

1 SENATE BILL NO. 8

2 INTRODUCED BY S. O'BRIEN

3 BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PERSONALIZED AND
6 TRANSFORMATIONAL LEARNING; DEFINING "PROFICIENCY-BASED LEARNING"; REVISING
7 ELIGIBILITY REQUIREMENTS FOR TRANSFORMATIONAL LEARNING AID PAYMENTS; AMENDING
8 SECTIONS 20-7-1601 AND 20-7-1602, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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12 **Section 1.** Section 20-7-1601, MCA, is amended to read:

13 **"20-7-1601. Forms of personalized learning -- legislative intent.** (1) The legislature finds and
14 declares pursuant to Article X, section 1, of the 1972 Montana constitution that forms of personalized learning
15 authorized under Montana law, including but not limited to work-based learning pursuant to 20-7-1510,
16 ~~proficiency under 20-9-311, proficiency-based learning as defined in subsection (2) of this section,~~
17 determinations of course equivalency by an elected board of trustees under 20-3-324(18), offsite instruction
18 under 20-7-118, and transformational learning, are appropriate means of fulfilling the people's goal of
19 developing the full educational potential of each person. The provision of and participation in forms of
20 personalized learning under this part and in compliance with accreditation standards of the board of public
21 education are constitutionally compliant and protected. The legislature declares that any public or private
22 regulation that discriminates against a district or pupil participating in forms of personalized learning referenced
23 in this section is inconsistent with constitutional goals and guarantees under Article X of the Montana
24 constitution.

25 (2) AS USED IN THIS TITLE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE FOLLOWING
26 DEFINITIONS APPLY:

27 (A) "PROFICIENCY" MEANS A MEASURE OF COMPETENCE THAT IS DEMONSTRATED THROUGH APPLICATION
28 IN A PERFORMANCE ASSESSMENT.

1 (B) "Proficiency-based learning" means an education system in which student progress is based
2 on a student's demonstration of knowledge and skills, not COMPETENCE RATHER THAN ON THE BASIS OF seat time
3 or the age or grade level of the student."
4

5 **Section 2.** Section 20-7-1602, MCA, is amended to read:

6 **"20-7-1602. (Temporary) Incentives for creation of transformational learning programs.** (1) (a) A
7 school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board
8 of public education pursuant to subsection (4) is eligible for a 4-consecutive-year provision of the transitional
9 funding and flexibilities in subsections (5) and (6).

10 (b) A school district may be qualified by the board of public education for no more than one 4-
11 consecutive-year provision of transitional funding and flexibilities in any 8-year period.

12 (2) To qualify for the transitional funding and flexibilities in subsections (5) and (6), the board of
13 trustees of a district shall submit an application that has been approved by motion of the board of trustees and
14 signed by the presiding officer to the board of public education for approval of a transformational learning
15 program on a form provided by the superintendent of public instruction. The school board's application must:

16 (a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will
17 participate in the district's transformational learning program, with full-time equivalence calculated and reported
18 by the district based on the planned portion of each qualifying educator's full-time equivalent assignment that is
19 dedicated to the district's transformational learning program;

20 (b) ~~include the district's definition of proficiency within the meaning of that term as used in 20-9-~~
21 ~~311 (4)(d). The definition must not require seat time as a condition or other element of determining proficiency.~~
22 ~~The definition must be incorporated in the district's policies and must be used for purposes of determining~~
23 ~~content and course mastery and other progress, promotion from grade to grade, grades, and graduation for~~
24 ~~pupils enrolled in the district's transformational learning program.~~ INCLUDE THE DISTRICT'S DEFINITION OF
25 PROFICIENCY WITHIN THE MEANING OF THE TERM AS USED IN 20-9-311(4)(D). THE DEFINITION MUST BE INCORPORATED
26 IN THE DISTRICT'S POLICIES AND MUST BE USED FOR PURPOSES OF DETERMINING CONTENT AND COURSE PROFICIENCY
27 AND OTHER PROGRESS, PROMOTION FROM GRADE TO GRADE, GRADES, AND GRADUATION FOR PUPILS ENROLLED IN THE
28 DISTRICT'S TRANSFORMATIONAL LEARNING PROGRAM. THE DISTRICT MUST ALSO describe the district's plans for the

1 implementation of proficiency-based learning as defined in 20-7-1601; and

2 (c) include a strategic plan with appropriate planning horizons for implementation, measurable
3 objectives to ensure accountability, and planned strategies to:

4 (i) develop a transformational learning plan for each participating pupil that honors individual
5 interests, passions, strengths, needs, and culture and that is rooted in relationships with teachers, family, peers,
6 and community members;

7 (ii) embed community-based, experiential, online, and work-based learning opportunities and
8 foster a learning environment that incorporates both face-to-face and virtual connections;

9 (iii) provide effective professional development to assist employees in transitioning to a
10 transformational learning model; and

11 (iv) ensure equality of educational opportunity to participate by all pupils of the district.

12 (3) The board of public education shall establish by rule the opening and closing dates for receipt
13 of applications and annual reports.

14 (4) The board of public education shall:

15 (a) on an annual basis, qualify districts that submit an application meeting, in the determination of
16 the board or the board's designee, the requirements of subsection (2) for the funding in subsection (5) and the
17 flexibilities in subsection (6) until the annual appropriation is exhausted, after which further applications,
18 including first-time applications and annual reports requesting an expansion of a previously approved plan, are
19 to be deferred for consideration in a subsequent year, in the order of a lottery system draw, if and when
20 additional funds become available for distribution. The lottery system shall assign every first-time application or
21 request for expansion of a previously approved plan a number that will be placed into a lottery system draw that
22 will be done by a third party. The applications will be assigned a position in the order in which the numbers are
23 drawn. The drawing will continue until all districts are on the qualification list for the current year funding or
24 deferred for consideration in a subsequent year.

25 (b) require each participating school district to submit an annual report demonstrating, in the
26 determination of the board or the board's designee, continued qualification for funding under this section and
27 including a report of progress toward measurable objectives under the school district's transformational learning
28 plan. The school district shall include any decrease or requested increase in the number of participating full-

1 time equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based
2 on requested increased levels of participation under subsection (2)(a) must be determined in the year in which
3 the request for a funding increase is received and augmented with a lottery system among all first-time
4 applications and annual reports requesting an expansion of a previously approved plan and must be contingent
5 on the availability of funds within any appropriation of the legislature. An application deferred for consideration
6 in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal
7 year has passed from the date of original submission of the application in order for the application to retain its
8 priority by original date received.

9 (c) report in accordance with 5-11-210 to the education interim committee on the progress made
10 by districts as submitted in the annual report and strategic plan operating under approved and funded
11 transformational learning plans.

12 (5) (a) For a period of 4 consecutive fiscal years following the fiscal year in which a district is
13 qualified by the board of public education and contingent on ~~continued compliance with~~ satisfying the annual
14 reporting requirements under subsection (4), the superintendent of public instruction shall provide a
15 transformational learning aid payment to the district equivalent to 50% of the quality educator payment defined
16 in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent
17 educators reported under subsection (2)(a) of this section.

18 (b) The payment under this subsection (5) must be distributed directly to the school district's
19 flexibility fund established under 20-9-543 by October 1 of each year of funding by the superintendent of public
20 instruction. The money must be expended by the district only for the purposes set forth in the district's approved
21 transformational learning program AND WITHIN 2 YEARS OF THE DATE OF DISTRIBUTION.

22 (c) A school district may not receive more than 25% of the total amount of payments made under
23 this subsection (5).

24 (6) During each year that a school district remains qualified for funding under subsection (5), the
25 district's trustees may:

26 (a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive
27 property tax not to exceed 100% of any funds distributed to the district under subsection (5). Proceeds of the
28 levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the

1 district only for the purposes of the district's approved transformational learning plan.

2 (b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt
3 service fund or retirement fund, to the district's flexibility fund.

4 (7) (a) Any funds transferred pursuant to subsection (6)(b) may be expended by the district solely
5 for the purposes of implementing the district's approved transformational learning plan. Any transfers of funds
6 are not considered expenditures to be applied against budget authority.

7 (b) Any transfers that are not expended for the purposes of implementing the district's approved
8 transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred
9 back to the originating fund from which the revenue was transferred.

10 (c) The intent of subsection (6)(b) and this subsection (7) is to increase the flexibility and efficiency
11 of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made
12 from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for
13 the purpose of restoring the amount of funds transferred.

14 (8) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1,
15 must include transformational learning aid as defined in subsection (9).

16 (9) For the purposes of this title, the following definitions apply:

17 (a) "Transformational learning" means a flexible system of pupil-centered and proficiency-based
18 learning that is designed to develop the full educational potential of each pupil that:

19 (i) is customized to address each pupil's strengths, needs, and interests;

20 ~~(ii) includes continued focus on each pupil's proficiency over content; and~~

21 ~~(iii)~~(ii) actively engages each pupil in determining what, how, when, and where each pupil learns.

22 (b) "Transformational learning aid" means 50% of the quality educator payment defined in 20-9-
23 306 multiplied by 10% of the statewide number of full-time equivalent educators from the fiscal year
24 immediately preceding the year to which distribution of transformational aid applies calculated as provided in
25 20-9-327. (Terminates June 30, 2027--sec. 7, Ch. 402, L. 2019.)"

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27 **NEW SECTION. Section 3. Transition.** The board of public education or the board's designee shall
28 review the applications of school districts with first-time applications that are unfunded and on the waiting list on

1 [the effective date of this act] to determine whether the district's application meets the requirements under 20-7-
2 1602(2) as amended by [this act]. If a district's application does not meet the requirements, the board shall
3 remove the district from the waiting list. A district removed from the waiting list may reapply.

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5 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2023.

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