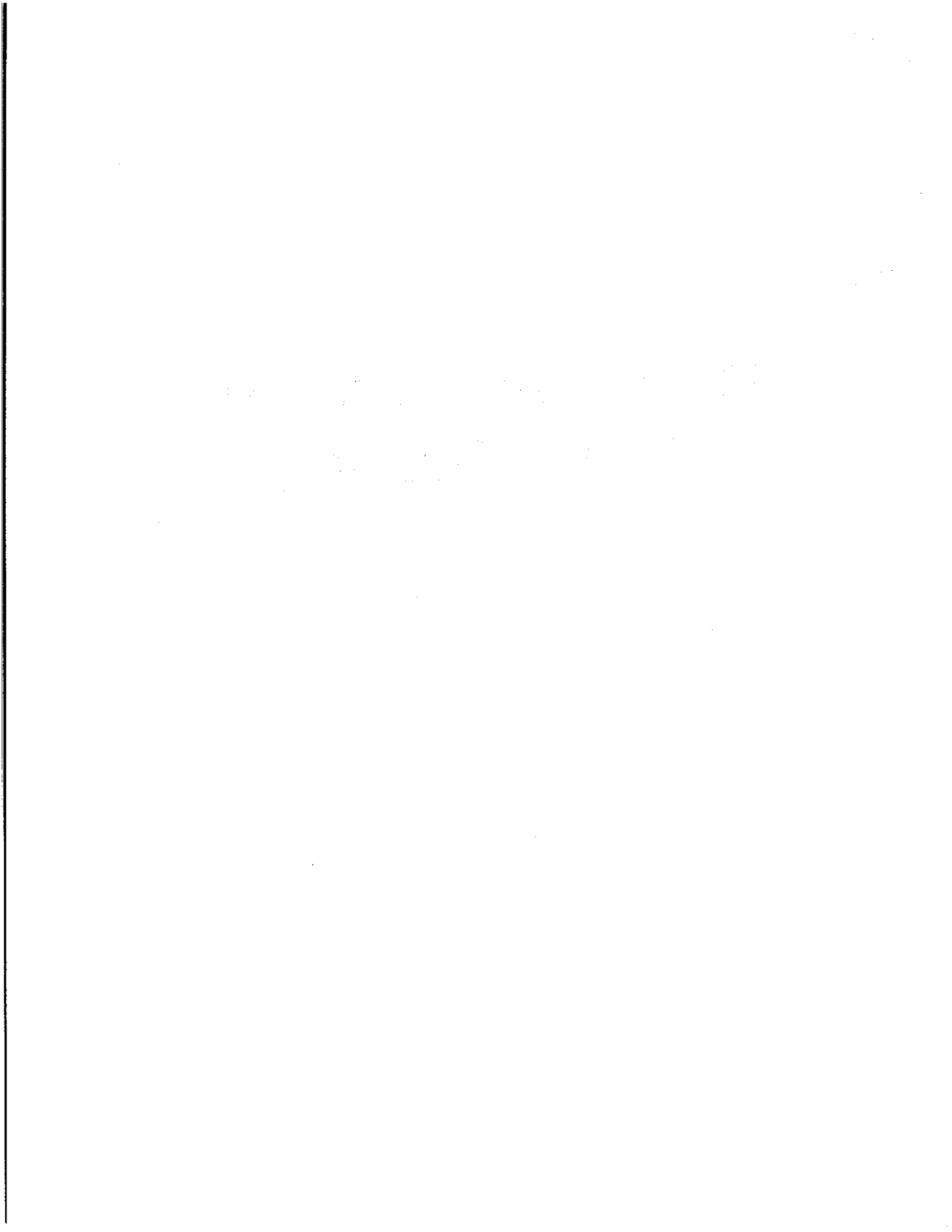


**HB 242 and Fiscal Note
2011 Session**



1 HOUSE BILL NO. 242

2 INTRODUCED BY M. MILLER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; REQUIRING A
5 PRIMARY ELECTION TO BE HELD IN MAY IN CONJUNCTION WITH A SCHOOL ELECTION DAY;
6 REQUIRING SCHOOL ELECTION DEADLINES TO BE CONSISTENT WITH PRIMARY ELECTION
7 DEADLINES; REQUIRING TITLE 13 ELECTION PROVISIONS TO GOVERN OVER SCHOOL ELECTIONS;
8 REVISING PROVISIONS FOR NOTICE OF AN ELECTION; AMENDING SECTIONS 13-1-101, 13-1-106,
9 13-1-107, 13-1-108, 13-1-401, 13-2-304, 13-13-205, 13-13-211, 13-16-201, 20-3-304, 20-3-305, 20-3-313,
10 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
11 20-20-417, MCA; AND PROVIDING AN APPLICABILITY DATE."

12

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

14

15 **Section 1.** Section 13-1-101, MCA, is amended to read:16 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
17 definitions apply:18 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure
19 to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

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

21 (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that
22 is ordinarily not given away free but is purchased.23 (4) "Application for voter registration" means a voter registration form prescribed by the secretary of state
24 that is completed and signed by an elector, submitted to the election administrator, and contains voter registration
25 information subject to verification as provided by law.26 (5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an
27 optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

28 (6) "Candidate" means:

29 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or
30 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, school, or primary 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 special district, school 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 school districts and
23 political subdivisions 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.** (1) Except as
22 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 no later than noon to
24 8 p.m. or until all registered electors in any precinct have voted, at which time the polling place must be closed
25 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.** Notice of any special election must be ~~broadcast or published~~
13 at least three times in the 4 weeks immediately preceding the ~~close of registration on radio or television as~~
14 ~~provided in 2-3-105 through 2-3-107 or election~~ in a newspaper of general circulation in the jurisdiction where the
15 election will be held or may be broadcast on radio or television as provided in 2-3-105 through 2-3-107, using the
16 method the election administrator believes is best suited to reach the largest number of potential electors. ~~The~~
17 ~~provisions of this section are fulfilled upon the third publication or broadcast of the notice."~~

18

19 **Section 5.** Section 13-1-401, MCA, is amended to read:

20 **"13-1-401. Manner of conducting general elections for political subdivisions required to hold**
21 **annual elections.** (1) Any political subdivision required to hold annual elections under 13-1-104(3) may
22 cooperate with school districts having similar district boundaries to hold the election at the same location. The
23 election administrator or deputy election administrator appointed under the provisions of 13-1-301 shall cooperate
24 with the school district election administrator to share costs, as provided in 13-1-302.

25 (2) A political subdivision subject to 13-1-104(3) may, with the consent of the election administrator or
26 deputy election administrator, conduct its annual election at an annual meeting of the political subdivision or at
27 another convenient location within the political subdivision.

28 (3) A political subdivision election subject to 13-1-104(3) may be conducted by mail ballot as provided
29 in Title 13, chapter 19.

30 (4) The election administrator or deputy election administrator conducting an election under the



1 provisions of subsection (1), (2), or (3) shall give notice of the election ~~not less than 20 days or more than 40 days~~
 2 ~~before the day of the election by display advertisement at least two times in a newspaper of general circulation~~
 3 ~~within the political subdivision. The election administrator or deputy election administrator may notify the public~~
 4 ~~of the election by additional posting of notices or radio and television announcements in accordance with~~
 5 13-1-108."

6

7 **Section 6.** Section 13-2-304, MCA, is amended to read:

8 **"13-2-304. Late registration -- late changes -- nonapplicability for school elections.** (1) Except as
 9 provided in ~~subsections~~ subsection (2) ~~and (3)~~, the following provisions apply:

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

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

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

18 (2) If an elector has already been sent an absentee ballot for the election, the elector may change the
 19 elector's voter registration information only with respect to the next election.

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

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 general election in
3 compliance with 13-1-104(1)."

4
5 **Section 8.** Section 13-13-211, MCA, is amended to read:

6 **"13-13-211. Time period for application.** (1) Except as provided in 13-13-222, 13-21-210, and
7 subsection (2) of this section, an application for an absentee ballot must be made ~~during a period beginning 75~~
8 ~~days before the day of election and ending at~~ before noon on the day before the election.

9 (2) A qualified elector who is prevented from voting at the polls as a result of illness or health emergency
10 occurring between 5 p.m. of the Friday preceding the election and noon on election day may request to vote by
11 absentee ballot as provided in 13-13-212(2)."

12
13 **Section 9.** Section 13-16-201, MCA, is amended to read:

14 **"13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:

15 (a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one
16 county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of
17 the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate,
18 within 5 days after the official canvass, files with the election administrator a verified petition stating that the
19 candidate believes that a recount will change the result and that a recount of the votes for the office or nomination
20 should be conducted;

21 (b) a candidate for a congressional office, a state or district office voted on in more than one county, the
22 legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast
23 for all candidates for the same position and the defeated candidate, within 5 days after the official canvass, files
24 a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately
25 notify by certified mail each election administrator whose county includes any precincts that voted for the office,
26 and a recount must be conducted in those precincts.

27 (c) a question submitted to the vote of the people of a county, municipality, or district within a county is
28 decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition
29 as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less
30 than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

1 (d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4
 2 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed
 3 with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing
 4 at least five counties of the state, and must be filed within 5 days after the official canvass.

5 (e) a question submitted to the vote of the people of a multicounty district is decided by a margin not
 6 exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection
 7 (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district,
 8 representing at least two counties, and must be filed within 5 days after the official canvass.

9 (f) a canvassing board petitions for a recount as provided in 13-15-403.

10 (2) If the election is a regular school election, the petition is filed with the filing officer with whom the
 11 declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

12 ~~(2)~~(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall
 13 immediately notify each election administrator by certified mail of the filing of the petition, and a recount must be
 14 conducted in all precincts in each affected county."

15
 16 **Section 10.** Section 20-3-304, MCA, is amended to read:

17 **"20-3-304. Annual election.** In each district an election of trustees must be conducted annually on the
 18 regular school election day, the first Tuesday after the first Monday of May. If a regular school election is to be
 19 held in the same year as a primary election under 13-1-107(1), the school election must be held in conjunction
 20 with the primary election. Election of trustees must comply with the election provisions of Title 13 and this title."

21
 22 **Section 11.** Section 20-3-305, MCA, is amended to read:

23 **"20-3-305. Candidate qualification and nomination.** (1) Except as provided in 20-3-338, any person
 24 who is qualified to vote in a district under the provisions of 20-20-301 is eligible for the office of trustee.

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

28 (3) The name of each person nominated for candidacy must be submitted to the clerk of the district not
 29 less than 40 85 days before the regular school election day at which the person is to be a candidate. When a
 30 regular school election is held in conjunction with a primary election under 13-1-107(1) or when a county election

1 administrator is conducting the election for the school district in accordance with 20-20-417, the clerk of the
 2 district shall submit the name of each person nominated for candidacy to the election administrator not less than
 3 80 days before the date of the election.

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

6

7 **Section 12.** 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 positions
 9 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
 10 positions to be elected, the trustees may give notice that a trustee election will not be held. Notice must be given
 11 no later than ~~25~~ 70 days before the election.

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

15

16 **Section 13.** Section 20-3-344, MCA, is amended to read:

17 **"20-3-344. Nomination of candidates by petition in first-class elementary district.** (1) Except as
 18 provided in 20-3-338, any 20 electors, qualified under the provisions of 20-20-301, of any first-class elementary
 19 district may nominate by petition as many trustee candidates as there are trustee positions subject to election
 20 at the ensuing election. The name of each person nominated for candidacy must be submitted to the clerk of the
 21 district not less than ~~40~~ 85 days before the regular school election day at which the person is to be a candidate.
 22 If there are different terms to be filled, the term for which each candidate is nominated must also be indicated.
 23 The election must be conducted with the ballot as specified in 20-3-306.

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

28

29 **Section 14.** Section 20-20-102, MCA, is amended to read:

30 **"20-20-102. Precedence of school primary and general election provisions.** Except as otherwise

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

6

7 **Section 15.** Section 20-20-103, MCA, is amended to read:

8 **"20-20-103. Election by ballot.** All school elections ~~shall~~ must be by ballot as described in Title 13."

9

10 **Section 16.** Section 20-20-105, MCA, is amended to read:

11 **"20-20-105. Regular school election day and special school elections -- limitation -- exception.**

12 (1) Except as provided in subsection (4), the first Tuesday after the first Monday of May of each year is the regular
 13 school election day. If a regular school election is held in the same year as a primary election under 13-1-107(1),

14 the school election must be conducted in conjunction with the primary election. Except as provided in subsections

15 (3) and (4), a proposition requesting additional funding under 20-9-353 may be submitted to the electors only
 16 once each calendar year on the regular school election day.

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

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

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

25

26 **Section 17.** Section 20-20-106, MCA, is amended to read:

27 **"20-20-106. Poll hours.** (1) The polls for any school election in any district ~~shall open not later than noon~~
 28 must be open in accordance with 13-1-106. ~~The trustees may order the polls to open earlier, but no earlier than~~
 29 7 a.m.

30 (2) If the school election is held on the same day as an election held by a political subdivision under

1 13-1-104(3) and at the same polling place, the polls ~~shall~~ must be opened and closed ~~at the times required for~~
 2 ~~the school election in accordance with 13-1-106.~~

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

5 ~~(4)~~(3) Once opened, the polls ~~shall~~ must be kept open continuously until 8 p.m., except that whenever
 6 all the registered electors at any poll have voted, the poll ~~shall~~ must be closed immediately."

7

8 **Section 18.** Section 20-20-201, MCA, is amended to read:

9 **"20-20-201. Calling of school election.** (1) At least ~~40~~ 90 days before any school election, the trustees
 10 of a district shall call the school election by resolution, stating the date and purpose of the election, and shall
 11 conduct it in accordance with the procedures required by law when:

- 12 (a) an election must be held on the regular school election day;
- 13 (b) in their discretion, the trustees order an election for a purpose authorized by law;
- 14 (c) the county superintendent orders an election in accordance with the law authorizing an order;
- 15 (d) the board of public education orders an election in accordance with the law authorizing an order;
- 16 (e) the county commissioners order an election in accordance with the law authorizing an order;
- 17 (f) the board of trustees of a community college district orders an election in accordance with the law
 18 authorizing an order, in which case the community college district shall bear its share of the cost of the election;
- 19 or
- 20 (g) a school election is required by law under any other circumstances.

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

24

25 **Section 19.** Section 20-20-203, MCA, is amended to read:

26 **"20-20-203. Resolution for poll hours, polling places, and judges.** (1) At the trustee meeting when
 27 a school election is called, the trustees shall:

- 28 (a) except as provided in 13-1-106 and 20-20-106(3), establish the time at which the polls are to open
 29 if in their discretion they determine that the polls must be open before noon;
- 30 (b) establish the polling places for the election, using the established polling places for general elections

1 within the district wherever possible; and

2 (c) appoint at least three judges for each polling place.

3 (2) There must be one polling place in each district unless the trustees establish additional polling places.

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

8

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

10 **"20-20-204. Election notice.** ~~(1)(a)(1)~~ When the trustees of a district call a school election, they the
11 trustees shall give notice of the election ~~not less than 20 days or more than 30 days before the day of the election~~
12 in accordance with the notice requirements of 13-1-108 and by:

13 ~~—— (i) publication of the notice in a newspaper of general circulation if there is one in the district; and~~

14 ~~—— (ii) posting notices in three public places in the district, provided that in incorporated cities and towns, at~~
15 ~~least one notice must be posted at a public place in each ward or precinct.~~

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

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

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

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

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

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

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

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

28

29 **Section 21.** Section 20-20-401, MCA, is amended to read:

30 **"20-20-401. Trustees' election duties -- ballot certification.** (1) ~~The~~ Subject to 20-20-417, the trustees

1 are the general supervisors of school elections ~~unless the trustees request and the county election administrator~~
 2 ~~agrees to conduct a school election under 20-20-417.~~

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

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

8 (4) If a regular school election is not held in the same year as a primary election under 13-1-107(1), the
 9 The clerk shall arrange for printing the ballots. Ballots for absentee voting must be printed and available at least
 10 ~~20~~ 30 days before the election, except as provided in 20-9-426(2) for a bond election not held in conjunction with
 11 a school election. Names of candidates on school election ballots need not be rotated.

12 ~~(3)~~(5) Before the opening of the polls, the trustees shall cause each polling place to be supplied with the
 13 ballots and supplies necessary to conduct the election."
 14

15 **Section 22.** Section 20-20-417, MCA, is amended to read:

16 **"20-20-417. Request for county election administrator to conduct election.** (1) By Except as
 17 provided in subsection (4), by June 1 of each year, the trustees of a district may request the county election
 18 administrator to conduct certain school elections during the ensuing school fiscal year.

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

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

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

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

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

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





GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2013 Biennium

Bill #	HB0242	Title:	Revise school and municipal elections with primary elections
Primary Sponsor:	Miller, Mike	Status:	As Introduced

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

FISCAL SUMMARY

	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	\$0	\$0	\$0	\$0

Description of fiscal impact: HB 242 requires the primary election to be held in conjunction with a school election day, which is the first Tuesday after the first Monday in May. The bill requires the school election deadlines to be consistent with primary election deadlines and provides that, if a regular school election is to be held in the same year as a primary election, the school election must be held in conjunction with the primary election. There would be no fiscal impact to the state from this bill.

FISCAL ANALYSIS

Assumptions:

1. In years when the school election must be held in conjunction with the primary election, the school district will pay its share of the election costs in accordance with 13-1-302, MCA.

Technical Notes:

HB0242_01.docx
1/20/2011

1. In 13-1-101(23), MCA, the definition of “political subdivision” is amended to include a school district. This is in conflict with 13-1-302, MCA, Election Costs, which contains separate provisions regarding the amount that a county may charge to a political subdivision and a school district for election costs when those elections are held in conjunction with a primary election.
2. In current law, a school district may accept a petition for trustee candidate not earlier than 135 days and no later than 40 days prior to the election day (see 13-10-201(6)(a) and 20-3-3-5(3), MCA). HB 242 amends 20-3-305, MCA, to change the deadline from 40 days prior to the election day to 85 days prior to the election day. This amendment would shorten the time period for filing a petition for trustee candidates from 95 days to 50 days.
3. In 20-3-313(1), MCA, notice that a trustee election will not be held because the number of candidates filing for vacant positions or filing a declaration to be a write-in candidate is equal to or less than the number of positions to be held (acclamation) is amended from 25 days before the election to 70 days before the election. However, 13-10-211(3), MCA, provides a person seeking to become a write-in candidate for a trustee position in a school board election shall file a declaration no later than the 26th day before the election. The trustees of a school district would not be able to declare an election by acclamation 70 days prior to the election if the deadline for write-in candidates is 26 days prior to the election.
4. In 20-201(1), MCA, the deadline for calling of a school election is amended from 40 days prior to the election to 90 days prior to the election. In 20-20-105(1), MCA, a proposition requesting additional funding under 20-9-353, MCA, (i.e., a general fund levy election) may be submitted to the electors only once each calendar year on the regular school election day. With this amendment, school trustees would be required to call for a general fund levy election in early February. Trustees do not receive budget limit information from the Office of Public Instruction until March 1. Trustees would not have enough information to determine whether a general fund levy election is required by law.
5. In 20-20-401(2), MCA, the deadline to certify the official wording on the ballot is amended from 25 days prior to the election to 70 days prior to the election. In the case of a proposition requesting additional funding under 20-9-353, MCA, the trustees would not have enough information to provide the official wording for the ballot 70 days prior to the election.

Sponsor's Initials

Date

Budget Director's Initials

Date