

SENATE BILL NO. 71

INTRODUCED BY TOEWS

BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DUTIES OF ELECTED SCHOOL OFFICIALS; PROVIDING SCHOOL DISTRICT TRUSTEES WITH GREATER FLEXIBILITY IN DETERMINING PUPIL-INSTRUCTION TIME; ELIMINATING THE NEED FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO APPROVE KINDERGARTEN VARIANCES FOR REQUIRED HOURS OF INSTRUCTION, PUPIL-INSTRUCTION-RELATED DAYS, AND ADULT EDUCATION PROGRAMS OPERATED BY A SCHOOL DISTRICT; AUTHORIZING A BOARD OF TRUSTEES TO DECLARE AN EMERGENCY IN A DISTRICT; CLARIFYING THE REQUIREMENTS FOR RESCHEDULING INSTRUCTION TIME CANCELED BECAUSE OF AN UNFORESEEN EMERGENCY; REMOVING THE REQUIREMENT FOR A COUNTY SUPERINTENDENT OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE THAT A REASONABLE EFFORT HAS BEEN MADE TO MAKE UP SCHOOL DAYS LOST BECAUSE OF AN EMERGENCY; AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-304, 20-3-106, 20-6-209, 20-7-705, 20-9-311, 20-9-801, 20-9-802, AND 20-9-806, MCA; REPEALING SECTIONS 20-9-803 AND 20-9-804, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

**"20-1-301. School fiscal year.** (1) The school fiscal year ~~shall~~ must begin on July 1 and end on June 30. At least 180 school days of pupil instruction ~~shall~~ and the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except that 175 days and 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302 or a district is granted a variance under the provisions of chapter 9, part 8, of this title.~~

(2) The minimum aggregate hours required by grade are:

(a) 360 hours for a kindergarten program;

(b) 720 hours for grades 1 through 3; and

- 1           (c) 1,080 hours for grades 4 through 12.
- 2           (3) To calculate the number of school days of pupil instruction, a school district shall:
- 3           (a) determine the aggregate hours of pupil instruction by grade level;
- 4           (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day
- 5 for that grade level provided in 20-1-302; and
- 6           (c) round the result down to the nearest whole number.
- 7           (4) For any elementary or high school district that fails to provide for at least 180 school days of
- 8 pupil instruction or the minimum aggregate hours as defined in subsection (2), the superintendent of public
- 9 instruction shall reduce the county equalization, as defined in 20-9-334, and the state equalization, as
- 10 defined in 20-9-343, for the district for that school year by 1/90th for each school day less than 180 school
- 11 days or a corresponding amount based on minimum aggregate hours."

12

13           **Section 2.** Section 20-1-302, MCA, is amended to read:

14           **"20-1-302. School day and week.** Subject to 20-1-308, a school day of pupil instruction ~~shall~~

15 must be at least 2 hours for kindergartens ~~and all other preschool programs, unless a variance has been~~

16 ~~granted by the superintendent of public instruction in accordance with the policies of the board of public~~

17 ~~education, at least 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The~~

18 ~~number of hours in any one 1 school day for grades 4 through 12 may be reduced by 1 hour if the total~~

19 ~~number of hours in the school week is not less than 30 hours. The number of hours in a school week may~~

20 ~~be reduced, in an emergency, with the approval of the board of public education~~ may be reduced at the

21 discretion of the trustees if the total number of pupil-instruction hours in the school year is not less than

22 the minimum aggregate hours required in 20-1-301."

23

24           **Section 3.** Section 20-1-304, MCA, is amended to read:

25           **"20-1-304. Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher

26 activities devoted to improving the quality of instruction. The activities may include but are not limited to

27 inservice training, attending state meetings of teacher organizations, and conducting parent conferences.

28 A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum

29 of 3 of the days for instructional and professional development meetings or other appropriate inservice

30 training, ~~provided that if the days are approved by the superintendent of public instruction~~ planned in

1 accordance with the policy adopted by the board of public education. The days may not be included as a  
2 part of the required minimum of 180 days or the required minimum aggregate hours of pupil instruction."

3  
4 **Section 4.** Section 20-3-106, MCA, is amended to read:

5 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction  
6 has the general supervision of the public schools and districts of the state and shall perform the following  
7 duties or acts in implementing and enforcing the provisions of this title:

8 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under  
9 the provisions of 20-3-362;

10 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

11 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of  
12 20-5-314;

13 (4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

14 (5) approve or disapprove the orders of a high school boundary commission in accordance with  
15 the provisions of 20-6-311;

16 (6) approve or disapprove the opening or reopening of a school in accordance with the provisions  
17 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

18 (7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

19 (8) generally supervise the school budgeting procedures prescribed by law in accordance with the  
20 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of  
21 20-9-103 and 20-9-506;

22 (9) establish a system of communication for calculating joint district ~~revenues~~ revenue in  
23 accordance with the provisions of 20-9-151;

24 (10) approve or disapprove the adoption of a district's budget amendment resolution under the  
25 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a  
26 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

27 (11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

28 (12) prescribe and furnish the annual report forms to enable the districts to report to the county  
29 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the  
30 county superintendents to report to the superintendent of public instruction in accordance with the

1 provisions of 20-3-209;

2 (13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in  
3 accordance with the provisions of 20-9-313 and 20-9-314;

4 (14) distribute BASE aid and special education allowable cost payments in support of the BASE  
5 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,  
6 and 20-9-366 through 20-9-369;

7 (15) provide for the uniform and equal provision of transportation by performing the duties  
8 prescribed by the provisions of 20-10-112;

9 ~~(16) approve or disapprove an adult education program for which a district proposes to levy a tax~~  
10 ~~in accordance with the provisions of 20-7-705;~~

11 ~~(17)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of  
12 20-9-603;

13 ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement  
14 in accordance with the provisions of 20-9-703 and 20-9-704;

15 ~~(19)~~(18) prescribe the form and contents of and approve or disapprove interstate contracts in  
16 accordance with the provisions of 20-9-705;

17 ~~(20)~~(19) approve or disapprove the conduct of school on a Saturday ~~or on pupil instruction-related~~  
18 ~~days~~ in accordance with the provisions of 20-1-303 ~~and 20-1-304~~;

19 ~~(21)~~(20) recommend standards of accreditation for all schools to the board of public education and  
20 evaluate compliance with the standards and recommend accreditation status of every school to the board  
21 of public education in accordance with the provisions of 20-7-101 and 20-7-102;

22 ~~(22)~~(21) collect and maintain a file of curriculum guides and assist schools with instructional  
23 programs in accordance with the provisions of 20-7-113 and 20-7-114;

24 ~~(23)~~(22) establish and maintain a library of visual, aural, and other educational media in accordance  
25 with the provisions of 20-7-201;

26 ~~(24)~~(23) license textbook dealers and initiate prosecution of textbook dealers violating the law in  
27 accordance with the provisions of the textbooks part of this title;

28 ~~(25)~~(24) as the governing agent and executive officer of the state of Montana for K-12 vocational  
29 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

30 ~~(26)~~(25) supervise and coordinate the conduct of special education in the state in accordance with

1 the provisions of 20-7-403;

2 ~~(27)~~(26) administer the traffic education program in accordance with the provisions of 20-7-502;

3 ~~(28)~~(27) administer the school food services program in accordance with the provisions of

4 20-10-201, ~~20-10-202~~, and through 20-10-203;

5 ~~(29)~~(28) review school building plans and specifications in accordance with the provisions of

6 20-6-622;

7 ~~(30)~~(29) prescribe the method of identification and signals to be used by school safety patrols in

8 accordance with the provisions of 20-1-408;

9 ~~(31)~~(30) provide schools with information and technical assistance for compliance with the student

10 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment

11 for the board of public education and the legislature;

12 ~~(32)~~(31) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through

13 20-9-369; and

14 ~~(33)~~(32) perform any other duty prescribed from time to time by this title, any other act of the

15 legislature, or the policies of the board of public education."

16

17 **Section 5.** Section 20-6-209, MCA, is amended to read:

18 **"20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an

19 elementary district to be abandoned and order the attachment of the territory of ~~such~~ the district to a

20 contiguous district of the county when:

21 (a) a school has not been operated by a district for at least 180 days under the provisions of

22 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the

23 ~~county superintendent or the superintendent of public instruction~~ board of trustees under the provisions

24 of ~~20-9-804~~ 20-9-806; or

25 (b) there is an insufficient number of residents who are qualified electors of the district that can

26 ~~and will~~ serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

27 (2) The county superintendent shall notify the elementary district that has not operated a school

28 for 2 consecutive years before the first day of the third year that the failure to operate a school for 180

29 days or a lesser number of days than approved by the ~~county superintendent or the superintendent of~~

30 ~~public instruction as provided~~ board of trustees under the provisions of ~~20-9-804~~ 20-9-806 during the

1 ensuing school fiscal year ~~shall constitute~~ constitutes grounds for abandonment of ~~such the~~ the district at the  
 2 conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide ~~such the~~  
 3 notification ~~shall~~ does not constitute a waiver of the abandonment requirement prescribed in subsection  
 4 (1)(a) ~~above~~.

5 (3) Any abandonment under subsection (1)(a) ~~shall become~~ becomes effective on July 1. Any  
 6 abandonment of an elementary district under subsection (1)(b) ~~shall become~~ becomes effective immediately  
 7 on the date of the abandonment order."

8  
 9 **Section 6.** Section 20-7-705, MCA, is amended to read:

10 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when  
 11 an adult education program is operated by a district or community college district. The financial  
 12 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the  
 13 laws governing the schools.

14 (2) Whenever the trustees of a district establish an adult education program under the provisions  
 15 of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult  
 16 education fund is the depository for all district money received by the district in support of the adult  
 17 education program. Federal and state adult education program money must be deposited in the  
 18 miscellaneous programs fund.

19 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,  
 20 except that trustees of a county high school district may, whether or not the county high school district  
 21 is unified with an elementary district under the provisions of 20-6-312, authorize a levy of not more than  
 22 2 mills on the district and a K-12 school district formed under the provisions of 20-6-701 may authorize  
 23 a levy of not more than 3 mills on the district, for the operation of an adult education program ~~when the~~  
 24 ~~superintendent of public instruction has approved the educational program to be supported by the levy. The~~  
 25 ~~trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of~~  
 26 ~~June in order to include the expenditures to be financed by the levy in the preliminary budget. The~~  
 27 ~~superintendent of public instruction shall promulgate rules and forms for the approval.~~

28 (4) Whenever the trustees of a district decide to offer an adult education program during the  
 29 ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the  
 30 preliminary budget. Any expenditures in support of the adult education program under the final adult

1 education budget must be made in accordance with the financial administration provisions of this title for  
2 a budgeted fund.

3 (5) When a tax levy for an adult education program ~~that has been approved by the superintendent~~  
4 ~~of public instruction~~ is included as a revenue item on the final adult education budget, the county  
5 superintendent shall report the levy requirement to the county commissioners on the fourth Monday of  
6 August and a levy on the district must be made by the county commissioners in accordance with  
7 20-9-142."

8  
9 **Section 7.** Section 20-9-311, MCA, is amended to read:

10 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)  
11 must be computed as follows:

12 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
13 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled  
14 pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on  
15 a school day, and divide the sum by two; and

16 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the  
17 pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide  
18 by 180.

19 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved  
20 pupil-instruction-related days may be included in the calculation.

21 (3) When a school district has approval to operate less than 180 school days under ~~20-9-804~~  
22 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

23 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be  
24 counted as enrollment for one-half day.

25 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),  
26 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon  
27 session must be counted as one-half pupil for ANB purposes. ~~If a variance has been granted as provided~~  
28 ~~in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,~~  
29 but the The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

30 (6) When ~~any~~ a pupil has been absent, with or without excuse, for more than 10 consecutive

1 school days, the pupil may not be included in the enrollment count used in the calculation of the ANB  
2 unless the pupil resumes attendance prior to the day of the enrollment count.

3 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the  
4 ANB calculations.

5 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools  
6 of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the  
7 schools of the district, except that when:

8 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city  
9 or town located in the district and at least 20 miles from any other school of the district, the number of  
10 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the  
11 district must receive a basic entitlement for the school calculated separately from the other schools of the  
12 district;

13 (ii) a school of the district is located more than 20 miles from any other school of the district and  
14 ~~an~~ incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of  
15 the school must be calculated separately for ANB purposes and the district must receive a basic entitlement  
16 for the school calculated separately from the other schools of the district; or

17 (iii) the superintendent of public instruction approves an application not to aggregate when  
18 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel,  
19 or when any other condition exists that would result in an unusual hardship to the pupils of the school if  
20 they were transported to another school, the number of regularly enrolled, full-time pupils of the school  
21 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the  
22 school calculated separately from the other schools of the district;

23 (b) a junior high school has been approved and accredited as a junior high school, all of the  
24 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils  
25 for ANB purposes;

26 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
27 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
28 high school pupils for ANB purposes; or

29 (d) a school has not been accredited by the board of public education, the regularly enrolled,  
30 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation



1 purposes, nor will an average number belonging for the nonaccredited school be used in determining the  
2 BASE funding program for the district.

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

6 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of  
7 public instruction with annual reports of school attendance for regularly enrolled students and special  
8 education students, using a format determined by the superintendent."

9  
10 **Section 8.** Section 20-9-801, MCA, is amended to read:

11 "20-9-801. **Purpose.** This part governs a school district's entitlement to state equalization  
12 apportionment funds for any school year during which the school district is unable to conduct the minimum  
13 number of school days or the minimum aggregate hours by grade required by law 20-1-301 by reason of  
14 one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted."

15  
16 **Section 9.** Section 20-9-802, MCA, is amended to read:

17 "20-9-802. **Definitions.** As used in this part, unless the context clearly indicates otherwise, the  
18 following definitions apply:

19 (1) "Declaration of emergency" means a declaration ~~of a state of emergency by the governor as~~  
20 ~~authorized by 10-3-302 by a board of trustees that an unforeseen emergency has occurred in the district.~~

21 (2) "Reasonable effort" means the rescheduling or extension of the school district's instructional  
22 calendar in an effort to attain the minimum number of school days required by law by:

23 (a) extending the school year ~~4-week~~ 3 days or the equivalent aggregate hours of pupil instruction  
24 beyond the last scheduled day; or

25 (b) the use of scheduled vacation days.

26 (3) "School day" means the school day defined in 20-1-302.

27 (4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection,  
28 community disaster, or act of God or ~~any~~ a combination of the foregoing that acts as a principal cause for  
29 a school district's inability to conduct ~~one~~ 1 or more scheduled school days."

1           **Section 10.** Section 20-9-806, MCA, is amended to read:

2           "**20-9-806. School closure by declaration of emergency.** (1) If a school is closed by reason of a  
3 ~~declaration of an unforeseen emergency by the governor, that results in a declaration of emergency by the~~  
4 board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to  
5 reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the  
6 resolution, the pupil-instruction ~~days~~ time lost during the closure need not be rescheduled to meet the  
7 minimum requirement for pupil-instruction days that a school district must conduct during the school year  
8 in order to be entitled to full annual equalization apportionment.

9           (2) At least 3 school days or the equivalent aggregate hours must have been made up before the  
10 trustees can declare that a reasonable effort has been made."

11

12           NEW SECTION. **Section 11. Repealer.** Sections 20-9-803 and 20-9-804, MCA, are repealed.

13

14           NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 1997.

15

-END-

APPROVED BY COM ON EDUCATION  
AND CULTURAL RESOURCES

SENATE BILL NO. 71

INTRODUCED BY TOEWS

BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DUTIES OF ELECTED SCHOOL OFFICIALS; PROVIDING SCHOOL DISTRICT TRUSTEES WITH GREATER FLEXIBILITY IN DETERMINING PUPIL-INSTRUCTION TIME; ELIMINATING THE NEED FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO APPROVE KINDERGARTEN VARIANCES FOR REQUIRED HOURS OF INSTRUCTION, PUPIL-INSTRUCTION-RELATED DAYS, AND ADULT EDUCATION PROGRAMS OPERATED BY A SCHOOL DISTRICT; AUTHORIZING A BOARD OF TRUSTEES TO DECLARE AN EMERGENCY IN A DISTRICT; CLARIFYING THE REQUIREMENTS FOR RESCHEDULING INSTRUCTION TIME CANCELED BECAUSE OF AN UNFORESEEN EMERGENCY; REMOVING THE REQUIREMENT FOR A COUNTY SUPERINTENDENT OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE THAT A REASONABLE EFFORT HAS BEEN MADE TO MAKE UP SCHOOL DAYS LOST BECAUSE OF AN EMERGENCY; AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-304, 20-3-106, 20-6-209, 20-7-705, 20-9-311, 20-9-801, 20-9-802, AND 20-9-806, MCA; REPEALING SECTIONS 20-9-803 AND 20-9-804, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

**"20-1-301. School fiscal year.** (1) The school fiscal year shall ~~must~~ begin on July 1 and end on June 30. At least 180 school days of pupil instruction shall ~~and the minimum aggregate hours defined in subsection (2) must~~ be conducted during each school fiscal year, except that 175 days ~~and 1,050 aggregate hours~~ of pupil instruction for graduating seniors may be sufficient, as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302 or a district is granted a variance under the provisions of chapter 9, part 9, of this title, OR A MINIMUM OF 90 DAYS AND 360 AGGREGATE HOURS OF PUBLIC INSTRUCTION FOR A KINDERGARTEN PROGRAM, AS PROVIDED IN 20-7-117.~~

(2) The minimum aggregate hours required by grade are:

(a) ~~360 hours for a kindergarten program;~~

- 1           ~~(b)~~ 720 hours for grades 1 through 3; and  
 2           ~~(e)~~ (B) 1,080 hours for grades 4 through 12.  
 3           (3) To calculate the number of school days of pupil instruction, a school district shall:  
 4           (a) determine the aggregate hours of pupil instruction by grade level;  
 5           (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day  
 6 for that grade level provided in 20-1-302; and  
 7           (c) round the result down to the nearest whole number.  
 8           (4) For any elementary or high school district that fails to provide for at least 180 school days of  
 9 pupil instruction ~~or~~ AND the minimum aggregate hours as defined in subsection (2), the superintendent of  
 10 public instruction shall reduce the county equalization, as defined in 20-9-334, and the state equalization,  
 11 as defined in 20-9-343, for the district for that school year by 1/90th for each school day less than 180  
 12 school days ~~or a corresponding amount based on minimum aggregate hours~~ AS CALCULATED IN  
 13 SUBSECTION (3)."

14

15           **Section 2.** Section 20-1-302, MCA, is amended to read:

16           **"20-1-302. School day and week.** Subject to 20-1-308, a school day of pupil instruction shall  
 17 must be at least 2 hours for kindergartens and all other preschool programs, unless a variance has been  
 18 granted by the superintendent of public instruction in accordance with the policies of the board of public  
 19 education, at least 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The  
 20 number of hours in any one 1 school day for grades 4 through 12 may be reduced by 1 hour if the total  
 21 number of hours in the school week is not less than 30 hours. The number of hours in a school week may  
 22 be reduced, in an emergency, with the approval of the board of public education may be reduced at the  
 23 discretion of the trustees if the total number of pupil-instruction hours in the school year is not less than  
 24 the minimum aggregate hours required in 20-1-301."

25

26           **Section 3.** Section 20-1-304, MCA, is amended to read:

27           **"20-1-304. Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher  
 28 activities devoted to improving the quality of instruction. The activities may include but are not limited to  
 29 inservice training, attending state meetings of teacher organizations, and conducting parent conferences.  
 30 A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum

1 of 3 of the days for instructional and professional development meetings or other appropriate inservice  
 2 training, ~~provided that if~~ the days are ~~approved by the superintendent of public instruction~~ planned in  
 3 accordance with the policy adopted by the board of public education. The days may not be included as a  
 4 part of the required minimum of 180 days or the required minimum aggregate hours of pupil instruction."  
 5

6 **Section 4.** Section 20-3-106, MCA, is amended to read:

7 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction  
 8 has the general supervision of the public schools and districts of the state and shall perform the following  
 9 duties or acts in implementing and enforcing the provisions of this title:

- 10 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under  
 11 the provisions of 20-3-362;
- 12 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- 13 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of  
 14 20-5-314;
- 15 (4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;
- 16 (5) approve or disapprove the orders of a high school boundary commission in accordance with  
 17 the provisions of 20-6-311;
- 18 (6) approve or disapprove the opening or reopening of a school in accordance with the provisions  
 19 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- 20 (7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- 21 (8) generally supervise the school budgeting procedures prescribed by law in accordance with the  
 22 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of  
 23 20-9-103 and 20-9-506;
- 24 (9) establish a system of communication for calculating joint district ~~revenues~~ revenue in  
 25 accordance with the provisions of 20-9-151;
- 26 (10) approve or disapprove the adoption of a district's budget amendment resolution under the  
 27 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a  
 28 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 29 (11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 30 (12) prescribe and furnish the annual report forms to enable the districts to report to the county

1 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the  
 2 county superintendents to report to the superintendent of public instruction in accordance with the  
 3 provisions of 20-3-209;

4 (13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in  
 5 accordance with the provisions of 20-9-313 and 20-9-314;

6 (14) distribute BASE aid and special education allowable cost payments in support of the BASE  
 7 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,  
 8 and 20-9-366 through 20-9-369;

9 (15) provide for the uniform and equal provision of transportation by performing the duties  
 10 prescribed by the provisions of 20-10-112;

11 ~~(16) approve or disapprove an adult education program for which a district proposes to levy a tax~~  
 12 ~~in accordance with the provisions of 20-7-705;~~

13 ~~(17)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of  
 14 20-9-603;

15 ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement  
 16 in accordance with the provisions of 20-9-703 and 20-9-704;

17 ~~(19)~~(18) prescribe the form and contents of and approve or disapprove interstate contracts in  
 18 accordance with the provisions of 20-9-705;

19 ~~(20)~~(19) approve or disapprove the conduct of school on a Saturday ~~or on pupil instruction related~~  
 20 ~~days~~ in accordance with the provisions of 20-1-303 and ~~20-1-304~~;

21 ~~(21)~~(20) recommend standards of accreditation for all schools to the board of public education and  
 22 evaluate compliance with the standards and recommend accreditation status of every school to the board  
 23 of public education in accordance with the provisions of 20-7-101 and 20-7-102;

24 ~~(22)~~(21) collect and maintain a file of curriculum guides and assist schools with instructional  
 25 programs in accordance with the provisions of 20-7-113 and 20-7-114;

26 ~~(23)~~(22) establish and maintain a library of visual, aural, and other educational media in accordance  
 27 with the provisions of 20-7-201;

28 ~~(24)~~(23) license textbook dealers and initiate prosecution of textbook dealers violating the law in  
 29 accordance with the provisions of the textbooks part of this title;

30 ~~(25)~~(24) as the governing agent and executive officer of the state of Montana for K-12 vocational

1 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

2 ~~(26)~~(25) supervise and coordinate the conduct of special education in the state in accordance with

3 the provisions of 20-7-403;

4 ~~(27)~~(26) administer the traffic education program in accordance with the provisions of 20-7-502;

5 ~~(28)~~(27) administer the school food services program in accordance with the provisions of

6 20-10-201, ~~20-10-202~~, and through 20-10-203;

7 ~~(29)~~(28) review school building plans and specifications in accordance with the provisions of

8 20-6-622;

9 ~~(30)~~(29) prescribe the method of identification and signals to be used by school safety patrols in

10 accordance with the provisions of 20-1-408;

11 ~~(31)~~(30) provide schools with information and technical assistance for compliance with the student

12 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment

13 for the board of public education and the legislature;

14 ~~(32)~~(31) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through

15 20-9-369; and

16 ~~(33)~~(32) perform any other duty prescribed from time to time by this title, any other act of the

17 legislature, or the policies of the board of public education."

18

19 **Section 5.** Section 20-6-209, MCA, is amended to read:

20 **"20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an

21 elementary district to be abandoned and order the attachment of the territory of ~~such~~ the district to a

22 contiguous district of the county when:

23 (a) a school has not been operated by a district for at least 180 days under the provisions of

24 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the

25 ~~county superintendent or the superintendent of public instruction~~ board of trustees under the provisions

26 of ~~20-9-804~~ 20-9-806; or

27 (b) there is an insufficient number of residents who are qualified electors of the district that can

28 ~~and will~~ serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

29 (2) The county superintendent shall notify the elementary district that has not operated a school

30 for 2 consecutive years before the first day of the third year that the failure to operate a school for 180

1 days or a lesser number of days than approved by the ~~county superintendent or the superintendent of~~  
 2 ~~public instruction as provided~~ board of trustees under the provisions of ~~20-9-804~~ 20-9-806 during the  
 3 ensuing school fiscal year ~~shall constitute~~ constitutes grounds for abandonment of ~~such the~~ the district at the  
 4 conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide ~~such the~~  
 5 notification ~~shall~~ does not constitute a waiver of the abandonment requirement prescribed in subsection  
 6 (1)(a) ~~above~~.

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

11 **Section 6.** Section 20-7-705, MCA, is amended to read:

12 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when  
 13 an adult education program is operated by a district or community college district. The financial  
 14 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the  
 15 laws governing the schools.

16 (2) Whenever the trustees of a district establish an adult education program under the provisions  
 17 of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult  
 18 education fund is the depository for all district money received by the district in support of the adult  
 19 education program. Federal and state adult education program money must be deposited in the  
 20 miscellaneous programs fund.

21 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,  
 22 except that trustees of a county high school district may, whether or not the county high school district  
 23 is unified with an elementary district under the provisions of 20-6-312, authorize a levy of not more than  
 24 2 mills on the district and a K-12 school district formed under the provisions of 20-6-701 may authorize  
 25 a levy of not more than 3 mills on the district, for the operation of an adult education program ~~when the~~  
 26 ~~superintendent of public instruction has approved the educational program to be supported by the levy. The~~  
 27 ~~trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of~~  
 28 ~~June in order to include the expenditures to be financed by the levy in the preliminary budget. The~~  
 29 ~~superintendent of public instruction shall promulgate rules and forms for the approval.~~

30 (4) Whenever the trustees of a district decide to offer an adult education program during the



1 ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the  
 2 preliminary budget. Any expenditures in support of the adult education program under the final adult  
 3 education budget must be made in accordance with the financial administration provisions of this title for  
 4 a budgeted fund.

5 (5) When a tax levy for an adult education program ~~that has been approved by the superintendent~~  
 6 ~~of public instruction~~ is included as a revenue item on the final adult education budget, the county  
 7 superintendent shall report the levy requirement to the county commissioners on the fourth Monday of  
 8 August and a levy on the district must be made by the county commissioners in accordance with  
 9 20-9-142."

10

11 **Section 7.** Section 20-9-311, MCA, is amended to read:

12 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)  
 13 must be computed as follows:

14 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
 15 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled  
 16 pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on  
 17 a school day, and divide the sum by two; and

18 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the  
 19 pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide  
 20 by 180.

21 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved  
 22 pupil-instruction-related days may be included in the calculation.

23 (3) When a school district has approval to operate less than 180 school days under ~~20-9-804~~  
 24 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

25 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be  
 26 counted as enrollment for one-half day.

27 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),  
 28 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon  
 29 session must be counted as one-half pupil for ANB purposes. ~~If a variance has been granted as provided~~  
 30 ~~in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,~~

1 ~~but the~~ The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

2 (6) When ~~any~~ a pupil has been absent, with or without excuse, for more than 10 consecutive  
3 school days, the pupil may not be included in the enrollment count used in the calculation of the ANB  
4 unless the pupil resumes attendance prior to the day of the enrollment count.

5 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the  
6 ANB calculations.

7 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools  
8 of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the  
9 schools of the district, except that when:

10 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city  
11 or town located in the district and at least 20 miles from any other school of the district, the number of  
12 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the  
13 district must receive a basic entitlement for the school calculated separately from the other schools of the  
14 district;

15 (ii) a school of the district is located more than 20 miles from any other school of the district and  
16 ~~no~~ incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of  
17 the school must be calculated separately for ANB purposes and the district must receive a basic entitlement  
18 for the school calculated separately from the other schools of the district; or

19 (iii) the superintendent of public instruction approves an application not to aggregate when  
20 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel,  
21 or when any other condition exists that would result in an unusual hardship to the pupils of the school if  
22 they were transported to another school, the number of regularly enrolled, full-time pupils of the school  
23 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the  
24 school calculated separately from the other schools of the district;

25 (b) a junior high school has been approved and accredited as a junior high school, all of the  
26 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils  
27 for ANB purposes;

28 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
29 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
30 high school pupils for ANB purposes; or

1 (d) a school has not been accredited by the board of public education, the regularly enrolled,  
 2 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation  
 3 purposes, nor will an average number belonging for the nonaccredited school be used in determining the  
 4 BASE funding program for the district.

5 (9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may  
 6 calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an  
 7 equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

8 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of  
 9 public instruction with annual reports of school attendance for regularly enrolled students and special  
 10 education students, using a format determined by the superintendent."

11

12 **Section 8.** Section 20-9-801, MCA, is amended to read:

13 **"20-9-801. Purpose.** This part governs a school district's entitlement to state equalization  
 14 apportionment funds for any school year during which the school district is unable to conduct the minimum  
 15 number of school days ~~or AND the minimum aggregate hours by grade~~ required by ~~law~~ 20-1-301 by reason  
 16 of one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted."

17

18 **Section 9.** Section 20-9-802, MCA, is amended to read:

19 **"20-9-802. Definitions.** As used in this part, unless the context clearly indicates otherwise, the  
 20 following definitions apply:

21 (1) "Declaration of emergency" means a declaration ~~of a state of emergency by the governor as~~  
 22 ~~authorized by 10-3-302~~ by a board of trustees that an unforeseen emergency has occurred in the district.

23 (2) "Reasonable effort" means the rescheduling or extension of the school district's instructional  
 24 calendar in an effort to attain the minimum number of school days required by law by:

25 (a) extending the school year ~~1 week~~ 3 days or AND the equivalent aggregate hours of pupil  
 26 instruction beyond the last scheduled day; or

27 (b) the use of scheduled vacation days.

28 (3) "School day" means the school day defined in 20-1-302.

29 (4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection,  
 30 community disaster, or act of God or ~~any~~ a combination of the foregoing that acts as a principal cause for

1 a school district's inability to conduct ~~one~~ 1 or more scheduled school days."

2

3 **Section 10.** Section 20-9-806, MCA, is amended to read:

4 **"20-9-806. School closure by declaration of emergency. (1)** If a school is closed by reason of a  
5 ~~declaration of an unforeseen emergency by the governor,~~ that results in a declaration of emergency by the  
6 board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to  
7 reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the  
8 resolution, the pupil-instruction ~~days~~ time lost during the closure need not be rescheduled to meet the  
9 minimum requirement for pupil-instruction days that a school district must conduct during the school year  
10 in order to be entitled to full annual equalization apportionment.

11 (2) At least 3 school days or the equivalent aggregate hours must have been made up before the  
12 trustees can declare that a reasonable effort has been made."

13

14 **NEW SECTION. Section 11. Repealer.** Sections 20-9-803 and 20-9-804, MCA, are repealed.

15

16 **NEW SECTION. Section 12. Effective date.** [This act] is effective July 1, 1997.

17

-END-

## 1 SENATE BILL NO. 71

2 INTRODUCED BY TOEWS

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DUTIES OF ELECTED SCHOOL  
6 OFFICIALS; PROVIDING SCHOOL DISTRICT TRUSTEES WITH GREATER FLEXIBILITY IN DETERMINING  
7 PUPIL-INSTRUCTION TIME; ELIMINATING THE NEED FOR THE SUPERINTENDENT OF PUBLIC  
8 INSTRUCTION TO APPROVE KINDERGARTEN VARIANCES FOR REQUIRED HOURS OF INSTRUCTION,  
9 PUPIL-INSTRUCTION-RELATED DAYS, AND ADULT EDUCATION PROGRAMS OPERATED BY A SCHOOL  
10 DISTRICT; AUTHORIZING A BOARD OF TRUSTEES TO DECLARE AN EMERGENCY IN A DISTRICT;  
11 CLARIFYING THE REQUIREMENTS FOR RESCHEDULING INSTRUCTION TIME CANCELED BECAUSE OF AN  
12 UNFORESEEN EMERGENCY; REMOVING THE REQUIREMENT FOR A COUNTY SUPERINTENDENT OR THE  
13 SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE THAT A REASONABLE EFFORT HAS BEEN  
14 MADE TO MAKE UP SCHOOL DAYS LOST BECAUSE OF AN EMERGENCY; AMENDING SECTIONS  
15 20-1-301, 20-1-302, 20-1-304, 20-3-106, 20-6-209, 20-7-705, 20-9-311, 20-9-801, 20-9-802, AND  
16 20-9-806, MCA; REPEALING SECTIONS 20-9-803 AND 20-9-804, MCA; AND PROVIDING AN EFFECTIVE  
17 DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

## 1 SENATE BILL NO. 71

2 INTRODUCED BY TOEWS

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DUTIES OF ELECTED SCHOOL  
6 OFFICIALS; PROVIDING SCHOOL DISTRICT TRUSTEES WITH GREATER FLEXIBILITY IN DETERMINING  
7 PUPIL-INSTRUCTION TIME; ELIMINATING THE NEED FOR THE SUPERINTENDENT OF PUBLIC  
8 INSTRUCTION TO APPROVE KINDERGARTEN VARIANCES FOR REQUIRED HOURS OF INSTRUCTION,  
9 PUPIL-INSTRUCTION-RELATED DAYS, AND ADULT EDUCATION PROGRAMS OPERATED BY A SCHOOL  
10 DISTRICT; AUTHORIZING A BOARD OF TRUSTEES TO DECLARE AN EMERGENCY IN A DISTRICT;  
11 CLARIFYING THE REQUIREMENTS FOR RESCHEDULING INSTRUCTION TIME CANCELED BECAUSE OF AN  
12 UNFORESEEN EMERGENCY; REMOVING THE REQUIREMENT FOR A COUNTY SUPERINTENDENT OR THE  
13 SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE THAT A REASONABLE EFFORT HAS BEEN  
14 MADE TO MAKE UP SCHOOL DAYS LOST BECAUSE OF AN EMERGENCY; AMENDING SECTIONS  
15 20-1-301, 20-1-302, 20-1-304, 20-3-106, 20-6-209, 20-7-705, 20-9-311, 20-9-801, 20-9-802, AND  
16 20-9-806, MCA; REPEALING SECTIONS 20-9-803 AND 20-9-804, MCA; AND PROVIDING AN EFFECTIVE  
17 DATE."  
18

19 STATEMENT OF INTENT

20 A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE IT REQUIRES THE BOARD OF  
21 PUBLIC EDUCATION TO ADOPT RULES FOR GRANTING A VARIANCE TO A SCHOOL DISTRICT TO  
22 CONDUCT A SCHOOL YEAR OF LESS THAN 180 SCHOOL DAYS OF PUPIL INSTRUCTION IF AN  
23 EQUIVALENT IS PROVIDED THROUGH LONGER HOURS IN THE SCHOOL DAY.

24 THE BOARD OF PUBLIC EDUCATION SHALL ADOPT PROCEDURES FOR APPLICATION AND  
25 APPROVAL OF THIS VARIANCE THAT ARE SIMILAR TO THE PROCEDURES IN THE PRESENT VERSION  
26 OF ARM 10.55.604 FOR SCHOOL DISTRICT APPLICATION FOR AND APPROVAL OF AN ALTERNATIVE  
27 STANDARD OF ACCREDITATION.

28 IT IS THE INTENT OF THE LEGISLATURE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION  
29 AMEND RULES RELATED TO THE EQUITABLE DISTRIBUTION OF COUNTY, STATE, AND FEDERAL  
30 SCHOOL FUNDS TO A DISTRICT THAT IS GRANTED A VARIANCE UNDER THIS BILL.

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

2  
3 **Section 1.** Section 20-1-301, MCA, is amended to read:

4 **"20-1-301. School fiscal year.** ~~(1)~~ The school fiscal year shall **must** begin on July 1 and end on  
5 June 30. At least 180 school days of pupil instruction shall **and the minimum aggregate hours defined in**  
6 subsection (2) **must** be conducted during each school fiscal year, except that:

7 (A) 175 days **and 1,050 aggregate hours** of pupil instruction for graduating seniors may be  
8 sufficient, as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302~~  
9 ~~or a district is granted a variance under the provisions of chapter 9, part 8, of this title.~~ **OR:**

10 (B) A MINIMUM OF 90 DAYS AND 360 AGGREGATE HOURS OF PUBLIC PUPIL INSTRUCTION  
11 MUST BE CONDUCTED FOR A KINDERGARTEN PROGRAM, AS PROVIDED IN 20-7-117; OR

12 (C) A MAXIMUM OF 25 DISTRICTS MAY BE GRANTED A VARIANCE FOR THEIR INDIVIDUAL  
13 DISTRICT OR FOR A SCHOOL WITHIN THE DISTRICT BY THE BOARD OF PUBLIC EDUCATION TO  
14 CONDUCT LESS THAN THE NUMBER OF DAYS REQUIRED UNDER THIS SECTION IN A SCHOOL YEAR  
15 IF:

16 (I) THE TRUSTEES OF THE SCHOOL DISTRICT ADOPT A RESOLUTION TO SEEK A VARIANCE  
17 UNDER THIS SUBSECTION (1) AND PROVIDE PUBLIC NOTICE AND A PUBLIC HEARING ON THE  
18 QUESTION OF ADOPTING THE RESOLUTION;

19 (II) THE DISTRICT CONDUCTS AN EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION  
20 THROUGH LONGER SCHOOL DAYS; AND

21 (III) THE DISTRICT MEETS ALL OTHER CONDITIONS ADOPTED BY THE BOARD OF PUBLIC  
22 EDUCATION.

23 (2) The minimum aggregate hours required by grade are:

24 (a) ~~360 hours for a kindergarten program;~~

25 ~~b) 720 hours for grades 1 through 3; and~~

26 ~~c) (B) 1,080 hours for grades 4 through 12.~~

27 (3) To calculate the number of school days of pupil instruction, a school district shall:

28 (a) determine the aggregate hours of pupil instruction by grade level;

29 (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day  
30 for that grade level provided in 20-1-302; and

1 (c) round the result down to the nearest whole number.

2 (4) For any elementary or high school district that fails to provide for at least 180 school days of  
 3 pupil instruction ~~or~~ AND the minimum aggregate hours, as defined in subsection (2), OR AN EQUIVALENT  
 4 NUMBER OF HOURS, AS PROVIDED IN SUBSECTION (1)(C), the superintendent of public instruction shall  
 5 reduce the county equalization, as defined in 20-9-334, and the state equalization, as defined in 20-9-343,  
 6 for the district for that school year by 1/90th for each school day less than 180 school days ~~or a~~  
 7 corresponding amount based on minimum aggregate hours AS CALCULATED IN SUBSECTION (3)."

8

9 **SECTION 2. SECTION 20-1-301, MCA, IS AMENDED TO READ:**

10 **"20-1-301. School fiscal year. (1) The school fiscal year shall ~~shall~~ must begin on July 1 and end on**  
 11 **June 30. At least 180 school days of pupil instruction shall ~~and the minimum aggregate hours defined in~~**  
 12 **subsection (2) must be conducted during each school fiscal year, except that:**

13 **(a) 175 days and 1,050 aggregate hours of pupil instruction for graduating seniors may be**  
 14 **sufficient as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302~~**  
 15 **~~or a district is granted a variance under the provisions of chapter 8, part 8, of this title; or~~**

16 **(b) a minimum of 90 days and 360 aggregate hours of pupil instruction must be conducted for a**  
 17 **kindergarten program, as provided in 20-7-117; or**

18 **(c) a district may be granted a variance for the district or on behalf of a school within the district**  
 19 **by the board of public education to conduct less than the number of days required under this section in a**  
 20 **school year if:**

21 **(i) the trustees of the school district adopt a resolution to seek variance under this subsection (1)**  
 22 **and provide public notice and a public hearing on the question of adopting the resolution;**

23 **(ii) the district conducts an equivalent number of hours of pupil instruction through longer school**  
 24 **days; and**

25 **(iii) the district meets all other conditions adopted by the board of public education.**

26 **(2) The minimum aggregate hours required by grade are:**

27 **(a) 720 hours for grades 1 through 3; and**

28 **(b) 1,080 hours for grades 4 through 12.**

29 **(3) To calculate the number of school days of pupil instruction, a school district shall:**

30 **(a) determine the aggregate hours of pupil instruction by grade level;**



1           **(b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day**  
 2 **for that grade level provided in 20-1-302; and**

3           **(c) round the result down to the nearest whole number.**

4           **(4) For any elementary or high school district that fails to provide for at least 180 school days of**  
 5 **pupil instruction and the minimum aggregate hours, as defined in subsection (2), or an equivalent number**  
 6 **of hours, as provided in subsection (1)(c), the superintendent of public instruction shall reduce the county**  
 7 **equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that**  
 8 **school year by 1/90th for each school day less than 180 school days as calculated in subsection (3)."**

9  
 10           **Section 3.** Section 20-1-302, MCA, is amended to read:

11           **"20-1-302. School day and week.** Subject to 20-1-308, a school day of pupil instruction ~~shall~~  
 12 ~~must be at least 2 hours for kindergartens and all other preschool programs, unless a variance has been~~  
 13 ~~granted by the superintendent of public instruction in accordance with the policies of the board of public~~  
 14 ~~education, at least 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The~~  
 15 ~~number of hours in any one 1 school day for grades 4 through 12 may be reduced by 1 hour if the total~~  
 16 ~~number of hours in the school week is not less than 30 hours. The number of hours in a school week may~~  
 17 ~~be reduced, in an emergency, with the approval of the board of public education~~ **may be reduced at the**  
 18 **discretion of the trustees if the total number of pupil-instruction hours in the school year is not less than**  
 19 **the minimum aggregate hours required in 20-1-301."**

20  
 21           **Section 4.** Section 20-1-304, MCA, is amended to read:

22           **"20-1-304. Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher  
 23 activities devoted to improving the quality of instruction. The activities may include but are not limited to  
 24 inservice training, attending state meetings of teacher organizations, and conducting parent conferences.  
 25 A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum  
 26 of 3 of the days for instructional and professional development meetings or other appropriate inservice  
 27 training, ~~provided that if~~ the days are ~~approved by the superintendent of public instruction~~ **planned** in  
 28 accordance with the policy adopted by the board of public education. The days may not be included as a  
 29 part of the required minimum of 180 days ~~or the required minimum aggregate hours~~ of pupil instruction."  
 30

1           **Section 5.** Section 20-3-106, MCA, is amended to read:

2           **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction  
3 has the general supervision of the public schools and districts of the state and shall perform the following  
4 duties or acts in implementing and enforcing the provisions of this title:

5           (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under  
6 the provisions of 20-3-362;

7           (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

8           (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of  
9 20-5-314;

10          (4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

11          (5) approve or disapprove the orders of a high school boundary commission in accordance with  
12 the provisions of 20-6-311;

13          (6) approve or disapprove the opening or reopening of a school in accordance with the provisions  
14 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

15          (7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

16          (8) generally supervise the school budgeting procedures prescribed by law in accordance with the  
17 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of  
18 20-9-103 and 20-9-506;

19          (9) establish a system of communication for calculating joint district ~~revenues~~ revenue in  
20 accordance with the provisions of 20-9-151;

21          (10) approve or disapprove the adoption of a district's budget amendment resolution under the  
22 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a  
23 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

24          (11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

25          (12) prescribe and furnish the annual report forms to enable the districts to report to the county  
26 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the  
27 county superintendents to report to the superintendent of public instruction in accordance with the  
28 provisions of 20-3-209;

29          (13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in  
30 accordance with the provisions of 20-9-313 and 20-9-314;

1 (14) distribute BASE aid and special education allowable cost payments in support of the BASE  
2 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,  
3 and 20-9-366 through 20-9-369;

4 (15) provide for the uniform and equal provision of transportation by performing the duties  
5 prescribed by the provisions of 20-10-112;

6 ~~(16) approve or disapprove an adult education program for which a district proposes to levy a tax~~  
7 ~~in accordance with the provisions of 20-7-705;~~

8 ~~(17)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of  
9 20-9-603;

10 ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement  
11 in accordance with the provisions of 20-9-703 and 20-9-704;

12 ~~(19)~~(18) prescribe the form and contents of and approve or disapprove interstate contracts in  
13 accordance with the provisions of 20-9-705;

14 ~~(20)~~(19) approve or disapprove the conduct of school on a Saturday ~~or on pupil instruction-related~~  
15 ~~days~~ in accordance with the provisions of 20-1-303 and ~~20-1-304~~;

16 ~~(21)~~(20) recommend standards of accreditation for all schools to the board of public education and  
17 evaluate compliance with the standards and recommend accreditation status of every school to the board  
18 of public education in accordance with the provisions of 20-7-101 and 20-7-102;

19 ~~(22)~~(21) collect and maintain a file of curriculum guides and assist schools with instructional  
20 programs in accordance with the provisions of 20-7-113 and 20-7-114;

21 ~~(23)~~(22) establish and maintain a library of visual, aural, and other educational media in accordance  
22 with the provisions of 20-7-201;

23 ~~(24)~~(23) license textbook dealers and initiate prosecution of textbook dealers violating the law in  
24 accordance with the provisions of the textbooks part of this title;

25 ~~(25)~~(24) as the governing agent and executive officer of the state of Montana for K-12 vocational  
26 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

27 ~~(26)~~(25) supervise and coordinate the conduct of special education in the state in accordance with  
28 the provisions of 20-7-403;

29 ~~(27)~~(26) administer the traffic education program in accordance with the provisions of 20-7-502;

30 ~~(28)~~(27) administer the school food services program in accordance with the provisions of

1 20-10-201, ~~20-10-202~~, and through 20-10-203;

2 ~~(29)~~(28) review school building plans and specifications in accordance with the provisions of

3 20-6-622;

4 ~~(30)~~(29) prescribe the method of identification and signals to be used by school safety patrols in

5 accordance with the provisions of 20-1-408;

6 ~~(31)~~(30) provide schools with information and technical assistance for compliance with the student

7 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment

8 for the board of public education and the legislature;

9 ~~(32)~~(31) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through

10 20-9-369; and

11 ~~(33)~~(32) perform any other duty prescribed from time to time by this title, any other act of the

12 legislature, or the policies of the board of public education."

13

14 **Section 6.** Section 20-6-209, MCA, is amended to read:

15 **"20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an

16 elementary district to be abandoned and order the attachment of the territory of ~~such~~ the district to a

17 contiguous district of the county when:

18 (a) a school has not been operated by a district for at least 180 days under the provisions of

19 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the

20 ~~county superintendent or the superintendent of public instruction~~ board of trustees under the provisions

21 of ~~20-9-804~~ 20-9-806; or

22 (b) there is an insufficient number of residents who are qualified electors of the district that can

23 ~~and will~~ serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

24 (2) The county superintendent shall notify the elementary district that has not operated a school

25 for 2 consecutive years before the first day of the third year that the failure to operate a school for 180

26 days or a lesser number of days than approved by the ~~county superintendent or the superintendent of~~

27 ~~public instruction as provided~~ board of trustees under the provisions of ~~20-9-804~~ 20-9-806 during the

28 ensuing school fiscal year ~~shall constitute~~ constitutes grounds for abandonment of ~~such~~ the district at the

29 conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide ~~such~~ the

30 notification ~~shall~~ does not constitute a waiver of the abandonment requirement prescribed in subsection

1 (1)(a) ~~above~~.

2 (3) Any abandonment under subsection (1)(a) ~~shall become~~ becomes effective on July 1. Any  
3 abandonment of an elementary district under subsection (1)(b) ~~shall become~~ becomes effective immediately  
4 on the date of the abandonment order."

5

6 **Section 7.** Section 20-7-705, MCA, is amended to read:

7 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when  
8 an adult education program is operated by a district or community college district. The financial  
9 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the  
10 laws governing the schools.

11 (2) Whenever the trustees of a district establish an adult education program under the provisions  
12 of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult  
13 education fund is the depository for all district money received by the district in support of the adult  
14 education program. Federal and state adult education program money must be deposited in the  
15 miscellaneous programs fund.

16 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,  
17 except that trustees of a county high school district may, whether or not the county high school district  
18 is unified with an elementary district under the provisions of 20-6-312, authorize a levy of not more than  
19 2 mills on the district and a K-12 school district formed under the provisions of 20-6-701 may authorize  
20 a levy of not more than 3 mills on the district, for the operation of an adult education program ~~when the~~  
21 ~~superintendent of public instruction has approved the educational program to be supported by the levy. The~~  
22 ~~trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of~~  
23 ~~June in order to include the expenditures to be financed by the levy in the preliminary budget. The~~  
24 ~~superintendent of public instruction shall promulgate rules and forms for the approval.~~

25 (4) Whenever the trustees of a district decide to offer an adult education program during the  
26 ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the  
27 preliminary budget. Any expenditures in support of the adult education program under the final adult  
28 education budget must be made in accordance with the financial administration provisions of this title for  
29 a budgeted fund.

30 (5) When a tax levy for an adult education program ~~that has been approved by the superintendent~~

1 ~~of public instruction~~ is included as a revenue item on the final adult education budget, the county  
 2 superintendent shall report the levy requirement to the county commissioners on the fourth Monday of  
 3 August and a levy on the district must be made by the county commissioners in accordance with  
 4 20-9-142."

5

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

7 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)  
 8 must be computed as follows:

9 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
 10 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled  
 11 pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on  
 12 a school day, and divide the sum by two; and

13 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the  
 14 pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide  
 15 by 180.

16 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved  
 17 pupil-instruction-related days may be included in the calculation.

18 (3) When a school district has approval to operate less than 180 school days under ~~20-9-804~~  
 19 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

20 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be  
 21 counted as enrollment for one-half day.

22 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),  
 23 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon  
 24 session must be counted as one-half pupil for ANB purposes. ~~If a variance has been granted as provided~~  
 25 ~~in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,~~  
 26 ~~but the~~ The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

27 (6) When ~~any~~ a pupil has been absent, with or without excuse, for more than 10 consecutive  
 28 school days, the pupil may not be included in the enrollment count used in the calculation of the ANB  
 29 unless the pupil resumes attendance prior to the day of the enrollment count.

30 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the

1 ANB calculations.

2 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools  
3 of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the  
4 schools of the district, except that when:

5 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city  
6 or town located in the district and at least 20 miles from any other school of the district, the number of  
7 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the  
8 district must receive a basic entitlement for the school calculated separately from the other schools of the  
9 district;

10 (ii) a school of the district is located more than 20 miles from any other school of the district and  
11 ~~no~~ incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of  
12 the school must be calculated separately for ANB purposes and the district must receive a basic entitlement  
13 for the school calculated separately from the other schools of the district; or

14 (iii) the superintendent of public instruction approves an application not to aggregate when  
15 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel,  
16 or when any other condition exists that would result in an unusual hardship to the pupils of the school if  
17 they were transported to another school, the number of regularly enrolled, full-time pupils of the school  
18 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the  
19 school calculated separately from the other schools of the district;

20 (b) a junior high school has been approved and accredited as a junior high school, all of the  
21 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils  
22 for ANB purposes;

23 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
24 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
25 high school pupils for ANB purposes; or

26 (d) a school has not been accredited by the board of public education, the regularly enrolled,  
27 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation  
28 purposes, nor will an average number belonging for the nonaccredited school be used in determining the  
29 BASE funding program for the district.

30 (9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may

1 calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an  
2 equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

3 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of  
4 public instruction with annual reports of school attendance for regularly enrolled students and special  
5 education students, using a format determined by the superintendent."

6

7 **Section 9.** Section 20-9-801, MCA, is amended to read:

8 "**20-9-801. Purpose.** This part governs a school district's entitlement to state equalization  
9 apportionment funds for any school year during which the school district is unable to conduct the minimum  
10 number of school days ~~or~~ AND the minimum aggregate hours by grade required by law 20-1-301 by reason  
11 of one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted."

12

13 **Section 10.** Section 20-9-802, MCA, is amended to read:

14 "**20-9-802. Definitions.** As used in this part, unless the context clearly indicates otherwise, the  
15 following definitions apply:

16 (1) "Declaration of emergency" means a declaration ~~of a state of emergency by the governor as~~  
17 ~~authorized by 10-3-302 by a board of trustees that an unforeseen emergency has occurred in the district.~~

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

20 (a) extending the school year ~~4-week~~ 3 days or AND the equivalent aggregate hours of pupil  
21 instruction beyond the last scheduled day; or

22 (b) the use of scheduled vacation days.

23 (3) "School day" means the school day defined in 20-1-302.

24 (4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection,  
25 community disaster, or act of God or ~~any~~ a combination of the foregoing that acts as a principal cause for  
26 a school district's inability to conduct ~~one~~ 1 or more scheduled school days."

27

28 **Section 11.** Section 20-9-806, MCA, is amended to read:

29 "**20-9-806. School closure by declaration of emergency.** (1) If a school is closed by reason of a  
30 ~~declaration of an unforeseen emergency by the governor,~~ that results in a declaration of emergency by the



1 board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to  
2 reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the  
3 resolution, the pupil-instruction days time lost during the closure need not be rescheduled to meet the  
4 minimum requirement for pupil-instruction days that a school district must conduct during the school year  
5 in order to be entitled to full annual equalization apportionment.

6 (2) At least 3 school days or the equivalent aggregate hours must have been made up before the  
7 trustees can declare that a reasonable effort has been made."

8  
9 NEW SECTION. Section 12. Repealer. Sections 20-9-803 and 20-9-804, MCA, are repealed.

10  
11 NEW SECTION. Section 13. Effective date. ~~{This act}~~ is [SECTIONS 1 AND 3 THROUGH 12] ARE  
12 effective July 1, 1997.

13 (2) [SECTION 2] IS EFFECTIVE JULY 1, 1999.

14  
15 NEW SECTION. SECTION 14. TERMINATION. [SECTION 1] TERMINATES JUNE 30, 1999.

16 -END-

SENATE BILL NO. 71

INTRODUCED BY TOEWS

BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DUTIES OF ELECTED SCHOOL OFFICIALS; PROVIDING SCHOOL DISTRICT TRUSTEES WITH GREATER FLEXIBILITY IN DETERMINING PUPIL-INSTRUCTION TIME; ELIMINATING THE NEED FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO APPROVE KINDERGARTEN VARIANCES FOR REQUIRED HOURS OF INSTRUCTION, PUPIL-INSTRUCTION-RELATED DAYS, AND ADULT EDUCATION PROGRAMS OPERATED BY A SCHOOL DISTRICT; AUTHORIZING A BOARD OF TRUSTEES TO DECLARE AN EMERGENCY IN A DISTRICT; CLARIFYING THE REQUIREMENTS FOR RESCHEDULING INSTRUCTION TIME CANCELED BECAUSE OF AN UNFORESEEN EMERGENCY; REMOVING THE REQUIREMENT FOR A COUNTY SUPERINTENDENT OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE THAT A REASONABLE EFFORT HAS BEEN MADE TO MAKE UP SCHOOL DAYS LOST BECAUSE OF AN EMERGENCY; AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-304, 20-3-106, 20-6-209, 20-7-705, 20-9-311, 20-9-801, 20-9-802, AND 20-9-806, MCA; REPEALING SECTIONS 20-9-803 AND 20-9-804, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE IT REQUIRES THE BOARD OF PUBLIC EDUCATION TO ADOPT RULES FOR GRANTING A VARIANCE TO A SCHOOL DISTRICT TO CONDUCT A SCHOOL YEAR OF LESS THAN 180 SCHOOL DAYS OF PUPIL INSTRUCTION IF AN EQUIVALENT IS PROVIDED THROUGH LONGER HOURS IN THE SCHOOL DAY.

THE BOARD OF PUBLIC EDUCATION SHALL ADOPT PROCEDURES FOR APPLICATION AND APPROVAL OF THIS VARIANCE THAT ARE SIMILAR TO THE PROCEDURES IN THE PRESENT VERSION OF ARM 10.55.604 FOR SCHOOL DISTRICT APPLICATION FOR AND APPROVAL OF AN ALTERNATIVE STANDARD OF ACCREDITATION.

IT IS THE INTENT OF THE LEGISLATURE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION AMEND RULES RELATED TO THE EQUITABLE DISTRIBUTION OF COUNTY, STATE, AND FEDERAL SCHOOL FUNDS TO A DISTRICT THAT IS GRANTED A VARIANCE UNDER THIS BILL.

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

2

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

4 "20-1-301. School fiscal year. (1) The school fiscal year shall must begin on July 1 and end on  
 5 June 30. At least 180 school days of pupil instruction shall and the minimum aggregate hours defined in  
 6 subsection (2) must be conducted during each school fiscal year, except that:

7 (A) 175 days and 1,050 aggregate hours of pupil instruction for graduating seniors may be  
 8 sufficient, as provided in 20-9-313, or unless a variance for kindergarten has been granted under 20-1-302  
 9 or a district is granted a variance under the provisions of chapter 9, part 8, of this title, OR;

10 (B) A MINIMUM OF 90 DAYS AND 360 AGGREGATE HOURS OF PUBLIC PUPIL INSTRUCTION  
 11 MUST BE CONDUCTED FOR A KINDERGARTEN PROGRAM, AS PROVIDED IN 20-7-117; OR

12 (C) A MAXIMUM OF 25 DISTRICTS MAY BE GRANTED A VARIANCE FOR THEIR INDIVIDUAL  
 13 DISTRICT OR FOR A SCHOOL WITHIN THE DISTRICT BY THE BOARD OF PUBLIC EDUCATION TO  
 14 CONDUCT LESS THAN THE NUMBER OF DAYS REQUIRED UNDER THIS SECTION IN A SCHOOL YEAR  
 15 IF:

16 (I) THE TRUSTEES OF THE SCHOOL DISTRICT ADOPT A RESOLUTION TO SEEK A VARIANCE  
 17 UNDER THIS SUBSECTION (1) AND PROVIDE PUBLIC NOTICE AND A PUBLIC HEARING ON THE  
 18 QUESTION OF ADOPTING THE RESOLUTION;

19 (II) THE DISTRICT CONDUCTS AN EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION  
 20 THROUGH LONGER SCHOOL DAYS; AND

21 (III) THE DISTRICT MEETS ALL OTHER CONDITIONS ADOPTED BY THE BOARD OF PUBLIC  
 22 EDUCATION.

23 (2) The minimum aggregate hours required by grade are:

24 (a) ~~360 hours for a kindergarten program;~~

25 ~~(b) 720 hours for grades 1 through 3; and~~

26 ~~(c)(B) 1,080 hours for grades 4 through 12.~~

27 (3) To calculate the number of school days of pupil instruction, a school district shall:

28 (a) determine the aggregate hours of pupil instruction by grade level;

29 (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day  
 30 for that grade level provided in 20-1-302; and

1 (c) round the result down to the nearest whole number.

2 (4) For any elementary or high school district that fails to provide for at least 180 school days of  
 3 pupil instruction ~~or~~ AND the minimum aggregate hours, as defined in subsection (2), OR AN EQUIVALENT  
 4 NUMBER OF HOURS, AS PROVIDED IN SUBSECTION (1)(C), the superintendent of public instruction shall  
 5 reduce the county equalization, as defined in 20-9-334, and the state equalization, as defined in 20-9-343,  
 6 for the district for that school year by 1/90th for each school day less than 180 school days ~~or a~~  
 7 corresponding amount based on minimum aggregate hours AS CALCULATED IN SUBSECTION (3)."

8  
 9 **SECTION 2. SECTION 20-1-301, MCA, IS AMENDED TO READ:**

10 **"20-1-301. School fiscal year. (1) The school fiscal year shall ~~shall~~ must begin on July 1 and end on**  
 11 **June 30. At least 180 school days of pupil instruction ~~shall~~ and the minimum aggregate hours defined in**  
 12 **subsection (2) must be conducted during each school fiscal year, except that:**

13 **(a) 175 days and 1,050 aggregate hours of pupil instruction for graduating seniors may be**  
 14 **sufficient as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302~~**  
 15 **~~or a district is granted a variance under the provisions of chapter 9, part 8, of this title; or~~**

16 **(b) a minimum of 90 days and 360 aggregate hours of pupil instruction must be conducted for a**  
 17 **kindergarten program, as provided in 20-7-117; or**

18 **(c) a district may be granted a variance for the district or on behalf of a school within the district**  
 19 **by the board of public education to conduct less than the number of days required under this section in a**  
 20 **school year if:**

21 **(i) the trustees of the school district adopt a resolution to seek variance under this subsection (1)**  
 22 **and provide public notice and a public hearing on the question of adopting the resolution;**

23 **(ii) the district conducts an equivalent number of hours of pupil instruction through longer school**  
 24 **days; and**

25 **(iii) the district meets all other conditions adopted by the board of public education.**

26 **(2) The minimum aggregate hours required by grade are:**

27 **(a) 720 hours for grades 1 through 3; and**

28 **(b) 1,080 hours for grades 4 through 12.**

29 **(3) To calculate the number of school days of pupil instruction, a school district shall:**

30 **(a) determine the aggregate hours of pupil instruction by grade level;**

1           (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day  
 2 for that grade level provided in 20-1-302; and

3           (c) round the result down to the nearest whole number.

4           (4) For any elementary or high school district that fails to provide for at least 180 school days of  
 5 pupil instruction and the minimum aggregate hours, as defined in subsection (2), or an equivalent number  
 6 of hours, as provided in subsection (1)(c), the superintendent of public instruction shall reduce the county  
 7 equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that  
 8 school year by 1/90th for each school day less than 180 school days as calculated in subsection (3)."

9  
 10           **Section 3.** Section 20-1-302, MCA, is amended to read:

11           "**20-1-302. School day and week.** Subject to 20-1-308, a school day of pupil instruction shall  
 12 must be at least 2 hours for kindergartens and all other preschool programs, unless a variance has been  
 13 granted by the superintendent of public instruction in accordance with the policies of the board of public  
 14 education, at least 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The  
 15 number of hours in any one 1 school day for grades 4 through 12 may be reduced by 1 hour if the total  
 16 number of hours in the school week is not less than 30 hours. The number of hours in a school week may  
 17 be reduced, in an emergency, with the approval of the board of public education may be reduced at the  
 18 discretion of the trustees if the total number of pupil-instruction hours in the school year is not less than  
 19 the minimum aggregate hours required in 20-1-301."

20  
 21           **Section 4.** Section 20-1-304, MCA, is amended to read:

22           "**20-1-304. Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher  
 23 activities devoted to improving the quality of instruction. The activities may include but are not limited to  
 24 inservice training, attending state meetings of teacher organizations, and conducting parent conferences.  
 25 A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum  
 26 of 3 of the days for instructional and professional development meetings or other appropriate inservice  
 27 training, ~~provided that if the days are approved by the superintendent of public instruction~~ planned in  
 28 accordance with the policy adopted by the board of public education. The days may not be included as a  
 29 part of the required minimum of 180 days or the required minimum aggregate hours of pupil instruction."  
 30

1           **Section 5.** Section 20-3-106, MCA, is amended to read:

2           **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction  
3 has the general supervision of the public schools and districts of the state and shall perform the following  
4 duties or acts in implementing and enforcing the provisions of this title:

5           (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under  
6 the provisions of 20-3-362;

7           (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

8           (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of  
9 20-5-314;

10          (4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

11          (5) approve or disapprove the orders of a high school boundary commission in accordance with  
12 the provisions of 20-6-311;

13          (6) approve or disapprove the opening or reopening of a school in accordance with the provisions  
14 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

15          (7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

16          (8) generally supervise the school budgeting procedures prescribed by law in accordance with the  
17 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of  
18 20-9-103 and 20-9-506;

19          (9) establish a system of communication for calculating joint district ~~revenues~~ revenue in  
20 accordance with the provisions of 20-9-151;

21          (10) approve or disapprove the adoption of a district's budget amendment resolution under the  
22 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a  
23 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

24          (11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

25          (12) prescribe and furnish the annual report forms to enable the districts to report to the county  
26 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the  
27 county superintendents to report to the superintendent of public instruction in accordance with the  
28 provisions of 20-3-209;

29          (13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in  
30 accordance with the provisions of 20-9-313 and 20-9-314;

1 (14) distribute BASE aid and special education allowable cost payments in support of the BASE  
2 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,  
3 and 20-9-366 through 20-9-369;

4 (15) provide for the uniform and equal provision of transportation by performing the duties  
5 prescribed by the provisions of 20-10-112;

6 ~~(16) approve or disapprove an adult education program for which a district proposes to levy a tax~~  
7 ~~in accordance with the provisions of 20-7-705;~~

8 ~~(17)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of  
9 20-9-603;

10 ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement  
11 in accordance with the provisions of 20-9-703 and 20-9-704;

12 ~~(19)~~(18) prescribe the form and contents of and approve or disapprove interstate contracts in  
13 accordance with the provisions of 20-9-705;

14 ~~(20)~~(19) approve or disapprove the conduct of school on a Saturday ~~or on pupil instruction related~~  
15 ~~days~~ in accordance with the provisions of 20-1-303 ~~and 20-1-304;~~

16 ~~(21)~~(20) recommend standards of accreditation for all schools to the board of public education and  
17 evaluate compliance with the standards and recommend accreditation status of every school to the board  
18 of public education in accordance with the provisions of 20-7-101 and 20-7-102;

19 ~~(22)~~(21) collect and maintain a file of curriculum guides and assist schools with instructional  
20 programs in accordance with the provisions of 20-7-113 and 20-7-114;

21 ~~(23)~~(22) establish and maintain a library of visual, aural, and other educational media in accordance  
22 with the provisions of 20-7-201;

23 ~~(24)~~(23) license textbook dealers and initiate prosecution of textbook dealers violating the law in  
24 accordance with the provisions of the textbooks part of this title;

25 ~~(25)~~(24) as the governing agent and executive officer of the state of Montana for K-12 vocational  
26 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

27 ~~(26)~~(25) supervise and coordinate the conduct of special education in the state in accordance with  
28 the provisions of 20-7-403;

29 ~~(27)~~(26) administer the traffic education program in accordance with the provisions of 20-7-502;

30 ~~(28)~~(27) administer the school food services program in accordance with the provisions of

1 20-10-201, ~~20-10-202~~, and through 20-10-203;

2 ~~(29)~~(28) review school building plans and specifications in accordance with the provisions of  
3 20-6-622;

4 ~~(30)~~(29) prescribe the method of identification and signals to be used by school safety patrols in  
5 accordance with the provisions of 20-1-408;

6 ~~(31)~~(30) provide schools with information and technical assistance for compliance with the student  
7 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment  
8 for the board of public education and the legislature;

9 ~~(32)~~(31) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through  
10 20-9-369; and

11 ~~(33)~~(32) perform any other duty prescribed from time to time by this title, any other act of the  
12 legislature, or the policies of the board of public education."

13

14 **Section 6.** Section 20-6-209, MCA, is amended to read:

15 "**20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an  
16 elementary district to be abandoned and order the attachment of the territory of ~~such~~ the district to a  
17 contiguous district of the county when:

18 (a) a school has not been operated by a district for at least 180 days under the provisions of  
19 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the  
20 ~~county superintendent or the superintendent of public instruction~~ board of trustees under the provisions  
21 of ~~20-9-804~~ 20-9-806; or

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

24 (2) The county superintendent shall notify the elementary district that has not operated a school  
25 for 2 consecutive years before the first day of the third year that the failure to operate a school for 180  
26 days or a lesser number of days than approved by the ~~county superintendent or the superintendent of~~  
27 ~~public instruction as provided~~ board of trustees under the provisions of ~~20-9-804~~ 20-9-806 during the  
28 ensuing school fiscal year ~~shall constitute~~ constitutes grounds for abandonment of ~~such~~ the district at the  
29 conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide ~~such~~ the  
30 notification ~~shall~~ does not constitute a waiver of the abandonment requirement prescribed in subsection



1 (1)(a) ~~above~~.

2 (3) Any abandonment under subsection (1)(a) ~~shall become~~ becomes effective on July 1. Any  
3 abandonment of an elementary district under subsection (1)(b) ~~shall become~~ becomes effective immediately  
4 on the date of the abandonment order."  
5

6 **Section 7.** Section 20-7-705, MCA, is amended to read:

7 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when  
8 an adult education program is operated by a district or community college district. The financial  
9 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the  
10 laws governing the schools.

11 (2) Whenever the trustees of a district establish an adult education program under the provisions  
12 of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult  
13 education fund is the depository for all district money received by the district in support of the adult  
14 education program. Federal and state adult education program money must be deposited in the  
15 miscellaneous programs fund.

16 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,  
17 except that trustees of a county high school district may, whether or not the county high school district  
18 is unified with an elementary district under the provisions of 20-6-312, authorize a levy of not more than  
19 2 mills on the district and a K-12 school district formed under the provisions of 20-6-701 may authorize  
20 a levy of not more than 3 mills on the district, for the operation of an adult education program ~~when the~~  
21 ~~superintendent of public instruction has approved the educational program to be supported by the levy. The~~  
22 ~~trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of~~  
23 ~~June in order to include the expenditures to be financed by the levy in the preliminary budget. The~~  
24 ~~superintendent of public instruction shall promulgate rules and forms for the approval.~~

25 (4) Whenever the trustees of a district decide to offer an adult education program during the  
26 ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the  
27 preliminary budget. Any expenditures in support of the adult education program under the final adult  
28 education budget must be made in accordance with the financial administration provisions of this title for  
29 a budgeted fund.

30 (5) When a tax levy for an adult education program ~~that has been approved by the superintendent~~

1 ~~of public instruction~~ is included as a revenue item on the final adult education budget, the county  
 2 superintendent shall report the levy requirement to the county commissioners on the fourth Monday of  
 3 August and a levy on the district must be made by the county commissioners in accordance with  
 4 20-9-142."

5

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

7 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)  
 8 must be computed as follows:

9 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
 10 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled  
 11 pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on  
 12 a school day, and divide the sum by two; and

13 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the  
 14 pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide  
 15 by 180.

16 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved  
 17 pupil-instruction-related days may be included in the calculation.

18 (3) When a school district has approval to operate less than 180 school days under ~~20-9-804~~  
 19 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

20 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be  
 21 counted as enrollment for one-half day.

22 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),  
 23 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon  
 24 session must be counted as one-half pupil for ANB purposes. ~~If a variance has been granted as provided~~  
 25 ~~in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,~~  
 26 ~~but the~~ The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

27 (6) When ~~any~~ a pupil has been absent, with or without excuse, for more than 10 consecutive  
 28 school days, the pupil may not be included in the enrollment count used in the calculation of the ANB  
 29 unless the pupil resumes attendance prior to the day of the enrollment count.

30 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the

1 ANB calculations.

2 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools  
3 of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the  
4 schools of the district, except that when:

5 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city  
6 or town located in the district and at least 20 miles from any other school of the district, the number of  
7 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the  
8 district must receive a basic entitlement for the school calculated separately from the other schools of the  
9 district;

10 (ii) a school of the district is located more than 20 miles from any other school of the district and  
11 ~~no~~ incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of  
12 the school must be calculated separately for ANB purposes and the district must receive a basic entitlement  
13 for the school calculated separately from the other schools of the district; or

14 (iii) the superintendent of public instruction approves an application not to aggregate when  
15 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel,  
16 or when any other condition exists that would result in an unusual hardship to the pupils of the school if  
17 they were transported to another school, the number of regularly enrolled, full-time pupils of the school  
18 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the  
19 school calculated separately from the other schools of the district;

20 (b) a junior high school has been approved and accredited as a junior high school, all of the  
21 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils  
22 for ANB purposes;

23 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
24 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
25 high school pupils for ANB purposes; or

26 (d) a school has not been accredited by the board of public education, the regularly enrolled,  
27 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation  
28 purposes, nor will an average number belonging for the nonaccredited school be used in determining the  
29 BASE funding program for the district.

30 (9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may

1 calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an  
2 equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

3 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of  
4 public instruction with annual reports of school attendance for regularly enrolled students and special  
5 education students, using a format determined by the superintendent."

6  
7 **Section 9.** Section 20-9-801, MCA, is amended to read:

8 "**20-9-801. Purpose.** This part governs a school district's entitlement to state equalization  
9 apportionment funds for any school year during which the school district is unable to conduct the minimum  
10 number of school days ~~or~~ AND the minimum aggregate hours by grade required by law 20-1-301 by reason  
11 of one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted."

12  
13 **Section 10.** Section 20-9-802, MCA, is amended to read:

14 "**20-9-802. Definitions.** As used in this part, unless the context clearly indicates otherwise, the  
15 following definitions apply:

16 (1) "Declaration of emergency" means a declaration ~~of a state of emergency by the governor as~~  
17 authorized by 10-3-302 by a board of trustees that an unforeseen emergency has occurred in the district.

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

20 (a) extending the school year ~~4-week~~ 3 days or AND the equivalent aggregate hours of pupil  
21 instruction beyond the last scheduled day; or

22 (b) the use of scheduled vacation days.

23 (3) "School day" means the school day defined in 20-1-302.

24 (4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection,  
25 community disaster, or act of God or ~~any~~ a combination of the foregoing that acts as a principal cause for  
26 a school district's inability to conduct ~~one~~ 1 or more scheduled school days."

27  
28 **Section 11.** Section 20-9-806, MCA, is amended to read:

29 "**20-9-806. School closure by declaration of emergency.** (1) If a school is closed by reason of a  
30 ~~declaration of an unforeseen emergency by the governor,~~ that results in a declaration of emergency by the

1 board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to  
2 reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the  
3 resolution, the pupil-instruction ~~days~~ time lost during the closure need not be rescheduled to meet the  
4 minimum requirement for pupil-instruction days that a school district must conduct during the school year  
5 in order to be entitled to full annual equalization apportionment.

6 (2) At least 3 school days or the equivalent aggregate hours must have been made up before the  
7 trustees can declare that a reasonable effort has been made."

8

9 NEW SECTION. Section 12. Repealer. Sections 20-9-803 and 20-9-804, MCA, are repealed.

10

11 NEW SECTION. Section 13. Effective date. ~~(This act is~~ [SECTIONS 1 AND 3 THROUGH 12] ARE  
12 effective July 1, 1997.

13 (2) [SECTION 2] IS EFFECTIVE JULY 1, 1999.

14

15 NEW SECTION. SECTION 14. TERMINATION. [SECTION 1] TERMINATES JUNE 30, 1999.

16

-END-



## CONFERENCE COMMITTEE

on Senate Bill 71  
Report No. 1, April 16, 1997

Page 1 of 2

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill 71, met and considered the House Standing Committee amendments.

We recommend that Senate Bill 71 (reference copy - salmon) be amended as follows:

1. Page 1, lines 19 through 30.  
Strike: statement of intent in its entirety
2. Page 2, line 3 through page 3, line 7.  
Strike: section 1 in its entirety  
Renumber: subsequent sections
3. Page 3, lines 12 and 13.  
Strike: "i" on line 12 through "(a)" on line 13
4. Page 3, line 14.  
Following: "sufficient"  
Insert: ", "
5. Page 3, line 15.  
Strike: "i"  
Insert: ", "
6. Page 3, line 16.  
Strike: "(b)"
7. Page 3, lines 17 through 25.  
Strike: "i" on line 17 through "education" on line 25
8. Page 4, lines 5 and 6.  
Strike: ", or" on line 5 through "(1)(c)" on line 6
9. Page 12, line 11.  
Strike: "[SECTIONS 1 AND 3 THROUGH 12] ARE"  
Insert: "[This act] is"

ADOPT

REJECT

CCR#1  
SB 71

811309CC.STS

10. Page 12, lines 13 through 15.  
Strike: "(2)" on line 13 through "1999." on line 15

And that this Conference Committee report be adopted.

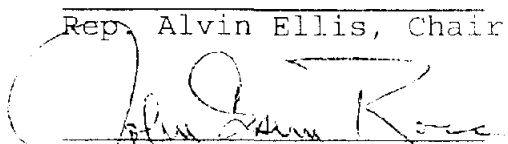
For the Senate:

For the House:

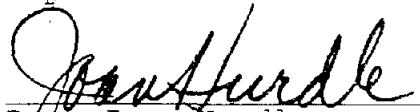
  
\_\_\_\_\_  
Senator Daryl Toews, Chair



\_\_\_\_\_  
Rep. Alvin Ellis, Chair

  
\_\_\_\_\_  
Senator Loren Jenkins

  
\_\_\_\_\_  
Rep. Sam Rose

  
\_\_\_\_\_  
Senator Debbie Shea

  
\_\_\_\_\_  
Rep. Joan Hurdle

  
\_\_\_\_\_  
Amd. Coord.  
  
\_\_\_\_\_  
Sec. of Senate

## 1 SENATE BILL NO. 71

2 INTRODUCED BY TOEWS

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DUTIES OF ELECTED SCHOOL  
6 OFFICIALS; PROVIDING SCHOOL DISTRICT TRUSTEES WITH GREATER FLEXIBILITY IN DETERMINING  
7 PUPIL-INSTRUCTION TIME; ELIMINATING THE NEED FOR THE SUPERINTENDENT OF PUBLIC  
8 INSTRUCTION TO APPROVE KINDERGARTEN VARIANCES FOR REQUIRED HOURS OF INSTRUCTION,  
9 PUPIL-INSTRUCTION-RELATED DAYS, AND ADULT EDUCATION PROGRAMS OPERATED BY A SCHOOL  
10 DISTRICT; AUTHORIZING A BOARD OF TRUSTEES TO DECLARE AN EMERGENCY IN A DISTRICT;  
11 CLARIFYING THE REQUIREMENTS FOR RESCHEDULING INSTRUCTION TIME CANCELED BECAUSE OF AN  
12 UNFORESEEN EMERGENCY; REMOVING THE REQUIREMENT FOR A COUNTY SUPERINTENDENT OR THE  
13 SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE THAT A REASONABLE EFFORT HAS BEEN  
14 MADE TO MAKE UP SCHOOL DAYS LOST BECAUSE OF AN EMERGENCY; AMENDING SECTIONS  
15 20-1-301, 20-1-302, 20-1-304, 20-3-106, 20-6-209, 20-7-705, 20-9-311, 20-9-801, 20-9-802, AND  
16 20-9-806, MCA; REPEALING SECTIONS 20-9-803 AND 20-9-804, MCA; AND PROVIDING AN EFFECTIVE  
17 DATE."

18  
19 STATEMENT OF INTENT

20 ~~A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE IT REQUIRES THE BOARD OF~~  
21 ~~PUBLIC EDUCATION TO ADOPT RULES FOR GRANTING A VARIANCE TO A SCHOOL DISTRICT TO~~  
22 ~~CONDUCT A SCHOOL YEAR OF LESS THAN 180 SCHOOL DAYS OF PUPIL INSTRUCTION IF AN~~  
23 ~~EQUIVALENT IS PROVIDED THROUGH LONGER HOURS IN THE SCHOOL DAY.~~

24 ~~THE BOARD OF PUBLIC EDUCATION SHALL ADOPT PROCEDURES FOR APPLICATION AND~~  
25 ~~APPROVAL OF THIS VARIANCE THAT ARE SIMILAR TO THE PROCEDURES IN THE PRESENT VERSION~~  
26 ~~OF ARM 10-55-604 FOR SCHOOL DISTRICT APPLICATION FOR AND APPROVAL OF AN ALTERNATIVE~~  
27 ~~STANDARD OF ACCREDITATION.~~

28 ~~IT IS THE INTENT OF THE LEGISLATURE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION~~  
29 ~~AMEND RULES RELATED TO THE EQUITABLE DISTRIBUTION OF COUNTY, STATE, AND FEDERAL~~  
30 ~~SCHOOL FUNDS TO A DISTRICT THAT IS GRANTED A VARIANCE UNDER THIS BILL.~~



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

2

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

4 ~~"20-1-301. School fiscal year. (1) The school fiscal year shall must begin on July 1 and end on~~  
 5 ~~June 30. At least 180 school days of pupil instruction shall and the minimum aggregate hours defined in~~  
 6 ~~subsection (2) must be conducted during each school fiscal year, except that:~~

7 ~~(A) 175 days and 1,050 aggregate hours of pupil instruction for graduating seniors may be~~  
 8 ~~sufficient, as provided in 20-9-313, or unless a variance for kindergarten has been granted under 20-1-302~~  
 9 ~~or a district is granted a variance under the provisions of chapter 9, part 8, of this title, OR;~~

10 ~~(B) A MINIMUM OF 90 DAYS AND 360 AGGREGATE HOURS OF PUBLIC PUPIL INSTRUCTION~~  
 11 ~~MUST BE CONDUCTED FOR A KINDERGARTEN PROGRAM, AS PROVIDED IN 20-7-117; OR~~

12 ~~(C) A MAXIMUM OF 25 DISTRICTS MAY BE GRANTED A VARIANCE FOR THEIR INDIVIDUAL~~  
 13 ~~DISTRICT OR FOR A SCHOOL WITHIN THE DISTRICT BY THE BOARD OF PUBLIC EDUCATION TO~~  
 14 ~~CONDUCT LESS THAN THE NUMBER OF DAYS REQUIRED UNDER THIS SECTION IN A SCHOOL YEAR~~  
 15 ~~IF:~~

16 ~~(I) THE TRUSTEES OF THE SCHOOL DISTRICT ADOPT A RESOLUTION TO SEEK A VARIANCE~~  
 17 ~~UNDER THIS SUBSECTION (1) AND PROVIDE PUBLIC NOTICE AND A PUBLIC HEARING ON THE~~  
 18 ~~QUESTION OF ADOPTING THE RESOLUTION;~~

19 ~~(II) THE DISTRICT CONDUCTS AN EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION~~  
 20 ~~THROUGH LONGER SCHOOL DAYS; AND~~

21 ~~(III) THE DISTRICT MEETS ALL OTHER CONDITIONS ADOPTED BY THE BOARD OF PUBLIC~~  
 22 ~~EDUCATION.~~

23 ~~(2) The minimum aggregate hours required by grade are:~~

24 ~~(a) 360 hours for a kindergarten program;~~

25 ~~(b) 720 hours for grades 1 through 3; and~~

26 ~~(c)(B) 1,080 hours for grades 4 through 12.~~

27 ~~(3) To calculate the number of school days of pupil instruction, a school district shall:~~

28 ~~(a) determine the aggregate hours of pupil instruction by grade level;~~

29 ~~(b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day~~  
 30 ~~for that grade level provided in 20-1-302; and~~

1 ~~(c) round the result down to the nearest whole number.~~

2 ~~(4) For any elementary or high school district that fails to provide for at least 180 school days of~~  
 3 ~~pupil instruction or AND the minimum aggregate hours, as defined in subsection (2), OR AN EQUIVALENT~~  
 4 ~~NUMBER OF HOURS, AS PROVIDED IN SUBSECTION (1)(C), the superintendent of public instruction shall~~  
 5 ~~reduce the county equalization, as defined in 20-9-334, and the state equalization, as defined in 20-9-343,~~  
 6 ~~for the district for that school year by 1/90th for each school day less than 180 school days or a~~  
 7 ~~corresponding amount based on minimum aggregate hours AS CALCULATED IN SUBSECTION (3)."~~

8  
 9 **SECTION 1. SECTION 20-1-301, MCA, IS AMENDED TO READ:**

10 **"20-1-301. School fiscal year. (1) The school fiscal year shall must begin on July 1 and end on**  
 11 **June 30. At least 180 school days of pupil instruction shall and the minimum aggregate hours defined in**  
 12 **subsection (2) must be conducted during each school fiscal year, except that:**

13 ~~(a) 175 days and 1,050 aggregate hours~~ of pupil instruction for graduating seniors may be  
 14 sufficient, as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302~~  
 15 ~~or a district is granted a variance under the provisions of chapter 9, part 8, of this title, or~~

16 ~~(b) a minimum of 90 days and 360 aggregate hours of pupil instruction must be conducted for a~~  
 17 ~~kindergarten program, as provided in 20-7-117; or~~

18 ~~(c) a district may be granted a variance for the district or on behalf of a school within the district~~  
 19 ~~by the board of public education to conduct less than the number of days required under this section in a~~  
 20 ~~school year if:~~

21 ~~(i) the trustees of the school district adopt a resolution to seek variance under this subsection (1)~~  
 22 ~~and provide public notice and a public hearing on the question of adopting the resolution;~~

23 ~~(ii) the district conducts an equivalent number of hours of pupil instruction through longer school~~  
 24 ~~days; and~~

25 ~~(iii) the district meets all other conditions adopted by the board of public education.~~

26 **(2) The minimum aggregate hours required by grade are:**

27 **(a) 720 hours for grades 1 through 3; and**

28 **(b) 1,080 hours for grades 4 through 12.**

29 **(3) To calculate the number of school days of pupil instruction, a school district shall:**

30 **(a) determine the aggregate hours of pupil instruction by grade level;**

1 (b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day  
 2 for that grade level provided in 20-1-302; and

3 (c) round the result down to the nearest whole number.

4 (4) For any elementary or high school district that fails to provide for at least 180 school days of  
 5 pupil instruction and the minimum aggregate hours, as defined in subsection (2), or an equivalent number  
 6 of hours, as provided in subsection (1)(c), the superintendent of public instruction shall reduce the county  
 7 equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that  
 8 school year by 1/90th for each school day less than 180 school days as calculated in subsection (3)."

9  
 10 **Section 2.** Section 20-1-302, MCA, is amended to read:

11 **"20-1-302. School day and week.** Subject to 20-1-308, a school day of pupil instruction shall  
 12 ~~must~~ be at least 2 hours for kindergartens ~~and all other preschool programs, unless a variance has been~~  
 13 ~~granted by the superintendent of public instruction in accordance with the policies of the board of public~~  
 14 ~~education,~~ at least 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The  
 15 number of hours in ~~any one 1~~ school day ~~for grades 4 through 12 may be reduced by 1 hour if the total~~  
 16 ~~number of hours in the school week is not less than 30 hours. The number of hours in a school week may~~  
 17 ~~be reduced, in an emergency, with the approval of the board of public education~~ may be reduced at the  
 18 discretion of the trustees if the total number of pupil-instruction hours in the school year is not less than  
 19 the minimum aggregate hours required in 20-1-301."

20  
 21 **Section 3.** Section 20-1-304, MCA, is amended to read:

22 **"20-1-304. Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher  
 23 activities devoted to improving the quality of instruction. The activities may include but are not limited to  
 24 inservice training, attending state meetings of teacher organizations, and conducting parent conferences.  
 25 A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum  
 26 of 3 of the days for instructional and professional development meetings or other appropriate inservice  
 27 training, ~~provided that if the days are approved by the superintendent of public instruction~~ planned in  
 28 accordance with the policy adopted by the board of public education. The days may not be included as a  
 29 part of the required minimum of 180 days or the required minimum aggregate hours of pupil instruction."

- 1           **Section 4.** Section 20-3-106, MCA, is amended to read:
- 2           **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
- 3 has the general supervision of the public schools and districts of the state and shall perform the following
- 4 duties or acts in implementing and enforcing the provisions of this title:
- 5           (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under
- 6 the provisions of 20-3-362;
- 7           (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- 8           (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
- 9 20-5-314;
- 10          (4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;
- 11          (5) approve or disapprove the orders of a high school boundary commission in accordance with
- 12 the provisions of 20-6-311;
- 13          (6) approve or disapprove the opening or reopening of a school in accordance with the provisions
- 14 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- 15          (7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- 16          (8) generally supervise the school budgeting procedures prescribed by law in accordance with the
- 17 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of
- 18 20-9-103 and 20-9-506;
- 19          (9) establish a system of communication for calculating joint district ~~revenues~~ revenue in
- 20 accordance with the provisions of 20-9-151;
- 21          (10) approve or disapprove the adoption of a district's budget amendment resolution under the
- 22 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a
- 23 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 24          (11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 25          (12) prescribe and furnish the annual report forms to enable the districts to report to the county
- 26 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the
- 27 county superintendents to report to the superintendent of public instruction in accordance with the
- 28 provisions of 20-3-209;
- 29          (13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in
- 30 accordance with the provisions of 20-9-313 and 20-9-314;

1           (14) distribute BASE aid and special education allowable cost payments in support of the BASE  
2 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,  
3 and 20-9-366 through 20-9-369;

4           (15) provide for the uniform and equal provision of transportation by performing the duties  
5 prescribed by the provisions of 20-10-112;

6           ~~(16) approve or disapprove an adult education program for which a district proposes to levy a tax~~  
7 ~~in accordance with the provisions of 20-7-705;~~

8           ~~(17)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of  
9 20-9-603;

10          ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement  
11 in accordance with the provisions of 20-9-703 and 20-9-704;

12          ~~(19)~~(18) prescribe the form and contents of and approve or disapprove interstate contracts in  
13 accordance with the provisions of 20-9-705;

14          ~~(20)~~(19) approve or disapprove the conduct of school on a Saturday ~~or on pupil instruction-related~~  
15 ~~days~~ in accordance with the provisions of 20-1-303 and ~~20-1-304~~;

16          ~~(21)~~(20) recommend standards of accreditation for all schools to the board of public education and  
17 evaluate compliance with the standards and recommend accreditation status of every school to the board  
18 of public education in accordance with the provisions of 20-7-101 and 20-7-102;

19          ~~(22)~~(21) collect and maintain a file of curriculum guides and assist schools with instructional  
20 programs in accordance with the provisions of 20-7-113 and 20-7-114;

21          ~~(23)~~(22) establish and maintain a library of visual, aural, and other educational media in accordance  
22 with the provisions of 20-7-201;

23          ~~(24)~~(23) license textbook dealers and initiate prosecution of textbook dealers violating the law in  
24 accordance with the provisions of the textbooks part of this title;

25          ~~(25)~~(24) as the governing agent and executive officer of the state of Montana for K-12 vocational  
26 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

27          ~~(26)~~(25) supervise and coordinate the conduct of special education in the state in accordance with  
28 the provisions of 20-7-403;

29          ~~(27)~~(26) administer the traffic education program in accordance with the provisions of 20-7-502;

30          ~~(28)~~(27) administer the school food services program in accordance with the provisions of

1 20-10-201, ~~20-10-202~~, and through 20-10-203;

2 ~~(29)~~(28) review school building plans and specifications in accordance with the provisions of  
3 20-6-622;

4 ~~(30)~~(29) prescribe the method of identification and signals to be used by school safety patrols in  
5 accordance with the provisions of 20-1-408;

6 ~~(31)~~(30) provide schools with information and technical assistance for compliance with the student  
7 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment  
8 for the board of public education and the legislature;

9 ~~(32)~~(31) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through  
10 20-9-369; and

11 ~~(33)~~(32) perform any other duty prescribed from time to time by this title, any other act of the  
12 legislature, or the policies of the board of public education."

13

14 **Section 5.** Section 20-6-209, MCA, is amended to read:

15 **"20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an  
16 elementary district to be abandoned and order the attachment of the territory of ~~such~~ the district to a  
17 contiguous district of the county when:

18 (a) a school has not been operated by a district for at least 180 days under the provisions of  
19 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the  
20 ~~county superintendent or the superintendent of public instruction~~ board of trustees under the provisions  
21 of ~~20-9-804~~ 20-9-806; or

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

24 (2) The county superintendent shall notify the elementary district that has not operated a school  
25 for 2 consecutive years before the first day of the third year that the failure to operate a school for 180  
26 days or a lesser number of days than approved by the ~~county superintendent or the superintendent of~~  
27 ~~public instruction as provided~~ board of trustees under the provisions of ~~20-9-804~~ 20-9-806 during the  
28 ensuing school fiscal year ~~shall constitute~~ constitutes grounds for abandonment of ~~such~~ the district at the  
29 conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide ~~such~~ the  
30 notification ~~shall~~ does not constitute a waiver of the abandonment requirement prescribed in subsection

1 (1)(a) ~~above~~.

2 (3) Any abandonment under subsection (1)(a) ~~shall become~~ becomes effective on July 1. Any  
3 abandonment of an elementary district under subsection (1)(b) ~~shall become~~ becomes effective immediately  
4 on the date of the abandonment order."

5

6 **Section 6.** Section 20-7-705, MCA, is amended to read:

7 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when  
8 an adult education program is operated by a district or community college district. The financial  
9 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the  
10 laws governing the schools.

11 (2) Whenever the trustees of a district establish an adult education program under the provisions  
12 of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult  
13 education fund is the depository for all district money received by the district in support of the adult  
14 education program. Federal and state adult education program money must be deposited in the  
15 miscellaneous programs fund.

16 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,  
17 except that trustees of a county high school district may, whether or not the county high school district  
18 is unified with an elementary district under the provisions of 20-6-312, authorize a levy of not more than  
19 2 mills on the district and a K-12 school district formed under the provisions of 20-6-701 may authorize  
20 a levy of not more than 3 mills on the district, for the operation of an adult education program ~~when the~~  
21 ~~superintendent of public instruction has approved the educational program to be supported by the levy. The~~  
22 ~~trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of~~  
23 ~~June in order to include the expenditures to be financed by the levy in the preliminary budget. The~~  
24 ~~superintendent of public instruction shall promulgate rules and forms for the approval.~~

25 (4) Whenever the trustees of a district decide to offer an adult education program during the  
26 ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the  
27 preliminary budget. Any expenditures in support of the adult education program under the final adult  
28 education budget must be made in accordance with the financial administration provisions of this title for  
29 a budgeted fund.

30 (5) When a tax levy for an adult education program ~~that has been approved by the superintendent~~

1 ~~of public instruction~~ is included as a revenue item on the final adult education budget, the county  
 2 superintendent shall report the levy requirement to the county commissioners on the fourth Monday of  
 3 August and a levy on the district must be made by the county commissioners in accordance with  
 4 20-9-142."

5

6 **Section 7.** Section 20-9-311, MCA, is amended to read:

7 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)  
 8 must be computed as follows:

9 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
 10 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled  
 11 pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on  
 12 a school day, and divide the sum by two; and

13 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the  
 14 pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide  
 15 by 180.

16 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved  
 17 pupil-instruction-related days may be included in the calculation.

18 (3) When a school district has approval to operate less than 180 school days under ~~20-9-804~~  
 19 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

20 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be  
 21 counted as enrollment for one-half day.

22 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),  
 23 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon  
 24 session must be counted as one-half pupil for ANB purposes. ~~If a variance has been granted as provided~~  
 25 ~~in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,~~  
 26 ~~but the~~ The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

27 (6) When ~~any~~ a pupil has been absent, with or without excuse, for more than 10 consecutive  
 28 school days, the pupil may not be included in the enrollment count used in the calculation of the ANB  
 29 unless the pupil resumes attendance prior to the day of the enrollment count.

30 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the



1 ANB calculations.

2 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools  
3 of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the  
4 schools of the district, except that when:

5 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city  
6 or town located in the district and at least 20 miles from any other school of the district, the number of  
7 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the  
8 district must receive a basic entitlement for the school calculated separately from the other schools of the  
9 district;

10 (ii) a school of the district is located more than 20 miles from any other school of the district and  
11 ~~no~~ incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of  
12 the school must be calculated separately for ANB purposes and the district must receive a basic entitlement  
13 for the school calculated separately from the other schools of the district; or

14 (iii) the superintendent of public instruction approves an application not to aggregate when  
15 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel,  
16 or when any other condition exists that would result in an unusual hardship to the pupils of the school if  
17 they were transported to another school, the number of regularly enrolled, full-time pupils of the school  
18 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the  
19 school calculated separately from the other schools of the district;

20 (b) a junior high school has been approved and accredited as a junior high school, all of the  
21 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils  
22 for ANB purposes;

23 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
24 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
25 high school pupils for ANB purposes; or

26 (d) a school has not been accredited by the board of public education, the regularly enrolled,  
27 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation  
28 purposes, nor will an average number belonging for the nonaccredited school be used in determining the  
29 BASE funding program for the district.

30 (9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may

1 calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an  
 2 equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

3 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of  
 4 public instruction with annual reports of school attendance for regularly enrolled students and special  
 5 education students, using a format determined by the superintendent."

6

7 **Section 8.** Section 20-9-801, MCA, is amended to read:

8 "20-9-801. **Purpose.** This part governs a school district's entitlement to state equalization  
 9 apportionment funds for any school year during which the school district is unable to conduct the minimum  
 10 number of school days ~~or AND the minimum aggregate hours by grade required by law 20-1-301~~ by reason  
 11 of one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted."

12

13 **Section 9.** Section 20-9-802, MCA, is amended to read:

14 "20-9-802. **Definitions.** As used in this part, unless the context clearly indicates otherwise, the  
 15 following definitions apply:

16 (1) "Declaration of emergency" means a declaration ~~of a state of emergency by the governor as~~  
 17 ~~authorized by 10-3-302~~ by a board of trustees that an unforeseen emergency has occurred in the district.

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

20 (a) extending the school year ~~4-week~~ 3 days or AND the equivalent aggregate hours of pupil  
 21 instruction beyond the last scheduled day; or

22 (b) the use of scheduled vacation days.

23 (3) "School day" means the school day defined in 20-1-302.

24 (4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection,  
 25 community disaster, or act of God or ~~any~~ a combination of the foregoing that acts as a principal cause for  
 26 a school district's inability to conduct ~~one~~ 1 or more scheduled school days."

27

28 **Section 10.** Section 20-9-806, MCA, is amended to read:

29 "20-9-806. **School closure by declaration of emergency.** (1) If a school is closed by reason of a  
 30 declaration of an unforeseen emergency by the governor, that results in a declaration of emergency by the

1 board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to  
 2 reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the  
 3 resolution, the pupil-instruction ~~days~~ time lost during the closure need not be rescheduled to meet the  
 4 minimum requirement for pupil-instruction days that a school district must conduct during the school year  
 5 in order to be entitled to full annual equalization apportionment.

6 (2) At least 3 school days or the equivalent aggregate hours must have been made up before the  
 7 trustees can declare that a reasonable effort has been made."

8  
 9 NEW SECTION. Section 11. Repealer. Sections 20-9-803 and 20-9-804, MCA, are repealed.

10  
 11 NEW SECTION. Section 12. Effective date. ~~[This act] is [SECTIONS 1 AND 3 THROUGH 12] ARE~~  
 12 ~~[THIS ACT] IS~~ effective July 1, 1997.

13 ~~(2) [SECTION 2] IS EFFECTIVE JULY 1, 1999.~~

14  
 15 ~~NEW SECTION. SECTION 13. TERMINATION. [SECTION 1] TERMINATES JUNE 30, 1999.~~

16 -END-