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HOUSE BILL NO. 913

INTRODUCED BY B. BARKER, D. BEDEY, F. ANDERSON, L. REKSTEN, J. BERGSTROM

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL LIBRARY LAWS; REQUIRING SCHOOL TRUSTEES TO ADOPT POLICIES GOVERNING THE SELECTION OF SCHOOL LIBRARY MATERIALS; REQUIRING THE TRUSTEES TO PROVIDE A PROCESS FOR A REGISTERED ELECTOR OF THE DISTRICT TO REQUEST THE RECONSIDERATION OF MATERIAL INCLUDED IN A SCHOOL LIBRARY COLLECTION; REQUIRING THE TEMPORARY OR PERMANENT REMOVAL OF MATERIAL FROM A SCHOOL LIBRARY COLLECTION IF CERTAIN THRESHOLDS ARE MET; REQUIRING THE TRUSTEES TO ISSUE A WRITTEN DECISION REGARDING THE DISPOSITION OF A REQUEST FOR RECONSIDERATION; PROVIDING THAT THE TRUSTEES' DECISION MAY BE APPEALED DIRECTLY TO DISTRICT COURT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 20-3-210, 20-3-324, 20-7-203, AND 20-7-204, MCA; AND PROVIDING AN A DELAYED EFFECTIVE DATE."

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

Section 1. Section 20-3-210, MCA, is amended to read:

"20-3-210. Controversy appeals and hearings. (1) Except for disputes arising under the terms of a collective bargaining agreement or as provided under 20-3-211 or, 20-4-208, or [section 5], the county superintendent shall hear and decide all matters of controversy arising in the county as a result of decisions of the trustees of a district in the county. Only a county superintendent who possesses the qualifications of 20-3-201(2) may hear controversies related to teacher termination. Except as provided in subsection (2), exhaustion of administrative remedies under this chapter is required prior to filing an action in district court concerning a decision of the trustees. When appeals are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the district court of the county in which the teacher was employed. The proceedings must be commenced not

1 later than 60 days after the date of the decision of the county superintendent. The county superintendent shall
2 hear and decide all controversies arising under:

3 (a) 20-5-320 and 20-5-321 relating to the approval of out-of-district attendance agreements; or

4 (b) any other provision of this title for which a procedure for resolving controversies is not
5 expressly prescribed.

6 (2) Exhaustion of administrative remedies is not a prerequisite to filing an action in district court
7 concerning a decision of the trustees of a district in the following instances:

8 (a) a state agency has been granted primary jurisdiction over the matter;

9 (b) the matter is governed by a specific statute; or

10 (c) the board of trustees has acted without jurisdiction or in excess of its jurisdiction.

11 (3) The county superintendent shall hear the appeal and take testimony in order to determine the
12 facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. The
13 county superintendent shall prepare a written transcript of the hearing proceedings. The decision on the matter
14 of controversy that is made by the county superintendent must be based upon the facts established at the
15 hearing.

16 (4) Except for teacher termination cases, the decision of the county superintendent may be
17 appealed to the superintendent of public instruction, and if it is appealed, the county superintendent shall supply
18 a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent
19 of public instruction. In teacher termination cases, an appeal may be filed with the district court of the county in
20 which the teacher was employed no later than 60 days after the date of the decision of the county
21 superintendent. If an appeal is filed, the county superintendent shall provide a transcript of the hearing and any
22 other documents entered as testimony at the hearing to the district court.

23 (5) Cost incurred by the office of the county superintendent must be paid from the general fund
24 budget of the county in which the controversy is initiated."
25

26 **Section 2.** Section 20-3-324, MCA, is amended to read:

27 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of a district shall
28 exercise supervision and control of the schools of the district in providing its educational program pursuant to

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1 Article X, section 8, of the Montana constitution, and shall:

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

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

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

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

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

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

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

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

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

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

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

28 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the

1 provisions of the bonds parts of this title;

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

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

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

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

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

14 (18) establish and maintain the educational program of the schools of the district in accordance with
15 the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and
16 special education parts of this title. In undertaking its duties related to the district's educational program, the
17 board of trustees may:

18 (a) waive any specific course requirement otherwise required for graduation based on individual
19 student needs and performance levels, age, maturity, interest, and aspirations of the pupil, in consultation with
20 the pupil's parents or guardians; and

21 (b) provide credit for a course satisfactorily completed in a period of time shorter or longer than
22 normally required as set forth in 20-9-311(4)(d) or through content proficiency gained through alternative
23 means. Examples of alternative means by which content proficiency may be achieved include but are not
24 limited to correspondence, extension, and distance learning courses, adult education, summer school, work
25 study, work-based learning partnerships, and other experiential learning opportunities, custom-designed
26 courses, and challenges to current courses. Montana schools shall accept units of credit taken with the
27 approval of the accredited Montana school in which the student was then enrolled and which appear on the
28 student's official school transcript.

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

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

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

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

11 (23) procure and display outside daily in suitable weather on school days at each school of the
12 district an American flag representing the United States and manufactured in the United States that measures
13 not less than 3 feet by 5 feet;

14 (24) provide that an American flag representing the United States and manufactured in the United
15 States that measures at least 16 inches by 24 inches be prominently displayed in each classroom in each
16 school of the district no later than the beginning of the school year, except in a classroom in which the flag may
17 get soiled. Districts are encouraged to work with military organizations and civic groups to acquire flags through
18 donation, and this requirement is waived if the flags are not provided by a military organization or civic group.

19 (25) for grades 7 through 12, provide that legible copies of the United States constitution, the United
20 States bill of rights, and the Montana constitution printed in the United States or in electronic form are readily
21 available in every classroom no later than the beginning of the school year. Districts are encouraged to work
22 with civic groups to acquire the documents through donation, and this requirement is waived if the documents
23 are not provided by a civic group.

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

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

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

4 (29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions
5 of 20-1-303; and

6 (30) adopt and implement library selection and reconsideration policies in accordance with the
7 provisions of 20-7-203, 20-7-204, and [section 5]; and

8 (30)(31) perform any other duty and enforce any other requirements for the governance of the schools
9 pursuant to the constitutional power of supervision and control of schools vested in elected school boards
10 pursuant to Article X, section 8, of the Montana constitution as prescribed by this title, the policies of the board
11 of public education, or the rules of the superintendent of public instruction."

12

13 **Section 3.** Section 20-7-203, MCA, is amended to read:

14 **"20-7-203. Trustees' policies for school library.** The trustees shall ~~adopt those policies necessary~~
15 ~~for regulating the use and operation of~~ exercise supervision and control of the school libraries of the district
16 pursuant to Article X, section 8, of the Montana constitution and 20-3-324. These policies may provide for the
17 ~~use of school libraries by the residents of the district, provided that such use does not interfere with the regular~~
18 ~~school use of the library.~~

19 (2) The trustees shall adopt comprehensive policies addressing the use of, access to, and
20 operation of school libraries. The policies must, at a minimum:

21 (a) provide the method for selection and approval of school library materials;

22 (b) require periodic curation, review, and revision of school library materials;

23 (c) specify who may check out library materials;

24 (d) authorize the assessment of fines for damaged or unreturned materials pursuant to 20-5-201;

25 (e) ensure that published reviews and references are available that contain information about the
26 content, subject matter, and recommended audiences for school library materials to support parents and
27 guardians in exercising their responsibility to guide their own children's reading and viewing;

28 (f) authorize the use of library materials by residents of the district, as long as the use by residents

1 does not interfere with the regular school use of the library;

2 (g) provide for participation in interlibrary loan agreements as specified by the trustees; and

3 (h) specify the process for the reconsideration of school library materials pursuant to [section 5].

4 (3) The school library material selection policy must:

5 (a) align to principles that:

6 (i) support the primary objective of the school library to implement, enrich, and support the basic
7 system of free quality public elementary and secondary schools as defined in 20-9-309;

8 (ii) support the curricula adopted by the trustees in accordance with 20-3-324; and

9 (iii) aid in pupil instruction as defined in 20-1-101; and

10 (b) ensure that school library materials:

11 (i) are suitable to appropriate levels of maturity, difficulty, and interest to promote the
12 enlightenment of each pupil served by the specific school library;

13 (ii) are of sufficient scope to stimulate growth in knowledge, literary appreciation, and ethical
14 standards in each pupil served by the specific school library;

15 (iii) provide comprehensive resources to enable pupils to make intelligent judgments on a range of
16 topics and issues;

17 (iv) assist teachers in providing pupil instruction and in undertaking the duties of a teacher pursuant
18 to 20-4-301, including but not limited to providing moral and civic instruction by instructing pupils in the
19 principles of free government and training them to comprehend the rights, responsibilities, and dignity of
20 American citizenship; and

21 (v) align with rights afforded to pupils pursuant to Article X of the Montana constitution and 49-2-
22 307.

23 (4) The trustees shall review the school library policies at least once a year."

24

25 **Section 4.** Section 20-7-204, MCA, is amended to read:

26 **"20-7-204. School library ~~book materials~~ selection.** (1) School library ~~materials~~ books shall be
27 selected must be identified by the district superintendent or a principal if there is no district superintendent,
28 subject to the approval of and recommended for approval by the trustees. In districts not employing a

1 superintendent or principal, the trustees shall select the school library ~~books on the basis of~~ materials and may
2 consider any recommendations of the county superintendent. Materials selected for inclusion in the school
3 library must comply with the school library material selection policy established pursuant to 20-7-203
4 (2) Materials donated to the school library must comply with the material selection policy."
5

6 **NEW SECTION. Section 5. Reconsideration and removal of school library materials.** (1) The
7 trustees shall provide a uniform process to consider written requests for reconsideration of school library
8 materials for removal from the school library collection at any school in the district. A written request may be
9 submitted by a registered elector of the district and must be submitted to the district superintendent or to the
10 presiding officer of the board of trustees if there is not a district superintendent.

11 (2) A written request for reconsideration must identify, at a minimum:
12 (a) the specific material that is the subject of the request for reconsideration;
13 (b) the specific reasons for the request, including identification of the district policies, rights, or laws
14 the registered elector believes the material violates; and

15 (c) the specific school library or grade level library where the material is located.

16 (3) (a) If a request for reconsideration is cosigned by the parents or guardians of a majority of
17 pupils attending a school where the material is located, the material must be temporarily removed from the
18 library until the trustees make a final decision pursuant to subsections (5) through (8).

19 (b) If a request for reconsideration is cosigned by the parents or guardians of at least two thirds of
20 the pupils attending a school where the material is located, the material must be permanently removed from the
21 library unless the trustees reject the request pursuant to subsection (6).

22 (4) (a) A request for reconsideration that meets the requirements of subsection (2) must be
23 referred initially to the school librarian. The school librarian shall provide a written report describing the material
24 subject to the request for reconsideration and the relationship of the material to the school library material
25 selection policy required under 20-7-203 to a review committee established by the trustees.

26 (b) A review committee established pursuant to this subsection (4) must include an equal number
27 of teachers employed by the district and registered electors who did not request the reconsideration and at
28 least one administrator or trustee of the district. The review committee may combine separate requests for

1 reconsideration of the same material into one public meeting conducted in compliance with 2-3-203.

2 (c) The review committee shall consider the request for reconsideration, the librarian's written
3 report, and any other materials submitted pursuant to this section and shall provide written findings and
4 recommendations regarding the material being reconsidered to the trustees. The findings and
5 recommendations must be based on the criteria established in 20-7-203(3).

6 (5) The trustees shall review the findings and recommendations of the review committee and, after
7 conducting a properly noticed meeting at which the trustees accept public comment on the request prior to
8 making the final decision, shall issue a decision in writing regarding the request for reconsideration.

9 (6) The trustees shall reject in writing a request for reconsideration that:

10 (a) does not comply with the requirements of this section;

11 (b) in the judgment of the trustees, interferes with the constitutional rights of a pupil under Article X
12 of the Montana constitution; or

13 (c) constitutes discrimination in education under 49-2-307.

14 (7) In considering a request for reconsideration, the trustees may:

15 (a) grant or deny a request in whole or in part, including but not limited to imposing age limit
16 restrictions within the school library or removing materials from a school that serves certain grade levels while
17 retaining those materials in a school that serves other grade levels; and

18 (b) combine separate requests for reconsideration of the same material into one meeting.

19 (8) The written decision issued by the trustees is final and must be provided to the registered
20 elector who submitted the request for reconsideration and the school librarian who was initially referred the
21 request. A final decision by the trustees under this section may be appealed to district court within 30 days after
22 the written decision is issued. The petition must be filed in the district court for the county where the school
23 district is located.

24 (9) For purposes of this section, "registered elector" means an individual who is qualified to vote at
25 a school election under the provisions of 20-20-301.

26
27 **NEW SECTION. Section 6. Appropriation.** There is appropriated \$5,000 from the general fund to
28 the board of public education for the biennium beginning July 1, 2023, for the purposes of adopting

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1 administrative rules necessary to implement the provisions of [sections 1 through 5].

2

3 NEW SECTION. Section 7. Codification instruction. [Section 5] is intended to be codified as an
4 integral part of Title 20, chapter 7, part 2, and the provisions of Title 20, chapter 7, part 2, apply to [section 5].

5

6 NEW SECTION. Section 8. Effective date. [This act] is effective ~~July 1, 2023~~ January 1, 2024.

7

- END -

AMENDED