

1 HOUSE BILL NO. 774

2 INTRODUCED BY M. HOPKINS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; ESTABLISHING A

5 SCHOOL ELECTION INCENTIVE PILOT PROGRAM FOR COUNTIES TO ADMINISTER SCHOOL

6 ELECTIONS; PROVIDING GRANTS TO PARTICIPATING COUNTIES; EXEMPTING PARTICIPATING

7 SCHOOL DISTRICTS FROM BEING CHARGED ELECTION COSTS; REQUIRING ALL ELECTIONS TO BE

8 HELD IN EVEN-NUMBERED YEARS; REQUIRING ALL ELECTIONS TO BE HELD ON PRIMARY DAY OR

9 GENERAL ELECTION DAY; REQUIRING COUNTY ELECTION ADMINISTRATORS TO ADMINISTER ALL

10 ELECTIONS; REVISING DEFINITIONS; CHANGING TERM LENGTHS TO ALIGN WITH THE REVISED

11 ELECTION SCHEDULE; REVISING TIMELINES AND OTHER PROVISIONS RELATED TO SCHOOL

12 ELECTION CANDIDATE FILING, CANDIDATE WITHDRAWAL, WRITE-IN CANDIDATES, TRUSTEES

13 CALLING ELECTIONS, ELECTION ACCLAMATION, AND CERTIFICATE OF ELECTION; REVISING

14 RESIDENCY REQUIREMENTS FOR SCHOOL ELECTION JUDGES; PROVIDING AN APPROPRIATION;

15 AMENDING SECTIONS 3-6-201, 7-4-2611, 7-5-132, 7-6-1504, 7-6-1536, 7-6-1542, 7-6-4431, 7-11-1003, 7-11-

16 1011, 7-11-1012, 7-11-1013, 7-12-4243, 7-13-2208, 7-13-2210, 7-13-2341, 7-13-2342, 7-13-2352, 7-13-4512,

17 7-13-4535, 7-14-210, 7-14-1106, 7-14-1134, 7-14-1632, 7-14-1633, 7-14-4642, 7-15-4218, 7-15-4408, 7-16-

18 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, 13-1-104, 13-1-

19 106, 13-1-107, 13-1-203, 13-1-204, 13-1-301, 13-1-302, 13-1-405, 13-1-504, 13-2-304, 13-10-211, 13-13-205,

20 13-13-222, 13-16-205, 13-37-126, 15-10-425, 16-12-301, 16-12-311, 20-3-305, 20-3-306, 20-3-307, 20-3-313,

21 20-6-326, 20-6-422, 20-6-423, 20-6-704, 20-9-422, 20-15-203, 20-15-208, 20-15-221, 20-20-102, 20-20-104,

22 20-20-105, 20-20-107, 20-20-109, 20-20-201, 20-20-417, 76-5-1106, 76-15-207, 76-15-303, 76-15-304, 76-15-

23 506, 76-15-531, 76-15-605, 76-15-702, 76-15-805, 85-6-105, 85-6-106, 85-7-1602, 85-7-1702, 85-7-1703, 85-

24 7-1712, 85-7-1974, 85-7-2013, 85-8-302, 85-8-624, AND 85-9-206, MCA; REPEALING SECTIONS 13-1-305,

25 13-1-503, 20-20-106, 20-20-108, 20-20-203, 20-20-204, 20-20-401, 20-20-402, AND 20-20-416, MCA; AND

26 PROVIDING ~~A DELAYED EFFECTIVE DATE~~ EFFECTIVE DATES AND A TERMINATION DATE."

27

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

1

2 **NEW SECTION. Section 1. School election incentive pilot program for counties to administer**

3 **school elections.** (1) The office of public instruction shall establish an incentive pilot program for counties to  
4 administer regular school elections in May 2024.

5 (2) (a) The office of public instruction shall administer the incentive pilot program as a grant  
6 program and award to counties from funding appropriated by the legislature for the purposes of this section.

7 (b) The incentive pilot program shall provide that, subject to subsection (2)(e):

8 (i) counties that choose to participate may use the grant money to pay personnel, training, and  
9 operating costs associated with conducting one or more school elections under this section; and

10 (ii) school districts that choose to participate are exempt from the provisions of 20-20-417(3) for  
11 the May 2024 school election and may not be charged by the county for the cost of administering the election.

12 (c) Subject to subsection (2)(e), the office of public instruction shall grant to each participating  
13 county the amount requested by the county to administer one or more school elections pursuant to this section,  
14 up to the maximum of \$1 for each registered elector in the school district for which the election is administered.

15 (d) To the greatest extent possible, grant funding must be provided to the county before the costs  
16 are incurred based on county estimates but may be paid as reimbursements if necessary.

17 (e) The office of public instruction shall allocate available funds on a first-requested, first-granted  
18 basis.

19 (3) To receive a grant under this section and subject to subsection (2)(e), a county:

20 (a) must receive a request from one or more school districts within the county to administer the  
21 regular school election in May 2024;

22 (b) may administer the school election as a mail ballot or polling place election;

23 (c) must report to the office of public instruction in a format prescribed by the office the following  
24 information:

25 (i) whether the election was conducted by mail ballot or as a polling place election, what costs  
26 were incurred, and information about the personnel and training that was required;

27 (ii) recommendations about how best to address challenges if counties were required to administer  
28 all school elections;

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- 1 (iii) recommendations about how best to address challenges if the regular school election in May
- 2 was combined with the statewide general election in even-numbered years, including how to handle costs; and
- 3 (iv) any other information the county considers appropriate to collect and report pursuant to this
- 4 program; and
- 5 (d) must provide to the office of public instruction an accounting of how the grant money was spent
- 6 and return to the office of public instruction any amount that is not spent pursuant to this section.
- 7 (4) A school district that chooses to participate in the incentive pilot program under this section:
- 8 (a) shall agree that the school election be conducted as a mail ballot election or a polling place
- 9 election as determined by the county; and
- 10 (b) must provide a report to the office of public instruction that includes findings and
- 11 recommendations it considers relevant to requiring counties to administer school elections and combining
- 12 school elections with the statewide general election.
- 13 (5) The office of public instruction shall:
- 14 (a) establish the guidelines, procedures, and timeline necessary to administer the incentive pilot
- 15 program;
- 16 (b) compile the information collected pursuant to this section; and
- 17 (c) report the compiled findings and recommendations to the secretary of state, the state
- 18 administration and veterans' affairs interim committee, and the education interim committee by July 1, 2024.
- 19 (6) If there is a school elections task force staffed by the office of public instruction, the findings
- 20 and recommendations must be reported to the task force in a manner determined by the office of public
- 21 instruction before July 1, 2024.

**Section 2.** Section 3-6-201, MCA, is amended to read:

**"3-6-201. Number of judges -- election -- term of office -- chief judge -- duties of chief judge. (1)**

The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

(2) A municipal court judge must be elected at the general election, as provided in ~~13-1-104(3)~~ 13-1-104. The judge's term commences on the first Monday in January following the election. The judge shall hold

1 ~~election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late~~  
2 ~~registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to~~  
3 ~~the elector and enter the verification document as part of the official register.~~

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

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

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

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

16

17 **Section 48.** Section 13-10-211, MCA, is amended to read:

18 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (7),  
19 a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent.

20 Except for a candidate under 13-38-201(4) or a candidate covered under 7-1-205, a candidate may not file for  
21 more than one public office. The declaration of intent must be filed with the secretary of state or election

22 administrator, depending on where a declaration of nomination for the desired office is required to be filed

23 under 13-10-201, or ~~with the school district clerk~~ as provided in 20-3-305 for a school district office. ~~When a~~

24 ~~county election administrator is conducting the election for a school district, the school district clerk or school~~

25 ~~district office that receives the declaration of intent shall notify the county election administrator of the filing.~~

26 Except as provided in 13-1-403, ~~13-1-503,~~ 20-3-305(3)(b), and subsection (2) of this section, the declaration

27 must be filed no later than 5 p.m. on the 10th day before the earliest date established under 13-13-205 on

28 which a ballot must be available and must contain:

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

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

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

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

6 (a) an election is held;

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

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

10 (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."  
11

12 **Section 49.** Section 13-13-205, MCA, is amended to read:

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

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

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

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

17 (ii)(b) 25 days prior to the election for mailing ballots to absentee voters; ~~and\_~~

18 (b) ~~20 days prior to election day for a special purpose district or school district election, except that~~  
19 ~~ballots for a conservation district election held on a primary or general election day must be available as~~  
20 ~~provided in subsection (1)(a).~~

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

25 **Section 50.** Section 13-13-222, MCA, is amended to read:

26 **"13-13-222. Marking ballot in person before election day.** (1) As soon as the official ballots are

27 available for in-person absentee voting under ~~13-13-205(1)(a)(i)~~ 13-13-205, the election administrator shall

28 permit an elector to apply for, receive, and mark an absentee ballot before election day by appearing in person

1 days prior to the election.

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

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

6

7 **Section 56.** 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, or to the county election administrator if the election is being conducted by  
13 the county, at least ~~40~~ 65 days before the ~~regular school election day~~ general election at which the person is to  
14 be a candidate. If there are different terms to be filled, the term for the position for which the candidate is filing  
15 must also be indicated.

16 (b) A person seeking to become a write-in candidate for a trustee position shall file a declaration of  
17 intent no later than 5 p.m. ~~on the day before the ballot certification deadline in 20-20-401~~ 13-12-201 40 days  
18 before the election.

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

23 (b) A candidate may not withdraw after 5 p.m. ~~the day before the ballot certification deadline in 20-~~  
24 ~~20-401~~ 13-12-201 40 days before the election."

25

26 **Section 57.** Section 20-3-306, MCA, is amended to read:

27 **"20-3-306. Conduct of election.** (1) The trustees of each district shall call a trustee election ~~on the~~  
28 ~~regular school election day of each school fiscal year under the provisions of 20-20-201, except as provided in~~

**Section 59.** Section 20-3-313, MCA, is amended to read:

**"20-3-313. Election by acclamation -- notice.** (1) If the number of candidates filing for vacant positions or filing a declaration of intent to be a write-in candidate under 20-3-305(2)(b) is equal to or less than the number of positions to be elected, the trustees may cancel the election.

(2) If the election is canceled, the trustees shall give notice in the manner provided in 20-20-204(1)(a)(i) through (1)(a)(iii) that a trustee election will not be held. Notice must be given no later than 30 days before the election. A copy of the notice must be provided to the county election administrator and the superintendent of public instruction.

(3) If a trustee election is not held, the trustees shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent to be a write-in candidate and shall canvass the election in accordance with 20-20-415 and issue a certificate of election to the candidate in accordance with 20-20-416.

(4) An election for a trustee in a single-member district as provided in 20-3-338 or in a trustee nominating district as provided in 20-3-353 is considered a separate trustee election for the purposes of declaring election by acclamation as provided in this section."

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

**"20-6-326. Procedure for expansion of elementary school district into K-12 school district -- trustee resolution.** (1) An existing elementary district that is not part of a unified school system or governed by a joint board with a high school district may expand into a K-12 district under the procedures outlined in this section only if the elementary district's ANB, as calculated under the provisions of 20-9-311, is at least 1,000.

(2) The expansion to a K-12 district may be requested by the trustees of an existing elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the ~~county superintendent to order an~~ county election administrator place the issue on the general election ballot to allow the electors of the elementary district to consider the proposition of expanding the elementary school district into a K-12 district. The trustees of an existing elementary district with an ANB of at least 1,000 may not pass a resolution for expansion more than one time within a 5-year period.

(3) (a) If the proposition for the expansion is approved by the electors of the elementary district ~~and~~



1 pursuant to this chapter if the remuneration received by the election judge is less than \$1,000 per calendar  
2 year."

3

4 **Section 72.** Section 20-20-109, MCA, is amended to read:

5 **"20-20-109. Election judges -- qualifications -- training.** (1) Election judges must be qualified  
6 registered electors of the school district in which they serve or a county in which the school district is located.

7 (2) An election judge may not be:

8 (a) the candidate;

9 (b) an ascendant, descendant, brother, or sister of a candidate; or

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

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

12

13 **Section 73.** Section 20-20-201, MCA, is amended to read:

14 **"20-20-201. Calling of school election.** (1) At least 70 days before any other school election, the  
15 trustees of a district or other entity or official authorized by law to call a school election shall call the school  
16 election by resolution, stating the date and purpose of each election and whether, pursuant to 13-19-202, any  
17 election is requested to be by mail. The date of the school election must align with either the primary or general  
18 election in an even-numbered year.

19 (2) To enable the county election administrator to manage voter registration and prepare the lists  
20 of registered electors:

21 (a) the resolution calling for a school election must be transmitted to the county election

22 administrator and the superintendent of public instruction no later than 3 days after the resolution is passed;

23 and

24 (b) if the election is to be conducted by mail, the school clerk must also transmit to the county

25 election administrator a copy of the written plan required under 13-19-205 as soon as the plan has been

26 approved by the secretary of state."

27

28 **Section 74.** Section 20-20-417, MCA, is amended to read:

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- 1            **NEW SECTION. Section 95. Repealer.** The following sections of the Montana Code Annotated are
- 2 repealed:
- 3 13-1-305.        School district and political subdivision election cooperation.
- 4 13-1-503.        Deadlines for absentee and mail ballots.
- 5 20-20-106.       Poll hours.
- 6 20-20-108.       Rescheduling of school election canceled due to declaration of state of emergency or disaster.
- 7 20-20-203.       Resolution for poll hours, polling places, and judges.
- 8 20-20-204.       Election notice.
- 9 20-20-401.       Trustees' election duties -- ballot certification.
- 10 20-20-402.       Clerk of election judges and appointment for absent judge.
- 11 20-20-416.       Certificate of election.

14            **NEW SECTION. Section 96. Appropriation.** There is appropriated \$150,000 from the general fund  
15 to the office of public instruction for the fiscal year beginning July 1, 2023, for the school election incentive pilot  
16 program provided for in [section 1].

18            **NEW SECTION. Section 97. Effective ~~date dates.~~ [This act] is effective July 1, 2024 (1) Except as**  
19 **provided in subsection (2), [this act] is effective July 1, 2024.**  
20 **(2) [Sections 1 and 96] and this section are effective July 1, 2023.**

22            **NEW SECTION. Section 98. Termination.** [Section 1] terminates July 1, 2024.

- END -