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SUPPLEMENT TO

1962 EDITION OF

ELECTION LAWS OF MONTANA

Compiled by
Frank Murray
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Note: This supplement includes amendments to the election laws of Montana made by the Thirty-eighth Legislative Assembly and the amendment to the Constitution of Montana approved by the people at the November 6, 1962 General Election, and brings the 1962 edition of ELECTION LAWS OF THE STATE OF MONTANA up to date.

CONSTITUTION

Article VIII

Section 19. There shall be elected at the general election in each county of the state one county attorney, whose qualifications shall be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be **four years**, and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the state, and the other half by the county for which he is elected, and he shall perform such duties as may **be required by law.**

As amended by Chapter 164, Laws of 1961; approved at the election held November 6, 1962; proclamation of the Governor dated December 17, 1962.

Revised Codes of Montana, 1947

11-966. **Purposes for which indebtedness may be incurred—limitation —additional indebtedness for sewer or water system—procuring water supply and system—jurisdiction of public works appurtenances.** The city or town council has power: (1) To contract an indebtedness on behalf of a city or town, upon the credit thereof, by borrowing money or issuing bonds for the following purposes, to-wit: Erection of public buildings, construction of sewers, sewage treatment and disposal plants, bridges, docks, wharves, breakwaters, piers, jetties, moles, waterworks, reservoirs and reservoir sites, lighting plants, supplying the city or town with water by contract, the purchase of fire apparatus, street and other equipment, the construction or purchase of canals or ditches and water rights for supplying the city or town with water, **building, purchasing, constructing and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water,** to acquire, open and/or widen any street and to improve the same by constructing, reconstructing and repairing pavement, gutters, curbs and vehicle parking strips and to pay all or any portion of the cost thereof, and the funding of outstanding warrants and maturing bonds; provided, that the total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, must not, at any time, exceed five per centum (5%) of the total value of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes, said words 'value of the taxable property' being used herein in the same sense as in section 6 of article XIII of the Constitution; provided, that no money must be borrowed on bonds issued for the construction, purchase, or securing of a water plant, water system, water supply, sewage treatment and disposal plant, or sewerage system, until the proposition has been submitted to the vote of the taxpayers affected thereby of the city or town, and the majority vote cast in favor thereof; and, further provided, that an additional indebtedness shall be incurred, when necessary, to construct a sewerage system or procure a water supply for the said city or town, which shall own or control said water supply and devote the revenue derived therefrom to the payment of the debt.

(2) The additional indebtedness authorized, including all indebtedness theretofore contracted, which is unpaid or outstanding, for the construction of a sewerage system, or for the procurement of a water supply, or for both such purposes, shall not exceed in the aggregate ten per centum (10%) over and above the five per centum (5%) heretofore referred to, of the total valuation of the taxable property of the city or town as ascertained by the last assessment for state and county taxes; and, provided further, that the above limit of five per centum (5%) shall not be extended, unless the question shall have been submitted to a vote of the taxpayers affected thereby, and carried in the affirmative by a vote of the majority of said taxpayers who vote upon such question.

(3) It is further provided, that whenever a franchise has been granted to, or a contract made with, any person or persons, corporation or corporations, and such person or persons, corporation or corporations, in pursuance thereof, or otherwise, have established or maintained a system of water supply, or have valuable water rights or a supply of water desired by the city or town for supplying the said city or town with water, the city or town granting such franchise or entering in such contract or desiring such water supply, shall, by the passage of an ordinance, give notice to such person or persons, corporation or corporations, that it desires to purchase the plant and franchise and water supply of such person or persons, corporation or corporations, and it shall have the right to so purchase the said plant or water supply, upon such terms as the parties agree; in case they cannot agree, then the city or town shall proceed to acquire the same under the laws relating to the taking of private property for public use, and any city or town acquiring property under the laws relating to the taking of private property for public use, shall make payment to the owner or owners of the plant or water supply of the value thereof legally determined, within six (6) months from and after final judgment is entered in the condemnation proceedings. For the purpose of providing the city or town with an adequate water supply for municipal and domestic purposes, the city or town council shall procure an appropriate water rights and title to the same, and the necessary real and personal property to make said rights and supply available, by purchase, appropriation, location, condemnation, or otherwise.

(4) Cities and towns shall have jurisdiction and control over the territory occupied by their public works, and over and along the line of reservoirs, streams, trenches, pipes, drains, and other appurtenances used in the construction and operation of such works, and also over the source of stream for which water is taken, for the enforcement of its sanitary ordinances, the abatement of nuisances, and the general preservation of the purity of its water supply, with power to enact all ordinances and regulations necessary to carry the powers hereby conferred into effect. For this purpose the city or town shall be authorized to condemn private property in the manner provided by law, and shall have authority to levy a just and equitable tax on all consumers of water for the purpose of defraying the expenses of its procurement.

As amended by Section 1, Chapter 158, Laws of 1963.

11-1202. **Awarding contracts — advertisements — limitations — installments — sales of supplies — construction of buildings — purchases from government agencies — exemptions.** All contracts for work, or for supplies, or for material, or for the construction of any building, for which must be paid a sum exceeding one thousand dollars ($1,000.00), must be let to the lowest responsible bidder after advertisement for bids; provided that no contract shall be let extending over a period of three (3) years or more without first submitting the question to a vote of the taxpaying electors of said city or town. Such advertisement shall be made in the official newspaper of the city or town, if there be such official newspaper, and if not it shall be made in a daily newspaper of general circulation published in the city or town, if there be such, otherwise by posting in three (3) of the most public places in the city or town. Such advertisement if by publication in a newspaper shall be made once each week for two consecutive weeks and the second publication shall be made not less than five (5) days nor more than twelve (12) days before the consideration of bids. If such advertisement is made by posting, fifteen (15) days must elapse, including the day of posting, between the time of the posting of such advertisement and the day set for considering bids. The council may postpone action as to any such contract until the next regular meeting after bids are received in response to such advertisement, may reject any and all bids and readvertise as herein provided. The provisions of this section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot or insurrection, or any other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths (¾) of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the council at the time the vote thereon is taken and recorded.

When the amount to be paid under any such contract shall exceed one thousand dollars ($1,000.00) the council may provide for the payment of such amount in installments extending over a period of not more than three (3) years; provided that when such amount is extended over a term of two (2) years at least forty per centum (40%) thereof shall be paid the first year and the remainder the second year, and when such amount is extended over a term of three (3) years, at least one-third (⅓) thereof shall be paid each year; provided that at the time of entering into such contract, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

Old supplies or equipment may be sold by the city or town to the highest responsible bidder, after calling for bid purchasers as herein set forth for bid sellers, and such city or town may trade in supplies or old

equipment on new supplies or equipment at such bid price as will result in the lowest net price.

Also a city or town may, without bid, when there are sufficient funds in the budget for supplies or equipment, purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town.

All necessary contracts for professional, technical, engineering and legal services are excluded from the provisions of this act.

As amended by Section 1, Chapter 26, Laws of 1963.

11-2218. **May issue revenue bonds—sinking fund—refunding revenue bonds.** (1) Any such municipality may issue and sell negotiable revenue bonds for the construction of any such water or sewer system or combined water and sewer system when authorized so to do by a majority vote of the qualified electors voting on the question at an election called by the city council or other governing body of the municipality for that purpose, and noticed and conducted in accordance with the provisions of sections 11-2308 to 11-2310, inclusive; which bonds shall bear interest at a rate or rates and shall be sold at a price resulting in an average net interest cost, computed to the stated bond maturity dates, of not more than six per cent (6%) per annum and all bonds shall mature within forty (40) years from date of bonds, and may be registered as to ownership of principal only with the treasurer of said municipality, if so directed by the governing body. No bonds shall be sold for less than par, and each of said bonds shall state plainly on its face that it is payable only from a sinking fund, naming said fund and the ordinance and resolution creating it, and that it does not create an indebtedness within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness.

(2) Prior to the issuance of said bonds the city council or other governing body of such municipality shall adopt an ordinance or resolution authorizing the issuance and sale of said bonds, and must create a sinking fund for the payment of the bonds and the interest thereon and charges of the fiscal agency for making payment of the bonds and interest thereon.

(3) At or before the issuance and sale of any such bonds, the governing body shall, by resolution or ordinance, set aside to such sinking fund and pledge to the payment of the bonds and the interest thereon the net income and revenues of the system, including all additions thereto and replacements and improvements thereof subsequently constructed or acquired, up to an amount sufficient to provide for the payment of the principal and the interest on the bonds as such principal and interest shall become due and payable, and to accumulate and maintain reserves securing such payments in such amount as shall be deemed by the governing body to be necessary and expedient.

(4) The said net income and revenues above-mentioned shall be construed to mean all the gross income from said system less normal, reasonable and current expenses of operation and maintenance thereof.

(5) Said payments above-mentioned shall constitute a first and prior charge and lien on the entire net income and revenues derived from the operation of said system, provided that the governing body shall have power from time to time to establish the relative priority of the liens of successive issues of bonds upon said net income and revenues, subject to any restrictions contained in the ordinances or resolutions authorizing bonds of prior issues.

(6) Any such municipality, by ordinance or resolution adopted by its governing body, and without an election, may issue and sell negotiable revenue bonds in the manner provided in this section, to refund bonds previously issued for any of the foregoing purposes, whether issued under authority of this section or any other applicable law. Refunding bonds may, with the consent of the holders of the bonds to be refunded thereby, be exchanged at par plus accrued interest for all or part of such bonds, or may be sold at a price not less than par plus accrued interest, but nothing herein shall require the holder of any outstanding bond to accept payment thereof or the delivery of a refunding bond in exchange therefor, except in accordance with the terms of such outstanding bond. Bonds may be issued to refund interest as well as principal actually due and payable if the revenues pledged therefor are not sufficient, but not to refund any principal or interest due which can be paid from revenues then on hand.

(7) Any municipality having issued bonds payable from net revenues of its water and sewer system or combined water and sewer systems, whether under authority of this section or otherwise, may issue additional bonds after authorization by the qualified electors in the manner hereinabove provided, to finance the reconstruction and improvement of such system and the construction of additions thereto, and may provide that such additional bonds shall be payable from said net revenues on a parity with the outstanding bonds of such previous issues, subject to any restrictions upon such issuance which may be imposed by the resolutions or ordinances authorizing said outstanding bonds; or the governing body may provide for the issuance of refunding bonds, without an election, to retire such outstanding bonds and may, if desired, combine such refunding issue with the issue authorized by the electors for reconstruction, improvements and additions, or may include the amount required for such refunding in the amount of such additional issue when submitted to the electors.

(8) Refunding bonds may bear interest at a rate lower or higher than the bonds refunded thereby, if they are issued to refund matured principal or interest for the payment of which revenues on hand are not sufficient, or if the refunding bonds are combined with an issue of new bonds for reconstruction, improvements and additions and the lien of such new bonds upon the revenues of the system or systems must be junior and subordinate to the lien of the outstanding bonds refunded, under the terms of the ordinances or resolutions authorizing the outstanding bonds, as applied to circumstances existing on the date of refunding. Except as authorized in the preceding sentence, refunding bonds shall not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from such

computation, is at least three-eighths of one per cent (3/8 of 1%) less than the average annual interest rate on the bonds refunded thereby, computed to their respective stated maturity dates.

(9) In any case where refunding bonds are issued and sold six (6) months or more before the earliest date on which all bonds refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, which is a member of the Federal Reserve System and has a combined capital and surplus not less than one million dollars ($1,000,000), and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which such bond may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity, or, if prepayable, at its earliest redemption date, and any premium required for redemption on such date; and the resolution or ordinance authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom, and shall provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: Banks for Cooperatives, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks, and the Federal National Mortgage Association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds.

(10) Revenues and other funds on hand, in excess of amounts pledged by ordinances and resolutions authorizing outstanding bonds for the payment of principal and interest currently due thereon and reserves securing such payment, may be used to pay the expenses incurred by the municipality for the purpose of such refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and financial advice and assistance in connection therewith, and the reasonable and customary charges of escrow agents and paying agents. Revenues and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of such bonds and may be invested and disbursed as provided in subsection (9) hereof, to the extent consistent with the ordinances or resolutions authorizing such outstanding bonds.

As amended by Section 1, Chapter 51, Laws of 1963.

11-2404. Authorization of undertaking—form and contents of bonds. The acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this chapter, and bonds may be authorized to be issued under this chapter by resolution or resolutions of the governing body of the municipality, when

authorized by a majority of the taxpayers voting upon such question at a special election noticed and conducted as provided in sections 11-2308 to 11-2310, inclusive, and said special election shall be held not later than the next municipal election held after the council or governing body of the municipality has by resolution or resolutions approved the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking as in this chapter provided and ordered said special election; provided, that the issuance of refunding revenue bonds may be authorized by resolution or resolutions of the governing body of the municipality without an election.

Said bonds shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, may be payable in such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five (5) days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the city of New York, New York, or the city of Chicago, Illinois, or the city of San Francisco, **California, except that, in the event the bond issue is in an amount of less than one hundred fifty thousand dollars ($150,000), the bond issue shall be advertised at least five (5) days prior to such sale in daily newspapers circulating in Montana cities of 10,000 population or over, in lieu of advertising in a financial newpaper (sic) in New York, Chicago, or San Francisco, and also in a newspaper as specified in section 16-1201 if that newspaper is different from the daily newspapers circulating in Montana cities of 10,000 population or over.** Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law.

As amended by Section 1, Chapter 52, Laws of 1963. See also amendment below.

11-2404. **Authorization of undertaking—form and contents of bonds.** The acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this chapter, and bonds may be authorized to be issued under this chapter by resolution or resolutions of the governing body of the municipality, when authorized by a majority of the taxpayers voting upon such question at a special election noticed and conducted as provided in sections 11-2308 to 11-2310, inclusive, and said special election shall be held not later than

the next municipal election held after the council or governing body of the municipality has by resolution or resolutions approved the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking as in this chapter provided and ordered said special election; provided, that the issuance of refunding revenue bonds may be authorized by resolution or resolutions of the governing body of the municipality without an election.

Said bonds shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, may be payable in such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five (5) days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the city of New York, New York, or the city of Chicago, Illinois, or the city of San Francisco, California. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be fully negotiable, **as provided by the Uniform Commercial Code—Investment Securities.**

As amended by Section 11-106, Chapter 264, Laws of 1963. See also amendment above.

16-1907. **Emergency expenditures — notice and hearings — objections by taxpayers—appeal—notice and hearing dispensed with in extreme cases —emergency warrants—tax levy—lapse of appropriations.** (1) In a public emergency, other than such as are hereinafter specifically described, and which could not reasonably have been foreseen at the time of making the budget, the board of county commissioners, by unanimous vote of the members present at any meeting, the time and place of which all the commissioners shall have had reasonable notice, shall adopt and enter upon their minutes a resolution stating the facts constituting the emergency and the estimated amount of money required to meet such emergency and shall publish the same, together with a notice that a public hearing will be held thereon at the time and place designated therein, but which shall not be less than one week after the date of said publication, at which any taxpayer may appear and be heard for or against the expenditure of money for such alleged emergency. Such resolution and notice shall be published once in the official newspaper of the county, and if there be none then in a newspaper of general circulation in the county.

(2) Upon the conclusion of such hearing, if the commissioners shall approve of such emergency expenditure, they shall make and enter upon their official minutes, by unanimous vote of all of the members of the board present at such meeting, an order setting forth the facts constituting such emergency together with the amount of expenditure authorized by them therefor, which order, so entered, shall be lawful authorization for them to expend such amount, but no more, for such purpose, subject however, to the following limitations: No expenditures shall be made or liability incurred pursuant to said order until five (5) days, exclusive of the day of entry of said order, shall have elapsed, during which time any taxpayer or taxpayers of said county feeling aggrieved by said order may appeal therefrom to the district court for such county by filing with the clerk of such court a verified petition, a copy of which shall theretofore have been served upon the county clerk and recorder of said county as the clerk of the board of county commissioners. Said petition shall set forth in detail the objections of the petitioner or petitioners to said order, giving their reasons why the said emergency does not exist. The service and filing of such petition shall operate to suspend such emergency order and the authority to make any expenditure or incur any liability thereunder, until final determination of the matter by the court.

(3) Upon the filing of such petition the court shall immediately fix a time for hearing such petition which shall be at the earliest convenient time. At such hearing the court shall hear the matter de novo and may take such testimony as it deems necessary. Its proceedings shall be summary and informal and its determination as to whether an emergency, such as is contemplated within the meaning and provisions of this act, exists or not, and whether the expenditure authorized by said order is excessive or not shall be final.

(4) The total of all emergency budgets, and appropriations made therein, in any one year, to be paid from the county poor fund shall not exceed the amount which would be produced by a mill levy equal to the difference between the mills levied in that year and the maximum mill levy authorized by law to be made for such fund, computed against the taxable value of the property subject to such levy, as shown by the last completed assessment roll of the county.

(5) Upon the happening of an emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or of public health, or for the restoration of a condition of usefulness of which has been destroyed by accident, or for the relief of a stricken community overtaken by calamity, or in settlement of approved claims for personal injuries or property damages, exclusive of claims arising from the operation of any public utility owned by the county, or to meet mandatory expenditures required by law, the county commissioners may, upon adoption by unanimous vote of all members present at any meeting, the time and place of which all members shall have had reasonable notice, of a resolution stating the facts constituting the emergency, and entering the same upon their minutes, make the expenditures or incur the liabilities necessary to meet such emergency without further notice or hearing; provided, that the aggregate total of all expenditures made or liabilities incurred in any fiscal

year to meet emergencies other than such as are caused by fire, flood, explosion, earthquake, epidemic, riot or insurrection, shall not exceed the sum of **two hundred thousand dollars ($200,000.00)** in counties of classifications 1, 2, 3 and 4, **provided, however, that after July 1, 1963, such emergency expenditures shall not exceed twenty-five thousand dollars ($25,000.00)**; fifteen thousand dollars ($15,000.00) in counties of classifications 5 and 6, and seven thousand five hundred dollars ($7,500.00) in counties of classification 7 unless the excess above said sum shall first have been authorized by a majority of the taxpaying freeholders of such county, who are registered electors therein, voting at a general or special election. The question of authorizing such excess expenditure shall be submitted in the following form, inserting in the ballot the amount of the excess proposed to be authorized and a description of the emergency to be met:

Shall the board of county commissioners of..... County, Montana be authorized to make additional expenditures and incur additional liabilities in the amount of $.....over and above the sum of....., to meet an emergency caused by .....

☐ Yes

☐ No

Notice of such election shall be given by posting notice thereof at least fifteen (15) days before such election in three (3) public places in each voting precinct within the county and by publishing such notice for not less than ten (10) days before the date of such election.

(6) All emergency expenditures shall be made by the issuance of emergency warrants drawn against the fund or funds properly chargeable with such expenditures, and the county treasurer is authorized and directed to pay such emergency warrants with any money in such fund or funds available for such purpose, and if, at any time, there shall not be sufficient money available in such fund or funds to pay such warrants then such warrants shall be registered, bear interest and be called in for payment in the manner provided by law for other county warrants.

(7) The county clerk and recorder shall include in his annual tabulation to be submitted to the board of county commissioners the total amount of emergency warrants issued during the preceding fiscal year, and the county commissioners shall include in their tax levies a levy for each fund sufficient to raise an amount equal to the total amount of such warrants, if there be any, remaining unpaid at the close of such preceding fiscal year because of insufficient money in such fund to pay the same; provided, however, that no levy shall be made for any fund in excess of the levy authorized by law to be made therefor; and provided further, that the board of county commissioners may submit the question of funding such emergency warrants at any election, as provided by law, and if at any such election the issuing of such funding bonds be authorized it shall not then be necessary for any levy to be made for the purpose of paying such emergency warrants.

(8) All appropriations, other than appropriations for incompleted improvements in progress of construction, shall lapse at the end of the

fiscal year; provided that the appropriation accounts shall remain open for a period of thirty (30) days thereafter for the payment of claims incurred against such appropriations prior to the close of the fiscal year and remaining unpaid. After such period shall have expired, all appropriations except as hereinbefore provided, regarding incompleted improvements, shall become null and void, and any lawful claim presented thereafter against any such appropriation shall be provided for in the next ensuing budget.

As amended by Section 1, Chapter 194, Laws of 1963.

23-605. **Compensation of election officers.** The compensation of members of boards of election, including judges and clerks, shall be fixed by the board of county commissioners at not to exceed **one dollar twenty-five cents ($1.25)** per hour for the time actually on duty, and must be audited by the board of county commissioners and paid out of the county treasury.

As amended by Section 1, Chapter 46, Laws of 1963.

23-1301. **Voting by elector when absent from place of residence or physically incapacitated from going to polls.** Any qualified elector of this state, having complied with the laws in regard to registration, who is absent from the county or who is physically incapacitated from attending the precinct poll of which he is an elector on the day of holding any general or special election, or primary election for the nomination of candidates for such general election, or any municipal, **school,** general, special or primary election, may vote at any such election as hereinafter provided.

As amended by Section 1, Chapter 108, Laws of 1963.

23-1301.1. **Forms and regulations for absentee voting in school district elections.** The state superintendent of public instruction shall prepare the form of application for absentee voter ballot for school districts and such other forms and regulations as may be necessary to carry out the purpose of this act, as it pertains to school districts.

As enacted by Section 3, Chapter 108, Laws of 1963.

23-1302 (1). **Application of absentee or physically incapacitated person for ballot.** At any time within **the period beginning** forty-five (45) days next preceding such election **and ending at 12 noon on the day next preceding the day of election,** any elector expecting to be absent on the day of election from the county in which his voting precinct is situated, or any elector in United States service, or any elector who as a result of physical incapacity, in all probability will be unable to attend his voting precinct poll as made to appear by the certificate of a physician licensed under the laws of Montana, plainly stating the nature of the physical incapacity of the applicant, and certifying (a) that such incapacity will continue beyond the day of the election for which the application is made; (b) to the extent of reasonably preventing applicant from going to the polls, bodily health considered, may make application to the county clerk of such county, or to the city or town clerk, in the case of

a municipal, general, or primary election, for an official ballot or official ballots to be voted at such election as an absent or physically incapacitated voter's ballot or ballots.

As amended by Section 2, Chapter 124, Laws of 1963.

23-1309. **Delivery or mailing of ballots to election judges.** In case such envelope is received by such clerk prior to the delivery of the official ballots to a judge of election of the precinct in which such absent or physically incapacitated voter resides, said larger envelope, containing the said voter's envelope, and his said application as above provided, shall be delivered to the judge of election of such precinct, to whom the official ballots of the precinct shall be delivered, and at the same time. In case the official ballots for such precinct shall have been delivered to the judge of election prior to the time of the receipt by the said clerk of said absent or physically incapacitated voter's envelope, such clerk shall immediately after inclosing such voter's envelope and his application in a larger envelope, and after endorsing the latter as provided in the foregoing section, address and mail the larger envelope, postage prepaid, to the said judge of election of said precinct, as hereinafter further provided. **If any absentee ballots are received by the clerk for which application was made after 12 noon on the day next preceding an election, the clerk shall endorse upon the voter's envelope the date and exact time of receipt and the words "To be rejected by authority of section 23-1309, R.C.M. 1947." Absentee ballots endorsed in this manner shall be delivered to the judge of election of said precinct and shall be rejected by the judge of election.**

As amended by Section 1, Chapter 124, Laws of 1963.

23-1312. **Voting before election day by prospective absentee or physically incapacitated elector.** Any qualified elector who is present in his county after the official ballots of such county **or school district** have been printed and who has reason to believe that he will be absent from such county **or school district** on election day, or physically incapacitated as provided in section 23-1302 may vote before he leaves his county **or school district** or prior to the inception of such physical incapacity, in like manner as an absent or physically incapacitated voter, before the county or city or town clerk **or school district clerk,** or some officer authorized to administer oaths and having an official seal; and the provisions of this act shall be deemed to apply to such voting. If the ballot be marked before the county or city or town **or school district** clerk it shall be his duty to deal with it in the same manner as if it had come by **mail.**

As amended by Section 2, Chapter 108, Laws of 1963.

23-1611. **Election returns.** (1) The judges, as soon as the count is completed and fully ascertained, shall place the machine for one hour in such a position that the registering or recording compartments will be in full view of the public and any person desiring to view the number of votes cast for each person voted for at the election, must be permitted to

do so. Immediately after the above said one hour shall have expired the judges shall seal, close, lock the machine or remove the record so as to provide against voting or being tampered with, and in case of a machine so sealed or locked, it shall so remain for a period of at least thirty (30) days, unless opened by order of a court of competent jurisdiction **or the county recount board.** When irregular ballots have been voted, the judges shall return them in a properly sealed package endorsed "irregular ballots," and indicating the precinct and county and file such package with the city or county clerk. It shall be preserved for six (6) months after such election and may be opened and its contents examined only upon an order of a court of competent jurisdiction **or the county recount board;** at the end of such six (6) months unless ordered otherwise by the court, such package and its contents shall be destroyed by the city or county clerk. All tally sheets taken from such machine, if any, shall be returned in the same manner.

(2) The officers heretofore charged with the duty of furnishing tally sheets and return blanks shall furnish suitable return blanks and certificates to the officers of election. Such return sheets shall have each candidate's name designated by the same reference character that said candidate's name bears on the ballot labels and counters, and shall make provision for writing in of the vote for such candidate in figures and shall also provide for writing in of the vote in words. Such return sheet shall also provide for the return of the vote on questions. It shall also have a blank thereon, on which can be marked the precinct, ward, etc., of which said return sheet bears the returns and the number and make of the machine used. Said return sheet shall also have a certificate thereon, to be executed before the polls open by the judges of election, stating that all counters except the protective counter, if any, and except as otherwise noted thereon, stood at "000" at the beginning of the election, and that all of said counters had been carefully examined before the beginning of the election; that the ballot labels were correctly placed on the machine and correspond to the sample ballot, and such other statements as the particular machine may require; and shall provide for the signature of the election officers. Said return sheet shall also have thereon a second certificate stating the manner of closing the polls, the manner of verifying the returns, that the foregoing returns are correct, giving the indication of the public counter, and poll-list, and protective counter, if any, at the close of the election. Such certificate shall properly specify the procedure of canvassing the vote and locking the machine, etc., for the particular type of machine used, and such certificate shall be such that the election officers can properly subscribe to it as having been followed and shall have provisions for the signature of the election officers. The election officers shall conform their procedure to that specified in the certificate to which they must certify. The certificate and attest of the election officers shall appear on each return sheet.

As amended by Section 16, Chapter 42, Laws of 1963. See also amendment below.

23-1611. **Election returns.** (1) The judges, as soon as the count is completed and fully ascertained, shall place the machine for one (1)

hour in such a position that the registering or recording compartments will be in full view of the public and any person desiring to view the number of votes cast for each person voted for at the election, must be permitted to do so. Immediately after the above said one (1) hour shall have expired the judges shall seal, close, lock the machine or remove the record so as to provide against voting or being tampered with, and in case of a machine so sealed or locked, it shall so remain for a period of at least thirty (30) days, **except when used in a municipal primary nominating election,** unless opened by order of a court of competent jurisdiction. **Whenever a machine has been used in a municipal primary nominating election, it shall remain sealed and locked for a period of at least five (5) days, unless opened by order of a court of competent jurisdiction.** When irregular ballots have been voted, the judges shall return them in a properly sealed package endorsed "irregular ballots," and indicating the precinct and county and file such package with the city or county clerk. It shall be preserved for six (6) months after such election and may be opened and its contents examined only upon an order of a court of competent jurisdiction; at the end of such six (6) months unless ordered otherwise by the court, such package and its contents shall be destroyed by the city or county clerk. All tally sheets taken from such machine, if any, shall be returned in the same manner.

(2) The officers heretofore charged with the duty of furnishing tally sheets and return blanks shall furnish suitable return blanks and certificates to the officers of election. Such return sheets shall have each candidate's name designated by the same reference character that said candidate's name bears on the ballot labels and counters, and shall make provision for writing in of the vote for such candidate in figures and shall also provide for writing in of the vote in words. Such return sheet shall also provide for the return of the vote on questions. It shall also have a blank thereon, on which can be marked the precinct, ward, etc., of which said return sheet bears the returns and the number and make of the machine used. Said return sheet shall also have a certificate thereon, to be executed before the polls open by the judges of election, stating that all counters except the protective counter, if any, and except as otherwise noted thereon, stood at "000" at the beginning of the election, and that all of said counters had been carefully examined before the beginning of the election; that the ballot labels were correctly placed on the machine and correspond to the sample ballot, and such other statements as the particular machine may require; and shall provide for the signature of the election officers. Said return sheet shall also have thereon a second certificate stating the manner of closing the polls, the manner of verifying the returns, that the foregoing returns are correct, giving the indication of the public counter, and poll-list, and protective counter, if any, at the close of the election. Such certificate shall properly specify the procedure of canvassing the vote and locking the machine, etc., for the particular type of machine used, and such certificate shall be such that the election officers can properly subscribe to it as having been followed and shall have provisions for the signature of the election officers. The election officers shall conform their procedure to that specified in the certificate to which they must certify. The certificate and attest of the election officers shall appear on each return sheet.

As amended by Section 1, Chapter 57, Laws of 1963. See also amendment above.

23-1712. **Filing of ballots and stubs by county clerk.** Upon the receipt of the packages or envelopes by the county clerk, he must file the package or envelope containing the ballots voted and detached stubs and the package or envelope containing the unused ballots, and must keep them unopened and unaltered for twelve (12) months, after which time, if there is no contest commenced in some tribunal having jurisdiction about such election **or a recount is had as provided by law,** he must burn such packages, or envelopes, without opening or examining their contents.

As amended by Section 17, Chapter 42, Laws of 1963.

23-1807. **Duty of canvassing board.** The board must declare elected the person having the highest number of votes given for each office to be filled by the votes of a single county or a sub-division thereof. If a recount shall show that two or more persons **received an equal and sufficient number of votes to elect to the office of state senator, or member of the house of representatives,** the **county recount** board shall certify such facts to the governor.

As amended by Section 18, Chapter 42, Laws of 1963.

23-2309. **Purpose of act—liberal construction.** It is the purpose of this act to procure a speedy and correct determination of the true and actual count of all ballots cast at an election, which ballots are valid on their face, and all provisions of this act shall be liberally construed to that end.

As enacted by Section 1, Chapter 42, Laws of 1963.

23-2310. **Application of act. The provisions herein shall apply to the recount of ballots cast in any election.**

As enacted by Section 2, Chapter 42, Laws of 1963.

23-2311. **Close vote as ground for recount petition filed with clerk of court or secretary of state. A recount shall be made under any of the following conditions:**

1. When any candidate for any office, position, or nomination which is voted upon only by the electors of one county, or some part thereof, except the office of judge of the district court, is defeated according to the official returns by a margin not exceeding one-fourth of one per cent (¼ of 1%) of the total vote cast for all candidates for such office, position, or nomination, or is defeated by a margin not exceeding ten (10) votes, whichever is the greater, he may within five (5) days after completion of the official canvass of the returns file with the county clerk his duly verified petition stating he believes a recount will change the result and praying for a recount of all votes cast for such office, position, or nomination.

2. Whenever any candidate for any office, position, or nomination which is voted upon in more than one county or for the office of judge

of the district court, is defeated according to the official returns by a margin not exceeding one-fourth of one percent (¼ of 1%) of the total vote cast for all candidates for such office, position, or nomination, he may within five (5) days after completion of the official canvass of the returns file a petition with the secretary of state such as set forth in subdivision one (1) of this section. The secretary of state shall immediately notify by registered mail each county clerk whose county includes any precincts which voted for such office, position, or nomination of the filing of such petition, and the recount shall be conducted as to all of such precincts in each such county.

3. Whenever any referred or submitted question is voted upon throughout the state and is determined according to the official canvass by a margin of not exceeding one-fourth of one percent (¼ of 1%) of the total vote cast for and against on such question, there may be filed with the secretary of state within five (5) days after the completion of the official canvass, a petition signed by not less than one hundred (100) legally qualified electors of the state, and representing at least five (5) counties of the state, a petition with the secretary of state such as set forth in subdivision one (1) of this section. The secretary of state shall immediately notify by registered mail each county clerk of the filing of such petition, and the recount shall be conducted as to all precincts in each county.

As enacted by Section 3, Chapter 42, Laws of 1963.

23-2312. **The vote as ground for recount.** When by reason of a tie vote found to exist upon the canvass of the original official returns, it is impossible to declare who has been elected or nominated to an office or position, it shall be the duty of the canvass board making such canvass to certify said vote to the county clerk where the election involved is confined to one county, except for the office of district judge, and to the secretary of state as to all other elections. The county clerk, or the secretary of state, as the case may be, shall proceed exactly as if a petition had been duly filed under this act, and the recount shall proceed accordingly. In case of a tie vote found to exist after the recount, such tie vote shall be resolved as provided by existing statutes.

As enacted by Section 4, Chapter 42, Laws of 1963.

23-2313. **Total vote—manner of computation.** When in any election an elector may vote for two or more candidates for the same office, the total vote cast for all candidates for such office shall for the purposes of this act be the total vote actually cast for all candidates divided by the number of candidates officially declared nominated or elected as shown by the official returns.

As enacted by Section 5, Chapter 42, Laws of 1963.

23-2314. **County recount board—composition—disqualification of interested candidates. The county recount board of each county shall consist of the three members of the board of county commissioners.** If at the time and place appointed for the recount one or more of the county commissioners shall not attend, the place of the absentees must be supplied by

one or more of the following county officers, whose duty it is to act in the order named: the treasurer, the assessor, the sheriff, the clerk of court. The county recount board shall always consist of three acting members. If any member of the county recount board was among the candidates for an office, nomination, or position to which votes are to be recounted, he shall thereby be disqualified.

As enacted by Section 6, Chapter 42, Laws of 1963.

23-2315. **Clerk of county recount board.** The county clerk shall be the clerk of the county recount board, and the board may hire additional clerks as needed.

As enacted by Section 7, Chapter 42, Laws of 1963.

23-2316. **Notice to recount board of filing of petition—convening of board.** The county clerk shall immediately upon the filing with him of any petition for a recount, or upon receipt from the secretary of state of notice of such filing with the secretary of state, notify the members of the county recount board. The board shall then convene at the usual place of meeting of the county commissioners without undue delay, and in no event more than five (5) days after the filing of the petition with the county clerk or the notice of the filing with the secretary of state.

As enacted by Section 8, Chapter 42, Laws of 1963.

23-2317. **Persons entitled to appear at recount—opening and recount of ballots.** Each candidate for any office, nomination, or position involved in a recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots. If the recount is upon a referred or submitted question, one legally qualified elector of the state favoring each side as to such question may be present and represent such side. The county clerk shall produce, unopened, the sealed package or envelope received by him from the judges of election of each election precinct in the county. The procedure for conducting the recount of votes shall be as provided in subsection three (3) of Section 23-2304, R.C.M. 1947, and the recount shall proceed as expeditiously as reasonably possible until completed.

As enacted by Section 9, Chapter 42, Laws of 1963.

23-2318. **Certification of recount results—transmittal to secretary of state—corrected abstract of votes—new certificate of election or nomination.** Immediately upon conclusion of the recount of all ballots to be recounted the county recount board shall certify the result. The certificate must be signed by at least two members of such board, attested under seal by the county clerk. The certificate shall set forth in substance the proceedings of the board and appearance of any candidates or representatives, shall adequately designate each precinct recounted, the vote of such precinct according to the official canvass thereof previously made as to the office, nomination, position, or question involved, and the correct vote of such precinct as determined by the board through the re-

count. When the certificate relates to the recount ballots as to an office, nomination, position, or question voted upon in more than one county or for the office of judge of the district court, the certificate shall be made in duplicate, and either the original or duplicate original immediately transmitted to the secretary of state by registered mail. If the recount relates to the recount of ballots as to an office, nomination, position, or question voted upon in only one county, or some part thereof, the county recount board shall immediately re-canvass the returns as corrected by the certificate showing the result of the recount, and make a new and corrected abstract of the votes cast. If such correct abstract shows no change in the result as previously found on the official returns, no further action shall be taken. If there is a change in the result, a new certificate of election or nomination shall be issued to each candidate found to have been elected or nominated.

As enacted by Section 10, Chapter 42, Laws of 1963.

23-2319. **Reconvening state board of canvassers—re-canvass by state board—corrected abstract of votes—new certificate of election or nomination.** Upon receipt by the secretary of state of certificates by all county recount boards required to be forwarded, the secretary of state shall file the same, and fix a time and place as early as reasonably possible for re-convening the state board of canvassers, and shall notify the members of the state board of canvassers thereof. The state board of canvassers shall re-convene at the time and place designated and re-canvass the official returns as to such office, nomination, position or question, as corrected by such certificates, and shall make a new and corrected abstract of the votes cast. If such corrected abstract shows no change in the result previously found on the official returns, no further action shall be taken. If there is a change in the result, a new certificate of election or nomination shall be issued in the same manner as the certificate of election or nomination previously issued to each candidate found to have been elected or nominated.

As enacted by Section 11, Chapter 42, Laws of 1963.

23-2320. **Effect of new certificate of election or nomination.** Any certificate of nomination or election issued under the provisions of this act shall have the effect of and shall be recognized as superseding and rendering null and void any certificate of election or nomination previously issued which is inconsistent with the new certificate, and the holder of any certificate of nomination or election issued under this act shall have the same identical rights as if he held the original certificate of nomination or election and no recount had been had.

As enacted by Section 12, Chapter 42, Laws of 1963.

23-2321. **The vote after recount.** When a tie vote between candidates is found to exist on the basis of the recount, and by reason of such tie vote it cannot be determined who has been nominated or elected, the office or position shall be filled as provided by section 23-1901 to 23-1904, R.C.M. 1947.

As enacted by Section 13, Chapter 42, Laws of 1963.

23-2322. **Expenses of recount.** The expense of the recount of the votes as provided in this act shall be a county charge, except that any expenses of the secretary of state, and state board of canvassers shall be a state charge.

As enacted by Section 14, Chapter 42, Laws of 1963.

23-2323. **Supplemental to prior law.** This act is supplemental to and not in derogation of the law relating to contest of elections, or the recount procedure set forth in Sections 23-2301 to 23-2308, R.C.M. 1947.

As enacted by Section 15, Chapter 42, Laws of 1963.

37-104.1. **Attorney general's summary of referred or initiative measures —placement on ballot.** The secretary of state of the state of Montana prior to certifying and numbering of referendum, initiative or constitutional amendment to the several counties of Montana as provided by Sections 37-105 and 23-1102 of the Revised Codes of Montana, 1947, shall transmit a copy of the measure to be voted upon to the attorney general of Montana. Within ten (10) days after the measure is filed with him, the attorney general shall provide and return to the secretary of state a statement in ordinary plain language explaining in not more than one hundred (100) words the general purpose of the measure submitted. The statement as prepared by the attorney general, shall be in addition to the legislative title of the measure. On the printing of the ballot, the statement of the attorney general shall precede the other title of the measure. In providing the statement, the attorney general shall give a true and impartial statement of the purpose of the measure in plain, easily understood language and in such manner as shall not be an argument or likely to create prejudice either for or against the measure.

As enacted by Section 1, Chapter 22, Laws of 1963.

44-213. **Participation of other governmental units.** When a joint county or regional library shall have been established, the legislative body of any government unit therein that is maintaining a library may decide, with the concurrence of the board of trustees of its library, to participate in the joint county or regional library; after which, beginning with the next fiscal year of the county, the governmental unit shall participate in the joint county or regional library and its residents shall be entitled to the benefits of the joint county or regional library, and property within its boundaries shall be subject to taxation for joint county or regional library purposes. A governmental unit participating in the joint county or regional library may retain title to its own property, continue its own board of library trustees, and may levy its own taxes for library purposes; or, by a majority vote of the qualified electors, a governmental unit may transfer, conditionally or otherwise, the ownership and control of its library, with all or any part of its property, to another governmental unit which is providing or will provide free library service in the territory of the former, and the trustees or body making the transfer shall thereafter be relieved of responsibility pertaining to the property transferred. **The state board of education may contract with the government of any city or county, or the governments of both the city and the county, in which a unit of the university of Montana is located for the establishment and**

operation of joint library facilities. Any such contract which proposes the erection of a building shall be subject to the approval of the legislature. Any joint library facilities established pursuant to this section shall be operated and supported as provided in such contract and under this chapter.

As amended by Section 1, Chapter 249, Laws of 1963.

75-1620. **Expenses of election.** All the expenses necessarily incurred in the matter of holding any and all elections for school trustees, extra levies, bonds, school sites, disposal of property, or any other election provided by law in any school district, high school building district, or county high school, shall be paid out of the general school funds of the district, or in the case of a high school building district, out of the high school general fund; or in the case of county high schools, out of the county high school general fund. In its discretion, the board of trustees may pay judges of any such election at a rate not to exceed one dollar ($1) per hour of service in connection with any such election.

As amended by Section 1, Chapter 104. Laws of 1963.

75-1723. **Fixing tax levy.** The county superintendent of schools, as clerk of the school budget board, shall, when the board of county commissioners meet on the second Monday in August for the purpose of fixing tax levies, lay before such board the elementary school budgets for all school districts in the county, as finally adopted and approved by the school budget board, and it shall be the duty of the county commissioners of each county in the state to fix and levy a tax of five (5) mills on the dollar of the taxable value of all school districts within the county, provided that if a levy of less than five (5) mills will be sufficient to meet the approved budget of any school district, then such lesser levy shall be made, but no school district levying less than five (5) mills shall receive any apportionment from the state public school equalization fund.

It shall further be the duty of the county commissioners of each county in the state to fix and levy a tax for each school district in the county within the limitations prescribed by this act in such number of mills as will produce the amount shown by the final budget to be raised by tax levy which may also include a reserve fund, not to exceed thirty-five per cent (35%) of the amount appropriated in the final and approved budget for the then current school year, for the purpose of maintaining the elementary and high school of the district from July 1 to November 30 of the next succeeding year; provided that such school district tax plus federal reimbursements in lieu of taxes shall not, unless approved by a vote of the taxpaying electors, exceed the rate of levy required to produce an amount equal to the foundation program and the additions thereto, within the limitations of thirty per cent (30%), hereinbefore specified, and provided, further, that such last mentioned additional school district tax shall not, in any event, exceed fifteen (15) mills unless the excess above said fifteen (15) mill limitation shall first have been authorized at an election held in accordance with the general school laws pertaining to the voting of additional levies, save and except that in any district wherein more than fifteen (15) mills is required to reach the thirty per cent (30%)

limit above the foundation program, such increase above the fifteen (15) mill limit may be financed by federal reimbursements in lieu of taxes without a vote of the taxpayers up to the thirty per cent (30%) limit above the foundation program.

To finance the approved nonoperating budget of any school district in which no elementary school will be operated, the county commissioners shall fix and levy a tax for such school district in such number of mills as will produce the amount shown by the approved budget to be raised by tax levy, after deducting from the total amount to be financed the following:

(1) any net nonoperating fund cash balance; provided, that whenever a nonoperating district did not have a nonoperating fund the preceding year, the net cash balances in all of the regular funds of the district shall be combined to form a single balance which shall be called the nonoperating fund cash balance; provided, further, that any district which operated at least one (1) school in the year immediately preceding the budget year may retain separately any cash balance previously designated as its general fund cash reserve, if in the judgment of the trustees of such district the retention of such general fund cash reserve is essential to the operation of a school anticipated for the year following the budget year, and any such retained cash reserve shall not be deducted from the total amount required for the nonoperating budget;

(2) the amount of any transportation reimbursement anticipated from the county;

(3) the amount of any transportation reimbursement anticipated from the state public school equalization fund; and

(4) any miscellaneous revenues available to the district. The remainder of the nonoperating budget amount, after deduction of the above revenues, shall be financed by a tax levied on the taxable valuation of the property of the school district.

As amended by Section 2, Chapter 182, Laws of 1963. See also amendment below.

75-1723. **Filing tax levy.** The county superintendent of schools, as clerk of the school budget board, shall, when the board of county commissioners meet on the second Monday in August for the purpose of fixing tax levies, lay before such board the elementary school budgets for all school districts in the county, as finally adopted and approved by the school budget board.

It shall further be the duty of the county commissioners of each county in the state to fix and levy a tax for each school district in the county within the limitations prescribed by this act in such number of mills as will produce the amount shown by the final budget to be raised by tax levy which may also include a reserve fund, not to exceed thirty-five per cent (35%) of the amount appropriated in the final and approved budget for the then current school year, for the purpose of maintaining the elementary and high school of the district from July 1 to November 30 of the next succeeding year; provided that such school district tax plus

federal reimbursements in lieu of taxes shall not, unless approved by a vote of the taxpaying electors, exceed **the maximum budgets set forth in Section 75-1713.1, R.C.M. 1947.**

As amended by Section 2, Chapter 267, Laws of 1963. See also amendment above.

75-1802. **Classifications of districts — number of trustees.** All districts having a population of eight thousand (8000) or more shall be districts of the first class. All districts having a population of one thousand (1000) or more, and less than eight thousand (8000) shall be districts of the second class, and all districts having a population of less than one thousand (1000) shall be districts of the third class. In districts of the first class the number of trustees shall be seven (7); in districts of the second class the number of trustees shall be five (5), and in districts of the third class the number of trustees shall be three (3).

Whenever the population of any school district shall increase beyond or decrease below the number required as specified above for a certain class of school district, the county superintendent of schools shall declare such school district to be changed to the proper class. **The county superintendent may compute the population by multiplying by three the number of school census children in the district. No school district shall be changed in classification more than once in any five (5) year period.** The county superintendent of schools shall take the necessary steps to provide that at the next school election to elect the proper number of school trustees as designated above and to fill all vacancies due to any change of classification. Provided however that the provisions of this act shall not affect the terms of trustees heretofore elected.

As amended by Section 1, Chapter 203, Laws of 1963.

75-3801. **District school taxes—election.**

(1) Whenever the board of trustees of any school district shall deem it necessary to raise money by taxation in excess of the levy required to meet its **maximum budgets as specified in section 75-1713.1,** for the purpose of maintaining the schools of said district, or building, altering, repairing or enlarging any school house or houses of such district, for furnishing additional school facilities for said district, or for any other purpose necessary for the proper operation and maintenance of the schools of said district, said board of trustees shall determine and fix the amount necessary and required for such purpose or purposes in addition to the **maximum budgets** hereinbefore provided for, and it shall submit the question of an additional levy to raise said excess amount to the qualified electors residing within the district who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual election held in said district, or at a special election called for that purpose by the board of trustees of said district. Such election shall be called by resolution in the same manner as provided for other school elections, and shall be held prior to August first.

(2) Whenever the board of trustees of any district or county high school shall deem it necessary to raise money by taxation in excess of the

levy required to meet its **maximum budgets as specified in section 75-4518.1** for the purpose of maintaining the high schools of said district or the county high school, or building, altering, repairing or enlarging any schoolhouse or houses of such district or county high school, for furnishing additional school facilities for said district, or county high school, or for any other purpose necessary for the proper operation and maintenance of the schools of said district, or county high school, said board of trustees shall determine and fix the amount necessary and required for such purpose or purposes in addition to any other legal levies on the district, including the approved addition to its foundation program hereinbefore provided for, and in the case of the district high school it shall submit the question of an additional levy to raise said amount to the qualified electors residing within the district who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual election held in said district or at a special election called for that purpose by the board of trustees of said district. In the case of the county high school the board shall submit the question of an additional levy to raise said amount to the qualified electors residing within the county, exclusive of those residing within any district maintaining a district high school in the county, who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual elections held in said districts, or special elections called for that purpose by the board of trustees of said county high school. Such election shall be called by resolution in the same manner as provided for other school elections, and shall be held prior to August first; and provided, further, that the provisions of this act shall not prevent the voting of a special levy on a high school district as provided for in chapter 130, Laws of 1949 (75-4609).

As amended by Section 12, Chapter 267, Laws of 1963.

75-4120. **Authority to abolish or to unify.** Any county in which a county high school has been established may abolish such county high school **or unify it with and make it a part of the public school system of the school district in which it is located** and dispose of all property belonging thereto in the manner provided in this chapter.

As amended by Section 1, Chapter 261, Laws of 1963.

75-4121. **Petition to be filed.** Between the first day of July and the first day of September in any year in which a general election is held in the state of Montana twenty per centum (20%) or more, of the qualified **registered** electors of any county maintaining a county high school who are also assessed in their own names on the assessment books of the county for that year upon real or personal property may file their written petition with the county clerk of the county praying that the county high school be abolished **or praying that the county high school be unified with and made a part of the public school system of the school district in which said county high school is located.**

As amended by Section 2, Chapter 261, Laws of 1963.

75-4122. **Commissioners to submit question.** At the first regular monthly meeting of the board of county commissioners of the county immediately following such filing the petition shall be called to the attention of the board by the county clerk; and the board shall immediately direct the submission of the question appearing in the petition to the registered voters of the county at the ensuing general election for that year.

As amended by Section 3, Chapter 261, Laws of 1963.

75-4123. **Publication of notice and preparation of poll books.** The county clerk of the county shall publish a notice of the filing and purpose of the said petition, **which notice shall contain the question of either abolishing the county high school or of unifying the county high school with and making it a part of the public school system of the school district in which it is located. The notice shall also state that the said question will be submitted at the ensuing general election. The notice shall be published** at least once a week for four successive weeks in some newspaper of general circulation published in the county, and, if there be none, in such newspaper as the board of county commissioners may designate, the first publication of such notice to be made between September 1 and September 15 of the said year. **The county clerk of said county shall prepare suitable poll books containing the names of all registered electors at the expense of the county.**

As amended by Section 4, Chapter 261, Laws of 1963.

75-4124. **Further notice required — manner of holding election—ballots.** Further notice of the submission of the question shall be given and such question shall be submitted to the registered voters of the county at the ensuing general election in November, and the votes cast thereon canvassed and returns thereof made in the manner provided by law for the election of county officers at that election, subject, however, to the following special requirements:

If the question is to abolish the county high school, the votes for or against abolishment of the county high school shall be cast by ballot in substantially the following form under A. But if the question is to unify the county high school and make it a part of the public school system of the school district in which the county high school is located, then a ballot similar to form B shall be used.

A. Abolishment of county high school.

☐ For the abolishment of the county high school.

☐ Against the abolishment of the county high school.

B. Unification of county high school.

☐ **For the unification of the county high school.**

☐ **Against the unification of the county high school.**

An elector may vote for **the question submitted to him for consideration** by placing an "X" in the square immediately before the words "For the abolishment **(or unification)** of the county high school"; and a ballot

so marked and cast shall be counted in favor of abolishing (or unifying) the county high school. An elector may vote against the question submitted to him for consideration by placing an "X" in the square immediately preceding the words "Against the abolishment (or unification) of the county high school"; and a ballot so marked and cast shall be counted against abolishing (or unifying) the county high school.

As amended by Section 5, Chapter 261, Laws of 1963.

75-4125. Action by board of county commissioners when election favors abolishing or unifying county high school. If a majority of all votes cast at such general election upon the question of the abolishment or the unification of the county high school with and making it a part of the public school system of the school district in which the county high school is located shall be in favor of abolishing or unifying the same the board of county commissioners of the county at its first regular meeting in December following the election shall make and enter at large upon its minutes an abstract of the votes so cast and a resolution that in accordance therewith on and after July 1st of the year immediately following the county high school of the county shall be, and is thereby abolished, or, in case of unification, that the county high school shall be and is thereby unified with and made a part of the public school system of the school district in which the county high school is located, and that the board of trustees of said county high school shall be and is thereby dissolved, and that its powers and duties shall be and are thereby assigned to the board of trustees of the school district with which the county high school was unified, provided, that the board of trustees of said school district shall have, and is hereby given the power and authority to prepare and adopt the preliminary high school budget for the ensuing fiscal year beginning on said July 1st.

As amended by Section 6, Chapter 261, Laws of 1963.

75-4126. When election favors retaining high school. But if a majority of all votes cast at such election shall be against the abolishment, or the unification, of the county high school a similar abstract of the votes shall in like manner be entered by the board of county commissioners at large upon their minutes at its December meeting aforesaid; and no further submission of the question of abolishing or unifying the county high school shall be had in that county for at least two (2) years thereafter, provided that if an election against the abolishment of the county high school has been had within any county within two years prior to the enactment of this statute, that the question shall not again be resubmitted for at least two (2) years after the date that this act becomes effective.

As amended by Section 7, Chapter 261, Laws of 1963.

75-4516.1. Levy of taxes. (1) Basic high school levy. On or before the first day of August in each year, the state superintendent of public instruction shall compute and determine the sum of money which, when added to the moneys available for the state equalization aid shall provide

seventy-five per cent (75%) of the maximum high school budgets for all high schools as set forth in sections 75-4518.1 and 75-3612, plus the amount of high school tuition. Such information shall be given to the state board of equalization who shall compute and determine the number of mills of a tax (herein called the basic high school tax) on the taxable value of all property within all the counties of the state which is calculated to produce the aforesaid sum of money.

If a levy of less than the number of mills so determined is sufficient to provide the total foundation programs from the general fund budgets of all school districts within one or more counties, the state board of equalization shall recompute the basic high school tax to be levied in the remaining counties, excluding in the computations the amount of the foundation programs in the county or counties requiring a lesser levy, thus determining as the adjusted basic high school tax the number of mills required to produce the sum of money which, when added to all the moneys available for state equalization aid to be distributed to all high schools except those which as hereinafter provided are not entitled to apportionment of state equalization aid, shall equal the total of the foundation programs of all high schools except those not entitled to apportionment of state equalization aid. In no event shall the adjusted basic high school tax exceed fifteen (15) mills.

In addition to the provisions for the support of the high schools hereinbefore provided, it shall be the duty of the board of county commissioners of each county in the state to levy on the taxable valuation of all taxable property in the county the number of mills determined by the board of equalization as the adjusted basic high school tax, except that the board in any county in which a levy of less than the number of mills so determined is sufficient to provide the total foundation programs from the general fund budgets for all high schools within the county shall levy such lesser number of mills.

The levy in each county shall be made at the time and in the manner provided by law for the levying of taxes for county purposes, and the tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected.

No county levying less than the adjusted basic high school levy shall receive any apportionment of state equalization aid.

(2) Additional high school levy. The county commissioners shall, if necessary, levy an additional tax in such number of mills on the taxable value of all taxable property within the county as shall be required to provide the foundation program for all school districts and county high schools within the county. The county superintendent shall apportion the proceeds of such additional tax levy to each school district and county high school within the county after apportionment of the basic special tax for high schools as provided in section 75-3618 and the state public school equalization funds as provided in section 75-3619.

(3) Permissive high school levy. If the revenues for the operation and maintenance of any high school, including the amount apportionable from said basic special tax for high schools and the amount, if any, produced by said additional high school tax, shall be less than the founda-

tion program of such high school and the approved additions thereto included in its budget, within the limitations hereinbefore specified, it shall be the further duty of the board of county commissioners to fix and levy a tax, in such number of mills as will produce the amount shown by the final budget to be raised by tax levy plus federal reimbursements in lieu of taxes, which tax shall, in the case of a county high school not located within a building district, be levied upon all property in the county, excepting the property of any district supporting a district high school, and shall, in the case of a county high school located within a high school building district, be levied upon all property in such building district and which tax shall, in the case of a district high school not located within a building district, be levied upon all property within the school district, and shall, in the case of a district high school located within a building district, be levied upon all property in such building district, provided, however, that such last mentioned additional tax shall not, in any event, **be used to raise funds in excess of the maximum budgets as specified in section 75-4518.1 when considered with all other sources of revenue, unless approved by a vote of the taxpaying electors.**

As amended by Section 14, Chapter 267, Laws of 1963.

75-4601. **High school trustees may undertake public works program —additional trustees—division of taxable valuation—commencement of proceedings.** In any county having a high school the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining district high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act, provided that additional members may be elected to the board of trustees of districts maintaining district high schools in the number and manner as follows: When a majority of the boards of the common school districts in the high school district so request, such requests shall be directed to the county superintendent of schools, who shall proceed as directed in this act.

The taxable valuation of the district in which the high school is located shall be divided by the number of trustees on the high school board. In the case of a first class district this number shall be seven (7), for a second class district five (5), and for a third class district three (3). This figure obtained shall then be divided into the remaining valuation of the high school district, and the resulting number, to the closest whole number, shall be the number of additional board members to be elected; provided, that the number of these additional board members shall not exceed four (4) in districts of the first and second class or two (2) in districts of the third class.

(a) Following the determination of the number of additional board members to be elected, the county superintendent of schools shall district the territory of the high school district, excluding the common school district wherein the high school is located, into a number of trustee nominating districts equal to the number of additional board members to be elected, and each trustee nominating district so established shall be entitled to one (1) member on the board of trustees of the high school.

The election of the additional trustees shall be held on the first Saturday in April of every year to fill the expired terms of such additional trustees, and the term of office of such additional trustees after the first election of such trustees shall be for three (3) years.

The additional trustees so elected shall be residents of the respective trustee nominating districts established by the county superintendent of schools, and shall meet the general qualifications for school district trustees provided by section 75-1601, Revised Codes of Montana, 1947.

At the first election the additional trustees elected from the trustee nominating districts established by the county superintendent of schools, if there be more than one, shall cast lots to determine the length of time each shall hold office. If there is one (1) additional trustee, he shall hold office for three (3) years. If there are two (2) additional trustees, one shall hold office for three (3) years and one for two (2) years. If there are three (3) additional trustees, one shall hold office for three (3) years, one for two (2) years and one for one (1) year. If there are four (4) additional trustees, two shall hold office for three (3) years, one for two (2) years and one for one (1) year.

The procedure for calling and holding elections, and for the assumption of office, for the school district wherein the high school is located shall govern the election of the additional trustees herein provided for.

At least twenty (20) days preceding the election, any ten (10) electors of any trustee nominating district established as provided for in this act, who are qualified to vote in the election for such additional trustee, shall file with the district clerk of the school district wherein the high school is located the nomination of any qualified person to be a candidate for such trustee from such nominating district. Ballots for the election of such additional trustees shall be prepared in the same form and manner as ballots are prepared for other trustees, providing that such ballots for additional trustees shall show clearly the trustee nominating district from which each nominee is a candidate.

Any qualified elector of any nominating district, excluding the district where the high school is located, may vote for the additional trustees so nominated, at the time and place of the annual election of school trustees in the common school district in which he is entitled to vote, provided that each elector may vote for no more than one such additional trustee from each trustee nominating district.

A vacancy in the office of additional trustee shall be filled by appointment by the county superintendent of schools; provided, that such appointment shall be subject to confirmation by a majority of the remaining members of the high school district board including the additional members. The trustee so appointed shall hold office until the next annual election, at which election there shall be elected a trustee from the same nominating district for the unexpired term.

(b) The additional members elected to the board of trustees of districts maintaining high schools, shall take office immediatley after qualifying and shall participate on an equal basis with other members in all

business transacted by the board of trustees pertaining to the high school maintained by said districts. Said additional elected members shall be entitled to vote on the selection of the district superintendent of schools.

To effectuate the purpose of this act, the board of trustees of any high school district, as herein provided for, is hereby authorized to undertake a program of public works in the construction, improvement or repair of buildings, furnishing and equipping the same and purchasing the necessary land therefor, for the use of any or all high schools in such high school district, and to accept funds from the United States, its instrumentalities or any of its agencies in aid of any one or more of such purposes. Such proceedings may be commenced by resolution upon the part of such board of trustees of such high school district of its own motion and without any petition being filed therefor, such proceedings may also be commenced on petition of thirty per cent (30%) of the qualified electors of the high school district. Upon presentation of this petition to the high school district board of trustees, the latter shall, within sixty (60) days take steps to present the matter asked for in the petition to a vote of the people of the high school district.

As amended by Section 1, Chapter 222, Laws of 1963.

93-302. **Number of judges.** In each judicial district there must be the following number of judges of the district court, who must be elected by the qualified voters of the district, and whose term of office must be four (4) years, to wit: In the first, second, eleventh and sixteenth, two judges each, in the thirteenth, **eighth and fourth**, three judges, and, in all other districts, one judge each.

On or before **April 1, 1963,** the governor of this state shall designate and appoint a judge of the **fourth** judicial district who shall hold office until the general election to be held during the year **1964**, and until his successor is elected and qualified.

As amended by Section 1, Chapter 229, Laws of 1963.

Gaylord
SPEEDY BINDER
Syracuse, N. Y.
Stockton, Calif.