

HOUSE BILL 31

Introduced by Wanzenried

11/30	Introduced
11/30	Referred to Education & Cultural Resources
11/30	First Reading
11/30	Fiscal Note Requested
12/01	Hearing
12/04	Fiscal Note Received
	Died in Committee

1 House BILL NO. 31
2 INTRODUCED BY WATKINSON.
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING FROM THE
5 GENERAL FUND BUDGET OF A SCHOOL DISTRICT THE EXPENSES
6 RELATED TO EXTRACURRICULAR ATHLETIC PROGRAMS; CREATING A
7 BUDGETED ATHLETICS FUND TO BE FUNDED IN PART FROM
8 SPORTS-RELATED REVENUE AND A VOTED LEVY; REQUIRING
9 REIMBURSEMENT AND PROVIDING A PENALTY FOR AUDIT COMPLIANCE
10 ERRORS; AMENDING SECTIONS 2-7-501, 20-3-324, 20-9-201,
11 20-9-214, 20-9-501, 20-9-504, 20-10-143, AND 20-15-404, MCA;
12 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
13 APPLICABILITY DATE."
14

15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 the superintendent of public instruction is authorized under
18 the general rulemaking authority for school budgeting in
19 20-9-102 to adopt rules that are necessary to secure
20 compliance with school budgeting laws. It is the intent of
21 the legislature that no general fund money be expended for
22 extracurricular athletics. It is also intended that the
23 superintendent of public instruction amend the Montana
24 School Accounting Manual to reflect the athletics fund
25 created in [section 1], assist the school districts of the

1 state in becoming informed of and accountable for the
2 provisions of [this act], and specifically request that the
3 school district auditor include a written review of the
4 district's compliance with the provisions of [section 3].
5

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

7 NEW SECTION. **Section 1.** Athletics fund. (1) The
8 trustees of a district shall establish an athletics fund for
9 the purpose of recording revenue received and district
10 expenses incurred for extracurricular athletics. These
11 expenses include but are not limited to:

12 (a) expenses of school-sponsored athletic programs that
13 allow student participation in athletic competition between
14 school districts;

15 (b) wages, salaries, retirement system contributions,
16 required social security system contributions, and
17 unemployment insurance contributions of athletic program
18 staff, including full-time and part-time coaching staff,
19 trainers, an athletic director and any staff assigned to an
20 athletic director, and referees; and

21 (c) expenses associated with extracurricular athletics,
22 including travel, insurance, equipment, and membership fees
23 or dues.

24 (2) The trustees of a district may fund the athletics
25 fund from one or more of the following sources:

(a) activity ticket sales, gate and concession receipts, and participation fees;

(b) private donations, including but not limited to donations from a school booster club;

(c) fees generated from the lease or rental of school district facilities for athletic events; and

(d) an additional levy provided for in [section 2].

(3) The trustees of a school district may not expend general fund money for extracurricular athletics.

NEW SECTION. Section 2. Additional levy for athletics fund. (1) The trustees of a district shall adopt a budget to finance the athletics supported by the athletics fund established in [section 1]. The budget must be funded as provided in [section 1].

(2) Whenever the trustees of a district determine that an additional amount of revenue is required to finance the athletics supported by the athletics fund, the trustees shall submit the proposition of an additional levy for the fund to raise the proposed amount of financing to the electors who are qualified under 20-20-301 to vote upon the proposition. The special election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state only the amount of money to be raised by additional property taxation, the approximate number of mills required to raise

the money, and the purpose for which the money will be expended. The ballot must be substantially in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in the number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy to finance the athletics supported by the athletics fund) and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the levy.

☐ AGAINST the levy.

(3) If the election on the additional levy for the athletics fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount to finance athletics supported by the athletics fund. The trustees shall certify the additional levy amount authorized by the special election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-142, to raise the amount of the additional levy.

(4) Authorization to levy an additional tax under the provisions of this section is effective for only 1 school fiscal year and must be authorized by a special election conducted before August 1 of the school fiscal year for which it is effective.

NEW SECTION. Section 3. Audit compliance -- reimbursement and penalty for error. If an audit of the fund established in [section 1] and of other school district funds reveals that any district expenditures designated in [section 1] have not been budgeted and expended in compliance with the provisions of this title, the district shall reimburse the appropriate fund 110% of the amount found to be charged in error. The reimbursement must be made in the year the error is discovered from the athletics fund.

Section 4. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall:

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

(2) employ and dismiss administrative personnel,

clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

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

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

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

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

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

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

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial

1 administration part of this title;

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

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

10 (12) issue, refund, sell, budget, and redeem the bonds
11 of the district in accordance with the provisions of the
12 bonds parts of this title;

13 (13) when applicable, establish, financially administer,
14 and budget for the athletics fund, tuition fund, retirement
15 fund, building reserve fund, adult education fund,
16 nonoperating fund, school food services fund, miscellaneous
17 federal programs fund, building fund, lease or rental
18 agreement fund, traffic education fund, impact aid fund, and
19 interlocal cooperative agreement fund in accordance with the
20 provisions of the other school funds parts of this title;

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

25 (15) hold in trust, acquire, and dispose of the real and

1 personal property of the district in accordance with the
2 provisions of the school sites and facilities part of this
3 title;

4 (16) operate the schools of the district in accordance
5 with the provisions of the school calendar part of this
6 title;

7 (17) establish and maintain the instructional services
8 of the schools of the district in accordance with the
9 provisions of the instructional services, textbooks,
10 vocational education, and special education parts of this
11 title;

12 (18) establish and maintain the school food services of
13 the district in accordance with the provisions of the school
14 food services parts of this title;

15 (19) make reports from time to time as the county
16 superintendent, superintendent of public instruction, and
17 board of public education may require;

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

24 (21) for each member of the trustees, visit each school
25 of the district not less than once each school fiscal year

to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather on school days at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(23) provide that an American flag that measures approximately 12 inches by 18 inches be prominently displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

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

(25) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Section 5. Section 20-9-201, MCA, is amended to read:

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or

by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, athletics fund, transportation fund, bus depreciation reserve fund, tuition fund, retirement fund, debt service fund, building reserve fund, adult education fund, nonoperating fund, and any other funds designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, internal service fund, impact aid fund, enterprise fund, agency fund, extracurricular fund, metal mines tax reserve fund, endowment fund, and any other funds designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general

supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to the general fund if the fund does not have a cash or fund balance deficit."

Section 6. Section 20-9-214, MCA, is amended to read:

"20-9-214. Fees. (1) The trustees of a district may:

(a) require pupils in the commercial, industrial arts, music, domestic science, scientific, or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used; and

(b) charge pupils a reasonable fee for a course or activity not reasonably related to a recognized academic and educational goal of the district or a course or activity held outside normal school functions. The trustees may waive the fee in cases of financial hardship.

(2) The fees collected pursuant to subsection (1)(a) must be deposited in the general fund, and the fees collected pursuant to subsection (1)(b) must be deposited in

a nonbudgeted fund-as-provided-in--20-9-210 extracurricular fund, as provided in 20-9-504, or the athletics fund, as provided in [section 1]."

Section 7. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The Except as provided in [section 1], the trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a

1 contribution to a system referred to in subsection (1) shall
 2 include in the retirement fund of the preliminary budget the
 3 estimated amount of the employer's contribution. After the
 4 final retirement fund budget has been adopted, the trustees
 5 shall pay the employer contributions to the systems in
 6 accordance with the financial administration provisions of
 7 this title.

8 (3) When the final retirement fund budget has been
 9 adopted, the county superintendent shall establish the levy
 10 requirement by:

11 (a) determining the sum of the money available to
 12 reduce the retirement fund levy requirement by adding:

13 (i) any anticipated money that may be realized in the
 14 retirement fund during the ensuing school fiscal year,
 15 including anticipated revenue from property taxes and fees
 16 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 17 61-3-537, and 67-3-204;

18 (ii) net proceeds taxes and local government severance
 19 taxes on any other oil and gas production occurring after
 20 December 31, 1988;

21 (iii) coal gross proceeds taxes under 15-23-703;

22 (iv) any fund balance available for reappropriation as
 23 determined by subtracting the amount of the end-of-the-year
 24 fund balance earmarked as the retirement fund operating
 25 reserve for the ensuing school fiscal year by the trustees

1 from the end-of-the-year fund balance in the retirement
 2 fund. The retirement fund operating reserve may not be more
 3 than 35% of the final retirement fund budget for the ensuing
 4 school fiscal year and must be used for the purpose of
 5 paying retirement fund warrants issued by the district under
 6 the final retirement fund budget; and

7 (v) any other revenue anticipated that may be realized
 8 in the retirement fund during the ensuing school fiscal
 9 year, excluding any guaranteed tax base aid.

10 (b) notwithstanding the provisions of subsection (8),
 11 subtracting the money available for reduction of the levy
 12 requirement, as determined in subsection (3)(a), from the
 13 budgeted amount for expenditures in the final retirement
 14 fund budget.

15 (4) The county superintendent shall:

16 (a) total the net retirement fund levy requirements
 17 separately for all elementary school districts, all high
 18 school districts, and all community college districts of the
 19 county, including any prorated joint district or special
 20 education cooperative agreement levy requirements; and

21 (b) report each levy requirement to the county
 22 commissioners on the fourth Monday of August as the
 23 respective county levy requirements for elementary district,
 24 high school district, and community college district
 25 retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by

the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000."

Section 8. Section 20-9-504, MCA, is amended to read:

"20-9-504. Extracurricular fund for pupil functions.

(1) The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All Except for the revenue collected for extracurricular athletics pursuant to [section 1], all extracurricular money of a pupil organization of the school must be deposited and expended by check from a bank account maintained for the extracurricular fund.

(2) An accounting system for the extracurricular fund recommended by the superintendent of public instruction must be implemented by the trustees. The accounting system must provide for:

(a) the internal control of the cash receipts and expenditures of the money; and

(b) a general account that can be reconciled with the

bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function."

Section 9. Section 20-10-143, MCA, is amended to read:

"20-10-143. Budgeting for transportation and transmittal of transportation contracts. (1) The trustees of a district furnishing transportation to pupils who are residents of the district shall provide a transportation fund budget that is adequate to finance the district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program, except for any expenditure related to extracurricular athletics that are required to be budgeted in the athletics fund provided for in [section 1].

The transportation fund budget must include:

(a) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

(b) the annual contracted amount for the maintenance and operation of school buses by a private party;

(c) the annual contracted amount for individual transportation, including any increased amount because of isolation, which may not exceed the schedule amounts prescribed in 20-10-142;

(d) any amount necessary for the purchase, rental, or insurance of school buses; and

(e) any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district, as determined by the trustees.

(2) The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill an obligation to provide transportation in accordance with this title for:

(a) pupils not residing in the district at the time of the adoption of the preliminary budget and who subsequently became residents of the district during the school fiscal year; or

(b) pupils who have become eligible transportees since the adoption of the preliminary budget because their legal residence has been changed. The budgeted contingency amount may not exceed 10% of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for all transportation services authorized by the schedules and provided by the district unless 10% of the transportation schedule amount is less than \$100, in which case \$100 is the maximum limitation for the budgeted contingency amount.

(3) A budget amendment to the transportation fund budget may be adopted subject to the provisions of 20-9-161 through 20-9-166.

(4) The transportation fund budgeted expenditures appropriated by the trustees must be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with 20-9-103, and the adoption of the transportation fund budget must be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees shall also send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. The contracts must substantiate all contracted transportation services incorporated in the preliminary budget, and after the county superintendent has utilized the contracts for that purpose but before the fourth Monday of July, he the county superintendent shall send all transportation contracts received to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the contracted amount for the services, he the county superintendent shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for the deviation."

Section 10. Section 20-15-404, MCA, is amended to read:

"20-15-404. Trustees to adhere to certain other laws. Unless the context clearly indicates otherwise, the trustees of a community college district shall adhere to:

(1) the teachers' retirement provisions of Title 19, chapter 20;

(2) the provisions of 20-1-201, 20-1-205, 20-1-211, and 20-1-212; However, the trustees are not required to comply with the laws relating to the athletics fund provided for in [section 1].

(3) the school property provisions of 20-6-604, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631, and 20-6-633 through 20-6-636;

(4) the adult education provisions of 20-7-701 through 20-7-713;

(5) the administration of finances provisions of 20-9-115, 20-9-134, 20-9-207, 20-9-208, 20-9-210, 20-9-215, 20-9-221 through 20-9-224, and 20-9-512;

(6) the school bond provisions of 20-9-401 through 20-9-412, 20-9-421 through 20-9-446, 20-9-451 through 20-9-456, and 20-9-461 through 20-9-465;

(7) the special purpose funds provisions of 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511;

(8) the educational cooperative agreements provisions of 20-9-701 through 20-9-704;

(9) the school elections provisions of Title 20,

1 chapter 20;

2 (10) the students' rights provisions of 20-25-511
3 through 20-25-516; and

4 (11) the health provisions of 50-1-206."

5 **Section 11.** Section 2-7-501, MCA, is amended to read:

6 "2-7-501. Definitions. Unless the context requires
7 otherwise, in this part, the following definitions apply:

8 (1) "Audit" means a financial audit and includes
9 financial statement and financial-related audits as defined
10 by government auditing standards as established by the U.S.
11 comptroller general.

12 (2) "Board" means the Montana board of public
13 accountants provided for in 2-15-1866.

14 (3) "Department" means the department of commerce.

15 (4) (a) "Financial assistance" means assistance
16 provided by a federal, state, or local government entity to
17 a local government entity or subrecipient to carry out a
18 program. Financial assistance may be in the form of grants,
19 contracts, cooperative agreements, loans, loan guarantees,
20 property, interest subsidies, insurance, direct
21 appropriations, or other noncash assistance. Financial
22 assistance includes awards received directly from federal
23 and state agencies or indirectly when subrecipients receive
24 funds identified as federal or state funds by recipients.
25 The granting agency is responsible for identifying the

1 source of funds awarded to recipients. The recipient is
2 responsible for identifying the source of funds awarded to
3 subrecipients.

4 (b) Financial assistance does not include direct
5 federal, state, or local government cash assistance to
6 individuals.

7 (5) "Financial report" means a presentation of
8 schedules that reflect a current financial position and the
9 operating results for the 1-year reporting period.

10 (6) "Independent auditor" means:

11 (a) a federal, state, or local government auditor who
12 meets the standards specified in the government auditing
13 standards; or

14 (b) a licensed accountant who meets the standards in
15 subsection (6)(a).

16 (7) (a) "Local government entity" means a county, city,
17 district, or public corporation that:

18 (i) has the power to raise revenue for the purpose of
19 serving the general public;

20 (ii) is governed by a board, commission, or individual
21 elected or appointed by the public or representatives of the
22 public; and

23 (iii) receives local, state, or federal financial
24 assistance.

25 (b) Local government entities include but are not

1 limited to:

2 (i) airport authority districts;

3 (ii) cemetery districts;

4 (iii) counties;

5 (iv) county housing authorities;

6 (v) county road improvement districts;

7 (vi) county sewer districts;

8 (vii) county water districts;

9 (viii) county weed control districts;

10 (ix) drainage districts;

11 (x) fire department relief associations;

12 (xi) fire districts;

13 (xii) hospital districts;

14 (xiii) incorporated cities or towns;

15 (xiv) irrigation districts;

16 (xv) mosquito districts;

17 (xvi) municipal housing authority districts;

18 (xvii) port authorities;

19 (xviii) refuse disposal districts;

20 (xix) rural improvement districts;

21 (xx) school districts, including a district's

22 extracurricular and athletics funds;

23 (xxi) soil conservation districts;

24 (xxii) special education or other cooperatives;

25 (xxiii) television districts;

1 (xxiv) urban transportation districts;

2 (xxv) volunteer fire departments; and

3 (xxvi) water conservancy districts.

4 (8) "Revenues" means all receipts of a local government

5 entity from any source, excluding the proceeds from bond

6 issuances."

7 NEW SECTION. **Section 12.** Transfer of athletic funds in

8 extracurricular fund. On July 1, 1994, the trustees of a

9 district shall transfer to the athletics fund created in

10 [section 1] any balance remaining in the extracurricular

11 fund as of June 30, 1994, that is related to

12 school-sponsored athletic programs.

13 NEW SECTION. **Section 13.** Codification instruction.

14 [Sections 1 through 3] are intended to be codified as an

15 integral part of Title 20, chapter 9, part 5, and the

16 provisions of Title 20, chapter 9, part 5, apply to

17 [sections 1 through 3].

18 NEW SECTION. **Section 14.** Effective date --

19 applicability. [This act] is effective on passage and

20 approval and applies to school district budgets for the

21 school fiscal year beginning July 1, 1994.

-End-