

HOUSE BILL NO. 408

INTRODUCED BY VINGER, JENSEN, ANDERSON, KEYSER,
IVERSON, UHDE, CONROY

IN THE HOUSE

January 25, 1979	Introduced and referred to Committee on Education and Cultural Resources.
February 19, 1979	Committee recommend bill do pass as amended. Report adopted.
February 20, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Education.
March 6, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 8, 1979	Second reading, concurred in.
March 10, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 12, 1979	Returned from second house. Concurred in as amended.
March 14, 1979	Second reading, amendments adopted.

March 15, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 408
 2 INTRODUCED BY Vincent Jensen Andersen Heyser
 3 Theresa Ulde Conway

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL
 5 DISTRICTS TO CONDUCT LESS THAN THE MINIMUM NUMBER OF SCHOOL
 6 DAYS PROVIDED BY LAW; PROVIDING DEFINITIONS AND CONDITIONS;
 7 PROVIDING FOR PROPORTIONAL REDUCTIONS IN SCHOOL EQUALIZATION
 8 AID; AMENDING SECTIONS 20-1-301, 20-6-209, AND 20-9-311,
 9 MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Purpose. [Sections 1 through
 13 5] govern a school district's entitlement to state
 14 equalization apportionment funds for any school year during
 15 which the school district is unable to conduct the minimum
 16 number of school days required by law by reason of one or
 17 more unforeseen emergencies. The provisions of [sections 1
 18 through 5] must be narrowly interpreted by the
 19 superintendent of public instruction.

20 NEW SECTION. Section 2. Definitions. As used in
 21 [sections 1 through 5], unless the context clearly indicates
 22 otherwise, the following definitions apply:

23 (1) "Unforeseen emergency" means a fire, flood,
 24 explosion, storm, earthquake, riot, insurrection, community
 25 disaster, or act of God or any combination of the foregoing

1 that acts as a principal cause for a school district's
 2 inability to conduct one or more scheduled school days.

3 (2) "School day" means a calendar day on which all
 4 students enrolled in the preschool handicapped/kindergarten
 5 through 12th grade program of a school district are
 6 scheduled for participation in educational activity that is
 7 planned, supervised, and conducted by or under the
 8 supervision of the school district certificated staff and on
 9 which day all or any portion of the students enrolled in the
 10 program actually commence participation in such educational
 11 activity.

12 (3) "Reasonable effort" means the rescheduling or
 13 extension of the school district's instructional calendar in
 14 an effort to attain the minimum number of school days
 15 required by law by:

- 16 (a) extending the school year to and through at least
- 17 June 14; or
- 18 (b) the use of scheduled vacation days.

19 NEW SECTION. Section 3. Unforeseen emergency minimum.
 20 In no case may a district be considered to have made a
 21 reasonable effort unless at least 3 school days that have
 22 been lost by reason of one or more unforeseen emergencies
 23 have in fact been made up.

24 NEW SECTION. Section 4. Determination of eligibility.
 25 If the superintendent of public instruction determines that

1 a reasonable effort has been made to make up all school days
 2 lost by reason of one or more unforeseen emergencies but
 3 fewer than the minimum number of school days required by law
 4 have been conducted, the school district will nevertheless
 5 be credited with full annual equalization apportionment
 6 according to the rate established in [section 5].

7 NEW SECTION. Section 5. Rate of reduction in annual
 8 apportionment entitlement. (1) For each school day short of
 9 the minimum number of school days required by law that a
 10 school district fails to conduct by reason of one or more
 11 unforeseen emergencies or by reason of any other cause and
 12 for which the school district is not entitled to
 13 apportionment credit, the superintendent of public
 14 instruction shall reduce the equalization apportionment and
 15 entitlement of the district for that school year by 1/180th.

16 (2) Kindergarten and grade 1 through 12 programs shall
 17 be considered separately for the purpose of computing
 18 compliance with minimum school day requirements and any loss
 19 of apportionment.

20 Section 6. Section 20-1-301, MCA, is amended to read:

21 "20-1-301. School fiscal year. The school fiscal year
 22 shall begin on July 1 and end on June 30. At least 180
 23 school days of pupil instruction shall be conducted during
 24 each school fiscal year, unless a variance for kindergarten
 25 has been granted under 20-1-302 or a district is granted a

1 variance under the provisions of [sections 1 through 5]. Any
 2 district that fails to provide for at least 180 school days
 3 of pupil instruction shall not be entitled to receive any
 4 apportionment of the state interest and income funds. Any
 5 such forfeited moneys shall be apportioned by the county
 6 superintendent to the other elementary districts of his
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8 Section 7. Section 20-6-209, MCA, is amended to read:

9 "20-6-209. Elementary district abandonment. (1) The
 10 county superintendent shall declare an elementary district
 11 to be abandoned and order the attachment of the territory of
 12 such district to a contiguous district of the county when:

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 14 at least 180 days under the provisions of 20-1-301 for each
 15 of 3 consecutive school fiscal years or a lesser number of
 16 days as approved by the superintendent of public instruction
 17 under the provisions of [section 4]; or

18 (b) there is an insufficient number of residents who
 19 are qualified electors of the district that can and will
 20 serve as the trustees and clerk of the district so that a
 21 legal board of trustees can be organized.

22 (2) The county superintendent shall notify the
 23 elementary district that has not operated a school for 2
 24 consecutive years before the first day of the third year
 25 that the failure to operate a school for 180 days or a

1 lesser number of days than approved by the superintendent of
 2 public instruction as provided under the provisions of
 3 [section 4] during the ensuing school fiscal year shall
 4 constitute grounds for abandonment of such district at the
 5 conclusion of the succeeding school fiscal year. Failure by
 6 the county superintendent to provide such notification shall
 7 not constitute a waiver of the abandonment requirement
 8 prescribed in subsection (1)(a) above.

9 (3) Any abandonment under subsection (1)(a) shall
 10 become effective on July 1. Any abandonment of an elementary
 11 district under subsection (1)(b) shall become effective
 12 immediately on the date of the abandonment order."

13 Section 8. Section 20-9-311, MCA, is amended to read:

14 "20-9-311. Calculation of average number belonging
 15 (ANB). (1) Average number belonging shall be computed by
 16 determining the total of the aggregate days of attendance by
 17 regularly enrolled, full-time pupils during the current
 18 school fiscal year plus the aggregate days of absence by
 19 regularly enrolled, full-time pupils during the current
 20 school fiscal year and by dividing such total by 180.
 21 However, when a school district has approval to operate less
 22 than 180 school days under [section 4], such total shall be
 23 calculated in accordance with the provisions of [section 5].

24 Attendance for a part of a morning session or a part of an
 25 afternoon session by a pupil shall be counted as attendance

1 for one-half day. In calculating the ANB for pupils enrolled
 2 in a program established under 20-7-117 prior to January 1,
 3 1974, or pursuant to 20-7-117(1), attendance at or absence
 4 from a regular session of the program for at least 2 hours
 5 of either a morning or an afternoon session will be counted
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 7 If a variance has been granted as provided in 20-1-302, ANB
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 9 superintendent of public instruction, but in no case shall
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 14 day of absence shall not be included in the aggregate days
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 16 considered in the calculation of the average number
 17 belonging until he resumes attendance at school.

18 (2) If a student spends less than half his time in the
 19 regular program and the balance of his time in school in the
 20 special education program, he shall be considered a
 21 full-time special pupil but shall not be considered
 22 regularly enrolled for ANB purposes. If a student spends
 23 half or more of his time in school in the regular program
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 25 program, he shall be considered regularly enrolled for ANB

1 purposes.

2 (3) The average number belonging of the regularly
3 enrolled, full-time pupils for the public schools of a
4 district shall be calculated individually for each school,
5 except that when:

6 (a) more than one school of a district, other than a
7 junior high school in an elementary district which has been
8 approved and accredited as a junior high school, is located
9 within the incorporated limits of a city or town, the
10 average number belonging of such schools shall be based on
11 the aggregate of all the regularly enrolled, full-time
12 pupils attending such schools located within the
13 incorporated limits of a city or town;

14 (b) a junior high school which has been approved and
15 accredited as a junior high school is located within the
16 incorporated limits of a city or town in which a high school
17 is located, all of the regularly enrolled, full-time pupils
18 of the junior high school shall be considered as high school
19 district pupils for the purposes of calculating the average
20 number belonging of the high schools located within the
21 incorporated limits of such city or town;

22 (c) a middle school has been approved and accredited,
23 in which case pupils below the 7th grade shall be considered
24 elementary school pupils for ANB purposes and the 7th and
25 8th grade pupils shall be considered high school pupils for

1 ANB purposes; or

2 (d) a school has not been accredited by the board of
3 public education, the regularly enrolled, full-time pupils
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6 average number belonging for the nonaccredited school be
7 used in determining the foundation program for such
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10 enrolled on a part-time basis, high schools may calculate
11 the ANB to include an "equivalent ANB" for those students.
12 The method for calculating an equivalent ANB shall be
13 determined in a manner prescribed by the superintendent of
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APPROVED BY COMM. ON
EDUCATION & CULTURAL RESOURCES

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extension of the school district's instructional calendar in
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 21 PASSAGE AND APPROVAL.

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 12 used in determining the foundation program for such
 13 district.

14 (4) When 11th or 12th grade students are regularly
 15 enrolled on a part-time basis, high schools may calculate
 16 the ANB to include an "equivalent ANB" for those students.
 17 The method for calculating an equivalent ANB shall be
 18 determined in a manner prescribed by the superintendent of
 19 public instruction."

20 SECTION 9. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON
 21 PASSAGE AND APPROVAL.

-End-

1 HOUSE BILL NO. 408
 2 INTRODUCED BY VINGER, JENSEN, ANDERSON, KEYSER,
 3 IVERSON, UHDE, CONROY
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL
 6 DISTRICTS TO CONDUCT LESS THAN THE MINIMUM NUMBER OF SCHOOL
 7 DAYS PROVIDED BY LAW; PROVIDING DEFINITIONS AND CONDITIONS;
 8 PROVIDING FOR PROPORTIONAL REDUCTIONS IN SCHOOL EQUALIZATION
 9 AID; AMENDING SECTIONS 20-1-301, 20-6-209, AND 20-9-311,
 10 MCA; PROVIDING AN EFFECTIVE DATE."
 11

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

13 NEW SECTION. Section 1. Purpose. [Sections 1 through
 14 5] govern a school district's entitlement to state
 15 equalization apportionment funds for any school year during
 16 which the school district is unable to conduct the minimum
 17 number of school days required by law by reason of one or
 18 more unforeseen emergencies. The provisions of [sections 1
 19 through 5] must be narrowly interpreted by ~~the~~
 20 ~~superintendent of public instruction.~~

21 NEW SECTION. Section 2. Definitions. As used in
 22 [sections 1 through 5], unless the context clearly indicates
 23 otherwise, the following definitions apply:

24 (1) "Unforeseen emergency" means a fire, flood,
 25 explosion, storm, earthquake, riot, insurrection, community

1 disaster, or act of God or any combination of the foregoing
 2 that acts as a principal cause for a school district's
 3 inability to conduct one or more scheduled school days.

4 ~~(2) "School day" means a calendar day on which all~~
 5 ~~students enrolled in the preschool/handicapped/kindergarten~~
 6 ~~through 12th grade program of a school district are~~
 7 ~~scheduled for participation in educational activity that is~~
 8 ~~planned, supervised, and conducted by or under the~~
 9 ~~supervision of the school district certificated staff and on~~
 10 ~~which day all or any portion of the students enrolled in the~~
 11 ~~program actually commence participation in such educational~~
 12 ~~activity.~~

13 (2) "SCHOOL DAY" MEANS THE SCHOOL DAY DEFINED IN
 14 20-1-302.

15 (3) "Reasonable effort" means the rescheduling or
 16 extension of the school district's instructional calendar in
 17 an effort to attain the minimum number of school days
 18 required by law by:

- 19 (a) extending the school year ~~to and through at least~~
 20 ~~June 14~~ 1 WEEK BEYOND THE LAST SCHEDULED DAY; or
- 21 (b) the use of scheduled vacation days.

22 NEW SECTION. Section 3. Unforeseen emergency minimum.
 23 In no case may a district be considered to have made a
 24 reasonable effort unless at least 3 school days that have
 25 been lost by reason of one or more unforeseen emergencies

1 have in fact been made up.

2 NEW SECTION. Section 4. Determination of eligibility.
3 If the COUNTY SUPERINTENDENT OR, IN A COUNTY WITH NO COUNTY
4 SUPERINTENDENT, THE superintendent of public instruction
5 determines that a reasonable effort has been made to make up
6 all school days lost by reason of one or more unforeseen
7 emergencies but fewer than the minimum number of school days
8 required by law have been conducted, the school district
9 will nevertheless be credited with full annual equalization
10 apportionment according to the rate established in [section
11 5].

12 NEW SECTION. Section 5. Rate of reduction in annual
13 apportionment entitlement. (1) For each school day short of
14 the minimum number of school days required by law that a
15 school district fails to conduct by reason of one or more
16 unforeseen emergencies or by reason of any other cause and
17 for which the school district is not entitled to
18 apportionment credit, the superintendent of public
19 instruction shall reduce the equalization apportionment and
20 entitlement of the district for that school year by 1/180th.

21 (2) Kindergarten and grade 1 through 12 programs shall
22 be considered separately for the purpose of computing
23 compliance with minimum school day requirements and any loss
24 of apportionment.

25 Section 6. Section 20-1-301, MCA, is amended to read:

1 "20-1-301. School fiscal year. The school fiscal year
2 shall begin on July 1 and end on June 30. At least 180
3 school days of pupil instruction shall be conducted during
4 each school fiscal year, unless a variance for kindergarten
5 has been granted under 20-1-302 or a district is granted a
6 variance under the provisions of [sections 1 through 5]. Any
7 district that fails to provide for at least 180 school days
8 of pupil instruction shall not be entitled to receive any
9 apportionment of the state interest and income funds. Any
10 such forfeited moneys shall be apportioned by the county
11 superintendent to the other elementary districts of his
12 county."

13 Section 7. Section 20-6-209, MCA, is amended to read:
14 "20-6-209. Elementary district abandonment. (1) The
15 county superintendent shall declare an elementary district
16 to be abandoned and order the attachment of the territory of
17 such district to a contiguous district of the county when:
18 (a) a school has not been operated by a district for
19 at least 180 days under the provisions of 20-1-301 for each
20 of 3 consecutive school fiscal years or a lesser number of
21 days as approved by THE COUNTY SUPERINTENDENT OR the
22 superintendent of public instruction under the provisions of
23 [section 4]; or
24 (b) there is an insufficient number of residents who
25 are qualified electors of the district that can and will

1 serve as the trustees and clerk of the district so that a
2 legal board of trustees can be organized.

3 (2) The county superintendent shall notify the
4 elementary district that has not operated a school for 2
5 consecutive years before the first day of the third year
6 that the failure to operate a school for 180 days ~~or a~~
7 ~~lesser number of days than approved by THE COUNTY~~
8 ~~SUPERINTENDENT OR the superintendent of public instruction~~
9 ~~as provided under the provisions of [section 4]~~ during the
10 ensuing school fiscal year shall constitute grounds for
11 abandonment of such district at the conclusion of the
12 succeeding school fiscal year. Failure by the county
13 superintendent to provide such notification shall not
14 constitute a waiver of the abandonment requirement
15 prescribed in subsection (1)(a) above.

16 (3) Any abandonment under subsection (1)(a) shall
17 become effective on July 1. Any abandonment of an elementary
18 district under subsection (1)(b) shall become effective
19 immediately on the date of the abandonment order."

20 Section 8. Section 20-9-311, MCA, is amended to read:

21 "20-9-311. Calculation of average number belonging
22 (ANB). (1) Average number belonging shall be computed by
23 determining the total of the aggregate days of attendance by
24 regularly enrolled, full-time pupils during the current
25 school fiscal year plus the aggregate days of absence by

1 regularly enrolled, full-time pupils during the current
2 school fiscal year and by dividing such total by 180.
3 ~~However, when a school district has approval to operate less~~
4 ~~than 180 school days under [section 4], such total shall be~~
5 ~~calculated in accordance with the provisions of [section 5].~~
6 Attendance for a part of a morning session or a part of an
7 afternoon session by a pupil shall be counted as attendance
8 for one-half day. In calculating the ANB for pupils enrolled
9 in a program established under 20-7-117 prior to January 1,
10 1974, or pursuant to 20-7-117(1), attendance at or absence
11 from a regular session of the program for at least 2 hours
12 of either a morning or an afternoon session will be counted
13 as one-half of a day attended or absent as the case may be.
14 If a variance has been granted as provided in 20-1-302, ANB
15 will be computed in a manner prescribed by the
16 superintendent of public instruction, but in no case shall
17 the ANB exceed one-half for each kindergarten pupil. When
18 any pupil has been absent, with or without excuse, for more
19 than 10 consecutive school days, including
20 pupil-instruction-related days, his absence after the 10th
21 day of absence shall not be included in the aggregate days
22 of absence and his enrollment in the school shall not be
23 considered in the calculation of the average number
24 belonging until he resumes attendance at school.

25 (2) If a student spends less than half his time in the

1 regular program and the balance of his time in school in the
 2 special education program, he shall be considered a
 3 full-time special pupil but shall not be considered
 4 regularly enrolled for ANB purposes. If a student spends
 5 half or more of his time in school in the regular program
 6 and the balance of his time in the special education
 7 program, he shall be considered regularly enrolled for ANB
 8 purposes.

9 (3) The average number belonging of the regularly
 10 enrolled, full-time pupils for the public schools of a
 11 district shall be calculated individually for each school,
 12 except that when:

13 (a) more than one school of a district, other than a
 14 junior high school in an elementary district which has been
 15 approved and accredited as a junior high school, is located
 16 within the incorporated limits of a city or town, the
 17 average number belonging of such schools shall be based on
 18 the aggregate of all the regularly enrolled, full-time
 19 pupils attending such schools located within the
 20 incorporated limits of a city or town;

21 (b) a junior high school which has been approved and
 22 accredited as a junior high school is located within the
 23 incorporated limits of a city or town in which a high school
 24 is located, all of the regularly enrolled, full-time pupils
 25 of the junior high school shall be considered as high school

1 district pupils for the purposes of calculating the average
 2 number belonging of the high schools located within the
 3 incorporated limits of such city or town;

4 (c) a middle school has been approved and accredited,
 5 in which case pupils below the 7th grade shall be considered
 6 elementary school pupils for ANB purposes and the 7th and
 7 8th grade pupils shall be considered high school pupils for
 8 ANB purposes; or

9 (d) a school has not been accredited by the board of
 10 public education, the regularly enrolled, full-time pupils
 11 attending the nonaccredited school shall not be eligible for
 12 average number belonging calculation purposes, nor will an
 13 average number belonging for the nonaccredited school be
 14 used in determining the foundation program for such
 15 district.

16 (4) When 11th or 12th grade students are regularly
 17 enrolled on a part-time basis, high schools may calculate
 18 the ANB to include an "equivalent ANB" for those students.
 19 The method for calculating an equivalent ANB shall be
 20 determined in a manner prescribed by the superintendent of
 21 public instruction."

22 SECTION 9. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON
 23 PASSAGE AND APPROVAL.

-End-

March 6, 1979

SENATE STANDING COMMITTEE REPORT
(Education)

That House Bill No. 408 be amended as follows:

1. Page 1, lines 19 through 20.

Following: "interpreted"

Strike: lines 19 through 20 in their entirety

Insert: "."

2. Page 4, line 21.

Following: "by"

Insert: "the county superintendent or"

3. Page 5, line 6.

Following: "by"

Insert: "the county superintendent or"