

SB 5 BILL NO. 52

INTRODUCED BY HARR

A BILL FOR AN ACT ENTITLED: "AN ACT SUBSTITUTING REAL PROPERTY OWNERS FOR FREEHOLDERS WITH RESPECT TO MUNICIPAL ANNEXATION LAWS; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4313, 7-2-4314, 7-2-4323, 7-2-4324, 7-2-4409, 7-2-4502, 7-2-4506, 7-2-4601, 7-2-4606, 7-2-4610, 7-2-4704, 7-2-4705, 7-2-4710, 7-2-4741, AND 7-2-4751, MCA."

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

**Section 1.** Section 7-2-4205, MCA, is amended to read:

"7-2-4205. **Provision of services.** In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

**Section 2.** Section 7-2-4305, MCA, is amended to read:

"7-2-4305. **Provision of services.** In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

**Section 3.** Section 7-2-4313, MCA, is amended to read:

"7-2-4313. **Contents of notice -- protest period.** The notice ~~shall~~ must be to the effect state that:

(1) ~~such~~ the resolution has been duly and regularly passed; and

(2) for a period of 20 days after the first publication of ~~such~~ the notice, ~~such~~ the city clerk ~~will receive expressions, in writing, of approval or disapproval of~~ shall accept written comments approving or disapproving the proposed extensions of the boundaries of ~~such~~ the city of the first class from ~~freeholders~~

1 real property owners of the territory area proposed to be ~~embraced therein annexed.~~"

2

3 **Section 4.** Section 7-2-4314, MCA, is amended to read:

4 **"7-2-4314. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at  
5 the next regular meeting of the city council of ~~such a~~ a city of the first class after the expiration of ~~said 20~~  
6 ~~days the 20-day period, lay before the same all communications in writing so~~ forward all written  
7 communication received by ~~him~~ the clerk for ~~its~~ the city council's consideration. Except as provided in  
8 subsection (2), if after considering ~~the same such~~ any written communication the city council ~~shall duly and~~  
9 ~~regularly pass and adopt~~ adopts a resolution ~~to that effect approving the annexation,~~ the boundaries of ~~such~~  
10 ~~the city of the first class shall~~ must be extended ~~so as to embrace and~~ include ~~such~~ the platted tracts or  
11 parcels of land or unplatted land for which a certificate of survey has been filed; ~~the time when the same~~  
12 ~~shall go into effect to be fixed by such resolution~~ The resolution must state the date on which the  
13 annexation takes effect.

14 (2) ~~Such~~ The resolution ~~shall~~ may not be adopted by ~~such~~ the city council if disapproved in writing  
15 by a majority of the ~~resident freeholders of the territory~~ real property owners of the area proposed to be  
16 ~~embraced annexed,~~ and ~~no~~ further resolutions relating to the annexation of ~~said territory~~ the area or any  
17 portion ~~thereof~~ of the area may not be considered or acted upon by the council on its own initiative, ~~and~~  
18 without petition, for a period of 1 year from the date of disapproval."

19

20 **Section 5.** Section 7-2-4323, MCA, is amended to read:

21 **"7-2-4323. Contents of notice -- protest period.** The notice ~~shall~~ must be to the effect state that:

22 (1) ~~such~~ the resolution has been duly and regularly passed; and

23 (2) for a period of 20 days after the first publication of ~~such~~ the notice, ~~such~~ the city or town clerk  
24 ~~will receive expressions in writing of approval or disapproval of~~ shall accept written comments approving  
25 or disapproving the proposed extensions of the boundaries of ~~such~~ the city or town from ~~freeholders~~ real  
26 property owners of the territory area proposed to be ~~embraced therein annexed.~~"

27

28 **Section 6.** Section 7-2-4324, MCA, is amended to read:

29 **"7-2-4324. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at  
30 the next regular meeting of the city or town council after the expiration of ~~said 20 days~~ the 20-day period,

1 ~~lay before the same all communications in writing so~~ forward all written communication received by him  
 2 ~~the clerk for its~~ the council's consideration. Except as provided in subsection (2), if after considering the  
 3 ~~same such any written communication the council shall duty and regularly pass and adopt~~ adopts a  
 4 ~~resolution to that effect~~ approving the annexation, the boundaries of ~~such the~~ the city or town of the second  
 5 ~~or third class shall must~~ be extended ~~so as to embrace and include such the~~ tracts or parcels of land; ~~the~~  
 6 ~~time when the same shall go into effect to be fixed by such resolution~~ The resolution must state the date  
 7 on which the annexation takes effect.

8 (2) ~~Such The~~ The resolution shall may not be adopted by ~~such the~~ the council if disapproved in writing by  
 9 a majority of the ~~freeholders~~ real property owners of the ~~territory area~~ proposed to be embraced annexed."

11 **Section 7.** Section 7-2-4409, MCA, is amended to read:

12 "**7-2-4409. Provision of services.** In all cases of annexation under current Montana law, services  
 13 ~~will must~~ be provided as specified in Title 7, chapter 2, part 47, except ~~where~~ when mutually agreed upon  
 14 by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

16 **Section 8.** Section 7-2-4502, MCA, is amended to read:

17 "**7-2-4502. Protest not available.** ~~Such The~~ The land ~~shall be is~~ is annexed, if so resolved, whether or not  
 18 a majority of the ~~resident freeholders~~ real property owners of the ~~land area~~ area to be annexed object."

20 **Section 9.** Section 7-2-4506, MCA, is amended to read:

21 "**7-2-4506. Provision of services.** In all cases of annexation under current Montana law, services  
 22 ~~will must~~ be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

23 (1) as provided in 7-2-4736; and

24 (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the  
 25 ~~freeholders~~ real property owners of the area to be annexed."

27 **Section 10.** Section 7-2-4601, MCA, is amended to read:

28 "**7-2-4601. Annexation by petition.** (1) The boundaries of any incorporated city or town, ~~whether~~  
 29 ~~heretofore or hereafter formed,~~ may be altered and new ~~territory or territories~~ areas annexed ~~thereto,~~  
 30 ~~incorporated and included therein, and made a part thereof upon proceedings being had and taken as~~

1 provided in this part.

2 (2) The council or other legislative body of ~~any such a~~ municipal corporation, upon receiving a  
3 written petition ~~therefor~~ for annexation containing a description of the ~~new territory or territories~~ asked area  
4 ~~to be annexed to the corporation~~ and signed by not less than 33 1/3% of the registered electors of the  
5 ~~territory~~ area proposed to be annexed, ~~must~~ shall without delay submit to the electors of the municipal  
6 corporation and to the registered electors residing in the ~~territory or territories~~ area proposed by the petition  
7 to be annexed ~~to the corporation~~, the question of whether the ~~new territory or territories~~ shall area should  
8 be ~~annexed to, incorporated in, and~~ made a part of the municipal corporation.

9 (3) (a) The governing body of a municipality need not submit the question of annexation to the  
10 qualified electors as provided in subsection (2) if it has received a written petition containing a description  
11 of ~~territory~~ the area requested to be annexed and signed by:

12 (i) more than 50% of the resident ~~freeholder~~ electors owning real property in ~~of the territory~~ area  
13 to be annexed; or

14 (ii) the owner or ~~all the owners of each parcel~~ 50% of the real property in the ~~territory~~ area to be  
15 annexed.

16 (b) The governing body may approve or disapprove a petition submitted under the provisions of  
17 subsection (3)(a) upon its merits. When the governing body approves the petition, it shall pass a resolution  
18 providing for the annexation."  
19

20 **Section 11.** Section 7-2-4606, MCA, is amended to read:

21 **"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in favor  
22 of the annexation, the city or town council or other legislative body shall, at a regular or special meeting  
23 held within 30 days ~~thereafter~~ of the election, pass and adopt a resolution providing for ~~such the~~  
24 annexation.

25 (b) ~~Such~~ The resolution ~~shall~~ must ~~recite~~ state that a petition has been filed with the ~~said~~ council  
26 or other legislative body with ~~a sufficient number of~~ the signatures of 33 1/3% of the resident ~~freeholder~~  
27 electors owning real property in ~~of the territory~~ area proposed to be annexed; a description of the  
28 boundaries of the ~~territory or territories~~ area to be annexed; a copy of the resolution ordering a general or  
29 special election ~~thereof, as the case may be~~; a copy of the notice of ~~such the~~ election; the time and result  
30 of the canvass of the votes received in favor of annexation and the number ~~thereof~~ of votes cast against

1 annexation; and that the boundaries of ~~such~~ the city or town, ~~by such resolution, shall~~ will be extended ~~so~~  
 2 ~~as to embrace and include such territory or territories as the same are~~ the area described in the petition for  
 3 annexation, ~~which said,~~ The resolution ~~shall~~ must be incorporated in the minutes of ~~said~~ the council or  
 4 legislative body.

5 (2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has been  
 6 filed with the governing body containing the signatures of more than 50% of the resident ~~freeholder~~  
 7 electors owning real property or the owners of all 50% of the ~~territory~~ area to be annexed; a description  
 8 of the boundaries of the ~~territory~~ area to be annexed; and a statement that the boundaries of the  
 9 municipality are to be extended to include the ~~territory~~ area described in the petition for annexation. The  
 10 resolution ~~shall~~ must be incorporated in the minutes of the governing body. Upon incorporation in the  
 11 minutes, the resolution must be filed and becomes effective as provided in 7-2-4607."

12

13 **Section 12.** Section 7-2-4610, MCA, is amended to read:

14 **"7-2-4610. Provision of services.** In all cases of annexation under current Montana law, services  
 15 ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

16 (1) as provided in 7-2-4736; and

17 (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the  
 18 ~~freeholders~~ real property owners of the area to be annexed."

19

20 **Section 13.** Section 7-2-4704, MCA, is amended to read:

21 **"7-2-4704. Definitions.** The following terms ~~where~~ when used in this part have the following  
 22 meanings except ~~where~~ when the context clearly indicates a different meaning:

23 (1) "Contiguous" means any area ~~which~~ that, at the time annexation procedures are initiated, either  
 24 abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street  
 25 right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned  
 26 by the city or some other political subdivision, or lands owned by the state.

27 (2) "Municipality" means any incorporated city or town ~~under Montana law.~~

28 ~~(3) "Resident freeholder" means a person who maintains his residence on real property in which~~  
 29 ~~he holds an estate of life or inheritance or of which he is the purchaser of such an estate under a contract~~  
 30 ~~for deed, some memorandum of which has been filed in the office of the county clerk and recorder."~~

1           **Section 14.** Section 7-2-4705, MCA, is amended to read:

2           **"7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any  
3 municipality may extend the corporate limits of ~~such~~ the municipality under the procedure set forth in this  
4 part upon the initiation of the procedure by the governing body itself.

5           (2) Whenever the ~~resident freeholders~~ owners of real property situated outside the corporate  
6 boundaries of any municipality, but contiguous ~~thereto~~ to the municipality, desire to have real estate  
7 annexed to the municipality, they ~~may~~ shall file with the governing body of the municipality a petition  
8 bearing the signatures of 51% of the ~~resident freeholders~~ real property owners ~~in~~ of the ~~territory area~~  
9 sought to be annexed, and requesting a resolution stating ~~the intent of that~~ the municipality intends to  
10 consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in  
11 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

12

13           **Section 15.** Section 7-2-4710, MCA, is amended to read:

14           **"7-2-4710. Protest.** (1) For a period of 45 days after the public hearing provided for in 7-2-4707  
15 through 7-2-4709, the governing body of the municipality shall ~~receive expressions, in writing, of accept~~  
16 written comments approving or disapproving ~~approval or disapproval~~ of the proposed annexation from  
17 ~~freeholders of the territory~~ real property owners of the area proposed to be annexed.

18           (2) If a majority of the ~~said freeholders~~ real property owners ~~in writing~~ disapprove of the proposed  
19 annexation in writing, ~~no~~ further proceedings under this part ~~shall be had~~ relating to the ~~territory area or~~  
20 any part of the area proposed to be annexed ~~or any part thereof~~ may not be considered or acted upon by  
21 the governing body on its own initiative, without petition, for a period of 1 year from the date of ~~such~~  
22 disapproval."

23

24           **Section 16.** Section 7-2-4741, MCA, is amended to read:

25           **"7-2-4741. Right to court review when area annexed.** (1) Within 30 days following the passage  
26 of an annexation ordinance under authority of this part, either a majority of the ~~resident freeholders~~ real  
27 property owners ~~in~~ of the ~~territory area to be annexed~~ or the owners of more than 75% in assessed  
28 valuation of the real estate in the ~~territory area~~ who believe that they will suffer material injury by reason  
29 of the failure of the municipal governing body to comply with the ~~procedure~~ procedures set forth in this part  
30 or to meet the requirements set forth in 7-2-4734 and 7-2-4735, as ~~they apply~~ applied to their property,

1 may file a petition in the district court of the district in which the municipality is located seeking review of  
2 the action of the governing ~~board and serve a copy of the petition on the municipality in the manner of~~  
3 ~~service of civil process~~ body.

4 (2) If two or more petitions for review are submitted to the court, the court may consolidate ~~all~~  
5 ~~such~~ the petitions for review at a single hearing."

6

7 **Section 17.** Section 7-2-4751, MCA, is amended to read:

8 **"7-2-4751. Right to court review when area not annexed.** (1) ~~After the resident freeholders have~~  
9 ~~properly petitioned~~ If within 60 days of receiving a valid petition the governing body ~~of the municipality and~~  
10 ~~the body has failed~~ fails to pass a resolution of intent to annex ~~within 60 days~~, the petitioners may file a  
11 ~~complaint and a duplicate copy of the~~ petition in the district court of the ~~proper jurisdiction~~ district in which  
12 the municipality is located ~~stating the reason why the proposed annexation should take place.~~

13 (2) The municipality ~~shall~~ must be designated ~~party as the~~ defendant in the cause and ~~shall be is~~  
14 required to appear and answer as in other cases."

15

-END-

SENATE BILL NO. 52

INTRODUCED BY HARP

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING ANNEXATION LAW BY SUBSTITUTING REAL PROPERTY OWNERS FOR FREEHOLDERS AND, WITH RESPECT TO MUNICIPAL ANNEXATION WITH THE PROVISION OF SERVICES LAWS, BY SUBSTITUTING REAL PROPERTY OWNERS FOR RESIDENT FREEHOLDERS; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4313, 7-2-4314, 7-2-4323, 7-2-4324, 7-2-4409, 7-2-4502, 7-2-4506, 7-2-4601, 7-2-4606, 7-2-4610, 7-2-4704, 7-2-4705, 7-2-4710, 7-2-4741, AND 7-2-4751, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 7-2-4205, MCA, is amended to read:

**"7-2-4205. Provision of services.** In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

**Section 2.** Section 7-2-4305, MCA, is amended to read:

**"7-2-4305. Provision of services.** In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

**Section 3.** Section 7-2-4313, MCA, is amended to read:

**"7-2-4313. Contents of notice -- protest period.** The notice ~~shall~~ must ~~be to the effect~~ state that:

(1) ~~such~~ the resolution has been duly and regularly passed; and

(2) for a period of 20 days after the first publication of ~~such~~ the notice, ~~such~~ the city clerk ~~will~~



1 ~~receive expressions, in writing, of approval or disapproval of~~ shall accept written comments approving or  
 2 disapproving the proposed extensions of the boundaries of ~~such~~ the city of the first class from ~~freeholders~~  
 3 real property owners of the ~~territory~~ area proposed to be ~~embraced therein~~ annexed."

4  
 5 **Section 4.** Section 7-2-4314, MCA, is amended to read:

6 **"7-2-4314. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at  
 7 the next regular meeting of the city council of ~~such a~~ a city of the first class after the expiration of ~~said 20~~  
 8 ~~days~~ the 20-day period, ~~lay before the same all communications in writing so forward all written~~  
 9 communication received by ~~him~~ the clerk for ~~its~~ the city council's consideration. Except as provided in  
 10 subsection (2), if after considering ~~the same~~ such any written communication the city council ~~shall duly and~~  
 11 ~~regularly pass and adopt~~ adopts a resolution ~~to that effect~~ approving the annexation, the boundaries of ~~such~~  
 12 the city of the first class shall must be extended ~~so as to embrace and~~ include ~~such~~ the platted tracts or  
 13 parcels of land or unplatted land for which a certificate of survey has been filed; ~~the time when the same~~  
 14 ~~shall go into effect to be fixed by such resolution~~ The resolution must state the date on which the  
 15 annexation takes effect.

16 (2) ~~Such~~ The resolution shall may not be adopted by ~~such~~ the city council if disapproved in writing  
 17 by a majority of the ~~resident freeholders of the territory~~ real property owners of the area proposed to be  
 18 ~~embraced~~ annexed, and ~~no~~ further resolutions relating to the annexation of ~~said territory~~ the area or any  
 19 portion ~~thereof~~ of the area may not be considered or acted upon by the council on its own initiative, ~~and~~  
 20 without petition, for a period of 1 year from the date of disapproval."

21  
 22 **Section 5.** Section 7-2-4323, MCA, is amended to read:

23 **"7-2-4323. Contents of notice -- protest period.** The notice shall must ~~be to the effect~~ state that:

24 (1) ~~such~~ the resolution has been duly and regularly passed; and

25 (2) for a period of 20 days after the first publication of ~~such~~ the notice, ~~such~~ the city or town clerk  
 26 ~~will receive expressions in writing of approval or disapproval of~~ shall accept written comments approving  
 27 or disapproving the proposed extensions of the boundaries of ~~such~~ the city or town from ~~freeholders~~ real  
 28 property owners of the ~~territory~~ area proposed to be ~~embraced therein~~ annexed."

29  
 30 **Section 6.** Section 7-2-4324, MCA, is amended to read:

1           **"7-2-4324. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at  
 2 the next regular meeting of the city or town council after the expiration of ~~said 20 days~~ the 20-day period,  
 3 ~~lay before the same all communications in writing so~~ forward all written communication received by him  
 4 the clerk for ~~its~~ the council's consideration. Except as provided in subsection (2), if after considering ~~the~~  
 5 ~~same such any written communication the~~ council shall duly and regularly pass and adopt adopts a  
 6 resolution ~~to that effect~~ approving the annexation, the boundaries of ~~such the~~ the city or town of the second  
 7 ~~or third class shall must~~ be extended ~~so as to embrace and include such the~~ tracts or parcels of land; the  
 8 ~~time when the same shall go into effect to be fixed by such resolution~~ The resolution must state the date  
 9 on which the annexation takes effect.

10           (2) ~~Such The~~ The resolution shall may not be adopted by ~~such the~~ the council if disapproved in writing by  
 11 a majority of the ~~freeholders~~ real property owners of the ~~territory~~ area proposed to be ~~embraced~~ annexed."

13           **Section 7.** Section 7-2-4409, MCA, is amended to read:

14           **"7-2-4409. Provision of services.** In all cases of annexation under current Montana law, services  
 15 ~~will must~~ be provided as specified in Title 7, chapter 2, part 47, except ~~where~~ when mutually agreed upon  
 16 by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

18           **Section 8.** Section 7-2-4502, MCA, is amended to read:

19           **"7-2-4502. Protest not available.** ~~Such The~~ The land ~~shall be~~ is annexed, if so resolved, whether or not  
 20 a majority of the ~~resident freeholders~~ real property owners of the ~~land~~ area to be annexed object."

22           **Section 9.** Section 7-2-4506, MCA, is amended to read:

23           **"7-2-4506. Provision of services.** In all cases of annexation under current Montana law, services  
 24 ~~will must~~ be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

25           (1) as provided in 7-2-4736; and

26           (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the  
 27 ~~freeholders~~ real property owners of the area to be annexed."

29           **Section 10.** Section 7-2-4601, MCA, is amended to read:

30           **"7-2-4601. Annexation by petition.** (1) The boundaries of any incorporated city or town, ~~whether~~

1 ~~heretofore or hereafter formed,~~ may be altered and new ~~territory or territories~~ areas annexed ~~thereto,~~  
 2 ~~incorporated and included therein, and made a part thereof upon proceedings being had and taken as~~  
 3 provided in this part.

4 (2) The council or other legislative body of ~~any such a~~ municipal corporation, upon receiving a  
 5 written petition ~~therefor~~ for annexation containing a description of the ~~new territory or territories asked~~ area  
 6 to be annexed ~~to the corporation~~ and signed by not less than 33 1/3% of the registered electors of the  
 7 ~~territory~~ area proposed to be annexed, ~~must~~ shall without delay submit to the electors of the municipal  
 8 corporation and to the registered electors residing in the ~~territory or territories~~ area proposed by the petition  
 9 to be annexed ~~to the corporation,~~ the question of whether the ~~new territory or territories shall~~ area should  
 10 be annexed ~~to, incorporated in, and~~ made a part of the municipal corporation.

11 (3) (a) The governing body of a municipality need not submit the question of annexation to the  
 12 qualified electors as provided in subsection (2) if it has received a written petition containing a description  
 13 of ~~territory~~ the area requested to be annexed and signed by:

14 (i) more than 50% of the resident ~~freeholder~~ electors owning real property in ~~of~~ the ~~territory~~ area  
 15 to be annexed; or

16 (ii) the owner or all the owners of each ~~parcel~~ 50% of the real property in the ~~territory~~ area to be  
 17 annexed.

18 (b) The governing body may approve or disapprove a petition submitted under the provisions of  
 19 subsection (3)(a) upon its merits. When the governing body approves the petition, it shall pass a resolution  
 20 providing for the annexation."  
 21

22 **Section 11.** Section 7-2-4606, MCA, is amended to read:

23 **"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in favor  
 24 of the annexation, the city or town council or other legislative body shall, at a regular or special meeting  
 25 held within 30 days ~~thereafter~~ of the election, pass and adopt a resolution providing for ~~such~~ the  
 26 annexation.

27 (b) ~~Such~~ The resolution ~~shall~~ must recite state that a petition has been filed with the ~~said~~  
 28 or other legislative body with ~~a sufficient number of~~ the signatures of 33 1/3% of the resident ~~freeholder~~  
 29 electors owning real property in ~~of~~ the ~~territory~~ area proposed to be annexed; a description of the  
 30 boundaries of the ~~territory or territories~~ area to be annexed; a copy of the resolution ordering a general or

1 special election thereof, ~~as the case may be~~; a copy of the notice of ~~such the~~ election; the time and result  
 2 of the canvass of the votes received in favor of annexation and the number ~~thereof of votes~~ cast against  
 3 annexation; and that the boundaries of ~~such the~~ city or town, ~~by such resolution, shall will~~ be extended so  
 4 as to ~~embrace and include such territory or territories as the same are~~ the area described in the petition for  
 5 annexation, ~~which said, The~~ resolution ~~shall~~ must be incorporated in the minutes of ~~said the~~ council or  
 6 legislative body.

7 (2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has been  
 8 filed with the governing body containing the signatures of more than 50% of the resident ~~freeholder~~  
 9 electors owning real property or the owners of ~~all~~ 50% of the ~~territory area~~ to be annexed; a description  
 10 of the boundaries of the ~~territory area~~ to be annexed; and a statement that the boundaries of the  
 11 municipality are to be extended to include the ~~territory area~~ described in the petition for annexation. The  
 12 resolution ~~shall~~ must be incorporated in the minutes of the governing body. Upon incorporation in the  
 13 minutes, the resolution must be filed and becomes effective as provided in 7-2-4607."  
 14

15 **Section 12.** Section 7-2-4610, MCA, is amended to read:

16 "**7-2-4610. Provision of services.** In all cases of annexation under current Montana law, services  
 17 ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

- 18 (1) as provided in 7-2-4736; and  
 19 (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the  
 20 ~~freeholders~~ real property owners of the area to be annexed."  
 21

22 **Section 13.** Section 7-2-4704, MCA, is amended to read:

23 "**7-2-4704. Definitions.** The following terms ~~where~~ when used in this part have the following  
 24 meanings except ~~where~~ when the context clearly indicates a different meaning:

25 (1) "Contiguous" means any area ~~which~~ that, at the time annexation procedures are initiated, either  
 26 abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street  
 27 right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned  
 28 by the city or some other political subdivision, or lands owned by the state.

29 (2) "Municipality" means any incorporated city or town ~~under Montana law~~.

30 (3) ~~"Resident freeholder" means a person who maintains his residence on real property in which~~

1 ~~he holds an estate of life or inheritance or of which he is the purchaser of such an estate under a contract~~  
 2 ~~for deed, some memorandum of which has been filed in the office of the county clerk and recorder.~~

3 (3) "REAL PROPERTY OWNER" MEANS A PERSON WHO HOLDS AN ESTATE OF LIFE OR  
 4 INHERITANCE IN REAL PROPERTY OR WHO IS THE PURCHASER OF AN ESTATE OF LIFE OR  
 5 INHERITANCE IN REAL PROPERTY UNDER A CONTRACT FOR DEED, SOME MEMORANDUM OF WHICH  
 6 HAS BEEN FILED IN THE OFFICE OF THE COUNTY CLERK."

7  
 8 **Section 14.** Section 7-2-4705, MCA, is amended to read:

9 **"7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any  
 10 municipality may extend the corporate limits of ~~such~~ the municipality under the procedure set forth in this  
 11 part upon the initiation of the procedure by the governing body itself.

12 (2) Whenever the ~~resident freeholders~~ owners of real property situated outside the corporate  
 13 boundaries of any municipality, but contiguous ~~thereto~~ to the municipality, desire to have real estate  
 14 annexed to the municipality, they ~~may~~ shall file with the governing body of the municipality a petition  
 15 bearing the signatures of 51% of the ~~resident freeholders~~ real property owners in of the territory area  
 16 sought to be annexed, and requesting a resolution stating ~~the intent of that~~ the municipality intends to  
 17 consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in  
 18 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

19  
 20 **Section 15.** Section 7-2-4710, MCA, is amended to read:

21 **"7-2-4710. Protest.** (1) For a period of 45 days after the public hearing provided for in 7-2-4707  
 22 through 7-2-4709, the governing body of the municipality shall ~~receive expressions, in writing, of accept~~  
 23 written comments approving or disapproving approval or disapproval of the proposed annexation from  
 24 ~~freeholders of the territory~~ real property owners of the area proposed to be annexed.

25 (2) If a majority of the ~~said freeholders~~ real property owners in writing disapprove of the proposed  
 26 annexation in writing, ~~no~~ further proceedings under this part ~~shall be had~~ relating to the territory area or  
 27 any part of the area proposed to be annexed ~~or any part thereof~~ may not be considered or acted upon by  
 28 the governing body on its own initiative, without petition, for a period of 1 year from the date of ~~such~~  
 29 disapproval."  
 30



## 1 SENATE BILL NO. 52

2 INTRODUCED BY HARP

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING ANNEXATION LAW BY SUBSTITUTING REAL  
5 PROPERTY OWNERS FOR FREEHOLDERS AND, WITH RESPECT TO MUNICIPAL ANNEXATION WITH THE  
6 PROVISION OF SERVICES LAWS, BY SUBSTITUTING REAL PROPERTY OWNERS FOR RESIDENT  
7 FREEHOLDERS; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4313, 7-2-4314, 7-2-4323, 7-2-4324,  
8 7-2-4409, 7-2-4502, 7-2-4506, 7-2-4601, 7-2-4606, 7-2-4610, 7-2-4704, 7-2-4705, 7-2-4710, 7-2-4741,  
9 AND 7-2-4751, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

## SENATE BILL NO. 52

INTRODUCED BY HARP

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING ANNEXATION LAW BY SUBSTITUTING REAL PROPERTY OWNERS FOR FREEHOLDERS AND, WITH RESPECT TO MUNICIPAL ANNEXATION WITH THE PROVISION OF SERVICES LAWS, BY SUBSTITUTING REAL PROPERTY OWNERS FOR RESIDENT FREEHOLDERS; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4313, 7-2-4314, 7-2-4323, 7-2-4324, 7-2-4409, 7-2-4502, 7-2-4506, 7-2-4601, 7-2-4606, 7-2-4610, 7-2-4704, 7-2-4705, 7-2-4710, 7-2-4741, AND 7-2-4751, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 7-2-4205, MCA, is amended to read:

**"7-2-4205. Provision of services.** In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

**Section 2.** Section 7-2-4305, MCA, is amended to read:

**"7-2-4305. Provision of services.** In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

**Section 3.** Section 7-2-4313, MCA, is amended to read:

**"7-2-4313. Contents of notice -- protest period.** The notice ~~shall~~ must be to the effect ~~state~~ that:

(1) ~~such~~ the resolution has been duly and regularly passed; and

(2) for a period of 20 days after the first publication of ~~such~~ the notice, ~~such~~ the city clerk ~~will~~



1 ~~receive expressions, in writing, of approval or disapproval of~~ shall accept written comments approving or  
 2 disapproving the proposed extensions of the boundaries of ~~such the~~ city of the first class from ~~freeholders~~  
 3 real property owners of the ~~territory area~~ proposed to be ~~embraced therein~~ annexed."

4  
 5 **Section 4.** Section 7-2-4314, MCA, is amended to read:

6 **"7-2-4314. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at  
 7 the next regular meeting of the city council of ~~such a~~ city of the first class after the expiration of ~~said 20~~  
 8 days the 20-day period, ~~lay before the same all communications in writing so~~ forward all written  
 9 communication received by ~~him the clerk~~ for ~~its the city council's~~ consideration. Except as provided in  
 10 subsection (2), if after considering ~~the same such~~ any written communication the city council ~~shall duly and~~  
 11 ~~regularly pass and adopt~~ adopts a resolution ~~to that effect~~ approving the annexation, the boundaries of ~~such~~  
 12 the city of the first class shall must be extended ~~so as to embrace and~~ include ~~such the~~ platted tracts or  
 13 parcels of land or unplatted land for which a certificate of survey has been filed; ~~the time when the same~~  
 14 ~~shall go into effect to be fixed by such resolution~~ The resolution must state the date on which the  
 15 annexation takes effect.

16 (2) ~~Such~~ The resolution ~~shall may~~ not be adopted by ~~such the~~ city council if disapproved in writing  
 17 by a majority of the ~~resident freeholders of the territory~~ real property owners of the area proposed to be  
 18 ~~embraced annexed~~, and ~~no~~ further resolutions relating to the annexation of ~~said territory~~ the area or any  
 19 portion ~~thereof of the area~~ may not be considered or acted upon by the council on its own initiative, ~~and~~  
 20 without petition, for a period of 1 year from the date of disapproval."

21  
 22 **Section 5.** Section 7-2-4323, MCA, is amended to read:

23 **"7-2-4323. Contents of notice -- protest period.** The notice ~~shall must be to the effect~~ state that:

24 (1) ~~such the~~ resolution has been duly and regularly passed; and

25 (2) for a period of 20 days after the first publication of ~~such the~~ notice, ~~such the~~ city or town clerk  
 26 ~~will receive expressions in writing of approval or disapproval of~~ shall accept written comments approving  
 27 or disapproving the proposed extensions of the boundaries of ~~such the~~ city or town from ~~freeholders~~ real  
 28 property owners of the ~~territory area~~ proposed to be ~~embraced therein~~ annexed."

29  
 30 **Section 6.** Section 7-2-4324, MCA, is amended to read:

1           **"7-2-4324. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at  
 2 the next regular meeting of the city or town council after the expiration of ~~said 20 days~~ the 20-day period,  
 3 ~~lay before the same all communications in writing so~~ forward all written communication received by him  
 4 the clerk for ~~the~~ the council's consideration. Except as provided in subsection (2), if after considering ~~the~~  
 5 ~~same such any written communication the~~ council shall duly and regularly pass and adopt adopts a  
 6 resolution ~~to that effect~~ approving the annexation, the boundaries of ~~such the~~ the city or town ~~of the second~~  
 7 ~~or third class shall~~ must be extended ~~so as to embrace and~~ include ~~such the~~ the tracts or parcels of land; ~~the~~  
 8 ~~time when the same shall go into effect to be fixed by such resolution~~ The resolution must state the date  
 9 on which the annexation takes effect.

10           (2) ~~Such The~~ The resolution ~~shall may~~ may not be adopted by ~~such the~~ the council if disapproved in writing by  
 11 a majority of the ~~freeholders~~ real property owners of the ~~territory area~~ area proposed to be ~~embraced~~ annexed."

12  
 13           **Section 7.** Section 7-2-4409, MCA, is amended to read:

14           **"7-2-4409. Provision of services.** In all cases of annexation under current Montana law, services  
 15 ~~will~~ must be provided as specified in Title 7, chapter 2, part 47, ~~except where~~ when mutually agreed upon  
 16 by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

17  
 18           **Section 8.** Section 7-2-4502, MCA, is amended to read:

19           **"7-2-4502. Protest not available.** ~~Such The~~ The land ~~shall be~~ is annexed, if so resolved, whether or not  
 20 a majority of the ~~resident freeholders~~ real property owners of the ~~land~~ area to be annexed object."

21  
 22           **Section 9.** Section 7-2-4506, MCA, is amended to read:

23           **"7-2-4506. Provision of services.** In all cases of annexation under current Montana law, services  
 24 ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

25           (1) as provided in 7-2-4736; and

26           (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the  
 27 ~~freeholders~~ real property owners of the area to be annexed."

28  
 29           **Section 10.** Section 7-2-4601, MCA, is amended to read:

30           **"7-2-4601. Annexation by petition.** (1) The boundaries of any incorporated city or town, ~~whether~~

1 ~~heretofore or hereafter formed~~, may be altered and new ~~territory or territories~~ areas annexed thereto,  
 2 ~~incorporated and included therein, and made a part thereof upon proceedings being had and taken as~~  
 3 provided in this part.

4 (2) The council or other legislative body of ~~any such~~ a municipal corporation, upon receiving a  
 5 written petition ~~therefor~~ for annexation containing a description of the ~~new territory or territories~~ asked area  
 6 to be annexed ~~to the corporation~~ and signed by not less than 33 1/3% of the registered electors of the  
 7 ~~territory~~ area proposed to be annexed, ~~must~~ shall without delay submit to the electors of the municipal  
 8 corporation and to the registered electors residing in the ~~territory or territories~~ area proposed by the petition  
 9 to be annexed ~~to the corporation~~, the question of whether the ~~new territory or territories~~ shall area should  
 10 be ~~annexed to, incorporated in, and~~ made a part of the municipal corporation.

11 (3). (a) The governing body of a municipality need not submit the question of annexation to the  
 12 qualified electors as provided in subsection (2) if it has received a written petition containing a description  
 13 of ~~territory~~ the area requested to be annexed and signed by:

14 (i) more than 50% of the resident ~~freeholder~~ electors owning real property in ~~of~~ the ~~territory~~ area  
 15 to be annexed; or

16 (ii) the owner or ~~all the owners of each parcel~~ 50% of the real property in the ~~territory~~ area to be  
 17 annexed.

18 (b) The governing body may approve or disapprove a petition submitted under the provisions of  
 19 subsection (3)(a) upon its merits. When the governing body approves the petition, it shall pass a resolution  
 20 providing for the annexation."  
 21

22 **Section 11.** Section 7-2-4606, MCA, is amended to read:

23 **"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in favor  
 24 of the annexation, the city or town council or other legislative body shall, at a regular or special meeting  
 25 held within 30 days ~~thereafter~~ of the election, pass and adopt a resolution providing for ~~such~~ the  
 26 annexation.

27 (b) ~~Such~~ The resolution ~~shall~~ must recite state that a petition has been filed with the ~~said~~ council  
 28 or other legislative body with ~~a sufficient number of~~ the signatures of 33 1/3% of the resident ~~freeholder~~  
 29 electors owning real property in ~~of~~ the ~~territory~~ area proposed to be annexed; a description of the  
 30 boundaries of the ~~territory or territories~~ area to be annexed; a copy of the resolution ordering a general or

1 special election ~~thereof, as the case may be~~; a copy of the notice of ~~such the~~ election; the time and result  
 2 of the canvass of the votes received in favor of annexation and the number ~~thereof of votes~~ cast against  
 3 annexation; and that the boundaries of ~~such the~~ city or town, ~~by such resolution, shall will~~ be extended ~~so~~  
 4 ~~as to embrace and include such territory or territories as the same are~~ the area described in the petition for  
 5 annexation, ~~which said.~~ The resolution ~~shall must~~ be incorporated in the minutes of ~~said the~~ council or  
 6 legislative body.

7 (2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has been  
 8 filed with the governing body containing the signatures of more than 50% of the resident ~~freeholder~~  
 9 electors owning real property or the owners of all 50% of the ~~territory area~~ to be annexed; a description  
 10 of the boundaries of the ~~territory area~~ to be annexed; and a statement that the boundaries of the  
 11 municipality are to be extended to include the ~~territory area~~ described in the petition for annexation. The  
 12 resolution ~~shall must~~ be incorporated in the minutes of the governing body. Upon incorporation in the  
 13 minutes, the resolution must be filed and becomes effective as provided in 7-2-4607."  
 14

15 **Section 12.** Section 7-2-4610, MCA, is amended to read:

16 **"7-2-4610. Provision of services.** In all cases of annexation under current Montana law, services  
 17 ~~will must~~ be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

18 (1) as provided in 7-2-4736; and

19 (2) in first-class cities, ~~where when~~ otherwise mutually agreed upon by the municipality and the  
 20 ~~freeholders~~ real property owners of the area to be annexed."  
 21

22 **Section 13.** Section 7-2-4704, MCA, is amended to read:

23 **"7-2-4704. Definitions.** The following terms ~~where when~~ used in this part have the following  
 24 meanings except ~~where when~~ the context clearly indicates a different meaning:

25 (1) "Contiguous" means any area ~~which that~~, at the time annexation procedures are initiated, either  
 26 abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street  
 27 right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned  
 28 by the city or some other political subdivision, or lands owned by the state.

29 (2) "Municipality" means any incorporated city or town ~~under Montana law~~.

30 ~~(3) "Resident freeholder" means a person who maintains his residence on real property in which~~

1 ~~he holds an estate of life or inheritance or of which he is the purchaser of such an estate under a contract~~  
 2 ~~for deed, some memorandum of which has been filed in the office of the county clerk and recorder.~~

3 (3) "REAL PROPERTY OWNER" MEANS A PERSON WHO HOLDS AN ESTATE OF LIFE OR  
 4 INHERITANCE IN REAL PROPERTY OR WHO IS THE PURCHASER OF AN ESTATE OF LIFE OR  
 5 INHERITANCE IN REAL PROPERTY UNDER A CONTRACT FOR DEED, SOME MEMORANDUM OF WHICH  
 6 HAS BEEN FILED IN THE OFFICE OF THE COUNTY CLERK."

7

8 **Section 14.** Section 7-2-4705, MCA, is amended to read:

9 **"7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any  
 10 municipality may extend the corporate limits of ~~such~~ the municipality under the procedure set forth in this  
 11 part upon the initiation of the procedure by the governing body itself.

12 (2) Whenever the ~~resident freeholders~~ owners of real property situated outside the corporate  
 13 boundaries of any municipality, but contiguous ~~thereto~~ to the municipality, desire to have real estate  
 14 annexed to the municipality, they ~~may~~ shall file with the governing body of the municipality a petition  
 15 bearing the signatures of 51% of the ~~resident freeholders~~ real property owners ~~in~~ of the ~~territory~~ area  
 16 sought to be annexed, and requesting a resolution stating ~~the intent of~~ that the municipality intends  
 17 consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in  
 18 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

19

20 **Section 15.** Section 7-2-4710, MCA, is amended to read:

21 **"7-2-4710. Protest.** (1) For a period of 45 days after the public hearing provided for in 7-2-4707  
 22 through 7-2-4709, the governing body of the municipality shall ~~receive expressions, in writing, of accept~~  
 23 written comments approving or disapproving ~~approval or disapproval~~ of the proposed annexation from  
 24 ~~freeholders of the territory~~ real property owners of the area proposed to be annexed.

25 (2) If a majority of the ~~said freeholders~~ real property owners ~~in writing~~ disapprove of the proposed  
 26 annexation in writing, ~~no~~ further proceedings under this part ~~shall be had~~ relating to the ~~territory~~ area or  
 27 any part of the area proposed to be annexed ~~or any part thereof~~ may not be considered or acted upon by  
 28 the governing body on its own initiative, without petition, for a period of 1 year from the date of ~~such~~  
 29 disapproval."

30

