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INTRODUCED BY House BILL NO. 552
Steve Uebel

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A NONPUBLIC SCHOOL STUDENT TO DUAL ENROLL IN A PUBLIC SCHOOL; AMENDING SECTION 20-3-324, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Dual enrollment. (1) As used in this section, the term "nonpublic school student" means a student who receives educational instruction outside of a public school.

(2) The parent or guardian of a child of school age who is enrolled in a nonpublic school must be allowed to enroll the child in a public school on a part-time, space-available basis if the child resides within the boundaries of the district. A school district shall adopt a policy governing dual enrollment procedures. Acceptance of a nonpublic school student may not create an excess student enrollment in the requested course or program.

(3) A nonpublic school student may enroll in any course or program in the public school available to a public school student, subject to the same rules and requirements that apply to the public school student's participation in the program. A school district must be allowed to include a dual-enrolled nonpublic school student in its ANB calculation in accordance with 20-9-311(4).

(4) A nonpublic school student who participates in the dual enrollment program is eligible to participate in nonacademic, extracurricular activities of the public school if the nonpublic school student is academically eligible in accordance with district policy. The district shall determine the academic eligibility of a dual-enrolled, nonpublic school student.

Section 2. 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,

1 in accordance with the provisions of Title 20, chapter 4;

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

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

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

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

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

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

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

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

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

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

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

26 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement
27 fund, building reserve fund, adult education fund, nonoperating fund, school food services fund,
28 miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund,
29 impact aid fund, and interlocal cooperative agreement fund in accordance with the provisions of the other
30 school funds parts of this title;

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

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

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

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

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

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

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

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

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

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

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

28 (25) adopt and administer a district policy on the dual enrollment of a nonpublic school child,
29 including determining academic eligibility for participation in extracurricular activities, as required in [section
30 1]; and

1 ~~(25)~~(26) perform any other duty and enforce any other requirements for the government of the
2 schools prescribed by this title, the policies of the board of public education, or the rules of the
3 superintendent of public instruction.”

4

5 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
6 integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1, apply to
7 [section 1].

8

9 **NEW SECTION. Section 4. Effective date.** [This act] is effective July 1, 1997.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0552, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act allowing a nonpublic school student to dual enroll in a public school; amending section 2-3-324, MCA; and providing an effective date.

ASSUMPTIONS:

1. In FY96, forty-five school districts in Montana claimed a total of 140 part-time students, not including kindergarten students, for the purpose of calculating ANB for FY97. These students are counted as half-time students and funded as .5 ANB. Any student that enrolls for 3 periods or more per school day is counted as full-time in the calculation of a school district's ANB.
2. In addition to the forty-five districts that have chosen to allow part-time ANB, HB 552 would require that all school districts enroll nonpublic students on a part-time, space-available basis if the child resides within the boundaries of the district.
3. For the 1996-97 school year, there are 8,594 private school students and 3,323 home school students. It is assumed that 20%, or 665, of the home school students will enroll in public schools on a part-time basis if HB 552 is adopted. Each of these pupils will generate .5 ANB for the public school district.
4. The average state cost per pupil for the FY97 school year is \$2,285. The part-time students who enroll as a result of HB 552 will generate 333 ANB at a state cost of \$761,000 per year.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Direct State Aid and GTB	761,000	761,000
 <u>Funding:</u>		
General Fund (01)	761,000	761,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local property taxes will increase to fund the local share of the cost of educating these part-time students. The average general fund budget per pupil is \$3,971 for FY97. Local tax collections for 665 part-time ANB could increase by as much as \$559,400 per year to pay for the education of these part-time students.

TECHNICAL NOTES:

It is questionable if this legislation is constitutional due to the language in Section 6 of the constitution. Section 6 reads as follows: "Aid prohibited to sectarian schools. (1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any **direct or indirect appropriation or payment from any public fund or monies**, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination."
(Emphasis added)

Paul Lewis 2-19-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 STEVEN VICK, PRIMARY SPONSOR DATE
 Fiscal Note for HB0552, as introduced

HB 552