

**SB 140 and Fiscal Note  
2013 Session**



SENATE BILL NO. 140

INTRODUCED BY A. WITTICH

A BILL FOR AN ACT ENTITLED: "AN ACT COMBINING SCHOOL ELECTION AND CERTAIN PRIMARY ELECTION DATES; REVISING TIMES FOR OPENING AND CLOSING POLLS; REQUIRING SCHOOL ELECTION DEADLINES TO BE CONSISTENT WITH PRIMARY ELECTION DEADLINES; REQUIRING OTHER ELECTION PROVISIONS TO GOVERN SCHOOL ELECTIONS; REVISING PROVISIONS FOR NOTICE OF A SCHOOL ELECTION; AMENDING SECTIONS 13-1-101, 13-1-106, 13-1-107, 13-1-108, 13-2-304, 13-10-211, 13-13-205, 13-15-206, 20-3-304, 20-3-305, 20-3-313, 20-3-344, 20-20-102, 20-20-103, 20-20-105, 20-20-106, 20-20-201, 20-20-203, 20-20-204, 20-20-401, AND 20-20-417, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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

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

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

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

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

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

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

(6) "Candidate" means:

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



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

6 (i) solicitation is made;

7 (ii) contribution is received and retained; or

8 (iii) expenditure is made; or

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

10 (7) (a) "Contribution" means:

11 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value  
12 to influence an election;

13 (ii) a transfer of funds between political committees;

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

16 (b) "Contribution" does not mean:

17 (i) services provided without compensation by individuals volunteering a portion or all of their time on  
18 behalf of a candidate or political committee or meals and lodging provided by individuals in their private  
19 residences for a candidate or other individual;

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

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

24 (iv) filing fees paid by the candidate.

25 (8) "Election" means a general, regular, special, ~~or~~ primary, or school election held pursuant to the  
26 requirements of state law, regardless of the time or purpose.

27 (9) "Election administrator" means the county clerk and recorder or the individual designated by a county  
28 governing body to be responsible for all election administration duties, except that with regard to school elections  
29 not administered by the county, the term means the school district clerk.

30 (10) "Elector" means an individual qualified to vote under state law.

1 (11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift  
2 of money or anything of value made for the purpose of influencing the results of an election.

3 (b) "Expenditure" does not mean:

4 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

5 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or  
6 personal necessities for the candidate and the candidate's family;

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

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

11 (12) "Federal election" means a general or primary election in which an elector may vote for individuals  
12 for the office of president of the United States or for the United States congress.

13 (13) "General election" or "regular election" means an election held for the election of public officers  
14 throughout the state at times specified by law, including elections for officers of political subdivisions when the  
15 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues  
16 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the  
17 legislature to the electors at a general election, "general election" means an election held at the time provided  
18 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted  
19 as a constitutional initiative at a regular election, regular election means an election held at the time provided in  
20 13-1-104(1).

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

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

24 (16) "Individual" means a human being.

25 (17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval  
26 or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall  
27 questions, school levy questions, bond issue questions, or a ballot question.

28 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the  
29 proper official that the legal procedure necessary for its qualification and placement upon the ballot has been  
30 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the

1 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

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

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

6 (20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,  
7 club, union, or other organization or group of individuals or a candidate ~~as defined in subsection (6)~~.

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

10 (22) "Political committee" means a combination of two or more individuals or a person other than an  
11 individual who makes a contribution or expenditure:

12 (a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a  
13 petition for nomination; or

14 (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

15 (c) as an earmarked contribution.

16 (23) "Political subdivision" means a county, consolidated municipal-county government, municipality,  
17 school district, special district, or any other unit of government, ~~except school districts~~, having authority to hold  
18 an election for officers or on a ballot issue.

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

21 (25) "Primary" or "primary election" means an election held throughout the state to nominate candidates  
22 for public office at times specified by law, including nominations of candidates for offices of political subdivisions  
23 when the time for nominations is set on the same date for all similar subdivisions in the state.

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

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

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

30 (29) "Random-sample audit" means an audit involving a manual count of ballots from designated races

1 and ballot issues in precincts selected through a random process as provided in 13-17-503.

2 (30) "Registrar" means the county election administrator and any regularly appointed deputy or assistant  
3 election administrator.

4 (31) "Special election" means an election other than a statutorily scheduled primary or general election  
5 held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled  
6 election.

7 (32) "Statewide voter registration list" means the voter registration list established and maintained  
8 pursuant to 13-2-107 and 13-2-108.

9 (33) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector  
10 to transfer the elector's registration when the elector's residence address has changed within the county.

11 (34) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in  
12 13-15-206.

13 (35) "Voted ballot" means a ballot that is:

- 14 (a) deposited in the ballot box at a polling place;  
15 (b) received at the election administrator's office; or  
16 (c) returned to a place of deposit.

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

20 **Section 2.** Section 13-1-106, MCA, is amended to read:

21 **"13-1-106. Time of opening and closing of polls for all elections -- ~~exceptions~~ exception.** (1) Except  
22 as provided in ~~subsections~~ subsection (2) ~~and (3)~~, polling places must be open from 7 a.m. to 8 p.m.

23 (2) A polling place having fewer than 400 registered electors must be open from at least noon to 8 p.m.  
24 or until all registered electors in any precinct have voted, at which time that precinct in the polling place must be  
25 closed immediately.

26 ~~(3) If an election held under 13-1-104(3) and a school election are conducted in the same polling place;~~  
27 ~~the polling place must be opened and closed at the times set for the school election, as provided in 20-20-106."~~  
28

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

30 **"13-1-107. Times for holding primary elections.** (1) On the first Tuesday after the first Monday in June

1 May preceding the general election provided for in 13-1-104(1), a primary election ~~shall~~ must be held throughout  
2 the state.

3 (2) On the first Tuesday following the ~~second Monday in September~~ after the first Monday in May  
4 preceding the general election provided for in 13-1-104(2), a primary election, if required, ~~shall~~ must be held  
5 throughout the state.

6 (3) If the general election for a municipality required to hold annual elections is held in November, as  
7 provided in 13-1-104(4), a primary election, if required, ~~shall~~ must be held on the ~~Tuesday following the second~~  
8 ~~Monday in September~~ first Tuesday after the first Monday in May preceding the general election. In an  
9 even-numbered year, the cost of this election must be paid by the municipality."

10

11 **Section 4.** Section 13-1-108, MCA, is amended to read:

12 "**13-1-108. Notice of special elections or school elections.** Notice of any special election or school  
13 election must be broadcast or published at least three times in the 4 weeks immediately preceding the election  
14 in a newspaper of general circulation in the jurisdiction where the election will be held or may be broadcast on  
15 radio or television as provided in 2-3-105 through 2-3-107 using the method the election administrator ~~believes~~  
16 or board of trustees believes is best suited to reach the largest number of potential electors. The provisions of  
17 this section are fulfilled upon the third publication or broadcast of the notice."

18

19 **Section 5.** Section 13-2-304, MCA, is amended to read:

20 "**13-2-304. Late registration -- late changes --nonapplicability for school elections.** (1) Except as  
21 provided in ~~subsections~~ subsection (2) ~~and (3)~~, the following provisions apply:

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

26 (b) Late registration is closed from noon to 5 p.m. on the day before the election.

27 (c) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter  
28 information pursuant to this section may vote in the election only if the elector obtains the ballot from and returns  
29 it to the location designated by the county election administrator.

30 (2) If an elector has already been issued a ballot for the election, the elector may change the elector's



1 voter registration information only if the original voted ballot has not been received at the county election office  
 2 and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration  
 3 database prior to the change.

4 ~~(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a~~  
 5 ~~school election held pursuant to Title 20."~~

6  
 7 **Section 6.** Section 13-10-211, MCA, is amended to read:

8 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection ~~(8)~~  
 9 (7), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent.  
 10 Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The  
 11 declaration of intent must be filed with the secretary of state or election administrator, depending on where a  
 12 declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district  
 13 clerk for a school district office. When a county election administrator is conducting the election for a school  
 14 district, the school district clerk or school district office that receives the declaration of intent shall notify the county  
 15 election administrator of the filing. Except as provided in ~~subsections~~ subsection (2) and (3), the declaration must  
 16 be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must  
 17 be available for absentee voting for the election and must contain:

- 18 (a) (i) the candidate's first and last names;  
 19 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the  
 20 candidate's last name;  
 21 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and  
 22 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;  
 23 (b) the candidate's mailing address;  
 24 (c) a statement declaring the candidate's intention to be a write-in candidate;  
 25 (d) the title of the office sought;  
 26 (e) the date of the election;  
 27 (f) the date of the declaration; and  
 28 (g) the candidate's signature.

29 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than  
 30 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office

1 that the write-in candidate is seeking dies or is charged with a felony offense.

2 ~~(3)~~ A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in  
3 a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

4 ~~(4)~~(3) The secretary of state shall notify each election administrator of the names of write-in candidates  
5 who have filed a declaration of intent with the secretary of state. Each election administrator and school district  
6 clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed  
7 a declaration of intent.

8 ~~(5)~~(4) A declaration of intent may be provided to the election administrator or secretary of state:

9 (a) by facsimile transmission if a facsimile facility is available for receipt;

10 (b) in person; or

11 (c) by mail.

12 ~~(6)~~(5) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the  
13 secretary of state or the election administrator.

14 ~~(7)~~(6) A write-in candidate who files a declaration of intent for a general election may not file with a  
15 partisan, nonpartisan, or independent designation.

16 ~~(8)~~(7) Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

17 (a) an election is held;

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

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

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

22

23 **Section 7.** Section 13-13-205, MCA, is amended to read:

24 **"13-13-205. When ballots to be available.** (1) Except as provided in subsection (2), the election  
25 administrator shall ensure that ballots are available for voting at least:

26 (a) 30 days prior to an election for those elections held in compliance with 13-1-107(1) and 20-20-105;

27 (b) 20 days prior to an election for those elections held in compliance with 13-1-104(2) and (3) and  
28 13-1-107(2); and

29 (c) 30 days prior to an election held in conjunction with a federal general election in compliance with  
30 13-1-104(1).

1 (2) A ballot requested pursuant to Title 13, chapter 21, must be sent to the elector as soon as the ballot  
2 is printed or at least 45 days in advance of an election held in conjunction with a federal primary election, federal  
3 general election, or federal special election."  
4

5 **Section 8.** Section 13-15-206, MCA, is amended to read:

6 **"13-15-206. Counting votes -- uniformity -- rulemaking -- definitions.** (1) When conducting vote  
7 counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and  
8 determine the validity of each vote in a uniform manner as provided in this section.

9 (2) A manual count or recount of votes must be conducted as follows:

10 (a) One election judge on the board shall read the ballot while the two other judges on the board shall  
11 each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in  
12 votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7). If a vote  
13 has not been cast according to instructions, the vote must be considered questionable and the entire ballot must  
14 be set aside and votes on the ballot must be handled as provided in subsection (4).

15 (b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must be  
16 compared.

17 (ii) If the two tallies match, the judges shall record in the pollbook:

18 (A) the names of all individuals who received votes;

19 (B) the offices for which individuals received votes;

20 (C) the total votes received by each individual as shown by the tally sheets; and

21 (D) the total votes received for or against each ballot issue, if any.

22 (iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until  
23 the two tallies match.

24 (3) (a) When a voting system is counting votes:

25 (i) if a vote is recognized and counted by the system, it is a valid vote;

26 (ii) if a vote is not recognized and counted by the system, it is not a valid vote;

27 (iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

28 (b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system  
29 registers an unvoted ballot or an overvote, which must be considered a questionable vote, the entire ballot must  
30 be set aside and the votes on the ballot must be counted as provided in subsection (4).

1 (c) If an election administrator or counting board has reason to believe that a voting system is not  
2 functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

3 (d) After all valid votes have been counted and totaled, the judges shall record in the pollbook the  
4 information specified in subsection (2)(b)(ii).

5 (4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or  
6 (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote  
7 according to rules adopted by the secretary of state.

8 (ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly  
9 determined, the vote is valid and must be counted according to the voter's intent.

10 (iii) If a majority of the counting board members do not agree that the voter's intent can be clearly  
11 determined under the rules, the vote is not valid and may not be counted.

12 (b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting  
13 system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be  
14 processed by the voting system.

15 (5) A write-in vote may be counted if:

16 (a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

17 (ii) pursuant to 13-10-211~~(8)~~(7), a declaration of nomination was not filed and the write-in vote identifies  
18 an individual who is qualified for the office; and

19 (b) the oval, box, or other designated voting area on the ballot is marked.

20 (6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided  
21 in this section.

22 (7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type  
23 of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that  
24 all votes are treated equally among jurisdictions using similar ballot types and voting systems.

25 (8) Local election administrators shall adopt policies to govern local processes that are consistent with  
26 the provisions of this title and that provide for:

27 (a) the security of the counting process against fraud;

28 (b) the place and time and public notice of each count or recount;

29 (c) public observance of each count or recount, including observance by representatives authorized  
30 under 13-16-411;

1 (d) the recording of objections to determinations on the validity of an individual vote or to the entire  
2 counting process; and

3 (e) the keeping of a public record of count or recount proceedings.

4 (9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the  
5 voting system as an elector casting more votes than allowable for a particular office or ballot issue."  
6

7 **Section 9.** Section 20-3-304, MCA, is amended to read:

8 **"20-3-304. Annual election.** In each district an election of trustees must be conducted annually on the  
9 regular school election day, the first Tuesday after the first Monday of May. If a regular school election is to be  
10 held in the same year as a primary election under 13-1-107(1), the school election must be held in conjunction  
11 with the primary election. Election of trustees must comply with the election provisions of Title 13 and this title."  
12

13 **Section 10.** Section 20-3-305, MCA, is amended to read:

14 **"20-3-305. Candidate qualification, nomination, and withdrawal.** (1) Except as provided in 20-3-338,  
15 any person who is qualified to vote in a district under the provisions of 20-20-301 is eligible for the office of  
16 trustee.

17 (2) Except as provided in 20-3-338, any five electors qualified under the provisions of 20-20-301 of any  
18 district, except a first-class elementary district, may nominate as many trustee candidates as there are trustee  
19 positions subject to election at the ensuing election.

20 (3) The name of each person nominated for candidacy must be submitted to the clerk of the district not  
21 less than ~~40~~ 85 days before the regular school election day at which the person is to be a candidate. When a  
22 regular school election is held in conjunction with a primary election under 13-1-107(1) or when a county election  
23 administrator is conducting the election for the school district in accordance with 20-20-417, the clerk of the  
24 district shall submit the name of each person nominated for candidacy to the election administrator not less than  
25 80 days before the date of the election.

26 (4) If there are different terms to be filled, the term for which each candidate is nominated must also be  
27 indicated.

28 ~~(3)~~(5) (a) A candidate intending to withdraw from the election shall send a statement of withdrawal to the  
29 clerk of the district. The statement must contain all information necessary to identify the candidate and the office  
30 for which the candidate was nominated. The statement of withdrawal must be acknowledged by the clerk of the

1 district.

2 (b) A candidate may not withdraw less than 38 days before a school election.

3 (c) Filing fees paid by the candidate may not be refunded."

4

5 **Section 11.** Section 20-3-313, MCA, is amended to read:

6 **"20-3-313. Election by acclamation -- notice.** (1) If the number of candidates filing for vacant positions  
7 or filing a declaration of intent to be a write-in candidate under 13-10-211 is equal to or less than the number of  
8 positions to be elected, the trustees may give notice that a trustee election will not be held. Notice must be given  
9 no later than ~~25~~ 70 days before the election.

10 (2) If a trustee election is not held, the trustees shall declare elected by acclamation the candidate who  
11 filed for the position or who filed a declaration of intent to be a write-in candidate and shall issue a certificate of  
12 election to the candidate.

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

16

17 **Section 12.** Section 20-3-344, MCA, is amended to read:

18 **"20-3-344. Nomination of candidates by petition in first-class elementary district.** (1) Except as  
19 provided in 20-3-338, any 20 electors, qualified under the provisions of 20-20-301, of any first-class elementary  
20 district may nominate by petition as many trustee candidates as there are trustee positions subject to election  
21 at the ensuing election. The name of each person nominated for candidacy must be submitted to the clerk of the  
22 district not less than ~~40~~ 85 days before the regular school election day at which the person is to be a candidate.  
23 If there are different terms to be filled, the term for which each candidate is nominated must also be indicated.  
24 The election must be conducted with the ballot as specified in 20-3-306.

25 (2) When a regular school election is held in conjunction with a primary election under 13-1-107(1) or  
26 when a county election administrator is conducting the election for the school district in accordance with  
27 20-20-417, the clerk of the district shall submit the name of each person nominated for candidacy to the election  
28 administrator not less than 80 days before the date of the election."

29

30 **Section 13.** Section 20-20-102, MCA, is amended to read:

1           **"20-20-102. Precedence of school primary and general election provisions.** Except as otherwise  
 2 provided in this title, school elections ~~shall~~ must be conducted and canvassed and the results ~~shall~~ must be  
 3 returned in the same manner as provided for general elections in Title 13. ~~Should~~ If there be is a conflict between  
 4 the requirements of Title 13 and the provisions of this title regulating school elections, the provisions of ~~this title~~  
 5 ~~shall~~ Title 13 govern. The superintendent of public instruction may make any necessary rules to clarify Title 13  
 6 provisions for use in school elections."

7  
 8           **Section 14.** Section 20-20-103, MCA, is amended to read:

9           **"20-20-103. Election by ballot.** All school elections ~~shall~~ must be by ballot as described in Title 13."

10  
 11           **Section 15.** Section 20-20-105, MCA, is amended to read:

12           **"20-20-105. Regular school election day and special school elections -- limitation -- exception.**

13 (1) Except as provided in subsection (4), the first Tuesday after the first Monday of May of each year is the regular  
 14 school election day. If a regular school election is held in the same year as a primary election under 13-1-107(1),  
 15 the school election must be conducted in conjunction with the primary election. Except as provided in subsections  
 16 (3) and (4), a proposition requesting additional funding under 20-9-353 may be submitted to the electors only  
 17 once each calendar year on the regular school election day.

18 (2) Subject to the provisions of subsection (1), special school elections may be conducted at times  
 19 determined by the trustees.

20 (3) In the event of an unforeseen emergency occurring on the date scheduled for the funding election  
 21 pursuant to subsection (1), the district will be allowed to reschedule the election for a different day of the calendar  
 22 year. As used in this section, "unforeseen emergency" has the meaning provided in 20-3-322(5).

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

26  
 27           **Section 16.** Section 20-20-106, MCA, is amended to read:

28           **"20-20-106. Poll hours.** ~~(4)~~ The polls for any school election in any district ~~shall open not later than~~  
 29 ~~noon. The trustees may order the polls to open earlier, but no earlier than 7 a.m.~~ must be open in accordance  
 30 with 13-1-106.

1 ~~(2) If the school election is held on the same day as an election held by a political subdivision under~~  
 2 ~~13-1-104(3) and at the same polling place, the polls shall be opened and closed at the times required for the~~  
 3 ~~school election.~~

4 ~~\_\_\_\_\_ (3) If the school election is held on the same day as a general or primary election, the polls shall be~~  
 5 ~~opened and closed at the times required for the general or primary election.~~

6 ~~\_\_\_\_\_ (4) Once opened, the polls shall be kept open continuously until 8 p.m., except that whenever all the~~  
 7 ~~registered electors at any poll have voted, the poll shall be closed immediately."~~

8  
 9 **Section 17.** Section 20-20-201, MCA, is amended to read:

10 **"20-20-201. Calling of school election.** (1) At least ~~40~~ 90 days before any school election, the trustees  
 11 of a district shall call the school election by resolution, stating the date and purpose of the election, and shall  
 12 conduct it in accordance with the procedures required by law when:

13 (a) an election must be held on the regular school election day;

14 (b) in their discretion, the trustees order an election for a purpose authorized by law;

15 (c) the county superintendent orders an election in accordance with the law authorizing an order;

16 (d) the board of public education orders an election in accordance with the law authorizing an order;

17 (e) the county commissioners order an election in accordance with the law authorizing an order;

18 (f) the board of trustees of a community college district orders an election in accordance with the law  
 19 authorizing an order, in which case the community college district shall bear its share of the cost of the election;  
 20 or

21 (g) a school election is required by law under any other circumstances.

22 (2) The resolution calling any school election must be transmitted to the county election administrator  
 23 no later than 35 days before the election in order to enable the administrator to close the registration and prepare  
 24 the lists of registered electors as required by school election laws."

25  
 26 **Section 18.** Section 20-20-203, MCA, is amended to read:

27 **"20-20-203. Resolution for poll hours, polling places, and judges.** (1) At the trustee meeting when  
 28 a school election is called, the trustees shall:

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



1           ~~(b)(a)~~ establish the polling places for the election, using the established polling places for general  
2 elections within the district wherever possible; and

3           ~~(c)(b)~~ appoint at least three judges for each polling place.

4           (2) There must be one polling place in each district unless the trustees establish additional polling places.  
5 If more than one polling place is established, the trustees shall define the boundaries for each polling place so  
6 that the boundaries for each polling place are coterminous with county precinct boundaries existing within a  
7 district. If the site of a polling place is changed from the polling place site used for the last preceding school  
8 election, special reference to the changed site of the polling place must be included in the notice for the election."  
9

10           **Section 19.** Section 20-20-204, MCA, is amended to read:

11           **"20-20-204. Election notice.** (1)~~(a)~~ When the trustees of a district call a school election, they the  
12 trustees shall give notice of the election ~~not less than 20 days or more than 30 days before the day of the election~~  
13 in accordance with the notice requirements of 13-1-108 and by:

14           ~~(i) publication of the notice in a newspaper of general circulation if there is one in the district; and~~  
15 ~~\_\_\_\_\_~~ (ii) posting notices in three public places in the district, provided that in incorporated cities and towns, at  
16 least one notice must be posted at a public place in each ward or precinct.

17           ~~(b) Whenever, in the judgment of the trustees, the best interest of the district will be served by the~~  
18 ~~supplemental publication of the school election notice in a radio or television broadcast, the trustees may cause~~  
19 ~~that notification to be made.~~

20           (2) The notice of a school election, unless otherwise required by law, must specify:

21           (a) the date and polling places of the election;

22           (b) the hours that the polling places will be open;

23           (c) each proposition to be considered by the electorate;

24           (d) if there are trustees to be elected, the number of positions subject to election and the length of term  
25 of each position; and

26           (e) where and how absentee ballots may be obtained.

27           (3) If more than one proposition is to be considered at the same school election, each proposition must  
28 be set apart and separately identified in the same notice or published in separate notices."  
29

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

1           **"20-20-401. Trustees' election duties -- ballot certification.** ~~(1) The Subject to 20-20-417, the trustees~~  
 2 are the general supervisors of school elections ~~unless the trustees request and the county election administrator~~  
 3 ~~agrees to conduct a school election under 20-20-417.~~

4           (2) Not less than ~~25~~ 70 days before an election, the clerk of the district shall prepare a certified list of the  
 5 names of all candidates entitled to be on the ballot and the official wording for each ballot issue.

6           ~~(3) If a regular school election is held in the same year as a primary election under 13-1-107(1), the clerk~~  
 7 ~~of the district shall provide the certified list of the names of all candidates to the election administrator pursuant~~  
 8 ~~to 20-3-305.~~

9           ~~(4) The~~ If a regular school election is not held in the same year as a primary election under 13-1-107(1),  
 10 the clerk shall arrange for printing the ballots. Ballots for absentee voting must be printed and available at least  
 11 20 days before the election, except as provided in 20-9-426(2) for a bond election not held in conjunction with  
 12 a school election. Names of candidates on school election ballots need not be rotated.

13           ~~(5)~~ (5) Before the opening of the polls, the trustees shall cause each polling place to be supplied with the  
 14 ballots and supplies necessary to conduct the election."  
 15

16           **Section 21.** Section 20-20-417, MCA, is amended to read:

17           **"20-20-417. Request for county election administrator to conduct election.** (1) By ~~Except as~~  
 18 provided in subsection (4), by June 1 of each year, the trustees of a district may request the county election  
 19 administrator to conduct certain school elections during the ensuing school fiscal year.

20           (2) Whenever the county election administrator agrees to conduct a school election, the administrator  
 21 shall:

22           (a) perform the duties imposed on the trustees and the clerk of the district for school elections in  
 23 20-20-203, 20-20-313, and 20-20-401;

24           (b) conduct the election in accordance with the provisions of Title 13, chapters 13 and 15; and

25           (c) deliver to the trustees, for the purpose of canvassing the vote, the certified tally sheets and other  
 26 items as provided in 13-15-301.

27           (3) Whenever the trustees request the county election administrator to conduct a school election, the  
 28 school district shall pay the costs of the election as provided in 13-1-302.

29           ~~(4) For a regular school election held in the same year as a primary election under 13-1-107(1), the~~  
 30 ~~county election administrator shall conduct the school election in conjunction with the primary election."~~



1

2            NEW SECTION. **Section 22. Applicability.** [This act] applies to elections held on or after January 1,

3 2014.

4

- END -



O

O

O



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2015 Biennium

**Bill #** SB0140

**Title:** Combine school and primary election dates

**Primary Sponsor:** Wittich, Art

**Status:** As Introduced

- Significant Local Gov Impact    
  Needs to be included in HB 2    
  Technical Concerns  
 Included in the Executive Budget    
  Significant Long-Term Impacts    
  Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2014</u> <u>Difference</u>	<u>FY 2015</u> <u>Difference</u>	<u>FY 2016</u> <u>Difference</u>	<u>FY 2017</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** There is no fiscal impact to the state.

### FISCAL ANALYSIS

#### Assumptions:

#### **Secretary of State (SOS)**

- SB 140 does not involve any significant changes in how the SOS operates elections. Therefore, there is no fiscal impact.

#### Technical Notes:

#### **Office of Public Instruction**

- Currently school districts have the option to run their own elections, which are addressed in Title 20. They may decide the poll hours or chose to run a mail ballot election for expediency and cost reduction. New language would give Title 13 general election laws priority over Title 20, negating distinctions with school elections, causing higher costs for districts, and causing confusion regarding: timeline(s) for availability of ballots; late registration options; and who pays for an election.
- Change in deadlines for certification of a list of candidates and to call an election by acclamation fall before the deadline for declaration for write-in candidacy.

**Fiscal Note Request – As Introduced**

(continued)

3. Moving the deadline for calling an election to 90 days prior to the election would require districts to decide on levy elections before they know whether an election is needed (based on February count data and budget sheets released the first of March).
4. Requirements and polling locations for school elections would vary depending on odd or even year requirements, causing voter confusion and increased work for all election officials.

\_\_\_\_\_  
*Sponsor's Initials*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Budget Director's Initials*

\_\_\_\_\_  
*Date*