

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE SHARED AUTHORITY OF ELECTED SCHOOL
5 DISTRICT TRUSTEES AND THE BOARD OF PUBLIC EDUCATION TO ALIGN WITH THE INTENT OF THE
6 CONSTITUTION; PROVIDING DEFINITIONS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO
7 THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 20-1-101 AND 20-3-324, MCA; AND
8 PROVIDING AN EFFECTIVE DATE."

9
10 WHEREAS, the framers of the Montana Constitution explicitly recognized and gave status to elected
11 boards of trustees in Article X, section 8, of the Montana Constitution as evidenced in the transcripts from the
12 Montana Constitutional Convention; and

13 WHEREAS, the Legislature finds that the scope of authority and the relationship between local boards
14 of trustees, the board of public education, and the Legislature need to be clarified.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 20-1-101, MCA, is amended to read:

19 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
20 definitions apply:

- 21 (1) "Accreditation standards" means the body of administrative rules governing standards such as:
 - 22 (a) school leadership;
 - 23 (b) educational opportunity;
 - 24 (c) academic requirements;
 - 25 (d) program area standards;
 - 26 (e) content and performance standards;
 - 27 (f) school facilities and records;
 - 28 (g) student assessment; and
 - 29 (h) general provisions.
- 30 (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is

1 offered or for which a pupil is enrolled.

2 (3) "Agricultural experiment station" means the agricultural experiment station established at Montana
3 state university-Bozeman.

4 (4) "At-risk student" means any student who is affected by environmental conditions that negatively
5 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

6 (5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time
7 pupils physically attending or receiving educational services at an offsite instructional setting from the public
8 schools of a district.

9 (6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the
10 Montana constitution and 2-15-1507.

11 (7) "Board of regents" means the board of regents of higher education created by Article X, section 9,
12 subsection (2), of the Montana constitution and 2-15-1505.

13 (8) "Commissioner" means the commissioner of higher education created by Article X, section 9,
14 subsection (2), of the Montana constitution and 2-15-1506.

15 (9) "County superintendent" means the county government official who is the school officer of the county.

16 (10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with
17 a superintendent's endorsement that has been issued by the superintendent of public instruction under the
18 provisions of this title and the policies adopted by the board of public education and who has been employed by
19 a district as a district superintendent.

20 (11) (a) "Educational program" means a set of educational offerings designed to meet the program area
21 standards contained in the accreditation standards.

22 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

23 (12) "General supervision" means, subject to constitutional conditions and limitations set forth in Article
24 X of the Montana constitution, the authority to adopt and ensure compliance with minimal standards over which
25 the public official exercising general supervision has authority as specifically set forth in this title or in Article X
26 of the Montana constitution. General supervision may not usurp or otherwise override supervision and control
27 as defined in this section.

28 ~~(+2)~~(13) "K-12 career and vocational/technical education" means organized educational activities that
29 have been approved by the office of public instruction and that:

30 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills

1 that the pupil needs to prepare for further education and for careers in the current or emerging employment
2 sectors; and

3 (b) include competency-based applied learning that contributes to the academic knowledge, higher-order
4 reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and
5 occupation-specific skills of the pupil.

6 ~~(13)~~(14) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
7 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

8 (b) The term does not include lunch time and periods of unstructured recess.

9 ~~(14)~~(15) "Offsite instructional setting" means an instructional setting at a location, separate from a main
10 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the
11 district.

12 ~~(15)~~(16) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an
13 applicable principal's endorsement that has been issued by the superintendent of public instruction under the
14 provisions of this title and the policies adopted by the board of public education and who has been employed by
15 a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including
16 a principal.

17 ~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in
18 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3)
19 but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under
20 the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to
21 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of
22 the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state
23 at public expense.

24 ~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools
25 while under the supervision of a teacher.

26 ~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and
27 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as
28 established by the board of public education.

29 ~~(19)~~(20) "Regents" means the board of regents of higher education.

30 ~~(20)~~(21) "School food services" means a service of providing food for the pupils of a district on a nonprofit

1 basis and includes any food service financially assisted through funds or commodities provided by the United
2 States government.

3 ~~(21)~~(22) "State board of education" means the board composed of the board of public education and the
4 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

5 ~~(22)~~(23) "State university" means Montana state university-Bozeman.

6 ~~(23)~~(24) "Student with limited English proficiency" means any student:

7 (a) (i) who was not born in the United States or whose native language is a language other than English;

8 (ii) who is an American Indian and who comes from an environment in which a language other than
9 English has had a significant impact on the individual's level of English proficiency; or

10 (iii) who is migratory, whose native language is a language other than English, and who comes from an
11 environment in which a language other than English is dominant; and

12 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be
13 sufficient to deny the student:

14 (i) the ability to meet the state's proficiency assessments;

15 (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

16 (iii) the opportunity to participate fully in society.

17 ~~(24)~~(25) "Superintendent of public instruction" means that state government official designated as a
18 member of the executive branch by the Montana constitution.

19 (26) "Supervision and control" means, subject to constitutional conditions and limitations set forth in
20 Article X of the Montana constitution, the autonomous oversight and governance exercised by elected trustees
21 as specified in Article X, section 8, of the Montana constitution. The oversight and governance include full power,
22 responsibility, and authority to supervise, coordinate, manage, and control all programs and services of a school
23 district and to oversee, assess, and adjust the means by which a school district pursues the goal of developing
24 the full educational potential of each of its students as set forth in Article X, section 1, of the Montana constitution,
25 while complying with rules adopted by the board of public education in properly exercising the board's authority
26 to exercise general supervision, as defined in this section.

27 ~~(25)~~(27) "System" means the Montana university system.

28 ~~(26)~~(28) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher
29 certificate that has been issued by the superintendent of public instruction under the provisions of this title and
30 the policies adopted by the board of public education and who is employed by a district as a member of its

1 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
 2 emergency authorization of employment has been issued under the provisions of 20-4-111.

3 ~~(27)~~(29) "Textbook" means a book or manual used as a principal source of study material for a given
 4 class or group of students.

5 ~~(28)~~(30) "Textbook dealer" means a party, company, corporation, or other organization selling, offering
 6 to sell, or offering for adoption textbooks to districts in the state.

7 ~~(29)~~(31) "Trustees" means the governing board of a district.

8 ~~(30)~~(32) "University" means the university of Montana-Missoula.

9 ~~(31)~~(33) "Vocational-technical education" means vocational-technical education of vocational-technical
 10 students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled
 11 community college, as designated by the board of regents."
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13 **Section 2.** Section 20-3-324, MCA, is amended to read:

14 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall
 15 exercise supervision and control over the district. Without limiting the trustees' general authority as specified in
 16 Article X, section 8, of the Montana constitution, the trustees shall perform the following duties:

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

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

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

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

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

30 (6) participate in district boundary change actions in accordance with the provisions of the school districts

1 chapter of this title;

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

4 (8) adopt and administer the annual budget or a budget amendment of the district in accordance with
5 the provisions of the school budget system part of this title;

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

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

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

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

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

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

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

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

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

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

30 (19) establish and maintain the school food services of the district in accordance with the provisions of

1 the school food services parts of this title;

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

4 (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions
5 of the school or the general health conditions of each pupil and, upon request, make available to any parent or
6 guardian any medical reports or health records maintained by the district pertaining to the child;

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

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

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

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

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

20 (27) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in
21 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a
22 postsecondary institution;

23 (28) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of
24 20-1-303;

25 (29) consider and, if advisable for a high school or K-12 district, establish a student financial institution,
26 as defined in 32-1-115; and

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

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