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HOUSE BILL NO. 396

INTRODUCED BY N. HASTINGS, S. ESSMANN, S. VINTON, T. MOORE, K. SEEKINS-CROWE, R.

KNUDSEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE ADMITTANCE OF CHILDREN TO PUBLIC SCHOOLS; REQUIRING TRUSTEES TO ADMIT RESIDENT SCHOOL-AGED CHILDREN ON A PART-TIME BASIS AT THE PARENT'S REQUEST; AMENDING SECTIONS 20-5-101 AND 20-5-102, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 20-5-101, MCA, is amended to read:

**"20-5-101. Admittance of child to school.** (1) The trustees shall assign and admit a child to a school

in the district when the child is:

- (a) 5 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;
- (b) a resident of the district; and
- (c) otherwise qualified under the provisions of this title to be admitted to the school.

(2) The trustees of a district may assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) The trustees may at their discretion assign and admit a child to a school in the district who is under 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section. The trustees may also admit an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

**Amendment - 1st Reading-white - Requested by: Naarah Hastings - (H) Education**

- 2023

68th Legislature 2023

Drafter: Laura Sankey Keip, 406-444-4410

HB0396.001.001

1 (5) The trustees shall assign and admit a child whose parent or guardian is being relocated to  
2 Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and  
3 apply for programs offered by the district prior to arrival and establishing residency.

4 (6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in  
5 accordance with the tuition provisions of this title.

6 (7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in  
7 the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance  
8 policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding  
9 the assignment is final.

10 (8) The trustees shall assign and admit a child who is enrolled in a nonpublic or home school and  
11 who meets the requirements of subsection (1) as a part-time enrollee at the request of the child's parent or  
12 guardian.

13 (9) For the purposes of this part, "part-time enrollee" means a qualifying pupil who is enrolled and  
14 admitted at one of the fractional levels that qualify for part-time ANB pursuant to 20-9-311(4)(a) or (4)(d)."

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16 **Section 2.** Section 20-5-102, MCA, is amended to read:

17 **"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), any  
18 parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older  
19 prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program  
20 prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

21 (a) the child's 16th birthday; or

22 (b) the date of completion of the work of the 8th grade.

23 (2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees  
24 of the district within the first week of the school term or when the parent, guardian, or person establishes  
25 residence in the district unless the child is:

26 (a) enrolled in a school of another district or state under any of the tuition provisions of this title;

27 (b) provided with supervised correspondence study or supervised home study under the

28 transportation provisions of this title;

**Amendment - 1st Reading-white - Requested by: Naarah Hastings - (H) Education**

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HB0396.001.001

1 (c) excused from compulsory school attendance upon a determination by a district judge that  
2 attendance is not in the best interest of the child;

3 (d) excused by the board of trustees upon a determination that attendance by a child who has  
4 attained the age of 16 is not in the best interest of the child and the school; or

5 (e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the  
6 purposes of this subsection (2)(e), a home school is the instruction by a parent of the parent's child, stepchild,  
7 or ward in the parent's residence and a nonpublic school includes a parochial, church, religious, or private  
8 school. A child enrolled in a nonpublic or home school may enroll on a part-time basis in a public school."

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10 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2023.

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12 NEW SECTION. Section 4. Applicability. [This act] applies to school years beginning on or after

13 July 1, 2023.

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