

HOUSE BILL NO. 86

INTRODUCED BY K. SWANSON

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR YOUTH ELECTION JUDGES; ESTABLISHING CRITERIA FOR YOUTH ELECTION JUDGES; ESTABLISHING CERTAIN LIMITS ON THE NUMBER OF YOUTH ELECTION JUDGES WHO MAY SERVE; ~~AND~~ AMENDING SECTIONS 13-1-101, 13-4-101, 13-4-102, 13-4-107, 13-13-226, 13-15-112, 20-20-109, AND 20-20-203, MCA; AND PROVIDING A TERMINATION DATE."

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

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

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

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, is 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



1 optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

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

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

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

11 (8) "Candidate" means:

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

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

19 (i) solicitation is made;

20 (ii) contribution is received and retained; or

21 (iii) expenditure is made; or

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

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

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

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

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

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

1 (b) "Contribution" does not mean services provided without compensation by individuals volunteering  
2 a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by  
3 individuals in their private residences for a candidate or other individual.

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

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

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

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

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

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

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

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

20 (iv) a mailing; or

21 (v) printed materials.

22 (b) The term does not mean:

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

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

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

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

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

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

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

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

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

10 (b) The term does not mean:

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

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

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

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

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

21 (16) "Elector" means an individual qualified to vote under state law.

22 (17) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift  
23 of money or anything of value:

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

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

27 (b) "Expenditure" does not mean:

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

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

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

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

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

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

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

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

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

15 (b) For the purpose of this subsection (22), the primary purpose is determined by the commissioner by  
16 rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose  
17 or goal of the person or individuals that form the committee.

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

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

25 (25) "Individual" means a human being.

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

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

30 (28) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,

1 including a political committee, club, union, or other organization or group of individuals or a candidate as defined  
2 in subsection (8).

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

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

7 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a  
8 petition for nomination;

9 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

10 (iii) to prepare or disseminate an election communication, an electioneering communication, or an  
11 independent expenditure.

12 (b) Political committees include ballot issue committees, incidental committees, independent committees,  
13 and political party committees.

14 (c) A candidate and the candidate's treasurer do not constitute a political committee.

15 (d) A political committee is not formed when a combination of two or more individuals or a person other  
16 than an individual makes an election communication, an electioneering communication, or an independent  
17 expenditure of \$250 or less.

18 (31) "Political party committee" means a political committee formed by a political party organization and  
19 includes all county and city central committees.

20 (32) "Political party organization" means a political organization that:

21 (a) was represented on the official ballot in either of the two most recent statewide general elections; or

22 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

23 (33) "Political subdivision" means a county, consolidated municipal-county government, municipality,  
24 special purpose district, or any other unit of government, except school districts, having authority to hold an  
25 election.

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

28 (35) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate  
29 candidates for offices filled at a general election.

30 (36) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been

1 verified as provided by law.

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

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

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

8 (40) "Registrar" means the county election administrator and any regularly appointed deputy or assistant  
9 election administrator.

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

11 (42) "School election" has the meaning provided in 20-1-101.

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

14 (44) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties  
15 in school elections.

16 (45) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is  
17 designed to:

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

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

21 (46) "Special election" means an election held on a day other than the day specified for a primary  
22 election, general election, or regular school election.

23 (47) "Special purpose district" means an area with special boundaries created as authorized by law for  
24 a specialized and limited purpose.

25 (48) "Statewide voter registration list" means the voter registration list established and maintained  
26 pursuant to 13-2-107 and 13-2-108.

27 (49) "Support or oppose", including any variations of the term, means:

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

1 in an election; or

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

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

8 (51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in  
9 13-15-206.

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

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

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

16 (54) "Youth election judge" means an individual who serves as an election judge and who is:

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

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

20 and

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

22

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

24 **"13-4-101. Appointment of election judges.** (1) At least 30 days before the primary election in  
25 even-numbered years, the county governing body shall appoint three or more election judges for each precinct,  
26 one of whom must be designated chief judge.

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

28

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

30 **"13-4-102. Manner of choosing election judges.** (1) Subject to 13-4-107, election judges must be



1 chosen from:

2 (a) lists of qualified registered electors for each precinct in the county, submitted at least 45 days before  
 3 the primary election in even-numbered years by the county central committees of the political parties eligible to  
 4 nominate candidates in the primary; and

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

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

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

15 (4) The election administrator shall make appointments to fill vacancies from the list provided for in  
 16 ~~subsection~~ subsections (1) and (2). If the ~~list is~~ lists are insufficient or if one or more of the eligible political parties  
 17 fails to submit a list meeting the requirements of this section, the election administrator may select enough people  
 18 meeting the qualifications of 13-4-107 to fill election judge vacancies in all precincts.

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

21 ~~(5)(6)~~ An elector individual chosen to potentially serve as an election judge must be notified of selection  
 22 at least 30 days before the primary election in even-numbered years. Each elector individual who agrees to serve  
 23 as an election judge shall attend a training class conducted under 13-4-203 and shall continue to serve as  
 24 provided in 13-4-103."

25

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

27 **"13-4-107. Qualifications of election judges.** (1) Election judges ~~shall~~ must be:

28 (a) qualified registered electors of the county and of the precinct in which they serve, except as provided  
 29 in 13-4-102~~(4)~~; or

30 (b) youth election judges.

- 1           (2) An individual seeking appointment as a youth election judge must have:  
 2           (a) written consent of a parent or legal guardian; and  
 3           (b) written consent from the individual's school principal if the individual is a student of a public or private  
 4 school.
- 5           ~~(2)(3) No~~ Except as provided in subsection (4), in an election precinct where a candidate's name appears  
 6 on the ballot, an election judge may not be:  
 7           (a) a the candidate; or a spouse;  
 8           (b) an ascendant, descendant, brother, or sister of a the candidate or a candidate's spouse; or  
 9           (c) the spouse of any of these in an election precinct where the candidate's name appears on the ballot  
 10 the candidate or any of the individuals listed in subsection (3)(b).
- 11           ~~(4) However, this does~~ The provisions of subsection (3) do not apply to candidates for precinct offices."

12

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

14           **"13-13-226. Manner of selection.** (1) The election administrator may make appointments to an  
 15 absentee election board from lists of qualified electors and youth election judges prepared in substantially the  
 16 same manner as provided in 13-4-102. If the ~~list is~~ lists are insufficient to make all the appointments required, the  
 17 election administrator may appoint any qualified registered elector from the county. The election administrator  
 18 may refuse for cause to appoint or may for cause remove a member of an absentee election board.

19           (2) The number of youth election judges serving on the absentee election board may not exceed the  
 20 number of qualified registered electors serving on the board."

21

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

23           **"13-15-112. Appointment of counting boards.** (1) To count votes in any election under this title, when  
 24 election judges are appointed under 13-4-101, each county's governing body shall designate one or more groups  
 25 of three of the election judges to act as counting boards. The governing body may also designate one or more  
 26 groups of three of the election judges to act as absentee ballot counting boards under 13-15-104.

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

29

30           **Section 7.** Section 1 20-20-109, MCA, is amended to read:

1           **"20-20-109. Election judges -- qualifications -- training.** (1) ~~Election judges~~ An election judge must  
2 be;

3           (a) a qualified registered electors ~~elector~~ of the school district in which they serve the individual serves;

4 or

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

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

8           (a) the candidate;

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

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

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

12

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

14          **"20-20-203. Resolution for poll hours, polling places, and judges.** (1) At the trustee meeting when  
15 a school election is called, the trustees shall:

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

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

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

21          (2) An election judge appointed under subsection (1)(c) may include a youth election judge, as defined  
22 in 13-1-101, who meets the requirements of 13-4-107. However, the number of youth election judges assigned  
23 to a polling place may not exceed the number of election judges who are qualified registered electors assigned  
24 to the polling place, and a youth election judge may not serve as the chief election judge at any polling place.

25          ~~(2)~~(3) There must be one polling place in each district unless the trustees establish additional polling  
26 places. If more than one polling place is established, the trustees shall define the boundaries for each polling  
27 place so that the boundaries for each polling place are coterminous with county precinct boundaries existing  
28 within a district. If the site of a polling place is changed from the polling place site used for the last preceding  
29 school election, special reference to the changed site of the polling place must be included in the notice for the  
30 election."

31

