

HOUSE BILL NO. 377

INTRODUCED BY D. LAMM

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCESS FOR THE ADOPTION OR AMENDMENT
5 OF ACCREDITATION STANDARDS FOR THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY
6 AND SECONDARY SCHOOLS; REQUIRING MEETINGS RELATED TO THE ADOPTION OR AMENDMENT
7 OF ACCREDITATION STANDARDS TO BE OPEN TO THE PUBLIC; PROHIBITING PUBLIC OFFICIALS FROM
8 BELONGING TO ASSOCIATIONS THAT WOULD RESULT IN CEDING ANY MEASURE OF CONTROL OVER
9 PUBLIC SCHOOLS IN MONTANA; PROHIBITING AND VOIDING THE ADOPTION OF STANDARDS OR
10 ASSESSMENTS RELATED TO THE COMMON CORE INITIATIVE; PROVIDING FOR TEMPORARY CONTENT
11 STANDARDS IN MATHEMATICS AND ENGLISH LANGUAGE ARTS AND FOR A PROCESS FOR
12 DEVELOPMENT AND ADOPTION OF NEW CONTENT STANDARDS IN MATHEMATICS AND ENGLISH
13 LANGUAGE ARTS; ESTABLISHING AN ACCREDITATION STANDARDS REVIEW COUNCIL AND PROVIDING
14 FOR MEMBERSHIP AND DUTIES; PROVIDING FOR REVIEW COUNCIL RECOMMENDATION AND FOR A
15 FISCAL ANALYSIS OF PROPOSED ACCREDITATION STANDARDS; ENSURING LOCAL CONTROL OF
16 CONTENT STANDARDS AND CURRICULUM BY PROHIBITING THE WITHHOLDING OF BASE AID BASED
17 ON A DISTRICT'S DECISION TO NOT ADOPT CONTENT STANDARDS; REPEALING TITLE 10, CHAPTER
18 53, SUBCHAPTERS 4 AND 5, ARM; AMENDING SECTIONS 20-7-101 AND 20-9-344, MCA; AND PROVIDING
19 AN IMMEDIATE EFFECTIVE DATE."

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

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23 NEW SECTION. **Section 1. Legislative intent.** It is the intent of the legislature to ensure that the
24 governance of the basic system of free quality public elementary and secondary schools be fully controlled by
25 the state of Montana. The legislature recognizes the constitutional authority of the board of public education to
26 generally supervise the basic system of free quality public elementary and secondary schools that the legislature
27 provides. In providing and funding the basic system, the legislature has the constitutional duty and fiduciary
28 responsibility to oversee the development of standards on which the basic system is built. The legislature also
29 intends to ensure the local control of schools in each district by the trustees elected by the people of that district.
30 While responsible for meeting the minimum standards required of schools within the basic system, local trustees

1 also have the autonomy to govern their schools as entrusted by their voters. The legislature intends to resist the
 2 nationalization and standardization of education to ensure that Montana's basic system truly develops the full
 3 educational potential of each individual.

4

5 **Section 2.** Section 20-7-101, MCA, is amended to read:

6 **"20-7-101. Standards of accreditation.** (1) ~~Standards of accreditation for all schools must be adopted~~
 7 ~~by the board of public education upon the recommendations of the superintendent of public instruction. The board~~
 8 ~~of public education, in exercising its general supervision of the basic system of free quality public elementary and~~
 9 ~~secondary schools provided by the legislature under Article X of the Montana constitution, shall adopt standards~~
 10 ~~of accreditation in accordance with the provisions of this section.~~

11 (2) The board may consult with the superintendent of public instruction in proposing to adopt or amend
 12 accreditation standards.

13 (3) All meetings of a public agency at which proposals to adopt or amend the accreditation standards
 14 are discussed must be open to the public. The development of proposals to adopt or amend the accreditation
 15 standards must provide for the participation of teachers, school administrators, parents, and students from across
 16 the state.

17 (4) Public officers of this state may not join on behalf of the state or a state agency any consortium,
 18 association, or other entity if the membership would require the state or a political subdivision to cede any
 19 measure of control over the basic system of free quality public elementary and secondary schools of this state.
 20 Public officers may not accept grants or sign agreements or memoranda of understanding that cede any measure
 21 of control over the basic system of free quality public elementary and secondary schools of this state.

22 (5) In accordance with subsection (4), the board of public education may not adopt and the
 23 superintendent of public instruction may not implement content standards or assessments based on or related
 24 to those developed by the common core state standards initiative. Any previous adoption of standards or
 25 assessments related to the common core initiative is void as of [the effective date of this act].

26 ~~(2)(6)~~ (6) Prior to adoption or amendment of any accreditation standard, the board shall submit each
 27 proposal to the ~~education and local government interim committee~~ accreditation standards review council
 28 established in [section 3] for review. The proposal must be accompanied by an analysis prepared by the office
 29 of public instruction of the financial impacts of the proposed standards on the state and on local school districts.
 30 The accreditation standards review council shall hold a public hearing on the proposal within 60 days, but no less

1 than 30 days, after the submission of the proposal and financial analysis. A majority vote of the council in favor
 2 of the proposal is required in order to recommend the proposal to the board of public education. If the council
 3 determines that the implementation of the proposed standards will require increased funding requiring legislative
 4 action, the council may delay its vote until the conclusion of the next legislative session. The interim committee
 5 shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall
 6 provide its analysis to the interim committee and to the office of budget and program planning to be used in the
 7 preparation of the executive budget.

8 ~~(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial~~
 9 ~~fiscal impact, the board may not implement the standard until July 1 following the next regular legislative session~~
 10 ~~and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal~~
 11 ~~impact is an amount that cannot be readily absorbed in the budget of an existing school district program.~~

12 ~~(4)(7) Standards for the retention of school records must be as provided in 20-1-212."~~

13
 14 **NEW SECTION. Section 3. Accreditation standards review council -- membership.** (1) There is
 15 an accreditation standards review council administratively attached to the legislative services division.

16 (2) The council consists of the following 16 members:

17 (a) the presiding officers or their designees and ranking minority party members or their designees of:

18 (i) the education standing committees of the senate and house of representatives; and

19 (ii) the joint subcommittee for education that deals with appropriations;

20 (b) the superintendent of public instruction or the superintendent's designee;

21 (c) the presiding officer of the board of public education or a designee;

22 (d) the presiding officer of the board of regents or a designee; and

23 (e) six individuals, four of whom are not legislators, three appointed by the president of the senate and
 24 three by the speaker of the house of representatives. In appointing these individuals, consideration must be given
 25 to providing that the entire membership of the council ensures geographical distribution of members and includes:

26 (i) members representing both urban and rural areas; and

27 (ii) members with deep understanding of educational issues, who may include:

28 (A) teachers;

29 (B) school administrators;

30 (C) school district trustees;

1 (D) education faculty from institutions of higher education;

2 (E) parents of school-aged children; and

3 (F) students.

4 (3) Elected members shall serve the duration of their terms. Appointed members shall serve 2-year
5 terms, except that the council shall designate three members of the first council appointees to serve 4-year terms
6 to ensure continuity.

7 (4) The council shall elect a presiding officer from its members.

8 (5) The presiding officer shall convene the council as necessary for the purposes of reviewing
9 accreditation standards as described in 20-7-101.

10 (6) Unless otherwise provided by law, each member of the council is entitled to be paid \$50 for each day
11 in which the member is engaged in the performance of duties under this section and is also entitled to be
12 reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance
13 of council duties. Members who are full-time salaried officers or employees of this state or of a political
14 subdivision of this state are not entitled to be compensated for their service as members except when they
15 perform their council duties outside their regular working hours or during hours charged against their leave time,
16 but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through
17 2-18-503.

18

19 **Section 4.** Section 20-9-344, MCA, is amended to read:

20 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
21 education shall administer and distribute the BASE aid and state advances for county equalization in the manner
22 and with the powers and duties provided by law. The board of public education:

23 (a) shall adopt policies for regulating the distribution of BASE aid and state advances for county
24 equalization in accordance with the provisions of law;

25 (b) may require reports from the county superintendents, county treasurers, and trustees that it considers
26 necessary; and

27 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each
28 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the
29 distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution
30 to any district on account of any difference that may occur during the school fiscal year between budgeted and

1 actual receipts from any other source of school revenue.

2 (2) (a) The board of public education may order the superintendent of public instruction to withhold
3 distribution of BASE aid from a district when the district fails to:

4 ~~(a)~~(i) submit reports or budgets as required by law or rules adopted by the board of public education;
5 or

6 ~~(b)~~(ii) except as provided in subsection (2)(b), maintain accredited status because of failure to meet the
7 board of public education's assurance and performance standards.

8 (b) A district's BASE aid may not be withheld or limited based on a district's decision not to adopt the
9 content and performance standards in the state accreditation standards. A district's decision does not allow a
10 district to opt out of state assessments based on the content and performance standards.

11 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or
12 county equalization money, the district is entitled to a contested case hearing before the board of public
13 education, as provided under the Montana Administrative Procedure Act.

14 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return
15 the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed
16 by the superintendent of public instruction.

17 (5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the
18 following schedule:

19 (a) from August to October of the school fiscal year, to each district 10% of:

20 (i) direct state aid;

21 (ii) the total quality educator payment;

22 (iii) the total at-risk student payment;

23 (iv) the total Indian education for all payment;

24 (v) the total American Indian achievement gap payment;

25 (vi) the total data-for-achievement payment; and

26 (vii) the total natural resource development K-12 funding payment;

27 (b) from December to April of the school fiscal year, to each district 10% of:

28 (i) direct state aid;

29 (ii) the total quality educator payment;

30 (iii) the total at-risk student payment;

- 1 (iv) the total Indian education for all payment;
- 2 (v) the total American Indian achievement gap payment;
- 3 (vi) the total data-for-achievement payment; and
- 4 (vii) the total natural resource development K-12 funding payment;
- 5 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each
- 6 district or county that has submitted a final budget to the superintendent of public instruction in accordance with
- 7 the provisions of 20-9-134;
- 8 (d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district
- 9 or county; and
- 10 (e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total
- 11 quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total
- 12 American Indian achievement gap payment, the total data-for-achievement payment, and the total natural
- 13 resource development K-12 funding payment.
- 14 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."
- 15

16 **NEW SECTION. Section 5. Temporary content standards and assessments established -- timeline**

17 **and procedure for replacement content standards -- development subcommittees.** (1) For the 2014-2015

18 school year, school districts may not be required to administer statewide assessments in English language arts

19 or mathematics based on the common core state standards. If the trustees of a district determine to administer

20 statewide assessments in English language arts or mathematics based on the common core state standards for

21 the 2014-2015 school year, a student may not participate in the assessment unless the student's parent or legal

22 guardian signs a form provided by the school district granting permission.

23 (2) For the 2015-2016 and 2016-2017 school years, the board of public education shall adopt and the

24 superintendent of public instruction shall implement content standards and assessments in English language arts

25 and mathematics identical to those content standards and assessments that were in effect prior to July 1, 2013.

26 The adoption does not require the recommendation or fiscal analysis required in 20-7-101(6).

27 (3) No later than July 1, 2016, the accreditation standards review council shall develop new content

28 standards for English language arts and mathematics through the procedure described in subsection (4). These

29 standards must be reviewed by the accreditation standards review council pursuant to 20-7-101(6) by September

30 15, 2016. If the board adopts the standards, the standards and valid and reliable assessments aligned to the

1 standards must be used beginning in the 2017-2018 school year.

2 (4) (a) In developing the new content standards in English language arts and mathematics, the
3 accreditation standards review council shall appoint two content standards development subcommittees, one for
4 the development of English language arts content standards and one for the development of mathematics content
5 standards. The council shall appoint the presiding officer of each subcommittee to oversee the development of
6 new content standards. The presiding officer must be a faculty member at a 4-year university in the English
7 language or literature department for the English language arts subcommittee and in the mathematics, science,
8 or engineering department for the mathematics subcommittee. The council shall develop a nomination process
9 for appointees.

10 (b) Each subcommittee must be composed of seven members who have experience in teaching and who
11 collectively possess experience in elementary, middle, and high schools.

12 (c) Each subcommittee shall select a highly rated pre-2009 set of state standards as a foundational
13 blueprint for the development of new standards.

14 (d) Each subcommittee may form working groups to address grade-level standards for elementary,
15 middle, and high school grades.

16 (e) No later than January 1, 2016, each subcommittee shall electronically publish initial draft standards
17 and establish means to receive public comment on the draft standards.

18 (f) No later than April 1, 2016, each subcommittee shall hold no fewer than five public hearings on the
19 draft standards, at least one of which must be held in each of the districts of the state established in 2-15-3402.

20 (g) No later than July 1, 2016, and following the public hearings required in subsection (4)(f), each
21 subcommittee shall hold a final meeting to amend the draft standards as necessary and to vote on recommending
22 the draft standards to the accreditation standards review council.

23 (h) The office of public instruction shall prepare an analysis of the financial impacts of the draft standards
24 and submit the analysis along with the draft standards to the review council.

25 (5) Unless otherwise provided by law, each member of the content standards development
26 subcommittees is entitled to be paid \$50 for each day in which the member is engaged in the performance of
27 duties under this section and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501
28 through 2-18-503, incurred while in the performance of subcommittee duties. Members who are full-time salaried
29 officers or employees of this state or of a political subdivision of this state are not entitled to compensation for their
30 service as members except when they perform their subcommittee duties outside their regular working hours or

1 during hours charged against their leave time, but those members are entitled to be reimbursed for travel
2 expenses as provided for in 2-18-501 through 2-18-503.

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4 NEW SECTION. Section 6. Repealer. All rules under Title 10, chapter 53, subchapters 4 and 5, of the
5 Administrative Rules of Montana are repealed.

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7 NEW SECTION. Section 7. Codification instruction. [Sections 1, 3, and 5] are intended to be codified
8 as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to [sections
9 1, 3, and 5].

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11 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

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