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INTRODUCED BY

*Joe* House BILL NO. 221

A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING PROVISIONS REQUIRING A PARENT TO ENROLL A CHILD IN SCHOOL AND PROVISIONS REQUIRING A CHILD TO ATTEND SCHOOL; AMENDING SECTIONS 20-1-308, 20-3-206, 20-5-111, 20-5-201, AND 20-7-435, MCA; REPEALING SECTIONS 20-5-102, 20-5-103, 20-5-104, 20-5-105, 20-5-106, 20-5-107, 20-5-108, AND 20-5-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 20-1-308, MCA, is amended to read:

"**20-1-308. Religious instruction released time program.** (1) The trustees of an elementary or high school district may provide for a religious instruction released time program under which a pupil may be released from regular school attendance for a period not to exceed 2 hours ~~per~~ a week for the purpose of receiving religious instruction upon written request, renewed at least annually, of the pupil's parent or guardian.

(2) ~~No~~ A religious instruction released time program may not be established or administered in ~~such~~ a way that public school property is ~~utilized~~ used for the purpose of religious instruction.

(3) ~~No public moneys~~ Public money may not be used, directly or indirectly, for ~~such~~ religious instruction.

(4) ~~Any~~ A period for which a pupil is released under a religious instruction released time program is part of the school day and week for purposes of 20-1-301, 20-1-302, ~~20-5-103~~, 20-9-311, and all other provisions of Title 20, and ~~such~~ a release may not adversely affect the pupil's attendance record."

**Section 2.** Section 20-3-206, MCA, is amended to read:

"**20-3-206. Additional positions.** In ~~his~~ the capacity as county superintendent, ~~he~~ the county superintendent also shall serve as:

(1) the ~~chairman~~ presiding officer of the county transportation committee, as prescribed by 20-10-131;

- 1 (2) a member of the high school boundary commission of the county, as prescribed by 20-6-304;  
 2 and  
 3 (3) ~~an attendance officer for a district under the conditions prescribed by 20-5-104; and~~  
 4 ~~(4) the clerk of a joint board of trustees under the conditions prescribed by 20-3-361."~~

5  
 6 **Section 3.** Section 20-5-111, MCA, is amended to read:  
 7 **"20-5-111. Responsibilities and rights of parent who provides home school -- rights of child in**  
 8 **home school.** ~~Subject to the provisions of 20-5-109, a~~ A parent has the authority to instruct his the  
 9 parent's child, stepchild, or ward in a home school and is solely responsible for:

- 10 (1) the educational philosophy of the home school;  
 11 (2) the selection of instructional materials, curriculum, and textbooks;  
 12 (3) the time, place, and method of instruction; and  
 13 (4) the evaluation of the home school instruction."  
 14

15 **Section 4.** Section 20-5-201, MCA, is amended to read:  
 16 **"20-5-201. Duties and sanctions -- exception.** (1) A Except as provided in subsection (5), a pupil  
 17 shall:

- 18 (a) shall comply with the policies of the trustees and the rules of the school that the pupil attends;  
 19 (b) shall pursue the required course of instruction;  
 20 (c) shall submit to the authority of the teachers, principal, and district superintendent of the district;  
 21 and  
 22 (d) ~~be~~ is subject to the control and authority of the teachers, principal, and district superintendent  
 23 while the pupil is in school or on school premises, on the way to and from school, or during intermission  
 24 or recess.

25 (2) A pupil who continually and willfully disobeys the provisions of this section, shows open  
 26 defiance of the authority vested in school personnel by this section, defaces or damages any school  
 27 building, school grounds, furniture, equipment, book belonging to the district, or harms or threatens to harm  
 28 another person or the person's property is liable for punishment, suspension, or expulsion under the  
 29 provisions of this title. When a pupil defaces or damages school property, the pupil's parent or guardian  
 30 is liable for the cost of repair or replacement upon the complaint of the teacher, principal, or superintendent;

1 or any trustee and the proof of any damage.

2 (3) In addition to the sanctions prescribed in this section, the trustees of a high school district may  
3 deny a high school pupil the honor of participating in the graduation exercise or exclude a high school pupil  
4 from participating in school activities. The trustees may not take action under this subsection until the  
5 incident or infraction causing the consideration has been investigated and the trustees have determined that  
6 the high school pupil was involved in the incident or infraction.

7 (4) (a) A school district may withhold the grades, diploma, or transcripts of a pupil who is  
8 responsible for the cost of school materials or the loss or damage of school property until the pupil or the  
9 pupil's parent or guardian satisfies the obligation.

10 (b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil  
11 and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

12 (i) upon receiving notice that the pupil has transferred to another school district in the state, notify  
13 the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be  
14 requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

15 (ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;

16 (iii) at the same time, notify the school district of any financial obligation of the pupil and request  
17 the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;

18 (iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school  
19 district to which the pupil has transferred; and

20 (v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the  
21 school district's decision to request that another school district withhold a pupil's grades, diploma, or  
22 transcripts.

23 (c) Upon receiving notice that a school district has requested the withholding of the grades,  
24 diploma, or transcripts of a pupil under this subsection (4), a school district to which the pupil has  
25 transferred shall withhold the grades, diploma, or transcripts of the pupil until it receives notice, from the  
26 district that initiated the decision, that the decision has been rescinded under the terms of subsection (4)(a).

27 (5) A pupil may not be compelled to attend a class or activity that is not required for graduation  
28 if the pupil is excused from the class or activity by the pupil's parent or guardian."

29

30 **Section 5.** Section 20-7-435, MCA, is amended to read:

1           **"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and in-state**  
2 **residential treatment programs for eligible children with emotional disturbances.** (1) It is the intent of the  
3 legislature that eligible children in in-state children's psychiatric hospitals and residential treatment facilities  
4 be provided with an appropriate educational opportunity in a cost-effective manner, including the provision  
5 of a free appropriate public education for eligible children with disabilities that is consistent with state  
6 standards for the provision of special education and related services. General education programs for eligible  
7 children without disabilities must be provided in accordance with the requirements ~~for a nonpublic school~~  
8 ~~under the provisions of 20-5-109 subsection (7).~~

9           (2) The superintendent of public instruction may contract with an in-state children's psychiatric  
10 hospital or residential treatment facility for provision of an educational program for an eligible child in the  
11 hospital or treatment facility.

12           (3) Whenever the superintendent of public instruction contracts with an in-state children's  
13 psychiatric hospital or residential treatment facility for provision of an educational program for an eligible  
14 child in the children's psychiatric hospital or residential treatment facility, the superintendent of public  
15 instruction shall:

16           (a) ensure the provision of a free appropriate public education and an education that is consistent  
17 with the requirements ~~for a nonpublic school in 20-5-109~~ of subsection (7) for children attending the  
18 hospital or residential treatment facility;

19           (b) negotiate the approval of allowable costs under the provisions of 20-7-431 for allowable costs  
20 for providing special education, including the costs of retirement benefits, federal social security system  
21 contributions, and unemployment compensation insurance;

22           (c) from appropriations provided for this purpose, fund any approved allowable costs under this  
23 section, with the exception of services for which reimbursement is made under any provision of state or  
24 federal law or an insurance policy;

25           (d) provide funding for allowable costs according to a proration based on average daily  
26 membership.

27           (4) A supplemental education fee or tuition may not be charged for an eligible Montana child who  
28 receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital  
29 or residential treatment facility.

30           (5) If a children's psychiatric hospital or residential treatment facility fails to provide an education

1 ~~in accordance with 20-5-109 or~~ a free appropriate public education under the provisions of this part for an  
 2 eligible child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a  
 3 contract under the provisions of subsection (2), the superintendent of public instruction shall negotiate with  
 4 the school district in which the children's psychiatric hospital or residential treatment facility is located for  
 5 the supervision and implementation of an appropriate educational program that is consistent with  
 6 accreditation standards provided for in 20-7-111 and with the provisions of 20-7-402 for children attending  
 7 the children's psychiatric hospital or residential treatment facility. The amount negotiated with the school  
 8 district must include all education and related services costs that may be negotiated under the provisions  
 9 of subsection (3) and all education and related services costs necessary to fulfill the requirements of  
 10 providing the child with an education.

11 (6) Funds provided to a district under this section, including funds received under the provisions  
 12 of 20-7-420:

13 (a) must be deposited in the miscellaneous programs fund of the district that provides the ~~education~~  
 14 educational program for an eligible child, regardless of the age or grade placement of the child who is  
 15 served under a negotiated contract; and

16 (b) are not subject to the budget limitations in 20-9-308.

17 (7) For the purposes of this section, an educational program in a psychiatric hospital or residential  
 18 treatment facility:

19 (a) shall maintain records on pupil attendance and disease immunization and make the records  
 20 available to the county superintendent of schools on request;

21 (b) shall provide at least 180 days of pupil instruction or the equivalent in accordance with  
 22 20-1-301 and 20-1-302;

23 (c) must be housed in a building that complies with applicable local health and safety regulations;

24 and

25 (d) shall provide an organized course of study that includes instruction in the subjects required of  
 26 public schools as a basic instructional program pursuant to 20-7-111."

27

28 NEW SECTION. Section 6. Repealer. Sections 20-5-102, 20-5-103, 20-5-104, 20-5-105,  
 29 20-5-106, 20-5-107, 20-5-108, and 20-5-109, MCA, are repealed.

30



STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0221, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act abolishing provisions requiring a parent to enroll a child in school and provisions requiring a child to attend school.

ASSUMPTIONS:

1. The elimination of this provision may cause a small number of parents to withdraw their children from the public school system. The fiscal impact of HB 221 is projected to be minimal.

FISCAL IMPACT: If parents remove their children from public schools under this act state general fund costs of school equalization will be reduced. We do not have information to determine if or how many students might be removed.

Dave Lewis 1-15-97  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Rick Jone 1/16/97  
RICK JONE, PRIMARY SPONSOR DATE  
Fiscal Note for HB0221, as introduced

HB 221