

Amendment - 1st Reading-white - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.003

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 AND PROVIDING EXCEPTIONS; REQUIRING ALL ELECTIONS TO BE
9 HELD ON PRIMARY DAY OR GENERAL ELECTION DAY AND PROVIDING EXCEPTIONS; REQUIRING
10 COUNTY ELECTION ADMINISTRATORS TO ADMINISTER ALL ELECTIONS; REVISING DEFINITIONS;
11 CHANGING TERM LENGTHS TO ALIGN WITH THE REVISED ELECTION SCHEDULE; REVISING
12 TIMELINES AND OTHER PROVISIONS RELATED TO SCHOOL ELECTION CANDIDATE FILING,
13 CANDIDATE WITHDRAWAL, WRITE-IN CANDIDATES, TRUSTEES CALLING ELECTIONS, ELECTION
14 ACCLAMATION, AND CERTIFICATE OF ELECTION; REVISING RESIDENCY REQUIREMENTS FOR
15 SCHOOL ELECTION JUDGES; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 3-6-201, 7-4-
16 2611, 7-5-132, 7-6-1504, 7-6-1536, 7-6-1542, 7-6-4431, ~~7-11-1003, 7-11-1011, 7-11-1012, 7-11-1013,~~ 7-12-
17 4243, 7-13-2208, 7-13-2210, 7-13-2341, 7-13-2342, 7-13-2352, 7-13-4512, 7-13-4535, 7-14-210, 7-14-1106, 7-
18 14-1134, 7-14-1632, 7-14-1633, 7-14-4642, 7-15-4218, 7-15-4408, 7-16-2102, 7-31-106, 7-31-107, 7-31-109,
19 ~~7-33-2106,~~ 7-34-2109, 7-34-2110, 7-34-2414, 13-1-101, 13-1-104, 13-1-106, 13-1-107, 13-1-203, 13-1-204, 13-
20 1-301, 13-1-302, 13-1-405, 13-1-504, 13-2-304, 13-10-211, 13-13-205, 13-13-222, 13-16-205, 13-37-126, 15-
21 10-425, 16-12-301, 16-12-311, 20-1-101, 20-3-106, 20-3-302, 20-3-305, 20-3-306, 20-3-307, 20-3-313, 20-3-
22 321, 20-3-324, 20-3-362, 20-4-401, 20-6-326, 20-6-422, 20-6-423, 20-6-504, 20-6-506, 20-6-603, 20-6-621, 20-
23 6-704, 20-9-115, 20-9-131, 20-9-208, 20-9-306, 20-9-308, 20-9-311, 20-9-313, 20-9-353, 20-9-405, 20-9-406,
24 20-9-422, 20-15-203, 20-15-208, 20-15-221, 20-15-404, 20-20-102, 20-20-104, 20-20-105, 20-20-107, 20-20-
25 108, 20-20-109, 20-20-201, 20-20-417, 76-5-1106, 76-15-207, 76-15-303, 76-15-304, 76-15-506, 76-15-531,
26 76-15-605, 76-15-702, 76-15-805, ~~85-6-105, 85-6-106, 85-7-1602, 85-7-1702, 85-7-1703, 85-7-1712, 85-7-~~
27 ~~1974, 85-7-2013,~~ 85-8-302, 85-8-624, AND 85-9-206, MCA; REPEALING SECTIONS 13-1-305, 13-1-503, 20-

1 ~~6-505, 20-6-604, 20-20-106, 20-20-108, 20-20-203, 20-20-204, 20-20-401, AND 20-20-402, AND 20-20-416,~~
2 MCA; AND PROVIDING ~~A DELAYED EFFECTIVE DATE~~ EFFECTIVE DATES AND A TERMINATION DATE."

3

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

5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

28 **"3-6-201. Number of judges -- election -- term of office -- chief judge -- duties of chief judge. (1)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (vi) — specify whether the proposed special district would be administered by the local governing
2 body or an appointed or elected board.

3 (3) — Within 60 days of receipt of a petition to create a special district, the clerk of the governing body
4 shall:

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

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

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

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

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

15 (2) — The resolution ordering the referendum must state, consistent with the requirements of 7-11-
16 1007, 7-11-1009, and 7-11-1024:

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

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

21 (c) — a description of the areas included in the proposed special district;

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

24 (e) — the method of financing the proposed program or improvements; and

25 (f) — the duration of the proposed special district.

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

27 (3)(4) — The election must be conducted in accordance with Title 13, chapter 1, part 5.

28 (4)(5) — The proposition to be submitted to the electorate must read: "Shall the proposition to organize

1 ~~(name of proposed special district) be adopted?"~~

2 ~~(5)(6) — An individual is entitled to vote on the proposition if the individual:~~

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~104.~~

2 ~~(3) If the governing body creates the special district of its own accord and without a referendum being~~
3 ~~held, a copy of the order, ordinance, or resolution creating the district, certified by the clerk of the governing~~
4 ~~body, must be delivered to the clerk and recorder of the county or counties in which the special district is~~
5 ~~situated and to the secretary of state, who shall issue a certificate of establishment in accordance with 7-11-~~
6 ~~1012."~~

7

8 **Section 9.** Section 7-12-4243, MCA, is amended to read:

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

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

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

21

22 **Section 10.** Section 7-13-2208, MCA, is amended to read:

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

1 indebtedness of the city or town, as ascertained in the manner provided in this part."

2

3 **Section 28.** Section 7-31-109, MCA, is amended to read:

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

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

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

14

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

16 ~~**"7-33-2106. Details relating to board of trustees of fire district — election — qualified electors.**~~

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

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

20 ~~(i) — 3 years 6 years for one trustee;~~

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

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

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

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

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

28 ~~(3) — An appointment to fill a vacancy occurring during the term of office of a trustee must be made~~

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1 ~~by the county governing body and the appointee shall hold office until the next trustee general election.~~

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

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

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

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

13

14 **Section 29.** Section 7-34-2109, MCA, is amended to read:

15 **"7-34-2109. Election on question of creating hospital district.** The board of county
16 commissioners, upon completion of the hearing provided for in 7-34-2106 through 7-34-2108, shall proceed by
17 resolution to refer the question of the creation of such district to the persons qualified to vote on such
18 proposition. The election must be held in conjunction with a general election as described in 13-1-104."

19

20 **Section 30.** Section 7-34-2110, MCA, is amended to read:

21 **"7-34-2110. Resolution calling for election on creation of district -- conduct of election.** (1) The
22 board of county commissioners in its resolution may make changes in the boundaries of the proposed district
23 that it considers advisable, without including any additional lands not described in the petition, and it shall call
24 an election on the question of the creation of the district.

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

27

28 **Section 31.** Section 7-34-2414, MCA, is amended to read:

1 registers or changes the elector's voter information pursuant to this section may vote in the election if the
2 elector obtains the ballot from the location designated by the county election administrator.

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

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

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

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

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

21 **Section 43.** Section 13-10-211, MCA, is amended to read:

22 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (7),
23 a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent.
24 Except for a candidate under 13-38-201(4) or a candidate covered under 7-1-205, a candidate may not file for
25 more than one public office. The declaration of intent must be filed with the secretary of state or election
26 administrator, depending on where a declaration of nomination for the desired office is required to be filed
27 under 13-10-201, or ~~with the school district clerk as provided in 20-3-305~~ for a school district office. ~~When a
28 county election administrator is conducting the election for a school district, the school district clerk or school~~

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

2 Except as provided in 13-1-403, ~~13-1-503~~, 20-3-305(3)(b), and subsection (2) of this section, the declaration
3 must be filed no later than 5 p.m. on the 10th day before the earliest date established under 13-13-205 on
4 which a ballot must be available and must contain:

5 (a) the candidate's name, including:

6 (i) the candidate's first and last names;

7 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the
8 candidate's last name;

9 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name;

10 and

11 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last
12 name;

13 (b) the candidate's mailing address;

14 (c) a statement declaring the candidate's intention to be a write-in candidate;

15 (d) the title of the office sought;

16 (e) the date of the election;

17 (f) the date of the declaration; and

18 (g) the candidate's signature.

19 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later
20 than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the
21 office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not
22 been canceled as provided by law.

23 (3) The secretary of state shall notify each election administrator of the names of write-in
24 candidates who have filed a declaration of intent with the secretary of state. Each election administrator shall
25 notify the election judges in the county or district of the names of write-in candidates who have filed a
26 declaration of intent.

27 (4) A properly completed and signed declaration of intent may be provided to the election
28 administrator or secretary of state:

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- 1 (a) by facsimile transmission;
- 2 (b) in person;
- 3 (c) by mail; or
- 4 (d) by electronic mail.
- 5 (5) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the
- 6 secretary of state or the election administrator.

7 (6) A write-in candidate who files a declaration of intent for a general election may not file with a

8 partisan, nonpartisan, or independent designation.

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

- 10 (a) an election is held;
- 11 (b) a person's name is written in on the ballot;
- 12 (c) the person is qualified for and seeks election to the office for which the person's name was
- 13 written in; and
- 14 (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

15

16 **Section 44.** Section 13-13-205, MCA, is amended to read:

17 **"13-13-205. When ballots to be available for absentee voting.** (1) Except as provided in subsection

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

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

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

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

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

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

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

25 (2) A federal election ballot requested by an absent uniformed services or overseas elector

26 pursuant to Title 13, chapter 21, must be sent to the elector as soon as the ballot is printed but not later than 45

27 days in advance of the election."

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1 county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described
2 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 given not more than 45 days prior to the election, and the last notice must be given not less than 30
5 days prior to the election.

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

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

10

11 **Section 51.** Section 20-1-101, MCA, is amended to read:

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

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

15 (a) school leadership;

16 (b) educational opportunity;

17 (c) academic requirements;

18 (d) program area standards;

19 (e) content and performance standards;

20 (f) school facilities and records;

21 (g) student assessment; and

22 (h) general provisions.

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

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

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

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1 (5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-
2 time pupils physically attending or receiving educational services at an offsite instructional setting from the
3 public schools of a district.

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

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

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

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

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

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

18 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-
19 803.

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

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

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

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1 (13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
2 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between
3 classes and, in an offsite instructional setting, includes time spent logging on and off an offsite learning
4 platform.

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

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

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

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

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

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

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

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

28 (21) "School election" means a regular school election or any election conducted by a district or

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1 community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high
2 school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for
3 decision in accordance with the provisions of this title.

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

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

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

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

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

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

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

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

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

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

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

23 or

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

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

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

28 (29) "Teacher" means a person, except a district superintendent, who holds a valid Montana

1 teacher certificate that has been issued by the superintendent of public instruction under the provisions of this
2 title and the policies adopted by the board of public education and who is employed by a district as a member of
3 its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
4 emergency authorization of employment has been issued under the provisions of 20-4-111.

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

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

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

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

11 (34) "Vocational-technical education" means vocational-technical education of vocational-technical
12 students that is conducted by a unit of the Montana university system, a community college, or a tribally
13 controlled community college, as designated by the board of regents."
14

15 **Section 52.** Section 20-3-106, MCA, is amended to read:

16 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
17 has the general supervision of the public schools and districts of the state and shall perform the following duties
18 or acts in implementing and enforcing the provisions of this title:

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

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

22 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
23 20-5-314;

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

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

27 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
28 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103

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- 1 and 20-9-506;
- 2 (7) establish a system of communication for calculating joint district revenue in accordance with the
- 3 provisions of 20-9-151;
- 4 (8) approve or disapprove the adoption of a district's budget amendment resolution under the
- 5 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget
- 6 amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 7 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 8 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
- 9 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the
- 10 county superintendents to report to the superintendent of public instruction in accordance with the provisions of
- 11 20-3-209;
- 12 (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in
- 13 accordance with the provisions of 20-9-313 and 20-9-314;
- 14 (12) distribute BASE aid and special education allowable cost payments in support of the BASE
- 15 funding program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and
- 16 20-9-366 through 20-9-369;
- 17 (13) provide for the uniform and equal provision of transportation by performing the duties
- 18 prescribed by the provisions of 20-10-112;
- 19 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-
- 20 603;
- 21 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
- 22 accordance with the provisions of 20-9-703 and 20-9-704;
- 23 (16) prescribe the form and contents of and approve or disapprove interstate contracts in
- 24 accordance with the provisions of 20-9-705;
- 25 (17) recommend standards of accreditation for all schools to the board of public education in
- 26 accordance with the provisions of 20-7-101;
- 27 (18) evaluate compliance with the accreditation standards and recommend accreditation status of
- 28 every school to the board of public education in accordance with the provisions of 20-7-102;

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1 (19) collect and maintain a file of curriculum guides and assist schools with instructional programs in
2 accordance with the provisions of 20-7-113 and 20-7-114;

3 (20) establish and maintain a library of visual, aural, and other educational media in accordance
4 with the provisions of 20-7-201;

5 (21) license textbook dealers and initiate prosecution of textbook dealers violating the law in
6 accordance with the provisions of the textbooks part of this title;

7 (22) as the governing agent and executive officer of the state of Montana for K-12 career and
8 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-
9 301;

10 (23) supervise and coordinate the conduct of special education in the state in accordance with the
11 provisions of 20-7-403;

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

13 (25) administer the school food services program in accordance with the provisions of 20-10-201
14 through 20-10-203;

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

16 (27) provide schools with information and technical assistance for compliance with the student
17 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
18 the board of public education and the legislature;

19 (28) upon request and in compliance with confidentiality requirements of state and federal law,
20 disclose to interested parties all school district student assessment data for a test required by the board of
21 public education;

22 (29) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-
23 9-369; and

24 (30) perform any other duty prescribed from time to time by this title, any other act of the legislature,
25 or the policies of the board of public education."
26

27 **Section 53.** Section 20-3-302, MCA, is amended to read:

28 **"20-3-302. Legislative intent to elect less than majority of trustees.** (1) It is the intention of the

1 legislature that the terms of a majority of the trustee positions of any district with elected trustees may not
 2 regularly expire and be subject to election on the same regular school election day. In elementary districts,
 3 there may not be more than three trustee positions in first-class districts, two trustee positions in second-class
 4 districts or third-class districts having five trustee positions, or one trustee position in third-class districts having
 5 three trustee positions regularly subject to election at the same time. In high school districts there may not be
 6 more than two additional trustee positions in first- or second-class districts or more than one in third-class
 7 districts regularly subject to election at the same time. In county high school districts, there may not be more
 8 than two trustee positions to be filled by members residing in the elementary district where the county high
 9 school building is located or more than one trustee position to be filled by members residing outside of the
 10 elementary district where the county high school building is located subject to election at the same time.

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

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

16 (b) the establishment of additional trustee positions of a high school district under the provisions of
 17 20-3-353 or 20-3-354 or new trustee positions under the provisions of 20-3-352(3);

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

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

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

23 (f) the development and implementation of a transition plan from 3-year terms to 4-year terms
 24 pursuant to [this act]. The trustees shall, no later than August 1, 2024, adjust the terms of each trustee serving
 25 by motion of the board to comply with subsection (1). The adjustment may be accomplished at the discretion of
 26 the board by a combination of shortening and lengthening terms of trustees to accomplish the intent of this
 27 section. As part of the transition plan, terms may not be shortened to less than 1 year and terms may not be
 28 lengthened by more than 3 years. If a majority of the trustees present and voting are unable to agree by

majority vote on a transition plan, the term of each trustee must be shortened and lengthened in alternating order, sorted alphabetically by last name with the first trustee's term shortened and the second trustee's term lengthened and continuing in this pattern until the resulting terms meet the intent of section (1).

(3) If the change of a district's classification under 20-6-201 or 20-6-301 decreases the number of trustee positions, the positions must be eliminated in a manner that complies with the intent of subsection (1).

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

Section 54. Section 20-3-305, MCA, is amended to read:

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

(2) (a) Except as provided in subsection (2)(b), a declaration of intent to be a candidate must be submitted to the clerk of the district, or to the county election administrator if the election is being conducted by the county, at least 40 65 days before the regular school election day general election at which the person is to be a candidate. If there are different terms to be filled, the term for the position for which the candidate is filing must also be indicated.

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

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

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

1

2 **Section 55.** Section 20-3-306, MCA, is amended to read:

3 **"20-3-306. Conduct of election.** (1) The trustees of each district shall call a trustee election ~~on the~~
4 ~~regular school election day of each school fiscal year under the provisions of 20-20-201, except as provided in~~
5 ~~20-3-313~~ during a general election as described in 13-1-104. The trustees shall call and conduct the trustee
6 election in the manner prescribed in this title for school elections and Title 13. Any elector qualified to vote
7 under the provisions of 20-20-301 may vote at a trustee election.

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

9 OFFICIAL BALLOT

10 SCHOOL TRUSTEE ELECTION

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

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

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

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

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

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

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

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

23

24 **Section 56.** Section 20-3-307, MCA, is amended to read:

25 **"20-3-307. Qualification and oath.** (1) A person who receives a certificate of election as a trustee
26 under the provisions of 20-3-313 ~~or 20-20-416~~ may not assume the trustee position until the person has
27 qualified. The person shall qualify by taking an oath of office administered by the county superintendent, the
28 superintendent's designee, or any official provided for in 1-6-101 or 2-16-116. The oath must be filed with the

1 county superintendent not more than 15 days after the receipt of the certificate of election. After a person has
2 qualified for a trustee position and begins the term of service provided for in 20-3-306(3), the person holds the
3 position until a successor has been elected or appointed and has been qualified.

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

6

7 **Section 57.** Section 20-3-313, MCA, is amended to read:

8 **"20-3-313. Election by acclamation -- notice.** (1) If the number of candidates filing for vacant
9 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
10 the number of positions to be elected, the trustees may cancel the election.

11 (2) If the election is canceled, the trustees shall give notice in the manner provided in 20-20-
12 204(1)(a)(i) through (1)(a)(iii) that a trustee election will not be held. Notice must be given no later than 30 days
13 before the election. A copy of the notice must be provided to the county election administrator and the
14 superintendent of public instruction.

15 (3) If a trustee election is not held, the trustees shall declare elected by acclamation the candidate
16 who filed for the position or who filed a declaration of intent to be a write-in candidate and shall canvass the
17 election in accordance with 20-20-415 and issue a certificate of election to the candidate in accordance with 20-
18 20-416.

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

22

23 **Section 58.** Section 20-3-321, MCA, is amended to read:

24 **"20-3-321. Organization and officers.** (1) The trustees of each district shall annually organize as a
25 governing board of the district ~~after the regular school election day and after the issuance of the election~~
26 ~~certificates to the newly elected trustees, but not later than 25 days after the election~~ in January of each year on
27 or before the third Monday of the month. In years following the regular school election, the reorganization must
28 occur at the first meeting following the beginning of the term of service for trustees elected at the general

1 election as provided in 20-3-306(3). In years not following the regular school election, the reorganization must
 2 occur no later than the third Monday in January. In order to organize, the trustees of the district must be given
 3 notice of the time and place where the organization meeting will be held, and at the meeting they shall choose
 4 one of their number as the presiding officer. In addition, except for the trustees of a high school district
 5 operating a county high school, the trustees shall employ and appoint a competent person, who is not a
 6 member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high
 7 school shall appoint a secretary, who must be a member of the board.

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

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

16
 17 **Section 59.** Section 20-3-324, MCA, is amended to read:

18 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of a district shall
 19 exercise supervision and control of the schools of the district in providing its educational program pursuant to
 20 Article X, section 8, of the Montana constitution, and shall:

21 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the
 22 district superintendent, the county high school principal, or other principal as the board considers necessary,
 23 accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance
 24 with the provisions of Title 20, chapter 4;

25 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians,
 26 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel
 27 considered necessary to carry out the various services of the district;

28 (3) administer the attendance and tuition provisions and govern the pupils of the district in

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- 1 accordance with the provisions of the pupils chapter of this title;
- 2 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the
3 school elections chapter of this title;
- 4 (5) participate in the teachers' retirement system of the state of Montana in accordance with the
5 provisions of the teachers' retirement system chapter of Title 19;
- 6 (6) participate in district boundary change actions in accordance with the provisions of the school
7 districts chapter of this title;
- 8 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance
9 with the provisions of the school organization part of this title;
- 10 (8) adopt and administer the annual budget or a budget amendment of the district in accordance
11 with the provisions of the school budget system part of this title;
- 12 (9) conduct the fiscal business of the district in accordance with the provisions of the school
13 financial administration part of this title;
- 14 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating
15 reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions of
16 the general fund part of this title;
- 17 (11) establish, maintain, budget, and finance the transportation program of the district in accordance
18 with the provisions of the transportation parts of this title;
- 19 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the
20 provisions of the bonds parts of this title;
- 21 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement
22 fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous
23 programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal
24 cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance
25 with the provisions of the other school funds parts of this title;
- 26 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in
27 accordance with the provisions of the miscellaneous financial parts of this title;
- 28 (15) hold in trust, acquire, and dispose of the real and personal property of the district consistent

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- 1 with the provisions of 20-6-603 and 20-6-621 and in accordance with the provisions of the school sites and
2 facilities part of this title;
- 3 (16) operate the schools of the district in accordance with the provisions of the school calendar part
4 of this title;
- 5 (17) set the length of the school term, school day, and school week in accordance with 20-1-302;
- 6 (18) establish and maintain the educational program of the schools of the district in accordance with
7 the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and
8 special education parts of this title. In undertaking its duties related to the district's educational program, the
9 board of trustees may:
- 10 (a) waive any specific course requirement otherwise required for graduation based on individual
11 student needs and performance levels, age, maturity, interest, and aspirations of the pupil, in consultation with
12 the pupil's parents or guardians; and
- 13 (b) provide credit for a course satisfactorily completed in a period of time shorter or longer than
14 normally required as set forth in 20-9-311(4)(d) or through content proficiency gained through alternative
15 means. Examples of alternative means by which content proficiency may be achieved include but are not
16 limited to correspondence, extension, and distance learning courses, adult education, summer school, work
17 study, work-based learning partnerships, and other experiential learning opportunities, custom-designed
18 courses, and challenges to current courses. Montana schools shall accept units of credit taken with the
19 approval of the accredited Montana school in which the student was then enrolled and which appear on the
20 student's official school transcript.
- 21 (19) establish and maintain the school food services of the district in accordance with the provisions
22 of the school food services parts of this title;
- 23 (20) make reports from time to time as the county superintendent, superintendent of public
24 instruction, and board of public education may require;
- 25 (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary
26 conditions of the school or the general health conditions of each pupil and, upon request, make available to any
27 parent or guardian any medical reports or health records maintained by the district pertaining to the child;
- 28 (22) for each member of the trustees, visit each school of the district not less than once each school

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1 fiscal year to examine its management, conditions, and needs, except that trustees from a first-class school
2 district may share the responsibility for visiting each school in the district;

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

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

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

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

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

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

24 (29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions
25 of 20-1-303; and

26 (30) perform any other duty and enforce any other requirements for the governance of the schools
27 pursuant to the constitutional power of supervision and control of schools vested in elected school boards
28 pursuant to Article X, section 8, of the Montana constitution as prescribed by this title, the policies of the board

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

2

3 **Section 60.** Section 20-3-362, MCA, is amended to read:

4 **"20-3-362. Powers of joint board of trustees.** (1) When a joint board of trustees is formed as
5 provided by 20-3-361, it shall have the power to:

6 (a) jointly employ a district superintendent under the provisions of 20-4-401;

7 (b) jointly employ teachers and specialists under the provisions of 20-4-201;

8 ~~(c) open a junior high school under the provisions of 20-6-505 if the trustees of a county high school
9 and the trustees of an elementary district have formed a joint board of trustees;~~

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

11 ~~(e)~~(d) jointly provide any program or service authorized under 20-3-324, including any joint provision
12 of special education services; and

13 ~~(f)~~(e) prorate all items of joint expense among the school districts, provided that a controversy over
14 any decision by the joint board to prorate joint costs may, within 30 days, be appealed by the trustees of any
15 district to the superintendent of public instruction for a final decision as to what constitutes a fair and just
16 proration of the cost.

17 (2) The joint board of trustees shall not have the power to transact business that is not specifically
18 related to the joint administration of the districts."

19

20 **Section 61.** Section 20-4-401, MCA, is amended to read:

21 **"20-4-401. Appointment and dismissal of district superintendent or county high school**

22 **principal.** (1) The trustees of any high school district, except a county high school or other high school district
23 that operates under a separate board of trustees due to alternative methods of electing the members of the
24 high school board of trustees as provided in 20-3-352(3), and the trustees of the elementary district where its
25 high school building is located shall jointly employ and appoint a district superintendent. The trustees of a
26 county high school or other high school district that operates under a separate board of trustees due to
27 alternative methods of electing the members of the high school board of trustees as provided in 20-3-352(3)
28 shall employ and appoint a district superintendent, except that the trustees of a county high school district may

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1 employ and appoint a holder of a class 3 teacher certificate with a district superintendent endorsement as the
2 county high school principal in lieu of a district superintendent. The trustees of any other district may employ
3 and appoint a district superintendent.

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

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

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

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

20 (c) Upon the offer and acceptance of the second successive contract, the existing expiration date
21 for the contract is considered to be renewed for a further term of 1 year from year to year unless the trustees,
22 by resolution passed by a majority vote of its membership, resolve to terminate the services of the district
23 superintendent or the county high school principal at the expiration of the existing contract. The trustees shall
24 take the termination action and notify the district superintendent or the county high school principal in writing of
25 their intent to terminate the superintendent's or principal's services at the expiration of the superintendent's or
26 principal's ~~current~~ second or subsequent contract not later than ~~February 1~~ December 31 of the last year of the
27 contract.

28 (5) Whenever a joint board of trustees or the boards of trustees of two or more districts employs a

1 person as the district superintendent under subsection (2) or (3), the districts shall prorate the compensation
2 provided by the contract of employment on the basis of the number of teachers employed by each district.

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

9 (7) A district superintendent or county high school principal may not engage in any work or activity
10 that the trustees consider to be in conflict with the duties and employment as the district superintendent or
11 county high school principal."
12

13 **Section 62.** Section 20-6-326, MCA, is amended to read:

14 **"20-6-326. Procedure for expansion of elementary school district into K-12 school district --**
15 **trustee resolution.** (1) An existing elementary district that is not part of a unified school system or governed by
16 a joint board with a high school district may expand into a K-12 district under the procedures outlined in this
17 section only if the elementary district's ANB, as calculated under the provisions of 20-9-311, is at least 1,000.

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

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

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

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

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

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

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

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

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

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

26 (a) the ANB for any inaugural grades for the high school program of the K-12 district must be
27 estimated by the trustees and may not exceed the number resulting from dividing the highest budgeted ANB of
28 the elementary program in the preceding 3 fiscal years by 9 and multiplying the result by the number of grades

1 in which the high school will enroll students for the first time in the ensuing school year;

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

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

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

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

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

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

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

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

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

26 (b) Bonded indebtedness of the high school district that is issued by the high school district
27 following the creation of the K-12 district is secured by the territory of the high school district as of the date of
28 issuance of the high school district bonds and must be paid by tax levies against the territory of the high school

1 district. However, if bonds of the high school district were approved at a bond election conducted before the
2 creation of the K-12 district, all bonds of the high school district issued by the high school district under the
3 bond election authority must remain secured by and be the indebtedness of the territory of the high school
4 district as of the date the bond authority was approved by voters and must be paid by tax levies against that
5 territory.

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

9 (d) Bonded indebtedness of the elementary district that is outstanding as of the date of creation of
10 the K-12 district must become upon the date of creation of the K-12 district the bonded indebtedness of the K-
11 12 district and must be secured by the territory of the K-12 district and paid by tax levies against the territory of
12 the K-12 district. The debt service on the bonds must be allocated to the elementary program of the K-12
13 district.

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

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

21

22 **Section 63.** Section 20-6-422, MCA, is amended to read:

23 **"20-6-422. District annexation.** (1) As used in this section, the following definitions apply:

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

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

28 (2) A district may be annexed to a contiguous district when one of the conditions of 20-6-421 is

1 (8) If any district included in the consolidation proposition disapproves the consolidation
2 proposition, the consolidation of all districts fails and the appropriate county superintendent shall notify each
3 district of the disapproval of the consolidation proposition."
4

5 **Section 65.** Section 20-6-504, MCA, is amended to read:

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

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

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

20 ~~(4)(3) Whenever the opening of trustees of any elementary district and the trustees of the high school~~
21 ~~district decide to open~~ a junior high school ~~is approved~~ for the ensuing school fiscal year, the county
22 superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment
23 for the junior high school. The ANB determined by the county superintendent ~~shall must~~ be used for budgeting
24 and BASE funding program purposes during the ensuing school fiscal year."
25

26 **Section 66.** Section 20-6-506, MCA, is amended to read:

27 **"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district**
28 **and high school district operating county high school.** (1) ~~Whenever~~ If the opening of a junior high school

1 ~~is was~~ approved ~~for the ensuing school fiscal year~~ under 20-6-505 prior to July 1, 2024, the county
 2 superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment
 3 for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in
 4 subsequent school fiscal years must be applied to prorate the BASE funding program amount between the
 5 elementary and high school districts. Each district shall adopt its general fund budget on the basis of the
 6 prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

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

11 **Section 67.** Section 20-6-603, MCA, is amended to read:

12 **"20-6-603. Trustees' authority to acquire or dispose of sites and buildings** ~~—when election~~
 13 **required.** (1) The trustees of a district may purchase, build, exchange, or otherwise acquire, sell, or dispose of
 14 sites and buildings of the district. ~~Action may not be taken by the trustees without the approval of the qualified~~
 15 ~~electors of the district at an election called for the purpose of approval unless:~~

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

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

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

21 (c) the cost of constructing, purchasing, or acquiring the site or building is financed without
 22 exceeding the maximum general fund budget amount for the district ~~and, in the case of a site purchase, the site~~
 23 ~~has been approved under the provisions of 20-6-624;~~ or

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

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

28 ~~(2)(4)~~ Except for land that is granted to or held by the state in trust or land acquired by conditional

1 deed under the provisions of 20-6-605, the trustees may, ~~upon approval by the electorate,~~ accept as partial or
 2 total consideration for the exchange of the land a binding written agreement by a public or private entity seeking
 3 the exchange to use the property to provide a service that benefits the school district. The deed for the
 4 exchange of land must contain reversionary clauses that allow for the return of the land to school district
 5 ownership if the binding written agreement is not complied with.

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

11 **Section 68.** Section 20-6-621, MCA, is amended to read:

12 **"20-6-621. Selection of school sites -- approval election.** (1) ~~(a) Except as provided in subsection~~
 13 ~~(1)(b), the~~ The trustees of a district may select and purchase the sites for school buildings or for other school
 14 purposes, ~~but the selection must first be approved by the qualified electors of the district before a contract for~~
 15 ~~the purchase of a site is entered into by the trustees.~~

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

19 ~~(2) The election for the approval of a site must be called under the provisions of 20-20-201 and must~~
 20 ~~be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school~~
 21 ~~site election is qualified to vote under the provisions of 20-20-301. If a majority of those voting at the election~~
 22 ~~approve the site selection, the trustees may purchase the site. A site approval election is not required when the~~
 23 ~~site was specifically identified in an election at which an additional levy or the issuance of bonds was approved~~
 24 ~~for the purchase of the site.~~

25 ~~(3)(2)~~ Any site for a school building or other building of the district that is selected or purchased by
 26 the trustees must:

- 27 (a) be in a place that is convenient, accessible, and suitable;
- 28 (b) comply with the minimum size and other requirements prescribed by the department of public

1 health and human services; ~~and~~

2 (c) comply with the statewide building regulations, if any, promulgated by the department of labor

3 and industry; ~~and~~

4 ~~(d) be preceded by a public meeting at which public comment is solicited and considered~~

5 ~~regarding the intended selection or purchase."~~

6

7 **Section 69.** Section 20-6-704, MCA, is amended to read:

8 **"20-6-704. Dissolution of K-12 school district.** (1) Except as provided in subsection (2), in order to

9 dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to

10 the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or

11 consolidating the K-12 district's elementary or high school program with a contiguous school district or districts

12 in an ensuing school fiscal year under the provisions of ~~20-6-422 or 20-6-423~~ a general election as described in

13 13-1-104.

14 (2) If the trustees of the school district determine that the creation or continuation of the K-12

15 district has resulted in or will result in the loss of federal funding for the elementary or high school programs and

16 that it is in the best interest of the district to dissolve into the original elementary district and high school district

17 that existed prior to the formation of the K-12 district, the trustees may dissolve the district under the following

18 procedure:

19 (a) The trustees of the district shall pass a resolution requesting the county superintendent to order

20 a dissolution of the district.

21 (b) When the county superintendent receives the resolution from the district, the county

22 superintendent shall, within 10 days, order the dissolution of the K-12 district into the original elementary district

23 and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order,

24 the county superintendent shall send a copy of the order to the board of county commissioners, the trustees of

25 the district, and the superintendent of public instruction.

26 (3) If the entire territory of the dissolving K-12 district will be annexed to or consolidated with a

27 contiguous district or districts, the resolution or petition required in subsection (1) or (2) must contain a

28 description of the manner in which the real and personal property and funds of the district are to be apportioned

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1 in the dissolution of the district and the subsequent annexation to or consolidation with one or more other
2 districts. If a portion of the dissolving K-12 district will not be annexed or consolidated with another district or
3 districts, the resolution or petition must contain a description of the manner in which the property, funds, and
4 financial obligations, including bonded indebtedness, of the K-12 district are to be apportioned to the district or
5 districts whose territory is not annexed to or consolidated with another district.

6 (4) After the county superintendent receives the certificate of election provided for in 20-20-416
7 from the trustees of the K-12 district and from each district included in a consolidation proposition, the county
8 superintendent shall determine whether the dissolution and annexation or consolidation proposition or
9 propositions have been approved. If the K-12 district has approved the dissolution proposition and each district
10 involved in a consolidation has approved the consolidation proposition, the county superintendent shall, within
11 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original
12 elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30
13 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county
14 commissioners, the trustees of the district included in the dissolution order, and the superintendent of public
15 instruction.

16 (5) Whenever a K-12 district is dissolved, the following provisions apply:

17 (a) The trustees of the district whose territory is not annexed or consolidated upon dissolution of
18 the K-12 district are responsible for the execution of remaining financial obligations of the K-12 district and for
19 the apportionment between the elementary and high school programs of any obligations not identified in the
20 resolution required under subsection (3).

21 (b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

22 (c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12
23 district during its last year of operations as a K-12 district will be prorated based on rules promulgated by the
24 superintendent of public instruction."
25

26 **Section 70.** Section 20-9-115, MCA, is amended to read:

27 **"20-9-115. Notice of final budget meeting.** Between ~~July 1 and August 10~~ May 1 and June 10 of
28 each year, the clerk of each district shall publish one notice, in the local or county newspaper that the trustees

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1 of the district determine to be the newspaper with the widest circulation in the district, stating the date, time, and
2 place that the trustees will meet for the purpose of considering and adopting the final budget of the district,
3 stating that the meeting of the trustees may be continued from day to day until the final adoption of the district's
4 budget, and stating that any taxpayer in the district may appear at the meeting and be heard for or against any
5 part of the budget."
6

7 **Section 71.** Section 20-9-131, MCA, is amended to read:

8 **"20-9-131. Final budget meeting.** (1) On or before ~~August 20~~ June 20, on the date and at the time
9 and place stated in the notice published pursuant to 20-9-115, the trustees of each district shall meet to
10 consider all budget information and any attachments required by law.

11 (2) The trustees may continue the meeting from day to day but shall adopt the final budget for the
12 district and determine the amounts to be raised by tax levies for the district not later than ~~August 25~~ June 25
13 and before the computation of the general fund net levy requirement by the county superintendent and the
14 fixing of the tax levies for each district. Any taxpayer in the district may attend any portion of the trustees'
15 meeting and be heard on the budget of the district or on any item or amount contained in the budget.

16 (3) Upon final approval, the trustees shall deliver the adopted budget, including the amounts to be
17 raised by tax levies, to the county superintendent of schools within 3 days."
18

19 **Section 72.** Section 20-9-208, MCA, is amended to read:

20 **"20-9-208. Transfers among appropriation items of fund -- transfers from fund to fund.** (1)
21 Whenever it appears to the trustees of a district that the appropriated amount of an item of a budgeted fund of
22 the final budget or a budget amendment is in excess of the amount actually required during the school fiscal
23 year for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other
24 appropriation item of the same budgeted fund.

25 (2) Unless otherwise restricted by a specific provision in this title, transfers may be made between
26 different funds of the same district or between the final budget and a budget amendment under one of the
27 following circumstances:

28 (a) (i) Except as provided in subsections (2)(a)(ii) through ~~(2)(a)(iv)~~ (2)(a)(iii), transfers may be

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1 made from one budgeted fund to another budgeted fund or between the final budget and a budget amendment
2 for a budgeted fund whenever the trustees determine, in their discretion, that the transfer of funds is necessary
3 to improve the efficiency of spending within the district or when an action of the trustees results in savings in
4 one budgeted fund that can be put to more efficient use in another budgeted fund to better support and
5 implement forms of personalized learning described in 20-7-1601. ~~Transfers may not be made with funds~~
6 ~~approved by the voters or with funds raised by a nonvoted levy unless:~~
7 ~~(A) the transfer is within or directly related to the purposes for which the funds were raised and the~~
8 ~~trustees hold a properly noticed hearing to accept public comment on the transfer; or~~
9 ~~(B) the transfer is approved by the qualified electors of the district in an election called for the purpose~~
10 ~~of approving the transfer, in which case the funds may be spent for the purpose approved on the ballot.~~
11 ~~(ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to~~
12 ~~any other fund and transfers to the general fund from any other fund are prohibited.~~
13 ~~(iii)(ii)~~ Unless otherwise authorized by a specific provision in this title, transfers from the retirement fund
14 to any other fund are prohibited.
15 ~~(iv)(iii)~~ Unless otherwise authorized by a specific provision in this title, transfers from the debt service
16 fund to any other fund are prohibited.
17 (b) Transfers may be made from one nonbudgeted fund to another nonbudgeted fund whenever
18 the trustees determine that the transfer of funds is necessary to improve the efficiency of spending within the
19 district. Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with
20 any restrictions or conditions imposed by federal law.
21 ~~(3)~~ Before a transfer can occur, the trustees shall hold a properly noticed hearing to accept public
22 comment on the transfer.
23 ~~(3)(4)~~ The trustees shall enter the authorized transfers upon the permanent records of the district.
24 ~~(4)(5)~~ The intent of this section is to increase the flexibility and efficiency of school districts without an
25 increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund
26 supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the
27 amount of funds transferred."
28

1 **Section 73.** Section 20-9-306, MCA, is amended to read:

2 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the

3 following definitions apply:

4 (1) "BASE" means base amount for school equity.

5 (2) "BASE aid" means:

6 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement

7 for the general fund budget of a district;

8 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic

9 entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and

10 40% of the special education allowable cost payment;

11 (c) the total quality educator payment;

12 (d) the total at-risk student payment;

13 (e) the total Indian education for all payment;

14 (f) the total American Indian achievement gap payment;

15 (g) the total data-for-achievement payment; and

16 (h) the special education allowable cost payment.

17 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of

18 the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100%

19 of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total

20 American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the

21 special education allowable cost payment.

22 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which

23 may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366

24 through 20-9-369.

25 (5) "BASE funding program" means the state program for the equitable distribution of the state's

26 share of the cost of Montana's basic system of public elementary schools and high schools, through county

27 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in

28 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-

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- 1 321.
- 2 (6) "Basic entitlement" means:
- 3 (a) for each high school district:
- 4 (i) \$326,073 for fiscal year 2022 and \$334,453 for each succeeding fiscal year for school districts
- 5 with an ANB of 800 or fewer; and
- 6 (ii) \$326,073 for fiscal year 2022 and \$334,453 for each succeeding fiscal year for school districts
- 7 with an ANB of more than 800, plus \$16,304 for fiscal year 2022 and \$16,723 for each succeeding fiscal year
- 8 for each additional 80 ANB over 800;
- 9 (b) for each elementary school district or K-12 district elementary program without an approved
- 10 and accredited junior high school, 7th and 8th grade program, or middle school:
- 11 (i) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
- 12 K-12 district elementary programs with an ANB of 250 or fewer; and
- 13 (ii) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
- 14 K-12 district elementary programs with an ANB of more than 250, plus \$2,718 for fiscal year 2022 and \$2,788
- 15 for each succeeding fiscal year for each additional 25 ANB over 250;
- 16 (c) for each elementary school district or K-12 district elementary program with an approved and
- 17 accredited junior high school, 7th and 8th grade program, or middle school:
- 18 (i) for the district's kindergarten through grade 6 elementary program:
- 19 (A) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
- 20 K-12 district elementary programs with an ANB of 250 or fewer; and
- 21 (B) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
- 22 K-12 district elementary programs with an ANB of more than 250, plus \$2,718 for fiscal year 2022 and \$2,788
- 23 for each succeeding fiscal year for each additional 25 ANB over 250; and
- 24 (ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or
- 25 middle school:
- 26 (A) \$108,690 for fiscal year 2022 and \$111,483 for each succeeding fiscal year for school districts
- 27 or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and
- 28 (B) \$108,690 for fiscal year 2022 and \$111,483 for each succeeding fiscal year for school districts

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1 or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,434
2 for fiscal year 2022 and \$5,574 for each succeeding fiscal year for each additional 45 ANB over 450.

3 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
4 20-9-311.

5 (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB
6 entitlement for the general fund budget of a district and funded with state and county equalization aid.

7 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from
8 the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator
9 payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian
10 achievement gap payment, the total data-for-achievement payment, and the greater of the district's special
11 education allowable cost payment multiplied by:

12 (a) 175%; or

13 (b) the ratio, expressed as a percentage, of the district's special education allowable cost
14 expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years
15 previous, with a maximum allowable ratio of 200%.

16 (10) "Over-BASE budget levy" means the district levy in support of any general fund amount
17 budgeted that is above the BASE budget and below the maximum general fund budget for a district.

18 (11) "Total American Indian achievement gap payment" means the payment resulting from
19 multiplying \$223 for fiscal year 2022 and \$229 for each succeeding fiscal year times the number of American
20 Indian students enrolled in the district as provided in 20-9-330.

21 (12) "Total at-risk student payment" means the payment resulting from the distribution of any funds
22 appropriated for the purposes of 20-9-328.

23 (13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from
24 multiplying \$21.73 for fiscal year 2022 and \$22.29 for each succeeding fiscal year by the district's ANB
25 calculated in accordance with 20-9-311.

26 (14) "Total Indian education for all payment" means the payment resulting from multiplying \$22.70
27 for fiscal year 2022 and \$23.28 for each succeeding fiscal year times the ANB of the district or \$100 for each
28 district, whichever is greater, as provided for in 20-9-329.

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1 (15) "Total per-ANB entitlement" means the district entitlement resulting from the following
2 calculations and using either the current year ANB or the ~~3-year~~ 5-year ANB provided for in 20-9-311:

3 (a) for a high school district or a K-12 district high school program, a maximum rate of \$7,443 for
4 fiscal year 2022 and \$7,634 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents
5 per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving
6 the same amount of entitlement as the 800th ANB;

7 (b) for an elementary school district or a K-12 district elementary program without an approved and
8 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,813 for fiscal
9 year 2022 and \$5,962 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per
10 ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving
11 the same amount of entitlement as the 1,000th ANB; and

12 (c) for an elementary school district or a K-12 district elementary program with an approved and
13 accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

14 (i) a maximum rate of \$5,813 for fiscal year 2022 and \$5,962 for each succeeding fiscal year for
15 the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional
16 ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the
17 1,000th ANB; and

18 (ii) a maximum rate of \$7,443 for fiscal year 2022 and \$7,634 for each succeeding fiscal year for
19 the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades
20 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the
21 800th ANB.

22 (16) "Total quality educator payment" means the payment resulting from multiplying \$3,385 for fiscal
23 year 2022 and \$3,472 for each succeeding fiscal year by the sum of:

24 (a) the number of full-time equivalent educators as provided in 20-9-327; and

25 (b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base
26 pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher's
27 teaching career in the previous year.

28 (17) "Total special education allocation" means the state payment distributed pursuant to 20-9-321

1 that is the greater of the amount resulting from multiplying \$287.93 for fiscal year 2022 and \$286.02 for each
2 succeeding fiscal year by the statewide current year ANB or the amount of the previous year's total special
3 education allocation."
4

5 **Section 74.** Section 20-9-308, MCA, is amended to read:

6 **"20-9-308. BASE budgets and general fund budget limits.** (1) (a) The trustees of a district shall
7 adopt a general fund budget that is at least equal to the BASE budget established for the district. Except as
8 provided in subsection (1)(b), the trustees of a district may adopt a general fund budget up to the greater of:

- 9 (i) the current year maximum general fund budget; or
- 10 (ii) the previous year's general fund budget plus any increase in ~~direct state aid for the basic and~~
11 ~~per-ANB entitlements and any increases in state funding of the data-for-achievement payment under 20-9-325~~
12 ~~and in the general fund payments in 20-9-327 through 20-9-330 state and over-BASE levy funding of the basic~~
13 ~~or per-ANB entitlements or of the general fund payments established in 20-9-327 through 20-9-330 to complete~~
14 ~~the inflation-adjusted formula amounts approved by the legislature as part of the regular inflationary~~
15 ~~adjustments to K-12 BASE aid calculated pursuant to 20-9-326 and as provided in 20-9-306.~~

16 (b) When anticipated enrollment increases under 20-9-314 are not realized in the previous year,
17 the trustees may adopt a general fund budget up to the greater of:

- 18 (i) the current year maximum general fund budget; or
- 19 (ii) the previous year's adopted general fund budget recalculated to reflect the previous year's
20 actual enrollment pursuant to 20-9-314(6)(b) plus any increase in direct state aid for the basic and per-ANB
21 entitlements and any increases in state funding of the data-for-achievement payment under 20-9-325 and in the
22 general fund payments in 20-9-327 through 20-9-330.

23 (2) (a) Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt
24 a general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE
25 budget levy ~~over~~ above the greater of the limits specified in 20-9-353 or the highest revenue previously
26 authorized by the electors of the district or imposed by the district in any of the previous 5 years to support the
27 general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-
28 353.

1 (b) The intent of this section is to increase the flexibility and efficiency of elected school boards
 2 without increasing school district property taxes. In furtherance of this intent and provided that budget
 3 limitations otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-
 4 BASE budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by
 5 law to be imposed by action of the trustees of the district by at least as much as the amount by which the over-
 6 BASE budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy
 7 imposed under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the
 8 district impose any increase in other nonvoted property tax levies.

9 (3) The BASE budget for the district must be financed by the following sources of revenue:

10 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which
 11 the district may be eligible, as provided in 20-9-366 through 20-9-369;

12 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

13 (c) a district levy for support of a school not approved as an isolated school under the provisions of
 14 20-9-302;

15 (d) payments in support of special education programs under the provisions of 20-9-321;

16 (e) nonlevy revenue, as provided in 20-9-141; and

17 (f) a BASE budget levy on the taxable value of all property within the district.

18 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of
 19 all property within the district or other revenue available to the district, as provided in 20-9-141."

20
 21 **Section 75.** Section 20-9-311, MCA, is amended to read:

22 **"20-9-311. Calculation of average number belonging (ANB) -- 3-year 5-year averaging. (1)**

23 Average number belonging (ANB) must be computed for each budget unit as follows:

24 (a) compute an average enrollment by adding a count of regularly enrolled pupils who were
 25 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
 26 the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a
 27 school day, and divide the sum by two; and

28 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the

1 approved pupil-instruction-related days for the current school fiscal year and divide by 180.

2 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-
3 related days may be included in the calculation.

4 (3) When a school district has approval to operate less than the minimum aggregate hours under
5 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

6 (4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in
7 an education program:

8 (i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-
9 time enrollment;

10 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
11 enrollment;

12 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-
13 quarter-time enrollment; and

14 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time
15 enrollment.

16 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than
17 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

18 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based
19 on the hours necessary and appropriate to provide the course within a regular classroom schedule.

20 (d) A school district may include in its calculation of ANB a pupil who is enrolled in a program
21 providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b)
22 if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by
23 the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted
24 to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the
25 student has demonstrated proficiency.

26 (e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public
27 school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

28 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state

1 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
2 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the
3 purposes of calculating the ~~3-year~~ 5-year ANB, the superintendent of public instruction shall count the
4 kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the ~~3-year~~ 5-
5 year average ANB for districts offering full-time kindergarten.

6 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school
7 days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil
8 resumes attendance prior to the day of the enrollment count.

9 (7) (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the
10 ANB calculations.

11 (b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by
12 September 10 of the school year may not be included in the ANB calculations.

13 (c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by
14 September 10 of the school year and who is receiving special education services from a school district pursuant
15 to 20-7-411(4)(a) may be included in the ANB calculations if:

16 (i) the student has not graduated;

17 (ii) the student is eligible for special education services and is likely to be eligible for adult services
18 for individuals with developmental disabilities due to the significance of the student's disability; and

19 (iii) the student's individualized education program has identified transition goals that focus on
20 preparation for living and working in the community following high school graduation since age 16 or the
21 student's disability has increased in significance after age 16.

22 (d) A school district providing special education services pursuant to subsection (7)(c) is
23 encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in
24 meeting the goals of a student's transition plan.

25 (8) The average number belonging of the regularly enrolled pupils for the public schools of a
26 district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district,
27 except that:

28 (a) the ANB is calculated as a separate budget unit when:

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1 (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or
2 town located in the district and at least 20 miles from any other school of the district, the number of regularly
3 enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district
4 must receive a basic entitlement for the school calculated separately from the other schools of the district;

5 (ii) a school of the district is located more than 20 miles from any other school of the district and
6 incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be
7 calculated separately for ANB purposes and the district must receive a basic entitlement for the school
8 calculated separately from the other schools of the district;

9 (iii) the superintendent of public instruction approves an application not to aggregate when
10 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or
11 when any other condition exists that would result in an unusual hardship to the pupils of the school if they were
12 transported to another school, the number of regularly enrolled pupils of the school must be calculated
13 separately for ANB purposes and the district must receive a basic entitlement for the school calculated
14 separately from the other schools of the district; or

15 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the
16 ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years
17 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3
18 additional years as follows:

19 (A) 75% of the basic entitlement for the fourth year;

20 (B) 50% of the basic entitlement for the fifth year; and

21 (C) 25% of the basic entitlement for the sixth year.

22 (b) when a junior high school has been approved and accredited as a junior high school, all of the
23 regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB
24 purposes;

25 (c) when a middle school has been approved and accredited, all pupils below the 7th grade must
26 be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered
27 high school pupils for ANB purposes; or

28 (d) when a school has been designated as nonaccredited by the board of public education

1 because of failure to meet the board of public education's assurance and performance standards, the regularly
2 enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation
3 purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE
4 funding program for the district.

5 (9) The district shall provide the superintendent of public instruction with semiannual reports of
6 school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
7 superintendent.

8 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education
9 program provided by the district through any combination of onsite or offsite instruction may be included for
10 ANB purposes only if the pupil is offered access to the complete range of educational services for the basic
11 education program required by the accreditation standards adopted by the board of public education.

12 (b) Access to school programs and services for a student placed by the trustees in a private
13 program for special education may be limited to the programs and services specified in an approved individual
14 education plan supervised by the district.

15 (c) Access to school programs and services for a student who is incarcerated in a facility, other
16 than a youth detention center, may be limited to the programs and services provided by the district at district
17 expense under an agreement with the incarcerating facility.

18 (d) This subsection (10) may not be construed to require a school district to offer access to
19 activities governed by an organization having jurisdiction over interscholastic activities, contests, and
20 tournaments to a pupil who is not otherwise eligible under the rules of the organization.

21 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under
22 this title and who is:

23 (a) a resident of the district or a nonresident student admitted by trustees under a student
24 attendance agreement and who is attending a school of the district;

25 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
26 individualized educational services supervised by the district, at district expense, at a home or facility that does
27 not offer an educational program;

28 (c) unable to attend school due to the student's incarceration in a facility, other than a youth

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1 detention center, and who is receiving individualized educational services supervised by the district, at district
2 expense, at a home or facility that does not offer an educational program;

3 (d) receiving special education and related services, other than day treatment, under a placement
4 by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the
5 district's expense under an approved individual education plan supervised by the district;

6 (e) participating in the running start program at district expense under 20-9-706;

7 (f) receiving educational services, provided by the district, using appropriately licensed district staff
8 at a private residential program or private residential facility licensed by the department of public health and
9 human services;

10 (g) enrolled in an educational program or course provided at district expense using electronic or
11 offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
12 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
13 instructional setting with the approval of the trustees of the district. The pupil shall:

14 (i) meet the residency requirements for that district as provided in 1-1-215;

15 (ii) live in the district and must be eligible for educational services under the Individuals With
16 Disabilities Education Act or under 29 U.S.C. 794; or

17 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

18 (h) a resident of the district attending the Montana youth challenge program or a Montana job
19 corps program under an interlocal agreement with the district under 20-9-707.

20 (12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth
21 challenge program participant as half-time enrollment.

22 (13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an
23 individual who is otherwise eligible under this title and who during the prior school year:

24 (i) resided in the district;

25 (ii) was not enrolled in the district or was not enrolled full time; and

26 (iii) completed an extracurricular activity with a duration of at least 6 weeks.

27 (b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under
28 subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13)

1 the individual may not be counted as more than one full-time enrollment for ANB purposes.

2 (ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-
3 eighth enrollment.

4 (c) For the purposes of this section, "extracurricular activity" means:

5 (i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic
6 activities, contests, and tournaments;

7 (ii) an approved career and technical student organization, pursuant to 20-7-306; or

8 (iii) a school theater production.

9 (14) (a) For an elementary or high school district that has been in existence for ~~3 years~~ 5 years or
10 more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be
11 calculated using the current year ANB for all budget units or the ~~3-year~~ 5-year average ANB for all budget units,
12 whichever generates the greatest maximum general fund budget.

13 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum
14 general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the
15 elementary and high school programs pursuant to subsection (14)(a) and then combined.

16 (15) The term "~~3-year ANB~~" "5-year ANB" means an average ANB over the most recent ~~3-year~~ 5-
17 year period, calculated by:

18 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
19 previous ~~2~~ 4 school fiscal years; and

20 (b) dividing the sum calculated under subsection (15)(a) by ~~three~~ five."

21

22 **Section 76.** Section 20-9-313, MCA, is amended to read:

23 **"20-9-313. Circumstances under which regular average number belonging may be increased.**

24 (1) The average number belonging of a school, calculated in accordance with the ANB formula prescribed in
25 20-9-311, may be increased when:

26 (a) the opening of a new elementary school or the reopening of an elementary school has been
27 approved in accordance with 20-6-502. The average number belonging for the school must be established by
28 the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

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1 (b) the opening or reopening of a high school or a branch of the county high school has been
2 approved in accordance with 20-6-503, ~~or 20-6-504, or 20-6-505~~. The average number belonging for the high
3 school must be established by the county superintendent's estimate, after an investigation of the probable
4 number of pupils that will attend the high school.

5 (c) a district anticipates an increase in the average number belonging due to the closing of a
6 private or public school in the district or a neighboring district. The estimated increase in average number
7 belonging must be established by the trustees and the county superintendent and approved, disapproved, or
8 adjusted by the superintendent of public instruction no later than the fourth Monday in June.

9 (d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The
10 increase in average number belonging must be based on estimates of increased enrollment approved by the
11 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

12 (e) for the initial year of operation of a kindergarten program established under 20-7-117(1), the
13 ANB to be used for budget purposes is:

14 (i) one-half the number of 5-year-old children residing in the district as of September 10 of the
15 preceding school year, either as shown on the official school census or as determined by some other procedure
16 approved by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten
17 program as provided in 20-1-301; or

18 (ii) the number of 5-year-old children residing in the district as of September 10 of the preceding
19 school year, either as shown on the official school census or as determined by some other procedure approved
20 by the superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as
21 provided in 20-1-301; or

22 (f) a high school district provides early graduation for a student who completes graduation
23 requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The
24 increase must be established by the trustees as though the student had attended to the end of the school fiscal
25 year and must be approved, disapproved, or adjusted by the superintendent of public instruction.

26 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time
27 kindergarten program."

28

Section 77. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional financing for general fund -- election for authorization to impose. (1) The trustees of a district may ~~propose to~~ adopt an over-BASE budget amount for the district general fund that does not exceed the general fund budget limitations, as provided in 20-9-308.

(2) (a) When the trustees of the district propose to adopt an over-BASE budget under subsection (1), any increase in local property taxes ~~authorized by 20-9-308(4) over revenue above the greater of the limits computed under subsection (2)(b) or amounts~~ previously authorized by the electors of the district or imposed by the district in any of the previous 5 years must be submitted to a vote of the qualified electors of the district, as provided in 15-10-425.

(b) The trustees are not required to submit to the qualified electors any increase in state and over-BASE levy funding of the basic or per-ANB entitlements or of the general fund payments established in 20-9-327 through 20-9-330 to complete the inflation-adjusted formula amounts approved by the legislature as part of the regular inflationary adjustments to K-12 BASE aid calculated pursuant to 20-9-326 and as amended in 20-9-306.

(c) When the trustees of a district determine that a voted amount of financing above the greater of the limit of subsections (2)(a) and (2)(b) is required for the general fund budget in applicable school fiscal years, the trustees shall submit the proposition to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition at the next regular school election day. The proposition may be requested for application to a maximum of 4 school fiscal years with approved increases implemented through tax collections beginning the November following the election on the timing specified in 15-16-102.

(d) The proposition must specify each school fiscal year in which an increase above the limits of subsections (2)(a) or (2)(b) is requested and must include the percentage point, expressed as a number rounded to the nearest tenth, proposed by the trustees in excess of the greater of the limits of subsections (2)(a) or (2)(b). The election must be called and conducted in the manner prescribed by this title for school elections and must conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of 15-10-425 and may describe general or specific purposes for which the increase in the levy is requested.

(3) If the proposition on any additional financing for the general fund is approved by a majority vote

1 of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the
 2 authorized amount in adopting the final general fund budget for each school fiscal year to which the
 3 authorization applies. The trustees shall certify any additional levy amount authorized by the election on the
 4 budget form that is submitted to the county superintendent, and the county commissioners shall levy the
 5 authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-
 6 141.

7 (4) All Except as provided in 20-20-105(2), all levies adopted under this section must be
 8 authorized by the election conducted before August 1 of the school fiscal year years for which it is effective.

9 (5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget
 10 amount, as allowed by 20-9-308, to the electors of the district, the trustees shall comply with the provisions of
 11 subsections (2) through (4) of this section."

12
 13 **Section 78.** Section 20-9-405, MCA, is amended to read:

14 **"20-9-405. Proportional joint ownership -- disposition of money.** The facility constructed under
 15 20-9-404 must be jointly owned by the school districts or other political subdivisions contributing to its
 16 construction in proportion to the contribution of each political subdivision. ~~The sale or other disposition of a~~
 17 ~~district's interest in the facility must be made in accordance with 20-6-604.~~ Money received from the sale or
 18 disposition of a district's interest in a facility must be credited to the debt service fund, building fund, general
 19 fund, or any combination of these three funds, at the discretion of the trustees."

20
 21 **Section 79.** Section 20-9-406, MCA, is amended to read:

22 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**
 23 **payment -- oil and natural gas payment.** (1) (a) Except as provided in subsection (1)(c), the maximum
 24 amount for which an elementary district or a high school district may become indebted by the issuance of
 25 general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of
 26 previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue
 27 bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general
 28 obligations of the district, is 100% of the taxable value of the property subject to taxation, as ascertained by the

1 last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

2 (b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district,
3 as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including
4 all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
5 outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is
6 pledged, and any other loans or notes payable that are held as general obligations of the district, regardless of
7 whether the general obligation bonds finance elementary program improvements or high school program
8 improvements, is the sum of 100% of the taxable value of the property in its elementary program subject to
9 taxation and 100% of the taxable value of the property in its high school program subject to taxation, as
10 ascertained by the last assessment for state, county, and school taxes previous to the incurring of the
11 indebtedness.

12 (c) (i) Unless the maximum amount calculated under subsection (1)(a) yields a greater amount, the
13 maximum amount for which an elementary district or a high school district with a district mill value per
14 elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB
15 or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds,
16 including all indebtedness represented by outstanding general obligation bonds of previous issues, registered
17 warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax
18 levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is the
19 corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12
20 district, unless the maximum amount calculated under subsection (1)(b) yields a greater amount, the maximum
21 amount for which the district may become indebted is the sum of the facility guaranteed mill value per
22 elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per
23 high school ANB times 1,000 times the high school ANB of the district. For the purpose of calculating ANB
24 under this subsection, a district may use the greater of the current year ANB or the ~~3-year~~ 5-year ANB
25 calculated under 20-9-311.

26 (ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum
27 bonded indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number
28 of students residing within the district for which the district or county pays tuition for attendance at a school in

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1 an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its
2 maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant
3 to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the
4 greater of the current year ANB or the ~~3-year~~ 5-year ANB calculated under 20-9-311.

5 (2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed
6 by special improvement district obligations or assessments against the school district or to general obligation
7 bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess
8 of the amount are void, except as provided in this section.

9 (3) The maximum amount of impact aid revenue bonds that an elementary district, high school
10 district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the
11 average of the school district's annual federal impact aid basic support payments for the 5 years immediately
12 preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual
13 payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal
14 impact aid basic support payments of the school district for the current year.

15 (4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high
16 school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times
17 the average of the school district's annual oil and natural gas production taxes received pursuant to 15-36-331,
18 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of
19 the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas
20 revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the
21 school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the oil and natural
22 gas revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation
23 provided in subsection (1) of this section applies to the bonds.

24 (5) When the total indebtedness of a school district has reached the limitations prescribed in this
25 section, the school district may pay all reasonable and necessary expenses of the school district on a cash
26 basis in accordance with the financial administration provisions of this chapter.

27 (6) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the
28 debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and

1 the refunding bond issue is decreased accordingly.

2 (7) As used in this part, "federal impact aid basic support payment" means the annual impact aid
3 revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special
4 education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

5

6 **Section 80.** Section 20-9-422, MCA, is amended to read:

7 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** (1) In addition
8 to the requirements for calling an election that are prescribed in 20-20-201 and ~~20-20-203~~, the trustees'
9 resolution calling a school district bond election must:

10 (a) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds,
11 or impact aid revenue bonds and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to
12 the repayment of the bonds;

13 (b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the
14 amounts estimated in a petition;

15 (c) fix the maximum number of years in which the proposed bonds would be paid;

16 (d) in the case of initiation by a petition, state the essential facts about the petition and its
17 presentation; and

18 (e) state the amount of the state advance for school facilities estimated, pursuant to subsection (2),
19 to be received by the district in the first school fiscal year in which a debt service payment would be due on the
20 proposed bonds.

21 (2) Prior to the adoption of the resolution calling for a school bond election for a general obligation
22 bond, the trustees of a district may request from the superintendent of public instruction a statement of the
23 estimated amount of state advance for school facilities that the district will receive for debt service payments on
24 the proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The
25 district shall provide the superintendent with an estimate of the debt service payment due in the first school
26 fiscal year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant
27 to 20-9-371(2)."

28

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1 county election administrator shall conduct the election.

2 (3) If a proposed or existing community college district is within the boundaries of more than one
3 county, the county election administrator of the county with the highest number of qualified electors in the
4 proposed or existing community college district shall conduct the election.

5 (4) A community college district election must be conducted during a general election as described
6 in 13-1-104 and in accordance with Title 13, chapter 1, part 5."

7

8 **Section 83.** Section 20-15-221, MCA, is amended to read:

9 **"20-15-221. Election of trustees after organization of community college district.** (1) After
10 organization, the registered electors of the community college district qualified to vote under the provisions of
11 20-20-301 shall ~~annually~~ vote for trustees on the ~~regular school election~~ general election day provided for in ~~20-~~
12 ~~20-105(1)~~ 13-1-104. The election must be conducted in accordance with the election provisions of this title
13 whenever the provisions are made applicable to community college districts. Pursuant to 20-15-208, the
14 elections must be conducted by the county election administrator on the order of the board of trustees of the
15 community college district. The order must be transmitted to the appropriate trustees at least 85 days prior to
16 the regular school election day.

17 (2) Notice of the community college district trustee election must be given as provided in 13-1-108.

18 (3) If trustees are elected other than at large throughout the entire district, then only those qualified
19 electors within the area from which the trustee or trustees are to be elected may cast their ballots for the trustee
20 or trustees from that area.

21 (4) Candidates for the office of trustee shall file their declarations of candidacy with the county
22 election administrator within the time period specified in 20-3-305(2).

23 (5) All costs incident to election of the community college trustees must be borne by the
24 community college district, including one-half of the compensation of the judges for the school elections."

25

26 **Section 84.** Section 20-15-404, MCA, is amended to read:

27 **"20-15-404. Trustees to adhere to certain other laws.** Unless the context clearly indicates
28 otherwise, the trustees of a community college district shall adhere to:

- 1 (1) the teachers' retirement provisions of Title 19, chapter 20;
- 2 (2) the provisions of 20-1-201, 20-1-205, 20-1-211, and 20-1-212;
- 3 (3) the school property provisions of ~~20-6-604~~, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631,
- 4 and 20-6-633 through 20-6-636;
- 5 (4) the adult education provisions of Title 20, chapter 7, part 7;
- 6 (5) the administration of finances provisions of 20-9-115, 20-9-134, 20-9-207, 20-9-208, 20-9-210,
- 7 20-9-215, 20-9-221, 20-9-223, and 20-9-512;
- 8 (6) the school bond provisions of 20-9-401 through 20-9-408, 20-9-410 through 20-9-412, 20-9-
- 9 421 through 20-9-446, 20-9-461, 20-9-464, and 20-9-465;
- 10 (7) the special purpose funds provisions of 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511;
- 11 (8) the educational cooperative agreements provisions of 20-9-701 through 20-9-704;
- 12 (9) the school elections provisions of Title 20, chapter 20;
- 13 (10) the students' rights provisions of 20-25-511 through 20-25-516; and
- 14 (11) the health provisions of 50-1-206."

15
16 **Section 85.** Section 20-20-102, MCA, is amended to read:

17 **"20-20-102. Precedence of school election provisions.** Except as otherwise provided in this title,
18 school elections shall be conducted and canvassed and the results shall be returned in the same manner as
19 provided for general elections in Title 13. ~~Should there be a conflict between the requirements of Title 13 and~~
20 ~~the provisions of this title regulating school elections, the provisions of this title shall govern.~~ The superintendent
21 ~~of public instruction~~ secretary of state may make any necessary rules to clarify Title 13 provisions for use in
22 school elections."
23

24 **Section 86.** Section 20-20-104, MCA, is amended to read:

25 **"20-20-104. Forms.** The forms necessary for school district elections shall be the same as those
26 prescribed by law or the secretary of state. ~~The superintendent of public instruction may issue prescribed forms~~
27 ~~for school elections with any necessary revisions of prescribed or statutory forms."~~
28

1 **Section 87.** Section 20-20-105, MCA, is amended to read:

2 **"20-20-105. Regular school election day and special school elections—~~limitation~~ -- exception.**

3 (1) ~~Except as provided in subsection (5), the first Tuesday after the first Monday in May of each year is the~~
4 ~~regular school election day. School elections must be held on the primary or general day in an even-numbered~~
5 ~~year. Except as otherwise provided in this section, the regular school election day is the same day as the~~
6 ~~general election as defined in 13-1-101 in even-numbered years. Except as otherwise provided in this section,~~
7 ~~all school elections must be conducted on the regular school election day.~~

8 (2) ~~— Except as provided in subsections (4) and (5), a proposition requesting additional funding~~
9 ~~under 20-9-353 may be submitted to the electors only once each calendar year on the regular school election~~
10 ~~day.~~

11 (2) ~~Upon a declaration of an unforeseen emergency by the trustees, the trustees may conduct~~
12 ~~school elections ordinarily required to be held on the regular school election day at times other than the regular~~
13 ~~school election day as determined by the trustees. As used in this section, "unforeseen emergency" has the~~
14 ~~meaning provided in 20-3-322(5).~~

15 (3) ~~Bond elections may be conducted at times other than the regular school election day when~~
16 ~~determined necessary by the trustees to maximize efficiency in costs of construction or to avoid an escalation in~~
17 ~~prices and related impact on district taxpayers.~~

18 (4) ~~School safety elections provided for in 20-9-502(5)(b) may be conducted at times other than~~
19 ~~the regular school election day when determined necessary by the trustees to protect the health, welfare, or~~
20 ~~safety of students, families, and staff members of the district.~~

21 (3) ~~Subject to the provisions of subsection (2), other school elections may be conducted at times~~
22 ~~determined by the trustees.~~

23 (4) ~~In the event of an unforeseen emergency occurring on the date scheduled for the funding election~~
24 ~~pursuant to subsection (2), the district will be allowed to reschedule the election for a different day of the~~
25 ~~calendar year. As used in this section, "unforeseen emergency" has the meaning provided in 20-3-322(5).~~

26 (5) ~~In years when the legislature meets in regular session or in a special session that affects school~~
27 ~~funding, the trustees may order an election on a date other than the regular school election day in order for the~~
28 ~~electors to consider a proposition requesting additional funding under 20-9-353."~~

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Section 88. Section 20-20-107, MCA, is amended to read:

"20-20-107. Election expenses. ~~(1)~~All expenses necessarily incurred in the matter of holding school elections must be paid out of the school funds of the district, except when the expenses are by law to be shared by a community college district for which the district is conducting an election.

~~(2) The trustees shall pay the election judges of a school election at least the state or federal minimum wage, whichever is greater, for each hour of service in connection with the election, including the number of hours required to attend training pursuant to 20-20-109.~~

~~(3) Election judges are exempt from unemployment insurance coverage for services performed pursuant to this chapter if the remuneration received by the election judge is less than \$1,000 per calendar year."~~

Section 89. Section 20-20-108, MCA, is amended to read:

"20-20-108. Rescheduling of school election canceled due to declaration of state of emergency or disaster. If the governor declares a state of emergency or disaster under Title 10, chapter 3, a school election may be canceled by the ~~county superintendent of schools or, in the absence of the county superintendent, by the state superintendent of public instruction trustees~~. As soon as convenient after the declaration of a state of emergency or disaster is terminated, the trustees of the district shall set a new date for the election. Notice of such election shall be published for 7 consecutive days in a newspaper of general circulation in the district and posted for 7 days at district polling places. Whenever the best interests of the district would be served, the trustees may give additional notice of the election through appropriate radio and television stations that serve the people of the district."

Section 90. Section 20-20-109, MCA, is amended to read:

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

(2) An election judge may not be:

(a) the candidate;

- 1 (b) an ascendant, descendant, brother, or sister of a candidate; or
- 2 (c) the spouse of the candidate or of any of the individuals listed in subsection (2)(b).
- 3 (3) School election judges must meet the training and certification requirements of 13-4-203."

5 **Section 91.** Section 20-20-201, MCA, is amended to read:

6 **"20-20-201. Calling of school election.** (1) At least 70 days before any other school election, the
 7 trustees of a district or other entity or official authorized by law to call a school election shall call the school
 8 election by resolution, stating the date and purpose of each election and whether, pursuant to 13-19-202, any
 9 election is requested to be by mail. The date of the school election must align with either the primary or general
 10 election in an even-numbered year.

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

13 (a) the resolution calling for a school election must be transmitted to the county election
 14 administrator and the superintendent of public instruction no later than 3 days after the resolution is passed;
 15 and

16 (b) if the election is to be conducted by mail, the school clerk must also transmit to the county
 17 election administrator a copy of the written plan required under 13-19-205 as soon as the plan has been
 18 approved by the secretary of state."

20 **Section 92.** Section 20-20-417, MCA, is amended to read:

21 **"20-20-417. Request for county County election administrator to conduct election.** (1) ~~By June 1~~
 22 ~~of each year, the trustees of a district may request the county election administrator to conduct certain school~~
 23 ~~elections during the ensuing school fiscal year. The request must be made by a resolution of the board of~~
 24 ~~trustees~~ The county administrator shall conduct all school elections.

25 ~~(2) Whenever the county election administrator agrees to conduct a school election, the administrator~~
26 ~~shall:~~

27 ~~(a) perform the duties imposed on the trustees and the clerk of the district for school elections in 20-~~
 28 ~~20-203, 20-20-313, and 20-20-401; and~~

1 **Section 101.** Section 76-15-805, MCA, is amended to read:

2 **"76-15-805. Referendum on question of discontinuance.** (1) Within 60 days after the petition has
3 been received by the department, it shall give due notice of the holding of a referendum and shall supervise the
4 referendum and issue appropriate regulations governing the conduct thereof. The referendum must be placed
5 on the ballot during a general election as described in 13-1-104. The question is to be submitted by ballots
6 upon which the words "For terminating the existence of the (name of the conservation district or part of the
7 district to be here inserted)" and "Against terminating the existence of the (name of the conservation district
8 or part of the district to be here inserted)" shall appear with the square before each proposition and a direction
9 to insert an "X" mark in the square before one or the other of the propositions as the voter may favor or oppose
10 discontinuance of the district or a part of the district.

11 (2) All qualified electors within the boundaries of the district are eligible to vote in the referendum.
12 No informalities in the conduct of the referendum or in any matters relative thereto shall invalidate the
13 referendum or the result thereof if notice thereof is given substantially as herein provided and the referendum is
14 fairly conducted."

15
16 ~~**Section 81.** Section 85-6-105, MCA, is amended to read:~~

17 ~~**"85-6-105. Division of irrigation project into districts.** Such water users' association shall be
18 permitted to divide the area under such irrigation project into as many districts as there are directors provided
19 for in its articles of incorporation. Each district shall elect one director for a term not to exceed 5 years 6 years.
20 At the first election held to elect directors under the provisions of this chapter, each district shall elect one
21 director, who shall hold office for such a term of years as the bylaws shall provide, and thereafter a director
22 shall be elected in the district and at the annual election general election held just prior to the expiration of the
23 term of office of the director of that district."~~

24
25 ~~**Section 82.** Section 85-6-106, MCA, is amended to read:~~

26 ~~**"85-6-106. Vacancies in board of directors.** In case of a vacancy in the board of directors from any
27 cause, the board shall fill such vacancy by appointment to hold to the end of that fiscal year biennium, and a
28 director shall be elected at the annual general election in the district where such vacancy occurs to fill the~~

1 unexpired term of such vacancy."

2

3 **Section 83.** Section 85-7-1602, MCA, is amended to read:

4 ~~"85-7-1602. Election on joint operations. At any time after March 7, 1959, in the event that it is~~
5 ~~deemed if it is considered advisable or desirable for any irrigation districts to operate under the direction of a~~
6 ~~board of control as herein provided in this part, the boards of commissioners of the districts, after a petition~~
7 ~~requesting the same be board of control is received and filed with them, must shall call an election to put the~~
8 ~~question before the landowners of the districts which that are petitioned to be joined. In the event a majority of~~
9 ~~the landowners of each district, as provided by 85-7-1710, vote for organizing such a board of control, then the~~
10 ~~commissioners of each district will be are authorized and directed to enter into such a contract to operate the~~
11 ~~districts in accordance with the terms of this part as provided by 85-7-1601. The election herein provided shall~~
12 ~~must be held in conjunction with a general election and must be conducted in the same manner and the same~~
13 ~~persons shall be entitled to vote thereat may vote at the election as provided for elections of commissioners of~~
14 ~~irrigation districts, in accordance with 85-7-1702, 85-7-1710, and 85-7-1712."~~

15

16 **Section 84.** Section 85-7-1702, MCA, is amended to read:

17 ~~"85-7-1702. Election of commissioners — term of office. (1) The election for commissioners in~~
18 ~~each district must be held annually biennially in accordance with Title 13, chapter 1, part 5. The election may be~~
19 ~~at the district's annual meeting or on the date established in 13-1-504(1) must be held during a general election~~
20 ~~as described in 13-1-104.~~

21 ~~(2) — A person eligible to vote in the district may file a declaration of candidacy for the office of~~
22 ~~commissioner with the election administrator or deputy election administrator within the time period specified in~~
23 ~~13-1-502.~~

24 ~~(3) — Within 40 days following their election, the commissioners shall meet and organize as a board~~
25 ~~by electing a president from their number and a secretary, who may or may not be a commissioner, who shall~~
26 ~~each hold office at the pleasure of the board.~~

27 ~~(4) — Except as provided in 85-7-204, the term of office of each commissioner begins on the date of~~
28 ~~the commissioner's election and continues for 3 years.~~

1 ~~(5) — Commissioners are elected by the electors of the entire district."~~

2
3 **Section 85.** ~~Section 85-7-1703, MCA, is amended to read:~~

4 ~~"85-7-1703. — Vacancies among commissioners. If there is a vacancy on the board of commissioners~~
5 ~~from any cause, the vacancy must be filled until the next regular or special general election by appointment by~~
6 ~~the board. The remaining commissioners constitute a quorum for the purpose of filling any vacancy. If a~~
7 ~~vacancy exists for every position on the board, the judge of the district court of the county in which the division~~
8 ~~or major portion of the division is situated shall make the appointments. The appointee must be an owner of~~
9 ~~irrigable land within the division of the district that the appointee represents and must be a resident of the~~
10 ~~county in which the division of the district or some portion of the division is situated. A commissioner appointed~~
11 ~~under this section holds office until a successor is elected and qualified."~~

12
13 **Section 86.** ~~Section 85-7-1712, MCA, is amended to read:~~

14 ~~"85-7-1712. — Call for election. The board of commissioners may at any time call an election in~~
15 ~~conjunction with a general election and submit to the qualified electors of the district any question which under~~
16 ~~the provisions of this chapter is required or which, in the judgment of the board, is proper to be submitted to~~
17 ~~popular vote. The election must be called by resolution and conducted in accordance with Title 13, chapter 1,~~
18 ~~part 5."~~

19
20 **Section 87.** ~~Section 85-7-1974, MCA, is amended to read:~~

21 ~~"85-7-1974. — Majority vote or petition necessary to contract with the state. (1) No contract may be~~
22 ~~made between an irrigation district and the state of Montana under 85-7-1971 through 85-7-1975 except on:~~

23 ~~(a) — approval by a majority vote of those voting on the question at an a general election conducted~~
24 ~~in accordance with Title 13, chapter 1, part 5, and 85-7-1710; or~~

25 ~~(b) — receipt of a petition signed by at least 60% in number and acreage of the holders of title or~~
26 ~~evidence of title to lands within the district. The petition must be addressed to the board of commissioners and~~
27 ~~must set forth the aggregate amount of money to be borrowed from various sources, including the coal~~
28 ~~severance tax bonding program provided for in Title 17, chapter 5, part 7, and the purpose for which the money~~

1 ~~will be used. The petition must include an affidavit certifying the signatures to the petition and must be filed with~~
2 ~~the secretary of the board of commissioners.~~

3 ~~(2) — In an election held for approval of a district contract under this section, the voting majority must~~
4 ~~own at least 50% of the acreage included in the district."~~

5
6 **Section 88.** ~~Section 85-7-2013, MCA, is amended to read:~~

7 **~~"85-7-2013.— Majority vote, petition, and protest requirements.~~** ~~(1) Bonds provided for in 85-7-2012~~
8 ~~through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized under this~~
9 ~~chapter or by an irrigation district on behalf of a subdistrict located in the district and a contract may not be~~
10 ~~made with the United States as provided in 85-7-1906 except on:~~

11 ~~(a) — approval by a majority vote of those voting on the question at an a general election conducted~~
12 ~~in accordance with Title 13, chapter 1, part 5, with votes cast and counted as prescribed in 85-7-1710;~~

13 ~~(b) — receipt of a petition signed by a majority in acreage of the holders of title or evidence of title to~~
14 ~~lands included within the district or, if the bonds are issued on behalf of or if the contract relates to a subdistrict,~~
15 ~~a majority in acreage of the holders of title or evidence of title to lands within the subdistrict;~~

16 ~~(c) — receipt of a petition signed by at least 75%, in number and acreage, of the holders of title or~~
17 ~~evidence of title to the lands who are residents of the county or counties in which lands of the district are~~
18 ~~situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 75% in number~~
19 ~~and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in~~
20 ~~which lands of the subdistrict are situated; or~~

21 ~~(d) — adoption of a resolution by the board of commissioners approving special taxes or~~
22 ~~assessments to repay bonds pursuant to 85-7-2048 following a determination that a protest as provided in 85-~~
23 ~~7-2045 by owners of assessed irrigable acres as determined by 85-7-2043 comprises no more than 50% of the~~
24 ~~special tax or assessment proposed to pay the costs of the suggested improvements.~~

25 ~~(2) — The petition must be addressed to the board of commissioners, set forth the aggregate amount~~
26 ~~of bonds to be issued and the purpose or purposes of the bonds, have attached to it an affidavit verifying the~~
27 ~~signatures to the petition, and be filed with the secretary of the board. When bonds are issued for the sole~~
28 ~~purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent~~

1 ~~and accrued interest, of the district, the bonds may be authorized and issued in the manner provided for by 85-~~
 2 ~~7-2019.~~
 3 ~~(3) In an election held for approval to allow a district or subdistrict to issue bonds or enter into a~~
 4 ~~contract under this section, the voting majority must own at least 50% of the acreage included in the district or~~
 5 ~~subdistrict."~~

6

7 **Section 102.** Section 85-8-302, MCA, is amended to read:

8 **"85-8-302. Election of commissioners -- regular term of office.** (1) Except as provided in 13-1-
 9 502(4), the election of commissioners must be held annually in conjunction with a general election and
 10 conducted in accordance with Title 13, chapter 1, part 5. The term of office of commissioners shall commence
 11 on the day of their election.

12 (2) (a) At the first ~~primary or~~ general election following the organization of a district and in districts
 13 organized and in existence on March 1, 1921, and that, on petition, have been divided into divisions, three
 14 commissioners must be elected, with one commissioner being elected from each division.

15 (b) A commissioner must be an actual landowner in the division in which the commissioner is
 16 elected.

17 (c) One of the commissioners, to be determined by lot, shall hold office for ~~4-year~~ 2 years; another
 18 of the commissioners, to be determined by lot, shall hold office for ~~2-years~~ 4 years; and the third commissioner
 19 shall hold office for ~~3-years~~ 6 years.

20 (3) After the election of the initial commissioners, one commissioner must be elected ~~each year~~
 21 during each general election. Commissioners elected after the initial election shall hold office for a term of ~~3~~
 22 years 4 years. The person elected as a commissioner ~~in each year~~ to succeed the commissioner whose term is
 23 then expiring must be elected as a commissioner from the same division as the commissioner whose term
 24 expires.

25 (4) Each commissioner must be a resident of a county where a portion of the district lands is
 26 situated."

27

28 **Section 103.** Section 85-8-624, MCA, is amended to read:

1 **Section 104.** Section 85-9-206, MCA, is amended to read:

2 **"85-9-206. Court hearing on petition -- election -- limits on court jurisdiction.** (1) On receipt of a
3 petition for organizing a district, the court shall give notice and hold a hearing on the petition. If the court finds
4 that the petition should be granted, it shall:

5 (a) make and file findings of fact specifying those lands that will be directly or indirectly benefited
6 by the proposed district and exclude those lands that will not be benefited;

7 (b) make an order ~~fixing the time and place of an~~ announcing the organizing election which must
8 be held in conjunction with a general election;

9 (c) order the election administrator to conduct the election in accordance with Title 13, chapter 1,
10 part 5; and

11 (d) order and decree the district organized if the requisite number of eligible electors votes in favor
12 of organization.

13 (2) In order for the district to be organized, 51% or more of the eligible electors must vote in the
14 election, and a majority of those voting must vote in favor of organization.

15 (3) This chapter does not confer on the court jurisdiction to hear, adjudicate, and settle questions
16 concerning the priority of appropriation of water between districts and other persons. Jurisdiction to hear and
17 determine priority of appropriation and questions of right growing out of or in any way connected with a priority
18 of appropriation is expressly excluded from this chapter and must be determined as otherwise provided by the
19 laws of Montana."
20

21 NEW SECTION. Section 105. Repealer. The following sections of the Montana Code Annotated are
22 repealed:

23 13-1-305. School district and political subdivision election cooperation.

24 13-1-503. Deadlines for absentee and mail ballots.

25 ~~20-6-505. Opening a junior high school when high school district operates a county high school.~~

26 ~~20-6-604. Sale of property when resolution passed after hearing -- appeal procedure.~~

27 20-20-106. Poll hours.

28 ~~20-20-108. Rescheduling of school election canceled due to declaration of state of emergency or disaster.~~

Amendment - 1st Reading-white - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0774.001.003

- 1 20-20-203. Resolution for poll hours, polling places, and judges.
- 2 20-20-204. Election notice.
- 3 20-20-401. Trustees' election duties -- ballot certification.
- 4 20-20-402. Clerk of election judges and appointment for absent judge.

5 ~~20-20-416. Certificate of election.~~

6

7 **NEW SECTION. Section 106. Appropriation.** There is appropriated \$150,000 from the general fund
8 to the office of public instruction for the fiscal year beginning July 1, 2023, for the school election incentive pilot
9 program provided for in [section 1].

10

11 **NEW SECTION. Section 107. Effective ~~date dates.~~ [This act] is effective July 1, 2024 (1) Except as**
12 **provided in subsection (2), [this act] is effective July 1, 2024.**

13 **(2) [Sections 1 and 106] and this section are effective July 1, 2023.**

14

15 **NEW SECTION. Section 108. Termination.** [Section 1] terminates July 1, 2024.

16 - END -