)

**A change of address itself is not sufficient grounds to successfully challenge an elector's right to vote.** An elector may confirm their address before receiving a ballot. When an elector goes to the polls and their name appears on the precinct register, the challenge is resolved in favor of the elector and the elector votes a **regular ballot**.

Late registrants indicate their voting address at the time of registration and are placed in the correct precinct. The challenge is resolved in favor of the elector, and they vote a **regular ballot**.

### Process for Handling Challenges at the Polling Place

A challenge at the polling place **must be**:

- in the form of an affidavit (see the Affidavit of Individual Challenging an Elector, 13-13-301(1), MCA); **and**
- made by a registered Montana elector. (13-13-301(4)(a), MCA)

Once a challenge is made at the polling place, the challenged elector must complete the "Affidavit of Challenged Elector." If the challenged elector

provides a current address that conforms to the registration address on record, the elector should sign the register and be issued a **regular ballot**. Otherwise, the elector may vote a **provisional ballot**.

A challenge must fail if the only basis of the challenge is a change of address unless the elector confirms the change of address in writing.

**Reminder!** *The elector may vote one last time based on their former address.*

## Spoiled Ballots

(13-13-117, MCA)

An elector who spoils their ballot must return the spoiled ballot and be given another ballot in its place. There is no limit to the number of ballots an elector can receive to replace spoiled ballots. (13-13-117(1)(b), MCA)

1. The elector must return the spoiled ballot enclosed in the secrecy sleeve, or folded with the stub showing, to the Ballot Judge.
2. The Ballot Judge must instruct the elector to write “spoiled” on the ballot, and without violating the secrecy of the ballot, the Ballot Judge must mark "spoiled" on the stub of the original ballot, remove the stub, and place it in the stub box.
3. The elector shall place the spoiled ballot in an envelope marked “spoiled.” Election judges should not place the ballot in the spoiled ballot envelope due to the possibility of the loss of secrecy of the ballot.

**Note:** *In a **partisan primary election** – The Ballot Judge will write "spoiled" on the stubs of each party ballot for the election, remove them, and place them in stub box. Voted spoiled ballots are deposited in the “spoiled” envelope in the ballot box or stub box as directed by the Election Administrator. Unvoted spoiled ballot(s) are deposited in the box for unvoted ballots. A new set of party ballots are then issued.*

4. The Ballot Judge will instruct the Poll Book Judge to mark the poll book accordingly for the spoiled ballot number and will give the elector a new ballot and announce the new ballot number to the Poll Book Judge to record.
5. The word "spoiled" must be marked beside the elector's name for that ballot number in the poll book.

**Reminder!** *Stickers or labels to cover up and correct errors on ballots are prohibited and may not be provided to an elector by an election judge or applied to ballots by election officials.*

## Erroneous Omission from Precinct Register

(ARM 44.3.2111)

An individual whose name is erroneously omitted from a precinct register or other election register may secure from the Election Administrator a certificate of the error stating the precinct in which the individual is entitled to vote and present the certificate, entitling the individual to vote a **regular ballot**, to the election judges.

- The election judges must mark “voted” on the certificate and return it to the Election Administrator with the precinct register.
- The individual will sign the back of the precinct register or a location specified by the Election Administrator.

If the individual is unable to secure a certificate of erroneous omission from the Election Administrator, but the Chief Election Judge is able to confirm the erroneous omission by contacting the election office, the individual may vote a **regular ballot** by signing the elector’s oath attesting their name was erroneously omitted.

If the Election Administrator cannot confirm the individual’s name was mistakenly omitted, the individual may vote a provisional ballot. The individual must complete the Provisional Ballot Outer Envelope and be provided the written instructions on their responsibilities in order to have the ballot counted.

Alternatively, the individual may go to the county election office to resolve the issue and may be able to vote at the same time.

## Summary of Process for Submitting, Accepting or Rejecting an ID

Pursuant to a September 30, 2022, District Court Order, acceptable identification for an elector at the polling place is a **current** photo identification showing the elector's name **OR** a **current** utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and **current** address.

### 13-13-114, MCA (2017)

**13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting.** (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to **13-2-207**, government check, or other government document that shows the elector's name and current address.

(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote.

(c) If the information provided in subsection (1)(a) differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter's identity and eligibility to vote pursuant to **13-2-512**, the elector may sign the precinct register, complete a new registration form to correct the elector's voter registration information, and vote.

(d) An election judge shall write "registration form" beside the name of any elector submitting a form.

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in **13-13-601**.

(3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to **13-1-116** is not provided, the elector may cast a provisional ballot as provided in **13-13-601**.

## Polling Place Identification

Before an elector is permitted to receive a ballot and vote, they must present to the election judge an acceptable form of ID. **"Identification"** for the purpose of voting at the polling place means:

**Current Photo Identification** which can be:

1. Montana driver's license,
2. Montana state identification card issued pursuant to 61-12-501, MCA,
3. Military identification card,
4. Tribal photo identification card,
5. United States passport, **or**
6. Montana concealed carry permit;
7. A school district or postsecondary education photo identification; **or**
8. Other photo identification that shows the elector's name;

### **OR**

9. Other forms of **current** identification: a utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address.

## **Important Information on Identification Requirements**

If the name or address on a **non-photo identification** provided differs from information in the precinct register, but an election judge determines the information provided is sufficient to verify the elector's identity to vote pursuant to 13-2-512, MCA, the elector may sign the precinct register, complete a new registration form to correct or update the elector's registration information, and vote a **regular ballot**.



## Late Registration

*The provision in current statute to end registration on noon the day before the election is not enforced based on the court order issued September 30, 2022. Registrations before the close of polls on Election Day will be processed.*

Late Registration does not occur at the polling place and closes at **8:00 pm** the day of the election. An elector appearing at the polling place to late register must be sent to the Election Office or a location designated by the Election Administrator.

1. An elector may register or change any registration information after the close of regular registration until 8:00 pm the day of the election and vote in the election provided that the Election Administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to 8:00 pm the day of the election.
2. Except as provided below, an elector who changes residence to a different county within the state shall register in the new county of residence to vote in any election. An elector who changes residence to a different county **prior to the close of late registration** before an election may:
  - a. Vote in person or by absentee ballot in the precinct and county where previously registered; or
  - b. Update the elector's registration information and vote in the elector's new county of residence by appearing at the election office or location designated by the Election Administrator.
3. After the **close of late registration** for the current election, an elector may:
  - a. Update their residence to a different county within Montana but may only vote in their previous county of residence pursuant to 13-2-514, MCA.
  - b. Update their residence to a different precinct within the county and may vote a ballot from the former precinct or new precinct. The elector may obtain the former precinct ballot at their former precinct or obtain a ballot for their new precinct at a central location designated by the county Election Administrator.
  - c. Change their name and may vote under the elector's former name unless the registration was cancelled.

- d. Reactivate their registration pursuant to 13-2-222, MCA, but may only vote on election day at the county election administrator's office or a central location designated by the county Election Administrator.
4. An elector who registers or changes their information under these procedures may vote a regular ballot in the election only if the elector receives the ballot from the county election office (or the location designated by the Election Administrator), and only if the elector has either **not been** issued an absentee ballot for the election in the elector's former precinct or county, or the absentee ballot issued is voided by the county of issuance.
5. If an elector has already been sent an absentee ballot for the election, the elector may vote a regular ballot only if the original absentee ballot is voided in the statewide voter registration system by the issuing county.
6. Late registration applies with respect to an elector's registration to vote in any election, including school elections and special purpose district elections.

# Closing the Polls

|                                                                               |    |
|-------------------------------------------------------------------------------|----|
| Closing the Polls .....                                                       | 67 |
| Close of Polls.....                                                           | 68 |
| Procedures for Close of Polls for ExpressVote® .....                          | 68 |
| Procedures for Close of Polls for Model DS200®/DS300® Ballot Tabulators ..... | 69 |

## Close of Polls

Shortly before 8:00 p.m. (or earlier if all registered electors have voted), the Chief Election Judge (or Polling Place Manager) proclaim the polls will soon close. Then, they will proclaim the closing of the polls at closing time. (13-13-101(2), MCA)

**No person shall be allowed to vote after the polls are closed, unless it is certain the elector was inside the polling place before closing time or in line outside if the polling place is not large enough to accommodate the electors waiting to vote. A procedure must be in place for determining the last person in line at 8:00 p.m.**

### Procedures for Close of Polls for ExpressVote®

*The following procedures must be carried out by an election judge trained to operate each type of equipment and at the direction of the Election Administrator. Follow all security procedures as directed by the Election Administrator.*

1. Verify the security seal information against the Chain of Custody and Security Seal Log. Enter the information into the log, sign, and date it.
2. At the end of voting, unlock and open the Access Compartment.
3. Turn the power switch to the OFF position.
4. Close and lock the Access Compartment.
5. Allow the ExpressVote® to completely power down.
6. Remove the headphones and unplug the terminal from AC power.
7. Store the ExpressVote® according to your jurisdictional instructions from the Chief Election Judge or Election Administrator.
8. Ensure any unvoted ExpressVote® Ballot Cards are secured and stored with the other unvoted ballots.
9. Store the ExpressVote® in a secure location for pick up.

## Procedures for Close of Polls for Model DS200®/DS300® Ballot Tabulators

*The following procedures must be carried out by an election judge trained to operate each type of equipment and at the direction of the Election Administrator.*

*Follow all security procedures as directed by the Election Administrator.*

1. Before closing the polls, make sure all ballots from any eligible voters have been inserted into the DS200® or DS300® ballot tabulators.
2. Check the Uncounted Ballot Storage Bins (also known as the auxiliary or emergency bin) of both ballot boxes for uncounted ballots. Follow established procedures for processing uncounted ballots.
3. Remove the security seal, open the Key Access Panel, and press and hold the “Close Polls” button for five seconds.
4. Once you release the “Close Polls” button, the tabulator will close the polls and automatically print a Voting Results Report and any other reports set up to print.

### **Removing the USB Flash Drive and Ballots from the Tabulator**

1. Turn off the tabulator. **This step is extremely important.**
2. Remove the security seal and open the access door.
3. **Do not remove the flash drive until the machine is powered off!**
4. Remove the flash drive by pulling it out of the USB port.
5. Attach or place flash drive in a sealed envelope with corresponding DS200® or DS300® printer report to be returned to the Election Administrator in sealed envelope #11 or in a container specified by the Election Administrator.  
**See *List of Envelopes for Ballots and Supplies*, page 104.**
6. Open the ballot compartments of both boxes and remove the ballots. Be sure to follow the specific ballot handling procedures as directed by the Election Administrator.

## Disassembling the Tabulator

1. Ensure the machine is off. Lock and seal the access panel and store the key as prescribed in your established election procedures.
2. Ensure the Key Access Panel and Printer Access Panel are closed and sealed.
3. Unplug the tabulator from the outlet.
4. Pull the tabulator forward about 4 to 5 inches and disconnect the power cord from the tabulator.
5. Pull the cord out of the ballot box and place it inside the tabulator carrying case.
6. Slide the tabulator forward until it is free of the ballot box mounting rails. Place the tabulator inside the carrying case.
7. Make sure no ballots remain in the ballot box.
8. Lock all ballot box doors.
9. Return all tabulator keys and ballot box keys to the Chief Election Judge to be secured and returned to the Election Administrator.

# Ballot Counting and Tabulating

|                                                                    |           |
|--------------------------------------------------------------------|-----------|
| <b>Ballot Counting and Tabulating .....</b>                        | <b>71</b> |
| General Counting/Tabulating Procedures .....                       | 72        |
| Handling Voting Machine Error During Count.....                    | 74        |
| Counting Ballots by Hand .....                                     | 75        |
| DS200®/DS300® Voting System Setup, Use, and Troubleshooting .....  | 76        |
| Tabulating with Model DS450®/DS850®/DS950® Central Tabulators..... | 79        |
| Tabulation Boards.....                                             | 80        |
| Close of Tabulating Center .....                                   | 83        |

## General Counting/Tabulating Procedures

In general, counting of ballots may not begin before election day. However, counting of absentee ballots via automatic tabulation is allowed one day prior to election day. (13-15-104, MCA)

On election day, tabulation must begin and continue without adjournment until all available ballots that can be legally counted have been tabulated except pending unresolved resolution board ballots, provisional ballots, or military overseas ballots. (13-15-101, MCA)

The vote count must be open to public observation. No one may interfere with the count and anyone observing the count may not discuss the results at any time prior to the close of the polls on election day. (13-15-101 and 13-15-207, MCA)

The election judges, ideally one from each political party having ballot access, will take the ballots out of the ballot box to determine whether each ballot is single (13-15-201, MCA).

**Note:** *If two or more ballots are folded together to look like a single ballot, lay them aside until the count is complete. Compare the count with the poll books and if a majority believes the ballots folded together were voted by one elector, they must be rejected; otherwise, they must be counted. (13-15-201(5), MCA)*

The election judges will count the number of ballots to ensure the number of ballots corresponds with the number of names in the poll book and with the number on the ballot reconciliation report.

**Note:** *If the total number of ballots does not reconcile with poll book, the judges must include on the ballot reconciliation report form a written statement stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. All judges must sign the report. (13-15-201(3), MCA)*

- Ballots not endorsed by the official stamp are void and may not be counted unless the judges agree the stamp is missing because of election judge error. Such ballot shall be marked "unstamped by error" on the back and must be initialed by all judges. (13-15-201(4), MCA)
- If an elector does not mark a candidate or a judicial retention or issue choice, the valid votes for other candidates or issues on the same ballot shall be counted.



- Total the write-in votes and tally as follows (*see also Determining a Valid Write-In Vote (Write-In Votes) section in Technical References, page 89*):
  - Count and tally write-in votes only for candidates who have filed a declaration of intent,
    - Count and tally write-in votes only if the intent of the elector is clear, subject to applicable administrative rules;
    - Count only write-in votes by one of the variations on the write-in candidate's declaration of intent; and
    - Count only write-in votes where the oval or designated voting area has been filled in.

**Exception! See *Determining a Valid Vote on a Federal Write-In Absentee Ballot in Technical References, page 93.***

- If an absentee ballot counting board has been appointed, the absentee ballots must be delivered to the absentee ballot counting board and counted as provided in law. (13-15-104, MCA) **See also the *Absentee Ballot Counting Board, page 39.***
  - If an absentee ballot counting board has **not** been appointed, and if early preparation of absentee ballots was not conducted and/or if absentee ballots were received after early preparation was conducted, the election judges open each absentee ballot secrecy envelope and remove the ballot. A ballot must be rejected if, in the envelope, there are more **marked** ballots than the number of ballots allowed to be voted for each election.  
**See also the *Handling Unvoted Primary Ballots or Multiple Ballots* section, page 94. (13-15-201(2), MCA)**

Once tabulation has been completed, the results must be immediately publicly declared. **If** the election has at least one statewide race or statewide ballot issue, the election administrator's public reporting of the results must first be provided to the Secretary of State's election night reporting system.

After results are finalized, the election results return form (signed by all election judges completing the count) must be displayed at the place of counting and a copy returned to the Election Administrator. (13-15-101(3), MCA and ARM 44.3.1801)

## Handling Voting Machine Error During Count

(ADMINISTRATIVE RULES OF MONTANA [ARM 44.3.1714](#))

Pursuant to administrative rules, during tabulation, if an Election Administrator or counting board believes the voting machine is not operating correctly, the count must be paused, and the machine retested.

To retest the machine, a ballot test deck and ballot key are necessary. If feasible, use the test deck and key from the public/election day test. If your county has a backup machine to use in place of the machine in question, you may use the backup machine after that machine has been tested. Do not use the machine with a potential problem until it has been tested and verified it is working as required.

### To Retest the Machine:

1. Ensure all potentially impacted ballots are set aside by themselves.
2. Print off results and include with the ballots.
3. Zero out results of the machine and print a zero report.
4. Run test ballots through the machine and verify results against the ballot key.
5. If a discrepancy is noticed, and the discrepancy cannot be corrected, or if a majority of the counting board agrees the machine may not be functioning correctly, officially remove the machine from use and recount all ballots that ran through the machine. The system involved in the discrepancy may not be used in another election until it has been examined and tested by a computer software expert in consultation with a voting machine vendor and approved by the Secretary of State.
6. If no discrepancy is noticed, the machine may be put back into use.

**Be sure to zero out results and print a zero report before resuming the count.**

Appropriate procedures for verifying pre-test ballots are counted in addition to post-test ballots must be followed.

## Counting Ballots by Hand

When counting ballots by hand, the procedure outlined in 13-15-206, MCA will be followed.

**Note:** *In a **primary election**, ballots shall be separated and stacked by party prior to the beginning of the count. (13-10-311, MCA)*

If the elector's choice in a race cannot be determined, that race shall not be counted. If part of a ballot is sufficiently plain to determine the elector's intention, count that part. **See also *Determining a Valid Vote*, page 86.** (13-15-206, MCA)

Do not include a rejected ballot or vote in the count. (13-15-206, MCA)

Place the ballots in the ballot container and seal as required: Seal all unvoted ballots and other books and supplies as directed by the Election Administrator.

Complete seal logs as necessary.

1. Enter in the tally book (13-15-206, MCA):

- the names of all individuals who received votes (if the names are not pre-printed);
- the offices for which they received votes (if the offices are not pre-printed);
- the total votes received by each individual; **and**
- the total votes cast on each ballot issue.

2. Compare the tally sheets to ascertain their correctness. (13-15-206, MCA)

3. Enter in the poll book the total number of ballots cast and complete the poll book reconciliation form.

4. Sign certificates in poll book/tally book immediately after the votes are counted and the ballots are sealed in proper envelopes. (13-15-204, MCA)

5. Return the sealed ballot box, and/or envelopes, Chain of Custody and Security Seal Log forms, and all records and supplies to the Election Administrator. (13-15-205, MCA).

## DS200®/DS300® Voting System Setup, Use, and Troubleshooting

### Setup for Models DS200® and DS300® Ballot Tabulators

1. Ensure the tabulator was programmed for the polling location by examining the report the tabulator will print out when the election is opened.
  2. If the Election Administrator has indicated that this machine was randomly selected as part of the required election day testing, follow the instructions provided by the Election Administrator and refer to the appropriate testing checklist and certification form in the Uniform Voting Systems Guide.
  3. Take the tabulator from the transportation case and place the machine on the system ballot box. Thread the power cord in through the back of the ballot box and insert the female end into the tabulator.
  4. Counties may have M100® ballot boxes retrofitted to accommodate the new machines. These changes include a metal “plunger” that secures the DS200® and DS300® into place.
  5. Using the brass ballot box key, unlock and lift the metal tab which covers the ballot box’s ballot entrance slot (located in the back of the box’s recessed area and marked with “LIFT TO OPERATE”) so that the slot is exposed.
  6. Slide the tabulator until it is against the back of the ballot box, ensuring that the diverter connector at the back of the tabulator slides into its mate on the ballot box. Ensure the metal plunger is up and the tabulator can’t move forward or backward. You can access the bottom of the plunger from the Auxiliary Bin.
  7. Plug the male end of the cord into a wall outlet.
- Warning!** *Only plug the tabulator into a grounded, three-pronged electrical outlet. Plug only one tabulator into an outlet, if possible.*
8. Open the lid of the tabulator and it will automatically power on.
  9. Ensure that the Security Seals have not been tampered with and that the numbers on the seals match the numbers on Chain of Custody and Security Seal Log.
  10. Open the access door, located above the printer, and insert the USB drive into the USB port. Place removed security seal on the Security Seal log and record required information. If the tabulator has not powered on, press the Power button located next to the USB drive. Secure the door with a tamper-resistant security seal.



11. The system will initialize and a screen with the following options will appear, “Open Polls” and “Shutdown.”
12. Press “Open Polls.” Depending on options set for your election definition, the tabulator can automatically print a status report, a zero totals report or a zero certification report.
13. On the reports selection screen, choose either “Totals” only or “All precincts” to generate the Zero Report. Once the start-up reports are complete, close, lock and seal the switch door.
14. Check both Ballot Compartment side doors and verify that the ballot compartments are empty. Close, lock and use a security tie to secure both doors. Register security tie numbers in poll book and every replacement tie # as necessary.

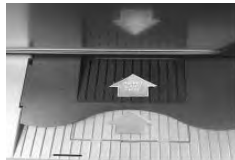
## DS200®/DS300® Ballot Tabulator Use

Electors will place the marked ballot into the DS200® or DS300® ballot tabulator. After the elector has done so, the Ballot Judge should be available in case there are questions or in case there is a problem. Ensure the elector does not leave until the ballot has been accepted.

**Note:** *Once the ballot is deposited into the ballot tabulator, it cannot be retrieved.*

For problems you cannot resolve, request help from the Chief Election Judge or the Polling Place Manager. Have the serial number of the precinct counter available and provide that information to the person resolving the problem. If this is the only precinct counter in the polling place and it is malfunctioning, remove the security seal, open, and use the emergency bin until a precinct counter replacement has arrived. Once a replacement unit arrives, make sure the emergency bin is empty of all ballots and reseal the bin. Ensure you log the removed and the replaced security seal in the Chain of Custody and Security Seal Log.

## DS200®/300® Troubleshooting Chart

| Problem                                                                          | Probable Causes                                                                                                                                                                                                                                                                              | Possible Solution                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Election Definition Not Found”                                                  | The USB memory drive is missing, blank or not installed correctly.                                                                                                                                                                                                                           | <ul style="list-style-type: none"> <li>✓ Ensure the USB memory drive is installed correctly in one of the slots available.</li> <li>✓ If the tabulator is still unable to detect the card, contact ES&amp;S for another USB memory drive.</li> </ul>                                                                                                                          |
| Upper right hand corner display shows a red X through the power icon.            | The tabulator is not plugged into the AC power cord or the wall outlet is defective.                                                                                                                                                                                                         | <ul style="list-style-type: none"> <li>✓ Check power cord is plugged in securely to the outlet and to the machine.</li> <li>✓ Test all outlets.</li> <li>✓ Check the tabulator power cord for damage. Replace the cord if damaged.</li> </ul>                                                                                                                                 |
| The reports are generating, but no printing is visible on the paper.             | The tabulator printer uses thermal paper and heat transfer to print the information. No visible print means the paper roll is inserted incorrectly.                                                                                                                                          | <ul style="list-style-type: none"> <li>✓ Reinsert the paper roll. Reprint report(s) as necessary.</li> </ul>                                                                                                                                                                                                                                                                  |
| What do I use to clean the exterior of the tabulator including the touch screen? | Dirt, grime, fingerprints, etc.                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>✓ The tabulator touch screen can be cleaned with isopropyl alcohol wipes or isopropyl alcohol on soft cloth.</li> </ul>                                                                                                                                                                                                                |
| Where do I insert the ExpressVote® ballot card into the tabulator?               | <p>The paper guide mounts into the input tray on the front cover. The paper guide is a solid unit that accommodates the 8.5” ballots below the guide and 4.26” vote summary cards in the slot above.</p>  | <ul style="list-style-type: none"> <li>✓ The touch screen animation shows election judges where to insert the paper ballot or ExpressVote® ballot card into the tabulator.</li> <li>✓ The animation alternates between the paper ballot and ExpressVote® ballot card screens.</li> </ul>  |

## Tabulating with Model DS450®/DS850®/DS950® Central Tabulators

*Judges working with voting equipment must be trained on the operation of the specific equipment.*

1. Ensure the operator of the tabulator has been trained for the specific equipment and has the proper access information to conduct tabulation.
2. Zero totals on the tabulators before proceeding – print zero report.
3. Ensure the correct ballot output trays are set to receive write-ins, overvotes, and blank ballots.
4. You will receive ballots from the Inspection Board, if used, or from the Election Administrator or designee.
5. Enter the appropriate precinct number and time on the Tabulating Log.

**Note:** *Once you start scanning the batch, the tabulator **will not** stop until it has scanned every ballot in the batch.*

6. When the batch is complete, refer to the monitor to ensure it has successfully run.
  - If the ballots have been counted and processed, move the ballots in the bottom tray to your counted ballot area.
  - The middle tray will include your write-in ballots and will need to be moved to the write-in area.
  - The top tray will include all ballots that were not processed. Ballots in this tray either need to be rescanned or moved to their respective places (blank ballots basket, overvote basket, etc.).

**Refer to the DS450®/DS850®/DS950® monitor for more information why ballots in the top tray were not processed.**

7. When the precinct is complete, ensure the ballots are sealed and the Chain of Custody and Security Seal Log are properly completed, signed, and returned with the ballots.
8. When all ballots for a precinct are run, feed into the tabulator, one by one, any ballots the tabulator did not read.
9. At the end of the night, run resolution and/or resolved and duplicated ballots through the tabulator to ensure all resolved ballots are counted. Follow instructions provided by the Election Administrator on these procedures.

## Tabulation Boards

At the discretion of the Election Administrator, any of the following boards, **if used**, may be combined and members given other duties. If a county does not have all or some of the boards described below, they will assign the duties, when needed, to their election judges who must be trained on those duties.

*The following Boards require specialized training and forms as provided by the Election Administrator. Suggested procedures for the Boards are outlined.*

### Observation Board

An Observation Board will assist with pre-election testing of tabulators to verify the accuracy of the programming. The test shall be repeated immediately before the start of the official count of the ballots and repeated after the official ballot count is completed.

This Board should be familiar with the correct procedures for processing ballots, as well as general operating procedures.

### Receiving Board

A Receiving Board is responsible for ballot transfer cases that will be delivered to this board by two judges from each precinct during the early count period and/or at the close of polls.

1. Track receipt on the log provided noting the following:
  - precinct number;
  - time received;
  - number on seal; **and**
  - condition of seal (intact or broken). If the seal is broken or there appears to be any other irregularities, note on log and notify the Election Administrator.
2. Break the seal and compare the seal number with the number on the ballot report that is inside the transfer case. If the numbers are different, notify the Election Administrator.
3. Each precinct judge must sign the log in the space provided.
4. The Receiving Board members must initial in the space provided.
5. When the tasks as described are complete, the transfer case is passed to the Inspection Board.



## Inspection Board

The Inspection Board is responsible for inspecting ballots before tabulation. Ballots from only one precinct at a time are inspected.

1. Fill in the Inspection Board log, noting the following:
  - precinct number; **and**
  - time received.
2. Open the transfer case and remove ballots and ballot log.
3. Inspect the ballots for damage and for ragged edges. Check for official ballot stamp on the ballots. Notify the supervisor if the stamp information is missing. If you decide a ballot needs duplicating, transfer that ballot to the duplication table.
4. Fill in the log, noting the number of ballots to be duplicated.
5. All board members must initial the log in the space provided.
6. Ballots will be prepared for insertion into tabulating equipment.

## Duplication Board

The Duplication Board is charged with duplicating ballots damaged due to tears, folds, or other reasons that prevent the ballot from going through the machine. If a county using tabulators does not have a designated Duplication Board or Resolution Board, the county must have judges trained to perform the duties described below, including at least three judges assigned to duplicate ballots.

Ballots will be delivered to the Duplication Board by either the tabulator operator or Inspection Board Judge.

1. Fill in the log provided, noting the following:
  - precinct number;
  - time received; **and**
  - number of ballots to be duplicated.
2. Duplicate the damaged ballots using the following procedures:
  - Retrieve the ballot from the precinct, duplicate the elector's choices on the new ballot.
  - Place the damaged ballot in a basket to be sealed later that evening.
  - One board member duplicates while the other two judges observe closely.

- With a red pen or stamp, mark both damaged and duplicated ballot with:
  - precinct number; **and**
  - judges' initials.

## Write-in Board

Ballots will come from tabulator operator or designee.

1. Review only the write-ins you are instructed by the Election Administrator to review.
2. Tally votes for the write-ins on tally sheets provided to you by the Election Administrator.
3. All judges must initial the tally sheets.
4. For additional instructions on counting write-in votes, *see Determining a Valid Write-In Vote in Technical References, page 89.*

## Resolution Board

The Resolution Board is charged with duplicating ballots or in limited cases fixing ballots that cannot be read by the tabulator. If a county using tabulators does not have a designated Resolution Board, the county must have judges trained to perform the required duties, including at least three judges assigned to resolve ballots not able to be counted by the tabulator.

The Board will consist of three election judges. If possible, at least two judges shall be members of different qualified political parties.

1. Ballots rejected by the machine will be received from the tabulator operator. If the tabulator is unable to read the ballot, the ballot will be duplicated as necessary so the tabulator will read the ballot according to the elector's wishes.

*See also the Determining a Valid Vote in Technical References, page 86.*

2. Enter the precinct number and the reason the ballot was rejected by the machine into the log. Enter the decision reached by the board as to whether the elector's intent could be determined. All judges will initial the ballot and log in red ink.
3. Blank ballots could indicate the elector used a writing tool that was not detected by the tabulator. The Resolution Board will use a writing tool provided

by the Election Administrator to mark the elector’s original ballot so it can be counted by the tabulator. One judge will mark as the other two observe. Judges will initial the ballot with red ink pen. A log will be kept of the precinct number and status of the ballot.

4. After all ballots that have been processed by the Resolution Board, the resolution ballots will be presented to the tabulator operator or designated official to be counted.

## Election Results Board

It is the responsibility of the Election Results Board to prepare the final, unofficial election results for votes counted at the counting center.

The duties are as follows:

1. When a report having precinct totals for each candidate and each ballot issue comes from the tabulator operator or designated official, tape it to the appropriate precinct Election Results.
2. Copy, distribute, and post the Election Results sheet in the counting center.

## Absentee Ballot Counting Board

See *Absentee Voting and Absentee Ballots* section, page 35, for detailed information pertaining to counties with an appointed absentee counting board.

## Close of Tabulating Center

It will be the duty of the Election Administrator or designee to collect all ballots, logs, and materials used for the counting center and place them in secure storage upon completion of the tabulation of ballots and certification of the results of the election.

- Before adjournment, enclose the items specified in the envelopes provided. See *List of Envelopes for Ballots and Supplies* in the *Appendix*, page 104.
- If instructed, each election judge will sign their name across all seals affixed to the official envelopes. These envelopes, with the rest of the supplies provided for the election, are returned to the Election Administrator. (13-15-205, MCA)



# Technical References

|                                                                                                |           |
|------------------------------------------------------------------------------------------------|-----------|
| <b>Technical References .....</b>                                                              | <b>85</b> |
| Determining a Valid Vote.....                                                                  | 86        |
| Determining a Valid Write-In Vote .....                                                        | 89        |
| Determining a Valid Vote on an ExpressVote® .....                                              | 92        |
| Determining a Valid Vote on a Voting System.....                                               | 92        |
| Determining a Valid Vote on a Federal Write-In Absentee Ballot .....                           | 93        |
| Handling Unvoted Primary Ballots or Multiple Ballots .....                                     | 94        |
| Guidance to Election Officials Regarding Official Poll Watchers and Election<br>Observers..... | 96        |
| Electioneering and Signature Gathering.....                                                    | 99        |
| Frequently Asked Questions.....                                                                | 100       |

## Determining a Valid Vote

(ADMINISTRATIVE RULES OF MONTANA ARM 44.3.2402)

Before being counted, each questionable vote on a paper ballot set aside under 13-15-206, MCA must be reviewed by the designated board.

### Manually Counting and Recounting Paper Ballots

If an elector does not mark a candidate, judicial retention choice, or issue choice, the valid votes for other candidates or issues on the same ballot shall be counted. The following general rules shall apply in a count or recount of paper ballots:

(a) More than one designated voting area has been marked and at least one mark has been erased, but residue is or is not left. The election officials shall cause a vote to be counted for the designated voting area that has been marked:

✓ valid vote



Yes



No

(Erasure has been attempted.)

(b) One designated voting area is marked and at least one other designated voting area is marked with a heavy mark and no erasure has been attempted. The election officials shall cause this to be designated as an overvote [for write-in vote determinations, refer to “Determining a Valid Write-In Vote”, page 89]:



Yes



No

(No erasure has been attempted.)

X overvote

(c) The designated voting area has been marked for one candidate or ballot issue choice and a partially completed mark is made in at least one other designated voting area. The mark may or may not have some erasure, although for the purpose of this rule, erasure is not required. If the intent of the elector is not clear, the election officials shall cause this to be designated as an overvote:



Yes



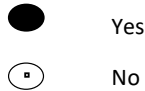
No

(Erasure may or may not have been attempted.)

X overvote

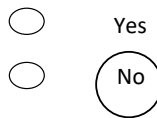
(d) The designated voting area has been marked for one candidate or ballot issue choice and a hesitation mark is present within at least one other designated voting area. The election officials shall cause a vote to be counted for the designated voting area that has been marked:

✓ valid vote



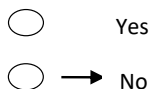
(e) The designated voting area has not been marked according to instructions, but the designated voting area, candidate, or ballot issue choice is circled, underlined, checked, or otherwise clearly marked. The election officials shall cause a vote to be counted for the marked choice:

✓ valid vote



(f) The designated voting area has not been marked according to instructions, but there is a connective line or arrow between the candidate or ballot issue choice and the designated voting area to indicate the vote. The election officials shall cause a vote to be counted for the marked designated voting area:

✓ valid vote



(g) More than one designated voting area has been marked, but no clear mark is used to indicate the intended candidate or ballot issue choice. This includes, but is not necessarily limited to, instances in which more than the allowable choices are marked, and an "X" has been marked in either or both designated voting areas. The election officials shall cause this to be designated as an overvote:



Yes  
No

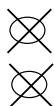


Yes  
No

X overvote

(h) More than one designated voting area has been marked, but a clear word, mark, or statement is used to indicate the intended vote. The election officials shall cause a vote to be counted for the designated voting area indicated as the intended vote:

✓ valid vote



Yes

No

I wish to vote no.

(i) A word or statement has been used to indicate the intended vote instead of marking the designated voting area according to instructions. The election officials shall cause a vote to be counted for the designated voting area indicated as the intended vote:

✓ valid vote

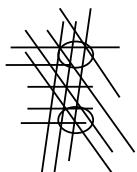


Yes

No

I wish to vote no.

(j) All of the designated voting areas are crossed out. The election officials shall cause this to be designated as an undervote:



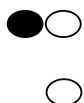
Yes

No

X undervote

(k) A mark is made outside the designated voting area but close enough to the designated voting area to determine voter intent, and the designated voting area is not marked. The election officials shall cause a vote to be counted for the designated voting area determined as the intended vote:

✓ valid vote



Yes

No

(l) A ballot is marked with different colors or types of marking instruments. The election officials shall cause votes to be counted as marked by the voter unless it is determined that the ballot is otherwise not valid:

✓ valid vote



Yes

No



## Determining a Valid Write-In Vote

(13-10-211, 13-15-206, and 13-21-206, MCA and ARM 44.3.2403)

A write-in vote for a declared write-in candidate may be counted **only**:

- If the oval, box, or other designated voting area on the ballot is marked, **and**
- If the write-in vote identifies an individual by a designation the declared write-in candidate listed on the candidate's filing form (*except as noted for absent military or overseas electors voting a Federal Write-In Absentee Ballot*).

Write-in votes for candidates who **have not filed** a declaration of intent as a write-in **may not** be counted.

Any elector may write in the name of a candidate, regardless of whether the candidate has filed a declaration of intent. The ballot should be accepted, even if the write-in vote for that candidate will not be counted.

The Election Administrator will provide copies of filing forms listing name variations to ballot tabulating judges.

## Manually Counting and Recounting Paper Ballots with Write-In Votes:

If an elector does not mark a candidate, judicial retention choice, or issue choice, the valid votes for other candidates or issues on the same ballot shall be counted. The following rules will apply to determining a valid write-in vote in a count or recount of paper ballots (*and must be read in conjunction with the “Determining a Valid Write-In Vote” section, page 89*):

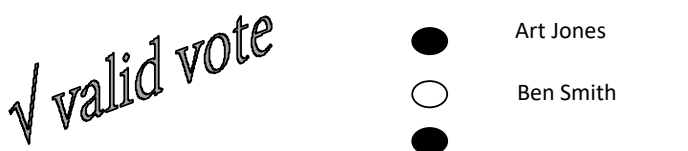
(a) A name is written in, but the designated write-in voting area is not marked, and no other candidate is selected. The election officials shall cause this to be designated as an undervote:



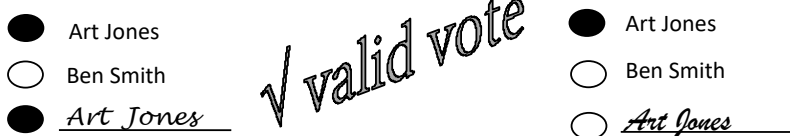
(b) No candidate name or office is written in, but the designated write-in voting area is marked and no other candidate is selected. The election officials shall cause this to be designated as an undervote:



(c) A printed candidate is selected by marking of the designated voting area, and no name is written in, but the designated write-in voting area is marked. The election officials shall cause a vote to be counted for the printed candidate:



(d.1) A printed candidate is selected by marking of the designated voting area, any individual's name is written in, and the designated write-in voting area is marked. If the name written in is the same as the name of the printed candidate selected, the election officials shall cause a vote to be counted for the printed candidate selected. If the designated voting area for a printed candidate is marked and the same name is written in, but the designated write-in voting area is not marked. The election officials shall cause a vote to be counted as a vote for the marked designated voting area:



(d.2) If the name written in is different from the name of the printed candidate selected, the election officials shall cause this to be designated as an overvote:

- ☒ Art Jones
- ☐ Ben Smith
- ☒ Bob Miller

*X overvote*

(e) Comments are written in which do not indicate a clear vote and no candidate is marked. The election officials shall cause this to be designated as an undervote:

- ☐ Art Jones
- ☐ Ben Smith
- ☐ I'm not sure.

*X undervote*

(f) The designated voting area for a printed candidate is marked, a comment is written in, and the corresponding designated write-in voting area is or is not marked. The election officials shall cause this to be counted as a vote for the printed candidate unless the comment creates uncertainty about who the choice is or directs the election official not to count the vote for the printed candidate selected. In the latter case, the election officials shall cause this to be designated as an undervote:

- ☒ Art Jones
- ☐ Ben Smith
- ☐ Art is who I choose

OR

- ☒ Art Jones
- ☐ Ben Smith
- ☒ I'm not sure.

*✓ valid vote*

*X undervote*

(g) At least one printed candidate appears as a candidate for the office and the designated voting area is not marked for any printed candidates, but a name is written in that is not the name of a declared write-in candidate and the corresponding designated write-in voting area is or is not marked. The election officials shall cause this to be designated as an undervote:

- ☐ Art Jones
- ☐ Ben Smith
- ☒ Art Jones

*X undervote*

## Determining a Valid Vote on an ExpressVote®

A vote on an ExpressVote® voter assist terminal consists of an elector's selection of candidates or choices on ballot questions appearing on the voting surface of the device (and via audio), followed by the elector causing a special ballot card to be marked by following the written or verbal instructions. The ballot card will show special bar codes to be used by a tabulation device and the candidates, questions, and issues voted in plain text. The card will not show all the possible choices on the ballot and will only show the voted candidate, question, and issue.

The ExpressVote® system also provides for the elector to be able to enter the name of a write-in candidate where applicable.

**See also *Determining a Valid Write-In Vote*, page 89.**

Even if an elector does not mark a candidate, judicial retention choice, or ballot issue choice, the valid votes for other candidates or issues on the same ballot shall be counted. The ExpressVote® will warn the voter about missing votes (undervotes), but will process and print the ballot card if the voter confirms their choices.

If an Election Administrator or counting board has reason to believe an ExpressVote® voting system is not functioning correctly, the Election Administrator or counting board must test the system in accordance with 13-15-209, MCA and ARM 44.3.1714.

## Determining a Valid Vote on a Voting System

(13-15-206, MCA)

When a ballot is processed in a tabulator and the voting system recognizes and counts the vote, it is a valid vote.

If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an unvoted ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided under ***Determining a Valid Vote*** and ***Determining a Valid Write-In Vote***, pages 86 and 89.

Before being counted, each questionable vote on a paper ballot set aside as noted above must be reviewed by the resolution or counting board. Questionable votes are to be evaluated according to the rules under *Determining a Valid Vote* and *Determining a Valid Write-In Vote* and 13-15-206(3) and (4), MCA.

- If a majority of the resolution or counting board members agree the elector's intent can be clearly determined under the rules, the vote is valid and must be

counted according to the elector's intent.

- If a majority of the resolution or counting board members do not agree the elector's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

If an Election Administrator or counting board has reason to believe a voting system is not functioning correctly, the Election Administrator or counting board must test the system in accordance with 13-15-209, MCA and ARM 44.3.1714.

## Determining a Valid Vote on a Federal Write-In Absentee Ballot (ARM 44.3.2405)

A Federal Write-in Absentee Ballot (FWAB), or other ballot, cast electronically by a United States elector may be counted if it is transmitted by the elector to the Election Administrator before the close of polls on election day and is received by the Election Administrator before 5 p.m. on the day after the election. Such FWABs and other Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) ballots transmitted electronically by 8 p.m. on election day that are received after the close of polls are counted at the same time as provisional ballots are counted.

A mailed FWAB must be accepted until the sixth day after the election if it is sent by 8:00 p.m. on election night.

- A UOCAVA elector voting a FWAB for any election may designate a candidate by writing in the name of the candidate or by writing in the name of the political party for which the elector is voting. For a partisan election, a written designation of the political party must be counted as a vote for the candidate of that party.
- If the elector is voting in a **primary election**, the elector shall identify the elector's political party affiliation as provided for in the appropriate section of the ballot. A vote cast by writing in the name of a candidate who is not affiliated with the elector's selected party is void and may not be counted.
- A vote by a covered voter on a FWAB may not be voided for reasons of misspellings, abbreviations, or other minor variations of the candidate's name.
- If the elector receives the regular absentee ballot after the elector has marked and mailed a FWAB, the elector may mark and return the regular absentee ballot, and the regular absentee ballot is the ballot that will be counted.

## Handling Unvoted Primary Ballots or Multiple Ballots

In a partisan primary election, electors are provided with a ballot for all eligible parties holding a primary nominating election. Electors choose one party ballot to vote and enclose the voted ballot in the secrecy envelope provided. Unvoted party absentee ballots in a primary election may be disposed in accordance with instructions and no longer need to be returned to the Election Administrator.

**Q. How do you handle a situation where an elector returned a marked ballot in the secrecy envelope, but did not return the unvoted ballot(s)?**

**A.** Process the marked ballot as you normally would. Voters are no longer required to return the unvoted ballots in a primary election.

**Q. An elector enclosed all party ballots in the secrecy envelope; do you reject all ballots?**

**A.** If the judges can determine only one-party ballot is marked, then that ballot may be counted. Place the unmarked ballot in an unvoted ballot envelope or area designated by your Election Administrator.

**Q. An elector enclosed all party ballots in the secrecy envelope and made marks on more than one party ballot. What do you do with those ballots?**

**A.** Because there is no way for an election judge to determine which party ballot the voter intended to have counted if multiple ballots have been marked, all ballots must be rejected.

**Q. Individuals with the same mailing address enclosed all their voted party ballots in one signature envelope, and the ballots are either in their own secrecy envelopes, OR are not in a secrecy envelope – what do you do?**

**A.** If each individual signed the signature envelope, and each individual's ballot was placed in its own secrecy envelope, you may accept those ballots. However, if each ballot is not in its own secrecy envelope or each individual didn't sign the secrecy envelope, the ballots must be rejected.

**Q. Upon opening the signature envelope, you found that a single, marked ballot was enclosed, but not in a secrecy envelope.**

**A.** Without looking at the marked ballot, place it in a secrecy envelope and process as usual.

**Q. Upon opening the signature envelope, you found that more than one ballot was enclosed, but neither ballot is in a secrecy envelope.**

**A.** Place both ballots in a single secrecy envelope for later processing by election judges (see next questions).

**Q. Upon opening the signature envelope, you found that more than one ballot was enclosed, each ballot in its own secrecy envelope.**

**A.** If the signature envelope contains a valid signature for each elector, the secrecy envelopes can be removed from the signature envelope and processed. If the signature envelope contains the signature of only one elector, the ballots must be rejected.

**Q. What if you receive a secrecy envelope with two separate ballots in it?**

**A.** A ballot must be rejected if in the secrecy envelope there is more than the number of ballots allowed to be marked for each election. However, this does not apply if:

- 1) There are multiple elections being held at the same time and the envelope contains only one ballot for each election: or
- 2) Only one of the ballots in the secrecy envelope is marked.

**Q. What if voters in the same household return two 1<sup>st</sup> sheet ballots in one secrecy envelope, and two 2<sup>nd</sup> sheet ballots in another secrecy envelope?**

**A.** By the time an error like this would be discovered (when secrecy envelopes are opened) you will not know if they came from the same household. The ballots must be rejected. This rejection is based on the premise there are more than the number of ballots allowed to be marked for the election.

## Guidance to Election Officials Regarding Official Poll Watchers and Election Observers

Poll watchers and election observers are an important part of Montana’s open and transparent election process. These guidelines are intended to provide guidance to election officials regarding their roles and responsibilities with poll watchers and election observers.

### General Guidelines

**Election day is for the elector.** As a rule, no person may obstruct the polling place or engage in solicitation of an elector in any manner that interferes with the election process or obstructs the access of electors to or from the polling place. Unlawful polling place conduct can be punishable as a misdemeanor under Montana law.

Election officials are allowed some discretion in terms of how to handle observers on election day. Guidelines for observers must be **reasonable, fairly applied, and documented** for election day.

**Note:** *Montana law prohibits a candidate from serving as a poll watcher at a polling place where the candidate’s name is on the ballot (13-13-120, MCA).*

How observers are handled on election day may vary from jurisdiction to jurisdiction for reasons including but not limited to:

- The size and configuration of the polling place, election office or tabulation center.
- The resources available to the county on election day, including staffing levels.
- The number of observers requesting access to a location.

Before election day, election officials should evaluate each election day location to make decisions about how to handle non-electors on election day.

Election officials must permit one poll watcher from each political party to be stationed close to the poll lists in a location that does not interfere with the election procedures (13-13-120(1), MCA). For a mail ballot election, at least one poll watcher



from each political party must be permitted at each place of deposit designated under 13-13-120(3), MCA and 13-19-307, MCA.

The Election Administrator, where applicable, or election officials working at the polls may **uniformly** (13-1-301 and 13-35-203, MCA and ARM 44.3.2904:

- Use discretion in determining a sufficiently close distance for observers to be stationed from the process they want to observe.
- Establish security protocol for observers including using sign-in sheets and identification badges and prohibiting the use of cell phones, pagers, cameras, and other audio or video equipment or electronic devices.
- Require order and quiet inside any observation area.
- Use discretion in determining how and to whom observers may pose questions and challenges during the observation process.
- Restrict the number of observers permitted in a polling place, election office or tabulation center to prevent interference with the election process, if the restriction is **reasonable and fairly applied**.
- Restrict the items observers may bring into the polling place, election office or tabulation center such as cell phones, large bags, or backpacks, etc.
- Request assistance from law enforcement when necessary to ensure orderly and unrestricted access to the polling place and election office by electors.
- Restrict any activity they determine undermines the **security, integrity, or accuracy** of the election process at the polls, tabulation center and election office.

The Election Administrator, or other election officials where appropriate, may provide uniform guidance to official poll watchers and election observers as follows:

- Individuals will notify the appropriate election official(s) as soon as possible **before** election day of their interest in being poll watchers or election observers.
- Poll watchers and election observers should familiarize themselves with Title 13 Election Laws of Montana and county-specific election guidance.
- Poll watchers and election observers will check-in with the Chief Election Judge at the polling place, election office, or tabulation center to find out where their designated observation area is located.

- A name tag provided by the Chief Election Judge clearly identifying an individual as a poll watcher or election observer is required to be worn at all times in the polling place, election office, or tabulation center where they are observing.
- Any questions, concerns, or suggestions from poll watchers and election observers are to be directed to the Chief Election Judge for the location, unless otherwise instructed.
- Poll watchers and election observers must observe the proceedings at the polling place, election office, or tabulation center **without** interfering with electors or election officials. The entire vote counting procedures and all entries of the results of the elections may be observed. No person may make public the results of a vote tally from a precinct **until after** the polls have closed (13-35-241, MCA).
- Observers of early counts before polls are closed must also complete and sign the following affirmation:

*“I, \_\_\_\_\_, will not discuss the results of the early counting of votes any time prior to the closing of the polls on election day.” (13-15-207, MCA)*

To protect the security and integrity of the election, official poll watchers and election observers at the polling place on election day may not:

(13-35-203, MCA and ARM 44.11-606)

- Interfere with the conduct of the election.
- Physically handle any voting materials or equipment without the express permission of the Election Administrator or chief polling place election official.
- Move or rearrange tables, chairs, or other election day equipment without the express permission of the Election Administrator or chief polling place election official.
- Sit at an official worktable or view confidential voter information on any equipment or paper document.
- Assist in any way with the official election process operations at a polling place, election office, or tabulation center.
- Communicate with voters regarding voting for or against any candidate or issue on the ballot unless they are at least 100 feet from any entrance to a polling place.
- Display or wear any campaign material.

- Distribute alcohol, tobacco, food, drink, or anything of value to a voter within 100 feet of a polling place ([13-35-211, MCA](#) and [ARM 44.11.606](#)).
- Discuss or disclose the results of the early counting of votes at any time prior to the closing of the polls on election day ([13-15-207, MCA](#) and [13-35-241, MCA](#)).

## Electioneering and Signature Gathering

Electioneering *generally* falls under the jurisdiction of the [Commissioner of Political Practices](#). Call 406-444-2942 or email [cpphelp@mt.gov](mailto:cpphelp@mt.gov) or [cppcompliance@mt.gov](mailto:cppcompliance@mt.gov) for specific questions or additional guidance.

**What is Electioneering?** Electioneering is the solicitation of support or opposition to a candidate or issue to be voted upon at the election.

- A person may not do any electioneering on election day within any polling place or building in which an election is being held or within 100 feet of any entrance to the building in which the polling place is located, that aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.
- On election day, a candidate, a family member of a candidate, or a worker or volunteer for the candidate's campaign may not distribute alcohol, tobacco, food, drink, or anything of value to a voter within a polling place or a building in which an election is being held or within 100 feet of an entrance to the building in which the polling place is located ([13-35-211, MCA](#) and [ARM 44.11.606](#)).
- A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia that is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election. A person within a polling place or any building in which an election is being held may not solicit from an elector, before or after the elector has marked a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue ([13-35-211, MCA](#)).

## Frequently Asked Questions

**Q.** What is the “**100 FOOT RULE?**”

**A.** Montana law restricts campaigning, or “electioneering **on election day** within any polling place . . . or within 100 feet of any entrance to the building in which the polling place is located . . .” (13-35-211, MCA)

**Q.** How do I measure 100 FEET – is it 100 FEET from any polling place?

**A.** The law states “within 100 feet of **any entrance** to the building in which the polling place is located. . .” (13-35-211, MCA)

**Q.** Can electioneering occur in an area **BEYOND 100 FEET** from the polling place?

**A.** Generally, speech beyond 100 feet from an entrance to a polling place is not restricted.

**Q.** Can I wear a badge, button, or campaign shirt to the polls? What about bumper stickers?

**A.** Per 13-35-211, MCA, “*A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia that is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.*”

ARM 44.11.606 provides that “*Electioneering does not include the display of ordinary bumper stickers on automobiles.*”

**Q.** Can **CAMPAIGN MATERIALS** be brought into a polling place?

**A.** No, soliciting support for or opposition to a candidate/issue at a polling place is prohibited when that candidate/issue is on the ballot.

**Q.** Can people **GATHER SIGNATURES ON PETITIONS** at the polling place?

**A.** Yes. Orderly signature gathering that does not interfere with the election process or obstruct elector access to the polls is not prohibited as long as the petition does not concern an issue being voted on at the polling place. Additionally, opponents to an issue for which signatures are being gathered have the same rights and responsibilities as signature gatherers at the polling place.

**Q.** Can **CANDIDATES BE PRESENT** in the polling place? Can they **WORK** at the polls?

**A.** Statute does not prohibit candidates in the polling place—it prohibits electioneering (which includes campaigning) in or about the polling place.

Candidates and certain family members are prohibited by law from working as election judges. See [13-4-107\(2\), MCA](#) and the chart on page 8 for reference.

**Q.** Can **FOOD, DRINKS, AND OTHER ITEMS** be provided to people waiting in line to vote at a polling place?

**A.** On election day, a candidate, a family member of a candidate, or a worker or volunteer for the candidate’s campaign **may not** distribute anything of value to a voter in a polling place or within 100 feet of a polling place entrance. ([13-35-211, MCA](#) and [ARM 44.11.606](#))

**Q. WHAT DO I DO IF I SEE A VIOLATION?**

**A.** If a violation is witnessed, inform the Chief Election Judge. If the official is not able to correct the problem, the official should call law enforcement.

*“An election officer, sheriff, constable, or other peace officer may clear the passageway, prevent any obstruction, or arrest any individual obstructing the passageway to a polling place.” ([13-13-122, MCA](#))*

*“A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place.” ([13-35-218\(4\), MCA](#))*



# Appendix

Appendix.....103

    List of Envelopes for Ballots and Supplies .....104

    Polling Place Contingency Plan .....105

    Additional Resources for Election Judges.....106

## List of Envelopes for Ballots and Supplies

(If not all envelopes are used by your jurisdiction, follow the instructions provided by your Election Administrator.)

**Envelope No. 1** Poll Books, tally books, precinct register. SEAL this envelope.

**Envelope No. 2** Ballots not issued with numbered stubs attached. SEAL this envelope.

**Envelope No. 3** All hand-counted voted ballots, including those not counted or rejected (and all detached stubs, unless in Envelope 4.)  
SEAL this envelope.

**Envelope No. 4** Primary election – unvoted party ballots and all detached stubs, and all detached stubs from voted ballots. SEAL this envelope.  
General election – at your option, if detached stubs are not put in Envelope 3, place them in Envelope 4. SEAL this envelope.

**Envelope No. 5 - 6** (Unassigned – County custom use)

**Envelope No. 7** Unofficial election return sheet, for hand-count ballots or precinct-tabulated ballots. Keys and time sheets. DO NOT SEAL.

**Envelope No. 8** Unopened and unexamined absentee ballots (if applicable).

**Envelope No. 9** Absentee ballots sent from the Election Administrator to the Chief Election Judge, to be opened on election day.

**Envelope No. 10** Empty absentee ballot envelopes and written requests for absentee ballots, if applicable. SEAL this envelope.

**Envelope No. 11** DS200®/DS300® flash drive with corresponding printer report attached to card. SEAL this envelope.

**Envelope No. 12** Supply envelope sent from the Election Administrator to the election judges.



## Polling Place Contingency Plan

*In cases involving extreme emergencies, it may be necessary for the Secretary of State to provide special directives regarding election day. If directives are necessary, the Election Administrator will relay and distribute all information to the election judges.*

### Emergency Relocation of Polling Place Checklist

The Chief Election Judge or Polling Place Manager will use the following checklist in the event an emergency requires relocation of the polling place.

**Modify checklist as necessary for county-specific procedures.**

**1. Is there an immediate threat to the safety of electors or election judges?**

If **yes**, evacuate electors and judges, and **call 911!**

**2. If there is no immediate safety threat:**

- ☐ Call the Election Administrator at: \_\_\_\_\_.
- ☐ Evacuate electors in a calm manner. Let electors who have a ballot finish voting unless a threat is imminent.
- ☐ Seal and secure all ballots for transport.
- ☐ Before voting machines are turned off, note the number of ballots on each machine so the number can be verified at the new location.
- ☐ Secure the voting equipment and prepare for transport.
- ☐ Transport equipment and supplies to the designated relocation area using bipartisan teams of judges. Make sure at least two judges are present when handling ballots or voting equipment.
- ☐ Post Polling Place Relocation Signs where they are easily visible at the evacuated polling place location.
- ☐ Set up election machines, ballots, and other supplies at the new polling place.
- ☐ Verify seals on the equipment and ballot boxes are intact.
- ☐ After the voting machines are turned on, verify the number of ballots on each machine is the same. New “zero” tapes are not required.
- ☐ Resume voting as quickly as possible.
- ☐ Contact the Election Administrator when relocation is complete.

## Additional Resources for Election Judges

Voters' Frequently Asked Questions on the Secretary of State's website:  
[sosmt.gov/elections/FAQ](https://sosmt.gov/elections/FAQ)

Vote Ready (voter registration information, polling place locator, sample ballot, tracking absentee ballot status): [votemt.gov/](https://votemt.gov/)

Election Laws of Montana, Title 13 Montana Code Annotated (MCA):  
[leg.mt.gov/bills/mca/title\\_0130/chapters\\_index.html](https://leg.mt.gov/bills/mca/title_0130/chapters_index.html)

Federal Voting Assistance Program (FVAP) for Military or American Overseas voters (UOCAVA): <https://www.fvap.gov>

Election questions: Call the [local county election office](#) or Secretary of State – Elections Division, at (406) 444-9608 or (888) 884-8683.

Polling Place electioneering questions: Call the Commissioner of Political Practices at (406) 444-2942 or see the website at <https://politicalpractices.mt.gov/>.



Montana Secretary of State  
Elections & Voter Services Division  
1301 E. 6<sup>th</sup> Avenue  
State Capitol Building, Room 260  
PO Box 202801  
Helena, MT 59620  
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**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

Montana Federation of Public Employees,  
Plaintiff,

v.

State of Montana and Christi Jacobsen, in her  
official capacity as Montana Secretary of State,  
Defendants.

Case No. DV-25-268

**DECLARATION OF  
KENNETH R. MAYER**

## I. INTRODUCTION AND SUMMARY OF CONCLUSIONS

I have been asked by counsel in this matter to analyze the effect of SB 490, which bans registration after 12 noon on election day for federal elections. I have also been asked to update data on election day registration (“EDR”) and late registration from expert reports I submitted in *Montana Democratic Party and Mitch Bohn v. Christi Jacobsen* in 2022.<sup>1</sup> After performing these analyses, I conclude as follows:

1. The conclusions I reached in my previous reports about EDR have not changed, and are in fact stronger given the continued heavy reliance on EDR in the 2022 and 2024 general elections in Montana.
2. Eliminating EDR after noon on election day will prevent Montanans from voting in federal elections. There is no ambiguity about this conclusion: tens of thousands of Montanans have relied on EDR in recent elections; more Montanans, by far, register on election day than on the average day over the rest of the late registration period; and allowing EDR on the Saturday before election day will not come anywhere close to offsetting the effect of eliminating EDR after 12pm on election day.
3. Further, eliminating EDR for federal elections after 12pm on election day will do nothing to reduce administrative burdens on election officials unless significantly fewer Montanans register to vote. In fact, SB 490 is likely to make administrative and line problems *worse*. SB 490 creates administrative complexity that requires election officials to maintain separate federal and state registration tracks on election day and will confuse voters.
4. Finally, eliminating federal EDR after 12pm on election day will do nothing to enhance voter confidence in elections, and may in fact undermine it.

## II. QUALIFICATIONS

5. I have a Ph.D. in political science from Yale University (1988), where my graduate training included courses in econometrics and statistics. My undergraduate degree is from the University of California, San Diego (1982), where I majored in political science and minored in applied mathematics. I am Professor Emeritus of Political Science at the University of Wisconsin-Madison, and retired in May 2024 after 35 years on the faculty and 24 years as a Full Professor. My CV is attached to this report as appendix A.

6. All publications that I have authored and published in the past ten years appear in my CV, attached to this report as appendix A. Those publications include the following peer-reviewed journals: *Journal of Politics*, *American Journal of Political Science*, *Election Law Journal*, *Legislative Studies Quarterly*, *Presidential Studies Quarterly*, *American Politics Research*,

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<sup>1</sup> Expert Report of Kenneth R. Mayer, Ph.D., *Montana Democratic Party and Mitch Bohn v. Christi Jacobsen*, Consolidated Case No. DV 21-045, January 12, 2022 (hereafter referred to as Mayer Expert Report; Rebuttal Expert Report of Kenneth R. Mayer, Ph.D., *Montana Democratic Party and Mitch Bohn v. Christi Jacobsen*, Consolidated Case No. DV 21-0451, March 25, 2022 (hereafter referred to as Mayer Rebuttal Report).

*Congress and the Presidency*, *Public Administration Review*, *Political Research Quarterly*, and *PS: Political Science and Politics*. I have also published in law reviews, including the *Richmond Law Review*, the *UCLA Pacific Basin Law Journal*, and the *University of Utah Law Review*. My work on campaign finance has been published in *Legislative Studies Quarterly*, *Regulation*, *PS: Political Science and Politics*, *Richmond Law Review*, the *Democratic Audit of Australia*, and in an edited volume on electoral competitiveness published by the Brookings Institution Press. My research on campaign finance has been cited by the U.S. Government Accountability Office, and by legislative research offices in Connecticut and Wisconsin.

7. My work on election administration has been published in the *Election Law Journal*, *American Journal of Political Science*, *Public Administration Review*, *Political Research Quarterly*, and *American Politics Research*. I was part of a research group retained by the Wisconsin Government Accountability Board to review their compliance with federal mandates and reporting systems under the Help America Vote Act, and to survey local election officials throughout the state. I serve on the Steering Committee of the Wisconsin Elections Research Center, a unit within the UW-Madison College of Letters and Science/ In 2012, I was retained by the United States Department of Justice to analyze data and methods regarding Florida's efforts to identify and remove purportedly ineligible noncitizens from the statewide file of registered voters.

8. In the past ten years, I have testified as an expert witness in trial or deposition or submitted a report in the following cases:

Federal: *Coalition for Open Democracy et al. v Scanlan et al.*, Case No. 1:24-cv-00312-SE-TSM (D. N.H.); *Equality State Policy Center v. Gray*, Case No. 25-cv-00117-SWS (D. Wyo.); *LULAC Texas, et al., v. John Scott, et al.*, No. 1:21-cv-0786-XR (W.D. Tex.); *League of Women Voters of Fla., Inc., et al. v. Lee, et al.*, No. 4:21-cv-00186-MW-MAF (N.D. Fla.); *Fair Fight Inc., et al. v. True the Vote, Inc., et al.*, No. 2:20-cv-00302-SCJ (N.D. Ga.); *The Andrew Goodman Found. v. Bostelmann*, No. 3:19-cv-00955-JDP (W.D. Wis.); *Majority Forward and Gamliel Warren Turner, Sr. v. Ben Hill Cnty. Bd. of Elections, et al.*, No. 1:20-cv-00266-LAG (M.D. Ga.); *Pearson, et al. v. Kemp, et al.*, No. 1:20-cv-4809-TCB (N.D. Ga.); *The New Ga. Project, et al. v. Raffensperger, et al.* No. 1:20-cv-01986-ELR (N.D. Ga.); *Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga.); *Kumar v. Frisco Indep. Sch. Dist., et al.*, No. 4:19-cv-00284-ALM (E.D. Tex.); *Vaughan v. Lewisville Indep. Sch. Dist., et al.*, No. 4:19-cv-00109-SDJ (E.D. Tex.); *Tyson v. Richardson Indep. Sch. Dist., et al.*, No. 3:18-cv-00212-K (N.D. Tex.); *Dwight, et al. v Kemp*, No. 1:18-cv-2869-JPB (N.D. Ga.); *League of Women Voters of Mich., et al. v. Benson*, No. 2:17-cv-14148-DPH-GJQ (E.D. Mich.); *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis.).

State: *Eucke, et al. v. Wisconsin Elections Commission, et al.*, 2024CV007822 (Cir. Ct., Milwaukee Cty., WI); *League of Women Voters of Missouri and Missouri State NAACP v. State of Missouri et al.* 22AC-CC04333 (Cir. Ct. of Cole Cnty., MO); *Missouri State Conference of the NAACP et al. v. State of Missouri, et al.*, 22AC-CC04439, (Cir. Ct. of Cole Cnty., MO); *Lake v. Hobbs, et al.*, CV2022-095403 (Maricopa Cty. Sup. Ct, AZ); *Montana Democratic Party and Mitch Bohn v. Christi Jacobsen*, consolidated Case No. DV 21-0451 (13th Judicial Ct. Yellowstone Cty., MT); *Johnson, et al. v Wis. Elections Comm'n, et al.*, No. 2021AP1450-OA (Wis. Sup. Ct.); *League of Women Voters v. Thurston*, No. 60CV-21-3138 (5th Div. Cir. Ct. Pulaski Cnty., AR); *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cnty., MT); *N.C. All. for Retired Ams.*,

*et al. v. N.C. State Bd. of Elections* (Wake Cnty., NC); *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cnty., MN); *Mich. All. for Retired Ams., et al. v. Benson*, et al. No 2020-000108-MM (Mich. Ct. of Claims); *Priorities U.S.A., et al. v. Missouri, et al.*, No. 19ACCC00226 (Cir. Ct. of Cole Cnty., MO); *League of Women Voters v. Schwab*, No. 2021-CV-000299 (Kan. Dist. Ct.).

9. I am being compensated at a rate of \$600 per hour for my services in this matter. My work in this case is independent and impartial. My compensation is not dependent on either the substance of my opinion or the outcome of this case.

### **III. DATA AND MATERIALS**

10. In forming my opinions on this matter, I relied on the following data and source material:

- The relevant provisions of Montana law concerning election day registration, *see* 13-2-304 and 13-21-104, MCA.
- The legislative history in this case.
- Discovery responses from the State of Montana and the Montana Secretary of State.
- Data from the federal Election Administration and Voting (EAVS) Survey from 2022 and 2024.
- The 2024 American Community Survey (ACS).
- The 2024 Survey on the Performance of American Elections (SPAEE).
- The peer reviewed academic literature and other sources cited in this report.

### **IV. ELIMINATING EDR AFTER NOON WILL BURDEN MONTANA VOTERS**

11. In my 2022 report, I found that 65,926 Montana voters had registered on election day between 2008 and 2020.<sup>2</sup>

12. Montanans continue to rely on election day registration in recent general elections, with 13,816 voters using it in the 2022 and 2024 general elections combined.<sup>3</sup> Notably, this is an undercount of the total number of voters who relied on EDR over this period, as these totals include only EDR for the November general election and do not include EDR during primary or special elections.<sup>4</sup>

13. In total, at least 79,742 Montanans have relied on election day registration since 2008. This number comprises 1.13% of all votes cast in general and primary elections in this period. In the 2024 general election, election day registrants cast nearly 1.7% of all votes, the 2<sup>nd</sup> highest percentage of any election held since 2008.

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<sup>2</sup> Mayer Expert Report, 10-11. The URL I referred to in my 2022 report (<https://sosmt.gov/elections/latereg/>) is no longer active and results in a “404” error. 2020 data from the Montana statewide voter registration file (see Mayer Expert Report, 10).

<sup>3</sup> Data from the 2022 and 2024 Election Administration and Voting Survey, item A2b (Election Day SDR). <https://www.eac.gov/research-and-data/studies-and-reports>.

<sup>4</sup> See U.S. Election Assistance Commission, *2024 Election Administration and Voting Survey (EAVS)*, 4. [https://www.eac.gov/sites/default/files/2024-04/2024\\_EAVS\\_FINAL\\_508c.pdf](https://www.eac.gov/sites/default/files/2024-04/2024_EAVS_FINAL_508c.pdf).



14. Voters rely on election day registration for a variety of reasons—because of work schedules, because they are first time voters, because they have recently moved and need to reregister at their new address, or because they are activated near or on election day (Burden et al. 2014; Hamner 2009; Wolfinger and Rosenstone 1980).

15. Montana, in particular, has a very mobile population. In the 2024 1-Year American Community Survey, Montana ranked 13<sup>th</sup> in the percentage of residents overall who had moved from another state in the previous year (3.2%), and 5<sup>th</sup> in the number of residents aged 18-24 who had moved from another state in the previous year (11.2%).<sup>5</sup> 2024 ACS data also show that 96,436 Montanans moved within the state in the previous year.

16. Voters who discover a problem with their voter registration, or believe they are registered but are not, also rely on election day registration to cure the problem (Merivaki and Smith 2020). Because these voters often do not know they have a problem until they arrive at the polls (Foley 2005), there is no reason that they would be aware that they are subject to a time limit on election-day registration.

17. Eliminating EDR after 12pm on election day cuts the number of hours voters can rely on EDR from 13 (most polling places are open from 7am to 8pm on election day) to 5 (from 7am to 12pm). This 62% reduction in the number of EDR hours will disenfranchise Montana voters.

## **V. RESTRICTIONS ON EDR HAVE A DISPROPORTIONATE EFFECT ON YOUNG VOTERS**

18. In my 2022 report, I found that nearly one-third of voters who relied on EDR from 2008-2020 were under age 25 (31.2%),<sup>6</sup> even though they constituted only 10.4% of registrants in the 2021 voter file. This is consistent with the academic literature, which has found that young voters disproportionately rely on election day registration (Grumbach and Hill 2021).<sup>7</sup>

19. Since many young voters are also first-time voters, they are more likely than other voters to need to register for the first time (Dassonneville 2017). Younger voters are also more reliant on EDR because they have less experience with the administrative processes surrounding registration and voting, are more likely to be activated late in the electoral process, are more likely to change addresses and have to reregister, and have less frequent contact with government entities (Grumbach and Hill 2021).

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<sup>5</sup> 2024 American Community Survey 1-Year estimates, Table S0701.

<sup>6</sup> Mayer Expert Report, 13.

<sup>7</sup> I was not able to replicate this analysis for 2022 and 2024 as the voter file and late registration report have not yet been produced in discovery. However, there is no reason to think the results would be any different.

**VI. ADDING LATE REGISTRATION HOURS ON THE SATURDAY BEFORE AN ELECTION DOES NOT OFFSET THE ELIMINATION OF EDR AFTER NOON ON ELECTION DAY**

20. Adding late registration on the Saturday before an election does not offset the elimination of EDR after 12 noon on election day. First, some counties in Montana already allow late registration on the Saturday before election day.<sup>8</sup> Voters in these counties will thus see only a net loss of registration hours overall as a result of SB 490.

21. Second, for those counties that do not already offer Saturday registration, the combined number of hours available for voter registration over the Saturday before an election (8am-5pm, or 9 hours) and on election day (7am-12pm, or 5 hours) under SB 490 is 14 hours. This is only 1 more hour than the number available for federal election day registration pre-SB490 (7am-8pm on election day, or 13 hours).

22. Third, the Montana Secretary of State misleadingly refers to this change as “reallocating registration hours,”<sup>9</sup> eliding the crucial point that vastly more Montanans register on election day than on an average pre-election day during the late registration period.

23. Election day is by far the most heavily used day for registration over the entirety of the late registration period (which begins 30 days before elections). In 2022, over 12 times as many voters registered on election day than on the average pre-election late registration day. Similarly, in 2024 nearly 8 times as many voters registered on election day than on the average pre-election late registration day.

24. Table 1 updates the EDR and late registration totals in my 2022 report<sup>10</sup> to include data from the 2022 and 2024 general elections. It shows the number of voters relying on EDR and the average number of daily registrations over the rest of the 30-day late registration period. The data continue to show that election day is, by a huge margin, the most important day for registration over the late registration period. Between 2008 and 2024, the number of EDR registrations exceeded the daily late registration average by a factor of 20.

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<sup>8</sup>[https://www.montanarightnow.com/elections/missoula-county-offers-extended-hours-nov-2-for-late-voter-registration-shares-ballot-dropoff-tips/article\\_e512528c-98b8-11ef-92af-df3ae3cb01f1.html](https://www.montanarightnow.com/elections/missoula-county-offers-extended-hours-nov-2-for-late-voter-registration-shares-ballot-dropoff-tips/article_e512528c-98b8-11ef-92af-df3ae3cb01f1.html); *Mar. 26, 2025 H'rg of the House of Reps. Comm. on State Affairs*, 69th Sess., p. 38.

<sup>9</sup> Secretary Jacobsen's Corrected Responses to Plaintiff's First Set of Requests for Admission and Interrogatories, October 20, 2025, pp. 5, 7.

<sup>10</sup> Mayer Expert Report, 13.

| <b>Table 1 - Late Registration vs. EDR</b> |                 |                                                                 |                                  |
|--------------------------------------------|-----------------|-----------------------------------------------------------------|----------------------------------|
| <b>Year</b>                                | <b>Election</b> | <b>Average Daily Late Registration (Excluding Election Day)</b> | <b>Election Day Registration</b> |
| 2024                                       | General         | 1,296                                                           | 10,296                           |
| 2022                                       | General         | 281                                                             | 3,520                            |
| 2020                                       | General         | 269                                                             | 8,172                            |
| 2020                                       | Primary         | 29                                                              | 1,618                            |
| 2018                                       | General         | 373                                                             | 8,053                            |
| 2018                                       | Primary         | 64                                                              | 951                              |
| 2017                                       | Special         | 80                                                              | 2,074                            |
| 2016                                       | General         | 528                                                             | 12,055                           |
| 2016                                       | Primary         | 100                                                             | 3,346                            |
| 2014                                       | General         | 180                                                             | 4,677                            |
| 2014                                       | Primary         | 52                                                              | 953                              |
| 2012                                       | General         | 412                                                             | 8,053                            |
| 2012                                       | Primary         | 59                                                              | 1,178                            |
| 2010                                       | General         | 156                                                             | 3,735                            |
| 2010                                       | Primary         | 39                                                              | 836                              |
| 2008                                       | General         | 369                                                             | 7,547                            |
| 2008                                       | Primary         | 124                                                             | 2,678                            |

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Source: 2008-2020 - MT Secretary of State Late Registration Report; 2022 and 2024 - Election Administration and Voting Survey, which includes EDR only for the November general election.

25. Table 2 shows the percentage of all late registrations that occur on election day.

| <b>Table 2 - Late Registration vs. EDR</b> |                 |                                |                                  |                                                         |
|--------------------------------------------|-----------------|--------------------------------|----------------------------------|---------------------------------------------------------|
| <b>Year</b>                                | <b>Election</b> | <b>Total Late Registration</b> | <b>Election Day Registration</b> | <b>% of Late Registration Occurring on Election Day</b> |
| 2024                                       | General         | 44,171                         | 10,296                           | 23.3%                                                   |
| 2022                                       | General         | 11,958                         | 3,520                            | 29.4%                                                   |
| 2020                                       | General         | 15,962                         | 8,172                            | 51.2%                                                   |
| 2020                                       | Primary         | 2,457                          | 1,618                            | 65.9%                                                   |
| 2018                                       | General         | 18,881                         | 8,053                            | 42.7%                                                   |
| 2018                                       | Primary         | 2,819                          | 951                              | 33.7%                                                   |
| 2017                                       | Special         | 4,393                          | 2,074                            | 47.2%                                                   |
| 2016                                       | General         | 27,366                         | 12,055                           | 44.1%                                                   |
| 2016                                       | Primary         | 6,258                          | 3,346                            | 53.5%                                                   |
| 2014                                       | General         | 9,904                          | 4,677                            | 47.2%                                                   |
| 2014                                       | Primary         | 2,450                          | 953                              | 38.9%                                                   |
| 2012                                       | General         | 20,002                         | 8,053                            | 40.3%                                                   |
| 2012                                       | Primary         | 2,898                          | 1,178                            | 40.6%                                                   |
| 2010                                       | General         | 8,258                          | 3,735                            | 45.2%                                                   |
| 2010                                       | Primary         | 1,979                          | 836                              | 42.2%                                                   |
| 2008                                       | General         | 18,238                         | 7,547                            | 41.4%                                                   |
| 2008                                       | Primary         | 6,268                          | 2,678                            | 42.7%                                                   |
| <b>Totals</b>                              |                 | <b>204,262</b>                 | <b>79,742</b>                    | <b>39.0%</b>                                            |

The data show that since the 2008 general election, 39% of all late registrations have occurred on election day itself.<sup>11</sup>

26. Peer-reviewed research estimates the turnout effect of EDR as between two and seven percentage points, depending on when a state enacted it and the nature of existing voting rules (Burden et al. 2014; Hamner 2009; Wolfinger and Rosenstone 1980). Peer-reviewed research shows that adoption of EDR in Montana increased turnout by 1.5 percentage points.<sup>12</sup> My earlier

<sup>11</sup> The percentage of late registrations taking place on election day (EDR) was slightly lower in 2022 and 2024, but this is because the overall number of late registrants increased, not because the number of EDR registrants declined; 2024 saw the 2<sup>nd</sup> highest number of EDR registrants occurring during this period, and the highest number of late registrants overall.

<sup>12</sup> Mayer Expert Report, 10.

analysis also found that over 7% of Montanans registered to vote in the 2021 voter file had relied on EDR at least once between 2008 and 2021.<sup>13</sup>

27. As I noted in a previous expert report on the elimination of EDR in Montana:

election day is not just any other day—it is by far the most prominent day of the election cycle and provides cues to potential voters. Parties, candidates, and institutions take special note of election day, often organizing around efforts to mobilize voters and get them to the polls.<sup>14</sup>

## **VII. THE ELIMINATION OF EDR AFTER NOON WILL DEPRESS VOTER TURNOUT AND CREATE ADMINISTRATIVE COMPLEXITY**

28. Montana does not appear to record time-stamped data on when voters register or cast ballots on election day. However, the academic literature shows that a significant percentage of voters arrive at polling places after 12pm on election day (Herron and Smith 2016; Spencer and Markovits 2010; Chen et al. 2022).

29. The purported justification for the change – that SB 490 will reduce election day administrative burdens on election officials and reduce the chance of mistakes by election workers – does not hold up at all against the available evidence.

30. During floor debate on SB 490, the bill’s sponsor, Montana Senator Mike Cuffe (Eureka) said that eliminating EDR hours “gives election workers a chance to do their job when they’re fresh, when they’re bright, the way it was intended to do.”<sup>15</sup> This is the same justification offered for 2021 Montana HB 176 (which eliminated election day registration).<sup>16</sup> That justification was not true then, and it is not true now.

31. SB 490 will not create any administrative efficiencies or reduce burdens on election officials unless fewer Montanans vote. If anything, by requiring counties to design, print, and maintain separate ballots for state and federal elections; manage different schedules for federal and state EDR; and deal with increasing voter confusion, SB 490 will create additional burdens on election officials and increase the chances of administrative mistakes.

32. To the extent that lines at clerks’ offices are a concern, the solution is not to restrict the hours when people can register, but instead to allocate resources to increase capacity for EDR at clerk’s offices. As MIT Professor and Director of the MIT Election Data and Science Lab Charles Stewart III, put it, “long lines are fundamentally due to a mismatch between the number of voters who show up and the resources available to accommodate them” (Stewart 2015, 1).

33. SB 490 only amplifies that mismatch. If the same number of people show up to utilize EDR as in previous elections, see Tables 1 and 2 above, during a more restricted time frame, lines will

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<sup>13</sup> Mayer Expert Report, 13.

<sup>14</sup> Mayer Rebuttal Report, 8 (internal citations omitted).

<sup>15</sup> *Mar. 5, 2025 H’rg of the Senate*, 69th Sess., p. 9. Transcript, March 5, 2025, p. 9.

<sup>16</sup> Mayer Expert Report, 8.

be even longer during those hours. And if voters know that they must arrive before noon on election day to register and vote in federal elections, county election officials will have to process election day registrants in roughly one-third of the hours allowed pre-SB 490.

34. Notably, cutting off EDR for federal elections at noon does not mean that election workers' EDR-related obligations will also end at noon. Instead, election officials will still have to process registration forms submitted throughout the day. That is because SB 490 does not actually end EDR on election day after noon, but rather it imposes different consequences depending on when an EDR application is submitted: those who submit EDR applications before noon can vote in all elections, while those who vote after noon can only vote in state elections.

35. Further, clerks will now have to maintain two separate registration processes and sets of ballots for voters who register before 12 pm on election day and voters who register after 12 pm on election day. This by itself will impose administrative burdens on election officials. Arizona has an analogous bifurcated system, in which voters using a state registration form must provide documentary proof of citizenship and voters using the federal registration form do not. Voters who use the federal form without proof of citizenship and whose citizenship cannot be verified from other state records are only permitted to vote a federal ballot. The consequence is a "bifurcated system that meant that the state thereafter had to process voter registration on two separate tracks" (Nott et al. 2025, 9) which has resulted in "reports from election officials of confusion, staffing shortages, and logistical barriers" (Nott et al. 2025, 12).

36. To give just a single example of administrative complexity imposed by SB 490, even something as seemingly unambiguous as a 12pm cutoff for EDR for federal elections has multiple dimensions, depending on how officials interpret and implement it:

- a. Whether EDR for federal elections ends altogether at noon on election day, with federal ballots delivered only to voters who have fully *completed* the registration process by then.
- b. Whether voters who have *begun* the registration process by noon (i.e., they have started to fill out forms) but have not completed it until after 12pm will be permitted to vote a federal ballot.
- c. Whether clerks will deliver federal ballots to voters who have *arrived* at the clerk's offices by noon and are waiting in line to begin the registration process.
- d. Whether voters appearing before noon who have begun the registration process but do not have all documents necessary to register will be permitted to vote a federal ballot if they return after 12pm with the required documents.
- e. Whether clerks will enforce the 12pm registration cutoff if their office suffers a power outage, faces an unexpected staff shortage, or must deal with a disruption at the polling place that delays or even halts registration and voting.

37. If the 12pm cutoff is in fact a "hard" deadline requiring EDR voters to *complete* the registration process by then, voters have no way of knowing what time they have to arrive at clerks' offices on the morning of election day in order to complete the registration by noon and vote a

federal ballot. The ability to register by noon will depend on the number of other voters who arrive at clerks' offices, processing time, and staff levels, which voters will not know in advance.

38. If the 12pm cutoff is not a "hard" deadline, and clerks allow voters *arriving* before noon to register and receive a federal ballot, staff at clerks' offices will have to track arrivals carefully to identify voters who arrive by the deadline, monitor lines, and establish procedures to track who arrived prior to the deadline and who did not. The same issues arise if clerks allow voters who have started the registration process by noon to vote a federal ballot.

39. In either case, managing the 12pm cutoff will require staff time and attention on election day, and will divert resources away from other election day tasks. These additional tasks could easily continue throughout the day, depending on voter arrival patterns, staff levels, and voter registration processing time.

40. These administrative details are not trivial (see Burden et al. 2017), and even if clerks establish policies to address them, implementation will take time and attention on election day. In addition to managing the bifurcated registration process, under SB 490, staff will have to manage lines in a way they did not prior to the law, track when registrants arrive, distribute a combination of state and federal ballots throughout the day, and determine how any administrative issues may affect the 12pm deadline.

41. SB 490 is the archetype of red tape and "administrative sludge," creating complicated administrative burdens that serve no meaningful purpose (Thaler 2018; Madsen, Mikkelsen, and Moynihan 2020).

42. Spillover effects will also occur at polling places and clerks' offices, as poll workers will have to address problems with voters discovering after 12pm that their registration information is incorrect (or that they were not registered), and subsequently learning that EDR is no longer an option and that they will not be permitted to vote in federal elections.

43. Not all polling sites in Montana are open on election day before 12 noon.<sup>17</sup> While most polling places are open on election day from 7am-8pm, state law permits precincts with fewer than 400 registered voters to open at noon.<sup>18</sup> As a result, SB 490 may effectively create a situation where election day registration for federal elections is not available *at all* to certain voters.

44. Data from the 2024 general election show that, of Montana's 729 precincts, 101 (or 13.9%) did not open until noon.<sup>19</sup> Nineteen counties had at least one-third of their precincts not opening before noon, and 32 counties had at least 1 polling site that did not open before noon. Five counties (Golden Valley, Judith Basin, Liberty, Petroleum, and Prairie) had no polling places open before noon.

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<sup>17</sup> MT SOS 2024-Polling-Location-Satellite-Office-General.xlsx. Provided by counsel.

<sup>18</sup> MCA 13-1-106. The number of eligible voters is calculated as the number of registrants in a precinct who have not applied for an absentee ballot (MCA 13-1-106 (2)(b)).

<sup>19</sup> MT SOS 2024-Polling-Location-Satellite-Office-General.xlsx.

45. Under SB490, voters will now confront separate election day schedules: the election day deadline for EDR (12pm), and the hours for most polling places (7am – 8pm). This places unnecessary informational administrative burdens on voters.

46. A voter who appears at a polling place not open until noon who discovers an error in their registration, has moved and needs to update their information, or does not realize they are not registered, will in many cases be unable to register or correct their registration information and will be unable to vote in federal elections. This not only disenfranchises these voters in federal elections but also will likely generate confusion and potential polling place disruptions.

47. In sum, eliminating EDR for federal elections after 12pm on election day will do nothing to reduce administrative burdens on election officials unless significantly fewer Montanans register to vote. In fact, SB 490 will make administrative and line problems *worse*.

48. Nor will the effects of SB 490 be limited to a single election. Rather, the effects will accumulate over time and will depress future turnout among voters who are unable to register for a federal election on election day. A bad experience at the polls can discourage a prospective voter from participating in subsequent elections, particularly among younger voters (Plutzer 2002; Gerber, Green and Sachar 2003).

## **VIII. ELIMINATING EDR AFTER NOON MAKES NO CONTRIBUTION TO ELECTION INTEGRITY**

49. Montanans have confidence in their state election processes. According to the Survey on the Performance of American Elections, 91.4% of Montanans say they are either “very confident” or “somewhat confident” that votes were counted fairly in the state in the 2024 election (a longstanding measure of confidence in elections), essentially unchanged from 2022 confidence (92.2%, a statistically insignificant difference).

50. Eliminating EDR at 12pm on election makes no contribution to election integrity. I am not aware of a single case of a voter relying on EDR to submit a false registration between 2008 and 2024, over a period in which more than 6.9 million Montanans voted<sup>20</sup> and nearly 80,000 used EDR (see table 1).

51. Further, eliminating federal EDR after 12pm on election day will do nothing to enhance voter confidence in elections, and may in fact undermine it. Voters who have a poor experience at the polls or who face administrative burdens while attempting to vote are more likely to express lower confidence in the integrity of the election process (Alvarez, Cao and Li 2021; Atkeson, McKown-Dawson and Stein 2025).

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<sup>20</sup> <https://sosmt.gov/elections/voter-turnout/>. This total does not include off-year or municipal elections.



## IX. CONCLUSION

52. The data are clear: SB490 will prevent eligible Montanans from voting, will not create efficiencies or reduce administrative burdens on election officials and will likely make those burdens or inefficiencies worse, and makes no contribution to the integrity of the election process.

53. SB 490 imposes an unwieldy, inefficient, burdensome, and confusing voter registration regime that does nothing but make it more difficult for Montanans to register and vote.

Date of Signature: 1/21/2026

Place of Signature: Madison, WI

*Kenneth R. Mayer*

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Kenneth R. Mayer, Ph.D.

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## Appendix A

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January 2026

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### **Education**

Yale University, Department of Political Science, Ph.D., 1988.  
Yale University, Department of Political Science, M.A., M.Phil., 1987.  
University of California, San Diego, Department of Political Science, B.A., 1982.

### **Positions Held**

University of Wisconsin, Madison. Department of Political Science  
Emeritus Professor, May 2024-present  
Professor, July 2000-May 2024.  
Associate Professor, June 1996-June 2000.  
Assistant Professor, August 1989-May 1996.  
Fulbright-ANU Distinguished Chair in Political Science, Australian National University (Canberra, ACT), July-December 2006.  
Director, Data and Computation Center, College of Letters and Science, University of Wisconsin-Madison, June 1996-September 2003  
Consultant, The RAND Corporation, Washington DC, 1988-1994. Conducted study of acquisition reform, and the effects of acquisition policy on the defense industrial base. Performed computer simulations of U.S. strategic force posture and capabilities.  
Contract Specialist, Naval Air Systems Command, Washington D.C., 1985-1986. Responsible for cost and price analysis, contract negotiation, and contract administration for aerial target missile programs in the \$5 million - \$100 million range.

### **Awards**

American Political Science Association, State Politics and Policy Section. Award for best Journal Article Published in the *American Journal of Political Science* in 2014. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws, Mobilization, and Turnout."  
Robert H. Durr Award, from the Midwest Political Science Association, for Best Paper Applying Quantitative Methods to a Substantive Problem Presented at the 2013 Meeting. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws and Partisan Gains."  
Leon Epstein Faculty Fellow, College of Letters and Science, 2012-2015  
UW Housing Honored Instructor Award, 2012, 2014, 2017, 2018  
Recipient, Jerry J. and Mary M. Cotter Award, College of Letters and Science, 2011-2012  
Alliant Underkofler Excellence in Teaching Award, University of Wisconsin System, 2006  
Pi Sigma Alpha Teaching Award, Fall 2006  
Vilas Associate, 2003-2004, University of Wisconsin-Madison Graduate School.  
2002 Neustadt Award. Awarded by the Presidency Research Group of the American Political Science Association, for the best book published on the American presidency in 2001. Awarded for *With the Stroke of a Pen: Executive Orders and Presidential Power*.  
Lilly Teaching Fellow, University of Wisconsin-Madison, 1993-1994.  
Interfraternity Council award for Outstanding Teaching, University of Wisconsin-Madison, 1993.

Selected as one of the 100 best professors at University of Wisconsin-Madison, Wisconsin Student Association, March 1992.

Olin Dissertation Fellow, Center for International Affairs, Harvard University, 1987-1988

### **Service as an Expert Witness**

1. *League of Women Voters of Kansas et al. v Schwab et al.*, Case No. 2021-V-000299 (3d Jud. Ct., Shawnee Cty., KS Civil Dept.)
2. *Coalition for Open Democracy et al. v. Scanlan et al.*, Case No. 1:24-cv-00312-SE-TSM (D.N.H.)
3. *Equality State Policy Center v. Gray et al.*, Civil Action No. 25-cv-000117-SWS (D. Wyo.).
4. *Eucke, et al. v. Wisconsin Elections Commission, et al.*, 2024CV007822 (Cir. Ct., Milwaukee Cty., WI), voter challenges (2024).
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8. *March for Our Lives Idaho and Idaho Alliance for Retired Americans v. McGrane*, Case No. 1:23-cv-00107-AKB (D. Idaho), election administration (2023).
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28. *Fair Fight Action v. Raffensperger* Case No. 1:18-cv-05391-SCJ (N.D. Ga.), voting rights (2019)
29. *Vaughan v. Lewisville Independent School District*, Case No. 4:19-cv-00109 (E.D. Texas), voting rights (2019).
30. *Dwight et al. v Raffensperger*, Case No: 1:18-cv-2869-RWS (N.D. Ga.), redistricting, voting rights (2018).
31. *Priorities U.S.A. et al. v. Missouri et al.*, Case No. 19AC-CC00226 (Cir. Ct. of Cole Cty., MO), voter ID (2018).
32. *Tyson v. Richardson Independent School District*, Case No. 3:18-cv-00212 (N.D. Texas), voting rights (2018).
33. *League of Women Voters of Michigan, et al. v. Johnson*, Case No. 2:17-cv-14148-DPH-SDD (E.D. Mich.), redistricting (2018).
34. *One Wisconsin Institute, Inc., et al. v. Nichol, et al.*, 198 F. Supp. 3d 896 (W.D. Wis.), voting rights (2016).
35. *Whitford et al. v. Gill et al*, 218 F. Supp. 3d 837, (W.D. Wis.), redistricting (2016).
36. *Milwaukee NAACP et al. v. Scott Walker et. al*, N.W.2d 262 (Wis. 2014), voter ID (2012).
37. *Baldus et al. v. Brennan et al.*, 849 F. Supp. 2d 840 (E.D. Wis.), redistricting, voting rights (2012).
38. *County of Kenosha v. City of Kenosha*, Case No. 22-CV-1813 (Wis. Cir. Ct., Kenosha Cty.), municipal redistricting (2011).
39. *McComish et al. v Brewer et al.*, 2010 WL 2292213 (D. Ariz.), campaign finance (2009).
40. *Baumgart et al. v. Wendelberger et al.*, 2002 WL 34127471 (E.D. Wis.), redistricting (2002).

## **Grants**

- “A Multidisciplinary Approach for Redistricting Knowledge.” Principal Investigator. Co-PIs Adeline Lo (UW Madison, Department of Political Science), Song Gao (UW Madison, Department of Geography), and Barton Miller and Jin-Yi Cai (UW Madison, Department of Computer Sciences). UW 2020 Program, Wisconsin Alumni Research Foundation. July 1, 2020-June 30, 2023. \$410,711.
- “Analyzing Nonvoting and the Student Voting Experience in Wisconsin.” Dane County (WI) Clerk, \$44,157. November 2016-December 2017. Additional support (\$30,000) provided by the Office of the Chancellor, UW-Madison.
- Campaign Finance Task Force, Stanford University and New York University, \$36,585. September 2016-August 2017.
- “How do You Know? The Structure of Presidential Advising and Error Correction in the White House.” Graduate School Research Committee, University of Wisconsin, \$18,941. July 1, 2015-June 30, 2016.
- “Study and Recommendations for the Government Accountability Board Chief Inspectors’ Statements and Election Incident Report Logs.” \$43,234. Co-PI. With Barry C. Burden (PI), David T. Canon (co-PI), and Donald Moynihan (co-PI). October 2011-May 2012.
- “Public Funding in Connecticut Legislative Elections.” Open Society Institute. September 2009-December 2010. \$55,000.
- “Early Voting and Same Day Registration in Wisconsin and Beyond.” Co-PI. October 2008- September 2009. Pew Charitable Trusts. \$49,400. With Barry C. Burden (PI), David T. Canon (Co-PI), Kevin J. Kennedy (Co-PI), and Donald P. Moynihan (Co-PI).
- City of Madison, Blue Ribbon Commission on Clean Elections. Joyce Foundation, Chicago, IL. \$16,188.

January-July 2008.

“Wisconsin Campaign Finance Project: Public Funding in Connecticut State Legislative Elections.” JEHT Foundation, New York, NY. \$84,735. November 2006-November 2007.

“Does Public Election Funding Change Public Policy? Evaluating the State of Knowledge.” JEHT Foundation, New York, NY. \$42,291. October 2005-April 2006.

“Wisconsin Campaign Finance Project: Disseminating Data to the Academic, Reform, and Policy Communities.” Joyce Foundation, Chicago, IL. \$20,900. September 2005- August 2006.

“Enhancing Electoral Competition: Do Public Funding Programs for State and Local Elections Work?” Smith Richardson Foundation, Westport, CT. \$129,611. December 2002-June 2005

WebWorks Grant (implementation of web-based instructional technologies), Division of Information Technology, UW-Madison, \$1,000. November 1999.

“Issue Advocacy in Wisconsin during the 1998 Election.” Joyce Foundation, Chicago, IL. \$15,499. April 1999.

Instructional Technology in the Multimedia Environment (IN-TIME) grant, Learning Support Services, University of Wisconsin. \$5,000. March 1997.

“Public Financing and Electoral Competitiveness in the Minnesota State Legislature.” Citizens’ Research Foundation, Los Angeles, CA, \$2,000. May-November 1996.

“The Reach of Presidential Power: Policy Making Through Executive Orders.” National Science Foundation (SBR-9511444), \$60,004. September 1, 1995-August 31, 1998. Graduate School Research Committee, University of Wisconsin, \$21,965. Additional support provided by the Gerald R. Ford Library Foundation, the Eisenhower World Affairs Institute, and the Harry S. Truman Library Foundation.

The Future of the Combat Aircraft Industrial Base.” Changing Security Environment Project, John M. Olin Institute for Strategic Studies, Harvard University (with Ethan B. Kapstein). June 1993-January 1995. \$15,000.

Hilldale Student Faculty Research Grant, College of Letters and Sciences, University of Wisconsin (with John M. Wood). 1992. \$1,000 (\$3,000 award to student)

“Electoral Cycles in Federal Government Prime Contract Awards” March 1992 – February 1995. National Science Foundation (SES-9121931), \$74,216. Graduate School Research Committee at the University of Wisconsin, \$2,600. MacArthur Foundation, \$2,500.

C-SPAN In the Classroom Faculty Development Grant, 1991. \$500

### **Professional and Public Service**

Town of Middleton, Review of Polling Place Resource Allocation, 2023 (with Jessie Munson).

Chair, Election Security Review Committee, Dane County, Wisconsin 2022.

Participant and Board Member, 2016 White House Transition Project, PIs Martha Joynt Kumar (Towson State University) and Terry Sullivan (University of North Carolina-Chapel Hill).

Education and Social and Behavioral Sciences Institutional Review Board, 2008-2014. Acting Chair, Summer 2011. Chair, May 2012- June 2014.

Participant, U.S. Public Speaker Grant Program. United States Department of State (nationwide speaking tour in Australia, May 11-June 2, 2012).

Expert Consultant, Voces de la Frontera. Milwaukee Aldermanic redistricting, (2011).

Expert Consultant, Prosser for Supreme Court. Wisconsin Supreme Court election recount (2011).

Chair, Blue Ribbon Commission on Clean Elections (Madison, WI), August 2007-April 2011.

Consultant, Consulate of the Government of Japan (Chicago) on state politics in Illinois, Indiana, Minnesota, and Wisconsin, 2006-2011.

Section Head, Presidency Studies, 2006 Annual Meeting of the American Political Science Association.

Co-Chair, Committee on Redistricting, Supreme Court of Wisconsin, November 2003-December 2009.

Section Head, Presidency and Executive Politics, 2004 Annual Meeting of the Midwest Political Science Association, Chicago, IL.

Presidency Research Group (organized section of the American Political Science Association) Board,

September 2002-present.  
Book Review Editor, *Congress and the Presidency*, 2001-2006.  
Editorial Board, *American Political Science Review*, September 2004-September 2007.  
Consultant, Governor's Blue Ribbon Commission on Campaign Finance Reform (Wisconsin), 1997.

## PUBLICATIONS

### Books

*Presidential Leadership: Politics and Policymaking*, 14<sup>th</sup> edition. Forthcoming, 2026. Lanham, MD: Rowman and Littlefield, 2024. With George C. Edwards, III and Steven J. Wayne. Previous editions 10<sup>th</sup> (2018), 11<sup>th</sup> (2020), 12<sup>th</sup> (2023), 13<sup>th</sup> (2024).  
*The Enduring Debate: Classic and Contemporary Readings in American Government*. 9<sup>th</sup> ed. New York: W.W. Norton & Co., 2023. Co-edited with David T. Canon and John Coleman. Previous editions 1<sup>st</sup> (1997), 2<sup>nd</sup> (2000), 3<sup>rd</sup> (2002), 4<sup>th</sup> (2006), 5<sup>th</sup> (2009), 6<sup>th</sup> (2011), 7<sup>th</sup> (2013), 8<sup>th</sup> (2017).  
*The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake*. Lanham, MD: Lexington Press, 2017. Co-edited with Amnon Cavari and Richard J. Powell.  
*Faultlines: Readings in American Government*, 5<sup>th</sup> ed. New York: W.W. Norton & Co. 2017. Co-edited with David T. Canon and John Coleman. Previous editions 1<sup>st</sup> (2004), 2<sup>nd</sup> (2007), 3<sup>rd</sup> (2011), 4<sup>th</sup> (2013).  
*The 2012 Presidential Election: Forecasts, Outcomes, and Consequences*. Lanham, MD: Rowman and Littlefield, 2014. Co-edited with Amnon Cavari and Richard J. Powell.  
*Readings in American Government*, 7<sup>th</sup> edition. New York: W.W. Norton & Co. 2002. Co-edited with Theodore J. Lowi, Benjamin Ginsberg, David T. Canon, and John Coleman). Previous editions 4<sup>th</sup> (1996), 5<sup>th</sup> (1998), 6<sup>th</sup> (2000).  
*With the Stroke of a Pen: Executive Orders and Presidential Power*. Princeton, NJ: Princeton University Press. 2001. Winner of the 2002 Neustadt Award from the Presidency Studies Group of the American Political Science Association, for the Best Book on the Presidency Published in 2001.  
*The Dysfunctional Congress? The Individual Roots of an Institutional Dilemma*. Boulder, CO: Westview Press. 1999. With David T. Canon.  
*The Political Economy of Defense Contracting*. New Haven: Yale University Press. 1991.

### Articles

"Modeling Region Affiliation with Fuzzy Membership Based on Spatial and Social Interactions." *Annals of the Association of American Geographers*. September 2025. With Jake Kruse and Song Gao. <https://doi.org/10.1080/24694452.2025.2551044>.  
"Identifying Rich Clubs in Spatiotemporal Interaction Networks." *Annals of the American Association of Geographers* 115:899-922 (March 2025). With Jake Kruse, Song Gao, Yuhang Ji, Keith Levin, and Qunying Huang.  
"Guardians at the Gate: Poll Worker Retention in a Challenging Election Environment." *Election Law Journal* 24:62-73 (2025). With Robert M. Stein, Barry C. Burden, Matt Lamb, et al.  
"Bringing Spatial Interaction Measures into Multi-Criteria Assessment of Redistricting Plans Using Interactive Web Mapping," *Cartography and Geographic Information Science* 51:513-532 (2025). with Jake Kruse, Song Gao, Yuhang Ji, and Daniel P. Szabo.  
"Mapping Literature with Networks: An Application to Redistricting." *Political Analysis*. First View (2023). DOI: <https://doi.org/10.1017/pan.2023.4>. With Adeline Lo, Devin Judge-Lord, and Kyler Hudson.  
"The Random Walk Presidency," *Presidential Studies Quarterly* 51: 71-95 (2021)  
"Voter Identification and Nonvoting in Wisconsin - Evidence from the 2016 Election." *Election Law Journal* 18:342-359 (2019). With Michael DeCrescenzo.  
"Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study." *Political*



- Research Quarterly* 71 (2019). With Robert M. Stein, Christopher Mann, Charles Stewart III, et al.
- “Learning from Recounts.” *Election Law Journal* 17:100-116 (No. 2, 2018). With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- “The Complicated Partisan Effects of State Election Laws.” *Political Research Quarterly* 70:549-563 (No. 3, September 2017). With Barry C. Burden, David T. Canon, and Donald P. Moynihan.
- “What Happens at the Polling Place: Using Administrative Data to Look Inside Elections.” *Public Administration Review* 77:354-364 (No. 3, May/June 2017). With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jacob R. Neiheisel.
- “Working Through the Unworkable? The View from Inside an Institutional Review Board.” *PS: Political Science and Politics* 49:289-293 (No. 2, April 2016).
- “Alien Abduction, and Voter Impersonation in the 2012 U.S. General Election: Evidence from a Survey List Experiment.” *Election Law Journal* 13:460-475 No.4, December 2014). With John S. Ahlquist and Simon Jackman.
- “Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform.” *American Journal of Political Science*, 58:95-109 (No. 1, January 2014). With Barry C. Burden, David T. Canon, and Donald P. Moynihan. Winner of the State Politics and Politics Section of the American Political Science Association Award for the best article published in the *AJPS* in 2014.
- “Executive Power in the Obama Administration and the Decision to Seek Congressional Authorization for a Military Attack Against Syria: Implications for Theories of Unilateral Action.” *Utah Law Review* 2014:821-841 (No. 4, 2014).
- “Public Election Funding: An Assessment of What We Would Like to Know.” *The Forum* 11:365-485 (No. 3, 2013).
- “Selection Method, Partisanship, and the Administration of Elections.” *American Politics Research* 41:903-936 (No. 6, November 2013). With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald Moynihan.
- “The Effect of Administrative Burden on Bureaucratic Perception of Policies: Evidence from Election Administration.” *Public Administration Review* 72:741-451 (No. 5, September/October 2012). With Barry C. Burden, David T. Canon, and Donald Moynihan.
- “Early Voting and Election Day Registration in the Trenches: Local Officials’ Perceptions of Election Reform.” *Election Law Journal* 10:89-102 (No. 2, 2011). With Barry C. Burden, David T. Canon, and Donald Moynihan.
- “Is Political Science Relevant? Ask an Expert Witness,” *The Forum*: Vol. 8, No. 3, Article 6 (2010).
- “Thoughts on the Revolution in Presidency Studies,” *Presidential Studies Quarterly* 39 (no. 4, December 2009).
- “Does Australia Have a Constitution? Part I – Powers: A Constitution Without Constitutionalism.” *UCLA Pacific Basin Law Journal* 25:228-264 (No. 2, Spring 2008). With Howard Schweber.
- “Does Australia Have a Constitution? Part II: The Rights Constitution.” *UCLA Pacific Basin Law Journal* 25:265-355 (No. 2, Spring 2008). With Howard Schweber.
- “Public Election Funding, Competition, and Candidate Gender.” *PS: Political Science and Politics* XL:661-667 (No. 4, October 2007). With Timothy Werner.
- “Do Public Funding Programs Enhance Electoral Competition?” In Michael P. McDonald and John Samples, eds., *The Marketplace of Democracy: Electoral Competition and American Politics* (Washington, DC: Brookings Institution Press, 2006). With Timothy Werner and Amanda Williams. Excerpted in Daniel H. Lowenstein, Richard L. Hasen, and Daniel P. Tokaji, *Election Law: Cases and Materials*. Durham, NC: Carolina Academic Press, 2008.
- “The Last 100 Days.” *Presidential Studies Quarterly* 35:533-553 (No. 3, September 2005). With William Howell.
- “Political Reality and Unforeseen Consequences: Why Campaign Finance Reform is Too Important To Be Left To The Lawyers,” *University of Richmond Law Review* 37:1069-1110 (No. 4, May 2003).

- "Unilateral Presidential Powers: Significant Executive Orders, 1949-1999." *Presidential Studies Quarterly* 32:367-386 (No. 2, June 2002). With Kevin Price.
- "Answering Ayres: Requiring Campaign Contributors to Remain Anonymous Would Not Resolve Corruption Concerns." *Regulation* 24:24-29 (No. 4, Winter 2001).
- "Student Attitudes Toward Instructional Technology in the Large Introductory US Government Course." *PS: Political Science and Politics* 33:597-604 (No. 3 September 2000). With John Coleman.
- "The Limits of Delegation – the Rise and Fall of BRAC." *Regulation* 22:32-38 (No. 3, October 1999).
- "Executive Orders and Presidential Power." *The Journal of Politics* 61:445-466 (No.2, May 1999).
- "Bringing Politics Back In: Defense Policy and the Theoretical Study of Institutions and Processes." *Public Administration Review* 56:180-190 (1996). With Anne Khademian.
- "Closing Military Bases (Finally): Solving Collective Dilemmas Through Delegation." *Legislative Studies Quarterly*, 20:393-414 (No. 3, August 1995).
- "Electoral Cycles in Federal Government Prime Contract Awards: State-Level Evidence from the 1988 and 1992 Presidential Elections." *American Journal of Political Science* 40:162-185 (No. 1, February 1995).
- "The Impact of Public Financing on Electoral Competitiveness: Evidence from Wisconsin, 1964-1990." *Legislative Studies Quarterly* 20:69-88 (No. 1, February 1995). With John M. Wood.
- "Policy Disputes as a Source of Administrative Controls: Congressional Micromanagement of the Department of Defense." *Public Administration Review* 53:293-302 (No. 4, July-August 1993).
- "Combat Aircraft Production in the United States, 1950-2000: Maintaining Industry Capability in an Era of Shrinking Budgets." *Defense Analysis* 9:159-169 (No. 2, 1993).

### **Book Chapters**

- "Framing Controversies over Free Speech and Academic Freedom in The University Setting." In *Campus Free Speech*, Lori Cox Han and Jerry Price, eds. ABC-CLIO. 2023. With Howard Schweber.
- "Is President Trump Conventionally Disruptive, or Unconventionally Destructive?" In *The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake*. Lanham, MD: Lexington Press, 2017. Co-edited with Amnon Cavari and Richard J. Powell.
- "Lessons of Defeat: Republican Party Responses to the 2012 Presidential Election. In Amnon Cavari, Richard J. Powell, and Kenneth R. Mayer, eds. *The 2012 Presidential Election: Forecasts, Outcomes, and Consequences*. Lanham, MD: Rowman and Littlefield. 2014.
- "Unilateral Action." George C. Edwards, III, and William G. Howell, *Oxford Handbook of the American Presidency* (New York: Oxford University Press, 2009).
- "Executive Orders," in Joseph Bessette and Jeffrey Tulis, *The Constitutional Presidency*. Baltimore: Johns Hopkins University Press, 2009.
- "Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform." In Gerald C. Lubenow, ed., *A User's Guide to Campaign Finance Reform*. Lanham, MD: Rowman & Littlefield, 2001.
- "Everything You Thought You Knew About Impeachment Was Wrong." In Leonard V. Kaplan and Beverly I. Moran, ed., *Aftermath: The Clinton Impeachment and the Presidency in the Age of Political Spectacle*. New York: New York University Press. 2001. With David T. Canon.
- "The Institutionalization of Power." In Robert Y. Shapiro, Martha Joynt Kumar, and Lawrence R. Jacobs, eds. *Presidential Power: Forging the Presidency for the 21<sup>st</sup> Century*. New York: Columbia University Press, 2000. With Thomas J. Weko.
- "Congressional-DoD Relations After the Cold War: The Politics of Uncertainty." In *Downsizing Defense*, Ethan Kapstein ed. Washington DC: Congressional Quarterly Press. 1993.
- "Elections, Business Cycles, and the Timing of Defense Contract Awards in the United States." In Alex Mintz, ed. *The Political Economy of Military Spending*. London: Routledge. 1991.
- "Patterns of Congressional Influence In Defense Contracting." In Robert Higgs, ed., *Arms, Politics, and the Economy: Contemporary and Historical Perspectives*. New York: Holmes and Meier. 1990.

## **Monographs**

- 2008 Election Data Collection Grant Program: Wisconsin Evaluation Report*. Report to the Wisconsin Government Accountability Board, September 2009. With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald P. Moynihan.
- Issue Advocacy in Wisconsin: Analysis of the 1998 Elections and A Proposal for Enhanced Disclosure*. September 1999.
- Public Financing and Electoral Competition in Minnesota and Wisconsin*. Citizens' Research Foundation, April 1998.
- Campaign Finance Reform in the States*. Report prepared for the Governor's Blue Ribbon Commission on Campaign Finance Reform (State of Wisconsin). February 1998. Portions reprinted in Anthony Corrado, Thomas E. Mann, Daniel Ortiz, Trevor Potter, and Frank J. Sorauf, ed., *Campaign Finance Reform: A Sourcebook*. Washington, D.C.: Brookings Institution, 1997.
- "Does Public Financing of Campaigns Work?" *Trends in Campaign Financing*. Occasional Paper Series, Citizens' Research Foundation, Los Angeles, CA. 1996. With John M. Wood.
- The Development of the Advanced Medium Range Air-to-Air Missile: A Case Study of Risk and Reward in Weapon System Acquisition*. N-3620-AF. Santa Monica: RAND Corporation. 1993.
- Barriers to Managing Risk in Large Scale Weapons System Development Programs*. N-4624-AF. Santa Monica: RAND Corporation. 1993. With Thomas K. Glennan, Jr., Susan J. Bodilly, Frank Camm, and Timothy J. Webb.

## **Other**

- "Presidents Can't Declassify Documents with Green Lantern Superpowers." *The Monkey Cage* (Washington Post), August 19, 2022. With Andrew Rudalevige.
- "Campaign Finance: Some Basics." Bauer-Ginsberg Campaign Finance Task Force, Stanford University. September 2017. With Elizabeth M. Sawyer.
- "The Wisconsin Recount May Have a Surprise in Store after All." *The Monkey Cage* (Washington Post), December 5, 2016. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- Review of Jason K. Dempsey, *Our Army: Soldiers, Politicians, and American Civil-Military Relations*. *The Forum* 9 (No. 3, 2011).
- "Voting Early, but Not Often." *New York Times*, October 25, 2010. With Barry C. Burden.
- Review of John Samples, *The Fallacy of Campaign Finance Reform* and Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform*. *The Forum* 6 (No. 1, 2008).
- Review Essay, *Executing the Constitution: Putting the President Back Into the Constitution*, Christopher S. Kelley, ed.; *Presidents in Culture: The Meaning of Presidential Communication*, David Michael Ryfe; *Executive Orders and the Modern Presidency: Legislating from the Oval Office*, Adam L. Warber. In *Perspective on Politics* 5:635-637 (No. 3, September 2007).
- "The Base Realignment and Closure Process: Is It Possible to Make Rational Policy?" Brademas Center for the Study of Congress, New York University. 2007.
- "Controlling Executive Authority in a Constitutional System" (comparative analysis of executive power in the U.S. and Australia), manuscript, February 2007.
- "Campaigns, Elections, and Campaign Finance Reform." *Focus on Law Studies*, XXI, No. 2 (Spring 2006). American Bar Association, Division for Public Education.
- "Review Essay: Assessing The 2000 Presidential Election – Judicial and Social Science Perspectives." *Congress and the Presidency* 29: 91-98 (No. 1, Spring 2002).
- Issue Briefs (Midterm Elections, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform) *2006 Reporter's Source Book*. Project Vote Smart. 2006. With Meghan Condon.
- "Sunlight as the Best Disinfectant: Campaign Finance in Australia." Democratic Audit of Australia,

Australian National University. October 2006.

“Return to the Norm,” *Brisbane Courier-Mail*, November 10, 2006.

“The Return of the King? Presidential Power and the Law,” *PRG Report XXVI*, No. 2 (Spring 2004).

Issue Briefs (Campaign Finance Reform, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform), *2004 Reporter’s Source Book*. Project Vote Smart. 2004. With Patricia Strach and Arnold Shober.

“Where’s That Crystal Ball When You Need It? Finicky Voters and Creaky Campaigns Made for a Surprise Electoral Season. And the Fun’s Just Begun.” *Madison Magazine*. April 2002.

“Capitol Overkill.” *Madison Magazine*, July 2002.

Issue Briefs (Homeland Security; Foreign Affairs and Defense Policy; Education; Economy, Budget and Taxes; Social Welfare Policy), *2002 Reporter’s Source Book*. Project Vote Smart. 2002. With Patricia Strach and Paul Manna.

“Presidential Emergency Powers.” *Oxford Analytica Daily Brief*. December 18, 2001.

“An Analysis of the Issue of Issue Ads.” *Wisconsin State Journal*, November 7, 1999.

“Background of Issue Ad Controversy.” *Wisconsin State Journal*, November 7, 1999.

“Eliminating Public Funding Reduces Election Competition.” *Wisconsin State Journal*, June 27, 1999.

Review of *Executive Privilege: The Dilemma of Secrecy and Democratic Accountability*, by Mark J. Rozell. *Congress and the Presidency* 24 (No. 1, 1997).

“Like Marriage, New Presidency Starts In Hope.” *Wisconsin State Journal*. March 31, 1996.

Review of *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy*, by Lani Guinier. *Congress and the Presidency* 21: 149-151 (No. 2, 1994).

Review of *The Best Defense: Policy Alternatives for U.S. Nuclear Security From the 1950s to the 1990s*, by David Goldfisher. *Science, Technology, and Environmental Politics Newsletter* 6 (1994).

Review of *The Strategic Defense Initiative*, by Edward Reiss. *American Political Science Review* 87:1061-1062 (No. 4, December 1993).

Review of *The Political Economy of Defense: Issues and Perspectives*, Andrew L. Ross ed. *Armed Forces and Society* 19:460-462 (No. 3, April 1993)

Review of *Space Weapons and the Strategic Defense Initiative*, by Crockett Grabbe. *Annals of the American Academy of Political and Social Science* 527: 193-194 (May 1993).

“Limits Wouldn’t Solve the Problem.” *Wisconsin State Journal*, November 5, 1992. With David T. Canon.

“Convention Ceded Middle Ground.” *Wisconsin State Journal*, August 23, 1992.

“CBS Economy Poll Meaningless.” *Wisconsin State Journal*, February 3, 1992.

“It’s a Matter of Character: Pentagon Doesn’t Need New Laws, it Needs Good People.” *Los Angeles Times*, July 8, 1988.

### **Conference Papers**

“A New Individual-Level Model for Estimating and Simulating the Effects of Redistricting.” Presented at the 2023 Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 12-16, 2023. With Blake Reynolds.

“Voter Identification and Nonvoting in Wisconsin – Evidence from the 2016 Election.” Presented at the 2018 Annual Meeting of the Midwest Political Science Association, Chicago, IL April 5-8, 2018. With Michael G. DeCrescenzo.

“Learning from Recounts.” Presented at the Workshop on Electoral Integrity, San Francisco, CA, August 30, 2017, and at the 2017 Annual Meeting of the American Political Science Association, San Francisco, CA, August 31-September 3, 2017. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.

“What Happens at the Polling Place: Using Administrative Data to Understand Irregularities at the Polls.” Conference on New Research on Election Administration and Reform, Massachusetts Institute of Technology, Cambridge, MA, June 8, 2015. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.

- “Election Laws and Partisan Gains: What are the Effects of Early Voting and Same Day Registration on the Parties' Vote Shares.” 2013 Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 11-14, 2013. Winner of the Robert H. Durr Award.
- “The Effect of Public Funding on Electoral Competition: Evidence from the 2008 and 2010 Cycles.” Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Amnon Cavari.
- “What Happens at the Polling Place: A Preliminary Analysis in the November 2008 General Election.” Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.
- “Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform.” 2010 Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 2010. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
- “Selection Methods, Partisanship, and the Administration of Elections. Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 22-25, 2010. Revised version presented at the Annual Meeting of the European Political Science Association, June 16-19, 2011, Dublin, Ireland. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
- “The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections.” Annual Meeting of the American Political Science Association, Toronto, Canada, September 3-5, 2009. With Barry C. Burden, David T. Canon, and Donald P. Moynihan.
- “Comparative Election Administration: Can We Learn Anything From the Australian Electoral Commission?” Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007.
- “Electoral Transitions in Connecticut: Implementation of Public Funding for State Legislative Elections.” Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007. With Timothy Werner.
- “Candidate Gender and Participation in Public Campaign Finance Programs.” Annual Meeting of the Midwest Political Science Association, Chicago IL, April 7-10, 2005. With Timothy Werner.
- “Do Public Funding Programs Enhance Electoral Competition?” 4<sup>th</sup> Annual State Politics and Policy Conference,” Akron, OH, April 30-May 1, 2004. With Timothy Werner and Amanda Williams.
- “The Last 100 Days.” Annual Meeting of the American Political Science Association, Philadelphia, PA, August 28-31, 2003. With William Howell.
- “Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform.” Citizens’ Research Foundation Forum on Campaign Finance Reform, Institute for Governmental Studies, University of California Berkeley. August 2000.
- “The Importance of Moving First: Presidential Initiative and Executive Orders.” Annual Meeting of the American Political Science Association, San Francisco, CA, August 28-September 1, 1996.
- “Informational vs. Distributive Theories of Legislative Organization: Committee Membership and Defense Policy in the House.” Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.
- “Department of Defense Contracts, Presidential Elections, and the Political-Business Cycle.” Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.
- “Problem? What Problem? Congressional Micromanagement of the Department of Defense.” Annual Meeting of the American Political Science Association, Washington DC, August 29 - September 2, 1991.

### **Talks and Presentations**

- “Turnout Effects of Voter ID Laws.” Rice University, March 23, 2018; Wisconsin Alumni Association, October 13, 2017. With Michael DeCrescenzo.
- “Informational and Turnout Effects of Voter ID Laws.” Wisconsin State Elections Commission, December 12, 2017; Dane County Board of Supervisors, October 26, 2017. With Michael DeCrescenzo.

“Voter Identification and Nonvoting in Wisconsin, Election 2016. American Politics Workshop, University of Wisconsin, Madison, November 24, 2017.

“Gerrymandering: Is There A Way Out?” Marquette University. October 24, 2017.

“What Happens in the Districting Room and What Happens in the Courtroom” Geometry of Redistricting Conference, University of Wisconsin-Madison October 12, 2017.

“How Do You Know? The Epistemology of White House Knowledge.” Clemson University, February 23, 2016.

Roundtable Discussant, Separation of Powers Conference, School of Public and International Affairs, University of Georgia, February 19-20, 2016.

Campaign Finance Task Force Meeting, Stanford University, February 4, 2016.

Discussant, “The Use of Unilateral Powers.” American Political Science Association Annual Meeting, August 28-31, 2014, Washington, DC.

Presenter, “Roundtable on Money and Politics: What do Scholars Know and What Do We Need to Know?” American Political Science Association Annual Meeting, August 28-September 1, 2013, Chicago, IL.

Presenter, “Roundtable: Evaluating the Obama Presidency.” Midwest Political Science Association Annual Meeting, April 11-14, 2012, Chicago, IL.

Panel Participant, “Redistricting in the 2010 Cycle,” Midwest Democracy Network,

Speaker, “Redistricting and Election Administration,” Dane County League of Women Voters, March 4, 2010.

Keynote Speaker, “Engaging the Electorate: The Dynamics of Politics and Participation in 2008.” Foreign Fulbright Enrichment Seminar, Chicago, IL, March 2008.

Participant, Election Visitor Program, Australian Electoral Commission, Canberra, ACT, Australia. November 2007.

Invited Talk, “Public Funding in State and Local Elections.” Reed College Public Policy Lecture Series. Portland, Oregon, March 19, 2007.

Fulbright Distinguished Chair Lecture Tour, 2006. Public lectures on election administration and executive power. University of Tasmania, Hobart (TAS); Flinders University and University of South Australia, Adelaide (SA); University of Melbourne, Melbourne (VIC); University of Western Australia, Perth (WA); Griffith University and University of Queensland, Brisbane (QLD); Institute for Public Affairs, Sydney (NSW); The Australian National University, Canberra (ACT).

Discussant, “Both Ends of the Avenue: Congress and the President Revisited,” American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.

Presenter, “Researching the Presidency,” Short Course, American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.

Discussant, Conference on Presidential Rhetoric, Texas A&M University, College Station, TX. February 2004.

Presenter, “Author Meets Author: New Research on the Presidency,” 2004 Southern Political Science Association Meeting, January 8-11, New Orleans, LA.

Chair, “Presidential Secrecy,” American Political Science Association Meeting, August 28-31, 2003, Philadelphia, PA.

Discussant, “New Looks at Public Approval of Presidents.” Midwest Political Science Association Meeting, April 3-6, 2003, Chicago, IL.

Discussant, “Presidential Use of Strategic Tools.” American Political Science Association Meeting, August 28-September 1, 2002, Boston, MA.

Chair and Discussant, “Branching Out: Congress and the President.” Midwest Political Science Association Meeting, April 19-22, 2001, Chicago, IL.

Invited witness, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, U.S. House of Representatives. *Hearing on Executive Order and Presidential Power*, Washington, DC. March 22, 2001.

“The History of the Executive Order,” Miller Center for Public Affairs, University of Virginia (with Griffin Bell and William Howell), January 26, 2001.  
 Presenter and Discussant, Future Voting Technologies Symposium, Madison, WI May 2, 2000.  
 Moderator, Panel on Electric Utility Reliability. Assembly Staff Leadership Development Seminar, Madison, WI. August 11, 1999.  
 Chair, Panel on “Legal Aspects of the Presidency: Clinton and Beyond.” Midwest Political Science Association Meeting, April 15-17, 1999, Chicago, IL.  
 Session Moderator, National Performance Review Acquisition Working Summit, Milwaukee, WI. June 1995.  
 American Politics Seminar, The George Washington University, Washington D.C., April 1995.  
 Invited speaker, Defense and Arms Control Studies Program, Massachusetts Institute of Technology, Cambridge, MA, March 1994.  
 Discussant, International Studies Association (Midwest Chapter) Annual Meeting, Chicago IL, October 29-30, 1993.  
 Seminar on American Politics, Princeton University, January 16-17, 1992.  
 Conference on Defense Downsizing and Economic Conversion, October 4, 1991, Harvard University.  
 Conference on Congress and New Foreign and Defense Policy Challenges, The Ohio State University, Columbus OH, September 21-22, 1990, and September 19-21, 1991.  
 Presenter, "A New Look at Short Term Change in Party Identification," 1990 Meeting of the American Political Science Association, San Francisco, CA.

### **University and Department Service**

Cross-Campus Human Research Protection Program (HRPP) Advisory Committee, 2019-2021.  
 UW Athletic Board, 2014-2022.  
 General Education Requirements Committee (Letters and Science), 1997-1998.  
 Communications-B Implementation Committee (Letters and Science), 1997-1999  
 Verbal Assessment Committee (University) 1997-1998.  
 College of Letters & Science Faculty Appeals Committee (for students dismissed for academic reasons).  
 Committee on Information Technology, Distance Education and Outreach, 1997-98.  
 Hilldale Faculty-Student Research Grants, Evaluation Committee, 1997, 1998.  
 Department Computer Committee, 1996-1997; 1997-1998, 2005-2006. Chair, 2013-present.  
 Faculty Senate, 2000-2002, 2002-2005. Alternate, 1994-1995; 1996-1999; 2015-2016.  
 Preliminary Exam Appeals Committee, Department of Political Science, 1994-1995.  
 Faculty Advisor, Pi Sigma Alpha (Political Science Honors Society), 1993-1994.  
 Department Honors Advisor, 1991-1993.  
 Brown-bag Seminar Series on Job Talks (for graduate students), 1992.  
 Keynote speaker, Undergraduate Honors Symposium, April 13 1991.  
 Undergraduate Curriculum Committee, Department of Political Science, 1990-1992; 1993-1994.  
 Individual Majors Committee, College of Letters and Sciences, 1990-1991.  
 Dean Reading Room Committee, Department of Political Science, 1989-1990; 1994-1995.

# EXHIBIT 3



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**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

Montana Federation of Public Employees,  
Plaintiff,

v.

State of Montana and Christi Jacobsen, in  
her official capacity as Montana Secretary  
of State,

Defendants.

Case No. DV-25-268

**DECLARATION OF  
AMANDA CURTIS**

1. My name is Amanda Curtis. I am over 18 years old. I make this declaration based upon my personal knowledge and experience, and in support of Plaintiffs' motion for summary judgment in the above-captioned matter.

2. I am President of the Montana Federation of Public Employees ("MFPE"), which is a co-Plaintiff in litigation currently pending before the First Judicial District in Lewis and Clark County that challenges the constitutionality of Senate Bill 490.

3. The Montana Federation of Public Employees ("MFPE") is Montana's largest union of dedicated public employees, representing tens of thousands of members. MFPE's membership represents every corner of Montana's electorate; its members include new workers entering the workforce, retirees, and Montanans with disabilities.

4. Since 2020, a significant number of MFPE members have utilized election day registration in order to register and cast a ballot. For example, one hundred and thirty-nine MFPE members utilized election day registration in the 2020 statewide general election. Of those members, 22 updated their registration to a new county, 74 updated their registration to a new precinct, and 43 registered or updated their voter registration for other reasons.

5. Many MFPE members also relied on election day registration during the 2022 and 2024 statewide primary and general elections to exercise their right to vote. MFPE cannot yet quantify the precise number because it has not yet received the voter file or late registration report in discovery. However, based on conversations with members, I expect that MFPE members used election day registration at similar rates or higher.

6. Election day registration is especially important for first time Montana voters and working Montanans, including union members such as those that MFPE represents.

7. In many counties, election day is the only day when county election offices are open outside of regular business hours. For MFPE members who work during business hours, election day may therefore be the only opportunity they have to update their voter registration or register to vote because election offices are open on that day until 8:00 p.m.

8. For example, Cullen Hinkle is a high school teacher who typically works until 7:00 pm. Mr. Hinkle, who had moved to Montana before the November 2020 election, relied on election day registration to register as a new Montana voter and cast his ballot. Had SB 490, which imposes a 12:00 pm deadline, been in effect, Mr. Hinkle would have been turned away.

9. Election day registration also serves as a critical failsafe for MFPE members who need to update their registration to reflect a change in address or a name change.

10. For example, MFPE member, Wyatt Murdoch, like Mr. Hinkle, is also a teacher. At the time of the 2020 election, he had moved from Bozeman, where he was still registered to vote, to Wolf Point—over 6 hours away. Mr. Murdoch was able to update his registration and vote in Wolf Point in 2020, but had SB 490 been law, he would not have been permitted to, as his contract required him to be present at school until 4:30 pm on election day. Mr. Murdoch's teaching contract still requires him to be present at school until after 4:00 pm on election day. He also coaches sports and advises student clubs, both of which require time after school and on weekends for meetings and events. As a result, he would be unable to address any unexpected issues with his registration prior to noon on election day in the upcoming election.

11. Offering election day registration until 12 pm would not have made a tangible difference for these MFPE members. Mr. Hinkle and Mr. Murdoch's work schedules would not have allowed them to get to the polls before 12 pm. Likewise, for many MFPE members, including Mr. Murdoch, the addition of Saturday hours does nothing to cure the harm created by the elimination of 7 hours of election day registration. Late registration was already offered in certain Montana counties on the

Saturday prior to election day. And many MFPE members with non-traditional work schedules—such as teachers who coach sports teams, law enforcement officers, and state prison and state hospital employees—work on Saturdays and thus cannot take time away from work to visit their county elections office.

12. Election day registration is also important to MFPE members who discover that their registration contains government-created errors such as a misspelled name or address, MFPE members who have their voter registration inactivated without their knowledge, and MFPE members who are part of the disability community and are unable to register by mail and must travel to a county elections office to register to vote.

13. By reducing the number of trips necessary to register and vote—and by preserving the option of fixing registration issues and voting in the same day—election day registration ensures that these MFPE members have their votes cast and counted. Without it, many of them would be disenfranchised.

14. In addition to harming MFPE's members, SB 490 also harms MFPE as an organization. Registering its members to vote is central to MFPE's mission. SB 490 directly impedes MFPE's mission by making it more difficult for MFPE to ensure that its members are registered and able to cast their ballots. For that reason, MFPE has championed election day registration since it was enacted in 2005, helped lead the successful effort to stop its repeal in 2014, and worked to oppose HB 176

in 2021. *Montana Fed’n of Pub. Emps. et al. v. Jacobsen*, No. CDV 21-0500 (Mont. Dist. Sep. 22, 2021).

15. As part of the HB 176 lawsuit, MFPE conducted an in-depth investigation of its members’ utilization of, and reliance on, election day registration in Montana. The Montana Supreme Court relied on MFPE’s research and analysis to reach its findings regarding election day registration in *MDP*. *See e.g., MDP* ¶ 70 (“the record shows that more than 70,000 Montanans have utilized election day registration to vote since 2005”). *See also id.* ¶ 72 (noting the law “burdened” two voters named by MFPE in its brief and “59 Montanans who were prevented from voting due to HB 176 in the November 2021 municipal elections”); *id.* ¶ 73 (“More than 60% of Montanans that utilize election day registration are under the age of 34.”).

16. Now that the Legislature has successfully and dramatically curtailed election day registration, in order to provide critical voter support services to its members, MFPE must again spend its limited resources to ensure that its members are able to register, remain registered, and ultimately cast their ballots. For example, MFPE is currently developing a plan to update its current voter registration mailers to ensure that its membership is aware that election day registration will no longer be available after 12:00 pm. Because MFPE members with non-traditional work schedules will be especially impacted by SB 490, MFPE is also developing a

targeted communications campaign to reach those members and, where possible, to assist them in developing a plan to ensure that they are not disenfranchised.

17. The time and resources that MFPE must expend on these efforts as a result of SB 490 will detract from MFPE's ability to support its Decennial Study Leadership Committee, which focuses on talking to legislators and organizing town halls to discuss whether the school funding formula currently meets Montana's constitutional obligation to fulfill the educational potential of every student through a system of public schools. The Decennial Study is critical to MFPE's mission because the majority of our members are school employees. The volatility in per-student funding impacts the ability of our members to hire educators and to access stable employment, which in turn leads to gaps in student learning.

18. These harms to MFPE and its membership will continue for as long as SB 490 remains law.

I declare under penalty of perjury under the laws of the State of Montana that the foregoing is true and correct.

DATE: January 20, 2026  
PLACE: Helena, Montana

A handwritten signature in cursive script that reads "Amanda Curtis". The signature is written in black ink and is positioned above a horizontal line.

---

Amanda Curtis



# EXHIBIT 4

**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

|                                                                                                                                                                                                 |                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Montana Federation of Public Employees,<br><br>Plaintiff,<br><br>v.<br><br>State of Montana and Christi Jacobsen,<br>in her official capacity as Montana Secretary of State,<br><br>Defendants. | Case No. DV-25-2025-268<br><br><b>DECLARATION OF WYATT MURDOCH</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|

I, Wyatt Murdoch, declare as follows:

1. I am a social studies teacher currently residing in Three Forks, Montana. I make this declaration based on my personal knowledge.
2. At the time of the November 2020 general election, I was teaching in Wolf Point, Montana. Shortly before the election, I had moved from Bozeman, Montana, which is approximately six hours and twenty-five minutes from Wolf Point.
3. My teaching contract required me to be present at school until 4:30 p.m. on Election Day.
4. After finishing school on Election Day in November 2020, I went directly to the county elections office in Wolf Point.
5. At the elections office, I was able to update my voter registration to reflect my new residence in Wolf Point and cast my ballot.

6. Without full-day election day registration, I would only have been permitted to vote in Bozeman, which was no longer my residence and was more than six hours away.

7. Because I was required to work the full school day, I could not have traveled to Bozeman in time to vote before polls closed at 8:00 p.m.

8. Had election day registration closed at noon on Election Day, I would not have been able to vote.

9. My teaching contract still requires me to be present at school until 4:00 pm on Election Day, which makes it difficult for me to resolve any unexpected issues with my registration during business hours, including on election day. Outside of my teaching duties, I also coach sports and advise student clubs, both of which require time after school for meetings and weekends for events. As a result, I would be unable to address any potential issues with my registration prior to noon on Election Day.

I declare under penalty of perjury under the laws of the State of Montana that the foregoing is true and correct.

DATED this 16 day of January, 2026.

  
Wyatt Murdoch

# EXHIBIT 5

**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

|                                                                                                                                                                                                       |                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Montana Federation of Public<br>Employees,<br><br>Plaintiff,<br><br>v.<br><br>State of Montana and Christi Jacobsen,<br>in her official capacity as Montana<br>Secretary of State,<br><br>Defendants. | Case No. DV-25-2025-268<br><br><br><b>DECLARATION OF CULLEN<br/>HINKLE</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|

I, Cullen Hinkle, declare as follows:

1. I am a high school band teacher in Havre, Montana. I make this declaration based on my personal knowledge.
2. My workdays are long. While I worked in Havre, my days began at approximately 6:30 a.m. and I worked until around 7:00 p.m., well outside the normal business hours of the county election office.
3. The year 2020 was particularly demanding. I was responsible for overseeing more than 200 students, many of whom were repeatedly entering and existing mandatory quarantines. My professional responsibilities during that time were significant and unpredictable.

4. Because of my work schedule and responsibilities, I did not have time to visit the local election office during regular business hours prior to Election Day.

5. Voting is exceptionally important to me. On Election Day in November 2020, I left school early so that I could go to the polls and vote.

6. Shortly before the election, I moved to Havre, Montana, from Louisiana. As a result, I registered as a new Montana voter on Election Day and cast my ballot.

7. If Election Day registration had had limited hours, I would have been unable to vote. I could not have returned to Louisiana in order to vote there, and I would have been turned away from the polls despite meeting all eligibility requirements to vote in Montana.

8. Had Election Day registration closed at noon in November 2020, I would have been prevented from voting.

I declare under penalty of perjury under the laws of the State of Montana that the foregoing is true and correct.

DATED 1/18/2026

Cullen Hinkle  
Cullen Hinkle

# EXHIBIT 6

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MONTANA FIRST JUDICIAL DISTRICT COURT  
COUNTY OF LEWIS AND CLARK

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,  
Plaintiff,

NORTHERN CHEYENNE TRIBE, BLACKFEET  
NATION, CONFEDERATED SALISH AND  
KOOTENAI TRIBES, FORT BELKNAP INDIAN  
COMMUNITY, and WESTERN NATIVE VOICE,  
Plaintiff-Intervenors,

FORWARD MONTANA and MONTANA PUBLIC  
INTEREST RESEARCH GROUP,  
Youth Plaintiff-Intervenors,

v.

STATE OF MONTANA, and CHRISTI  
JACOBSEN, in her official capacity as Montana  
Secretary of State,  
Defendants.

Cause No. ADV-25-2025-0268

**DECLARATION OF  
RONNIE JO HORSE**



I, Ronnie Jo Horse, declare as follows:

1. I am the Executive Director of Western Native Voice, a non-profit Plaintiff-Intervenor in this case. I submit this declaration in support of Plaintiff-Intervenors' Motion for Summary Judgment or in the alternative for a Preliminary Injunction. Except as otherwise stated, I have personal knowledge of the matters set forth herein and can and will testify thereto if called upon to do so.

2. I have lived in Montana for 26 years. I am a descendant of the Oglala Lakota and Northern Cheyenne Nations. I have been working as Executive Director of Western Native Voice since 2021.

3. In my role as Executive Director, I helped direct and oversee Western Native Voice's get-out-the-vote ("GOTV") efforts during the 2020, 2022, and 2024 election cycles. Those efforts included providing rides to the polls for voters on Election Day to access both registration and voting. In addition, my responsibilities include fundraising, program development and oversight, and staff supervision.

**Western Native Voice's GOTV and Ride to the Polls Activities**

4. Western Native Voice is a Native American-led organization that organizes and advocates in order to build Native leadership within Montana. Western Native Voice is a domestic non-profit organization in good standing with the Montana Secretary of State with Yellowstone County as its primary place of business.

5. We are a membership-based organization established in 2011. We have over 10,000 members across the state of Montana. Our members include Native Americans who will be affected by SB 490's limitation on Election Day Registration ("EDR").

6. Our organization's core goals include enhancing the political effectiveness of Native communities in Montana. We have four areas of focus: civic engagement, education, leadership development, and public policy advocacy.

7. Civic engagement is a crucial part of Western Native Voice's activities, especially through GOTV programs. Western Native Voice conducts GOTV efforts on all seven reservations and in Native American communities in Billings, Great Falls, and Missoula, Montana. Western Native Voice's GOTV efforts include canvassing reservations and urban Indian centers, discussing the importance of voting and civic participation with voters, and educating voters about how to engage in the civic process. Voter education and facilitation of

voter registration are core to Western Native Voice's GOTV work and vital to voter turnout across Montana's Native American communities.

8. Western Native Voice engages only in non-partisan GOTV work. In our work with Native communities, we highlight the importance of civic engagement and greater participation in local civic affairs and in the electoral process.

9. In past statewide election cycles, Western Native Voice hired community organizers whose jobs included providing rides to the county seat and satellite voting locations on Election Day for voters to access EDR.

10. Western Native Voice is able to engage in this work by hiring organizers living on reservations to work in each community. Each organizer participates in several days of training before they begin their GOTV program. This training enables the organizers to be effective once out in the field. The training discusses the history of suppression of the Native American vote and the importance of the Native vote. The organizers then carry the message of the importance of the Native American vote with them when they go out into the community. As part of their employment, these organizers would provide rides to the polls on Election Day.

11. Through our GOTV, ballot assistance—including helping voters request and return mail ballots or replacement ballots—community organizing efforts, Western Native Voice helped increase voter turnout in Indian Country in Montana. Individuals canvassed by us or our partner organizations just one time were 4.1% more likely to vote, while those who were canvassed through face-to-face conversations at their doors multiple times were 12.2% more likely to vote. Even with Western Native Voice's efforts, turnout in Indian Country in Montana lags behind statewide turnout. For instance, in 2024, turnout in Indian Country ran more than 8 points behind the statewide turnout of 76.57%.

### **Voting in Indian Country**

12. Prior to the enactment of SB 490, and other prior enactments that we have had to challenge in the courts, Native Americans living on reservations in Montana already faced many obstacles to voting that are not prevalent in other parts of the state. One obstacle is lack of uniform and consistent addressing systems.

13. A second obstacle is the limited opportunity for residential mail delivery. Most Native Americans living on reservations in Montana do not receive mail at home and must instead use a post office box, which is not always a free service in tribal communities. Multiple

families frequently share a single post office box, and there are financial barriers associated with having to travel to collect and post mail and to pay for stamps.

14. A third obstacle is the long distances voters must travel to reach county election offices to register to vote and hand-deliver their ballots. On average, Native Americans living on reservations in Montana must travel 85 miles round trip to reach their county election office. Even though there are a few satellite voting locations now open in Indian Country, they are generally staffed for limited days and hours, and they can still be located quite far from some of the rural communities on the reservations.

15. A fourth obstacle is that tribal governments must submit written requests for satellite election services on an annual basis. For multiple past federal election cycles and again for the upcoming election, Western Native Voice has invested considerable time in working with tribal governments to help them meet the deadline to properly request such services.

#### **Effects of SB 490 on Western Native Voice's GOTV Activities**

16. Native Americans residing on reservations are more likely to be geographically isolated from polling centers where in-person voter registration services exist. Native Americans often lack the means to travel to those locations to register to vote or drop off a voter registration application prior to an election. Further structural barriers—such as lack of broadband, limited government office hours, and fewer nearby election offices—mean that shorter EDR windows can have a disproportionate effect on Native communities.

17. Native voters are also a highly mobile population due to moving around to seek employment and due to insecure housing. When a voter moves and becomes a resident of another county, they must re-register in that county.

18. Because of these barriers, many Native Americans residing on rural reservations rely on EDR so that they can make only one trip to the polling center to register and vote on the same day.

19. Access to EDR later in the day is also critical for Native Americans as many such voters—especially those working hourly jobs, seasonal work, or multiple jobs—cannot reach registration or polling locations before noon. Afternoon and evening access ensures these voters are not effectively excluded from participating.

20. Western Native Voice engages in robust election day activities, including door knocking, ballot assistance, and providing rides to the county seat for EDR.

21. Especially in communities on reservations, EDR is vital to the democratic process in Indian Country. Many Native American voters traditionally vote on Election Day and so need to rely on EDR to address any issue with their registration that day.

22. Providing rides to the county seat on election day is particularly important on rural reservations, where many individuals lack access to transportation. Many Native American voters also do not understand that if their address changes they will need to re-register to vote. They often find out about the necessity to re-register on Election Day itself and rely on Western Native Voice or its partners to provide a ride to the county seat.

23. In prior election cycles, Western Native Voice has hired hundreds of individuals to work exclusively on Election Day.

24. Each general election, Western Native Voice provides rides for voters to the county seat so that they may register and vote.

25. Since 2018, Western Native Voice organizers have provided rides to the county election office on election day in order to register voters, including between noon and 8 p.m.

26. Providing rides to the county seat is a key component of Western Native Voice's strategy to increase voter turnout.

27. Across the past two federal election cycles, Western Native Voice has assisted almost 100 voters in accessing registration on Election Day alone.

28. In 2022 and 2024, the vast majority of the rides provided by Western Native Voice were after noon. In 2024 alone, 82% of the rides Western Native Voice gave across the state occurred after the 12 p.m. voter registration deadline now imposed by SB 490. That means the vast majority of Native voters that Western Native Voice assisted would have arrived too late to cast a ballot under SB 490, despite having the clear intent and eligibility to vote.

29. As another example, in 2020, Lauri Kindness, an organizer for Western Native Voice, drove 150 people from the Crow Reservation to register to vote at the Big Horn County Elections Office on Election Day.

30. The long distances between polling locations and reservation communities make it nearly impossible for Native voters who may unknowingly have issues with their ballots or registration to cure those issues before a noon deadline, even with the best-laid plans. Rural and reservation-based voters often face time delays in accessing voting services. Long travel distances, limited transportation options, weather conditions, and road quality can make it unrealistic for voters to arrive earlier in the day. Transportation challenges, jobs, weather,

childcare obligations, and limited election infrastructure make it unreasonable to expect voters to navigate a complex process under a compressed timeline.

31. By truncating the deadline for EDR, SB 490 risks disenfranchising voters who encounter unforeseen circumstances, such as address changes, clerical errors, or personal hardships preventing them from registering before the regular deadline.

32. SB 490 is already impacting Western Native Voice's operations. We expect that we will no longer be able to employ certain organizers only on Election Day as the opportunity for EDR has been so severely curtailed. Instead, we will be forced to spend additional resources to hire organizers earlier in the election cycle in order to mobilize turnout.

33. By doing away with eight hours of voter registration, including during the time of day that Native American voters typically make use of EDR, SB 490 will stymie Western Native Voice's efforts to expand voter turnout among Montana's Native American population. Likewise, SB 490 will require Western Native Voice to increase its staff and number of cars in order for the organization to even try to serve the same number of voters in the severely limited number of hours during which EDR is now available.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 16, 2026, in Billings, Montana.



---

Ronnie Jo Horse

# EXHIBIT 7

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\*motion for admission *pro hac vice* pending

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MONTANA FIRST JUDICIAL DISTRICT COURT  
COUNTY OF LEWIS AND CLARK

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,

Plaintiff,

NORTHERN CHEYENNE TRIBE, BLACKFEET  
NATION, CONFEDERATED SALISH AND  
KOOTENAI TRIBES, FORT BELKNAP INDIAN  
COMMUNITY, and WESTERN NATIVE VOICE,

Plaintiff-Intervenors,

FORWARD MONTANA and MONTANA PUBLIC  
INTEREST RESEARCH GROUP,  
Youth Plaintiff-Intervenors,

v.

STATE OF MONTANA, and CHRISTI JACOBSEN,  
in her official capacity as Montana Secretary of  
State,

Defendants.

Cause No. ADV-25-2025-0268-IJ

Hon. Adam M. Larsen

**DECLARATION OF  
MELISSA LONEBEAR**

I, Melissa Lonebear, make this declaration as follows:

1. I am a member of the Northern Cheyenne Tribe and have lived on the Northern

Cheyenne Reservation my entire life. I submit this declaration in support of Plaintiff-Intervenors' Motion for Summary Judgment or in the alternative for a Preliminary Injunction.

2. In November 2022, I was elected to the Northern Cheyenne Tribal Council. For over one decade (2007-2010), I served as an officer of the Tribe – Tribal Secretary. As Tribal Secretary, I supported the Tribal elections, which occur at minimum every two years to coincide with the federal and state election cycles. In that role, I had the opportunity to witness the activities at polling stations and voter behavior and been involved in many voter issues, including actions to facilitate voter turnout as much as possible. Except as otherwise stated, I have personal knowledge of the matters set forth herein and can and will testify thereto if called upon to do so.

3. The Northern Cheyenne Tribe is a sovereign, federally recognized tribe with approximately 12,385 enrolled tribal members. Approximately 3,133 are 18 years of age or older and live on the reservation. The Northern Cheyenne Reservation spans approximately 444,000 acres. The reservation is intersected by Big Horn and Rosebud counties.

4. Most houses on the Northern Cheyenne Reservation do not receive mail delivery. As a consequence, members rely on P.O. boxes to send and receive mail. Often, tribal members share P.O. boxes because there is a fee associated with the boxes, because there may not be enough boxes to service the entire population, and because members often cannot regularly pick up their own mail and must depend on others to pick up and deliver their mail for them. Distance to post offices varies among members living on the reservation and many people do not have reliable transportation to access their P.O. boxes.

5. Northern Cheyenne suffers from a high poverty rate. According to the most recent American Community Survey, the poverty is over 40% in the Northern Cheyenne Reservation.



The Reservation experienced an increase in poverty rates (8.5 percent) among the American Indian population from 2015 to 2022. The average per capita income in Lane Deer is \$11,293 compared to \$27,655 for Rosebud County and \$43,289 for the United States.

6. Given the extreme poverty, many members do not own or have access to a reliable vehicle. Many people share vehicles and catch rides or use the Tribal transit if it is running. Those who do have vehicles cannot always afford a tank of gas for a mail run, choosing instead to spend limited funds on necessities such as food or heating. Cost of fuel is a big issue on the Northern Cheyenne Reservation and only Lane Deer and Ashland have available fuel stations.

7. Many homes and buildings on the reservation do not have traditional residential addresses, meaning that they do not have formal, assigned street addresses with sequential numbers and named streets. The lack of standardized addressing makes it difficult for members to complete their voter registration forms and more likely that their voter registration forms will be rejected. At times, Northern Cheyenne members may believe they are registered, only to find out when they attempt to vote that there is an issue with their registration address that requires them to re-register.

8. There is an extreme housing shortage on the Northern Cheyenne Reservation, with many family, friends, and acquaintances sharing homes. Overcrowding is extremely common and there is a lengthy waitlist for housing. It is not uncommon to have upwards of 20 or more people sharing a home. Many are fearful of letting it be known that their homes are overcrowded and worry they will be sanctioned by the Tribal Housing Authority for unauthorized people living in the home. Many people do not have access to documentation proving their addresses.

9. Northern Cheyenne members commonly have issues with misspellings or incorrect transcriptions of their names. For example, when reviewing documentation from the Bureau of Indian Affairs, tribal members with last names like “Shoots Her Gun” has been incorrectly transcribed as “She Shoots First.” Confusion with name spellings and unfamiliarity with Native names may lead to errors on voter registrations that require a voter to re-register.

10. Unreliable broadband service has been a longstanding issue on the Northern Cheyenne Reservation. In many communities on the Northern Cheyenne Reservation, as few as 8% of the homes have reliable broadband services, while some homes do not have service at all. Additionally, not all tribal members have access to devices to connect them to the internet or a printer, which makes it difficult if not impossible to verify voter registration details using the online My Voter Page or to print a voter registration application.

11. The Reservation can experience significant weather events, including heavy snowfall in November. For example, in November 2024, a winter storm brought significant snowfall and high winds to the area.

12. Following a snowstorm, tribal members who live on rural, residential roads within the Reservation, are unable to leave their homes until after noon because those roads are plowed last. Snowplows prioritize first clearing the main highways on the Reservation and then clear the secondary rural residential roads, such as Kirby Road and Muddy Creek Road, last.

13. In 2024, members living on the reservation in Big Horn County could only access election day registration (“EDR”) if they travelled to the County Courthouse in Hardin. A polling place was located on the reservation in Busby, but it did not offer EDR. Traveling from Busby to Hardin requires an approximate 82-mile roundtrip drive to access EDR.

14. In 2024, members living on the reservation in Rosebud County could only access

EDR if they travelled to the Rosebud County Courthouse in Forsyth. A polling place was located on the reservation in Lane Deer, but it did not offer EDR. Members living in Lane Deer must travel over approximately 115 miles roundtrip to Forsyth in order to access EDR.

15. Members overwhelmingly arrive at polling places on the reservation after noon on Election Day and rely on EDR.

16. Most unemployed members and people with lower income on the Reservation do not usually go to a polling location until the afternoon of Election Day due to a lack of transportation. Those who do not have a vehicle need to wait to secure a ride.

17. Often, members will arrive at a polling place to vote believing that they are registered. However, members may need to update their voter registration or travel to a different location if they are in the wrong precinct or county. If a voter is at a polling place on Election Day that does not offer registration, then that voter would need to undertake additional travel to register or update their registration before casting a ballot. If Election Day voter registration hours are reduced a voter will likely not be able to undergo the roundtrip one-hour drive from Busby to Hardin or the two-hour drive from Lane Deer to Forsyth in order to access EDR.

18. SB 490 makes participation in elections by Northern Cheyenne members substantially more difficult. This law disproportionately burdens Native voters compared to non- Native voters due to inequities in mail delivery service, internet access, access to post offices and post office boxes, and increased burdens on Native voters due to disproportionate rates of poverty and lack of vehicle access. Due to the disproportionate barriers placed on Northern Cheyenne voters by SB 490, Northern Cheyenne members' attempts to vote are more likely to be unsuccessful and Northern Cheyenne's political power and ability to advocate for

Northern Cheyenne's needs would be reduced by the suppressive effects of this law. Northern Cheyenne would also be denied full participation in the state and federal systems through its diminished political power.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 13, 2026.

DocuSigned by:  
  
06AFE5A18DE041E...

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Melissa Lonebear

# EXHIBIT 8

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MONTANA FIRST JUDICIAL DISTRICT COURT  
COUNTY OF LEWIS AND CLARK

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,  
Plaintiff,

NORTHERN CHEYENNE TRIBE, BLACKFEET  
NATION, CONFEDERATED SALISH AND  
KOOTENAI TRIBES, FORT BELKNAP INDIAN  
COMMUNITY, and WESTERN NATIVE VOICE,  
Plaintiff-Intervenors,

FORWARD MONTANA and MONTANA PUBLIC  
INTEREST RESEARCH GROUP,  
Youth Plaintiff-Intervenors,

v.

STATE OF MONTANA, and CHRISTI JACOBSEN,  
in her official capacity as Montana Secretary of  
State,  
Defendants.

Cause No. ADV-25-2025-0268

Hon. Adam M. Larsen

**DECLARATION OF  
RODNEY GERVAIS JR.,  
CHAIRMAN OF THE  
BLACKFEET NATION  
IN SUPPORT OF PLAINTIFF-  
INTERVENORS' MOTION FOR  
SUMMARY JUDGMENT**

I, Rodney Gervais Jr. make this declaration as follows:

1. I am Chairman of the Blackfeet Nation. I submit this declaration in support of Plaintiff-

Intervenors' Motion for Summary Judgment. Except as otherwise stated, I have personal knowledge of the matters set forth herein and can and will testify thereto if called upon to do so.

2. I am an enrolled member of the Blackfeet Nation.

3. I have lived in Montana for 43 years.

4. The Blackfeet Nation is a federally recognized tribe with 17,019 enrolled members. The reservation is located in northwestern Montana and covers approximately 1.5 million acres. The reservation is intersected by Glacier and Pondera counties.

5. Houses on the Blackfeet Reservation do not receive mail delivery. As a consequence, tribal members rely on P.O. boxes to send and receive mail. Often, tribal members share P.O. boxes because there is a fee associated with the boxes, because there may not be enough boxes to service the entire population; and because members often cannot regularly pick up their own mail and must depend on others to pick up and deliver their mail for them.

6. Not all homes have internet access, and not all tribal members have access to devices to connect them to the internet, which makes it difficult if not impossible to print a registration application or verify voter registration details using the online My Voter Page.

7. Lack of access to a vehicle or use of shared vehicles is also very common on the Blackfeet Reservation. One vehicle is often responsible for getting many members of a household to and from work or school, to all social engagements, all doctor's appointments, and all errands including mail runs. Dependable vehicles that can manage difficult road conditions are even rarer, making a working vehicle in the election month of November especially difficult to come by.

8. Travel to a county seat to register is difficult for members that lack access to a vehicle, especially given the harsh weather on the Blackfeet Reservation.

9. Snow is present 8-9 months of the year on the Blackfeet Reservation. Snow, ice, and

mud can make travelling difficult or roads impassable. When there is snow on the ground, as there often is in November, plows often do not come through until 12 p.m., if at all, thus exacerbating the negative impact by cutting off all EDR after noon.

10. The Blackfeet Nation has a poverty rate of approximately 33 % higher than the state average. According to the most recent American Community Survey, the median household income is \$39,583, lower than the state average. Given the extreme poverty, members cannot always afford a tank of gas and instead may choose to spend limited funds on necessities such as food or heating.

11. There is an extreme housing shortage on the reservation, with many family, friends, and acquaintances sharing homes. Overcrowding is extremely common and there is a lengthy waitlist for housing. It is not uncommon to have upwards of 10 people sharing a home. People are often in various states of homelessness or near homelessness, moving often, and without documentation of an address.

12. Blackfeet members have just two locations to cast a ballot in person on Election Day, only one of which offers EDR. Members residing in Glacier County can access EDR in Glacier County's satellite office, located on the reservation in Browning.

13. Members residing in Pondera County do not have an on-reservation satellite office and must travel to the county seat in Conrad to access EDR. The drive from Heart Butte to Conrad is over a 110-mile drive roundtrip, assuming there are no delays due to dangerous road conditions.

14. Members of Blackfeet particularly rely upon EDR on the reservation in order to exercise their right to vote.

15. The Blackfeet tribe especially values EDR. For example, the Code of Federal Regulations previously required that the tribe's secretarial elections be conducted by mail, including all voter registrations. In 2017, the tribe went through the process of waiving the mail registration



requirements in the federal regulatory framework so that Blackfeet members could access EDR specifically for their tribal elections because it recognized that the majority of Blackfeet members would utilize Election Day registration.

16. Due to racial animus and perceived racial animus directed toward Blackfeet tribal members when visiting border towns, many Blackfeet members do not feel comfortable travelling to the county seat to register to vote or vote and prefer to access their voter services on the reservation, or when that is not available, in as few trips to the county seat as possible.

17. SB 490 makes participation in elections by Blackfeet members substantially more difficult. This law disproportionately burdens Native voters compared to non-Native voters due to inequities in mail delivery service, internet access, access to post offices and post office boxes, and increased burdens on Native voters due to disproportionate rates of poverty and lack of vehicle access. Because of the disproportionate barriers placed on voters by SB 490, Blackfeet Nation's members' attempts to vote are more likely to be unsuccessful and Blackfeet Nation's political power and ability to advocate for Blackfeet needs would be reduced by the law's suppressive effects. The Blackfeet Nation would be denied full participation in the state and federal systems through its diminished political power.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 25, 2025.

  
\_\_\_\_\_  
Rodney Gervais Jr. Chairman  
Blackfeet Tribal Business Council

# EXHIBIT 9

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*Attorneys for Plaintiff-Intervenors*

MONTANA FIRST JUDICIAL DISTRICT COURT  
COUNTY OF LEWIS AND CLARK

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,

Plaintiff,

NORTHERN CHEYENNE TRIBE, BLACKFEET  
NATION, CONFEDERATED SALISH AND  
KOOTENAI TRIBES, FORT BELKNAP INDIAN  
COMMUNITY, and WESTERN NATIVE VOICE,

Plaintiff-Intervenors,

FORWARD MONTANA and MONTANA PUBLIC  
INTEREST RESEARCH GROUP,

Youth Plaintiff-Intervenors,

v.

STATE OF MONTANA, and CHRISTI JACOBSEN,  
in her official capacity as Montana Secretary of  
State,

Defendants.

Cause No. ADV-25-2025-0268-IJ

Hon. Adam M. Larsen

**DECLARATION OF  
MICHAEL DOLSON  
IN SUPPORT OF PLAINTIFF-  
INTERVENORS' MOTION FOR  
SUMMARY JUDGMENT**

I, Michael Dolson make this declaration as follows:

1. I am Chairman of the Tribal Council for the Confederated Salish and Kootenai Tribes.

I submit this declaration in support of Plaintiff-Intervenors' Motion for Summary Judgment. Except

as otherwise stated, I have personal knowledge of the matters set forth herein and can and will testify thereto if called upon to do so.

2. I am a member of the Confederated Salish and Kootenai Tribes and was born and grew up on the Flathead Reservation. I have been a resident of Montana my entire life. I have served on Tribal Council for the Confederated Salish and Kootenai Tribes as the Hot Springs District Representative since 2020 and as Chairman of Tribal Council since January 2024.

3. The Confederated Salish and Kootenai Tribes of the Flathead Reservation is a federally recognized Tribe with 7,766 enrolled members and approximately 5,200 members living on the Flathead Reservation. Because the Flathead Reservation was opened to homesteading against Tribal will, CSKT members became the minority population on what was to be the Tribes' exclusive homeland and make up approximately 17 percent of the population. There are also numerous Native Americans that are members of other Tribes living on the Reservation, with 100 different Tribes represented within the Reservation boundary, as indicated by Tribal Health service records. The total Native American population comprises approximately one quarter of the Reservation population. The Reservation is located in western Montana and spans 1.3 million acres. The Reservation is intersected by Lake, Sanders, Flathead and Missoula counties.

4. Unlike other Tribes, CSKT has mail-delivery service on the Reservation. However, among the Native population, there is a severe housing shortage. Tribal members experience homelessness or are in need of permanent housing, and it is common for members to move from home to home. This "couch surfing" results in a lack of a stable mailing address. Given the housing instability and usage of P.O. Boxes, CSKT members often have issues with their registrations, which leads them to have to re-register to vote.

5. CSKT members are more likely to live in the foothills and more rural parts of the

Reservation than non-Natives, making their travel to the post office more burdensome than for non-Natives residing on the parts of the Reservation closer to amenities.

6. CSKT members suffer from poverty. For example, the rates of free and reduced lunch are higher in majority Native towns. In the largely Native town of Sčilíp (formerly known as “Dixon”) in Sanders County, the free and reduced lunch rate for Native students is 100%. In Arlee and Pablo/Ronan, majority Native towns in Lake County, the rates are 90% and 97% respectively. Approximately 19% of the population on the Flathead Reservation live in severe poverty. Given this poverty, members cannot always afford a tank of gas for a mail run and instead may choose to spend limited funds on necessities such as food or heating.

7. Lack of access to a vehicle, or use of shared vehicles is also very common on the Flathead Reservation. One vehicle is often responsible for getting many members of a household to and from work or school, to all social, religious and cultural engagements, all doctor’s appointments, and all errands including mail runs. Vehicle access is so low on the Reservation that the number one reason given to health officials for why appointments are missed is because of a lack of transportation. Often, the only vehicle in the household is in use in the mornings by those going to work. Collective errands and activities like voting are more likely to occur during the afternoon after working hours.

8. No bus system or regularly running public transportation exists to transport members to the county seats, especially off-Reservation county seats, to register or to the polling places to vote.

9. Severe winter weather, including whiteout blizzards, is common in early November. During the 2022 General Election, a snowstorm impacted voter turnout and voter services at the Gray Wolf Casino satellite office.

10. The town of Arlee is a split precinct. For members living on the southern side of Arlee,

it is an approximate 51-mile drive roundtrip to the Missoula County seat in Missoula in order to register or re-register to vote. For members living on the northern side of Arlee, it is at least an approximate 86-mile drive roundtrip to Polson, the Lake County seat, in order to register or re-register to vote.

11. Highway 93 is the sole road between Arlee and Missoula. Delays on Highway 93 are common in both the summer and winter months. In the summer, traffic and delays are common due to high tourism and road construction. In the winter, ice and snow conditions impact road conditions, make driving dangerous, and require delayed openings while plows clear the roads.

12. For members who live in Sčilíp (formerly known as “Dixon”), it is at least an approximate 116-mile drive roundtrip to the Sanders County seat of Thompson Falls. For members who live in Hot Springs, it is at least an approximate 93-mile roundtrip drive to Thompson Falls.

13. For a Tribal member to travel from any one of these communities on the Reservation to register or update voter registration information would require, at minimum, over one-hour round trip just to drive to the county seat in Missoula and over an hour and a half to two hours round trip to drive to the county seats in Lake and Sanders counties. This assumes there are no delays due to road construction, tourism traffic, or winter weather—and assumes that the member brings the correct identification information and travels to the correct location.

14. Often, members will arrive at a polling place to vote believing that they are registered. However, members typically need to update their voter registration or travel to a different location if they are in the wrong precinct or county. If a voter is at a polling place on Election Day that does not offer Election Day registration, then that voter would need to undertake additional travel to register or update their registration before casting a ballot.

15. All four County Election Offices for the Flathead Reservation are largely staffed by

non-tribal members and are located in majority non-Native towns. Because many tribal members do not feel comfortable traveling to majority non-Native areas given the hostilities between members and non-members, some choose to register and vote at the same time to cut down on trips to these unfriendly towns.

16. In 2022 and 2024, CSKT worked with Missoula County to open a satellite office where members can register and vote early or register and vote on Election Day so that members would not need to drive to Missoula. This office was open on certain days and times for the 2022 and 2024 Primary and General Elections.

17. In 2022 and 2024, CSKT worked with Sanders County to open satellite offices where members can register and vote early or, in 2024, register and vote on Election Day so that members would not need to drive to Thompson Falls. These offices were open on certain days and times for the 2022 and 2024 Primary and General Elections.

18. In 2022 and 2024, CSKT worked with Lake County to open satellite offices where members can register and vote early so that members would not need to drive to Polson. These offices were open on certain days and times for the 2022 General Election and the 2024 Primary and General Elections.

19. Data collected during the 2022 and 2024 Primary and General Elections demonstrate that members used satellite office services later in the day, after noon.

20. For the 2022 Primary Election, CSKT observed that very few members showed up in the morning during Missoula and Sanders Counties' satellite office hours. As a result, CSKT, in partnership with the Counties, rescheduled certain satellite office hours for the 2022 General Election and the 2024 Primary and General Elections, to open later at 11:30 a.m. or 12:30 p.m. and be open after work so that people could register and/or vote during their lunch hour or after work.

21. For the 2024 General Election, members overwhelmingly used Election Day voter services after noon on Election Day. At the Gray Wolf satellite office and polling place on Election Day, it is our understanding that Missoula County issued 29 ballots before 12 p.m. They issued 122 ballots after noon on Election Day.

22. A Lake County satellite office was not open on Election Day. Therefore, Tribal members who live in Lake County must travel to the majority non-Native town of Polson to register and vote on Election Day. For Tribal members who live in Arlee, that is approximately a 50-minute drive (or more) one way.

23. To assist CSKT members and encourage them to vote, every year CSKT hires a temporary worker as a get-out-the-vote (“GOTV”) coordinator for the months leading up to the election. CSKT spent \$27,965 total on GOTV and satellite office expenses in 2024, including \$15,001 on the coordinator, \$10,156 on advertising for the satellite offices, and \$2,807 on other GOTV and satellite office expenses, including GOTV t-shirts, a facility rental fee for one of the satellite offices, “I voted” stickers in Salish and Kootenai, and gas cards for volunteer GOTV drivers.

24. Western Native Voice also provides rides for Native voters on the Flathead Reservation.

25. SB 490 makes participation in elections by CSKT members substantially more difficult. This law disproportionately burdens Native voters compared to non-Native voters due to inequities in mail access, internet access, access to post offices and post office boxes, and increased burdens on Native voters due to disproportionate rates of poverty and lack of vehicle access. Due to the disproportionate barriers placed on CSKT voters by SB 490, CSKT members’ attempts to vote are more likely to be unsuccessful and CSKT’s political power and ability to advocate for CSKT’s needs would be reduced by the suppressive effects of this law. CSKT would also be denied full



participation in the state and federal systems through its diminished political power.

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
September 26, 2025.

  
Michael Dolson, Tribal Chairman

# EXHIBIT 10

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\*admitted *pro hac vice*

*Attorneys for Plaintiff-Intervenors*

MONTANA FIRST JUDICIAL DISTRICT COURT  
COUNTY OF LEWIS AND CLARK

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>MONTANA FEDERATION OF PUBLIC<br/>EMPLOYEES,<br/>Plaintiff,</p> <p>NORTHERN CHEYENNE TRIBE, BLACKFEET<br/>NATION, CONFEDERATED SALISH AND<br/>KOOTENAI TRIBES, FORT BELKNAP INDIAN<br/>COMMUNITY, and WESTERN NATIVE VOICE,<br/>Plaintiff-Intervenors,</p> <p>FORWARD MONTANA and MONTANA PUBLIC<br/>INTEREST RESEARCH GROUP,<br/>Youth Plaintiff-Intervenors,</p> <p>v.</p> <p>STATE OF MONTANA, and CHRISTI JACOBSEN,<br/>in her official capacity as Montana Secretary of<br/>State,<br/>Defendants.</p> | <p>Cause No. ADV-25-2025-0268-IJ</p> <p>Hon. Adam M. Larsen</p> <p><b>DECLARATION OF<br/>DELINA CUTS THE ROPE<br/>IN SUPPORT OF PLAINTIFF-<br/>INTERVENORS' MOTION FOR<br/>SUMMARY JUDGMENT</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

I, Delina M. Cuts The Rope, make this declaration as follows:

1. I am the Tribal Planning Department Director for the Fort Belknap Indian Community. I submit this declaration in support of Plaintiff-Intervenors' Motion for Summary Judgment. Except as otherwise stated, I have personal knowledge of the matters set forth herein and can and will testify thereto if called upon to do so.

2. I am an enrolled member of the Gros Ventre Tribe of the Fort Belknap Indian Community. I have resided in Montana and Fort Belknap for 50 years. I have been a Fort Belknap Indian Community employee for 28 years. I have served as the Tribal Planning Department Director for the Fort Belknap Indian Community for seven years and previously worked as the Chief Administrative Officer for seven years. I have organizational and community knowledge of the Fort Belknap Indian Community.

3. The Fort Belknap Indian Community is a sovereign, federally recognized tribe with over 8,667 enrolled Tribal members. The Fort Belknap Reservation is home to the Assiniboine (Nakoda) and Gros Ventre (Aaniiih) Tribes and is governed by a tribal council. The Fort Belknap Reservation spans approximately 698,478 acres. The reservation is intersected by Blaine and Phillips counties.

4. Most houses on the Fort Belknap Reservation do not receive home mail delivery. As a consequence, the majority of tribal members rely on P.O. boxes to send and receive mail. Often, tribal members share P.O. boxes because there is a fee associated with the boxes, because there may not be enough boxes to service the entire population, and because members often cannot regularly pick up their own mail and must depend on others to pick up and deliver their mail for them.

5. Distance to post offices varies widely among members living on the reservation. Some members can live within a mile of their post office while others live upwards of 40 miles from their post office. Some members must travel up to 34 miles in order to vote at the Chief Nosey polling place in Lodgepole, Montana.

6. Fort Belknap suffers from a high poverty rate of approximately 36%, which is more than double the state poverty rate. Given the extreme poverty, many members do not own or have access to a reliable vehicle and those who do cannot always afford a tank of gas for a mail run, choosing instead to spend limited funds on necessities such as food, heating, or medical issues.

7. Not all homes have internet access, and not all tribal members have access to devices to connect them to the internet, which makes it difficult if not impossible to verify voter registration

details using the online My Voter Page or to print a voter registration application.

8. Lack of access to a vehicle or use of shared vehicles is also very common on the Fort Belknap Reservation. One vehicle is often responsible for getting many members of a household to and from work or school, to all social engagements, all doctor's appointments, and all errands including mail runs and voting.

9. There is an extreme housing shortage on the reservation, with many family, friends, and acquaintances sharing homes. Overcrowding is extremely common. It is not uncommon to have 10-15 people sharing a home.

10. Fort Belknap cares about increasing voter registration. For example, to assist Fort Belknap members and encourage them to vote, Fort Belknap would rely on a third party organization, the Snake Butte Voter Coalition to perform GOTV, including ballot collection and voter registration.

11. By November, winter weather can be extreme with low temperatures, snow accumulation, and strong winds. At times, it can be too dangerous to plow the roads and gale force winds drift snow back onto cleared roads. Snow removal is complicated on the reservation due to split highway jurisdiction between the state and Tribe. Fort Belknap do not have control over when the plows will come. The Reservation lacks the necessary manpower and equipment to clear all of the roads. Elderly members and those with medical needs receive snow plow priority. As a result, it is unlikely that all tribal members will be plowed out before noon.

12. Fort Belknap has three alternate offices that are available for tribal members to vote on Election Day. Alternate offices do not offer EDR. No satellite offices exist on the reservation where tribal members can access EDR.

13. Members overwhelmingly arrive at polling places on the reservation after noon on Election Day.

14. Often, members will arrive at a polling place to vote believing that they are registered. However, members may need to update their voter registration or travel to a different location if they

are in the wrong precinct or county. If a voter is at a polling place on Election Day that does not offer registration, then that voter would need to undertake additional travel to register or update their registration before casting a ballot. If Election Day voter registration hours are reduced, a voter will likely not to be able to travel approximately 128 miles roundtrip to register at the county seat. Tribal members would have to drive more than two hours roundtrip from Lodge Pole on the reservation to the Blaine County seat in Chinook.

15. Additionally, Fort Belknap has worked in coordination with Western Native Voice to assist with GOTV efforts. Fort Belknap depended on these groups to provide rides to EDR services. If EDR is no longer available, Fort Belknap would have to expend additional funds to provide services to voters.

16. SB 490 makes participation in elections by Fort Belknap members substantially more difficult. This law disproportionately burdens Native voters compared to non-Native voters due to inequities in mail delivery service, internet access, access to post offices and post office boxes, and increased burdens on Native voters due to disproportionate rates of poverty and lack of vehicle access. Fort Belknap historically cares about Tribal members' access to the polls. Due to the disproportionate barriers placed on Fort Belknap voters by SB 490, Fort Belknap members' attempts to vote are more likely to be unsuccessful and Fort Belknap's political power and ability to advocate for Fort Belknap's needs would be reduced by the suppressive effects of this law. Fort Belknap would also be denied full participation in the state and federal systems through its diminished political power.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 15, 2025.

  
\_\_\_\_\_  
Delina Cuts The Rope

# EXHIBIT 11

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**MONTANA FIRST JUDICIAL DISTRICT COURT,  
LEWIS & CLARK COUNTY**

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,

*Plaintiff,*

NORTHERN CHEYENNE TRIBE,  
BLACKFEED NATION, CONFEDERATED  
SALISH & KOOTENAI TRIBES, FORT  
BELKNAP INDIAN COMMUNITY, and  
WESTERN NATIVE VOICE

*Plaintiff-Intervenors,*

FORWARD MONTANA and MONTANA  
PUBLIC INTEREST RESEARCH GROUP,

*Youth Plaintiff-Intervenors,*

v.

STATE OF MONTANA, CHRISTI  
JACOBSEN, in her official capacity as  
MONTANA SECRETARY OF STATE

*Defendants,*

REPUBLICAN NATIONAL COMMITTEE and  
MONTANA REPUBLICAN STATE CENTRAL  
COMMITTEE,

*Defendant-Intervenors.*

Cause No. ADV-25-2025-0268

Hon. Adam Larsen

**DECLARATION OF  
ALICE BOYER**



I, Alice Boyer, declare as follows:

1. I am over 18 years old and a resident of Missoula, Montana. I make this declaration based upon my personal knowledge and experience.
2. I am the Executive Director of Forward Montana. I have been in this role since June of 2025.
3. Forward Montana is a nonpartisan, not-for-profit organization headquartered in Missoula, MT. The organization received 501(c)(4) charitable status in 2004.
4. Forward Montana is dedicated to educating, engaging, and organizing young Montanans to shape their democracy to improve their lives and the lives of their fellow Montanans.
5. A group of students at the University of Montana (“UM”) established Forward Montana after finding there were too many barriers to getting young people involved in civic life in Montana. Our first advocacy projects focused on recycling, renewable energy, sexual assault prevention, and tenant rights at the university and local levels.
6. We have since grown into the largest youth civic engagement organization in Montana, with year-round staff in Whitefish, Billings, Bozeman, Butte, Glendive, and Missoula.
7. At the heart of our work is empowering young Montanans to exercise their civic rights through voting. We dedicate ourselves in significant part to voter

registration and “get out the vote” (“GOTV”) efforts. Voter registration and GOTV is a core business activity for Forward Montana.

8. We run the largest third-party voter registration program in the state. Between 2004 and 2024, Forward Montana and its sister 501(c)(3), Forward Montana Foundation, registered over 45,000 voters. We have mobilized hundreds of thousands of voters through direct phone calls, text messages, social media posts and ads, and other forms of engagement.
9. Forward Montana is a membership organization with nearly 2,000 members—largely young voters, including eligible high school and college students—across the state of Montana.
10. Both our members and the young people we work with are often new voters, who are registering and voting for the first time. Young voters, including our members, are also highly mobile—they move often as they transition from high school to college and beyond.
11. Our members and the young voters we work with regularly utilize election-day registration to register as new voters or to update their registration. Under SB 490, the amount of time young voters, including our members, have to register to vote in federal elections is significantly reduced.
12. The lack of ability to register and vote in federal elections after noon on election day reduces our ability to turn out new voters, including students and those who have recently turned eighteen, for federal elections.

13. We regularly meet people who make the decision to go register and vote after talking to one of our volunteers about the importance of civic engagement. When these GOTV conversations occur on election day, the young voters we're turning out will not be able to vote in federal elections if those conversations happen after noon.
14. Many of our members and the young voters we work with are also students, who regularly rely on their student IDs when asked to provide identification in ordinary life. This includes high school students who rely on their high school IDs for identification.
15. Some of our members and the young voters we work with also rely on the declaration fail-safe to provide voter ID when they do not otherwise possess an acceptable form of ID.
16. SB 490 and SB 276 will harm Forward Montana's members and the young voters we work with by reducing the availability of election-day registration, and by excluding valid student photo IDs—including high school and certain college IDs—from the list of acceptable photo IDs for voting, and eliminating the declaration fail-safe.
17. In registering students and young people to vote, we have noticed that most students and young people rely on the last four digits of their Social Security Number to register.
18. When students can't remember their Social Security Number, we direct them to the next option, which is a driver's license number. Often times, students

and young people, including those who go to college out-of-state, do not have driver's licenses.

19. Student ID is the only form of no-cost ID available to students. We have found that students are unlikely to prioritize acquiring a driver's license solely for the purpose of being able to vote in person. Students rely on being able to use their student ID.
20. Like SB 169, SB 276 tries to change what has been the norm in registering to vote and voting in person for two decades.
21. Under SB 276, voters will also not be able to cast a provisional ballot unless they can return with an acceptable form of ID. SB 276 puts elections officials in the position of educating voters about the changes to our voting laws despite the fact that they are often overburdened and at capacity on election day. Yet we have observed that election officials don't have time in the days leading up to elections to spend explaining changes and carefully instructing voters about new ID requirements.
22. When students attempt to vote in person and are turned away, we have observed that they don't often have the opportunity to make a second attempt. This is for intuitive reasons. Generally, on election day, there are significant lines, and if a student makes it through the line and is then turned away for any reason including lack of proper ID, the time involved in procuring the correct documentation—which they may not have—and returning to wait in line once again is onerous.

23. SB 490 will exacerbate these harms for new and young voters, as it limits the amount of time that voters turned away for lack of valid ID have to obtain documentation and return to vote if they wish to vote in federal elections.
24. The elimination of the declaration fail-safe also exacerbates these harms by eliminating the option for students who lack a valid ID to cure their provisional ballots.
25. The changes to election day registration and student ID eligibility under SB 490 and SB 276 will require Forward Montana to modify its extensive voter registration and GOTV efforts to ensure our members and other youth voters will be able to successfully cast both a federal and state ballot.
26. These changes also require Forward Montana to modify the information they provide to voters on how to successfully cast a ballot, as well as the training and materials they provide to members and volunteers on registering voters and GOTV.
27. As a result, Forward Montana will incur new costs due to SB 490 and SB 276—we have to retrain our staff and volunteers and make significant efforts to correct any confusion among students and young people who were otherwise well-informed. We will also have to conduct expanded GOTV efforts to reeducate young voters whom we engaged previously, and update our educational materials related to voting, which is costly.

28. To accomplish these efforts, we will be required to divert resources from critical Forward Montana activities such as running immersive workshops to provide the tools and skills young people need to engage in civic life in Montana.

DATED this 20.00 day of January 2026.

Signed by:  
  
AA660E4BFFD9470...  
Alice Boyer

# EXHIBIT 12

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*Attorneys for Plaintiffs*

**MONTANA FIRST JUDICIAL DISTRICT COURT,  
LEWIS & CLARK COUNTY**

MONTANA FEDERATION OF PUBLIC  
EMPLOYEES,

*Plaintiff,*

NORTHERN CHEYENNE TRIBE,  
BLACKFEED NATION, CONFEDERATED  
SALISH & KOOTENAI TRIBES, FORT  
BELKNAP INDIAN COMMUNITY, and  
WESTERN NATIVE VOICE

*Plaintiff-Intervenors,*

FORWARD MONTANA and MONTANA  
PUBLIC INTEREST RESEARCH GROUP,

*Youth Plaintiff-Intervenors,*

v.

STATE OF MONTANA, CHRISTI  
JACOBSEN, in her official capacity as  
MONTANA SECRETARY OF STATE

*Defendants,*

REPUBLICAN NATIONAL COMMITTEE and  
MONTANA REPUBLICAN STATE CENTRAL  
COMMITTEE,

*Defendant-Intervenors.*

Cause No. ADV-25-2025-0268

Hon. Adam Larsen

**DECLARATION OF  
DEAN MCGOVERN**



I, Dean McGovern, declare as follows:

1. I am over 18 years old and a resident of Missoula, Montana. I make this declaration based upon my personal knowledge and experience.
2. I am the Executive Director of Montana Public Interest Research Group (“MontPIRG”). I have been in this role since May of 2024.
3. MontPIRG is a student-directed nonpartisan organization headquartered in Missoula, MT, with operations in Bozeman, Butte, and Billings.
4. MontPIRG’s mission is to effect tangible, positive change through educating and empowering the next generation of civic leaders. As part of this mission, we are committed to organizing to ensure that every young person’s voice is heard on election day and eliminate barriers between young people and the constitutional right to vote.
5. MontPIRG has registered young voters in Montana for 40 years.
6. As Executive Director of MontPIRG, I am involved in developing and executing MontPIRG’s get-out-the-vote (“GOTV”) strategy, including educating and mobilizing young voters.
7. During GOTV events, we help young voters register to vote and share information about upcoming elections. In addition to organizing GOTV events, we also knock on doors, make calls, and distribute voter guides to give young people all of the tools to ensure their voice is heard on election day.
8. In 2016, we knocked over 23,000 doors, registered over 3,500 voters, distributed 3,000 voter guides, and made over 10,000 calls to voters for its

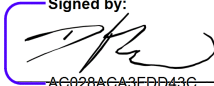
Youth 12K campaign. Our efforts resulted in an increase in youth voter turnout in Missoula County by 7.4%, so that youth voters ultimately cast 19.2% of all votes in Missoula County.

9. Despite the global pandemic, we continued our tradition of empowering young voters in 2020 by registering 5,612 voters across Montana. MontPIRG volunteers and interns also made 73,323 GOTV calls and collected 1,103 “Why I Am Voting Pledges” from students at UM and Montana State University (“MSU”).
10. In 2024, we registered 11,870 voters, made 16,200 GOTV calls, and collected 6,300 “Why I am Voting Pledges” from students at UM and MSU.
11. We plan to continue registering young voters and engaging in GOTV efforts at Montana campuses in future elections.
12. Senate Bill 490 (“SB 490”) and Senate Bill 276 (“SB 276”) harm MontPIRG and its mission to register and turn out young voters because both laws will require MontPIRG to expend significant resources to develop new voter education materials, engage in campaigns to reeducate young voters with whom we have previously engaged, and conduct expanded get out the vote efforts, including encouraging voters who still need to register to vote to arrive at polling places before noon on election day in order to vote a full ballot.
13. Because of SB 490, we will have to update our voter education materials, retrain our volunteers, and reeducate young voters about election-day voter registration.

14. Between class schedules, unpredictable work schedules, and extracurricular commitments—many young voters are unable to register in advance of election day or get to the polls before 12 p.m. on election day. We will need to tell youth voters, that they will not be able to vote in federal elections if they are not yet registered, and do not arrive at their polling location until after 12 p.m.
15. We regularly encounter students during GOTV drives that have not yet registered but wish to vote, including after noon on election day. These voters will be denied the right to vote in federal elections because of SB 490.
16. As part of our GOTV efforts, we also educate youth voters about what they need to bring with them to the polls to cast their ballots. And because of SB 276, we will have to inform youth voters that they cannot be guaranteed that their student IDs can be used to verify their identity, unless they also provide an additional form of identification, many of which young voters do not possess. Students, for example, who may attend universities out-of-state but remain residents of Montana, are unlikely to possess NAIA IDs. And all young voters may lack utility bills, bank statements, and pay checks with their current Montana address.
17. Because we will have to spend extensive resources reeducating young voters about limited election day registration hours and new ID requirements, we will be required to divert resources from other critical organizational activities throughout the state, including educating voters about candidates and ballot initiatives.

18. As a result of SB 490 and SB 276, MontPIRG will be forced to modify our voter registration and GOTV efforts. Both laws will require MontPIRG to expend significant resources in developing new voter education materials, engaging in campaigns to reeducate young voters with whom they have engaged previously, and conducting expanded get out the vote efforts.

DATED this 20th day of January 2026.

Signed by:  
  
AC028ACA3FDD43C...  
Dean McGovern

## **CERTIFICATE OF SERVICE**

I, Raphael Jeffrey Carlisle Graybill, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice to the following on 01-22-2026:

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Electronically signed by Emma Edwards on behalf of Raphael Jeffrey Carlisle Graybill

Dated: 01-22-2026