

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.3.2403 and 44.3.2404) PROPOSED AMENDMENT
pertaining to elections)

TO: All Concerned Persons

1. On March 18, 2010, at 10:00 a.m., the Secretary of State will hold a public hearing in Room 206 of the Capitol Building, at Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on March 11, 2010, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State, P.O. Box 202801, Helena, Montana, 59620-2801; telephone (406) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

44.3.2403 DETERMINING A VALID WRITE-IN VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER AND OPTICAL-SCAN BALLOTS

(1) remains the same.

(2) Except as provided in (3), only votes for declared write-in candidates shall be counted. Except as provided in ARM 44.3.2405, a write-in vote may be counted only if the write-in vote identifies an individual by any of the designations filed pursuant to 13-10-211(1)(a), MCA, and the oval, box, or other designated voting area on the ballot is marked. The following rules shall apply to determining a valid write-in vote in a count or recount of paper and optical-scan ballots:

(a) through (3) remain the same.

AUTH: 13-15-206, MCA
IMP: 13-10-211, 13-15-206, MCA

44.3.2404 DETERMINING A VALID VOTE ON AN ELECTRONIC VOTING SYSTEM (1) remains the same.

(a) All electronic voting system equipment shall provide for the use of a device for the voter to enter the name of a write-in candidate where applicable. Except as provided in ARM 44.3.2405, a write-in vote may be counted only if the write-in vote identifies an individual by any of the designations filed pursuant to 13-10-211(1)(a), MCA, and the oval, box, or other designated voting area on the ballot is marked.

(b) remains the same.

AUTH: 13-15-206, MCA

IMP: 13-15-206, MCA

4. REASON: These rules are being amended pursuant to the passage of House Bill 509 during the 2009 legislative session. The main purpose of these rule amendments is to reflect the changes made to the election laws during the legislative session.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana, 59620-2801; telephone (406) 461-5173; fax (406) 444-4240; or e-mail jquintana@mt.gov, and must be received no later than 5:00 p.m., March 25, 2010.

6. Jorge Quintana, Secretary of State's office, has been designated to preside over and conduct this hearing.

7. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the Secretary of State.

8. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by letter sent via U.S. Mail on October 28, 2009.

/s/ Jorge Quintana
JORGE QUINTANA
Rule Reviewer

/s/ Linda McCulloch
LINDA MCCULLOCH
Secretary of State

Dated this 16th day of February, 2010.