

## 1 HOUSE BILL NO. 441

2 INTRODUCED BY K. KORTUM

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR YOUTH ELECTION JUDGES; ESTABLISHING  
5 CRITERIA FOR YOUTH ELECTION JUDGES; ESTABLISHING LIMITS ON THE NUMBER OF YOUTH  
6 ELECTION JUDGES AT POLLING PLACES AND ON COUNTING BOARDS AND ABSENTEE ELECTION  
7 BOARDS; AND AMENDING SECTIONS 13-1-101, 13-4-101, 13-4-102, 13-4-107, 13-13-226, 13-15-112, 20-  
8 20-109, AND 20-20-203, MCA."

9  
10 WHEREAS, county clerks and recorders and election administrators face increasing difficulties in  
11 recruiting qualified registered electors to serve as election judges; and

12 WHEREAS, observing and participating in the administration of elections provides young people with  
13 valuable lessons on the importance of the election process; and

14 WHEREAS, young people who are actively involved in the election process may be more likely to  
15 continue participating in that process when they are eligible to vote.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 **Section 1.** Section 13-1-101, MCA, is amended to read:

20 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the  
21 following definitions apply:

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

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

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

27 (4) "Application for voter registration" means a voter registration form prescribed by the secretary of  
28 state that is completed and signed by an elector, is submitted to the election administrator, and contains voter

1 registration information subject to verification as provided by law.

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

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

8 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by  
9 the proper official that the legal procedure necessary for its qualification and placement on the ballot has been  
10 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the  
11 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

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

14 (8) "Candidate" means:

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

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

22 (i) solicitation is made;

23 (ii) contribution is received and retained; or

24 (iii) expenditure is made; or

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

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

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

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

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

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

6 (b) The term does not mean services provided without compensation by individuals volunteering a  
7 portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by  
8 individuals in their private residences for a candidate or other individual.

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

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

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

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

18 (13) (a) "Election administrator" means, except as provided in subsection (13)(b), the county clerk and  
19 recorder or the individual designated by a county governing body to be responsible for all election  
20 administration duties, except that with regard to school elections not administered by the county, the term  
21 means the school district clerk.

22 (b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or  
23 the individual designated by a county governing body to be responsible for all election administration duties  
24 even if the school election is administered by the school district clerk.

25 (14) (a) "Election communication" means the following forms of communication to support or oppose a  
26 candidate or ballot issue:

27 (i) a paid advertisement broadcast over radio, television, cable, or satellite;

28 (ii) paid placement of content on the internet or other electronic communication network;

1 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;

2 (iv) a mailing; or

3 (v) printed materials.

4 (b) The term does not mean:

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

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

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

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

13 (v) a communication that the commissioner determines by rule is not an election communication.

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

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

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

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

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

25 (b) The term does not mean:

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

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

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

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

7 (v) a communication that the commissioner determines by rule is not an electioneering  
8 communication.

9 (17) "Elector" means an individual qualified to vote under state law.

10 (18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or  
11 gift of money or anything of value:

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

13 (ii) used or intended for use in making independent expenditures or in producing electioneering  
14 communications.

15 (b) The term does not mean:

16 (i) services, food, or lodging provided in a manner that they are not contributions under subsection  
17 (9);

18 (ii) payments by a candidate for personal travel expenses, food, clothing, lodging, or personal  
19 necessities for the candidate and the candidate's family;

20 (iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities  
21 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

22 (iv) the cost of any communication by any membership organization or corporation to its members or  
23 stockholders or employees.

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

25 (19) "Federal election" means an election in even-numbered years in which an elector may vote for  
26 individuals for the office of president of the United States or for the United States congress.

27 (20) "General election" means an election that is held for offices that first appear on a primary election  
28 ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

1 (21) "Inactive elector" means an individual who failed to respond to confirmation notices and whose  
2 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

3 (22) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

4 (23) (a) "Incidental committee" means a political committee that is not specifically organized or  
5 operating for the primary purpose of supporting or opposing candidates or ballot issues but that may  
6 incidentally become a political committee by receiving a contribution or making an expenditure.

7 (b) For the purpose of this subsection (23), the primary purpose is determined by the commissioner  
8 by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of  
9 purpose or goal of the person or individuals that form the committee.

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

14 (25) "Independent expenditure" means an expenditure for an election communication to support or  
15 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue  
16 committee.

17 (26) "Individual" means a human being.

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

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

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

25 (30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-  
26 307 for a mail ballot election conducted under Title 13, chapter 19.

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

- 1 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a  
2 petition for nomination;
- 3 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or  
4 (iii) to prepare or disseminate an election communication, an electioneering communication, or an  
5 independent expenditure.
- 6 (b) Political committees include ballot issue committees, incidental committees, independent  
7 committees, and political party committees.
- 8 (c) A candidate and the candidate's treasurer do not constitute a political committee.
- 9 (d) A political committee is not formed when a combination of two or more individuals or a person  
10 other than an individual makes an election communication, an electioneering communication, or an  
11 independent expenditure of \$250 or less.
- 12 (32) "Political party committee" means a political committee formed by a political party organization  
13 and includes all county and city central committees.
- 14 (33) "Political party organization" means a political organization that:
- 15 (a) was represented on the official ballot in either of the two most recent statewide general elections;  
16 or  
17 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.
- 18 (34) "Political subdivision" means a county, consolidated municipal-county government, municipality,  
19 special purpose district, or any other unit of government, except school districts, having authority to hold an  
20 election.
- 21 (35) "Polling place election" means an election primarily conducted at polling places rather than by  
22 mail under the provisions of Title 13, chapter 19.
- 23 (36) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate  
24 candidates for offices filled at a general election.
- 25 (37) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not  
26 been verified as provided by law.
- 27 (38) "Provisionally registered elector" means an individual whose application for voter registration was  
28 accepted but whose identity or eligibility has not yet been verified as provided by law.

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

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

5 (41) "Registrar" means the county election administrator and any regularly appointed deputy or  
6 assistant election administrator.

7 (42) "Regular school election" means the school trustee election provided for in 20-20-105(1).

8 (43) "School election" has the meaning provided in 20-1-101.

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

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

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

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

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

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

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

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

24 (50) "Support or oppose", including any variations of the term, means:

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



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

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

7 (52) "Voted ballot" means a ballot that is:

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

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

10 (c) returned to a place of deposit.

11 (53) "Voter interface device" means a voting system that:

12 (a) is accessible to electors with disabilities;

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

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

15 and

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

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

20 (55) "Youth election judge" means an individual who serves as an election judge and who is:

21 (a) at least 16 years of age but less than 18 years of age at the time of an election in which the  
22 individual serves as an election judge;

23 (b) a resident of the state and the county in which the individual serves as an election judge; and

24 (c) a citizen of the United States."

25

26 **Section 2.** Section 13-4-101, MCA, is amended to read:

27 **"13-4-101. Appointment of election judges. (1)** At least 30 days before the primary election in even-  
28 numbered years, the county governing body shall appoint three or more election judges for each precinct, one

1 of whom must be designated chief judge.

2 (2) A youth election judge may not serve as the chief election judge."

3

4 **Section 3.** Section 13-4-102, MCA, is amended to read:

5 **"13-4-102. Manner of choosing election judges.** (1) Subject to 13-4-107, election judges must be  
6 chosen from:

7 (a) lists of qualified registered electors in the county, submitted at least 45 days before the primary  
8 election in even-numbered years by the county central committees of the political parties eligible to nominate  
9 candidates in the primary; and

10 (b) lists of youth election judges that are maintained by the election administrator and, when possible,  
11 developed in cooperation with the local school districts, private schools, and home school organizations.

12 (2) The list of election judges submitted by each party may contain more names than the number of  
13 election judges to be appointed. The names of those not appointed as election judges must be given to the  
14 election administrator for use in making appointments to fill vacancies.

15 (3) Each board of election judges must include judges representing all parties that have submitted  
16 lists as provided in subsection (1)(a). No more than the number of election judges needed to obtain a simple  
17 majority may be appointed from the list of one political party in each county. If any of the political parties entitled  
18 to do so fail to submit a list meeting the requirements of this section, the governing body shall, to the extent  
19 possible, appoint judges so that all parties eligible to participate in the primary are represented on each board.

20 (4) The election administrator shall make appointments to fill vacancies from the list provided for in  
21 subsection (2) and from the list of youth election judges. If the ~~list is~~ lists are insufficient or if one or more of the  
22 eligible political parties fails to submit a list meeting the requirements of this section, the election administrator  
23 may select enough people meeting the qualifications of 13-4-107 to fill election judge vacancies in all precincts.

24 (5) The number of youth election judges assigned to a precinct may not exceed the number of  
25 election judges who are qualified registered electors assigned to the precinct.

26 ~~(5)(6)~~ An ~~elector~~ individual chosen to potentially serve as an election judge must be notified of  
27 selection at least 30 days before the primary election in even-numbered years. Each ~~elector~~ individual who  
28 agrees to serve as an election judge shall attend a training class conducted under 13-4-203 and shall continue

1 to serve as provided in 13-4-103."

2

3 **Section 4.** Section 13-4-107, MCA, is amended to read:

4 "**13-4-107. Qualifications of election judges.** (1) Election judges must be:

5 (a) qualified registered electors of the county in which they serve; or

6 (b) youth election judges.

7 (2) An individual seeking appointment as a youth election judge must have:

8 (a) written consent of a parent or legal guardian; and

9 (b) if the individual is a student of a public or private school, written consent from the individual's

10 school principal.

11 ~~(2)(3)~~ No election judge may be a candidate or a spouse, ascendant, descendant, brother, or sister of

12 a candidate or a candidate's spouse or the spouse of any of these in an election precinct where the candidate's

13 name appears on the ballot. However, this does not apply to candidates for precinct offices.

14 ~~(3)(4)~~ If a polling place for a precinct is located in the same venue as one or more other precincts, a

15 candidate whose name appears on any ballot being voted on within the venue, an ascendant, descendant,

16 brother, sister, or spouse of the candidate, or a spouse of an ascendant, descendant, brother, or sister of the

17 candidate may not serve as an election judge within the venue."

18

19 **Section 5.** Section 13-13-226, MCA, is amended to read:

20 "**13-13-226. Manner of selection.** (1) The election administrator may make appointments to an

21 absentee election board from lists of qualified electors and youth election judges in the county prepared in

22 substantially the same manner as provided in 13-4-102. The election administrator may refuse for cause to

23 appoint or may for cause remove a member of an absentee election board.

24 (2) The number of youth election judges serving on the absentee election board may not exceed the

25 number of qualified registered electors serving on the absentee election board."

26

27 **Section 6.** Section 13-15-112, MCA, is amended to read:

28 "**13-15-112. Appointment of counting boards.** (1) To count votes in any election under this title,

1 when election judges are appointed under 13-4-101, each county's governing body shall designate one or more  
 2 groups of three of the election judges to act as counting boards. The governing body may also designate one or  
 3 more groups of three of the election judges to act as absentee ballot counting boards under 13-15-104.

4 (2) The number of youth election judges serving on a counting board may not exceed the number of  
 5 qualified registered electors serving on the counting board."

6

7 **Section 7.** Section 20-20-109, MCA, is amended to read:

8 **"20-20-109. Election judges -- qualifications -- training.** (1) ~~Election judges~~ An election judge must  
 9 be:

10 (a) a qualified registered electors\_elector of the school district in which ~~they serve~~ the individual  
 11 serves; or

12 (b) a youth election judge, as defined in 13-1-101, who meets the requirements of 13-4-107.

13 (2) ~~An~~ In an election precinct where a candidate's name appears on the ballot, an election judge may  
 14 not be:

15 (a) the candidate;

16 (b) an ascendant, descendant, brother, or sister of ~~a~~ the candidate; or

17 (c) the spouse of the candidate or of any of the individuals listed in subsection (2)(b).

18 (3) School election judges must meet the training and certification requirements of 13-4-203."

19

20 **Section 8.** Section 20-20-203, MCA, is amended to read:

21 **"20-20-203. Resolution for poll hours, polling places, and judges.** (1) At the trustee meeting when  
 22 a school election is called, the trustees shall:

23 (a) except as provided in 20-20-106(3), establish the time at which the polls are to open if in their  
 24 discretion they determine that the polls must be open before noon;

25 (b) establish the polling places for the election, using the established polling places for general  
 26 elections within the district wherever possible; and

27 (c) appoint at least three judges, which can include youth election judges, for each polling place.

28 (2) The number of youth election judges assigned to a polling place may not exceed the number of

1 election judges who are qualified registered electors assigned to the polling place.

2 (3) A youth election judge may not serve as the chief election judge at any polling place.

3 ~~(2)~~(4) There must be one polling place in each district unless the trustees establish additional polling  
4 places. If more than one polling place is established, the trustees shall define the boundaries for each polling  
5 place so that the boundaries for each polling place are coterminous with county precinct boundaries existing  
6 within a district. If the site of a polling place is changed from the polling place site used for the last preceding  
7 school election, special reference to the changed site of the polling place must be included in the notice for the  
8 election."

9 - END -