

1 HOUSE BILL NO. 774  
2 INTRODUCED BY M. HOPKINS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; REQUIRING ALL  
5 ELECTIONS TO BE HELD IN EVEN-NUMBERED YEARS AND PROVIDING EXCEPTIONS; REQUIRING ALL  
6 ELECTIONS TO BE HELD ON PRIMARY DAY OR GENERAL ELECTION DAY AND PROVIDING  
7 EXCEPTIONS; REQUIRING COUNTY ELECTION ADMINISTRATORS TO ADMINISTER ALL ELECTIONS;  
8 REVISING DEFINITIONS; CHANGING TERM LENGTHS TO ALIGN WITH THE REVISED ELECTION  
9 SCHEDULE; AMENDING SECTIONS 3-6-201, 7-4-2611, 7-5-132, 7-6-1504, 7-6-1536, 7-6-1542, 7-6-4431, ~~7-~~  
10 ~~11-1003, 7-11-1011, 7-11-1012, 7-11-1013,~~ 7-12-4243, 7-13-2208, 7-13-2210, 7-13-2341, 7-13-2342, 7-13-  
11 2352, 7-13-4512, 7-13-4535, 7-14-210, 7-14-1106, 7-14-1134, 7-14-1632, 7-14-1633, 7-14-4642, 7-15-4218, 7-  
12 15-4408, 7-16-2102, 7-31-106, 7-31-107, 7-31-109, ~~7-33-2106,~~ 7-34-2109, 7-34-2110, 7-34-2414, 13-1-101,  
13 13-1-104, 13-1-106, 13-1-107, 13-1-203, 13-1-204, 13-1-301, 13-1-302, 13-1-405, 13-1-504, 13-2-304, 13-10-  
14 211, 13-13-205, 13-13-222, 13-16-205, 13-37-126, 15-10-425, 16-12-301, 16-12-311, 20-1-101, 20-3-106, 20-  
15 3-302, 20-3-305, 20-3-306, 20-3-307, 20-3-321, 20-3-324, 20-3-362, 20-4-401, 20-6-326, 20-6-422, 20-6-423,  
16 20-6-504, 20-6-506, 20-6-603, 20-6-621, 20-6-704, 20-9-115, 20-9-131, 20-9-208, 20-9-306, 20-9-308, 20-9-  
17 311, 20-9-313, 20-9-353, 20-9-405, 20-9-406, 20-9-422, 20-15-203, 20-15-208, 20-15-221, 20-15-404, 20-20-  
18 102, 20-20-104, 20-20-105, 20-20-107, 20-20-108, 20-20-201, 20-20-417, 76-5-1106, 76-15-207, 76-15-303,  
19 76-15-304, 76-15-506, 76-15-531, 76-15-605, 76-15-702, 76-15-805, ~~85-6-105, 85-6-106, 85-7-1602, 85-7-~~  
20 ~~1702, 85-7-1703, 85-7-1712, 85-7-1974, 85-7-2013,~~ 85-8-302, 85-8-624, AND 85-9-206, MCA; REPEALING  
21 SECTIONS 13-1-305, 13-1-503, 20-6-505, 20-6-604, 20-20-106, ~~20-20-108,~~ 20-20-203, 20-20-204, 20-20-401,  
22 AND 20-20-402, AND 20-20-416, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25  
26 **Section 1.** Section 3-6-201, MCA, is amended to read:  
27 **"3-6-201. Number of judges -- election -- term of office -- chief judge -- duties of chief judge. (1)**  
28 The governing body of a city shall determine by ordinance the number of judges required to operate the



1 municipal court.

2 (2) A municipal court judge must be elected at the general election, as provided in ~~13-1-104(3)~~ 13-  
3 1-104. The judge's term commences on the first Monday in January following the election. The judge shall hold  
4 office for the term of 4 years and until a successor is elected and qualified.

5 (3) Except as provided in subsection (2), all elections of municipal court judges are governed by  
6 the laws applicable to the election of district court judges.

7 (4) (a) If there is more than one municipal court judge, the judges shall adopt a procedure by which  
8 they either:

9 (i) select a chief municipal court judge at the beginning of each calendar year; or

10 (ii) select a chief municipal court judge for a specific period of time.

11 (b) If the judges cannot agree, the judge with the most seniority shall serve as the chief municipal  
12 court judge.

13 (5) The chief municipal court judge shall provide for the efficient management of the court, in  
14 cooperation with the other judge or judges, if any, and shall:

15 (a) maintain a central docket of the court's cases;

16 (b) provide for the distribution of cases from the central docket among the judges, if there is more  
17 than one judge, in order to equalize the work of the judges;

18 (c) request the jurors needed for cases set for jury trial;

19 (d) if there is more than one judge, temporarily reassign or substitute judges among the  
20 departments as necessary to carry out the business of the court; and

21 (e) supervise and control the court's personnel and the administration of the court."  
22

23 **Section 2.** Section 7-4-2611, MCA, is amended to read:

24 **"7-4-2611. Role and duties of county clerk and election administrator.** (1) The county clerk of a  
25 county is also clerk of the county commissioners and ex officio recorder. A duty imposed by law upon the  
26 officer, whether as county clerk, clerk of the county commissioners, or recorder, must be performed by the  
27 county clerk, and any official act performed or certified by the county clerk is as valid and effectual as if  
28 performed and certified by the clerk of the county commissioners or the recorder.

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1           (2)     The county clerk shall:
- 2           (a)     take charge of and safely keep or dispose of according to law all books, papers, maps, and
- 3 records that may be filed or deposited in the county clerk's office;
- 4           (b)     record all the proceedings of the board;
- 5           (c)     make full entries of all its resolutions and decisions on all questions concerning the raising of
- 6 money for and the allowance of accounts against the county;
- 7           (d)     record the vote of each member on a question upon which there is a division or at the request
- 8 of any member present;
- 9           (e)     sign all orders made and warrants issued by order of the board for the payment of money and
- 10 certify the orders and warrants to the county treasurer;
- 11          (f)     record the reports of the county treasurer of the receipts and disbursements of the county;
- 12          (g)     preserve and file all accounts acted upon by the board;
- 13          (h)     preserve and file all petitions and applications for franchises and record the action of the board
- 14 on the petitions and applications;
- 15          (i)     record all orders levying taxes;
- 16          (j)     designate upon each account allowed by the board the amount allowed and deliver to any
- 17 person who may demand it a certified copy of any record or any account on file in the county clerk's office;
- 18          (k)     when a new township is organized or the boundaries of a township are altered, immediately
- 19 make out and transmit to the secretary of state a certified statement of the names and boundaries of the
- 20 township organized or altered;
- 21          (l)     keep other records and books and perform other duties that are prescribed by law or by rule or
- 22 order of the board.
- 23          (3)     An election administrator shall file, code, and cross-index all reports and statements filed as
- 24 prescribed by the commissioner of political practices.
- 25          (4)     An election administrator shall make statements and other information filed under the
- 26 provisions of Title 13, chapters 35, 36, and 37, and Title 20, chapter 20, available for public inspection and
- 27 copying during the office hours determined by the governing body by resolution after a public hearing and make
- 28 copying facilities available free of charge or at a charge not to exceed actual cost."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Section 3.** Section 7-5-132, MCA, is amended to read:

**"7-5-132. Procedure for initiative or referendum election.** (1) The electors of a local government may, by petition, request an election on whether to enact, repeal, or amend an ordinance. The form of the petition must be approved by the county election administrator. A petition signed by at least 15% of the local government's qualified electors is sufficient to require an election.

(2) (a) If an approved petition containing sufficient signatures is filed prior to the ordinance's effective date or within 60 days after the passage of the ordinance, whichever is later, a petition requesting an election on whether to amend or repeal the ordinance delays the ordinance's effective date until the ordinance is ratified by the electors.

(b) If an approved petition containing sufficient signatures is filed within 60 days after the effective date of an emergency ordinance, the emergency ordinance is suspended until it is ratified by the electors.

(3) The governing body may refer an existing or proposed ordinance to a vote of the people by resolution.

(4) A petition or resolution for an election must:

(a) embrace only a single comprehensive subject;

(b) set out fully the ordinance sought, the ordinance to be amended and the proposed amendment, or the ordinance to be repealed;

(c) be in the form prescribed in Title 13, chapter 27, except as specifically provided in this part; and

(d) contain transition provisions if the measure changes terms of office or forms of government.

(5) An election held pursuant to this section must be conducted in conjunction with the next local government election held in accordance with Title 13, chapter 1, part 4, ~~except that if the petition asks for a special election, specifies an election date that complies with 13-1-405, and is signed by at least 25% of the qualified electors, a special election must be held on the date specified in the petition.~~

(6) If a majority of those voting on the question approve the proposal, it becomes effective when the election results are officially declared, unless otherwise stated in the proposal."

**Section 4.** Section 7-6-1504, MCA, is amended to read:

1           **"7-6-1504. Resort tax -- election required -- procedure -- notice.** (1) A resort community, resort  
2 area, or resort area district may not impose or, except as provided in 7-6-1505, amend or repeal a resort tax  
3 unless the resort tax question has been approved by a majority of the qualified electors voting on the question  
4 during a general election as described in 13-1-104.

5           (2) The resort tax question may be presented to the qualified electors of:

6           (a) a resort community by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-  
7 135, and 7-5-137 or by a resolution of the governing body of the resort community;

8           (b) a resort area by a resolution of the board of county commissioners, following receipt of a  
9 petition of electors as provided in 7-6-1508;

10          (c) an existing resort area district by a resolution of the board of directors of the resort area district  
11 in accordance with special district election procedures provided in 13-1-501 through 13-1-505.

12          (3) If a proposed resort area is in more than one county, the resort tax question must be presented  
13 to and approved by the qualified electors in the resort area of each county.

14          (4) The petition or resolution referring the taxing question must state:

15           (a) the rate of the resort tax;

16           (b) the duration of the resort tax;

17           (c) the date when the tax becomes effective, which date may not be earlier than 35 days after the  
18 election; and

19           (d) the purposes that may be funded by the resort tax revenue. If the petition or resolution includes  
20 the additional tax provided for in 7-6-1503(1)(b)(i), the revenue from the additional tax must be designated for  
21 infrastructure and the specific uses must be identified in the petition or resolution. The additional levy for  
22 infrastructure authorized under this subsection (4)(d) terminates when the specified infrastructure debts and  
23 project costs are paid unless the board submits and the qualified electors approve another levy for  
24 infrastructure.

25          (5) On receipt of an adequate petition, the governing body shall hold an election in conjunction  
26 with a general election and in accordance with Title 13, chapter 1, part 5.

27          (6) (a) Before the resort tax question is submitted to the electorate of a resort community or resort  
28 area, the governing body of the resort community or the board of county commissioners in the county in which

1 the resort area is located shall provide notice of the goods and services subject to the resort tax by a method  
2 described in 13-1-108.

3 (b) The notice must be given two times, with at least 6 days separating the notices. The first notice  
4 must be no more than 45 days prior to the election, and the last notice must be no less than 30 days prior to the  
5 election.

6 (7) Notice of the election must be given as provided in 13-1-108 and include the information listed  
7 in subsection (4) of this section.

8 (8) The question of the imposition of a resort tax may not be placed before the qualified electors  
9 more than once in any fiscal year.

10 (9) The governing body, as defined in 7-6-1505, of a resort area, resort area district, or resort  
11 community that already imposes a resort tax may submit to the qualified electors of the resort area, resort area  
12 district, or resort community the question of whether to levy the additional resort tax provided for in 7-6-  
13 1503(1)(b)(i). The election must be noticed as provided in this section and conducted as provided in 13-1-501  
14 through 13-1-505."  
15

16 **Section 5.** Section 7-6-1536, MCA, is amended to read:

17 **"7-6-1536. Resort area district -- election required -- notice.** (1) Upon a determination that the  
18 petition complies with the provisions of 7-6-1533 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546  
19 through 7-6-1548, and 7-6-1550, the board of county commissioners of each county in which the resort area  
20 lies shall conduct an election during a general election and in accordance with Title 13, chapter 1, part 5.

21 (2) Notice of the election must be made as provided in 13-1-108 and must:

22 (a) describe the purpose of the proposed resort area district; and

23 (b) state the name of the proposed resort area district, which must include the words "resort area  
24 district".  
25

26 **Section 6.** Section 7-6-1542, MCA, is amended to read:

27 **"7-6-1542. Resort area district board powers related to resort tax revenue -- bonds -- election --**  
28 **restrictions.** (1) The board of directors may:

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1 (a) appropriate and expend revenue from a resort tax for any activity, undertaking, or  
2 administrative service authorized in the resolution creating a resort area and adopting a resort tax;
- 3 (b) adopt administrative ordinances necessary to aid in the collection or reporting of resort taxes  
4 and in the expenditure of resort tax revenue;
- 5 (c) except as provided in subsection (2), if approved by four of the five board members, issue  
6 bonds to provide, install, or construct any of the public facilities, improvements, or capital projects authorized as  
7 provided in subsection (1)(a) and pledge for repayment of the bonds the revenue derived from the resort tax;  
8 and
- 9 (d) submit to the qualified electors of the resort area district the question of whether to levy the  
10 additional resort tax provided for in 7-6-1503(1)(b)(i) for infrastructure.
- 11 (2) Except for bonds pledging resort tax revenue raised from an additional resort tax levy for  
12 infrastructure provided for in 7-6-1503(1)(b)(i), a resort area district may not issue bonds to construct any  
13 single-purpose public facility, improvement, or capital project in an amount exceeding \$500,000 without the  
14 approval of a majority of the qualified electors voting at an a general election conducted in accordance with Title  
15 13, chapter 1, part 5.
- 16 (3) The provisions of 7-6-1506(3) apply to the issuance of bonds by a resort area district, and the  
17 board of directors shall conclude that the projected useful life of the public facilities, improvements, or capital  
18 projects will be greater than the term of the bonds that were issued to construct the public facilities,  
19 improvements, or capital projects.
- 20 (4) Resort tax revenue that is pledged by a resort area district to the repayment of bonds must be  
21 sufficient to pay the principal and interest on the bonds in each year when the principal and interest is due.  
22 Bonds do not constitute debt for the purpose of any statutory debt limitation. Except for bonds pledging resort  
23 tax revenue raised from an additional resort tax levy for infrastructure, a resort area district may not issue bonds  
24 pledging proceeds of the resort tax for repayment unless the board of directors in the resolution authorizing  
25 issuance of the bonds determines that the annual principal and interest payment on the bonds issued will not  
26 cumulatively exceed 25% of the average of resort tax revenue received by the district during the preceding 5  
27 years. Bonds may not be issued for a term longer than the remaining duration of the resort area district.
- 28 (5) A resort area district may not commit cumulative annual debt service payments that exceed

1 70% of the revenue raised from an additional resort tax levy for infrastructure provided for in 7-6-1503(1)(b)(i).  
2 Debt service payments do not constitute debt for the purpose of any statutory debt limit. The additional resort  
3 tax levy for infrastructure may not be collected when the bonded obligation ceases unless the board submits  
4 and the qualified electors approve the additional levy for infrastructure as provided in 7-6-1504 and 13-1-501  
5 through 13-1-505.

6 (6) Debt service payments may not be issued for a term longer than the remaining duration of the  
7 resort area district."

8

9 **Section 7.** Section 7-6-4431, MCA, is amended to read:

10 **"7-6-4431. Authorization to exceed or impose less than maximum mill levy -- election required**  
11 **to exceed.** The governing body of a municipality may raise money by taxation for the support of municipal  
12 government services, facilities, or other capital projects in excess of the levy allowed by 15-10-420 under the  
13 following conditions:

14 (1) The governing body shall pass a resolution indicating its intent to exceed the current statutory  
15 mill levy limit on the approval of a majority of the qualified electors voting in an election under subsection (2).

16 The resolution must include:

17 (a) the specific purpose for which the additional money will be used;

18 (b) the specific dollar amount to be raised; and

19 (c) the approximate number of mills required.

20 (2) The governing body shall submit the question of the additional mill levy to the qualified electors  
21 of the municipality ~~at an election as provided in 15-10-425~~ during the general election as described in 13-1-104.

22 The question may not be submitted more than once in any calendar year. If the majority of voters voting on the  
23 question is in favor of the additional levy or levies, the governing body is authorized to impose the mill levy in  
24 the amount specified in the resolution.

25 (3) An election is not required for a governing body to impose less than the maximum number of  
26 mills or to carry forward authorization to impose the maximum number of mills in a subsequent tax year as  
27 provided in 15-10-420(1)(b)."

28

1 ~~Section 8. Section 7-11-1003, MCA, is amended to read:~~

2 ~~"7-11-1003. Authorization to create special districts. (1) Whenever the public convenience and~~  
3 ~~necessity may require:~~

4 ~~(a) the governing body may:~~

5 ~~(i) create a special district by resolution pursuant to 7-11-1007, 7-11-1008, and the provisions of 7-11-~~  
6 ~~1009, if applicable; or~~

7 ~~(ii) order a referendum to be placed on the general election ballot on the creation of a special district~~  
8 ~~to serve the inhabitants of the special district as provided in 7-11-1011 and the provisions of 7-11-1009, if~~  
9 ~~applicable; or~~

10 ~~(b) petitioners may initiate the creation of a special district to serve inhabitants of the special~~  
11 ~~district as provided in subsection (2).~~

12 ~~(2) (a) Upon receipt of a petition to institute the creation of a special district that is signed by at~~  
13 ~~least 40% of the registered voters or by the owners of at least 40% of the real property within the boundary of~~  
14 ~~the proposed special district and that is submitted to the clerk of the governing body, the governing body shall~~  
15 ~~commence proceedings to create a special district as provided in subsection (1)(a).~~

16 ~~(b) The form of the petition may be prescribed by the governing body, and the clerk of the~~  
17 ~~governing body shall verify the signatures on the petition.~~

18 ~~(c) Subject to subsection (2)(b), the petition must:~~

19 ~~(i) require the printed name of each signatory;~~

20 ~~(ii) specify whether the signatory is a property taxpayer or owner of real property within the~~  
21 ~~proposed special district and either the street address or the legal description, whichever the signatory prefers,~~  
22 ~~of that property;~~

23 ~~(iii) describe the type of special district being proposed and the general character of any proposed~~  
24 ~~improvements and program to be administered within the special district;~~

25 ~~(iv) designate the method of financing any proposed improvements or maintenance program within~~  
26 ~~the special district;~~

27 ~~(v) include a description of the areas to be included in the proposed special district; and~~

28 ~~(vi) specify whether the proposed special district would be administered by the local governing~~

1 ~~body or an appointed or elected board.~~

2 ~~(3) Within 60 days of receipt of a petition to create a special district, the clerk of the governing body~~

3 ~~shall:~~

4 ~~(a) certify that the petition is sufficient under the provisions of subsection (2) and present it to the~~  
5 ~~governing body at its next meeting; or~~

6 ~~(b) reject the petition if it is insufficient under the provisions of subsection (2).~~

7 ~~(4) A defect in the contents of the petition or in its title, form of notice, or signatures may not~~  
8 ~~invalidate the petition and subsequent proceedings as long as the petition has a sufficient number of qualified~~  
9 ~~signatures attached."~~

10  
11 **Section 9.** Section 7-11-1011, MCA, is amended to read:

12 ~~"7-11-1011. Referendum — conduct of election on creating special district.~~ (1) The governing  
13 ~~body may order a referendum on the creation of the proposed special district.~~

14 ~~(2) The resolution ordering the referendum must state, consistent with the requirements of 7-11-~~  
15 ~~1007, 7-11-1009, and 7-11-1024:~~

16 ~~(a) the maximum rate or amount of the initial proposed assessments or fees that would be~~  
17 ~~imposed;~~

18 ~~(b) the type of activities proposed to be financed, including a general description of the program or~~  
19 ~~improvements;~~

20 ~~(c) a description of the areas included in the proposed special district;~~

21 ~~(d) whether the proposed special district would be administered by the governing body or an~~  
22 ~~appointed or elected board;~~

23 ~~(e) the method of financing the proposed program or improvements; and~~

24 ~~(f) the duration of the proposed special district.~~

25 ~~(3) The election must be held during the general election as described in 13-1-104.~~

26 ~~(3)(4) The election must be conducted in accordance with Title 13, chapter 1, part 5.~~

27 ~~(4)(5) The proposition to be submitted to the electorate must read: "Shall the proposition to organize~~  
28 ~~(name of proposed special district) be adopted?"~~

1           ~~(5)(6)~~—An individual is entitled to vote on the proposition if the individual:

2           ~~(a)~~— is a registered elector of the state; and

3           ~~(b)~~— is a resident of or owner of taxable real property in the area subject to the proposed special  
4 district.

5           ~~(6)(7)~~—If the proposition is approved, the election administrator of each county shall:

6           ~~(a)~~— immediately file with the secretary of state a certificate stating that the proposition was adopted;

7           ~~(b)~~— record the certificate in the office of the clerk and recorder of the county or counties in which  
8 the special district is situated; and

9           ~~(c)~~— notify any municipalities lying within the boundaries of the special district."

11           **Section 10.** Section 7-11-1012, MCA, is amended to read:

12           ~~"7-11-1012. Certificate of establishment. (1) On receipt of the certificate referred to in 7-11-1011(6)~~  
13 ~~7-11-1011(7), the secretary of state shall, within 10 days, issue a certificate reciting that the specified district~~  
14 ~~has been established according to the laws of the state of Montana. A copy of the certificate must be~~  
15 ~~transmitted to and filed with the clerk and recorder of the county or counties in which the district is situated.~~

16           ~~(2) When the certificate is issued by the secretary of state, the district named in the certificate is~~  
17 ~~established with all the rights, privileges, and powers set forth in 7-11-1021."~~

19           **Section 11.** Section 7-11-1013, MCA, is amended to read:

20           ~~"7-11-1013. Order creating district— power to implement program. (1) The governing body shall~~  
21 ~~create a special district and establish assessments or fees if the governing body finds that insufficient protests~~  
22 ~~have been made in accordance with 7-11-1008 or if the eligible registered voters have approved a referendum~~  
23 ~~as provided in 7-11-1011.~~

24           ~~(2) To create a special district, the governing body shall issue an order or pass an ordinance or~~  
25 ~~resolution in accordance with the resolution of intention introduced and passed by the governing body or in~~  
26 ~~accordance with the terms of the referendum required under 7-11-1011. This must be done within 30 days of~~  
27 ~~the end of the protest period or approval of the referendum during the general election as described in 13-1-~~  
28 ~~104.~~

1 ~~(3) If the governing body creates the special district of its own accord and without a referendum being~~  
 2 ~~held, a copy of the order, ordinance, or resolution creating the district, certified by the clerk of the governing~~  
 3 ~~body, must be delivered to the clerk and recorder of the county or counties in which the special district is~~  
 4 ~~situated and to the secretary of state, who shall issue a certificate of establishment in accordance with 7-11-~~  
 5 ~~1012."~~

6

7 **Section 8.** Section 7-12-4243, MCA, is amended to read:

8 **"7-12-4243. Procedure to create and maintain supplemental revolving fund -- election required**  
 9 **-- qualified electors defined.** (1) (a) A supplemental revolving fund may be created by ordinance, subject to  
 10 the approval of a majority of the qualified electors voting at an election held in accordance with Title 13, chapter  
 11 1, part 5. The election must be held on general election day as described in 13-1-104.

12 (b) As used in 7-12-4241 through 7-12-4258, "qualified electors" means registered electors of the  
 13 municipality.

14 (2) The supplemental revolving fund must be created and maintained solely from the net revenue  
 15 of parking meters. The ordinance may pledge to the revolving fund all or any part of the net revenue of parking  
 16 meters owned, leased, rented, or acquired by the city or town. The ordinance must contain any provisions  
 17 concerning the purchase, control, operation, repair, and maintenance of parking meters, including rates to be  
 18 charged, and the application of the net revenue from the meters and the management and use of the  
 19 supplemental revolving fund that the council considers necessary."

20

21 **Section 9.** Section 7-13-2208, MCA, is amended to read:

22 **"7-13-2208. Decision on petition -- election required -- exception.** (1) On the final hearing  
 23 provided for in 7-13-2206, the board of county commissioners shall make any changes in the proposed  
 24 boundaries within the county that are considered advisable and shall define and establish the boundaries. The  
 25 board of county commissioners may not modify the boundaries in a manner that would exclude from the  
 26 proposed district any territory that would benefit from the formation of the district. Land that will not, in the  
 27 judgment of the board of county commissioners, benefit from the district may not be included within the  
 28 proposed district.

1 (2) Upon the final determination of the boundaries of the district, the board of county  
2 commissioners of each county in which the district lies shall hold an election for the purpose of determining  
3 whether the district is to be incorporated, except as provided in subsection (3). The election must be held on  
4 general election day as described in 13-1-104 and conducted in accordance with Title 13, chapter 1, part 5.

5 (3) An election is not required if the petition for the creation of the district is signed by the owners  
6 of all of the real property in the proposed district. If an election is not held, upon the final determination of the  
7 boundaries of the district, the board of county commissioners of each county in which the district lies shall, by  
8 an order entered on its minutes, declare the territory enclosed within the proposed boundaries as an organized  
9 county water and/or sewer district. The county clerk and recorder shall forward a certified copy of the order to  
10 the secretary of state."  
11

12 **Section 10.** Section 7-13-2210, MCA, is amended to read:

13 **"7-13-2210. Notice of election.** Notice of an election on whether a district should be incorporated  
14 must be provided in accordance with 13-1-108 and must include a description of the boundaries established  
15 and state the proposed name of the proposed district. The name must contain the words "... County water  
16 and/or sewer district". The election must be held during the general election as described in 13-1-104."  
17

18 **Section 11.** Section 7-13-2341, MCA, is amended to read:

19 **"7-13-2341. Addition of land to district -- election required -- effect on land and district. (1)**

20 Except as provided in subsection (5), any portion of any county or any municipality, or both, may be added to  
21 any district organized under the provisions of part 22 and this part at any time upon petition presented in the  
22 manner provided in part 22 and this part for the organization of the district.

23 (2) The petition may be granted by ordinance of the board of directors of the district. The  
24 ordinance must be submitted for adoption or rejection by the qualified electors during a general election as  
25 described in 13-1-104.

26 (3) If the ordinance is approved, the president and secretary of the board of directors shall certify  
27 that fact to the secretary of state and to the county clerk and recorder of the county in which the district is  
28 located. On receipt of the certification, the secretary of state shall within 10 days issue a certificate that states

1 the passage of the ordinance and the addition of the territory to the district. A copy of the certificate must be  
2 transmitted to and filed with the county clerk and recorder of the county in which the district is situated.

3 (4) After the filing of the certificate, the territory is added to and is a part of the district with all the  
4 rights, privileges, and powers set forth in this part and necessarily incident to this part.

5 (5) If the board of directors determines that a district has a water facility or a sewer facility with a  
6 capacity greater than required to meet the needs of the current district, it may by ordinance, on petition of  
7 contiguous property owners and with the written consent of all property owners to whom the service is to be  
8 extended, expand the district to include land, to the extent of excess capacity, without complying with  
9 subsections (1) and (2). However, if the board determines that an election should be held or if 40% or more of  
10 the qualified electors petition for an election, compliance with subsections (1) and (2) is required.

11 (6) (a) Any property outside of the limits of a district that is benefited by a previously contracted  
12 improvement and is subsequently annexed to the district may be assessed for any improvements previously  
13 contracted for using the method provided in 7-12-2151(1)(d).

14 (b) The benefited property may also be assessed for any improvement, within or outside the  
15 district limits, that is determined by the board to benefit property that was outside the district limits at the time of  
16 contracting for the improvement, whether or not an improvement district was previously created for the  
17 improvement.

18 (c) After any new property is annexed to the district, the total number of lots, tracts, or parcels in  
19 the district must be recalculated pursuant to 7-12-2151(4).

20 (d) Assessment proceedings under this section are valid notwithstanding any failure of previous  
21 proceedings to comply with the provisions of law regarding improvements to be financed by special  
22 assessments."

23

24 **Section 12.** Section 7-13-2342, MCA, is amended to read:

25 **"7-13-2342. Consolidation of county water and/or sewer districts -- election required.** (1) Two or  
26 more districts organized under the provisions of part 22 and this part may consolidate at any time upon petitions  
27 submitted to the board of directors of each district. The petitions must be in the form required for petitions for  
28 the organization of districts. Each petition must be signed by not less than 10% of the qualified electors of the

1 territory included within the district.

2 (2) The petitions may be granted by ordinance of the board of directors of each district. The  
3 ordinances must be submitted for adoption or rejection by the qualified electors during a general election as  
4 described in 13-1-104.

5 (3) If the ordinances are approved, the president and secretary of the boards of directors of each  
6 district shall certify that fact to the secretary of state and to the county clerk of the county or counties in which  
7 the districts are located. On receipt of the certificate, the secretary of state shall within 10 days issue a  
8 certificate reciting the passage of the ordinances and the consolidation of the districts. A copy of the certificate  
9 must be transmitted to and filed with the county clerk of each county in which the consolidated district is  
10 situated.

11 (4) After the date of the certificate, the districts are considered to be consolidated and consist of  
12 one district with all the rights, privileges, and powers set forth in part 22 and this part and necessarily incident to  
13 those rights, privileges, and powers.

14 (5) The number and manner of selection and election of directors of the consolidated district must  
15 be the same as the number and manner of selection and election of directors of newly organized districts."  
16

17 **Section 13.** Section 7-13-2352, MCA, is amended to read:

18 **"7-13-2352. Dissolution of district by election.** (1) The board of directors may, after notice is given  
19 as provided in 7-1-2121, hold a hearing for dissolution of the district if:

- 20 (a) the district has no facilities;  
21 (b) the district provides no services;  
22 (c) the board is not a party to any existing contracts and is not engaged in any contract proposals  
23 for facilities or services; and  
24 (d) the district has not had outstanding debts for at least 3 years.

25 (2) At the dissolution hearing, the board of directors shall hear testimony of all persons interested  
26 in whether the district should be dissolved.

27 (3) If the board of directors determines that the dissolution of the district is in the best interests of  
28 the public, the board may resolve to recommend that the district be dissolved. The recommendation must

1 include a specific plan for distribution of any remaining assets after dissolution and must be provided to the  
2 board of county commissioners in each county in which the district is located.

3 (4) Upon receipt of a recommendation for dissolution, the board of county commissioners in each  
4 county in which the district lies shall order an election on the proposed dissolution. The election must be held in  
5 conjunction with a general election as described in 13-1-104.

6 (5) If the majority of votes cast at the election by qualified electors of the district are in favor of  
7 dissolving the district, each board of county commissioners shall by order declare the district dissolved.

8 (6) Upon dissolution of the district by each board of county commissioners, the clerk of each  
9 county in which the district was located shall immediately send written notice to the secretary of state and shall  
10 record a certificate stating that the district is dissolved.

11 (7) Any assets of the district after dissolution must be distributed according to the plan adopted by  
12 the board of directors under subsection (3)."

13

14 **Section 14.** Section 7-13-4512, MCA, is amended to read:

15 **"7-13-4512. Referendum.** (1) The commissioners may adopt a resolution causing a referendum to be  
16 submitted to the registered electors who reside within a proposed local water quality district to authorize the  
17 creation of the district and establish fees. The election must be held during a general election as described in  
18 13-1-104 and be conducted in accordance with Title 13, chapter 1, part 5.

19 (2) The referendum must state:

20 (a) the type and maximum rate of the initial proposed fees that would be imposed, consistent with  
21 the requirements of 7-13-4523;

22 (b) the maximum dollar amount for a family residential unit;

23 (c) the type of activities proposed to be financed, including a general description of the local water  
24 quality program; and

25 (d) a general description of the areas included in the proposed district."

26

27 **Section 15.** Section 7-13-4535, MCA, is amended to read:

28 **"7-13-4535. Referendum to abolish local water quality district or joint local water quality**

1 **district -- termination procedures.** (1) A person owning a fee-assessed unit located within a local water  
 2 quality district or a joint local water quality district may petition the commissioners of a local water quality district  
 3 or the board of directors of a joint water quality district to submit a referendum to the registered electors residing  
 4 in the district to terminate or abolish the district. The petition must be in writing and contain the signatures and  
 5 addresses of 20% or more of the owners of fee-assessed units in the district. The petition requesting a  
 6 referendum for termination or abolishment of a district must be delivered to the county clerk, who shall endorse  
 7 on it the date on which the petition was received and validate the signatures within 60 days of receipt of the  
 8 petition. If the petition contains valid signatures of at least 20% of the owners of fee-assessed units located  
 9 within the district, the county clerk shall notify the commissioners of a local water quality district or the board of  
 10 directors of a joint water quality district.

11 (2) On receipt of a valid petition described in subsection (1), the commissioners of a local water  
 12 quality district or the board of directors of a joint water quality district shall submit the referendum to the  
 13 registered electors residing in the district in an election during a general election as described in 13-1-104 and  
 14 conducted in accordance with Title 13, chapter 1, part 5."

15  
 16 **Section 16.** Section 7-14-210, MCA, is amended to read:

17 **"7-14-210. Election on question of creating urban transportation district or addition to district.**

18 (1) The commissioners, on completion of the public hearing required by 7-14-207, shall proceed by resolution to  
 19 refer the creation of the district or an addition to a district to the persons qualified to vote on the proposition.

20 (2) The election must be held on general election day as described in 13-1-104 and be conducted  
 21 in accordance with Title 13, chapter 1, part 5."

22  
 23 **Section 17.** Section 7-14-1106, MCA, is amended to read:

24 **"7-14-1106. Election of local port authority commissioners.** (1) Any registered elector in the

25 county or municipality in which the local port authority is located may file a declaration of candidacy with the  
 26 election administrator. The declaration must be filed within the time period for candidate filing specified in 13-1-  
 27 502.

28 (2) The election must be held on general election day as described in 13-1-104 and be conducted

1 in accordance with Title 13, chapter 1, part 5.

2 (3) If no declarations are filed for one or more commissioner offices, the appropriate local  
3 governing body shall appoint one or more commissioners as necessary to fill those offices."

4

5 **Section 18.** Section 7-14-1134, MCA, is amended to read:

6 **"7-14-1134. Method of funding deficiency -- election required.** (1) Subject to the conditions stated  
7 in this section, the governing body of a county or of a municipality having a population in excess of 10,000 may  
8 by resolution covenant that if at any time all revenue, including taxes, appropriated and collected for bonds  
9 issued pursuant to this part is insufficient to pay principal or interest then due, it will levy a general tax on all of  
10 the taxable property in the county or municipality for the payment of the deficiency. The governing body may  
11 further covenant that at any time a deficiency is likely to occur within 1 year for the payment of principal and  
12 interest due on the bonds, it will levy a general tax on all the taxable property in the county or municipality for  
13 the payment of the deficiency. The taxes are not subject to any limitation of rate or amount applicable to other  
14 county or municipal taxes but are limited to a rate estimated to be sufficient to produce the amount of the  
15 deficiency. If more than one local government is included in an authority issuing bonds pursuant to this part, the  
16 local governments may apportion the obligation to levy taxes for the payment of, or in anticipation of, a  
17 deficiency in the revenue appropriated for the bonds in a manner that the local governments may determine.

18 (2) The resolution must state the principal amount and purpose of the bonds and the substance of  
19 the covenant respecting deficiencies.

20 (3) A resolution is not effective until the question of its approval has been submitted to the qualified  
21 electors of the local government at an ~~election called for that purpose by the governing body of the local~~  
22 ~~government and held as provided in 15-10-425~~ a general election as described in 13-1-104 and the question is  
23 approved by a majority of the electors voting.

24 (4) If a majority of the electors voting on the issue vote against approval of the resolution, the local  
25 government may not make the covenant or levy a tax for the payment of deficiencies pursuant to this section.  
26 The local government or authority may issue bonds under this part payable solely from the sources referred to  
27 in 7-14-1133(1)."

28

1           **Section 19.** Section 7-14-1632, MCA, is amended to read:

2           **"7-14-1632. Mill levy authorized.** The authority may certify ~~annually~~ biennially to the board of county  
3 commissioners the amount of money necessary for the operation of the authority. Upon approval by the  
4 electorate during a general election as described in 13-1-104, the board shall ~~annually~~, at the time of levying  
5 county taxes, fix and levy a tax in mills upon all property within the boundaries of the authority clearly sufficient  
6 to raise the amount certified by the authority."

7  
8           **Section 20.** Section 7-14-1633, MCA, is amended to read:

9           **"7-14-1633. Election required to impose mill levy.** (1) Before the levy provided for in 7-14-1632  
10 may be made, the question must be submitted to a vote of the people at ~~an election held pursuant to 15-10-425~~  
11 a general election as described in 13-1-104.

12           (2) Notice of the election, clearly stating the amount and the purpose of the levy, must be given,  
13 and the election must be conducted in accordance with Title 13, chapter 1, part 5."

14  
15           **Section 21.** Section 7-14-4642, MCA, is amended to read:

16           **"7-14-4642. Election required to issue revenue bonds.** (1) The power to issue revenue bonds as  
17 provided in this part is not operative in any city until the legislative body submits to the qualified electors during  
18 a general election as described in 13-1-104 the question as to whether the legislative body, the commission, or  
19 both are authorized to adopt the revenue bond method of financing projects provided for in this part.

20           (2) The election on the question must be conducted in accordance with Title 13, chapter 1, part 4.

21           (3) The qualifications of electors are the same as those required for voting at municipal elections in  
22 the city for elective officers. The provisions relating to the qualifications of electors and manner of submission of  
23 the question to the electors for the purposes of this part are controlling, notwithstanding any provision of law to  
24 the contrary."

25  
26           **Section 22.** Section 7-15-4218, MCA, is amended to read:

27           **"7-15-4218. Voter approval of urban renewal plan required when general obligation bonds to be**  
28 **used.** If the plan or any subsequent modification thereof involves financing by the issuance of general

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 obligation bonds of the municipality as authorized in 7-15-4302(1) or the financing of water or sewer  
2 improvements by the issuance of revenue bonds under the provisions of part 44 of chapter 7 or of part 43 of  
3 chapter 13, the question of approving the plan and issuing such bonds shall be submitted to a vote of the  
4 qualified electors of such municipality on general election day as described in 13-1-104, in accordance with the  
5 provisions governing municipal general obligation bonds under chapter 7, part 42, at the same general election  
6 and shall be approved by a majority of those qualified electors voting on such question."  
7

8 **Section 23.** Section 7-15-4408, MCA, is amended to read:

9 **"7-15-4408. Voter approval required to create housing authority.** The ordinance authorized by 7-  
10 15-4406(2) is not effective until it has been approved by a majority vote of the registered electors within the city  
11 limits voting ~~either at a special election held in conjunction with a regular or primary election or at a general~~  
12 election."  
13

14 **Section 24.** Section 7-16-2102, MCA, is amended to read:

15 **"7-16-2102. Authorization for tax levy for parks and certain cultural, social, and recreational**  
16 **facilities.** (1) Subject to 15-10-420, the board of county commissioners may annually levy on the taxable  
17 property of the county, in the same manner and at the same time as other county taxes are levied, a tax for the  
18 purpose of maintaining, operating, and equipping parks, cultural facilities, and any county-owned civic center,  
19 youth center, recreation center, recreational complex, or any combination of purposes, parks, and facilities.

20 (2) (a) The board of county commissioners shall submit the question of imposing or the continued  
21 imposition of the property tax mill levy provided in subsection (1) to the electors of the county if a petition  
22 requesting an election, signed by at least 15% of the resident taxpayers of the county, is filed with the county  
23 clerk. The petition must be filed with the county clerk at least 90 days prior to the date of the election.

24 (b) The question must be submitted as provided in 15-10-425.

25 (c) The board of county commissioners shall levy the tax if the question for the imposition of the  
26 tax is approved by a majority of the electors voting on the question during a general election as described in 13-  
27 1-104.

28 (3) All laws applicable to the collection of county taxes apply to the collection of the tax provided

1 for in this section."

2

3 **Section 25.** Section 7-31-106, MCA, is amended to read:

4 **"7-31-106. Authorization for county to issue bonds -- election required.** (1) If the petition is  
5 presented to the board of county commissioners, the board shall, for the purpose of raising money to meet the  
6 payments under the terms and conditions of the contract and other necessary and proper expenses for the  
7 contract and for the approval or disapproval of the petition:

8 (a) ascertain, within 30 days after submission of the petition, the existing indebtedness of the  
9 county in the aggregate; and

10 (b) submit, after ascertaining the aggregate indebtedness, to the electors of the county the  
11 proposition to approve or disapprove the contract and the issuance of bonds necessary to carry out the  
12 contract. The election must be held in conjunction with a ~~regular or primary~~ general election.

13 (2) The amount of the bonds authorized by this section may not exceed the debt limitation  
14 established in 7-7-2203 prior to the issuance of the bonds."

15

16 **Section 26.** Section 7-31-107, MCA, is amended to read:

17 **"7-31-107. Authorization for municipality to issue bonds -- election required.** (1) If the petition is  
18 presented to the council of any incorporated city or town, the council, for the purpose of raising money to meet  
19 the payments under the terms and conditions of the contract and other necessary and proper expenses for the  
20 contract and for the approval or disapproval of the petition, shall:

21 (a) ascertain, within 30 days after submission of the petition, the aggregate indebtedness of the  
22 city or town; and

23 (b) submit, after ascertaining the aggregate indebtedness, to the electors of the city or town the  
24 proposition to approve or disapprove the contract and the issuance of bonds necessary to carry out the  
25 contract. The election must be held in conjunction with a ~~regular or primary~~ general election.

26 (2) The amount of the bonds authorized (2) by this section may not exceed 0.9% of the total assessed  
27 value of taxable property, determined as provided in 15-8-111, within the city or town, inclusive of the existing  
28 indebtedness of the city or town, as ascertained in the manner provided in this part."

1

2 **Section 27.** Section 7-31-109, MCA, is amended to read:

3 **"7-31-109. Conduct of election.** (1) The vote upon a proposition under this part must be at an  
4 election for that purpose to be held, conducted, and counted and with results ascertained and determined in the  
5 manner and by the same officers provided by law for general elections, except as otherwise provided in this  
6 section. The election must be held in conjunction with a ~~regular or primary~~ general election.

7 (2) The proposition must be submitted upon printed tickets or ballots, upon each of which is printed  
8 the following: "For the contract and bonds" and "Against the contract and bonds". The elector shall vote by a  
9 cross opposite one statement.

10 (3) No registration under the election laws of this state is required for the purposes of the election,  
11 and the registration from the last election governs and controls for the purpose of the election to be held under  
12 this part."

13

14 ~~**Section 32.** Section 7-33-2106, MCA, is amended to read:~~

15 ~~**"7-33-2106. Details relating to board of trustees of fire district -- election -- qualified electors.**~~

16 ~~(1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their~~  
17 ~~successors are elected or appointed and qualified as provided in this section.~~

18 ~~(b) The initial trustees' terms of office must be drawn by lot and include:~~

19 ~~(i) 3 years 6 years for one trustee;~~

20 ~~(ii) 2 years 4 years for two trustees; and~~

21 ~~(iii) 1 year 2 years for two trustees.~~

22 ~~(c) Upon expiration of the terms provided in subsection (1)(b), each subsequent trustee shall serve~~  
23 ~~a 3-year 4-year term of office.~~

24 ~~(d) A term of office begins on the date of the trustee's election or appointment.~~

25 ~~(2) Trustee elections must be held during a general election and must be conducted in accordance~~  
26 ~~with Title 13, chapter 1, part 5.~~

27 ~~(3) An appointment to fill a vacancy occurring during the term of office of a trustee must be made~~  
28 ~~by the county governing body and the appointee shall hold office until the next trustee general election.~~

~~(4) — An elector, as defined in 13-1-101, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.~~

~~(5) — Any person eligible to vote in the election may file a declaration of candidacy for the office of trustee. The declaration must be filed with the election administrator in the county conducting the election pursuant to 13-1-505 within the time period specified in 13-1-502.~~

~~(6) — If there is not a candidate for one or more trustee offices, the board of county commissioners shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.~~

~~(7) — The trustees shall organize by choosing presiding officers and appointing one member to act as secretary."~~

**Section 28.** Section 7-34-2109, MCA, is amended to read:

**"7-34-2109. Election on question of creating hospital district.** The board of county commissioners, upon completion of the hearing provided for in 7-34-2106 through 7-34-2108, shall proceed by resolution to refer the question of the creation of such district to the persons qualified to vote on such proposition. The election must be held in conjunction with a general election as described in 13-1-104."

**Section 29.** Section 7-34-2110, MCA, is amended to read:

**"7-34-2110. Resolution calling for election on creation of district -- conduct of election.** (1) The board of county commissioners in its resolution may make changes in the boundaries of the proposed district that it considers advisable, without including any additional lands not described in the petition, and it shall call an election on the question of the creation of the district.

(2) The election must be held during a general election and must be conducted in accordance with Title 13, chapter 1, part 5."

**Section 30.** Section 7-34-2414, MCA, is amended to read:

**"7-34-2414. Election required on question of issuance of bonds.** (1) A county may not issue

1 bonds to which all or a portion of the taxes levied under 7-6-2512 are pledged or to which the general tax  
 2 authorized under 7-34-2418 is pledged until the question of approval of the issuance of the bonds has been  
 3 submitted to the registered electors of the county at a general election ~~or a special election called for that~~  
 4 ~~purpose by the governing body of the county~~ and the majority of the electors voting on the question have voted  
 5 in favor of issuing the bonds. ~~A special election must be conducted in conjunction with a regular or primary~~  
 6 ~~election.~~ The notice and conduct of the election must be governed, to the extent applicable, by the laws  
 7 governing the election on county general obligation bonds in chapter 7, part 22.

8 (2) If less than a majority of the electors voting on the issuance of the bonds vote in favor of the  
 9 issuance of the bonds, the county may not issue the bonds under 7-34-2411."

11 **Section 31.** Section 13-1-101, MCA, is amended to read:

12 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the  
 13 following definitions apply:

14 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to  
 15 failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

16 (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

17 (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and  
 18 that is ordinarily not given away free but is purchased.

19 (4) "Application for voter registration" means a voter registration form prescribed by the secretary  
 20 of state that is completed and signed by an elector, is submitted to the election administrator, and contains  
 21 voter registration information subject to verification as provided by law.

22 (5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such  
 23 as an optical scan system or other technology that automatically tabulates votes cast by processing the paper  
 24 ballots.

25 (6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their  
 26 approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment,  
 27 recall question, school levy question, bond issue question, or ballot question.

28 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by

1 the proper official that the legal procedure necessary for its qualification and placement on the ballot has been  
2 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the  
3 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

4 (7) "Ballot issue committee" means a political committee specifically organized to support or  
5 oppose a ballot issue.

6 (8) "Candidate" means:

7 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination,  
8 or appointment as a candidate for public office as required by law;

9 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and  
10 retained contributions, made expenditures, or given consent to an individual, organization, political party, or  
11 committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure  
12 nomination or election to any office at any time, whether or not the office for which the individual will seek  
13 nomination or election is known when the:

14 (i) solicitation is made;

15 (ii) contribution is received and retained; or

16 (iii) expenditure is made; or

17 (c) an officeholder who is the subject of a recall election.

18 (9) (a) "Contribution" means:

19 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance,  
20 deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot  
21 issue;

22 (ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate  
23 or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

24 (iii) the receipt by a political committee of funds transferred from another political committee; or

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

27 (b) The term does not mean:

28 (i) services provided without compensation by individuals volunteering a portion or all of their time

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 on behalf of a candidate or political committee;

2 (ii) meals and lodging provided by individuals in their private residences for a candidate or other  
3 individual;

4 (iii) the use of a person's real property for a fundraising reception or other political event; or

5 (iv) the cost of a communication not for distribution to the general public by a religious organization  
6 exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held  
7 religious beliefs or practices.

8 (c) This definition does not apply to Title 13, chapter 37, part 6.

9 (10) "Coordinated", including any variations of the term, means made in cooperation with, in  
10 consultation with, at the request of, or with the express prior consent of a candidate or political committee or an  
11 agent of a candidate or political committee.

12 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not  
13 trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant  
14 enforcement as a campaign practices violation under Title 13, chapter 37.

15 (12) "Disability" means a temporary or permanent mental or physical impairment such as:

16 (a) impaired vision;

17 (b) impaired hearing;

18 (c) impaired mobility. Individuals having impaired mobility include those who require use of a  
19 wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

20 (d) impaired mental or physical functioning that makes it difficult for the person to participate in the  
21 process of voting.

22 (13) "Election" means a general, special, or primary election held pursuant to the requirements of  
23 state law, regardless of the time or purpose.

24 (14) ~~(a) "Election administrator" means, except as provided in subsection (14)(b), the county clerk~~  
25 ~~and recorder or the individual designated by a county governing body to be responsible for all election~~  
26 ~~administration duties, except that with regard to school elections not administered by the county, the term~~  
27 ~~means the school district clerk.~~

28 ~~(b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or~~

1 ~~the individual designated by a county governing body to be responsible for all election administration duties~~  
2 ~~even if the school election is administered by the school district clerk.~~

3 (15) (a) "Election communication" means the following forms of communication to support or  
4 oppose a candidate or ballot issue:

- 5 (i) a paid advertisement broadcast over radio, television, cable, or satellite;
- 6 (ii) paid placement of content on the internet or other electronic communication network;
- 7 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;
- 8 (iv) a mailing; or
- 9 (v) printed materials.

10 (b) The term does not mean:

11 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to  
12 vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

13 (ii) a communication that does not support or oppose a candidate or ballot issue;

14 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any  
15 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general  
16 circulation;

17 (iv) a communication by any membership organization or corporation to its members, stockholders,  
18 or employees;

19 (v) a communication not for distribution to the general public by a religious organization exempt  
20 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious  
21 beliefs or practices; or

22 (vi) a communication that the commissioner determines by rule is not an election communication.

23 (16) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to  
24 perform duties as specified by law.

25 (17) (a) "Electioneering communication" means a paid communication that is publicly distributed by  
26 radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other  
27 distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does  
28 not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the

1 district voting on the candidate or ballot issue, and that:

2 (i) refers to one or more clearly identified candidates in that election;

3 (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that  
4 election; or

5 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

6 (b) The term does not mean:

7 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any  
8 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general  
9 circulation unless the facilities are owned or controlled by a candidate or political committee;

10 (ii) a communication by any membership organization or corporation to its members, stockholders,  
11 or employees;

12 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in  
13 the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

14 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a  
15 candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

16 (v) a communication not for distribution to the general public by a religious organization exempt  
17 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious  
18 beliefs or practices; or

19 (vi) a communication that the commissioner determines by rule is not an electioneering  
20 communication.

21 (18) "Elector" means an individual qualified to vote under state law.

22 (19) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or  
23 gift of money or anything of value:

24 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue;

25 (ii) made by a candidate while the candidate is engaging in campaign activity to pay child-care  
26 expenses as provided in 13-37-220; or

27 (iii) used or intended for use in making independent expenditures or in producing electioneering  
28 communications.

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1 (b) The term does not mean:
- 2 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
- 3 (9);
- 4 (ii) except as provided in subsection (19)(a)(ii), payments by a candidate for personal travel
- 5 expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;
- 6 (iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the
- 7 facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general
- 8 circulation;
- 9 (iv) the cost of any communication by any membership organization or corporation to its members
- 10 or stockholders or employees;
- 11 (v) the use of a person's real property for a fundraising reception or other political event; or
- 12 (vi) the cost of a communication not for distribution to the general public by a religious organization
- 13 exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held
- 14 religious beliefs or practices.
- 15 (c) This definition does not apply to Title 13, chapter 37, part 6.
- 16 (20) "Federal election" means an election in even-numbered years in which an elector may vote for
- 17 individuals for the office of president of the United States or for the United States congress.
- 18 (21) "General election" means an election that is held for offices that first appear on a primary
- 19 election ballot, unless the primary is cancelled as authorized by law, and that is held on a date specified in 13-
- 20 1-104.
- 21 (22) "Inactive elector" means an individual who failed to respond to confirmation notices and whose
- 22 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.
- 23 (23) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.
- 24 (24) (a) "Incidental committee" means a political committee that is not specifically organized or
- 25 operating for the primary purpose of supporting or opposing candidates or ballot issues but that may
- 26 incidentally become a political committee by receiving a contribution or making an expenditure.
- 27 (b) For the purpose of this subsection (24), the primary purpose is determined by the
- 28 commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 statement of purpose or goal of the person or individuals that form the committee.

2 (25) "Independent committee" means a political committee organized for the primary purpose of  
3 receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate  
4 and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant  
5 to the limits set forth in 13-37-216(1).

6 (26) "Independent expenditure" means an expenditure for an election communication to support or  
7 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue  
8 committee.

9 (27) "Individual" means a human being.

10 (28) "Legally registered elector" means an individual whose application for voter registration was  
11 accepted, processed, and verified as provided by law.

12 (29) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by  
13 mailing ballots to all active electors.

14 (30) "Person" means an individual, corporation, association, firm, partnership, cooperative,  
15 committee, including a political committee, club, union, or other organization or group of individuals or a  
16 candidate as defined in subsection (8).

17 (31) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-  
18 307 for a mail ballot election conducted under Title 13, chapter 19.

19 (32) (a) "Political committee" means a combination of two or more individuals or a person other than  
20 an individual who receives a contribution or makes an expenditure:

21 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate  
22 or a petition for nomination;

23 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot  
24 issue; or

25 (iii) to prepare or disseminate an election communication, an electioneering communication, or an  
26 independent expenditure.

27 (b) Political committees include ballot issue committees, incidental committees, independent  
28 committees, and political party committees.

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 (c) A candidate and the candidate's treasurer do not constitute a political committee.

2 (d) A political committee is not formed when a combination of two or more individuals or a person  
3 other than an individual makes an election communication, an electioneering communication, or an  
4 independent expenditure of \$250 or less.

5 (e) A joint fundraising committee is not a political committee.

6 (33) "Political party committee" means a political committee formed by a political party organization  
7 and includes all county and city central committees.

8 (34) "Political party organization" means a political organization that:

9 (a) was represented on the official ballot in either of the two most recent statewide general  
10 elections; or

11 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

12 (35) "Political subdivision" means a county, consolidated municipal-county government,  
13 municipality, special purpose district, or any other unit of government, ~~except school districts,~~ having authority  
14 to hold an election.

15 (36) "Polling place election" means an election primarily conducted at polling places rather than by  
16 mail under the provisions of Title 13, chapter 19.

17 (37) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to  
18 nominate candidates for offices filled at a general election.

19 (38) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not  
20 been verified as provided by law.

21 (39) "Provisionally registered elector" means an individual whose application for voter registration  
22 was accepted but whose identity or eligibility has not yet been verified as provided by law.

23 (40) "Public office" means a state, county, municipal, school, or other district office that is filled by  
24 the people at an election.

25 (41) "Random-sample audit" means an audit involving a manual count of ballots from designated  
26 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

27 (42) "Registrar" means the county election administrator and any regularly appointed deputy or  
28 assistant election administrator.

1 (43) "Regular school election" means the school trustee election ~~provided for in~~ held in accordance  
2 with 20-20-105(1).

3 (44) "Religious organization" means a house of worship with the major purpose of supporting  
4 religious activities, including but not limited to a church, mosque, shrine, synagogue, or temple. The organic  
5 documents of the organization must list a formal code of doctrine and discipline, and the organization must  
6 spend the majority of its money on religious activities such as regular religious services, educational  
7 preparation for its ministers, development and support of its ministers, membership development, outreach and  
8 support, and the production and distribution of religious literature developed by the organization.

9 (45) "School election" has the meaning provided in 20-1-101.

10 (46) "School election filing officer" means the filing officer with whom the declarations for nomination  
11 for school district office were filed or with whom the school ballot issue was filed.

12 (47) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount  
13 duties in school elections.

14 (48) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that  
15 is designed to:

16 (a) allow election officials, upon examination of the outside of the envelope, to determine that the  
17 ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

18 (b) allow it to be used in the United States mail.

19 (49) "Special election" means an election held on a day other than the day specified for a primary  
20 election, or general election, ~~or regular school election.~~

21 (50) "Special purpose district" means an area with special boundaries created as authorized by law  
22 for a specialized and limited purpose.

23 (51) "Statewide voter registration list" means the voter registration list established and maintained  
24 pursuant to 13-2-107 and 13-2-108.

25 (52) "Support or oppose", including any variations of the term, means:

26 (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or  
27 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election  
28 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to

1 voters in an election; or

2 (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or  
3 ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the  
4 nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the  
5 passage or defeat of the ballot issue or other question submitted to the voters in an election.

6 (53) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided  
7 in 13-15-206.

8 (54) "Voted ballot" means a ballot that is:

9 (a) deposited in the ballot box at a polling place;

10 (b) received at the election administrator's office; or

11 (c) returned to a place of deposit.

12 (55) "Voter interface device" means a voting system that:

13 (a) is accessible to electors with disabilities;

14 (b) communicates voting instructions and ballot information to a voter;

15 (c) allows the voter to select and vote for candidates and issues and to verify and change  
16 selections; and

17 (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's  
18 accuracy and that may be manually counted.

19 (56) "Voting system" or "system" means any machine, device, technology, or equipment used to  
20 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."  
21

22 **Section 32.** Section 13-1-104, MCA, is amended to read:

23 **"13-1-104. Times for holding general elections.** (1) A general election must be held throughout the  
24 state on the first Tuesday after the first Monday in November.

25 (2) In every even-numbered year, the following elections must be held on general election day:

26 (a) an election on any ballot issue submitted to electors pursuant to Article III, section 6, unless the  
27 legislature orders a special election, or Article XIV, section 8, of the Montana constitution;

28 (b) an election of federal officers, members of the legislature, state officers, multicounty district

1 officers elected at a statewide election, district court judges, and county officers; and

2 (c) any other election required by law to be held on general election day in an even-numbered  
3 year; ;

4 ~~(3) In every odd-numbered year, the following elections must be held on the same day as the general~~  
5 ~~election;~~

6 ~~(a)(d) an election of officers for municipalities required by law to hold the election; and~~

7 ~~(b) any other election required by law to be held on general election day in an odd-numbered year."~~

8

9 **Section 33.** Section 13-1-106, MCA, is amended to read:

10 **"13-1-106. Time of opening and closing of polls for all elections -- exceptions.** (1) Except as  
11 provided in ~~subsections (2)(a) and (3)~~ subsection (2), polling places must be open from 7 a.m. to 8 p.m.

12 (2) (a) A polling place having fewer than 400 registered electors who intend to vote at the polling  
13 place must be open from at least noon to 8 p.m. or until all registered electors in any precinct have voted, at  
14 which time that precinct in the polling place must be closed immediately.

15 (b) The determination of whether a polling place has fewer than 400 registered electors who intend  
16 to vote at the polling place is calculated by subtracting the number of registered electors who have applied to  
17 vote using an absentee ballot from the total number of registered electors.

18 (c) The election administrator responsible for a polling place opening later than 7 a.m. pursuant to  
19 this subsection (2) shall provide notice of the change in polling place hours to affected registered electors who  
20 have not received an absentee ballot. The notice must be mailed to each affected registered voter no later than  
21 30 days prior to the election. However, if the polling place opens at the same time in each subsequent election,  
22 only one notice mailed before the initial election affected by the change in polling place hours is required.

23 ~~(3) If an election is held on the same day as a school election and is conducted in the same polling~~  
24 ~~place, the polling place must be opened and closed at the times set for the school election, as provided in 20-~~  
25 ~~20-106.~~

26 ~~(4)(3)~~ If a polling place serves a precinct that lies partially or wholly within the boundaries of an Indian  
27 reservation, the hours of operation may not be shortened pursuant to subsection (2) until after the county  
28 governing body consults with the governing body of the Indian reservation concerning the potential change in

1 hours of operation."

2

3 **Section 34.** Section 13-1-107, MCA, is amended to read:

4 **"13-1-107. Times for holding primary elections -- cost of municipal election.** (1) On the first  
5 Tuesday after the first Monday in June preceding a general election held in an even-numbered year, a primary  
6 election must be held throughout the state.

7 ~~(2) On the Tuesday following the second Monday in September preceding a general election held in~~  
8 ~~an odd-numbered year, a primary election, if required, must be held throughout the state.~~

9 ~~(3)(2)~~ The cost of a municipal election must be paid by the municipality."

10

11 **Section 35.** Section 13-1-203, MCA, is amended to read:

12 **"13-1-203. Secretary of state to advise, assist, and train.** (1) The secretary of state shall advise  
13 and assist election administrators, ~~including administrators of school elections under Title 20, chapter 20,~~ with  
14 regard to:

15 (a) the application, operation, and interpretation of Title 13, except for chapter 35, 36, or 37, and  
16 Title 20 with regard to school elections;

17 (b) the implementation and operation of the National Voter Registration Act of 1993, Public Law  
18 103-31, the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., the Voting Rights Act of 1965, 52  
19 U.S.C. 10101, et seq., the Voting Accessibility for the Elderly and Handicapped Act of 1984, 52 U.S.C. 20101,  
20 et seq., and the Help America Vote Act of 2002, Public Law 107-252; and

21 (c) the procedures adopted pursuant to 13-17-211.

22 (2) The secretary of state shall prepare and distribute training materials for election judges to be  
23 trained pursuant to 13-4-203. Sufficient copies of the materials to supply all election judges in the county and to  
24 provide a small extra supply must be sent to each election administrator.

25 (3) (a) The secretary of state shall hold at least one training session every 2 years to instruct  
26 election administrators and their staffs on how to conduct and administer primary and general elections. The  
27 training must also include instruction on the use of the statewide voter registration system. The training may be  
28 held in various locations around the state. The training must also be offered online and through

1 teleconferencing.

2 (b) Costs of the biennial training, including the materials, must be paid by the secretary of state.

3 (4) In addition to completing the biennial training under subsection (3), each election administrator  
4 shall complete 6 hours of election-related continuing education each year that is approved by the secretary of  
5 state. Costs for the continuing education must be paid by the counties.

6 (5) The secretary of state shall:

7 (a) certify for election administration purposes each election administrator who attends the biennial  
8 training and completes the required continuing education; and

9 (b) provide a certificate of completion to election staff who attend the biennial election training  
10 described in subsection (3).

11 (6) An election administrator may require that election staff complete the continuing education  
12 described in subsection (4) and provide a certificate of completion to staff who complete it."

13

14 **Section 36.** Section 13-1-204, MCA, is amended to read:

15 **"13-1-204. Election records to be kept by secretary of state.** (1) The secretary of state shall  
16 maintain current and accurate records including:

17 (a) a list of all precincts and school districts in each county;

18 (b) a map showing the boundaries of all precincts and school districts in each county;

19 (c) a count of the number of registered voters in each precinct for the latest general election and in  
20 each school district for the latest regular school election;

21 (d) a list of legislative districts, judicial districts, and any multicounty election districts, showing the  
22 precinct numbers of each county contained in each district and the number of registered voters in each district  
23 for the most recent general election and a list of school districts;

24 (e) a count of votes cast at the most recent general election by precinct and by legislative, judicial,  
25 and multicounty districts, and a count of votes cast in the most recent regular school election; and

26 (f) records required to be submitted from local election administrators and other agencies and  
27 coordinated by the secretary of state pursuant to the National Voter Registration Act of 1993, Public Law 103-

28 31.

1 (2) Each election administrator shall provide the information and map for the record required in  
2 subsection (1) in the form and at the time prescribed by the secretary of state.

3 (3) The records required in subsection (1) and all records in the secretary of state's office  
4 pertaining to elections must be open for public inspection during normal office hours."  
5

6 **Section 37.** Section 13-1-301, MCA, is amended to read:

7 **"13-1-301. Election administrator.** (1) The county clerk and recorder of each county is the election  
8 administrator unless the governing body of the county designates another official or appoints an election  
9 administrator.

10 (2) The election administrator is responsible for the administration of all procedures relating to  
11 registration of electors and conduct of elections, shall keep all county records relating to elector registration and  
12 elections, and is the primary point of contact for the county with respect to the statewide voter registration list  
13 and implementation of other provisions of applicable federal law governing elections.

14 (3) The election administrator may appoint a deputy election administrator for each political  
15 subdivision required to hold elections.

16 (4) The election administrator may appoint a deputy election administrator for school elections."  
17

18 **Section 38.** Section 13-1-302, MCA, is amended to read:

19 **"13-1-302. Election costs.** (1) Unless specifically provided otherwise, all costs of the regularly  
20 scheduled primary and general elections shall be paid by the counties and other political subdivisions for which  
21 the elections are held. Each political subdivision shall bear its proportionate share of the costs as determined by  
22 the county governing body.

23 (2) A political subdivision holding an annual election with a regularly scheduled school election  
24 shall bear its proportionate share of the costs as determined by the county election administrator and the school  
25 district ~~election administrator~~.

26 (3) The political subdivision for which a special election is held shall bear all costs of the election,  
27 or its proportionate share as determined by the county governing body if held in conjunction with any other  
28 election.

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 (4) Costs of elections may not include the services of the election administrator or capital  
2 expenditures. A county may not charge a political subdivision or school district for the purchase or routine  
3 maintenance of a voter interface device. However, the county may charge for the cost of programming a device  
4 for the election and for replacement, repairs, or maintenance required due to the political subdivision's or school  
5 district's use of the device election.

6 (5) The county governing body shall set a schedule of fees for services provided to school districts  
7 by the election administrator. ~~Before finalizing a contract to conduct a school election pursuant to a request~~  
8 ~~under 20-20-417, the county shall provide the school district with an estimate of costs for each county voter~~  
9 ~~interface device to be used for the election. When a school district is conducting its own election, the school~~  
10 ~~district shall request from the county an estimate of the cost for using a county voter interface device. The~~  
11 ~~county shall provide the estimate within 30 days of receiving the school district's request.~~

12 (6) Election costs shall be paid from county funds, and any shares paid by other political  
13 subdivisions and school districts shall be credited to the fund from which the costs were paid.

14 (7) The proportionate costs referred to in subsection (1) of this section shall be only those  
15 additional costs incurred as a result of the political subdivision holding its election in conjunction with the  
16 primary or general election."  
17

18 **Section 39.** Section 13-1-405, MCA, is amended to read:

19 **"13-1-405. Date of local government elections -- call for election.** (1) A local government election  
20 must be held on the same day as the primary election day established in 13-1-107 or the general election day  
21 established in 13-1-104, ~~except that an election concerning funding may be called as a special election.~~

22 ~~(2) A local government election may not be held sooner than 85 days after the date of the order or~~  
23 ~~resolution calling for the election.~~

24 ~~(3) Pursuant to 13-19-201, the governing body authorized by law to call an election shall specify in the~~  
25 ~~order or resolution calling for the election whether the governing body is requesting that the election be~~  
26 ~~conducted by mail."~~

27

28 **Section 40.** Section 13-1-504, MCA, is amended to read:

1           **"13-1-504. Dates for special purpose district elections -- call for election.** (1) ~~Except as provided~~  
2 in ~~subsection (2), the~~ The following elections for a special purpose district must be held on the same day as the  
3 ~~regular school election day established in 20-20-105(1), which is the first Tuesday after the first Monday in May~~  
4 primary or general election in an even-numbered year:

5           (a) an election to create, alter the boundaries of, continue, or dissolve a special purpose district;  
6 and

7           (b) an election to fill a special purpose district office.

8           (2) (a) A special purpose district election that includes a question affecting district funding, such as  
9 fee assessments, bonds, or the sale or lease of property, may be held on the day specified in subsection (1) ~~or~~  
10 ~~scheduled as a special election.~~

11           (b) A conservation district election must be held on a primary or general election day.

12           ~~(3) If specifically authorized by law, a special purpose district election may be held at the district's~~  
13 ~~annual meeting.~~

14           ~~(4)(3)~~ A special purpose district election may not be held earlier than 85 days after the date of the  
15 order or resolution calling for the election.

16           ~~(5)(4)~~ Pursuant to 13-19-201, the governing body authorized by law to call an election shall specify in  
17 the order or resolution calling for the election whether the governing body is requesting that the election be  
18 conducted by mail."

19  
20           **Section 41.** Section 13-2-304, MCA, is amended to read:

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

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

27           (b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who  
28 registers or changes the elector's voter information pursuant to this section may vote in the election if the

1 elector obtains the ballot from the location designated by the county election administrator.

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

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

9 (i) before election day, to a location designated by the county election administrator ~~or school~~  
10 ~~clerk if the election is administered by the school district; or~~

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

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

19  
20 **Section 42.** Section 13-10-211, MCA, is amended to read:

21 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (7),  
22 a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent.  
23 Except for a candidate under 13-38-201(4) or a candidate covered under 7-1-205, a candidate may not file for  
24 more than one public office. The declaration of intent must be filed with the secretary of state or election  
25 administrator, depending on where a declaration of nomination for the desired office is required to be filed  
26 under 13-10-201, or with the school district clerk for a school district office. When a county election  
27 administrator is conducting the election for a school district, the school district clerk or school district office that  
28 receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1 13-1-403, ~~13-1-503~~, 20-3-305(3)(b), and subsection (2) of this section, the declaration must be filed no later  
2 than 5 p.m. on the 10th day before the earliest date established under 13-13-205 on which a ballot must be  
3 available and must contain:
- 4 (a) the candidate's name, including:
    - 5 (i) the candidate's first and last names;
    - 6 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the  
7 candidate's last name;
    - 8 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name;
  - 9 and
  - 10 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last  
11 name;
  - 12 (b) the candidate's mailing address;
  - 13 (c) a statement declaring the candidate's intention to be a write-in candidate;
  - 14 (d) the title of the office sought;
  - 15 (e) the date of the election;
  - 16 (f) the date of the declaration; and
  - 17 (g) the candidate's signature.
- 18 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later  
19 than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the  
20 office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not  
21 been canceled as provided by law.
- 22 (3) The secretary of state shall notify each election administrator of the names of write-in  
23 candidates who have filed a declaration of intent with the secretary of state. Each election administrator shall  
24 notify the election judges in the county or district of the names of write-in candidates who have filed a  
25 declaration of intent.
- 26 (4) A properly completed and signed declaration of intent may be provided to the election  
27 administrator or secretary of state:
- 28 (a) by facsimile transmission;

1 (b) in person;

2 (c) by mail; or

3 (d) by electronic mail.

4 (5) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the  
5 secretary of state or the election administrator.

6 (6) A write-in candidate who files a declaration of intent for a general election may not file with a  
7 partisan, nonpartisan, or independent designation.

8 (7) Except as provided in 13-38-201(4)(b), the requirements in subsection (1) do not apply if:

9 (a) an election is held;

10 (b) a person's name is written in on the ballot;

11 (c) the person is qualified for and seeks election to the office for which the person's name was  
12 written in; and

13 (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."  
14

15 **Section 43.** Section 13-13-205, MCA, is amended to read:

16 **"13-13-205. When ballots to be available for absentee voting.** (1) Except as provided in subsection

17 (2), the election administrator shall ensure that ballots for a polling place election are available ~~as follows:~~

18 ~~(a)~~ for an election conducted on a primary or general election day as follows:

19 ~~(i)~~(a) 30 days prior to election day for absentee voting in person;

20 ~~(ii)~~(b) 25 days prior to the election for mailing ballots to absentee voters; ~~and,~~

21 ~~(b)~~ 20 days prior to election day for a special purpose district or school district election, ~~except that~~

22 ~~ballots for a conservation district election held on a primary or general election day must be available as~~

23 ~~provided in subsection (1)(a).~~

24 (2) A federal election ballot requested by an absent uniformed services or overseas elector  
25 pursuant to Title 13, chapter 21, must be sent to the elector as soon as the ballot is printed but not later than 45  
26 days in advance of the election."  
27

28 **Section 44.** Section 13-13-222, MCA, is amended to read:

1           **"13-13-222. Marking ballot in person before election day.** (1) As soon as the official ballots are  
2 available for in-person absentee voting under ~~13-13-205(1)(a)(i)~~ 13-13-205, the election administrator shall  
3 permit an elector to apply for, receive, and mark an absentee ballot before election day by appearing in person  
4 at the office of the election administrator and marking the ballot in a voting station area designated by the  
5 election administrator.

6           (2) The provisions of this chapter apply to voting under this section.

7           (3) For the purposes of this section, an official ballot is voted when the ballot is received at the  
8 election administrator's office."

9

10           **Section 45.** Section 13-16-205, MCA, is amended to read:

11           **"13-16-205. Expenses of recount.** (1) Except as provided in subsection (2), the expense of the  
12 recount provided for in 13-16-201 is a county charge. Recount expenses of the secretary of state and board of  
13 state canvassers are a state charge.

14           (2) If the recount is for a school election, the expense of the recount is a school district charge as  
15 provided in ~~20-20-107(1)~~ 20-20-107."

16

17           **Section 46.** Section 13-37-126, MCA, is amended to read:

18           **"13-37-126. Names not to appear on ballot.** (1) The name of a candidate may not appear on the  
19 official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as  
20 required by 2-2-106 or this chapter.

21           (2) A vacancy on an official ballot under this section may be filled in the manner provided by law,  
22 but not by the same candidate.

23           (3) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement,  
24 notify the secretary of state and the election administrator conducting an election when a candidate or a  
25 candidate's treasurer has not complied with 2-2-106 or the provisions of this chapter and that the candidate's  
26 name may not appear on the official ballot.

27           (b) The commissioner shall provide the notification:

28           (i) 2 calendar days before the certification deadline provided in 13-10-208 for statewide primary

1 elections and ~~20-20-401~~ for school district elections; and

2 (ii) 7 days before the certification deadline provided in 13-12-201 for general elections."

3

4 **Section 47.** Section 15-10-425, MCA, is amended to read:

5 **"15-10-425. Mill levy election.** (1) A county, consolidated government, incorporated city,  
6 incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is  
7 required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an  
8 election as provided in this section in conjunction with a general election as described in 13-1-104.

9 (2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4  
10 ~~or 5, or Title 20 for school elections, whichever is appropriate to the taxing entity.~~ The governing body shall  
11 pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to  
12 impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on  
13 the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or  
14 petition must include:

15 (a) the specific purpose for which the additional money will be used;

16 (b) either:

17 (i) the specific amount of money to be raised and the approximate number of mills to be imposed;

18 or

19 (ii) the specific number of mills to be imposed and the approximate amount of money to be raised;

20 and

21 (c) whether the levy is permanent or the durational limit on the levy.

22 (3) Notice of the election must be prepared by the governing body and given as provided in 13-1-  
23 108. The form of the ballot must reflect the content of the resolution or charter amendment and must include a  
24 statement of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the  
25 district in terms of actual dollars in additional property taxes that would be imposed on residences with those  
26 values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on  
27 homes of any other value in the district, if appropriate.

28 (4) If the majority voting on the question are in favor of the additional levy, the governing body is

1 authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter  
2 amendment.

3 (5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year  
4 without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills  
5 approved in the election. However, nothing in this subsection authorizes a governing body to impose more than  
6 the approved levy in any fiscal year or to extend the duration of the approved levy."

7

8 **Section 48.** Section 16-12-301, MCA, is amended to read:

9 **"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties --**  
10 **exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may  
11 not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in  
12 the November 3, 2020, general election until:

13 (i) the category or categories of license that the marijuana business seeks has or have been  
14 approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection  
15 (3) or (4); and

16 (ii) the business is licensed by the department pursuant to this chapter.

17 (b) A former medical marijuana licensee that does not apply for licensure as an adult-use  
18 dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant  
19 to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through  
20 (6).

21 (c) A former medical marijuana licensee that intends to apply for licensure as a cultivator,  
22 manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the  
23 department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to  
24 subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with  
25 the department of public health and human services and the department.

26 (d) For the purpose of this section, the marijuana business categories that must be approved by a  
27 local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against  
28 approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may

1 operate are:

2 (i) cultivator;

3 (ii) manufacturer;

4 (iii) medical marijuana dispensary, except as provided in subsection (1)(b);

5 (iv) adult-use dispensary;

6 (v) combined-use marijuana licensee;

7 (vi) testing laboratory; and

8 (vii) marijuana transporter facility.

9 (e) Marijuana businesses located in counties in which the majority of voters voted to approve

10 Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government

11 approval process under subsections (3) through (6).

12 (2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or

13 otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The

14 regulations may include but are not limited to inspections of licensed premises, including but not limited to

15 indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure

16 compliance with any public health, safety, and welfare requirements established by the department or the local

17 government.

18 (b) A former medical marijuana licensee that does not apply for licensure as an adult-use

19 dispensary is exempt from complying with any local governmental regulations that are adopted under this

20 subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the

21 expiration of any grace period granted by the locality, whichever is later.

22 (3) An election regarding whether to approve any or all of the marijuana business categories listed

23 in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance

24 with 7-5-131 through 7-5-135 and 7-5-137 by:

25 (a) the qualified electors of a county; or

26 (b) the qualified electors of a municipality.

27 (4) (a) An election held pursuant to this section must be ~~called~~, held in conjunction with a general

28 election as described in 13-1-104 and be conducted, counted, and canvassed in accordance with Title 13,

1 chapter 1, part 4.

2 (b) An election pursuant to this section ~~may~~ must be held in conjunction with a ~~regular election of~~  
3 ~~the governing body, general election, or a regular local or special election.~~

4 (5) If the qualified electors of a county vote to approve a type of marijuana business to be located  
5 in the jurisdiction, the governing body shall enter the approval into the records of the local government and  
6 notify the department of the election results.

7 (6) (a) If an election is held pursuant to this section in a county that contains within its limits a  
8 municipality of more than 5,000 persons according to the most recent federal decennial census:

9 (i) it is not necessary for the registered qualified electors in the municipality to file a separate  
10 petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana  
11 business from being located in the municipality; and

12 (ii) the county shall conduct the election in a manner that separates the votes in the municipality  
13 from those in the remaining parts of the county.

14 (b) If a majority of the qualified electors in the county, including the qualified electors in the  
15 municipality, vote to approve a category of marijuana business to be located in the county, the county may  
16 allow that category of marijuana business to operate in the county.

17 (c) (i) If a majority of the qualified electors in the municipality vote to approve a category of  
18 marijuana business to be located in the municipality, the municipality may allow that type of marijuana business  
19 to operate in the municipality.

20 (ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana  
21 business from being located in the municipality, the municipality may not allow that type of marijuana business  
22 to operate in the municipality.

23 ~~(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election~~  
24 ~~under the terms of this section.~~

25 (7) (a) A county or municipality that has voted to approve a category of marijuana business to be  
26 located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190  
27 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations  
28 within the jurisdiction.

1 (b) A vote overturning the approval of a category of marijuana business or prohibiting the  
2 previously permitted operation of marijuana businesses is effective on the 90th day after the local election is  
3 held.

4 (8) A local government may not prohibit the transportation of marijuana within or through its  
5 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this  
6 chapter."

7

8 **Section 49.** Section 16-12-311, MCA, is amended to read:

9 **"16-12-311. Local government excise tax-- election required -- procedure -- notice.** (1) A county  
10 that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders  
11 pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in  
12 the November 3, 2020, general election, may not impose or, except as provided in this section, amend or  
13 repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been  
14 approved by a majority of the qualified electors voting on the question during a general election as described in  
15 13-1-104.

16 (2) The local-option marijuana excise tax question may be presented to the qualified electors of a  
17 county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a  
18 resolution of the governing body of the county.

19 (3) The petition or resolution referring the taxing question must state:

20 (a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana  
21 products sold at an adult-use dispensary or medical marijuana dispensary;

22 (b) the date when the tax becomes effective, which may not be earlier than 90 days after the  
23 election; and

24 (c) the purposes that may be funded by the tax revenue.

25 (4) On receipt of an adequate petition, the county's governing body shall hold an election during a  
26 general election and in accordance with Title 13, chapter 1, part 5.

27 (5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the  
28 county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 in 13-1-108.

2 (b) The notice must be given two times, with at least 6 days separating the notices. The first notice  
3 must be given not more than 45 days prior to the election, and the last notice must be given not less than 30  
4 days prior to the election.

5 (6) Notice of the election must be given as provided in 13-1-108 and include the information listed  
6 in subsection (3) of this section.

7 (7) The question of the imposition of a local-option marijuana excise tax may not be placed before  
8 the qualified electors more than once in any fiscal year."

9

10 **Section 50.** Section 20-1-101, MCA, is amended to read:

11 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the  
12 following definitions apply:

13 (1) "Accreditation standards" means the body of administrative rules governing standards such as:

14 (a) school leadership;

15 (b) educational opportunity;

16 (c) academic requirements;

17 (d) program area standards;

18 (e) content and performance standards;

19 (f) school facilities and records;

20 (g) student assessment; and

21 (h) general provisions.

22 (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is  
23 offered or for which a pupil is enrolled.

24 (3) "Agricultural experiment station" means the agricultural experiment station established at Montana  
25 state university-Bozeman.

26 (4) "At-risk student" means any student who is affected by environmental conditions that negatively  
27 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

28 (5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time

1 pupils physically attending or receiving educational services at an offsite instructional setting from the public  
2 schools of a district.

3 (6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the  
4 Montana constitution and 2-15-1507.

5 (7) "Board of regents" means the board of regents of higher education created by Article X, section 9,  
6 subsection (2), of the Montana constitution and 2-15-1505.

7 (8) "Commissioner" means the commissioner of higher education created by Article X, section 9,  
8 subsection (2), of the Montana constitution and 2-15-1506.

9 (9) "County superintendent" means the county government official who is the school officer of the  
10 county.

11 (10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate  
12 with a superintendent's endorsement that has been issued by the superintendent of public instruction under the  
13 provisions of this title and the policies adopted by the board of public education and who has been employed by  
14 a district as a district superintendent.

15 (11) (a) "Educational program" means a set of educational offerings designed to meet the program  
16 area standards contained in the accreditation standards.

17 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

18 (12) "K-12 career and vocational/technical education" means organized educational activities that have  
19 been approved by the office of public instruction and that:

20 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and  
21 skills that the pupil needs to prepare for further education and for careers in the current or emerging  
22 employment sectors; and

23 (b) include competency-based applied learning through advanced opportunities, work-based learning  
24 partnerships, and other experiential learning opportunities that contribute to the academic knowledge, higher-  
25 order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and  
26 occupation-specific skills of the pupil.

27 (13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be  
28 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between

1 classes and, in an offsite instructional setting, includes time spent logging on and off an offsite learning  
2 platform.

3 (b) The term does not include lunch time and periods of unstructured recess.

4 (14) "Offsite instructional setting" means an instructional setting at a location, separate from a main  
5 school site, where a school district provides for instruction to a student who is enrolled in the district.

6 (15) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an  
7 applicable principal's endorsement that has been issued by the superintendent of public instruction under the  
8 provisions of this title and the policies adopted by the board of public education and who has been employed by  
9 a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including  
10 a principal.

11 (16) "Pupil" means an individual who is admitted by the board of trustees pursuant to 20-5-101 and  
12 who is enrolled in a school established and maintained under the laws of the state at public expense. The  
13 eligibility of pupils and calculations for average number belonging are governed by 20-9-311.

14 (17) "Pupil instruction" means the conduct of organized learning opportunities for pupils enrolled in  
15 public schools while under the supervision of a teacher. The term includes any directed, distributive,  
16 collaborative, or work-based or other experiential learning activity provided, supervised, guided, facilitated, or  
17 coordinated under the supervision of a teacher that is conducted purposely to achieve content proficiency and  
18 facilitate the acquisition of knowledge, skills, and abilities by pupils enrolled in public schools, and to otherwise  
19 fulfill their full educational potential.

20 (18) "Qualified and effective teacher or administrator" means an educator who is licensed and  
21 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as  
22 established by the board of public education.

23 (19) "Regents" means the board of regents of higher education.

24 (20) "Regular school election" or "trustee election" means the election for school board members held  
25 on the day established in 20-20-105(1).

26 (21) "School election" means a regular school election or any election conducted by a district or  
27 community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high  
28 school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for

1 decision in accordance with the provisions of this title.

2 (22) "School food services" means a service of providing food for the pupils of a district on a nonprofit  
3 basis and includes any food service financially assisted through funds or commodities provided by the United  
4 States government.

5 (23) "Special school election" means an election held on a day other than the day of the regular school  
6 election, ~~primary election, or general election under the conditions described in 20-20-105.~~

7 (24) "State board of education" means the board composed of the board of public education and the  
8 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

9 (25) "State university" means Montana state university-Bozeman.

10 (26) "Student with limited English proficiency" means any student:

11 (a) (i) who was not born in the United States or whose native language is a language other than  
12 English;

13 (ii) who is an American Indian and who comes from an environment in which a language other than  
14 English has had a significant impact on the individual's level of English proficiency; or

15 (iii) who is migratory, whose native language is a language other than English, and who comes from an  
16 environment in which a language other than English is dominant; and

17 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be  
18 sufficient to deny the student:

19 (i) the ability to meet the state's proficiency assessments;

20 (ii) the ability to successfully achieve in classrooms in which the language of instruction is English; or

21 (iii) the opportunity to participate fully in society.

22 (27) "Superintendent of public instruction" means that state government official designated as a  
23 member of the executive branch by the Montana constitution.

24 (28) "System" means the Montana university system.

25 (29) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher  
26 certificate that has been issued by the superintendent of public instruction under the provisions of this title and  
27 the policies adopted by the board of public education and who is employed by a district as a member of its  
28 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an

1 emergency authorization of employment has been issued under the provisions of 20-4-111.

2 (30) "Textbook" means a book, digital resource, or manual used as a principal source of study material  
3 for a given class or group of students.

4 (31) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to  
5 sell, or offering for adoption textbooks to districts in the state.

6 (32) "Trustees" means the governing board of a district.

7 (33) "University" means the university of Montana-Missoula.

8 (34) "Vocational-technical education" means vocational-technical education of vocational-technical  
9 students that is conducted by a unit of the Montana university system, a community college, or a tribally  
10 controlled community college, as designated by the board of regents."  
11

12 **Section 51.** Section 20-3-106, MCA, is amended to read:

13 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction  
14 has the general supervision of the public schools and districts of the state and shall perform the following duties  
15 or acts in implementing and enforcing the provisions of this title:

16 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the  
17 provisions of 20-3-362;

18 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

19 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-  
20 314;

21 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of  
22 20-6-502, 20-6-503, or 20-6-504, ~~or 20-6-505~~;

23 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

24 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the  
25 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103  
26 and 20-9-506;

27 (7) establish a system of communication for calculating joint district revenue in accordance with the  
28 provisions of 20-9-151;

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1 (8) approve or disapprove the adoption of a district's budget amendment resolution under the  
2 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget  
3 amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 4 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 5 (10) prescribe and furnish the annual report forms to enable the districts to report to the county  
6 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the  
7 county superintendents to report to the superintendent of public instruction in accordance with the provisions of  
8 20-3-209;
- 9 (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance  
10 with the provisions of 20-9-313 and 20-9-314;
- 11 (12) distribute BASE aid and special education allowable cost payments in support of the BASE  
12 funding program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and  
13 20-9-366 through 20-9-369;
- 14 (13) provide for the uniform and equal provision of transportation by performing the duties prescribed  
15 by the provisions of 20-10-112;
- 16 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-  
17 603;
- 18 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in  
19 accordance with the provisions of 20-9-703 and 20-9-704;
- 20 (16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance  
21 with the provisions of 20-9-705;
- 22 (17) recommend standards of accreditation for all schools to the board of public education in  
23 accordance with the provisions of 20-7-101;
- 24 (18) evaluate compliance with the accreditation standards and recommend accreditation status of  
25 every school to the board of public education in accordance with the provisions of 20-7-102;
- 26 (19) collect and maintain a file of curriculum guides and assist schools with instructional programs in  
27 accordance with the provisions of 20-7-113 and 20-7-114;
- 28 (20) establish and maintain a library of visual, aural, and other educational media in accordance with

1 the provisions of 20-7-201;

2 (21) license textbook dealers and initiate prosecution of textbook dealers violating the law in

3 accordance with the provisions of the textbooks part of this title;

4 (22) as the governing agent and executive officer of the state of Montana for K-12 career and

5 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-

6 301;

7 (23) supervise and coordinate the conduct of special education in the state in accordance with the

8 provisions of 20-7-403;

9 (24) administer the traffic education program in accordance with the provisions of 20-7-502;

10 (25) administer the school food services program in accordance with the provisions of 20-10-201

11 through 20-10-203;

12 (26) review school building plans and specifications in accordance with the provisions of 20-6-622;

13 (27) provide schools with information and technical assistance for compliance with the student

14 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for

15 the board of public education and the legislature;

16 (28) upon request and in compliance with confidentiality requirements of state and federal law,

17 disclose to interested parties all school district student assessment data for a test required by the board of

18 public education;

19 (29) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-

20 369; and

21 (30) perform any other duty prescribed from time to time by this title, any other act of the legislature, or

22 the policies of the board of public education."

23

24 **Section 52.** Section 20-3-302, MCA, is amended to read:

25 **"20-3-302. Legislative intent to elect less than majority of trustees.** (1) It is the intention of the

26 legislature that the terms of a majority of the trustee positions of any district with elected trustees may not

27 regularly expire and be subject to election on the same regular school election day. In elementary districts,

28 there may not be more than three trustee positions in first-class districts, two trustee positions in second-class

1 districts or third-class districts having five trustee positions, or one trustee position in third-class districts having  
 2 three trustee positions regularly subject to election at the same time. In high school districts there may not be  
 3 more than two additional trustee positions in first- or second-class districts or more than one in third-class  
 4 districts regularly subject to election at the same time. In county high school districts, there may not be more  
 5 than two trustee positions to be filled by members residing in the elementary district where the county high  
 6 school building is located or more than one trustee position to be filled by members residing outside of the  
 7 elementary district where the county high school building is located subject to election at the same time.

8 (2) In the following circumstances ~~relating to newly created trustee positions~~, the ~~initial~~ terms may be  
 9 shortened or, as provided in subsection (2)(f), lengthened, to comply with the intent of subsection (1):

10 (a) the consolidation under the provisions of 20-6-423 of two or more elementary districts to form an  
 11 elementary district, of two or more high school districts to form a high school district, or of two or more K-12  
 12 districts to form a K-12 district;

13 (b) the establishment of additional trustee positions of a high school district under the provisions of  
 14 20-3-353 or 20-3-354 or new trustee positions under the provisions of 20-3-352(3);

15 (c) the change of a district's classification under the provisions of 20-6-201 or 20-6-301;

16 (d) the establishment of additional elementary trustee positions under the provisions of 20-3-341(3);

17 ~~or~~

18 (e) the establishment of additional high school trustee positions under the provisions of 20-6-313; or

19 (f) the development and implementation of a transition plan from 3-year terms to 4-year terms  
 20 pursuant to [this act]. The trustees shall, no later than August 1, 2024, adjust the terms of each trustee serving  
 21 by motion of the board to comply with subsection (1). The adjustment may be accomplished at the discretion of  
 22 the board by a combination of shortening and lengthening terms of trustees to accomplish the intent of this  
 23 section. As part of the transition plan, terms may not be shortened to less than 1 year and terms may not be  
 24 lengthened by more than 3 years. If a majority of the trustees present and voting are unable to agree by  
 25 majority vote on a transition plan, the term of each trustee must be shortened and lengthened in alternating  
 26 order, sorted alphabetically by last name with the first trustee's term shortened and the second trustee's term  
 27 lengthened and continuing in this pattern until the resulting terms meet the intent of section (1).

28 (3) If the change of a district's classification under 20-6-201 or 20-6-301 decreases the number of

1 trustee positions, the positions must be eliminated in a manner that complies with the intent of subsection (1).

2 (4) Although the legislature intends that the terms of a majority of trustees of any district may not  
3 regularly expire and be subject to election at the same time, it is recognized that filling a vacancy under 20-3-  
4 308 may lead to a subsequent school election in which a majority of trustee positions are subject to election at  
5 the same time."  
6

7 **Section 53.** Section 20-3-305, MCA, is amended to read:

8 **"20-3-305. Candidate qualification, filing deadline, and withdrawal.** (1) Except as provided in 20-  
9 3-338, any person who is qualified to vote in a district under the provisions of 20-20-301 is eligible for the office  
10 of trustee.

11 (2) (a) Except as provided in subsection (2)(b), a declaration of intent to be a candidate must be  
12 submitted to the clerk of the district at least 40 days before the ~~regular school election day~~ general election at  
13 which the person is to be a candidate. If there are different terms to be filled, the term for the position for which  
14 the candidate is filing must also be indicated.

15 (b) A person seeking to become a write-in candidate for a trustee position shall file a declaration of  
16 intent no later than 5 p.m. on the day before the ballot certification deadline in ~~20-20-404~~ 13-12-201.

17 (3) (a) A candidate intending to withdraw from the election shall send a statement of withdrawal to  
18 the ~~clerk of the district~~ county election administrator. The statement must contain all information necessary to  
19 identify the candidate and the office for which the candidate filed. The statement of withdrawal must be  
20 acknowledged by the ~~clerk of the district~~ county election administrator.

21 (b) A candidate may not withdraw after 5 p.m. the day before the ballot certification deadline in ~~20-~~  
22 ~~20-404~~ 13-12-201."  
23

24 **Section 54.** Section 20-3-306, MCA, is amended to read:

25 **"20-3-306. Conduct of election.** (1) The trustees of each district shall call a trustee election ~~on the~~  
26 ~~regular school election day of each school fiscal year under the provisions of 20-20-201, except as provided in~~  
27 ~~20-3-343~~ during a general election as described in 13-1-104. The trustees shall call and conduct the trustee  
28 election in the manner prescribed in this title for school elections and Title 13. Any elector qualified to vote

1 under the provisions of 20-20-301 may vote at a trustee election.

2 (2) The trustee election ballots must be substantially in the following form:

3 OFFICIAL BALLOT

4 SCHOOL TRUSTEE ELECTION

5 INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the  
6 candidate for whom you wish to vote.

7 Vote for (indicate number to be elected) for a 3-year 4-year term:

8  (List the names of the candidates for a 3-year 4-year term with a vacant square in front of each  
9 name.)

10 Vote for (indicate number to be elected) for a 2-year term:

11  (List the names of the candidates for a 2-year term with a vacant square in front of each name.)

12 ~~Vote for (indicate number to be elected) for a 1-year term:~~

13  ~~(List the names of the candidates for a 1-year term with a vacant square in front of each  
14 name.)~~

15 (3) The term of service for a trustee elected as provided in this section begins the first Monday of  
16 January following the election."

17  
18 **Section 55.** Section 20-3-307, MCA, is amended to read:

19 **"20-3-307. Qualification and oath.** (1) A person who receives a certificate of election as a trustee  
20 under the provisions of 20-3-313 ~~or 20-20-416~~ may not assume the trustee position until the person has  
21 qualified. The person shall qualify by taking an oath of office administered by the county superintendent, the  
22 superintendent's designee, or any official provided for in 1-6-101 or 2-16-116. The oath must be filed with the  
23 county superintendent not more than 15 days after the receipt of the certificate of election. After a person has  
24 qualified for a trustee position and begins the term of service provided for in 20-3-306(3), the person holds the  
25 position until a successor has been elected or appointed and has been qualified.

26 (2) If the elected person does not qualify in accordance with this requirement, a person must be  
27 appointed in the manner provided by 20-3-309 and shall serve until the next ~~regular school~~ general election."  
28

1 **Section 56.** Section 20-3-321, MCA, is amended to read:

2 **"20-3-321. Organization and officers.** (1) The trustees of each district shall annually organize as a  
3 governing board of the district ~~after the regular school election day and after the issuance of the election~~  
4 ~~certificates to the newly elected trustees, but not later than 25 days after the election in January of each year on~~  
5 ~~or before the third Monday of the month. In years following the regular school election, the reorganization must~~  
6 ~~occur at the first meeting following the beginning of the term of service for trustees elected at the general~~  
7 ~~election as provided in 20-3-306(3). In years not following the regular school election, the reorganization must~~  
8 ~~occur no later than the third Monday in January.~~ In order to organize, the trustees of the district must be given  
9 notice of the time and place where the organization meeting will be held, and at the meeting they shall choose  
10 one of their number as the presiding officer. In addition, except for the trustees of a high school district  
11 operating a county high school, the trustees shall employ and appoint a competent person, who is not a  
12 member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high  
13 school shall appoint a secretary, who must be a member of the board.

14 (2) The presiding officer of the trustees of any district shall serve until the next organization meeting  
15 and shall preside at all the meetings of the trustees in accordance with the customary rules of order. The  
16 presiding officer shall perform the duties prescribed by this title and any other duties that normally pertain to a  
17 presiding officer.

18 (3) The presiding officer of a board of trustees of an elementary district may be any trustee of the  
19 board, including an additional trustee as provided for in 20-3-352(2). If an additional trustee is chosen to serve  
20 as the presiding officer of the board of trustees of an elementary district described in 20-3-351(1)(a), the  
21 additional trustee may not vote on issues pertaining only to the elementary district."  
22

23 **Section 57.** Section 20-3-324, MCA, is amended to read:

24 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of a district shall  
25 exercise supervision and control of the schools of the district in providing its educational program pursuant to  
26 Article X, section 8, of the Montana constitution, and shall:

27 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district  
28 superintendent, the county high school principal, or other principal as the board considers necessary, accepting

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1 or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the  
2 provisions of Title 20, chapter 4;
- 3 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians,  
4 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel  
5 considered necessary to carry out the various services of the district;
- 6 (3) administer the attendance and tuition provisions and govern the pupils of the district in accordance  
7 with the provisions of the pupils chapter of this title;
- 8 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the school  
9 elections chapter of this title;
- 10 (5) participate in the teachers' retirement system of the state of Montana in accordance with the  
11 provisions of the teachers' retirement system chapter of Title 19;
- 12 (6) participate in district boundary change actions in accordance with the provisions of the school  
13 districts chapter of this title;
- 14 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance with  
15 the provisions of the school organization part of this title;
- 16 (8) adopt and administer the annual budget or a budget amendment of the district in accordance with  
17 the provisions of the school budget system part of this title;
- 18 (9) conduct the fiscal business of the district in accordance with the provisions of the school financial  
19 administration part of this title;
- 20 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve,  
21 and state impact aid amounts for the general fund of the district in accordance with the provisions of the general  
22 fund part of this title;
- 23 (11) establish, maintain, budget, and finance the transportation program of the district in accordance  
24 with the provisions of the transportation parts of this title;
- 25 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions  
26 of the bonds parts of this title;
- 27 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund,  
28 building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous

1 programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal  
2 cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance  
3 with the provisions of the other school funds parts of this title;

4 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in  
5 accordance with the provisions of the miscellaneous financial parts of this title;

6 (15) hold in trust, acquire, and dispose of the real and personal property of the district consistent with  
7 the provisions of 20-6-603 and 20-6-621 and in accordance with the provisions of the school sites and facilities  
8 part of this title;

9 (16) operate the schools of the district in accordance with the provisions of the school calendar part of  
10 this title;

11 (17) set the length of the school term, school day, and school week in accordance with 20-1-302;

12 (18) establish and maintain the educational program of the schools of the district in accordance with  
13 the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and  
14 special education parts of this title. In undertaking its duties related to the district's educational program, the  
15 board of trustees may:

16 (a) waive any specific course requirement otherwise required for graduation based on individual  
17 student needs and performance levels, age, maturity, interest, and aspirations of the pupil, in consultation with  
18 the pupil's parents or guardians; and

19 (b) provide credit for a course satisfactorily completed in a period of time shorter or longer than  
20 normally required as set forth in 20-9-311(4)(d) or through content proficiency gained through alternative  
21 means. Examples of alternative means by which content proficiency may be achieved include but are not  
22 limited to correspondence, extension, and distance learning courses, adult education, summer school, work  
23 study, work-based learning partnerships, and other experiential learning opportunities, custom-designed  
24 courses, and challenges to current courses. Montana schools shall accept units of credit taken with the  
25 approval of the accredited Montana school in which the student was then enrolled and which appear on the  
26 student's official school transcript.

27 (19) establish and maintain the school food services of the district in accordance with the provisions of  
28 the school food services parts of this title;

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 (20) make reports from time to time as the county superintendent, superintendent of public instruction,  
2 and board of public education may require;

3 (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary  
4 conditions of the school or the general health conditions of each pupil and, upon request, make available to any  
5 parent or guardian any medical reports or health records maintained by the district pertaining to the child;

6 (22) for each member of the trustees, visit each school of the district not less than once each school  
7 fiscal year to examine its management, conditions, and needs, except that trustees from a first-class school  
8 district may share the responsibility for visiting each school in the district;

9 (23) procure and display outside daily in suitable weather on school days at each school of the district  
10 an American flag representing the United States and manufactured in the United States that measures not less  
11 than 3 feet by 5 feet;

12 (24) provide that an American flag representing the United States and manufactured in the United  
13 States that measures at least 16 inches by 24 inches be prominently displayed in each classroom in each  
14 school of the district no later than the beginning of the school year, except in a classroom in which the flag may  
15 get soiled. Districts are encouraged to work with military organizations and civic groups to acquire flags through  
16 donation, and this requirement is waived if the flags are not provided by a military organization or civic group.

17 (25) for grades 7 through 12, provide that legible copies of the United States constitution, the United  
18 States bill of rights, and the Montana constitution printed in the United States or in electronic form are readily  
19 available in every classroom no later than the beginning of the school year. Districts are encouraged to work  
20 with civic groups to acquire the documents through donation, and this requirement is waived if the documents  
21 are not provided by a civic group.

22 (26) adopt and administer a district policy on assessment for placement of any child who enrolls in a  
23 school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

24 (27) upon request and in compliance with confidentiality requirements of state and federal law,  
25 disclose to interested parties school district student assessment data for any test required by the board of  
26 public education;

27 (28) consider and may enter into an interlocal agreement with a postsecondary institution, as defined  
28 in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a

1 postsecondary institution;

2 (29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of

3 20-1-303; and

4 (30) perform any other duty and enforce any other requirements for the governance of the schools

5 pursuant to the constitutional power of supervision and control of schools vested in elected school boards

6 pursuant to Article X, section 8, of the Montana constitution as prescribed by this title, the policies of the board

7 of public education, or the rules of the superintendent of public instruction."

8

9 **Section 58.** Section 20-3-362, MCA, is amended to read:

10 **"20-3-362. Powers of joint board of trustees.** (1) When a joint board of trustees is formed as

11 provided by 20-3-361, it shall have the power to:

- 12 (a) jointly employ a district superintendent under the provisions of 20-4-401;
- 13 (b) jointly employ teachers and specialists under the provisions of 20-4-201;

14 ~~(c) open a junior high school under the provisions of 20-6-505 if the trustees of a county high school~~

15 ~~and the trustees of an elementary district have formed a joint board of trustees;~~

16 ~~(d)~~(c) prescribe and administer joint administrative policy;

17 ~~(e)~~(d) jointly provide any program or service authorized under 20-3-324, including any joint provision

18 of special education services; and

19 ~~(f)~~(e) prorate all items of joint expense among the school districts, provided that a controversy over

20 any decision by the joint board to prorate joint costs may, within 30 days, be appealed by the trustees of any

21 district to the superintendent of public instruction for a final decision as to what constitutes a fair and just

22 proration of the cost.

23 (2) The joint board of trustees shall not have the power to transact business that is not specifically

24 related to the joint administration of the districts."

25

26 **Section 59.** Section 20-4-401, MCA, is amended to read:

27 **"20-4-401. Appointment and dismissal of district superintendent or county high school**

28 **principal.** (1) The trustees of any high school district, except a county high school or other high school district

1 that operates under a separate board of trustees due to alternative methods of electing the members of the  
 2 high school board of trustees as provided in 20-3-352(3), and the trustees of the elementary district where its  
 3 high school building is located shall jointly employ and appoint a district superintendent. The trustees of a  
 4 county high school or other high school district that operates under a separate board of trustees due to  
 5 alternative methods of electing the members of the high school board of trustees as provided in 20-3-352(3)  
 6 shall employ and appoint a district superintendent, except that the trustees of a county high school district may  
 7 employ and appoint a holder of a class 3 teacher certificate with a district superintendent endorsement as the  
 8 county high school principal in lieu of a district superintendent. The trustees of any other district may employ  
 9 and appoint a district superintendent.

10 (2) Whenever a joint board of trustees has been formed by a county high school and the elementary  
 11 district where the county high school is located, the joint board shall jointly employ and appoint a district  
 12 superintendent. During the term of contract of the jointly appointed district superintendent, neither district may  
 13 separately employ and appoint a district superintendent or county high school principal.

14 (3) School districts other than those provided in subsection (2) that form a joint board of trustees or  
 15 the boards of trustees of two or more districts may jointly employ and appoint a district superintendent, as  
 16 allowed in 20-3-362, or may enter into an interlocal agreement pursuant to Title 7, chapter 11, part 1, to  
 17 cooperatively share the employment of a district superintendent.

18 (4) (a) The written contract of employment of a district superintendent or a county high school  
 19 principal must be authorized by the proper resolution of the trustees of the district or the joint board of trustees  
 20 and executed in duplicate by the presiding officer of the trustees or joint board of trustees and the clerks of the  
 21 districts in the name of the districts and by the district superintendent or the county high school principal. The  
 22 contract must be for a term of not more than ~~3 years, and after 4 years.~~

23 (b) The first contract executed between a board of trustees and the district superintendent or the  
 24 county high school principal terminates upon its expiration unless the trustees offer and the district  
 25 superintendent or the county high school principal accepts a second successive contract.

26 (c) Upon the offer and acceptance of the second successive contract, the existing expiration date  
 27 for the contract is considered to be renewed for a further term of 1 year from year to year unless the trustees,  
 28 by resolution passed by a majority vote of its membership, resolve to terminate the services of the district

1 superintendent or the county high school principal at the expiration of the existing contract. The trustees shall  
2 take the termination action and notify the district superintendent or the county high school principal in writing of  
3 their intent to terminate the superintendent's or principal's services at the expiration of the superintendent's or  
4 principal's ~~current~~ second or subsequent contract not later than ~~February 1~~ December 31 of the last year of the  
5 contract.

6 (5) Whenever a joint board of trustees or the boards of trustees of two or more districts employs a  
7 person as the district superintendent under subsection (2) or (3), the districts shall prorate the compensation  
8 provided by the contract of employment on the basis of the number of teachers employed by each district.

9 (6) At any time the class 3 teacher certification or the endorsement of the certificate of a district  
10 superintendent or a county high school principal that qualifies the person to hold the position becomes invalid,  
11 the trustees of the district or the joint board of trustees shall discharge the person as the district superintendent  
12 or county high school principal regardless of the unexpired term of the contract. The trustees may not  
13 compensate the superintendent or principal under the terms of the contract for any services rendered  
14 subsequent to the date of the invalidation of the teacher certificate.

15 (7) A district superintendent or county high school principal may not engage in any work or activity  
16 that the trustees consider to be in conflict with the duties and employment as the district superintendent or  
17 county high school principal."

18

19 **Section 60.** Section 20-6-326, MCA, is amended to read:

20 **"20-6-326. Procedure for expansion of elementary school district into K-12 school district --**

21 **trustee resolution.** (1) An existing elementary district that is not part of a unified school system or governed by  
22 a joint board with a high school district may expand into a K-12 district under the procedures outlined in this  
23 section only if the elementary district's ANB, as calculated under the provisions of 20-9-311, is at least 1,000.

24 (2) The expansion to a K-12 district may be requested by the trustees of an existing elementary  
25 district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the  
26 county superintendent to order an ~~county election administrator place the issue on the general election ballot~~  
27 county superintendent to order an election at the next regular school election day to allow the electors of the  
28 elementary district to consider the proposition of expanding the elementary school district into a K-12 district.

1 The trustees of an existing elementary district with an ANB of at least 1,000 may not pass a resolution for  
2 expansion more than one time within a 5-year period.

3 (3) (a) If the proposition for the expansion is approved by the electors of the elementary district ~~and~~  
4 ~~the trustees issue a certificate of election as provided in 20-20-416~~ and the trustees issue a certificate of  
5 election as provided in 20-20-416, for a period of 2 years from the date of the certification of the election the  
6 elementary trustees have the authority to ~~propose to the electors of the elementary district:~~ impose

7 (i) ~~—~~ a transition costs levy pursuant to 20-9-502; and propose

8 (ii) ~~—~~ a general obligation bond pursuant to Title 20, chapter 9, part 4, for the purpose of building,  
9 altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school  
10 to accommodate high school students.

11 (b) The bond limitations pursuant to 20-9-406 imposed on a district proposing a bond under  
12 subsection (3)(a) must be calculated on the limits for a K-12 district with the high school ANB calculated by  
13 dividing the ANB of the elementary district by 9 and multiplying the result by 4.

14 (c) A bond approved under subsection (3)(a) becomes a bond of, and may not be issued until the  
15 creation of, the K-12 district formed pursuant to subsection (4).

16 (d) A district that issues a bond under this subsection (3) is eligible for facility reimbursements and  
17 advances pursuant to 20-9-366 through 20-9-371 that, until the new high school has enrolled students in all  
18 grades and has established an actual ANB for budgeting purposes, must be based on an estimated high school  
19 ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

20 (e) Until the county superintendent orders the creation of a new high school district and attachment  
21 of the expanding elementary district to form a new K-12 district pursuant to subsection (4), the existing high  
22 school district remains intact for all purposes.

23 (4) If elementary electors approve a bond pursuant to subsection (3), on July 1 following the  
24 approval of the bond the county superintendent shall order the creation of a new high school district with  
25 identical boundaries to the expanding elementary district and the immediate attachment of the expanding  
26 elementary district to form a K-12 district. The county superintendent shall send a copy of the order to the board  
27 of county commissioners and to the trustees of the districts affected by the creation of the district. The trustees  
28 of the expanding elementary district must be designated as the trustees of the new K-12 district.

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 (5) Prior to the first school fiscal year in which the K-12 district will enroll students in a particular  
2 high school grade, the K-12 trustees shall prepare operating budgets for the new high school according to the  
3 school budgeting provisions of this title, except that:

4 (a) the ANB for any inaugural grades for the high school program of the K-12 district must be  
5 estimated by the trustees and may not exceed the number resulting from dividing the highest budgeted ANB of  
6 the elementary program in the preceding 3 fiscal years by 9 and multiplying the result by the number of grades  
7 in which the high school will enroll students for the first time in the ensuing school year;

8 (b) the number of quality educators for the high school program must be estimated by the trustees  
9 and may not exceed the number resulting from dividing the ANB estimated under subsection (5)(a) by 10;

10 (c) the taxable value for budgeting purposes of both the elementary and high school programs of  
11 the K-12 district must be based on the taxable value as most recently determined by the department of  
12 revenue;

13 (d) the general fund budget adopted by the trustees must be based on only the basic entitlement,  
14 the quality educator payment, and the budget components derived from ANB counts; and

15 (e) the district's BASE aid for the upcoming year must be based on the general fund budget  
16 adopted by the trustees for the upcoming school year.

17 (6) Until the first school year in which the K-12 school district enrolls high school students in all  
18 grades and for a period of time not to exceed 6 years following the creation of the K-12 district:

19 (a) the high school district shall provide high school instruction to high school students of the K-12  
20 district in any grades in which the K-12 district is not enrolling students;

21 (b) the K-12 district shall be responsible for providing transportation for its students enrolled in the  
22 high school district pursuant to subsection (6)(a), may establish a transportation budget for this purpose, and  
23 may receive state and county reimbursements under Title 20, chapter 10; and

24 (c) the K-12 district shall pay the high school district 20% of the per-ANB maximum rate  
25 established in 20-9-306 for each of its students enrolled in the high school district with one-half of the amount  
26 due by December 31 of the year following the year of attendance and the remainder due no later than June 15  
27 of the year following the year of attendance. The K-12 trustees shall establish a tuition fund and levy to fund  
28 these payments.

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1           (7)     (a) Bonded indebtedness of the high school district that is outstanding as of the date of creation  
2 of the K-12 district must remain secured by and be the indebtedness of the original territory against which the  
3 bonds of the high school district were issued and must be paid by tax levies against the original territory.

4           (b)     Bonded indebtedness of the high school district that is issued by the high school district  
5 following the creation of the K-12 district is secured by the territory of the high school district as of the date of  
6 issuance of the high school district bonds and must be paid by tax levies against the territory of the high school  
7 district. However, if bonds of the high school district were approved at a bond election conducted before the  
8 creation of the K-12 district, all bonds of the high school district issued by the high school district under the  
9 bond election authority must remain secured by and be the indebtedness of the territory of the high school  
10 district as of the date the bond authority was approved by voters and must be paid by tax levies against that  
11 territory.

12           (c)     Bonded indebtedness of the K-12 district is secured by the territory of the K-12 district as of the  
13 date of issuance of the K-12 district bonds and must be paid by tax levies against the territory of the K-12  
14 district.

15           (d)     Bonded indebtedness of the elementary district that is outstanding as of the date of creation of  
16 the K-12 district must become upon the date of creation of the K-12 district the bonded indebtedness of the K-  
17 12 district and must be secured by the territory of the K-12 district and paid by tax levies against the territory of  
18 the K-12 district. The debt service on the bonds must be allocated to the elementary program of the K-12  
19 district.

20           (e)     Bonded indebtedness of the high school district or the K-12 district that is subsequently  
21 affected by a later reorganization of the high school district or the K-12 district is governed by the provisions of  
22 Title 20, chapter 6, part 4.

23           (8)     When a K-8 district expands to a K-12 district as provided for in this section, a principal,  
24 teacher, or other certified employee of the original high school district who has a right of tenure under Montana  
25 law must be given preference in hiring for a vacant position in the new K-12 district for which the employee is  
26 qualified with the required certification endorsements."

27

28           **Section 61.** Section 20-6-422, MCA, is amended to read:

1           **"20-6-422. District annexation.** (1) As used in this section, the following definitions apply:

2           (a) "Annexing district" means the district to which another district is being attached through an  
3 annexation procedure.

4           (b) "District to be annexed" means the district that is being attached to another district through an  
5 annexation procedure.

6           (2) A district may be annexed to a contiguous district when one of the conditions of 20-6-421 is  
7 met in accordance with the following procedure:

8           (a) An annexation proposition may be introduced in the district to be annexed by either of the two  
9 following methods:

10           (i) the trustees may pass a resolution requesting the county superintendent of the county where  
11 the district is located to order an election to consider an annexation proposition for their district; or

12           (ii) not less than 20% of the electors of the district who are qualified to vote under the provisions of  
13 20-20-301 may petition the county superintendent of the county where the district is located requesting an  
14 election the question to consider an annexation proposition for their district be placed on the general election  
15 ballot.

16           (b) The resolution or petition must state whether the annexation is to be made with or without the  
17 joint assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing  
18 district.

19           (3) ~~Before ordering an election on~~ placing the proposition on the general election ballot, the county  
20 superintendent of the county where the district to be annexed is located must first receive from the trustees of  
21 the annexing district a resolution giving the county superintendent the authority to annex the district. The  
22 resolution must state whether the annexation is to be made with or without the joint assumption of bonded  
23 indebtedness of the annexing district by the district to be annexed and the annexing district. The resolution from  
24 the annexing district and the resolution or petition from the district to be annexed must agree on whether or not  
25 there will be joint assumption of bonded indebtedness. Without agreement, the annexation proposition may not  
26 be considered further.

27           (4) When the county superintendent of the county where the district to be annexed is located has  
28 received the resolution authorizing the annexation from the annexing district and the resolution or valid petition

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1 from the district to be annexed, the county superintendent shall, ~~within 10 days and as provided by 20-20-201,~~  
2 ~~order the trustees of the district to be annexed to call an annexation~~ work with the county election administrator  
3 to place the proposition on the ballot for the next general election.

4 (5) ~~The district to be annexed shall call and conduct an election in the manner prescribed in this~~  
5 ~~title for school elections and subject to subsections (6) and (7).~~ Any elector qualified to vote under the  
6 provisions of 20-20-301 may vote.

7 (6) (a) If the district to be annexed is to jointly assume the bonded indebtedness of the annexing  
8 district, the ballots must read, after stating the annexation proposition, "FOR annexation with assumption of  
9 bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness".

10 (b) When the trustees in the district conducting the election canvass the vote under the provisions  
11 of 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

12 (c) The proposition is approved in the district if a majority of those voting approve the proposition.

13 (7) If the district to be annexed is not to jointly assume the bonded indebtedness of the annexing  
14 district, the ballots must read, after stating the annexation proposition, "FOR annexation without assumption of  
15 bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness". The  
16 annexation proposition is approved by a district if a majority of those voting in a district approve the proposition.

17 (8) After the county superintendent of the county where the district to be annexed is located has  
18 received the election certification ~~provided for in 20-20-416 from the trustees of the district conducting the~~  
19 ~~annexation election~~ from the county election administrator and if the annexation proposition has been approved  
20 by the election, the county superintendent shall order the annexation of the territory of the district voting on the  
21 proposition to the district that has authorized the annexation to its territory effective July 1. The order must be  
22 issued within 10 days after the receipt of the election certificate. For annexation with joint assumption of bonded  
23 indebtedness, the order must specify that there will be joint assumption of the bonded indebtedness of the  
24 annexing district by the owners of all taxable real and personal property in the territory of the district to be  
25 annexed. The county superintendent of the county where the district to be annexed is located shall send a copy  
26 of the order to the board of county commissioners of each county involved in the annexation order and to the  
27 trustees of the districts involved in the annexation order.

28 (9) If the annexation proposition is disapproved in the district to be annexed, the annexation

1 proposition fails and the county superintendent of the county where the district to be annexed is located shall  
2 notify each district of the disapproval of the annexation proposition."

3

4 **Section 62.** Section 20-6-423, MCA, is amended to read:

5 **"20-6-423. District consolidation.** (1) Any two or more contiguous elementary school districts may  
6 consolidate to organize an elementary district. Any two or more contiguous high school districts may be  
7 consolidated to organize a high school district. Any two or more contiguous K-12 school districts may be  
8 consolidated to organize a K-12 school district. The consolidation must be conducted as provided in this  
9 section.

10 (2) (a) A consolidation proposition may be introduced, individually, in each of the districts by either  
11 of the two following methods:

12 (i) the trustees may pass a resolution requesting the county superintendent of the county where  
13 the district is located to order an election the issue to consider a consolidation proposition involving their district  
14 be placed on the ballot of the next general election; or

15 (ii) not less than 20% of the electors of an individual district who are qualified to vote under the  
16 provisions of 20-20-301 may petition the county superintendent of the county where the district is located  
17 requesting an election the issue to consider a consolidation proposition involving their district be placed on the  
18 ballot of the next general election.

19 (b) The resolution or petition must state whether the consolidation is to be made with or without the  
20 joint assumption of the bonded indebtedness of each district by all districts included in the consolidation. The  
21 resolution or petition from each district must agree on whether or not there will be joint assumption of bonded  
22 indebtedness. Without agreement, the consolidation proposition may not be considered further.

23 (3) When a county superintendent has received a resolution or a valid petition from each of the  
24 districts included in the consolidation proposition, the county superintendent shall, ~~within 10 days after the~~  
25 ~~receipt of the last resolution or petition and as provided by 20-20-201, order the trustees of each district~~  
26 ~~included in the consolidation proposition to call a consolidation election to be held no later than December 31~~  
27 ~~preceding the school year in which the consolidation is to become effective~~ notify the county election  
28 administrator. If the districts involved in the consolidation proposition are located in more than one county, the

1 county superintendents election administrators in both counties shall jointly order the district to call a  
2 consolidation election in conjunction with the next general election.

3 (4) ~~Each district, individually, shall call and conduct an election in the manner prescribed in this~~  
4 ~~title for school elections and subject to additional requirements of subsections (5) and (6).~~ Any elector qualified  
5 to vote under the provisions of 20-20-301 may vote.

6 (5) (a) If the districts to be consolidated are to jointly assume the bonded indebtedness of each  
7 district involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR  
8 consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of  
9 bonded indebtedness".

10 ~~(b) When the trustees in each district conducting an election canvass the vote under the provisions of~~  
11 ~~20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.~~

12 ~~(c)~~(b) The proposition is approved in the district if a majority of those voting approve the proposition.

13 (6) If the districts to be consolidated are not to jointly assume the bonded indebtedness of each  
14 district involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR  
15 consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of  
16 bonded indebtedness". The consolidation proposition is approved by a district if a majority of those voting in a  
17 district approve the proposition. Otherwise it is disapproved.

18 (7) (a) After the county superintendent of each county where a district involved in the consolidation  
19 proposition is located has received the election certification ~~provided for in 20-20-416 from the trustees of each~~  
20 ~~district included in a consolidation proposition~~ from the county election administrator, the appropriate county  
21 superintendent shall determine if the consolidation proposition has been approved in each district. If each  
22 district has approved the consolidation proposition, each county superintendent shall, within 10 days after the  
23 receipt of the last election certificate, order the consolidation of the districts effective July 1 of the ensuing  
24 school fiscal year. The order must:

25 (i) for consolidation with the joint assumption of bonded indebtedness, specify that there will be  
26 joint assumption of bonded indebtedness between the owners of all taxable real and personal property in each  
27 district forming the consolidated district;

28 (ii) specify the number of the consolidated district; and

1 (iii) establish an interim board of trustees for the consolidated district as provided in 20-6-424. The  
2 trustees shall serve until their successors are elected at the next succeeding regular school election and  
3 qualified.

4 (b) Each county superintendent shall send a copy of the order to the board of county  
5 commissioners of each county where a district involved in the consolidation proposition is located and to the  
6 trustees of each district incorporated in the consolidation order.

7 (8) If any district included in the consolidation proposition disapproves the consolidation  
8 proposition, the consolidation of all districts fails and the appropriate county superintendent shall notify each  
9 district of the disapproval of the consolidation proposition."  
10

11 **Section 63.** Section 20-6-504, MCA, is amended to read:

12 **"20-6-504. Opening of a junior high school.** (1) The trustees of any elementary district and the  
13 trustees of the high school district in which ~~such the~~ elementary district is located may open a junior high school  
14 ~~when such opening has been approved by the superintendent of public instruction; except that when the high~~  
15 ~~school district operates a county high school, the opening of a junior high school shall be approved under the~~  
16 ~~provisions of 20-6-505.~~

17 (2) When the trustees of ~~such the~~ districts resolve to open a junior high school, they shall jointly ~~apply~~  
18 ~~to notify~~ the superintendent of public instruction ~~for approval to open such school~~ by June 1 before the school  
19 fiscal year in which they intend to open the junior high school. The ~~application shall contain such notification~~  
20 ~~must contain the~~ information as is required under 20-6-503 for ~~an application to open a notification of the~~  
21 ~~opening of~~ a high school.

22 ~~(3) The superintendent of public instruction shall investigate the application for the opening of a junior~~  
23 ~~high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of~~  
24 ~~June preceding the first year of intended operation. If the opening is approved, the trustees of the elementary~~  
25 ~~district and the high school district may jointly open such school.~~

26 ~~(4)(3) Whenever the opening of trustees of any elementary district and the trustees of the high school~~  
27 ~~district decide to open~~ a junior high school ~~is approved~~ for the ensuing school fiscal year, the county  
28 superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment

1 for the junior high school. The ANB determined by the county superintendent ~~shall~~must be used for budgeting  
2 and BASE funding program purposes during the ensuing school fiscal year."

4 **Section 64.** Section 20-6-506, MCA, is amended to read:

5 **"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district  
6 and high school district operating county high school.** (1) ~~Whenever~~ If the opening of a junior high school  
7 ~~is was~~ approved ~~for the ensuing school fiscal year~~ under 20-6-505 prior to July 1, 2024, the county  
8 superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment  
9 for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in  
10 subsequent school fiscal years must be applied to prorate the BASE funding program amount between the  
11 elementary and high school districts. Each district shall adopt its general fund budget on the basis of the  
12 prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

13 (2) The cost of operating the junior high school must be prorated between the elementary district and  
14 the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment  
15 of the junior high school."

17 **Section 65.** Section 20-6-603, MCA, is amended to read:

18 **"20-6-603. Trustees' authority to acquire or dispose of sites and buildings** ~~—when election~~  
19 ~~required.~~ (1) The trustees of a district may purchase, build, exchange, or otherwise acquire, sell, or dispose of  
20 sites and buildings of the district. ~~Action may not be taken by the trustees without the approval of the qualified~~  
21 ~~electors of the district at an election called for the purpose of approval unless:~~

22 (2) Purchases of sites and building of the district are authorized when:

23 (a) a bond issue has been authorized for the purpose of constructing, purchasing, or acquiring the site  
24 or building;

25 (b) an additional levy under the provisions of 20-9-353 has been approved for the purpose of  
26 constructing, purchasing, or acquiring the site or building;

27 (c) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding  
28 the maximum general fund budget amount for the district ~~and, in the case of a site purchase, the site has been~~

1 ~~approved under the provisions of 20-6-621; or~~

2 (d) money is otherwise available under the provisions of this title ~~and the ballot for the site approval~~  
3 ~~for the building incorporated a description of the building to be located on the site.~~

4 ~~(3) The trustees may sell or otherwise dispose of the real or personal property in any reasonable~~  
5 ~~manner whenever the trustees determine that the disposition is in the best interests of the district.~~

6 ~~(2)(4)~~ Except for land that is granted to or held by the state in trust or land acquired by conditional  
7 deed under the provisions of 20-6-605, the trustees may, ~~upon approval by the electorate,~~ accept as partial or  
8 total consideration for the exchange of the land a binding written agreement by a public or private entity seeking  
9 the exchange to use the property to provide a service that benefits the school district. The deed for the  
10 exchange of land must contain reversionary clauses that allow for the return of the land to school district  
11 ownership if the binding written agreement is not complied with.

12 ~~(3) When an election is conducted under the provisions of this section, it must be called under the~~  
13 ~~provisions of 20-20-201 and must be conducted in the manner prescribed by this title for school elections. An~~  
14 ~~elector qualified to vote under the provisions of 20-20-301 may vote in the election. If a majority of those~~  
15 ~~electors voting at the election approve the proposed action, the trustees may take the proposed action."~~

16

17 **Section 66.** Section 20-6-621, MCA, is amended to read:

18 **"20-6-621. Selection of school sites -- approval election.** (1) ~~(a) Except as provided in subsection~~  
19 ~~(1)(b), the~~ The trustees of a district may select and purchase the sites for school buildings or for other school  
20 purposes, ~~but the selection must first be approved by the qualified electors of the district before a contract for~~  
21 ~~the purchase of a site is entered into by the trustees.~~

22 ~~(b) The trustees may purchase or otherwise acquire property contiguous to an existing site that is in~~  
23 ~~use for school purposes without a site approval election. The trustees may take an option on a site prior to the~~  
24 ~~site approval election.~~

25 ~~(2) The election for the approval of a site must be called under the provisions of 20-20-201 and must~~  
26 ~~be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school~~  
27 ~~site election is qualified to vote under the provisions of 20-20-301. If a majority of those voting at the election~~  
28 ~~approve the site selection, the trustees may purchase the site. A site approval election is not required when the~~

~~site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of the site.~~

~~(3)(2)~~ Any site for a school building or other building of the district that is selected or purchased by the trustees must:

(a) be in a place that is convenient, accessible, and suitable;

(b) comply with the minimum size and other requirements prescribed by the department of public health and human services; ~~and~~

(c) comply with the statewide building regulations, if any, promulgated by the department of labor and industry; ~~and~~

~~(d) be preceded by a public meeting at which public comment is solicited and considered regarding the intended selection or purchase."~~

**Section 67.** Section 20-6-704, MCA, is amended to read:

**"20-6-704. Dissolution of K-12 school district.** (1) Except as provided in subsection (2), in order to dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or consolidating the K-12 district's elementary or high school program with a contiguous school district or districts in an ensuing school fiscal year under the provisions of 20-6-422 or 20-6-423 a general election as described in 13-1-104.

(2) If the trustees of the school district determine that the creation or continuation of the K-12 district has resulted in or will result in the loss of federal funding for the elementary or high school programs and that it is in the best interest of the district to dissolve into the original elementary district and high school district that existed prior to the formation of the K-12 district, the trustees may dissolve the district under the following procedure:

(a) The trustees of the district shall pass a resolution requesting the county superintendent to order a dissolution of the district.

(b) When the county superintendent receives the resolution from the district, the county superintendent shall, within 10 days, order the dissolution of the K-12 district into the original elementary district

1 and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order,  
2 the county superintendent shall send a copy of the order to the board of county commissioners, the trustees of  
3 the district, and the superintendent of public instruction.

4 (3) If the entire territory of the dissolving K-12 district will be annexed to or consolidated with a  
5 contiguous district or districts, the resolution or petition required in subsection (1) or (2) must contain a  
6 description of the manner in which the real and personal property and funds of the district are to be apportioned  
7 in the dissolution of the district and the subsequent annexation to or consolidation with one or more other  
8 districts. If a portion of the dissolving K-12 district will not be annexed or consolidated with another district or  
9 districts, the resolution or petition must contain a description of the manner in which the property, funds, and  
10 financial obligations, including bonded indebtedness, of the K-12 district are to be apportioned to the district or  
11 districts whose territory is not annexed to or consolidated with another district.

12 (4) After the county superintendent receives the certificate of election ~~provided for in 20-20-416~~  
13 from the trustees of the K-12 district and from each district included in a consolidation proposition, the county  
14 superintendent shall determine whether the dissolution and annexation or consolidation proposition or  
15 propositions have been approved. If the K-12 district has approved the dissolution proposition and each district  
16 involved in a consolidation has approved the consolidation proposition, the county superintendent shall, within  
17 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original  
18 elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30  
19 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county  
20 commissioners, the trustees of the district included in the dissolution order, and the superintendent of public  
21 instruction.

22 (5) Whenever a K-12 district is dissolved, the following provisions apply:

23 (a) The trustees of the district whose territory is not annexed or consolidated upon dissolution of  
24 the K-12 district are responsible for the execution of remaining financial obligations of the K-12 district and for  
25 the apportionment between the elementary and high school programs of any obligations not identified in the  
26 resolution required under subsection (3).

27 (b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

28 (c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12

1 district during its last year of operations as a K-12 district will be prorated based on rules promulgated by the  
2 superintendent of public instruction."

3

4 **Section 68.** Section 20-9-115, MCA, is amended to read:

5 **"20-9-115. Notice of final budget meeting.** Between ~~July 1 and August 10~~ May 1 and June 10 of  
6 each year, the clerk of each district shall publish one notice, in the local or county newspaper that the trustees  
7 of the district determine to be the newspaper with the widest circulation in the district, stating the date, time, and  
8 place that the trustees will meet for the purpose of considering and adopting the final budget of the district,  
9 stating that the meeting of the trustees may be continued from day to day until the final adoption of the district's  
10 budget, and stating that any taxpayer in the district may appear at the meeting and be heard for or against any  
11 part of the budget."

12

13 **Section 69.** Section 20-9-131, MCA, is amended to read:

14 **"20-9-131. Final budget meeting.** (1) On or before ~~August 20~~ June 20, on the date and at the time  
15 and place stated in the notice published pursuant to 20-9-115, the trustees of each district shall meet to  
16 consider all budget information and any attachments required by law.

17 (2) The trustees may continue the meeting from day to day but shall adopt the final budget for the  
18 district and determine the amounts to be raised by tax levies for the district not later than ~~August 25~~ June 25  
19 and before the computation of the general fund net levy requirement by the county superintendent and the  
20 fixing of the tax levies for each district. Any taxpayer in the district may attend any portion of the trustees'  
21 meeting and be heard on the budget of the district or on any item or amount contained in the budget.

22 (3) Upon final approval, the trustees shall deliver the adopted budget, including the amounts to be  
23 raised by tax levies, to the county superintendent of schools within 3 days."

24

25 **Section 70.** Section 20-9-208, MCA, is amended to read:

26 **"20-9-208. Transfers among appropriation items of fund -- transfers from fund to fund.** (1)  
27 Whenever it appears to the trustees of a district that the appropriated amount of an item of a budgeted fund of  
28 the final budget or a budget amendment is in excess of the amount actually required during the school fiscal

1 year for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other  
2 appropriation item of the same budgeted fund.

3 (2) Unless otherwise restricted by a specific provision in this title, transfers may be made between  
4 different funds of the same district or between the final budget and a budget amendment under one of the  
5 following circumstances:

6 (a) (i) Except as provided in subsections (2)(a)(ii) through ~~(2)(a)(iv), (2)(a)(iii)~~, transfers may be made  
7 from one budgeted fund to another budgeted fund or between the final budget and a budget amendment for a  
8 budgeted fund whenever the trustees determine, in their discretion, that the transfer of funds is necessary to  
9 improve the efficiency of spending within the district or when an action of the trustees results in savings in one  
10 budgeted fund that can be put to more efficient use in another budgeted fund to better support and implement  
11 forms of personalized learning described in 20-7-1601. ~~Transfers may not be made with funds approved by the~~  
12 ~~voters or with funds raised by a nonvoted levy unless:~~

13 ~~(A) the transfer is within or directly related to the purposes for which the funds were raised and the~~  
14 ~~trustees hold a properly noticed hearing to accept public comment on the transfer; or~~

15 ~~(B) the transfer is approved by the qualified electors of the district in an election called for the purpose~~  
16 ~~of approving the transfer, in which case the funds may be spent for the purpose approved on the ballot.~~

17 ~~(ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to~~  
18 ~~any other fund and transfers to the general fund from any other fund are prohibited.~~

19 ~~(iii)(i)~~ (iii)(ii) Unless otherwise authorized by a specific provision in this title, transfers from the retirement fund  
20 to any other fund are prohibited.

21 ~~(iv)(iii)~~ (iv)(iii) Unless otherwise authorized by a specific provision in this title, transfers from the debt service  
22 fund to any other fund are prohibited.

23 (b) Transfers may be made from one nonbudgeted fund to another nonbudgeted fund whenever the  
24 trustees determine that the transfer of funds is necessary to improve the efficiency of spending within the  
25 district. Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with  
26 any restrictions or conditions imposed by federal law.

27 (3) Before a transfer can occur, the trustees shall hold a properly noticed hearing to accept public  
28 comment on the transfer.

1 ~~(3)~~(4) The trustees shall enter the authorized transfers upon the permanent records of the district.

2 ~~(4)~~(5) The intent of this section is to increase the flexibility and efficiency of school districts without an  
3 increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund  
4 supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the  
5 amount of funds transferred."  
6

7 **Section 71.** Section 20-9-306, MCA, is amended to read:

8 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the  
9 following definitions apply:

10 (1) "BASE" means base amount for school equity.

11 (2) "BASE aid" means:

12 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for  
13 the general fund budget of a district;

14 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,  
15 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the  
16 special education allowable cost payment;

17 (c) the total quality educator payment;

18 (d) the total at-risk student payment;

19 (e) the total Indian education for all payment;

20 (f) the total American Indian achievement gap payment;

21 (g) the total data-for-achievement payment; and

22 (h) the special education allowable cost payment.

23 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the  
24 basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of  
25 the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American  
26 Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special  
27 education allowable cost payment.

28 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may

1 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through  
2 20-9-369.

3 (5) "BASE funding program" means the state program for the equitable distribution of the state's  
4 share of the cost of Montana's basic system of public elementary schools and high schools, through county  
5 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in  
6 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-  
7 321.

8 (6) "Basic entitlement" means:

9 (a) for each high school district:

10 (i) \$326,073 for fiscal year 2022 and \$334,453 for each succeeding fiscal year for school districts with  
11 an ANB of 800 or fewer; and

12 (ii) \$326,073 for fiscal year 2022 and \$334,453 for each succeeding fiscal year for school districts with  
13 an ANB of more than 800, plus \$16,304 for fiscal year 2022 and \$16,723 for each succeeding fiscal year for  
14 each additional 80 ANB over 800;

15 (b) for each elementary school district or K-12 district elementary program without an approved and  
16 accredited junior high school, 7th and 8th grade program, or middle school:

17 (i) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or K-  
18 12 district elementary programs with an ANB of 250 or fewer; and

19 (ii) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or K-12  
20 district elementary programs with an ANB of more than 250, plus \$2,718 for fiscal year 2022 and \$2,788 for  
21 each succeeding fiscal year for each additional 25 ANB over 250;

22 (c) for each elementary school district or K-12 district elementary program with an approved and  
23 accredited junior high school, 7th and 8th grade program, or middle school:

24 (i) for the district's kindergarten through grade 6 elementary program:

25 (A) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or K-  
26 12 district elementary programs with an ANB of 250 or fewer; and

27 (B) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or K-  
28 12 district elementary programs with an ANB of more than 250, plus \$2,718 for fiscal year 2022 and \$2,788 for

1 each succeeding fiscal year for each additional 25 ANB over 250; and

2 (ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle

3 school:

4 (A) \$108,690 for fiscal year 2022 and \$111,483 for each succeeding fiscal year for school districts or

5 K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

6 (B) \$108,690 for fiscal year 2022 and \$111,483 for each succeeding fiscal year for school districts or

7 K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,434

8 for fiscal year 2022 and \$5,574 for each succeeding fiscal year for each additional 45 ANB over 450.

9 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to

10 20-9-311.

11 (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB

12 entitlement for the general fund budget of a district and funded with state and county equalization aid.

13 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from

14 the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator

15 payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian

16 achievement gap payment, the total data-for-achievement payment, and the greater of the district's special

17 education allowable cost payment multiplied by:

18 (a) 175%; or

19 (b) the ratio, expressed as a percentage, of the district's special education allowable cost

20 expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years

21 previous, with a maximum allowable ratio of 200%.

22 (10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted

23 that is above the BASE budget and below the maximum general fund budget for a district.

24 (11) "Total American Indian achievement gap payment" means the payment resulting from multiplying

25 \$223 for fiscal year 2022 and \$229 for each succeeding fiscal year times the number of American Indian

26 students enrolled in the district as provided in 20-9-330.

27 (12) "Total at-risk student payment" means the payment resulting from the distribution of any funds

28 appropriated for the purposes of 20-9-328.

1 (13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from  
2 multiplying \$21.73 for fiscal year 2022 and \$22.29 for each succeeding fiscal year by the district's ANB  
3 calculated in accordance with 20-9-311.

4 (14) "Total Indian education for all payment" means the payment resulting from multiplying \$22.70 for  
5 fiscal year 2022 and \$23.28 for each succeeding fiscal year times the ANB of the district or \$100 for each  
6 district, whichever is greater, as provided for in 20-9-329.

7 (15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations  
8 and using either the current year ANB or the ~~3-year~~ 5-year ANB provided for in 20-9-311:

9 (a) for a high school district or a K-12 district high school program, a maximum rate of \$7,443 for  
10 fiscal year 2022 and \$7,634 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents  
11 per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving  
12 the same amount of entitlement as the 800th ANB;

13 (b) for an elementary school district or a K-12 district elementary program without an approved and  
14 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,813 for fiscal  
15 year 2022 and \$5,962 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per  
16 ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving  
17 the same amount of entitlement as the 1,000th ANB; and

18 (c) for an elementary school district or a K-12 district elementary program with an approved and  
19 accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

20 (i) a maximum rate of \$5,813 for fiscal year 2022 and \$5,962 for each succeeding fiscal year for the  
21 first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB  
22 up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the  
23 1,000th ANB; and

24 (ii) a maximum rate of \$7,443 for fiscal year 2022 and \$7,634 for each succeeding fiscal year for the  
25 first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7  
26 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the  
27 800th ANB.

28 (16) "Total quality educator payment" means the payment resulting from multiplying \$3,385 for fiscal

1 year 2022 and \$3,472 for each succeeding fiscal year by the sum of:

2 (a) the number of full-time equivalent educators as provided in 20-9-327; and

3 (b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay  
4 of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher's teaching  
5 career in the previous year.

6 (17) "Total special education allocation" means the state payment distributed pursuant to 20-9-321 that  
7 is the greater of the amount resulting from multiplying \$287.93 for fiscal year 2022 and \$286.02 for each  
8 succeeding fiscal year by the statewide current year ANB or the amount of the previous year's total special  
9 education allocation."

10

11 **Section 72.** Section 20-9-308, MCA, is amended to read:

12 **"20-9-308. BASE budgets and general fund budget limits.** (1) (a) The trustees of a district shall  
13 adopt a general fund budget that is at least equal to the BASE budget established for the district. Except as  
14 provided in subsection (1)(b), the trustees of a district may adopt a general fund budget up to the greater of:

15 (i) the current year maximum general fund budget; or

16 (ii) the previous year's general fund budget plus any increase in ~~direct state aid for the basic and per-~~  
17 ~~ANB entitlements and any increases in state funding of the data for achievement payment under 20-9-325 and~~  
18 ~~in the general fund payments in 20-9-327 through 20-9-330 state and over-BASE levy funding of the basic of~~  
19 ~~per-ANB entitlements or of the general fund payments established in 20-9-327 through 20-9-330 to complete~~  
20 ~~the inflation-adjusted formula amounts approved by the legislature as part of the regular inflationary~~  
21 ~~adjustments to K-12 BASE aid calculated pursuant to 20-9-326 and as provided in 20-9-306.~~

22 (b) When anticipated enrollment increases under 20-9-314 are not realized in the previous year, the  
23 trustees may adopt a general fund budget up to the greater of:

24 (i) the current year maximum general fund budget; or

25 (ii) the previous year's adopted general fund budget recalculated to reflect the previous year's actual  
26 enrollment pursuant to 20-9-314(6)(b) plus any increase in direct state aid for the basic and per-ANB  
27 entitlements and any increases in state funding of the data-for-achievement payment under 20-9-325 and in the  
28 general fund payments in 20-9-327 through 20-9-330.

1 (2) (a) Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a  
 2 general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE  
 3 budget levy ~~over~~ above the greater of the limits specified in 20-9-353 or the highest revenue previously  
 4 authorized by the electors of the district or imposed by the district in any of the previous 5 years to support the  
 5 general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-  
 6 353.

7 (b) The intent of this section is to increase the flexibility and efficiency of elected school boards  
 8 without increasing school district property taxes. In furtherance of this intent and provided that budget  
 9 limitations otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-  
 10 BASE budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by  
 11 law to be imposed by action of the trustees of the district by at least as much as the amount by which the over-  
 12 BASE budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy  
 13 imposed under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the  
 14 district impose any increase in other nonvoted property tax levies.

15 (3) The BASE budget for the district must be financed by the following sources of revenue:

16 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which  
 17 the district may be eligible, as provided in 20-9-366 through 20-9-369;

18 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

19 (c) a district levy for support of a school not approved as an isolated school under the provisions of  
 20 20-9-302;

21 (d) payments in support of special education programs under the provisions of 20-9-321;

22 (e) nonlevy revenue, as provided in 20-9-141; and

23 (f) a BASE budget levy on the taxable value of all property within the district.

24 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all  
 25 property within the district or other revenue available to the district, as provided in 20-9-141."

26

27 **Section 73.** Section 20-9-311, MCA, is amended to read:

28 **"20-9-311. Calculation of average number belonging (ANB) -- ~~3-year~~ 5-year averaging. (1)**

1 Average number belonging (ANB) must be computed for each budget unit as follows:

2 (a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled  
3 as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first  
4 Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school  
5 day, and divide the sum by two; and

6 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the  
7 approved pupil-instruction-related days for the current school fiscal year and divide by 180.

8 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-  
9 related days may be included in the calculation.

10 (3) When a school district has approval to operate less than the minimum aggregate hours under 20-  
11 9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

12 (4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an  
13 education program:

14 (i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time  
15 enrollment;

16 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time  
17 enrollment;

18 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-  
19 time enrollment; and

20 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

21 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than  
22 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

23 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on  
24 the hours necessary and appropriate to provide the course within a regular classroom schedule.

25 (d) A school district may include in its calculation of ANB a pupil who is enrolled in a program  
26 providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b)  
27 if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by  
28 the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted

1 to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the  
2 student has demonstrated proficiency.

3 (e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public  
4 school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

5 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state  
6 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose  
7 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the  
8 purposes of calculating the ~~3-year~~ 5-year ANB, the superintendent of public instruction shall count the  
9 kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the ~~3-year~~ 5-  
10 year average ANB for districts offering full-time kindergarten.

11 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,  
12 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil  
13 resumes attendance prior to the day of the enrollment count.

14 (7) (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB  
15 calculations.

16 (b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September  
17 10 of the school year may not be included in the ANB calculations.

18 (c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by  
19 September 10 of the school year and who is receiving special education services from a school district pursuant  
20 to 20-7-411(4)(a) may be included in the ANB calculations if:

21 (i) the student has not graduated;

22 (ii) the student is eligible for special education services and is likely to be eligible for adult services for  
23 individuals with developmental disabilities due to the significance of the student's disability; and

24 (iii) the student's individualized education program has identified transition goals that focus on  
25 preparation for living and working in the community following high school graduation since age 16 or the  
26 student's disability has increased in significance after age 16.

27 (d) A school district providing special education services pursuant to subsection (7)(c) is encouraged  
28 to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals

1 of a student's transition plan.

2 (8) The average number belonging of the regularly enrolled pupils for the public schools of a district  
3 must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except  
4 that:

5 (a) the ANB is calculated as a separate budget unit when:

6 (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town  
7 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled  
8 pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must  
9 receive a basic entitlement for the school calculated separately from the other schools of the district;

10 (ii) a school of the district is located more than 20 miles from any other school of the district and  
11 incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be  
12 calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
13 calculated separately from the other schools of the district;

14 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
15 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
16 other condition exists that would result in an unusual hardship to the pupils of the school if they were  
17 transported to another school, the number of regularly enrolled pupils of the school must be calculated  
18 separately for ANB purposes and the district must receive a basic entitlement for the school calculated  
19 separately from the other schools of the district; or

20 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB  
21 and the basic entitlements of the component districts must be calculated separately for a period of 3 years  
22 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3  
23 additional years as follows:

24 (A) 75% of the basic entitlement for the fourth year;

25 (B) 50% of the basic entitlement for the fifth year; and

26 (C) 25% of the basic entitlement for the sixth year.

27 (b) when a junior high school has been approved and accredited as a junior high school, all of the  
28 regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB

1 purposes;

2 (c) when a middle school has been approved and accredited, all pupils below the 7th grade must be  
3 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
4 high school pupils for ANB purposes; or

5 (d) when a school has been designated as nonaccredited by the board of public education because of  
6 failure to meet the board of public education's assurance and performance standards, the regularly enrolled  
7 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
8 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
9 program for the district.

10 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
11 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
12 superintendent.

13 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education  
14 program provided by the district through any combination of onsite or offsite instruction may be included for  
15 ANB purposes only if the pupil is offered access to the complete range of educational services for the basic  
16 education program required by the accreditation standards adopted by the board of public education.

17 (b) Access to school programs and services for a student placed by the trustees in a private program  
18 for special education may be limited to the programs and services specified in an approved individual education  
19 plan supervised by the district.

20 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a  
21 youth detention center, may be limited to the programs and services provided by the district at district expense  
22 under an agreement with the incarcerating facility.

23 (d) This subsection (10) may not be construed to require a school district to offer access to activities  
24 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a  
25 pupil who is not otherwise eligible under the rules of the organization.

26 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under  
27 this title and who is:

28 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

- 1 agreement and who is attending a school of the district;
- 2 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
- 3 individualized educational services supervised by the district, at district expense, at a home or facility that does
- 4 not offer an educational program;
- 5 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
- 6 center, and who is receiving individualized educational services supervised by the district, at district expense, at
- 7 a home or facility that does not offer an educational program;
- 8 (d) receiving special education and related services, other than day treatment, under a placement by
- 9 the trustees at a private nonsectarian school or private program if the pupil's services are provided at the
- 10 district's expense under an approved individual education plan supervised by the district;
- 11 (e) participating in the running start program at district expense under 20-9-706;
- 12 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
- 13 a private residential program or private residential facility licensed by the department of public health and
- 14 human services;
- 15 (g) enrolled in an educational program or course provided at district expense using electronic or
- 16 offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
- 17 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
- 18 instructional setting with the approval of the trustees of the district. The pupil shall:
- 19 (i) meet the residency requirements for that district as provided in 1-1-215;
- 20 (ii) live in the district and must be eligible for educational services under the Individuals With
- 21 Disabilities Education Act or under 29 U.S.C. 794; or
- 22 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.
- 23 (h) a resident of the district attending the Montana youth challenge program or a Montana job corps
- 24 program under an interlocal agreement with the district under 20-9-707.
- 25 (12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge
- 26 program participant as half-time enrollment.
- 27 (13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an
- 28 individual who is otherwise eligible under this title and who during the prior school year:

- 1 (i) resided in the district;
- 2 (ii) was not enrolled in the district or was not enrolled full time; and
- 3 (iii) completed an extracurricular activity with a duration of at least 6 weeks.
- 4 (b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under
- 5 subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13)
- 6 the individual may not be counted as more than one full-time enrollment for ANB purposes.
- 7 (ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-eighth
- 8 enrollment.
- 9 (c) For the purposes of this section, "extracurricular activity" means:
- 10 (i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities,
- 11 contests, and tournaments;
- 12 (ii) an approved career and technical student organization, pursuant to 20-7-306; or
- 13 (iii) a school theater production.
- 14 (14) (a) For an elementary or high school district that has been in existence for ~~3 years~~ 5 years or
- 15 more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be
- 16 calculated using the current year ANB for all budget units or the ~~3-year~~ 5-year average ANB for all budget units,
- 17 whichever generates the greatest maximum general fund budget.
- 18 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general
- 19 fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the
- 20 elementary and high school programs pursuant to subsection (14)(a) and then combined.
- 21 (15) The term "~~3-year ANB~~" "5-year ANB" means an average ANB over the most recent ~~3-year~~ 5-year
- 22 period, calculated by:
- 23 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
- 24 previous ~~2~~ 4 school fiscal years; and
- 25 (b) dividing the sum calculated under subsection (15)(a) by ~~three~~ five."

**Section 74.** Section 20-9-313, MCA, is amended to read:

**"20-9-313. Circumstances under which regular average number belonging may be increased.**

1 (1) The average number belonging of a school, calculated in accordance with the ANB formula prescribed in  
2 20-9-311, may be increased when:

3 (a) the opening of a new elementary school or the reopening of an elementary school has been  
4 approved in accordance with 20-6-502. The average number belonging for the school must be established by  
5 the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

6 (b) the opening or reopening of a high school or a branch of the county high school has been  
7 approved in accordance with 20-6-503, or 20-6-504, or ~~20-6-505~~. The average number belonging for the high  
8 school must be established by the county superintendent's estimate, after an investigation of the probable  
9 number of pupils that will attend the high school.

10 (c) a district anticipates an increase in the average number belonging due to the closing of a private  
11 or public school in the district or a neighboring district. The estimated increase in average number belonging  
12 must be established by the trustees and the county superintendent and approved, disapproved, or adjusted by  
13 the superintendent of public instruction no later than the fourth Monday in June.

14 (d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The  
15 increase in average number belonging must be based on estimates of increased enrollment approved by the  
16 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

17 (e) for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB  
18 to be used for budget purposes is:

19 (i) one-half the number of 5-year-old children residing in the district as of September 10 of the  
20 preceding school year, either as shown on the official school census or as determined by some other procedure  
21 approved by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten  
22 program as provided in 20-1-301; or

23 (ii) the number of 5-year-old children residing in the district as of September 10 of the preceding school  
24 year, either as shown on the official school census or as determined by some other procedure approved by the  
25 superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as  
26 provided in 20-1-301; or

27 (f) a high school district provides early graduation for a student who completes graduation  
28 requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The

1 increase must be established by the trustees as though the student had attended to the end of the school fiscal  
2 year and must be approved, disapproved, or adjusted by the superintendent of public instruction.

3 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time  
4 kindergarten program."  
5

6 **Section 75.** Section 20-9-353, MCA, is amended to read:

7 **"20-9-353. Additional financing for general fund -- election for authorization to impose.** (1) The  
8 trustees of a district may ~~propose to~~ adopt an over-BASE budget amount for the district general fund that does  
9 not exceed the general fund budget limitations, as provided in 20-9-308.

10 (2) (a) When the trustees of the district propose to adopt an over-BASE budget under subsection (1),  
11 any increase in local property taxes ~~authorized by 20-9-308(4) over revenue~~ above the greater of the limits  
12 computed under subsection (2)(b) or amounts previously authorized by the electors of the district or imposed by  
13 the district in any of the previous 5 years must be submitted to a vote of the qualified electors of the district, as  
14 provided in 15-10-425.

15 (b) The trustees are not required to submit to the qualified electors any increase in state and over-  
16 BASE levy funding of the basic or per-ANB entitlements or of the general fund payments established in 20-9-  
17 327 through 20-9-330 to complete the inflation-adjusted formula amounts approved by the legislature as part of  
18 the regular inflationary adjustments to K-12 BASE aid calculated pursuant to 20-9-326 and as amended in 20-9-  
19 306.

20 (c) When the trustees of a district determine that a voted amount of financing above the greater of  
21 the limit of subsections (2)(a) and (2)(b) is required for the general fund budget in applicable school fiscal years,  
22 the trustees shall submit the proposition to finance the voted amount to the electors who are qualified under 20-  
23 20-301 to vote upon the proposition at the next regular school election day. The proposition may be requested  
24 for application to a maximum of 4 school fiscal years with approved increases implemented through tax  
25 collections beginning the November following the election on the timing specified in 15-16-102.

26 (d) The proposition must specify each school fiscal year in which an increase above the limits of  
27 subsections (2)(a) or (2)(b) is requested and must include the percentage point, expressed as a number  
28 rounded to the nearest tenth, proposed by the trustees in excess of the greater of the limits of subsections

1 (2)(a) or (2)(b). The election must be called and conducted in the manner prescribed by this title for school  
2 elections and must conform to the requirements of 15-10-425. The ballot for the election must conform to the  
3 requirements of 15-10-425 and may describe general or specific purposes for which the increase in the levy is  
4 requested.

5 (3) If the proposition on any additional financing for the general fund is approved by a majority vote of  
6 the electors voting at the election, the proposition carries and the trustees may use any portion or all of the  
7 authorized amount in adopting the final general fund budget for each school fiscal year to which the  
8 authorization applies. The trustees shall certify any additional levy amount authorized by the election on the  
9 budget form that is submitted to the county superintendent, and the county commissioners shall levy the  
10 authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-  
11 141.

12 (4) All Except as provided in 20-20-105(2), all levies adopted under this section must be authorized by  
13 the election conducted before August 1 of the school fiscal ~~year~~ years for which it is effective.

14 (5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget  
15 amount, as allowed by 20-9-308, to the electors of the district, the trustees shall comply with the provisions of  
16 subsections (2) through (4) of this section."

17  
18 **Section 76.** Section 20-9-405, MCA, is amended to read:

19 **"20-9-405. Proportional joint ownership -- disposition of money.** The facility constructed under  
20 20-9-404 must be jointly owned by the school districts or other political subdivisions contributing to its  
21 construction in proportion to the contribution of each political subdivision. ~~The sale or other disposition of a~~  
22 ~~district's interest in the facility must be made in accordance with 20-6-604.~~ Money received from the sale or  
23 disposition of a district's interest in a facility must be credited to the debt service fund, building fund, general  
24 fund, or any combination of these three funds, at the discretion of the trustees."

25  
26 **Section 77.** Section 20-9-406, MCA, is amended to read:

27 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**  
28 **payment -- oil and natural gas payment.** (1) (a) Except as provided in subsection (1)(c), the maximum

1 amount for which an elementary district or a high school district may become indebted by the issuance of  
2 general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of  
3 previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue  
4 bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general  
5 obligations of the district, is 100% of the taxable value of the property subject to taxation, as ascertained by the  
6 last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

7 (b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as  
8 formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all  
9 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,  
10 outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is  
11 pledged, and any other loans or notes payable that are held as general obligations of the district, regardless of  
12 whether the general obligation bonds finance elementary program improvements or high school program  
13 improvements, is the sum of 100% of the taxable value of the property in its elementary program subject to  
14 taxation and 100% of the taxable value of the property in its high school program subject to taxation, as  
15 ascertained by the last assessment for state, county, and school taxes previous to the incurring of the  
16 indebtedness.

17 (c) (i) Unless the maximum amount calculated under subsection (1)(a) yields a greater amount, the  
18 maximum amount for which an elementary district or a high school district with a district mill value per  
19 elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB  
20 or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds,  
21 including all indebtedness represented by outstanding general obligation bonds of previous issues, registered  
22 warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax  
23 levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is the  
24 corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12  
25 district, unless the maximum amount calculated under subsection (1)(b) yields a greater amount, the maximum  
26 amount for which the district may become indebted is the sum of the facility guaranteed mill value per  
27 elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per  
28 high school ANB times 1,000 times the high school ANB of the district. For the purpose of calculating ANB

1 under this subsection, a district may use the greater of the current year ANB or the ~~3-year~~ 5-year ANB  
2 calculated under 20-9-311.

3 (ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded  
4 indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of  
5 students residing within the district for which the district or county pays tuition for attendance at a school in an  
6 adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its  
7 maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant  
8 to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the  
9 greater of the current year ANB or the ~~3-year~~ 5-year ANB calculated under 20-9-311.

10 (2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by  
11 special improvement district obligations or assessments against the school district or to general obligation  
12 bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess  
13 of the amount are void, except as provided in this section.

14 (3) The maximum amount of impact aid revenue bonds that an elementary district, high school  
15 district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the  
16 average of the school district's annual federal impact aid basic support payments for the 5 years immediately  
17 preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual  
18 payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal  
19 impact aid basic support payments of the school district for the current year.

20 (4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high  
21 school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times  
22 the average of the school district's annual oil and natural gas production taxes received pursuant to 15-36-331,  
23 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of  
24 the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas  
25 revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the  
26 school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the oil and natural  
27 gas revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation  
28 provided in subsection (1) of this section applies to the bonds.

1 (5) When the total indebtedness of a school district has reached the limitations prescribed in this  
 2 section, the school district may pay all reasonable and necessary expenses of the school district on a cash  
 3 basis in accordance with the financial administration provisions of this chapter.

4 (6) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the  
 5 debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and  
 6 the refunding bond issue is decreased accordingly.

7 (7) As used in this part, "federal impact aid basic support payment" means the annual impact aid  
 8 revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special  
 9 education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

11 **Section 78.** Section 20-9-422, MCA, is amended to read:

12 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** (1) In addition  
 13 to the requirements for calling an election that are prescribed in 20-20-201 and ~~20-20-203~~, the trustees'  
 14 resolution calling a school district bond election must:

15 (a) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds,  
 16 or impact aid revenue bonds and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to  
 17 the repayment of the bonds;

18 (b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the  
 19 amounts estimated in a petition;

20 (c) fix the maximum number of years in which the proposed bonds would be paid;

21 (d) in the case of initiation by a petition, state the essential facts about the petition and its  
 22 presentation; and

23 (e) state the amount of the state advance for school facilities estimated, pursuant to subsection (2),  
 24 to be received by the district in the first school fiscal year in which a debt service payment would be due on the  
 25 proposed bonds.

26 (2) Prior to the adoption of the resolution calling for a school bond election for a general obligation  
 27 bond, the trustees of a district may request from the superintendent of public instruction a statement of the  
 28 estimated amount of state advance for school facilities that the district will receive for debt service payments on

1 the proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The  
2 district shall provide the superintendent with an estimate of the debt service payment due in the first school  
3 fiscal year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant  
4 to 20-9-371(2)."

5

6 **Section 79.** Section 20-15-203, MCA, is amended to read:

7 **"20-15-203. Community college district organization election -- notice -- proposition statement.**

8 (1) On a determination that a petition complies with the provisions of 20-15-202, the board of county  
9 commissioners of each county in which the proposed community college district lies shall give notice of  
10 elections to be held within the boundaries of the proposed district for the purposes of:

11 (a) determining whether a community college district should be organized; and

12 (b) electing trustees as provided under the provisions of this part.

13 (2) The elections must be conducted during a general election as described in 13-1-104 and in  
14 accordance with Title 13, chapter 1, part 5.

15 (3) At the election the proposition for organization must be in substantially the following form:

16 PROPOSITION

17 Shall there be organized within the area comprising the School Districts of..... (elementary or K-12  
18 districts must be listed by county), State of Montana, a community college district for the offering of transfer,  
19 career and technical, and adult postsecondary education, to be known as the Community College District of.....,  
20 Montana, under the provisions of the laws authorizing community college districts in Montana, as requested in  
21 the petition filed with the county election administrator on the..... day of....., 20...? The creation of a community  
22 college district may, with subsequent voter approval, result in the levying of property taxes to support:

23 (1) a portion of the operating costs of the community college district; and

24 (2) the repayment of bonds issued as authorized by law.

25  FOR organization.

26  AGAINST organization."

27

28 **Section 80.** Section 20-15-208, MCA, is amended to read:

1           **"20-15-208. Conduct of community college district elections.** (1) An election for the organization  
2 of the community college district and the concurrent election of trustees for the proposed community college  
3 district must be conducted by the county election administrator.

4           (2) For any community college district election held subsequent to the initial elections under  
5 subsection (1), the community college district's board of trustees is the governing body for the election and the  
6 county election administrator shall conduct the election.

7           (3) If a proposed or existing community college district is within the boundaries of more than one  
8 county, the county election administrator of the county with the highest number of qualified electors in the  
9 proposed or existing community college district shall conduct the election.

10          (4) A community college district election must be conducted during a general election as described  
11 in 13-1-104 and in accordance with Title 13, chapter 1, part 5."

12

13           **Section 81.** Section 20-15-221, MCA, is amended to read:

14           **"20-15-221. Election of trustees after organization of community college district.** (1) After  
15 organization, the registered electors of the community college district qualified to vote under the provisions of  
16 20-20-301 shall annually vote for trustees on the ~~regular school election~~ general election day provided for in ~~20-~~  
17 ~~20-105(4)~~ 13-1-104. The election must be conducted in accordance with the election provisions of this title  
18 whenever the provisions are made applicable to community college districts. Pursuant to 20-15-208, the  
19 elections must be conducted by the county election administrator on the order of the board of trustees of the  
20 community college district. The order must be transmitted to the appropriate trustees at least 85 days prior to  
21 the regular school election day.

22          (2) Notice of the community college district trustee election must be given as provided in 13-1-108.

23          (3) If trustees are elected other than at large throughout the entire district, then only those qualified  
24 electors within the area from which the trustee or trustees are to be elected may cast their ballots for the trustee  
25 or trustees from that area.

26          (4) Candidates for the office of trustee shall file their declarations of candidacy with the county  
27 election administrator within the time period specified in 20-3-305(2).

28          (5) All costs incident to election of the community college trustees must be borne by the

1 community college district, including one-half of the compensation of the judges for the school elections."

2

3

**Section 82.** Section 20-15-404, MCA, is amended to read:

4

**"20-15-404. Trustees to adhere to certain other laws.** Unless the context clearly indicates

5

otherwise, the trustees of a community college district shall adhere to:

6

(1) the teachers' retirement provisions of Title 19, chapter 20;

7

(2) the provisions of 20-1-201, 20-1-205, 20-1-211, and 20-1-212;

8

(3) the school property provisions of ~~20-6-604~~, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631,

9

and 20-6-633 through 20-6-636;

10

(4) the adult education provisions of Title 20, chapter 7, part 7;

11

(5) the administration of finances provisions of 20-9-115, 20-9-134, 20-9-207, 20-9-208, 20-9-210, 20-

12

9-215, 20-9-221, 20-9-223, and 20-9-512;

13

(6) the school bond provisions of 20-9-401 through 20-9-408, 20-9-410 through 20-9-412, 20-9-421

14

through 20-9-446, 20-9-461, 20-9-464, and 20-9-465;

15

(7) the special purpose funds provisions of 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511;

16

(8) the educational cooperative agreements provisions of 20-9-701 through 20-9-704;

17

(9) the school elections provisions of Title 20, chapter 20;

18

(10) the students' rights provisions of 20-25-511 through 20-25-516; and

19

(11) the health provisions of 50-1-206."

20

21

**Section 83.** Section 20-20-102, MCA, is amended to read:

22

**"20-20-102. Precedence of school election provisions.** Except as otherwise provided in this title,

23

school elections shall be conducted and canvassed and the results shall be returned in the same manner as

24

provided for general elections in Title 13. ~~Should there be a conflict between the requirements of Title 13 and~~

25

~~the provisions of this title regulating school elections, the provisions of this title shall govern. The superintendent~~

26

~~of public instruction~~ secretary of state may make any necessary rules to clarify Title 13 provisions for use in

27

school elections."

28

1           **Section 84.** Section 20-20-104, MCA, is amended to read:

2           "**20-20-104. Forms.** The forms necessary for school district elections shall be the same as those  
3 prescribed by law or the secretary of state. ~~The superintendent of public instruction may issue prescribed forms~~  
4 ~~for school elections with any necessary revisions of prescribed or statutory forms.~~"

5  
6           **Section 85.** Section 20-20-105, MCA, is amended to read:

7           "**20-20-105. Regular school election day and special school elections** ~~—limitation~~ **-- exception.**

8 (1) ~~Except as provided in subsection (5), the first Tuesday after the first Monday in May of each year is the~~  
9 ~~regular school election day.~~ School elections must be held on the primary or general day in an even-numbered  
10 year. Except as otherwise provided in this section, the regular school election day is the same day as the  
11 general election as defined in 13-1-101 in even-numbered years. Except as otherwise provided in this section,  
12 all school elections must be conducted on the regular school election day.

13           (2) ~~— Except as provided in subsections (4) and (5), a~~ proposition requesting additional funding  
14 ~~under 20-9-353 may be submitted to the electors only once each calendar year on the regular school election~~  
15 ~~day.~~

16           (2) Upon a declaration of an unforeseen emergency by the trustees, the trustees may conduct  
17 school election ordinarily required to be held on the regular school election day at times other than the regular  
18 school election day as determined by the trustees. As used in this section, "unforeseen emergency" has the  
19 meaning provided in 20-3-322(5).

20           (3) Bond elections may be conducted at times other than the regular school election day when  
21 determined necessary by the trustees to maximize efficiency in costs of construction or to avoid an escalation in  
22 prices and related impact on district taxpayers.

23           (4) School safety elections provided for in 20-9-502(5)(b) may be conducted at times other than  
24 the regular school election day when determined necessary by the trustees to protect the health, welfare, or  
25 safety of students, families, and staff members of the district.

26           (3) ~~Subject to the provisions of subsection (2), other school elections may be conducted at times~~  
27 ~~determined by the trustees.~~

28           (4) ~~In the event of an unforeseen emergency occurring on the date scheduled for the funding election~~

1 pursuant to subsection (2), the district will be allowed to reschedule the election for a different day of the  
2 calendar year. As used in this section, "unforeseen emergency" has the meaning provided in 20-3-322(5).

3 ~~(5) In years when the legislature meets in regular session or in a special session that affects school~~  
4 ~~funding, the trustees may order an election on a date other than the regular school election day in order for the~~  
5 ~~electors to consider a proposition requesting additional funding under 20-9-353."~~

6

7 **Section 86.** Section 20-20-107, MCA, is amended to read:

8 **"20-20-107. Election expenses.** ~~(1)~~All expenses necessarily incurred in the matter of holding school  
9 elections must be paid out of the school funds of the district, except when the expenses are by law to be shared  
10 by a community college district for which the district is conducting an election.

11 ~~(2) The trustees shall pay the election judges of a school election at least the state or federal~~  
12 ~~minimum wage, whichever is greater, for each hour of service in connection with the election, including the~~  
13 ~~number of hours required to attend training pursuant to 20-20-109.~~

14 ~~(3) Election judges are exempt from unemployment insurance coverage for services performed~~  
15 ~~pursuant to this chapter if the remuneration received by the election judge is less than \$1,000 per calendar~~  
16 ~~year."~~

17

18 **Section 87.** Section 20-20-108, MCA, is amended to read:

19 **"20-20-108. Rescheduling of school election canceled due to declaration of state of emergency**  
20 **or disaster.** If the governor declares a state of emergency or disaster under Title 10, chapter 3, a school  
21 election may be canceled by the ~~county superintendent of schools or, in the absence of the county~~  
22 ~~superintendent, by the state superintendent of public instruction trustees.~~ As soon as convenient after the  
23 declaration of a state of emergency or disaster is terminated, the trustees of the district shall set a new date for  
24 the election. Notice of such election shall be published for 7 consecutive days in a newspaper of general  
25 circulation in the district and posted for 7 days at district polling places. Whenever the best interests of the  
26 district would be served, the trustees may give additional notice of the election through appropriate radio and  
27 television stations that serve the people of the district."

28

1           **Section 88.** Section 20-20-201, MCA, is amended to read:

2           **"20-20-201. Calling of school election.** (1) At least 70 days before any school election, the trustees  
3 of a district or other entity or official authorized by law to call a school election shall call the school election by  
4 resolution, stating the date and purpose of each election and whether, pursuant to 13-19-202, any election is  
5 requested to be by mail. The date of the school election must align with either the primary or general election in  
6 an even-numbered year.

7           (2) To enable the county election administrator to manage voter registration and prepare the lists  
8 of registered electors:

9           (a) the resolution calling for a school election must be transmitted to the county election  
10 administrator no later than 3 days after the resolution is passed; and

11           (b) if the election is to be conducted by mail, the school clerk must also transmit to the county  
12 election administrator a copy of the written plan required under 13-19-205 as soon as the plan has been  
13 approved by the secretary of state."  
14

15           **Section 89.** Section 20-20-417, MCA, is amended to read:

16           **"20-20-417. Request for county County election administrator to conduct election.** (1) ~~By June 1~~  
17 ~~of each year, the trustees of a district may request the county election administrator to conduct certain school~~  
18 ~~elections during the ensuing school fiscal year. The request must be made by a resolution of the board of~~  
19 ~~trustees~~ The county administrator shall conduct all school elections.

20           ~~(2) Whenever the county election administrator agrees to conduct a school election, the administrator~~  
21 ~~shall:~~

22           ~~(a) perform the duties imposed on the trustees and the clerk of the district for school elections in 20-~~  
23 ~~20-203, 20-20-313, and 20-20-401; and~~

24           ~~(b) deliver to the trustees, for the purpose of canvassing the vote, the certified tally sheets and other~~  
25 ~~items as provided in 13-15-301.~~

26           ~~(3)~~(2) ~~Whenever the trustees request and the county election administrator agrees to conduct a~~  
27 ~~school election, the~~ The school district shall pay the costs of the election as provided in 13-1-302."  
28

1           **Section 90.** Section 76-5-1106, MCA, is amended to read:

2           **"76-5-1106. Requirements to change project boundaries -- election.** The boundaries of a project  
3 once established may not be extended without approval by a majority of the electors residing in the area  
4 proposed to be annexed. The election must be held in conjunction with a general election as described in 13-1-  
5 104 and must be held in accordance with the provisions of Title 13, chapter 1, part 5."  
6

7           **Section 91.** Section 76-15-207, MCA, is amended to read:

8           **"76-15-207. Referendum on question of creating district.** (1) To assist the department in the  
9 determination of administrative practicability and feasibility, the department shall, within a reasonable time after  
10 entry of the finding that there is need for the organization of the proposed district and the determination of the  
11 boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of  
12 the district and cause due notice of the referendum to be given.

13           (2) The question must be submitted by ballots upon which the words "For creation of a  
14 conservation district of the lands below described and lying in the county(ies) of ...., ...., and ...." and "Against  
15 creation of a conservation district of the lands below described and lying in the county(ies) of .... and ...." must  
16 appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or  
17 the other of the propositions as the voter may favor or oppose creation of the district. The ballot must set forth  
18 the boundaries of the proposed district as determined by the department.

19           (3) All qualified electors within the boundaries of the territory, as determined by the department,  
20 are eligible to vote in the referendum.

21           (4) The referendum must be on the ballot during a general election as described in 13-1-104."  
22

23           **Section 92.** Section 76-15-303, MCA, is amended to read:

24           **"76-15-303. Election of supervisors -- election by acclamation -- appointment.** (1) An election for  
25 supervisors must be held during a general election and be conducted in accordance with Title 13, chapter 1,  
26 part 5.

27           (2) All qualified electors within the district are eligible to vote in the election.

28           (3) The candidate or, if more than one supervisor position is to be filled by the election, the

1 candidates who receive the largest number, respectively, of the votes cast in the election are the elected  
2 supervisors for the district.

3 (4) The names of the candidates must be arranged on ballots as prescribed in 13-12-205."  
4

5 **Section 93.** Section 76-15-304, MCA, is amended to read:

6 **"76-15-304. Election of supervisors.** (1) Two supervisors shall be elected at the second general  
7 election following the organization or reorganization of the district and shall replace the two supervisors  
8 appointed by the department. Thereafter, a district shall alternately elect three and two supervisors at  
9 succeeding general elections.

10 (2) An election for supervisors must be held during a general election and must be conducted in  
11 accordance with Title 13, chapter 1, part 5."  
12

13 **Section 94.** Section 76-15-506, MCA, is amended to read:

14 **"76-15-506. Bonds authorized -- election.** (1) Whenever a board of supervisors deems it necessary,  
15 it may issue bonds payable from revenues, assessments, or both, or the district may use other financing as  
16 provided for by this part and part 6 for the cost of works.

17 (2) The board of supervisors may call an election to be held in accordance with Title 13, chapter 1,  
18 part 5. The election must be held during a general election as described in 13-1-104.

19 (3) If from the returns of the election it appears that the majority of votes cast at the election was in  
20 favor of and assented to the incurring of the indebtedness, then the board of supervisors may by resolution  
21 provide for the issuance of the bonds.

22 (4) The issuance of bonds must be carried out in accordance with 7-7-4426 and 7-7-4432 through  
23 7-7-4435. The validity of the bonds, use of the bond revenue, and the refunding of the bonds must be done in  
24 accordance with the provisions of 7-7-4425, 7-7-4430, 7-7-4501(2) and (3), and 7-7-4502 through 7-7-4505.

25 (5) Any bonds issued under this part and part 6 have the same force, value, and use as bonds  
26 issued by a municipality and are exempt from taxation as property within the state of Montana."  
27

28 **Section 95.** Section 76-15-531, MCA, is amended to read:

1           **"76-15-531. Special administrative assessment permitted -- voter approval.** (1) (a) In addition to  
2 the levy authorized in 76-15-515 and 76-15-516(3), the supervisors of a conservation district may levy ~~an~~  
3 ~~annual~~ a biennial special administrative assessment for administrative costs and expenses of the district if the  
4 qualified electors of the district approve the imposition of the additional assessment at ~~an~~ a general election  
5 held as provided in 13-1-104 and 15-10-425.

6           (b) Nonmill-levy revenue that is distributed based on the relative proportion of mill levies may not  
7 be distributed to the special administrative assessment.

8           (2) The special administrative assessment question may be presented to the qualified electors of  
9 the district by resolution of the supervisors.

10           (3) If the conservation district is located in more than one county, the special administrative  
11 assessment question must be presented to and approved by the qualified electors who reside in the district  
12 from each county.

13           (4) The resolution referring the special administrative assessment question must state:

14           (a) the rate of the assessment;

15           (b) the amount of money anticipated to be raised by the assessment; and

16           (c) the purposes for which the special administrative assessment revenue may be used."  
17

18           **Section 96.** Section 76-15-605, MCA, is amended to read:

19           **"76-15-605. Board decision.** (1) The report of 76-15-603 must be presented and read at the hearing  
20 on the petition.

21           (2) At the public hearing on the petition, the board of supervisors shall proceed to hear and pass  
22 upon all protests made and its decision must be final and conclusive except when owners of more than 50% of  
23 the land in the proposed project area protest the project. If owners of more than 50% of the land protest the  
24 project, no further action may be taken for a period of 6 months from the date of the hearing, after which a new  
25 petition may be filed.

26           (3) If the board or boards of supervisors find that it is not feasible, desirable, or practical to  
27 establish the proposed project area, they shall make an order denying the petition and shall state therein their  
28 reasons for so doing.

1 (4) If, however, the board finds that the project is desirable, proper, and necessary, it shall grant  
2 the petition, establish the boundaries of the proposed project area, and notify the county election administrator  
3 that an election is to be held in the proposed area for the purpose of determining whether or not the project  
4 area must be created. The election must be held during a general election and must be conducted in  
5 accordance with Title 13, chapter 1, part 5."  
6

7 **Section 97.** Section 76-15-702, MCA, is amended to read:

8 **"76-15-702. Referendum on proposed land use regulations.** (1) The proposed regulations shall be  
9 embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of  
10 all eligible voters during the period between publication of such notice and the date of the referendum. The  
11 referendum must be held during a general election as described in 13-1-104.

12 (2) The notices of the referendum shall recite the contents of such proposed ordinance or shall  
13 state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots  
14 upon which the words "For approval of proposed ordinance No. ...., prescribing land use regulations for  
15 conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No. ....,  
16 prescribing land use regulations for conservation of soil and prevention of erosion" shall appear, with a square  
17 before each proposition and a direction to insert an "X" mark in the square before one or the other of said  
18 propositions as the voter may favor or oppose approval of such proposed ordinance.

19 (3) The supervisors shall publish the result of the referendum. All registered electors within the  
20 district shall be eligible to vote in such referendum. No informalities in the conduct of such referendum or in any  
21 matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been  
22 given substantially as herein provided and said referendum shall have been fairly conducted."  
23

24 **Section 98.** Section 76-15-805, MCA, is amended to read:

25 **"76-15-805. Referendum on question of discontinuance.** (1) Within 60 days after the petition has  
26 been received by the department, it shall give due notice of the holding of a referendum and shall supervise the  
27 referendum and issue appropriate regulations governing the conduct thereof. The referendum must be placed  
28 on the ballot during a general election as described in 13-1-104. The question is to be submitted by ballots

1 upon which the words "For terminating the existence of the .... (name of the conservation district or part of the  
2 district to be here inserted)" and "Against terminating the existence of the .... (name of the conservation district  
3 or part of the district to be here inserted)" shall appear with the square before each proposition and a direction  
4 to insert an "X" mark in the square before one or the other of the propositions as the voter may favor or oppose  
5 discontinuance of the district or a part of the district.

6 (2) All qualified electors within the boundaries of the district are eligible to vote in the referendum.  
7 No informalities in the conduct of the referendum or in any matters relative thereto shall invalidate the  
8 referendum or the result thereof if notice thereof is given substantially as herein provided and the referendum is  
9 fairly conducted."

10

11 ~~Section 81. Section 85-6-105, MCA, is amended to read:~~

12 ~~"85-6-105.—Division of irrigation project into districts. Such water users' association shall be~~  
13 ~~permitted to divide the area under such irrigation project into as many districts as there are directors provided~~  
14 ~~for in its articles of incorporation. Each district shall elect one director for a term not to exceed 5 years 6 years.~~  
15 ~~At the first election held to elect directors under the provisions of this chapter, each district shall elect one~~  
16 ~~director, who shall hold office for such a term of years as the bylaws shall provide, and thereafter a director~~  
17 ~~shall be elected in the district and at the annual election general election held just prior to the expiration of the~~  
18 ~~term of office of the director of that district."~~

19

20 ~~Section 82. Section 85-6-106, MCA, is amended to read:~~

21 ~~"85-6-106.—Vacancies in board of directors. In case of a vacancy in the board of directors from any~~  
22 ~~cause, the board shall fill such vacancy by appointment to hold to the end of that fiscal year biennium, and a~~  
23 ~~director shall be elected at the annual general election in the district where such vacancy occurs to fill the~~  
24 ~~unexpired term of such vacancy."~~

25

26 ~~Section 83. Section 85-7-1602, MCA, is amended to read:~~

27 ~~"85-7-1602.—Election on joint operations. At any time after March 7, 1959, in the event that it is~~  
28 ~~deemed if it is considered advisable or desirable for any irrigation districts to operate under the direction of a~~

1 ~~board of control as herein provided in this part, the boards of commissioners of the districts, after a petition~~  
 2 ~~requesting the same be board of control is received and filed with them, must shall call an election to put the~~  
 3 ~~question before the landowners of the districts which that are petitioned to be joined. In the event a majority of~~  
 4 ~~the landowners of each district, as provided by 85-7-1710, vote for organizing such a board of control, then the~~  
 5 ~~commissioners of each district will be are authorized and directed to enter into such a contract to operate the~~  
 6 ~~districts in accordance with the terms of this part as provided by 85-7-1601. The election herein provided shall~~  
 7 ~~must be held in conjunction with a general election and must be conducted in the same manner and the same~~  
 8 ~~persons shall be entitled to vote thereat may vote at the election as provided for elections of commissioners of~~  
 9 ~~irrigation districts, in accordance with 85-7-1702, 85-7-1710, and 85-7-1712."~~

11 **Section 84.** ~~Section 85-7-1702, MCA, is amended to read:~~

12 ~~"85-7-1702. — Election of commissioners — term of office. (1) The election for commissioners in~~  
 13 ~~each district must be held annually biennially in accordance with Title 13, chapter 1, part 5. The election may be~~  
 14 ~~at the district's annual meeting or on the date established in 13-1-504(1) must be held during a general election~~  
 15 ~~as described in 13-1-104.~~

16 ~~(2) — A person eligible to vote in the district may file a declaration of candidacy for the office of~~  
 17 ~~commissioner with the election administrator or deputy election administrator within the time period specified in~~  
 18 ~~13-1-502.~~

19 ~~(3) — Within 40 days following their election, the commissioners shall meet and organize as a board~~  
 20 ~~by electing a president from their number and a secretary, who may or may not be a commissioner, who shall~~  
 21 ~~each hold office at the pleasure of the board.~~

22 ~~(4) — Except as provided in 85-7-204, the term of office of each commissioner begins on the date of~~  
 23 ~~the commissioner's election and continues for 3 years.~~

24 ~~(5) — Commissioners are elected by the electors of the entire district."~~

26 **Section 85.** ~~Section 85-7-1703, MCA, is amended to read:~~

27 ~~"85-7-1703. — Vacancies among commissioners. If there is a vacancy on the board of commissioners~~  
 28 ~~from any cause, the vacancy must be filled until the next regular or special general election by appointment by~~

1 ~~the board. The remaining commissioners constitute a quorum for the purpose of filling any vacancy. If a~~  
 2 ~~vacancy exists for every position on the board, the judge of the district court of the county in which the division~~  
 3 ~~or major portion of the division is situated shall make the appointments. The appointee must be an owner of~~  
 4 ~~irrigable land within the division of the district that the appointee represents and must be a resident of the~~  
 5 ~~county in which the division of the district or some portion of the division is situated. A commissioner appointed~~  
 6 ~~under this section holds office until a successor is elected and qualified."~~

7  
 8 **Section 86.** ~~Section 85-7-1712, MCA, is amended to read:~~

9 ~~"85-7-1712. — Call for election. The board of commissioners may at any time call an election in~~  
 10 ~~conjunction with a general election and submit to the qualified electors of the district any question which under~~  
 11 ~~the provisions of this chapter is required or which, in the judgment of the board, is proper to be submitted to~~  
 12 ~~popular vote. The election must be called by resolution and conducted in accordance with Title 13, chapter 1,~~  
 13 ~~part 5."~~

14  
 15 **Section 87.** ~~Section 85-7-1974, MCA, is amended to read:~~

16 ~~"85-7-1974. — Majority vote or petition necessary to contract with the state. (1) No contract may be~~  
 17 ~~made between an irrigation district and the state of Montana under 85-7-1971 through 85-7-1975 except on:~~

18 ~~(a) — approval by a majority vote of those voting on the question at an general election conducted~~  
 19 ~~in accordance with Title 13, chapter 1, part 5, and 85-7-1710; or~~

20 ~~(b) — receipt of a petition signed by at least 60% in number and acreage of the holders of title or~~  
 21 ~~evidence of title to lands within the district. The petition must be addressed to the board of commissioners and~~  
 22 ~~must set forth the aggregate amount of money to be borrowed from various sources, including the coal~~  
 23 ~~severance tax bonding program provided for in Title 17, chapter 5, part 7, and the purpose for which the money~~  
 24 ~~will be used. The petition must include an affidavit certifying the signatures to the petition and must be filed with~~  
 25 ~~the secretary of the board of commissioners.~~

26 ~~(2) — In an election held for approval of a district contract under this section, the voting majority must~~  
 27 ~~own at least 50% of the acreage included in the district."~~

28

1 ~~Section 88. Section 85-7-2013, MCA, is amended to read:~~

2 ~~"85-7-2013.—Majority vote, petition, and protest requirements. (1) Bonds provided for in 85-7-2012~~  
3 ~~through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized under this~~  
4 ~~chapter or by an irrigation district on behalf of a subdistrict located in the district and a contract may not be~~  
5 ~~made with the United States as provided in 85-7-1906 except on:~~

6 (a) ~~approval by a majority vote of those voting on the question at an a general election conducted~~  
7 ~~in accordance with Title 13, chapter 1, part 5, with votes cast and counted as prescribed in 85-7-1710;~~

8 (b) ~~receipt of a petition signed by a majority in acreage of the holders of title or evidence of title to~~  
9 ~~lands included within the district or, if the bonds are issued on behalf of or if the contract relates to a subdistrict,~~  
10 ~~a majority in acreage of the holders of title or evidence of title to lands within the subdistrict;~~

11 (c) ~~receipt of a petition signed by at least 75%, in number and acreage, of the holders of title or~~  
12 ~~evidence of title to the lands who are residents of the county or counties in which lands of the district are~~  
13 ~~situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 75% in number~~  
14 ~~and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in~~  
15 ~~which lands of the subdistrict are situated; or~~

16 (d) ~~adoption of a resolution by the board of commissioners approving special taxes or~~  
17 ~~assessments to repay bonds pursuant to 85-7-2048 following a determination that a protest as provided in 85-~~  
18 ~~7-2045 by owners of assessed irrigable acres as determined by 85-7-2043 comprises no more than 50% of the~~  
19 ~~special tax or assessment proposed to pay the costs of the suggested improvements.~~

20 (2) ~~The petition must be addressed to the board of commissioners, set forth the aggregate amount~~  
21 ~~of bonds to be issued and the purpose or purposes of the bonds, have attached to it an affidavit verifying the~~  
22 ~~signatures to the petition, and be filed with the secretary of the board. When bonds are issued for the sole~~  
23 ~~purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent~~  
24 ~~and accrued interest, of the district, the bonds may be authorized and issued in the manner provided for by 85-~~  
25 ~~7-2019.~~

26 (3) ~~In an election held for approval to allow a district or subdistrict to issue bonds or enter into a~~  
27 ~~contract under this section, the voting majority must own at least 50% of the acreage included in the district or~~  
28 ~~subdistrict."~~

1

2 **Section 99.** Section 85-8-302, MCA, is amended to read:

3 **"85-8-302. Election of commissioners -- regular term of office.** (1) Except as provided in 13-1-  
4 502(4), the election of commissioners must be held annually in conjunction with a general election and  
5 conducted in accordance with Title 13, chapter 1, part 5. The term of office of commissioners shall commence  
6 on the day of their election.

7 (2) (a) At the first ~~primary or~~ general election following the organization of a district and in districts  
8 organized and in existence on March 1, 1921, and that, on petition, have been divided into divisions, three  
9 commissioners must be elected, with one commissioner being elected from each division.

10 (b) A commissioner must be an actual landowner in the division in which the commissioner is  
11 elected.

12 (c) One of the commissioners, to be determined by lot, shall hold office for ~~1 year~~ 2 years; another  
13 of the commissioners, to be determined by lot, shall hold office for ~~2 years~~ 4 years; and the third commissioner  
14 shall hold office for ~~3 years~~ 6 years.

15 (3) After the election of the initial commissioners, one commissioner must be elected ~~each year~~  
16 during each general election. Commissioners elected after the initial election shall hold office for a term of 3  
17 ~~years~~ 4 years. The person elected as a commissioner in ~~each year~~  
18 then expiring must be elected as a commissioner from the same division as the commissioner whose term  
19 expires.

20 (4) Each commissioner must be a resident of a county where a portion of the district lands is  
21 situated."

22

23 **Section 100.** Section 85-8-624, MCA, is amended to read:

24 **"85-8-624. Assessments on improvements -- taxpayers' approval, limitations, and election**  
25 **procedures.** (1) A vote of the persons on the assessment rolls in any existing district is required to make  
26 Chapter 409, Laws of 1973, applicable to a district.

27 (2) Chapter 409, Laws of 1973, does not confer on districts created for drainage purposes only the  
28 authority to levy assessments on benefits to improvements.

1 (3) The election provided for by subsection (1) must be governed by the following rules:

2 (a) Notice of the election must be as provided in 13-1-108.

3 (b) The election must be held in conjunction with a general election and must be conducted in  
4 accordance with Title 13, chapter 1, part 5, except that voter registration may not be required.

5 (c) The qualifications of electors must be as provided in 85-8-305, except that, in addition to  
6 persons holding title or evidence of title to lands within the district, any person, as provided in 85-8-305, who  
7 does not own land within the district but has been assessed or will have the person's improvements assessed  
8 under Chapter 409, Laws of 1973, or who will be assessed for benefits received is entitled to one vote.  
9 Commissioners shall prepare a list of persons entitled to vote, and the election administrator shall give them  
10 notice as provided in 13-1-108.

11 (d) The commissioners of any district in existence prior to March 21, 1973, who wish to hold an  
12 election to determine if the district is governed by Chapter 409, Laws of 1973, shall at any regular or special  
13 meeting adopt a resolution calling for an election to determine whether or not the voters of the district wish to be  
14 governed by Chapter 409, Laws of 1973. The resolution must contain a short summary of the changes made by  
15 Chapter 409, Laws of 1973, and the summary must be included in the notice provided for by 13-1-108. In  
16 addition, the commission shall provide copies of Chapter 409, Laws of 1973, to any person interested in  
17 obtaining a copy, and the notice to the persons in the district calling the election must describe where and how  
18 copies may be obtained. The commissioners may authorize a reasonable charge for providing copies, not to  
19 exceed 20 cents a page.

20 (e) The ballot must include the summary as provided for in subsection (3)(d), and the form of the  
21 ballot must conform as closely as possible to that provided for in Title 13, chapter 27.

22 (f) A simple majority of those who cast valid ballots determines the outcome of the election."  
23

24 **Section 101.** Section 85-9-206, MCA, is amended to read:

25 **"85-9-206. Court hearing on petition -- election -- limits on court jurisdiction.** (1) On receipt of a  
26 petition for organizing a district, the court shall give notice and hold a hearing on the petition. If the court finds  
27 that the petition should be granted, it shall:

28 (a) make and file findings of fact specifying those lands that will be directly or indirectly benefited

1 by the proposed district and exclude those lands that will not be benefited;

2 (b) make an order ~~fixing the time and place of an~~ announcing the organizing election which must  
3 be held in conjunction with a general election;

4 (c) order the election administrator to conduct the election in accordance with Title 13, chapter 1,  
5 part 5; and

6 (d) order and decree the district organized if the requisite number of eligible electors votes in favor  
7 of organization.

8 (2) In order for the district to be organized, 51% or more of the eligible electors must vote in the  
9 election, and a majority of those voting must vote in favor of organization.

10 (3) This chapter does not confer on the court jurisdiction to hear, adjudicate, and settle questions  
11 concerning the priority of appropriation of water between districts and other persons. Jurisdiction to hear and  
12 determine priority of appropriation and questions of right growing out of or in any way connected with a priority  
13 of appropriation is expressly excluded from this chapter and must be determined as otherwise provided by the  
14 laws of Montana."

15  
16 NEW SECTION. Section 102. Repealer. The following sections of the Montana Code Annotated are  
17 repealed:

18 13-1-305. School district and political subdivision election cooperation.

19 13-1-503. Deadlines for absentee and mail ballots.

20 ~~20-6-505. Opening a junior high school when high school district operates a county high school.~~

21 ~~20-6-604. Sale of property when resolution passed after hearing -- appeal procedure.~~

22 20-20-106. Poll hours.

23 ~~20-20-108. Rescheduling of school election canceled due to declaration of state of emergency or disaster.~~

24 20-20-203. Resolution for poll hours, polling places, and judges.

25 20-20-204. Election notice.

26 20-20-401. Trustees' election duties -- ballot certification.

27 20-20-402. Clerk of election judges and appointment for absent judge.

28 ~~20-20-416. Certificate of election.~~

**Amendment - 1st Reading-white - Requested by: Mike Hopkins - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.002

1

2            NEW SECTION. Section 103. **Effective date.** [This act] is effective July 1, 2024.

3

4

- END -

AMEND