

SENATE BILL NO. 11

INTRODUCED BY D. SALOMON

BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PUPIL MINIMUM AGE LAWS TO CLARIFY THAT A 5-YEAR-OLD CHILD ENROLLED IN A PUBLIC SCHOOL IS CONSIDERED A PUPIL; AND AMENDING SECTIONS 20-1-101, 20-5-101, AND 20-7-411, MCA."

WHEREAS, school districts are required to make available at least a half-day kindergarten program to all resident 5-year-olds pursuant to 20-7-117, MCA; and

WHEREAS, 5-year-old kindergarten students currently generate ANB funding pursuant to 20-9-311, MCA, and the clarifications in this bill will have no fiscal impact; and

WHEREAS, neither school districts' obligations in providing special education nor parents' rights in determining when to enroll their child in school will be impacted by the clarifications in this bill; and

WHEREAS, the Legislature of the State of Montana intends no substantive change in current practice, obligations, or funding with these changes and intends only to provide additional clarity to existing practices, obligations, and funding.

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

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

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

- (1) "Accreditation standards" means the body of administrative rules governing standards such as:
  - (a) school leadership;
  - (b) educational opportunity;
  - (c) academic requirements;
  - (d) program area standards;
  - (e) content and performance standards;
  - (f) school facilities and records;

1 (g) student assessment; and

2 (h) general provisions.

3 (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is  
4 offered or for which a pupil is enrolled.

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

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

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

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

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

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

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

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

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

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

26 (12) "K-12 career and vocational/technical education" means organized educational activities that have  
27 been approved by the office of public instruction and that:

28 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills  
29 that the pupil needs to prepare for further education and for careers in the current or emerging employment  
30 sectors; and

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

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

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

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

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

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

21 (17) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools  
22 while under the supervision of a teacher.

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

26 (19) "Regents" means the board of regents of higher education.

27 (20) "Regular school election" or "trustee election" means the election for school board members held  
28 on the day established in 20-20-105(1).

29 (21) "School election" means a regular school election or any election conducted by a district or  
30 community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high

1 school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for  
2 decision in accordance with the provisions of this title.

3 (22) "School food services" means a service of providing food for the pupils of a district on a nonprofit  
4 basis and includes any food service financially assisted through funds or commodities provided by the United  
5 States government.

6 (23) "Special school election" means an election held on a day other than the day of the regular school  
7 election, primary election, or general election.

8 (24) "State board of education" means the board composed of the board of public education and the  
9 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

10 (25) "State university" means Montana state university-Bozeman.

11 (26) "Student with limited English proficiency" means any student:

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

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

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

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

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

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

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

22 (27) "Superintendent of public instruction" means that state government official designated as a member  
23 of the executive branch by the Montana constitution.

24 (28) "System" means the Montana university system.

25 (29) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher  
26 certificate that has been issued by the superintendent of public instruction under the provisions of this title and  
27 the policies adopted by the board of public education and who is employed by a district as a member of its  
28 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an  
29 emergency authorization of employment has been issued under the provisions of 20-4-111.

30 (30) "Textbook" means a book or manual used as a principal source of study material for a given class

1 or group of students.

2 (31) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell,  
3 or offering for adoption textbooks to districts in the state.

4 (32) "Trustees" means the governing board of a district.

5 (33) "University" means the university of Montana-Missoula.

6 (34) "Vocational-technical education" means vocational-technical education of vocational-technical  
7 students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled  
8 community college, as designated by the board of regents."

9

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

11 **"20-5-101. Admittance of child to school.** (1) The trustees shall assign and admit a child to a school  
12 in the district when the child is:

13 (a) 6 5 years of age or older on or before September 10 of the year in which the child is to enroll but is  
14 not yet 19 years of age;

15 (b) a resident of the district; and

16 (c) otherwise qualified under the provisions of this title to be admitted to the school.

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

19 (3) The trustees may at their discretion assign and admit a child to a school in the district who is under  
20 6 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit  
21 waiving the age provision of this section. The trustees may also admit an individual who has graduated from high  
22 school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision  
23 of this section.

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

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

29 (6) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the  
30 district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy.

1 Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the  
2 assignment is final."

3

4 **Section 3.** Section 20-7-411, MCA, is amended to read:

5 **"20-7-411. Regular classes preferred -- obligation to establish special education program.** (1) A  
6 child with a disability in Montana is entitled to a free appropriate public education provided in the least restrictive  
7 environment. To the maximum extent appropriate, a child with a disability, including a child in a public or private  
8 institution or other care facility, must be educated with children who do not have disabilities. Separate schooling  
9 or other removal of a child with a disability from the regular educational environment may occur only when the  
10 nature or severity of the disability is such that education in regular classes with the use of supplementary aids  
11 and services cannot be achieved satisfactorily.

12 (2) The board of trustees of every school district or a state-operated adult health care facility providing  
13 special education services to its residents shall provide or establish and maintain a special education program  
14 for each child with a disability who is ~~6~~ 5 years of age or older and under 19 years of age.

15 (3) The board of trustees of each elementary district shall provide or establish and maintain a special  
16 education program for each preschool child with a disability who is 3 years of age or older and under 7 years of  
17 age.

18 (4) (a) The board of trustees of a school district or a state-operated adult health care facility providing  
19 special education services to its residents may provide or establish and maintain a special education program  
20 for a child with a disability who is 2 years of age or under or who is 19 years of age or older and under 22 years  
21 of age.

22 (b) Programs established pursuant to subsection (4)(a) do not obligate the state, a school district, or a  
23 state-operated adult health care facility providing special education services to its residents to offer regular  
24 educational programs to a similar age group unless specifically provided by law.

25 (5) The board of trustees of a school district or a state-operated adult health care facility providing special  
26 education services to its residents may meet its obligation to serve persons with disabilities by establishing its  
27 own special education program, by establishing a cooperative special education program, by participating in a  
28 regional services program, or by contracting for services from qualified providers. A state-operated adult health  
29 care facility providing special education services to its residents may also meet its obligation by coordinating  
30 appropriate services with the resident's school district of residence, the local high school district, or both.

