



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0774 - Generally revise election laws (Hopkins, Mike)

Status: As Amended in House Committee

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$240,170	\$4,823,167	\$2,953,196	\$602,170
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$240,170)</u>	<u>(\$4,823,167)</u>	<u>(\$2,953,196)</u>	<u>(\$602,170)</u>

Description of fiscal impact: HB 774 changes election statute to require all elections to occur on primary day or election day in even-numbers years. The bill also requires the county election administrator to administer all elections, and term lengths are changed to match the new election cycle.

If HB 774 is passed, the Commissioner of Political Practices expects that all Montana elections would be held in even-numbered years, following the existing primary and general election calendars. Holding all elections during the same even year would significantly increase the responsibilities placed upon the commissioner and the rest of the office staff during, and immediately following, the even election year.

HB 774, as amended, appropriates \$150,000 from the state general fund to the Office of Public Instruction in FY 2024 to provide grants to counties for the school incentive pilot program. The amendments also change school funding to be based on 5-year ANB averaging rather than the current 3-year ANB averaging beginning in FY 2025 at a state general fund cost of \$4.8 million in FY 2025.

FISCAL ANALYSIS

Assumptions:**Commissioner of Political Practices**

1. Currently, statewide, state district, county, and certain school elections are held during even election years (2020, 2022, 2024, etc.), while municipal (city) and certain school elections are held during odd election years (2021, 2023, 2025, etc.).

2. Candidates seeking election to public office are required to file a certification with the Commissioner of Political Practices (COPP) (13-37-201, MCA). Approximately 1,000 candidates seeking election to a statewide, state district, or county office in Montana's 2022 primary and general election cycle filed these certifications with COPP in 2022. Additionally, there were approximately 160 candidates seeking election to a school office during the May 2022 school elections.
3. In 2021, approximately 620 city candidates and 120 school candidates filed these certifications. The office assumes that the number of certifications COPP staff must process during each even election year will significantly increase should HB 774 pass.
4. The office is statutorily required to provide written notice to the relevant election administrator when a candidate has not filed all required statements or reports and therefore cannot be certified to appear on an official ballot (13-37-126, MCA). Should HB 774 pass, COPP will be required to conduct this process for all statewide, state district, county, city, and school candidates at the same time during each even election year, increasing the workload on COPP staff.
5. The office is statutorily required to conduct facial inspections of all finance reports filed within 20 days of receiving the report (13-37-121, MCA). Should HB 774 pass, the number of inspections will increase during each even election year.
6. The office is statutorily required to conduct a formal examination of reports within 120 days after the completion of an election (13-37-123, MCA). Should HB 774 pass, the number of formal examinations will increase following the completion of each even-year primary and general election.
7. The commissioner investigates and decides election law violations under Title 13, Chapters 35 and 37, MCA. If HB 774 passes, it will concentrate election law complaints in even-numbered years and increase workloads in those years as COPP will continue to act on complaints as quickly as possible. Alternatively, complaints may take longer to decide.
8. The office will require increased staff to handle the increase in responsibilities HB 774 creates in both years. The office anticipates, at a minimum, that an additional one and a half (1.50) FTE compliance specialists (annual salary and benefits of \$52,164 for 1.00 FTE and \$32,406 for .50 FTE) will be required. This amount has been inflated by 1.5% for fiscal years 2026 and 2027.
9. A new employee office package of \$2,800 (furniture and computer) for each compliance specialist is included as one-time-only costs in fiscal year 2024.

Office of the Secretary of State

10. While there may be a minimal fiscal impact for the Office of the Secretary of State to implement the requirements of HB 774, the office can cover these costs within the office's existing budget.

Office of Public Instruction

11. HB 774, as amended in Section 87, 20-20-105, MCA, defines the regular school election day as the same day as the general election as defined in 13-1-101, MCA, in even-numbered years. This section also states that all school elections must be conducted on the regular school election day unless otherwise defined in this section. Exceptions include: an unforeseen emergency declaration; bond elections; and school safety elections.
12. The amended bill changes the terms of school trustees and county high school principal contracts from 3-years to 4-years to align with the change in election day laws.
13. Other sections of Title 20 are amended to revise dates for notice of final budget meeting and date of a final budget meeting.
14. The amendment to HB 774 removes language in Section 60 that allowed joint board of trustees to open a junior high school. Further changes in the amended bill allow a high school district and the elementary district where the high school is located to open a junior high school. Current law says the trustees shall jointly apply to the superintendent for approval, however the bill strikes the application process and says the trustees shall notify the superintendent by June 1 before the school fiscal year of the intent to open a junior high school.
15. Section 67, as amended, strikes the requirement for an election when trustees decide to acquire or dispose of sites and buildings unless there is a need for a bond issue; an additional levy under the provisions of 20-9-353, MCA, for the purpose of constructing, purchasing, or acquiring the site or building; costs of constructing,

purchasing, or acquiring a site or building is financed without exceeding the maximum general fund budget amount for the district; or money is otherwise available under provisions in this title. This amended section allows trustees to sell or otherwise dispose of real or personal property in any reasonable manner whenever it is determined to be in the best interests of the district without voter approval.

16. School site selections law is amended to allow trustees to select and purchase sites for school buildings or for other school purposes without approval of the qualified electors. Current law requires voter approval.
17. Section 72 of amended HB 774 strikes language related to transfer of school district funds between funds that, under current law, did not allow transfers of voter approved funds or funds raised by non-voted levies unless the transfer was to use the funds for the same purpose voters had approved or the transfer was voter approved. This section of law also amends the transfer of funds as a result of savings in one budgeted fund that can be put to more efficient use in another budgeted fund to better support and implement forms of personalized learning as described in 20-7-1601, MCA, forms of personalized learning.
18. In HB 774, as amended, Sections 20-9-306, 20-9-311, and 20-9-406, MCA, are amended to implement a 5-year average ANB (average number belonging-student count) in place of the current 3-year average ANB when determining the ANB that determines school district budget data.
19. The estimated change in ANB that determines FY 2024 school district budgets (budget limitation ANB) was evaluated in considering the effect of the ANB averaging and it was found that 75 school districts would have lower ANB and total budget limitation ANB will decrease of 247 ANB. Additionally, it is estimated that 111 school districts would have increased budget limitation ANB totaling 1,259 ANB. This is a net change in budgeted ANB of 1,012.
20. The increased ANB will increase K-12 BASE aid state funding costs by \$4.8 million in FY 2025.
21. The present law inflation applied to the Basic and Per-ANB Entitlements, the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data-for-Achievement, At Risk, and the Special Education Allowable Cost Payment components (20-9-326, MCA) is 2.70% in FY 2024 and 3.00% in FY 2025. For the present law budget, entitlements and components are set as follows:

<u>Basic Entitlements</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Elementary Basic	\$55,741	\$57,246	\$58,963	\$60,732	\$62,050
Middle School Basic	\$111,483	\$114,493	\$117,928	\$121,466	\$124,102
High School Basic	\$334,453	\$343,483	\$353,787	\$364,401	\$372,309
<u>Basic Entitlement Increments</u>					
Elementary (each 25 ANB > 250 ANB)	\$2,788	\$2,863	\$2,949	\$3,037	\$3,103
Middle School (each 45 ANB > 450 ANB)	\$5,574	\$5,724	\$5,896	\$6,073	\$6,205
High School (each 80 ANB past 800 ANB)	\$16,723	\$17,175	\$17,690	\$18,221	\$18,616
<u>Per ANB Entitlements</u>					
Elementary Per-ANB	\$5,962	\$6,123	\$6,307	\$6,496	\$6,637
High School Per-ANB	\$7,634	\$7,840	\$8,075	\$8,317	\$8,497
Direct State Aid (DSA) Percentage	44.7%	44.7%	44.7%	44.7%	44.7%
<u>Components</u>					
Indian Education for All	\$23.28	\$23.91	\$24.63	\$25.37	\$25.92
Indian Achievement Gap	\$229	\$235	\$242	\$249	\$254
Quality Educator	\$3,472	\$3,566	\$3,673	\$3,783	\$3,865
At Risk	\$5,873,777	\$6,032,369	\$6,213,340	\$6,399,740	\$6,538,614
Data for Achievement	\$22.29	\$22.89	\$23.58	\$24.29	\$24.82
Special Education Allowable Cost	\$286.02	\$293.74	\$302.55	\$311.63	\$318.39

22. Present law (20-9-326, MCA) requires the Superintendent of Public Instruction to include inflationary adjustments for the basic and per-ANB entitlements, and the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data for Achievement, At-Risk and Special Education Allowable Cost components in the recommendations presented to the legislature. These present law adjustments result in the following expenditures:

<u>Payment</u>	<u>FY 2024</u>	<u>FY 2025</u>
Direct State Aid	\$522.8 million	\$540.5 million
Guaranteed Tax Base Aid	\$259.9 million	\$290.3 million
County Retirement GTB	\$50.9 million	\$52.9 million
Indian Education for All	\$3.7 million	\$3.9 million
American Indian Achievement Gap	\$4.9 million	\$5.0 million
Quality Educator	\$48.3 million	\$49.7 million
Data for Achievement	\$3.6 million	\$3.7 million
Special Education Allowable Cost	\$45.7 million	\$47.3 million

23. Direct State Aid, GTB, and other school district general fund components are computed with the school funding model used by the Office of Public Instruction (OPI), the Legislative Fiscal Division, and the Office of Budget and Program Planning using current statutory entitlements, enrollment estimates, and estimated property tax values.

24. School district BASE budgets and general fund budget limits as defined in 20-9-308, MCA, are amended in the bill to allow school district trustees to adopt a district general fund budget that is the greater of the current year’s maximum general fund budget limit, or the prior year adopted general fund budget plus K-12 BASE aid inflationary increases, adopted by the legislature, and permissively applied to both the BASE and over-BASE authority adopted in the prior year. BASE funding includes 80% of the basic and per ANB entitlements and 100% of the Indian Education for All, Indian Achievement Gap, Quality Educator, At Risk, Data for Achievement, and 140% of the Special Education components of BASE aid. Over BASE portion of BASE funding includes 20% of the basic and per ANB entitlements.

25. Section 20-9-353, MCA, is amended to allow for permissive levy growth in a district general fund budget in both the BASE and over-BASE budget authority, for any K-12 BASE aid inflationary increases adopted by the legislature. The following table illustrates the estimated statewide impact of this permissive local property tax increase:

	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Property Tax Levy Increase Statewide	\$6,808,490	\$7,050,543	\$7,232,456

26. Based on FY 2023 data, it is estimated that 41 school districts currently adopt budgets at the BASE level and currently have no over-BASE levy. This has been accounted for in the calculation of estimated permissive levy increases in the above table.

27. Amended HB 774 repeals: 20-6-505, MCA, titled opening a junior high school when high school district operates a county high school and 20-6-604, MCA, titled sale of property when resolution passed after hearing appeal procedure.

28. HB 774 provides a one-time appropriation of \$150,000 from the state general fund to the OPI for an election incentive pilot program for counties to administer school elections as defined in Section 1 of the amended bill.

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	1.50	1.50	1.50	1.50
<u>Expenditures:</u>				
Personal Services	\$84,570	\$84,570	\$85,839	\$87,127
Operating Expenses	\$5,600	\$0	\$0	\$0
Grants	\$150,000			
Local Assistance (DSA)	\$0	\$3,087,437	\$1,839,015	\$399,420
Local Assistance (GTB)	\$0	\$1,396,642	\$869,714	\$81,257
Local Assist (Indian Ed for All)	\$0	\$24,342	\$13,644	\$2,973
Local Assist (Data for Achiev)	\$0	\$23,371	\$13,181	\$2,939
Local Assist (Retirement GTB)	\$0	\$206,805	\$131,803	\$28,454
TOTAL Expenditures	<u>\$240,170</u>	<u>\$4,823,167</u>	<u>\$2,953,196</u>	<u>\$602,170</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	<u>\$240,170</u>	<u>\$4,823,167</u>	<u>\$2,953,196</u>	<u>\$602,170</u>
TOTAL Funding of Exp.	<u>\$240,170</u>	<u>\$4,823,167</u>	<u>\$2,953,196</u>	<u>\$602,170</u>
<u>Revenues:</u>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$240,170)	(\$4,823,167)	(\$2,953,196)	(\$602,170)
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Effect on County or Other Local Revenues or Expenditures:

Montana Association of Counties

1. The fiscal impact to counties from HB 774 is difficult to determine. Consolidating elections will result in special election savings, but consolidating all elections will increase the number of splits necessary to conduct elections. Printing costs will substantially increase based on the number of different ballots that will need to be printed in each election cycle.

Office of Public Instruction

2. The office does not have a firm estimate of annual school district expenditures for elections. It is not clear what portion of election costs school districts will pay if this bill passes, but there will be cost reductions.
3. Unique requirements for school districts are found in Title 20, parts 3 and 20, MCA.
4. Trustee terms and election cycles for school districts are enmeshed with annual levies to support school district operations. It is not clear what difficulties school districts may encounter with a biennial system, but there may be some impact on school district revenue continuity.
5. Local permissive property taxes are estimated to increase by \$7 million in FY 2025 and incrementally increase in future years in accordance with inflationary adjustments approved by the Montana State Legislature.

Technical Notes:

1. This bill requires school elections to be held only on general election days in even-numbered years, and Section 55 modifies 20-3-306, MCA, to change the form of election ballots to only show the possibility of two-year or four-year terms for trustees. However, 20-3-301, MCA, sets trustee terms at three years. Further,

20-3-302, MCA, establishes the intent of the legislature to set terms in a way that the majority of the positions are not subject to expiration in any election year. The change to four-year terms for trustees would result in the election of a majority of positions every other election.

2. This bill changes the reference for a school district write-in candidate from (20-20-401, MCA, which is repealed in this bill, to 13-12-201, MCA). There are two issues: 1) the reference to 13-12-201, MCA, is specific to ballot certification and not the deadline for write in candidates, which is outlined specifically in 13-10-211, MCA, and 13-1-403, MCA (for local government elections); and 2) the new deadline for write in candidates (under 13-12-201, MCA, 13-10-211, MCA, and 13-1-403, MCA) will be prior to the deadline for regular candidate filing in 20-3-305, MCA (Section 55).
3. Section 20-20-105, MCA, Section 87 of amended HB 774 eliminates school election day currently on the first Tuesday after the first Monday in May of each year and directs that “School elections must be held on the primary or general election day in an even-numbered year.” School levies are set annually in the current May election and eliminating the annual election would require additional statutory changes to allow school districts to set budgets.
4. Section 20-20-201, MCA, Section 91 in the bill as amended, states that a school election is to be called 70 days before an election, but 13-12-201, MCA, states that ballot certification occurs 75 days before the election - effectively requiring ballot certification prior to the deadline for calling an election.
5. Section 72 as amended strikes language restricting transfers of levied funds intended for specific purposes. Current law provides that changing the purpose of use for these levied funds requires a hearing and an election. Amended language would now allow these transfers “to better support and implement forms of personalized learning described in 20-7-1601, MCA”. Permitting the use of funds for a purpose other than the reason levied may allow increased flexibility but does not allow transparency and clear tracking and use of funds.
6. Section 75 of the bill is amended to require the adoption of final budgets by June each year. Requirements for reporting certain tuition data occur in August each year and would not be available before the adoption of budgets. This may create inaccurate budget adoption. Similar and of slightly less consequence to this process is requiring the adoption of school district budgets before the availability of taxable valuations which become available annually on August 1 and in some situations districts won’t know fund balances or encumbrances. These factors may be important for some districts that “balance” mill increases by choosing to adopt modified adopted budgets based on consideration of local property taxpayers. This would potentially restrict some schools from managing levies in various funds as done under current law.

MA

Sponsor’s Initials

4/6/23

Date



Budget Director’s Initials

4-5-23

Date