

## SENATE BILL NO. 96

INTRODUCED BY KITZENBERG, BLACK, GRIMES, KEENAN, NELSON, SHEA, TESTER

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A SCHOOL DISTRICT CONDUCT AT LEAST 180 SCHOOL DAYS DURING EACH SCHOOL FISCAL YEAR; REQUIRING A SCHOOL DISTRICT TO CONDUCT SCHOOL FOR A MINIMUM NUMBER OF AGGREGATE HOURS EACH SCHOOL YEAR; REQUIRING SCHOOL DISTRICT TRUSTEES TO SET THE LENGTH OF THE SCHOOL TERM, SCHOOL DAY, AND SCHOOL WEEK; MAKING THE REVISIONS NECESSARY TO REFLECT THE ELIMINATION OF THE REQUIREMENT FOR 180 SCHOOL DAYS; AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-304, 20-2-115, 20-2-121, 20-3-324, 20-5-109, 20-6-209, 20-9-311, 20-9-801, 20-9-802, 20-9-805, AND 20-9-806, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 20-1-301, MCA, is amended to read:

**"20-1-301. School fiscal year.** (1) The school fiscal year begins on July 1 and ends on June 30. At least ~~180 school days of pupil instruction~~ and the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except that ~~175 days and~~ 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient or a minimum of ~~90 days and~~ 360 aggregate hours of pupil instruction must be conducted for a kindergarten program, as provided in 20-7-117.

(2) The minimum aggregate hours required by grade are:

(a) 720 hours for grades 1 through 3; and

(b) 1,080 hours for grades 4 through 12.

~~(3) To calculate the number of equivalent school days of pupil instruction when providing less than the minimum number of hours of instruction provided in subsections (1) and (2), a school district shall:~~

~~—— (a) determine the aggregate hours of pupil instruction by grade level;~~

~~—— (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day for that grade level provided in 20-1-302; and~~

~~—— (c) round the result down to the nearest whole number.~~

~~(4)~~(3) For any elementary or high school district that fails to provide for at least ~~180 school days of pupil instruction~~ and the minimum aggregate hours, as defined in subsections (1) and (2), the superintendent of public

instruction shall reduce the direct state aid for the district for that school year by ~~1/90th for each school day less than 180 school days as calculated in subsection (3) or by 1/90th for each calendar day less than the minimum school days required by subsection (1), whichever is greater~~ a proportionate amount based on the actual number of aggregate hours provided by the school district."

**Section 2.** Section 20-1-302, MCA, is amended to read:

**"20-1-302. School term, day, and week.** ~~(1) Subject to 20-1-301 and 20-1-308, a school day of pupil instruction must be at least 2 hours for kindergartens, at least 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The number of hours in 1 school day may be reduced at the discretion of the trustees if the total number of pupil instruction hours in the school year is not less than the minimum aggregate hours required in 20-1-301~~ the trustees of a school district shall set the number of days in a school term, the length of the school day, and the number of school days in a school week and report them to the superintendent of public instruction.

(2) WHEN PROPOSING TO ADOPT CHANGES TO A PREVIOUSLY ADOPTED SCHOOL TERM, SCHOOL WEEK, OR SCHOOL DAY, THE TRUSTEES SHALL:

(A) NEGOTIATE THE CHANGES WITH THE RECOGNIZED COLLECTIVE BARGAINING UNIT REPRESENTING THE EMPLOYEES AFFECTED BY THE CHANGES; AND

(B) SOLICIT INPUT FROM THE EMPLOYEES AFFECTED BY THE CHANGES BUT NOT REPRESENTED BY A COLLECTIVE BARGAINING UNIT."

**Section 3.** Section 20-1-304, MCA, is amended to read:

**"20-1-304. Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher activities devoted to improving the quality of instruction. The activities may include but are not limited to inservice training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum of 3 of the days for instructional and professional development meetings or other appropriate inservice training, if the days are planned in accordance with the policy adopted by the board of public education. The days may not be included as a part of the required ~~minimum of 180 days or the required~~ minimum aggregate hours of pupil instruction."

**Section 4.** Section 20-2-115, MCA, is amended to read:

**"20-2-115. Rules with substantial financial impact -- fiscal note -- effect without funding.** (1) When

developing rules, policies, and standards under 20-2-121~~(6)~~(5), ~~(7)~~ (6), ~~(9)~~ (8), and ~~(11)~~ (10), the board of public education shall determine the financial impact of the rule, policy, or standard on school districts.

(2) The superintendent of public instruction shall prepare a fiscal note for submission to the board, using criteria and assumptions developed by the board. The fiscal note must be prepared within 30 days of a request unless the board agrees to a longer time. The board may also accept other testimony and exhibits on the financial impact to school districts before proceeding to rulemaking.

(3) If the financial impact of the proposed rule, policy, or standard is found by the board to be substantial, the board may not implement the rule until July 1 following the next regular legislative session and shall request the next legislature to fund implementation of the proposed rule, policy, or standard through the BASE funding program. A substantial financial impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

(4) A proposed rule, policy, or standard not found by the board to have a substantial financial impact on school districts or funded by the legislature may be implemented at any time."

**Section 5.** Section 20-2-121, MCA, is amended to read:

**"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

(1) effect an orderly and uniform system for teacher certification and specialist certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and 20-4-111;

(2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

(3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of 20-10-111;

~~(5) approve or disapprove a reduction of the number of hours in a district's school day in accordance with the provisions of 20-1-302;~~

~~(6)~~(5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types of pupil-instruction-related days and approval procedure for such days in accordance with the provisions of 20-1-303 and 20-1-304;

~~(7)~~(6) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of 20-7-101 and 20-7-102;

~~(8)~~(7) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of 20-7-201;

~~(9)~~(8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

~~(10)~~(9) adopt rules for issuance of documents certifying equivalency of completion of secondary education in accordance with 20-7-131;

~~(11)~~(10) adopt policies for the conduct of programs for gifted and talented children in accordance with the provisions of 20-7-903 and 20-7-904;

~~(12)~~(11) adopt rules for student assessment in the public schools; and

~~(13)~~(12) perform any other duty prescribed from time to time by this title or any other act of the legislature."

**Section 6.** Section 20-3-324, MCA, is amended to read:

**"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with

the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) subject to 15-10-420, establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative agreement fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) set the length of the school term, school day, and school week in accordance with 20-1-302;

~~(17)~~(18) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title;

~~(18)~~(19) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

~~(19)~~(20) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

~~(20)~~(21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any

parent or guardian any medical reports or health records maintained by the district pertaining to the child;

~~(21)~~(22) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

~~(22)~~(23) procure and display outside daily in suitable weather on school days at each school of the district an American flag that measures not less than 4 feet by 6 feet;

~~(23)~~(24) provide that an American flag that measures approximately 12 inches by 18 inches be prominently displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

~~(24)~~(25) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

~~(25)~~(26) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

~~(26)~~(27) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution; and

~~(27)~~(28) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

**Section 7.** Section 20-5-109, MCA, is amended to read:

**"20-5-109. Nonpublic school requirements for compulsory enrollment exemption.** To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school ~~shall~~:

(1) shall maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;

(2) shall provide at least ~~180 days~~ the minimum aggregate hours of pupil instruction ~~or the equivalent~~ in accordance with 20-1-301 ~~and 20-1-302~~;

(3) must be housed in a building that complies with applicable local health and safety regulations;

(4) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111; and

(5) in the case of home schools, shall notify the county superintendent of schools, of the county in which the home school is located, in each school fiscal year of the student's attendance at the school."

**Section 8.** Section 20-6-209, MCA, is amended to read:

**"20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an elementary district to be abandoned and order the attachment of the territory of the district to a contiguous district of the county when:

(a) a school has not been operated by a district for at least ~~180 days~~ the minimum aggregate hours under the provisions of 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of ~~days~~ aggregate hours as approved by the board of trustees under the provisions of 20-9-806; or

(b) there is an insufficient number of residents who are qualified electors of the district that can serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

(2) The county superintendent shall notify the elementary district that has not operated a school for 2 consecutive years before the first day of the third year that the failure to operate a school for ~~180 days~~ the minimum aggregate hours or a lesser number of ~~days~~ aggregate hours than approved by the board of trustees under the provisions of 20-9-806 during the ensuing school fiscal year constitutes grounds for abandonment of the district at the conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide the notification does not constitute a waiver of the abandonment requirement prescribed in subsection (1)(a).

(3) Any abandonment under subsection (1)(a) becomes effective on July 1. Any abandonment of an elementary district under subsection (1)(b) becomes effective immediately on the date of the abandonment order."

**Section 9.** Section 20-9-311, MCA, is amended to read:

**"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of ~~the pupil instruction~~ 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related

days may be included in the calculation.

(3) When a school district has approval to operate less than ~~180 school days~~ the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or



(iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317, or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

- (A) 75% of the basic entitlement for the fourth year;
- (B) 50% of the basic entitlement for the fifth year; and
- (C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent."

**Section 10.** Section 20-9-801, MCA, is amended to read:

**"20-9-801. Purpose.** This part governs a school district's entitlement to state equalization apportionment funds for any school year during which the school district is unable to conduct ~~the minimum number of school days and~~ the minimum aggregate hours by grade required by 20-1-301 by reason of one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted."

**Section 11.** Section 20-9-802, MCA, is amended to read:

**"20-9-802. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following

definitions apply:

(1) "Declaration of emergency" means a declaration by a board of trustees that an unforeseen emergency has occurred in the district.

(2) "Reasonable effort" means the rescheduling or extension of the school district's instructional calendar in an effort to attain the minimum ~~number of school days~~ aggregate hours required by law by:

(a) extending the school year 3 days ~~and or~~ the equivalent aggregate hours of pupil instruction beyond the ~~last scheduled~~ last-scheduled day; or

(b) the use of scheduled vacation days.

~~(3) "School day" means the school day defined in 20-1-302.~~

~~(4)~~(3) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection, community disaster, or act of God or a combination of the foregoing that acts as a principal cause for a school district's inability to conduct 1 or more scheduled school days."

**Section 12.** Section 20-9-805, MCA, is amended to read:

**"20-9-805. Rate of reduction in annual apportionment entitlement.** (1) For each ~~school day~~ hour short of the minimum number of ~~school days~~ aggregate hours required by law that a school district fails to conduct by reason of one or more unforeseen emergencies ~~as defined in 20-9-802~~, the superintendent of public instruction shall reduce the equalization apportionment and entitlement of the district for that school year by ~~1/180th~~ a proportionate amount.

(2) Kindergarten, grade 1 through 3, and grade ~~4~~ 4 through 12 programs ~~shall~~ must be considered separately for the purpose of computing compliance with minimum ~~school day~~ aggregate hour requirements and any loss of apportionment."

**Section 13.** Section 20-9-806, MCA, is amended to read:

**"20-9-806. School closure by declaration of emergency.** (1) If a school is closed by reason of an unforeseen emergency that results in a declaration of emergency by the board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the resolution, the pupil-instruction time lost during the closure need not be rescheduled to meet the minimum requirement for ~~pupil-instruction days~~ aggregate hours that a school district ~~must~~ shall conduct during the school year in order to be entitled to full annual equalization apportionment.

(2) At least 3 school days or the equivalent aggregate hours must have been made up before the trustees can declare that a reasonable effort has been made."

NEW SECTION. **Section 14. Effective date.** [This act] is effective July 1, 2003.

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