

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION**

**Call to Order:** By Senator Blaylock, on March 19, 1993, at 3:25 p.m.

#### **ROLL CALL**

##### **Members Present:**

Sen. Chet Blaylock, Chair (D)  
Sen. Harry Fritz, Vice Chair (D)  
Sen. John Brenden (R)  
Sen. Bob Brown (R)  
Sen. John Hertel (R)  
Sen. Spook Stang (D)  
Sen. Daryl Toews (R)  
Sen. Mignon Waterman (D)  
Sen. Bill Wilson (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** Senator Spook Stang

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Council  
Sylvia Kinsey, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing: None

|                   |        |        |        |
|-------------------|--------|--------|--------|
| Executive Action: | HB 398 | HB 424 | HB 469 |
|                   | HB 202 | HB 210 | HB 443 |
|                   | HB 473 | HB 527 |        |

#### **EXECUTIVE ACTION ON HB HOUSE BILL 469**

Chair Blaylock said there is a "gray" bill (exhibit 1) which shows the changes made in the subcommittee. He said he and Senator Hertel were the Senators on the committee, they met and had an extremely productive meeting. The gray bill has included the three points in Representative Johnson's bill as well as the inclusion of Representative Springs bill and incorporated these into HB 469. He asked Rachel Vielleux, County Superintendent of Schools in Missoula County who was extremely helpful to the committee and understands the bill thoroughly, to explain the highlights of the bill, where Representative Spring's material as

well as Representative Johnson's material and the changes she had been concerned about, especially on the rates between elementary and high school, were taken care of in the gray bill.

Rachel Vielleux said she believed this contained all the changes which caused concern so that this bill will work and retain the best qualities of each. She said sections 1, 2 and 3 is mostly language already in the statute except that elementary and high school tuition are now the same. Mandatory and other tuition requires payment of tuition, where initially there was no tuition in this bill except for mandatory placements. The flat rate is now in the bill and is based on school size so small schools will be paid at a different rate than the larger schools. In section 4, page 10 we have added Representative Johnson's concerns to the bill. The concern for schools like Home on the Range, which take regular ed students that cost more because of the kind of facility and treatment they need. Representative Johnson wanted to be able to charge actual cost for those kids and that is in the bill on page 11, subsection 3. Concern for those kids on the eastern border was that the district sending the kids was not receiving any state ANB for them, so they were having to pay some district in N.D. a large amount and we added into the bill, section 5, page 13, subsection 4 which will take care of that concern. Representative Spring's concern in HB 424 which is where the money goes, once it is received for tuition payments, is in section 5, pages 15-16. She said the other thing they have done is to make sure all of these mesh together and most of the primary work is in the first 16 pages. This one bill, HB 469 includes everything that was in 398 and 424.

Chair Blaylock referred Ms. Vielleux to page 5, line 5 where it says "the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school". He asked if this was correct and Ms. Vielleux said that is current statute language and explained to the committee how it worked.

Chair Blaylock asked why it was necessary to repeat section c on page 8 between lines 7 and 9 since it is stated before. Ms. Vielleux said there are two different ways of applying tuition, one is mandatory and the other is discretionary. To make sure the trustees waive equally in both sections, it is in there twice.

Chair Blaylock referred to page 11 between lines 18 and 22, "For a Montana resident student, the average district per-ANB foundation payment amount received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student", and asked what it does. Ms. Vielleux said that is the section that deals with the kids, for example, that would go to the Home on the Range. They are receiving an ANB cost for that kid so we do not

want to pay them that plus whatever the extra cost would be. It would take the ANB cost out and the cost over that would be what is paid.

Chair Blaylock referred to page 23 which addresses the kids who may go out of state, and asked if the provinces should be listed there as they are in the other places in the bill. Ms. Vielleux said yes, they should probably be in there and should probably be on line 8.

Senator Toews referred to page 5 which Ms. Vielleux had said was all in current language. It appeared to him that this would be going back to a choice system and was taking taxes paid in one district and moving it to another school district. Ms. Vielleux said she had not explained this well, it does not happen very often. If you want to send your child to district B and live in district A, own property in district B, you are actually paying taxes to that district already. If you had to pay tuition and those taxes, the burden would be doubled, so we are saying you will pay the tuition flat rate minus the difference you have directly paid to district B for taxes. If there is no voted levy, there would be no reduction. She said that is already in the law in the high school section.

Senator Waterman asked about section 4 where it talks about group homes and the special costs. She said there are a number of homes in Helena and asked if District 1 would also qualify, and if not, why not. Dori Nielson said the discussions they have had is that the intent is only if those children require specific programs. Children that might be a danger to themselves or to other children in school so the school actually provides a more expensive program so they cannot transition them into the regular classroom. She mentioned an arsonist, a sex offender, etc. which require specific programs and is the concerns that would be addressed.

Senator Waterman asked if there might be other facilities other than Home on the Range that might have those students and have the special programs. Ms. Nielson said that was the intent of the section and was a concern of Representative Johnson which he addressed.

Senator Toews said when we listened to SB 210, he believed it said we pay ANB on the receiving school district, line 22 on page 13. Now it says we pay ANB on the resident district. Ms. Vielleux said this is for kids attending out-of-state and it would help them with that tuition costs for an out-of-state kid.

Chair Blaylock thanked Ms. Nielson for her help on the bill and asked if she had anything she would like to add. She said the only thing was that she had made contact with some of the school districts that were concerned. She contacted Culbertson, checked into what happened at Fairview and Westview and believed Ms. Vielleux had spoken to people in Ekalaka. She said she had

spoken to local people and tried to look at all those districts that had revenues and expenditures that exceeded \$20,000. There are only about 15 districts that receive more than \$20,000 and only about 15 districts that spend more than \$20,000 and those districts are impacted. The other districts would have a less significant impact no matter what is done with tuition, but for those 15 it is important. To her knowledge no one had heard a negative reaction from those districts.

Ms. McClure said when they did the "gray" bill she had told both Ms. Vielleux and OPI to go through it to see that the internal references worked. There are about four little glitches which are on four different pages. She said the first was in the statement of intent, page 2, line 7 and this should be changed because there is no new rule making authority in that. On line 22 after the word "guardian" of a child we inserted a phrase that says "as defined in 41-3-603" which would take care of the technical question of the definition of guardian. On page 14, line 4, subsection 6, Ms. Nielson suggested these should be broken into two subsections because one is an exception to the other, and it should read following "~~mandatory~~" insert the language "except as provided in subsection 7. On line 6 we would need an amendment that would strike the words "but within the child's county of residence".

Ms. Nielson said when she and Ms. Vielleux read this section over they realized they had left "sort of a hole". If you are out-of-county and not mandatory, it was not covered. We needed to get this one, which was the most difficult to mesh, together. She said this and the subsection 7 would cover everybody.

Chair Blaylock asked Ms. Nielson to read the change and she read "except as provided in subsection 7 when a child has approval to attend a school outside the child's district of residence under the provisions of sections 1 or 2" and complete that sentence. On line 10 insert section 7 following "fund" and before "when a child has mandatory approval" etc. She said that will cover everybody and take care of the gap.

Ms. McClure said renumbering would be taken care of in the amendments and then referred the committee to page 29 where "trustees of the district" had been stricken and language should be reinserted. Since this is an amendment on the gray bill she would not have to strike "county superintendent of the county", on the blue bill she would simply have to reinsert the stricken language.

Ms. McClure said on the last page of Representative Johnson's House Bill 398, there was a request for the code commissioners to renumber a section as a different number. In HB 469 they were going to repeal that section. We need a new section 21 that would instruct the code commissioner to renumber 20-7-437 and put it in Title 20 Chapter 5. This has always been out of place, we did it in 398 and it was supposed to be done in this bill. She

said this did not change anything, just put this where it belonged. In a couple places in the bill the word "province" has been added, in some we did not and that will be taken care of.

Representative Johnson thanked the committee and those participating in combining these bills and said he appreciated the work they had done.

**Motion/Vote:** Senator Fritz moved the committee give Ms. McClure permission to make the above changes in the bill. The motion CARRIED unanimously, Senator Stang was absent.

**Motion/Vote:** Senator Fritz moved all the amendments represented in the "gray" bill. Motion CARRIED, Senator Stang absent.

**Motion/Vote:** Senator Fritz moved House Bill 469 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously with Senator Stang absent and Senator Waterman to carry the bill.

#### **EXECUTIVE ACTION ON HOUSE BILL 424**

**Motion/Vote:** Senator Fritz moved House Bill 424 BE TABLED. Motion CARRIED unanimously, Senator Stang absent.

#### **EXECUTIVE ACTION ON HOUSE BILL 398**

**Motion/Vote:** Senator Fritz moved House Bill 398 BE TABLED. Motion carried unanimously with Senator Stang being absent.

#### **EXECUTIVE ACTION ON HOUSE BILL 202**

**Motion:** Senator Waterman moved House Bill 202 BE CONCURRED IN AS AMENDED.

**Discussion:** Chair Blaylock said this is the bill that our amendment took out the attendance centers, and this bill is needed to make some changes requested by OPI.

**Vote:** The motion CARRIED unanimously with Senator Stang being absent. Senator Toews to carry the bill.

#### **EXECUTIVE ACTION ON HOUSE BILL 210**

Senator Toews said the committee had taken care of House Bill 202 and felt there was no further need for House Bill 210.

**Motion/Vote:** Senator Toews moved House Bill 210 BE TABLED. Motion CARRIED unanimously, Senator Stang was absent.

#### **EXECUTIVE ACTION ON HOUSE BILL 443**

**Motion/Vote:** Senator Fritz moved to accept the amendments (exhibit 3). Motion CARRIED unanimously, Senator Stang was

absent.

**Motion/Vote:** Senator Wilson moved House Bill 443 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously. Senator Stang was absent. Senator Wilson will carry the bill.

Senator Waterman said this would assure that students were not held responsible for fees in this bill and Ms. McClure said as it was explained to her it was only property damage.

#### **EXECUTIVE ACTION ON HOUSE BILL 473**

**Discussion:** Chair Blaylock said all members of the committee had signed the letter he had written to the Governor and had hand delivered the letter. The Governor was very agreeable and had told the students who are going to submit the six names from which he would pick the student member.

Senator Brenden asked if by rule, we still had to take care of this. He asked if we were all in concurrence in the committee as to what was needed. Chair Blaylock said discussion was probably needed.

**Motion:** Senator Yellowtail moved House Bill 473 BE TABLED.

**Discussion:** Senator Fritz said they had a ruling from the President of the Senate today that it was proper to table a constitutional amendment. The President ruled and the ruling was not appealed, so at this point it still stands.

**Vote:** The motion to table HB 473 CARRIED unanimously with Senator Stang being absent.

#### **EXECUTIVE ACTION ON HOUSE BILL 527**

**Motion:** Senator Brown moved HB 527 BE NOT CONCURRED IN.

**Discussion:** Senator Brown said this is another proposal for a constitutional amendment that would essentially give the Legislature the supervisory authority over the University System. He viewed this as an impractical approach to a problem he was not sure existed and felt a case for criticism to some extent, could be made of any supervisory commission or board in state government. He believed this bill goes too far and would be a real mistake in public policy to pass this bill and take a chance on people amending the constitution to do this.

Senator Hertel asked whether this bill should be a do not concur or should be tabled. Senator Brown said Representative Brown indicated to the committee he wanted a hearing on the floor. He said he had received 74 votes for this bill in the House. He did not know what was in the back ground of that, but there was probably a good story behind it. The fact remains that if he

gets 26 votes in the Senate it will be on the ballot and if we lay it on the table it is possible for someone to make a motion to bring the bill to the floor and if they got 26 votes we probably could not stop it. If we really think this is not a good idea, rather than laying it on the table and wait for a coalition to be created on the floor of 26 votes, perhaps it is better to attempt to hold the committee vote on the floor by a majority vote. He said if tabled we would not be able to anticipate when a motion might be made to bring it on the floor and believed it would be better to try to kill it quick.

Senator Waterman said she had real concerns because at times, depending on the mood of the body, it might not be hard to get 26 votes. She did not believe this bill was good legislation and because the Board of Regents is the body we all love to hate, it would probably pass on the ballot. She was not sure the Legislature would do any better job of running the University System and believed this was a dangerous constitutional amendment to have on the ballot. She had thought about amending the bill but her concern was that if amended, it would go back to the House and he could stand up on the floor and say it was a housekeeping amendment and get 95 votes or so over there and could pass the bill with very few Senate votes.

Senator Toews said he would agree with a do not concur vote but would like to see a big vote for the bill on second reading and a big vote against on third.

Senator Brenden said he understood that we elect school boards and elect boards to run our committees and our schools and when you get a lot of people involved, they could get rid of a school board or the Board of Regents if necessary. He did not object to sending a message because at times the Board of Regents had acted like Montana Power Co. has in the past as to communication and public perception. He said if enough members would vote for the do not concur motion, he would like to be a dissenter to throw a little message to the Regents.

Senator Waterman said we need to remember that because this is a constitutional amendment it does not go to the Governor and there is no opportunity for a veto. She believed it would send a better message to the floor if the vote is unanimous. Senator Brown agreed.

**Vote:** The motion that HB 527 be reported out as do not concur CARRIED unanimously with Senator Stang absent.

ADJOURNMENT

Adjournment: 4:08 p.m.

  
CHET BLAYLOCK, Chair

  
SYLVIA KINSEY, Secretary

CB/sk



## ROLL CALL

SENATE COMMITTEE EDUCATION

DATE 3-19-93

[illegible]

SENATE STANDING COMMITTEE REPORT

Page 1 of 12  
March 22, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 469 (first reading copy -- white), respectfully report that House Bill No. 469 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 4.

Following: "ACT"

Insert: "REVISING THE TUITION LAWS;"

2. Title, line 7.

Following: first "OF"

Insert: "THE RESIDENT DISTRICT AND"

3. Title, line 9.

Following: "THE"

Insert: "DISTRICT OR"

4. Title, line 11.

Following: "APPROVAL;"

Insert: "PROVIDING TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING  
A SCHOOL DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH  
THE MISCELLANEOUS PROGRAMS FUND;"

5. Title, line 14.

Strike: "AND"

Following: "20-10-144,"

Insert: "AND 20-10-146,"

6. Title, line 16.

Following: "20-5-312,"

Insert: "AND"

Following: "20-5-313,"

Strike: "AND 20-7-437,"

7. Page 1, line 23 through page 2, line 1.

Following: "regarding" on line 23

Insert: "a flat"

Following: "tuition"

Strike: "rates"

Insert: "rate"

Following: "for" on line 23

AW Amd. Coord.  
Sec. of Senate

Waterman  
Senator Carrying Bill

641541SC.San

Strike: remainder of line 23 through "bill" on page 2, line 1  
Insert: "each funding category in the foundation program  
schedules, using statewide district expenditure and revenue  
data for certain funds"

8. Page 2, line 7.

Following: "residence"

Insert: "or a public school in a district of another state or  
province that is adjacent to the county of the child's  
residence"

9. Page 2, line 8.

Following: first "of"

Insert: "the resident district and"

10. Page 2, line 10.

Following: "may"

Strike: "not"

11. Page 2, line 11.

Following: "tuition"

Strike: "but"

Insert: "and"

12. Page 2, line 12.

Following: "(2)"

Insert: "(a)"

13. Page 2, line 19.

Strike: "(3)"

Insert: "(b)"

14. Page 2, line 20.

Following: "any,"

Strike: "of each party"

Insert: "for tuition and"

15. Page 2, lines 22 through 25.

Following: "10."

Strike: remainder of line 22 through "(4)" on line 25

Insert: "(c) The trustees of the district of choice may waive  
any or all of the tuition rate, but any waiver must be  
applied equally to all students.

(3) An out-of-district attendance agreement approved under  
this section requires that the parent or guardian initiate the  
request for an out-of-district attendance agreement and that the  
trustees of both the district of residence and the district of  
choice approve the agreement.

(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named in the agreement for the designated school year.

(7)"

Renumber: subsequent subsections

16. Page 3, lines 2 through 5.

Following: "agreement."

Strike: remainder of line 2 through "days." on line 5

17. Page 3, line 7.

Following: "for"

Strike: "group"

18. Page 3, line 8.

Following: "offerings"

Strike: "with another district"

Insert: "not provided by the resident district, such as the kindergarten or grades 7 and 8 programs,"

19. Page 3, lines 11 through 13.

Following: "requirement." on line 11

Strike: remainder of line 11 through "funds." on line 13

Insert: "For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement."

(9) (a) A provision of this title may not be construed to deny a parent the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent has agreed to pay the tuition as prescribed by [section 4]. However, under this subsection (9), the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian"

includes an individual shareholder of a domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in [sections 1 through 5], the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

20. Page 3, lines 16 and 17.

Following: "agreement" on line 16

Strike: remainder of line 16 through "transportation," on line 17

Insert: "that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence"

21. Page 3, lines 17 through 20.

Following: "mandatory" on line 17

Strike: remainder of line 17 through "child" on line 20

22. Page 3, line 21.

Following: line 20

Insert: "(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district;

(b) the child resides in a location where, due to road or geographic conditions, it is impractical to attend the school nearest the child's residence;

(c) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided the child resides more than 3 miles from an elementary school in the

resident district or the parent must move to the elementary district where the high school is located to enroll another child in high school;"

Renumber: subsequent subsections

23. Page 4, line 3.  
Following: "residence;"  
Insert: "or"

24. Page 4, lines 7 through 10.  
Following: "jurisdiction" on line 7  
Strike: "; or" through "4" on line 10

25. Page 4, line 11.  
Following: "(2)"  
Insert: "(a)"

26. Page 4, line 17.  
Following: line 16  
Insert: "(b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition and transportation as provided in [section 4] and Title 20, chapter 10.  
(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students."

27. Page 4, line 17.  
Following: "trustees"  
Insert: "of the resident district and the trustees of the district of choice"

28. Page 4, line 21.  
Following: "days."  
Insert: "The county superintendent shall approve the agreement for payment under [section 5(6)]."

29. Page 5, lines 4 through 6.  
Strike: subsection (5) in its entirety

30. Page 5, line 12.  
Following: "(2)"  
Strike: "The"  
Insert: "Within 10 days of the initial application for an agreement, the"  
Following: "trustees"  
Insert: "of the district of choice"

31. Page 5, line 13.

Following: "child"

Insert: "and the trustees of the district of residence"

32. Page 5, line 14.

Following: "the"

Strike: "approximate"

Insert: "anticipated"

33. Page 5, lines 15 and 16.

Following: "agreement" on line 15

Strike: remainder of line 15 through "agreement" on line 16

34. Page 5, line 22.

Following: line 21

Insert: "(4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the district of residence shall approve or disapprove the agreement under the provisions of this part and forward the completed agreement to the county superintendent of schools of the county of residence, the trustees of the district of choice, and the parent or guardian."

Renumber: subsequent subsection

35. Page 6, line 4.

Following: "(1)"

Strike: "Whenever"

Insert: "Except as provided in subsections (3) and (4), whenever"

Following: "has"

Strike: "mandatory"

36. Page 6, lines 6 through 16.

Following: "provisions of" on line 6

Strike: remainder of line 6 through "instruction." on line 16

Insert: "[section 1 or 2], the basis of the rate of tuition is a flat rate for each funding category in the foundation program schedules determined by rule by the superintendent of public instruction by March 15 of each year, using statewide district expenditure and revenue data for the general fund, debt service fund, and retirement fund to determine the average district contribution.

(2) The tuition for children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to [section 2(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average

district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost; and

(b) for a Montana resident student, the average district per-ANB foundation payment amount received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student."

Renumber: subsequent subsections

37. Page 6, line 17.

Following: "child"

Strike: "without disabilities"

Insert: "attends a public school of another state or province or"

38. Page 7, line 3.

Following: "4;"

Strike: "or"

39. Page 7, line 4.

Following: "state"

Insert: "or province"

40. Page 7, line 5.

Following: "20-5-314"

Strike: "."

Insert: "; or"

41. Page 7, line 6.

Following: line 5

Insert: "(c) an order issued under Title 40, chapter 4, part 2."

42. Page 7, line 25.

Following: "child"

Insert: "; and

(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident students attending public schools out of state"

43. Page 8, line 5.

Following: line 4

Insert: "(3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to the superintendent of public instruction.

(4) The superintendent of public instruction shall



determine the total foundation amount for which the district would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference between the actual amount paid and the amount calculated in this subsection.

(5) Notwithstanding the requirements of subsection (6), tuition payment provisions for out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4."

Renumber: subsequent subsections

44. Page 8, line 5.

Strike: "The mandatory"

Insert: "Except as provided in subsection (7), when a child has approval to attend a school outside the child's district of residence under the provisions of [section 1 or 2], the district of residence shall finance the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

(7) When a child has mandatory approval under the provisions of [section 2], the"

45. Page 8, line 7.

Following: "child's"

Strike: "district"

Insert: "county"

46. Page 8, lines 9 through 13.

Following: "residence" on line 9

Strike: remainder of line 9 through "by" on line 13

Insert: "or for a high school child attending a school outside the county of residence by"

47. Page 8, line 17.

Following: "superintendent"

Insert: "or the trustees"

48. Page 8, line 21.

Following: "20-9-334"

Insert: "or from the district tuition or transportation fund"

49. Page 9, line 1.

Strike: "(5)"

Insert: "(10)"

50. Page 9, line 7.

Following: line 6

Insert: "(9) The superintendent of public instruction shall

reimburse the district of residence from the state  
equalization account for the foundation amount determined in  
subsection (4)."

Renumber: subsequent subsection

51. Page 9, line 7.

Following: "(5)"

Insert: "(a)"

52. Page 9, line 8.

Following: "4, or"

Strike: "this part must"

Insert: "[section 4(3)] for the current school fiscal year that  
exceed the tuition receipts of the prior year may"

53. Page 9, line 9.

Following: "deposited in"

Strike: "a separate account to"

54. Page 9, line 13.

Following: line 12

Insert: "(b) Any other tuition receipts received for the current  
school fiscal year that exceed the tuition receipts of the  
prior year may be deposited in the district miscellaneous  
programs fund and may be used for that year in the manner  
provided for in that fund. For the ensuing school fiscal  
year, the receipts must be credited to the district general  
fund budget."

55. Page 16, line 4.

Following: "state"

Strike: "-- county payment obligation"

Insert: "or province"

56. Page 16, lines 8, 11 and 12.

Following: "state"

Insert: "or province"

57. Page 16, line 6.

Page 16, line 13.

Page 16, line 18.

Following: "reciprocal"

Strike: "tuition"

Insert: "attendance"

58. Page 16, line 9.

Following: "~~children of~~"

Strike: "for a reciprocal tuition rate for"

Insert: "to allow"

59. Page 16, line 11.

Following: "of"

Strike: "for"

60. Page 17, lines 3 through 17.

Strike: subsection (3) in its entirety

61. Page 22, lines 9 and 10.

Following: "~~district~~" on line 9

Strike: remainder of line 9 through "county" on line 10

Insert: "trustees of the district"

62. Page 23, line 16.

Following: "attending"

Strike: "an"

Insert: "a state-funded"

63. Page 23, line 17.

Following: "institution"

Strike: remainder of line 17

Insert: "in"

64. Page 23, line 22.

Following: "or"

Insert: "district or"

65. Page 30, line 12.

Following: "amount"

Insert: "; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence"

66. Page 33, line 24.

Following: line 23

Insert: "Section 18. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-

144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of [section 2].

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of [section 2];

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

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

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

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

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second

Monday of August by the county superintendent and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.""

Renumber: subsequent sections

67. Page 34, line 1.

Following: "20-5-312,"

Insert: "and"

Following: "20-5-313,"

Strike: "and 20-7-437,"

68. Page 34, line 8.

Following: line 7

Insert: "NEW SECTION. Section 21. Instruction to code  
commissioner. Section 20-7-437 is intended to be renumbered  
and codified as an integral part of Title 20, chapter 5."

Renumber: subsequent section

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 20, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 202 (first reading copy -- blue), respectfully report that House Bill No. 202 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 8.

Following: "PROVISIONS;"

Insert: "DEFINING ATTENDANCE CENTER;"

2. Page 2, line 2.

Following: "district."

Insert: "(2) "Attendance center" means a location, identified by a school district, where students are provided an instructional program under the administration of a school or school district."

Renumber: subsequent subsections

3. Page 4, lines 4 through 9.

Strike: subsection (13) in its entirety

Renumber: subsequent subsections

4. Page 27, line 18.

Strike: "SCHOOL"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 20, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 443 (first reading copy -- blue), respectfully report that House Bill No. 443 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 11.

Following: "MET;"

Insert: "REQUIRING TRUSTEES TO ADOPT A POLICY REGARDING AN APPEAL  
PROCESS FOR DECISIONS TO WITHHOLD A PUPIL'S GRADES, DIPLOMA,  
OR TRANSCRIPTS;"

2. Page 3, line 15.

Strike: "and"

3. Page 3, line 22.

Following: "transferred"

Insert: "; and

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

-END-

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 20, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 527 (first reading copy -- blue), respectfully report that House Bill No. 527 be not concurred in.

Signed: Chet Blaylock

Senator Chet Blaylock, Chair



53rd Legislature  
SENATE  
EXHIBIT NO. 1  
DATE 3/19/93  
BILL NO. 469

HB 0469/gray

HOUSE BILL NO. 469

INTRODUCED BY COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION  
LAWS; PERMITTING A CHILD TO ATTEND A SCHOOL DISTRICT OUTSIDE  
THE CHILD'S DISTRICT OF RESIDENCE, SUBJECT TO DISCRETIONARY  
APPROVAL BY THE TRUSTEES OF THE RESIDENT DISTRICT AND THE  
DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE APPROVAL  
BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN CERTAIN  
CIRCUMSTANCES; REQUIRING THAT THE DISTRICT OR COUNTY OF  
RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS  
ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; PROVIDING  
TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING A SCHOOL  
DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH THE  
MISCELLANEOUS PROGRAMS FUND; AMENDING SECTIONS 20-3-205,  
20-3-210, 20-5-314, 20-6-702, 20-7-420, 20-7-421, 20-7-422,  
20-7-424, 20-9-141, 20-9-507, 20-10-105, ~~AND~~ 20-10-144, AND  
20-10-146, MCA; REPEALING SECTIONS 20-5-301, 20-5-302,  
20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311,  
20-5-312, 20-5-313, AND 20-7-437, MCA; AND PROVIDING AN  
EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because  
[section 4] of the bill gives the superintendent of public

1 instruction authority to adopt administrative rules  
 2 regarding A FLAT tuition rates RATE for children-attending-a  
 3 ~~school-outside-the-child's-district-of-residence--under--the~~  
 4 ~~mandatory-attendance-approval-requirements-in-[section-2]-of~~  
 5 ~~the--bill~~ EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM  
 6 SCHEDULES, USING STATEWIDE DISTRICT EXPENDITURE AND REVENUE  
 7 DATA FOR CERTAIN FUNDS AND FOR THE CALCULATION OF TUITION  
 8 FOR SPECIAL EDUCATION PUPILS. *delete*

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1.** Attendance with discretionary  
 12 approval. (1) A child may be enrolled in and attend a school  
 13 in a Montana school district that is outside of the child's  
 14 district of residence OR A PUBLIC SCHOOL IN A DISTRICT OF  
 15 ANOTHER STATE OR PROVINCE THAT IS ADJACENT TO THE COUNTY OF  
 16 THE CHILD'S RESIDENCE, subject to discretionary approval by  
 17 the trustees of THE RESIDENT DISTRICT AND the district of  
 18 choice. If the trustees grant discretionary approval of the  
 19 child's attendance in a school of the district, the parent  
 20 or guardian may not be charged tuition but AND may be  
 21 charged for transportation. *a. child*

22 (2) (A) Whenever a parent or guardian of a child wishes  
 23 to have the child attend a school under the provisions of  
 24 this section, the parent or guardian shall apply to the  
 25 trustees of the district where the child wishes to attend.

1 The application must be made on an out-of-district  
2 attendance agreement form supplied by the district and  
3 developed by the superintendent of public instruction.

4 ~~(3)~~(B) The attendance agreement must set forth the  
5 financial obligations, if any, ~~of each party~~ FOR TUITION AND  
6 for costs incurred for transporting the child under Title  
7 20, chapter 10. The district of residence and the district  
8 of choice may jointly approve the application if the  
9 district of residence provides for transportation.

10 ~~(4)~~(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE  
11 ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE  
12 APPLIED EQUALLY TO ALL STUDENTS.

13 (3) AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT APPROVED  
14 UNDER THIS SECTION REQUIRES THAT THE PARENT OR GUARDIAN  
15 INITIATE THE REQUEST FOR AN OUT-OF-DISTRICT ATTENDANCE  
16 AGREEMENT AND THAT THE TRUSTEES OF BOTH THE DISTRICT OF  
17 RESIDENCE AND THE DISTRICT OF CHOICE APPROVE THE AGREEMENT.

18 (4) IF THE TRUSTEES OF THE DISTRICT OF CHOICE WAIVE  
19 TUITION, APPROVAL OF THE RESIDENT DISTRICT TRUSTEES IS NOT  
20 REQUIRED.

21 (5) THE TRUSTEES OF A SCHOOL DISTRICT MAY APPROVE OR  
22 DISAPPROVE THE OUT-OF-DISTRICT ATTENDANCE AGREEMENT  
23 CONSISTENT WITH THIS PART AND THE POLICY ADOPTED BY THE  
24 LOCAL BOARD OF TRUSTEES FOR OUT-OF-DISTRICT ATTENDANCE  
25 AGREEMENTS.

1       (6) THE APPROVAL OF AN OUT-OF-DISTRICT ATTENDANCE  
 2       AGREEMENT BY THE APPLICABLE APPROVAL AGENTS OR AS THE RESULT  
 3       OF AN APPEAL MUST AUTHORIZE THE CHILD NAMED IN THE AGREEMENT  
 4       TO ENROLL IN AND ATTEND THE SCHOOL NAMED IN THE AGREEMENT  
 5       FOR THE DESIGNATED SCHOOL YEAR.

6       (7) The trustees of the district where the child wishes  
 7       to attend have the discretion to approve any attendance  
 8       agreement. When--the--trustees--approve--an-out-of-district  
 9       attendance--agreement,--they--shall--send--a--copy--of--the  
 10       agreement-to-the-county-superintendent-of-the-child's-county  
 11       of-residence-within-10-days.

12       (5)(8) This section does not preclude the trustees of a  
 13       district from approving an attendance agreement for group  
 14       educational program offerings with--another--district NOT  
 15       PROVIDED BY THE RESIDENT DISTRICT, SUCH AS THE KINDERGARTEN  
 16       OR GRADES 7 AND 8 PROGRAMS, if the trustees of both  
 17       districts agree to the terms and conditions for attendance  
 18       and any tuition and transportation requirement. ~~The-trustees~~  
 19       ~~of-the-district-of-residence-may-budget--for--those--tuition~~  
 20       ~~and--transportation--costs--from--the-district's-tuition-and~~  
 21       ~~transportation-funds.~~ FOR PURPOSES OF THIS SUBSECTION, THE  
 22       TRUSTEES OF THE RESIDENT DISTRICT SHALL INITIATE THE  
 23       OUT-OF-DISTRICT AGREEMENT.

24       (9) (A) A PROVISION OF THIS TITLE MAY NOT BE CONSTRUED  
 25       TO DENY A PARENT THE RIGHT TO SEND A CHILD, AT PERSONAL

1 EXPENSE, TO ANY SCHOOL OF A DISTRICT OTHER THAN THE RESIDENT  
2 DISTRICT WHEN THE TRUSTEES OF THE DISTRICT OF CHOICE HAVE  
3 APPROVED AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT AND THE  
4 PARENT HAS AGREED TO PAY THE TUITION AS PRESCRIBED BY  
5 [SECTION 4]. HOWEVER, UNDER THIS SUBSECTION (9), THE TUITION  
6 RATE MUST BE REDUCED BY THE AMOUNT THE PARENT OR GUARDIAN OF  
7 THE CHILD PAID IN DISTRICT AND COUNTY PROPERTY TAXES DURING  
8 THE IMMEDIATELY PRECEDING SCHOOL FISCAL YEAR FOR THE BENEFIT  
9 AND SUPPORT OF THE DISTRICT IN WHICH THE CHILD WILL ATTEND  
10 SCHOOL.

11 (B) FOR THE PURPOSES OF THIS SECTION, "PARENT OR  
12 GUARDIAN" INCLUDES AN INDIVIDUAL SHAREHOLDER OF A DOMESTIC  
13 CORPORATION AS DEFINED IN 35-1-113 WHOSE SHARES ARE 95% HELD  
14 BY RELATED FAMILY MEMBERS TO THE SIXTH DEGREE OF  
15 CONSANGUINITY OR BY MARRIAGE TO THE SIXTH DEGREE OF  
16 AFFINITY.

17 (C) THE TAX AMOUNT TO BE CREDITED TO REDUCE ANY TUITION  
18 CHARGE TO A PARENT OR GUARDIAN UNDER SUBSECTION (9)(A) IS  
19 DETERMINED IN THE FOLLOWING MANNER:

20 (I) DETERMINE THE PERCENTAGE OF THE TOTAL SHARES OF THE  
21 CORPORATION HELD BY THE SHAREHOLDER PARENT OR PARENTS;

22 (II) DETERMINE THE PORTION OF PROPERTY TAXES PAID IN THE  
23 PRECEDING SCHOOL FISCAL YEAR BY THE CORPORATION, PARENT, OR  
24 GUARDIAN FOR THE BENEFIT AND SUPPORT OF THE DISTRICT IN  
25 WHICH THE CHILD WILL ATTEND SCHOOL.

1        (D) THE PERCENTAGE OF TOTAL SHARES AS DETERMINED IN  
 2        SUBSECTION (9)(C)(I) IS THE PERCENTAGE OF TAXES PAID AS  
 3        DETERMINED IN SUBSECTION (9)(C)(II) THAT IS TO BE CREDITED  
 4        TO REDUCE THE TUITION CHARGE.

5        NEW SECTION.    **Section 2.** Attendance with mandatory  
 6        approval    --    tuition and transportation.    (1) An  
 7        out-of-district attendance agreement~~7-permitting-payment--of~~  
 8        ~~tuition-and-transportation7~~ THAT ALLOWS A CHILD TO ENROLL IN  
 9        AND ATTEND A SCHOOL IN A MONTANA SCHOOL DISTRICT THAT IS  
 10       OUTSIDE OF THE CHILD'S DISTRICT OF RESIDENCE OR IN A PUBLIC  
 11       SCHOOL DISTRICT OF A STATE OR PROVINCE THAT IS ADJACENT TO  
 12       THE COUNTY OF THE CHILD'S RESIDENCE is mandatory and--does  
 13       ~~not--require--approval--of--the--trustees-of-the-district-of~~  
 14       ~~residence-or-the-district-of-choice-for--an--out-of-district~~  
 15       child whenever:

16       (A) THE CHILD RESIDES CLOSER TO THE SCHOOL THAT THE  
 17       CHILD WISHES TO ATTEND AND MORE THAN 3 MILES FROM THE SCHOOL  
 18       THE CHILD WOULD ATTEND IN THE RESIDENT DISTRICT;

19       (B) THE CHILD RESIDES IN A LOCATION WHERE, DUE TO ROAD  
 20       OR GEOGRAPHIC CONDITIONS, IT IS IMPRACTICAL TO ATTEND THE  
 21       SCHOOL NEAREST THE CHILD'S RESIDENCE;

22       (C) THE CHILD IS A MEMBER OF A FAMILY WHO MUST SEND  
 23       ANOTHER CHILD OUTSIDE OF THE ELEMENTARY DISTRICT TO ATTEND  
 24       HIGH SCHOOL AND THE CHILD OF ELEMENTARY AGE MAY MORE  
 25       CONVENIENTLY ATTEND AN ELEMENTARY SCHOOL WHERE THE HIGH

1 SCHOOL IS LOCATED, PROVIDED THE CHILD RESIDES MORE THAN 3  
2 MILES FROM AN ELEMENTARY SCHOOL IN THE RESIDENT DISTRICT OR  
3 THE PARENT MUST MOVE TO THE ELEMENTARY DISTRICT WHERE THE  
4 HIGH SCHOOL IS LOCATED TO ENROLL ANOTHER CHILD IN HIGH  
5 SCHOOL;

6 (a)(D) the child has been adjudicated by a court of  
7 competent jurisdiction to be an abused, neglected, or  
8 dependent child, as defined in 41-3-102, or a youth in need  
9 of supervision or a delinquent youth, as defined in  
10 41-5-103, and has been placed in a licensed youth care  
11 facility that is approved by the department of family  
12 services and, as a result of the placement, is required to  
13 attend school outside of the child's district of residence;  
14 OR

15 (b)(E) the child is required to attend school outside  
16 of the district of residence as the result of a placement by  
17 a state agency or parent in a group home licensed by the  
18 state or an order of a court of competent jurisdiction; or

19 (c)--the--child--is--required--to--attend--school--outside--of  
20 the--district--of--residence--as--the--result--of--placement  
21 pursuant-to-Title-20, chapter-7, part-4.

22 (2) (A) Whenever a parent or guardian of a child, an  
23 agency of the state, or a court wishes to have a child  
24 attend a school under the provisions of this section, the  
25 parent or guardian, agency, or court shall complete an

1 out-of-district attendance agreement in consultation with an  
2 appropriate official of the district the child will attend.

3 (B) THE ATTENDANCE AGREEMENT MUST SET FORTH THE  
4 FINANCIAL OBLIGATIONS, IF ANY, FOR COSTS INCURRED FOR  
5 TUITION AND TRANSPORTATION AS PROVIDED IN [SECTION 4] AND  
6 TITLE 20, CHAPTER 10.

7 (C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE  
8 ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE  
9 APPLIED EQUALLY TO ALL STUDENTS.

10 (3) Except as provided in subsection (4), the trustees  
11 OF THE RESIDENT DISTRICT AND THE TRUSTEES OF THE DISTRICT OF  
12 CHOICE shall approve the out-of-district attendance  
13 agreement and notify the county superintendent of schools of  
14 the county of the child's residence of the approval of the  
15 agreement within 10 days. THE COUNTY SUPERINTENDENT SHALL  
16 APPROVE THE AGREEMENT FOR PAYMENT UNDER [SECTION 5(6)].

17 (4) Unless the child is a child with disabilities who  
18 resides in the district, the trustees of the district where  
19 the school to be attended is located may disapprove an  
20 out-of-district attendance agreement whenever they find  
21 that, due to insufficient room and overcrowding, the  
22 accreditation of the school would be adversely affected by  
23 the acceptance of the child.

24 ~~{5}--This--section--does--not--preclude--the--trustees--from~~  
25 ~~waiving--any--portion--of--the--tuition--payment,--but--any--waiver~~



1 ~~must-be-applied-equally-to-all-students.~~

2 NEW SECTION. **Section 3.** Residency determination --  
3 notification -- appeal for attendance agreement. (1) In  
4 considering an out-of-district attendance agreement, the  
5 trustees shall determine the child's district of residence  
6 on the basis of the provisions of 1-1-215.

7 (2) The WITHIN 10 DAYS OF THE INITIAL APPLICATION FOR  
8 AN AGREEMENT, THE trustees OF THE DISTRICT OF CHOICE shall  
9 notify the parent or guardian of the child AND THE TRUSTEES  
10 OF THE DISTRICT OF RESIDENCE involved in the out-of-district  
11 attendance agreement of the approximate ANTICIPATED date for  
12 approval or disapproval of the agreement ~~within-10-days-of~~  
13 ~~the-initial-application-for-an-agreement.~~

14 (3) Within 10 days of approval or disapproval of an  
15 out-of-district attendance agreement, the trustees shall  
16 provide copies of the approved or disapproved attendance  
17 agreement to the parent or guardian and to the child's  
18 district of residence.

19 (4) WITHIN 15 DAYS OF RECEIPT OF AN APPROVED  
20 OUT-OF-DISTRICT ATTENDANCE AGREEMENT, THE TRUSTEES OF THE  
21 DISTRICT OF RESIDENCE SHALL APPROVE OR DISAPPROVE THE  
22 AGREEMENT UNDER THE PROVISIONS OF THIS PART AND FORWARD THE  
23 COMPLETED AGREEMENT TO THE COUNTY SUPERINTENDENT OF SCHOOLS  
24 OF THE COUNTY OF RESIDENCE, THE TRUSTEES OF THE DISTRICT OF  
25 CHOICE, AND THE PARENT OR GUARDIAN.

1       ~~(4)~~(5) If an out-of-district attendance agreement is  
 2       disapproved or no action is taken, the parent may appeal the  
 3       disapproval or lack of action to the county superintendent  
 4       and, subsequently, to the superintendent of public  
 5       instruction under the provisions for the appeal of  
 6       controversies in this title.

7       NEW SECTION.   **Section 4.** Tuition and transportation  
 8       rates. (1) Whenever EXCEPT AS PROVIDED IN SUBSECTION (3) AND  
 9       (4), WHENEVER a child has mandatory approval to attend a  
 10      school outside of the child's district of residence under  
 11      the provisions of ~~{section--2}, the county of the child's~~  
 12      ~~residence--shall--pay--tuition--and--transportation--to--the~~  
 13      ~~district--where--the--child--attends--school--~~

14      ~~{2}--The--superintendent--of--public--instruction--shall~~  
 15      ~~adopt--rules--to--set--the--tuition--rates--for--all--out--of--district~~  
 16      ~~attendance--within--the--following--guidelines--~~

17      ~~{a}--Tuition--rates--for--all--out--of--district--children--who~~  
 18      ~~are--not--in--a--special--education--program--must--be--a--flat--rate--~~

19      ~~{b}--Tuition--rates--for--children--with--disabilities--must~~  
 20      ~~be--determined---according---to---rules---adopted---by---the~~  
 21      ~~superintendent--of--public--instruction--~~ [SECTION 1 OR 2], THE  
 22      BASIS OF THE RATE OF TUITION IS A FLAT RATE FOR EACH FUNDING  
 23      CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES DETERMINED BY  
 24      RULE BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION BY MARCH 15  
 25      OF EACH YEAR, USING STATEWIDE DISTRICT EXPENDITURE AND

1 REVENUE DATA FOR THE GENERAL FUND, DEBT SERVICE FUND, AND  
2 RETIREMENT FUND TO DETERMINE THE AVERAGE DISTRICT  
3 CONTRIBUTION.

4 (2) THE TUITION FOR CHILDREN WITH DISABILITIES MUST BE  
5 DETERMINED UNDER RULES ADOPTED BY THE SUPERINTENDENT OF  
6 PUBLIC INSTRUCTION FOR THE CALCULATION OF TUITION FOR  
7 SPECIAL EDUCATION PUPILS.

8 (3) THE TUITION RATE FOR OUT-OF-DISTRICT PLACEMENT  
9 PURSUANT TO [SECTION 2(1)(D) AND (1)(E) FOR A STUDENT  
10 WITHOUT DISABILITIES WHO REQUIRES A PROGRAM WITH COSTS THAT  
11 EXCEED THE AVERAGE DISTRICT COSTS MUST BE DETERMINED AS THE  
12 ACTUAL INDIVIDUAL COSTS OF PROVIDING THAT PROGRAM ACCORDING  
13 TO THE FOLLOWING:

14 (A) THE DISTRICT OF ATTENDANCE AND THE DISTRICT,  
15 PERSON, OR ENTITY RESPONSIBLE FOR THE TUITION PAYMENTS SHALL  
16 APPROVE AN AGREEMENT WITH THE DISTRICT OF ATTENDANCE FOR THE  
17 TUITION COST; AND

18 (B) FOR A MONTANA RESIDENT STUDENT, THE AVERAGE  
19 DISTRICT PER-ANB FOUNDATION PAYMENT AMOUNT RECEIVED IN THE  
20 YEAR FOR WHICH THE TUITION CHARGES ARE CALCULATED MUST BE  
21 SUBTRACTED FROM THE PER-STUDENT PROGRAM COSTS FOR A MONTANA  
22 RESIDENT STUDENT.

23 (3)(4) When a child without--disabilities ATTENDS A  
24 PUBLIC SCHOOL OF ANOTHER STATE OR has been placed by a state  
25 agency in an out-of-state residential program, the amount of

1 daily tuition may not be greater than the average annual  
 2 cost per student in the child's district of residence. This  
 3 calculation for tuition purposes is determined by totaling  
 4 all of the expenditures for all of the district budgeted  
 5 funds for the preceding school fiscal year and dividing that  
 6 amount by the October 1 enrollment in the preceding school  
 7 fiscal year. For the purposes of this subsection, the  
 8 following do not apply:

9 (a) placement of a child with disabilities pursuant to  
 10 Title 20, chapter 7, part 4; or

11 (b) placement made in a state with a reciprocal tuition  
 12 agreement pursuant to 20-5-314; OR

13 (C) AN ORDER ISSUED UNDER TITLE 40, CHAPTER 4, PART 2.

14 ~~(4)~~(5) The amount, if any, charged for transportation  
 15 may not exceed the lesser of the average transportation cost  
 16 per student in the child's district of residence or 21.25  
 17 cents per mile. The average expenditures for the district  
 18 transportation fund for the preceding school fiscal year  
 19 must be calculated by dividing the transportation fund  
 20 expenditures by the October 1 enrollment for the preceding  
 21 fiscal year.

22 NEW SECTION. **Section 5.** Tuition report and payment  
 23 provisions. (1) At the close of the school term of each  
 24 school fiscal year and before July 15, the trustees of a  
 25 district shall report to the county superintendent:

1 (a) the name and district of residence of each child  
2 who is attending a school of the district under an approved  
3 mandatory out-of-district attendance agreement;

4 (b) the number of days of enrollment for each child  
5 reported under the provisions of subsection (1)(a);

6 (c) the annual tuition rate for each child's tuition  
7 payment, as determined under the provisions of [section 4],  
8 and the tuition cost for each reported child; AND

9 (D) THE NAMES, DISTRICTS OF ATTENDANCE, AND AMOUNT OF  
10 TUITION TO BE PAID BY THE DISTRICT FOR RESIDENT STUDENTS  
11 ATTENDING PUBLIC SCHOOLS OUT OF STATE.

12 (2) The county superintendent shall send, as soon as  
13 practicable, the reported information to the county  
14 superintendent of the county in which a reported child  
15 resides.

16 (3) BEFORE JULY 30, THE COUNTY SUPERINTENDENT SHALL  
17 REPORT THE INFORMATION IN SUBSECTION (1)(D) TO THE  
18 SUPERINTENDENT OF PUBLIC INSTRUCTION.

19 (4) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL  
20 DETERMINE THE TOTAL FOUNDATION AMOUNT FOR WHICH THE DISTRICT  
21 WOULD BE ELIGIBLE IF THE STUDENT WERE ENROLLED IN THE  
22 RESIDENT DISTRICT. THE REIMBURSEMENT AMOUNT IS THE  
23 DIFFERENCE BETWEEN THE ACTUAL AMOUNT PAID AND THE AMOUNT  
24 CALCULATED IN THIS SUBSECTION.

25 (5) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (6),

1 TUITION PAYMENT PROVISIONS FOR OUT-OF-DISTRICT PLACEMENT OF  
 2 STUDENTS WITH DISABILITIES MUST BE DETERMINED PURSUANT TO  
 3 TITLE 20, CHAPTER 7, PART 4.

4 ~~(3)~~(6) ~~The--mandatory~~ WHEN A CHILD HAS APPROVAL TO  
 5 ATTEND A SCHOOL OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE  
 6 BUT WITHIN THE CHILD'S COUNTY OF RESIDENCE UNDER THE  
 7 PROVISIONS OF [SECTION 1 OR 2], THE DISTRICT OF RESIDENCE  
 8 SHALL FINANCE THE TUITION AMOUNT FROM THE DISTRICT TUITION  
 9 FUND AND ANY TRANSPORTATION AMOUNT FROM THE TRANSPORTATION  
 10 FUND.<sup>7</sup> WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE  
 11 PROVISIONS OF [SECTION 2], THE tuition and transportation  
 12 obligation for an elementary school child attending a school  
 13 outside of the child's ~~district~~ COUNTY of residence must be  
 14 financed by the county basic tax for elementary districts,  
 15 as provided in 20-9-331, for the child's county of  
 16 residence.~~---The--total--amount--of--the--mandatory--tuition--and~~  
 17 ~~transportation--obligation--for--a--high--school--child--attending~~  
 18 ~~a--school--outside--of--the--child's--district--of--residence--must~~  
 19 ~~be--financed--by~~ OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL  
 20 OUTSIDE THE COUNTY OF RESIDENCE BY the county basic tax for  
 21 high school districts, as provided in 20-9-333, for the  
 22 child's county of residence.

23 ~~(4)~~(7) By December 31 of the school fiscal year, the  
 24 county superintendent OR THE TRUSTEES shall pay at least  
 25 one-half of any tuition and transportation obligation

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1 established under this section out of the money realized to  
2 date from the appropriate basic county tax account provided  
3 for in 20-9-334 OR FROM THE DISTRICT TUITION OR  
4 TRANSPORTATION FUND. The remaining tuition and  
5 transportation obligation must be paid by June 15 of the  
6 school fiscal year. The payments must be made to the county  
7 treasurer in each county with a school district that is  
8 entitled to tuition and transportation. Except as provided  
9 in subsection ~~(5)~~ (9), the county treasurer shall credit  
10 tuition receipts to the general fund of a school district  
11 entitled to a tuition payment. The tuition receipts must be  
12 used in accordance with the provisions of 20-9-141. The  
13 county treasurer shall credit transportation receipts to the  
14 transportation fund of a school district entitled to a  
15 transportation payment.

16 (8) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL  
17 REIMBURSE THE DISTRICT OF RESIDENCE FROM THE STATE  
18 EQUALIZATION ACCOUNT FOR THE FOUNDATION AMOUNT DETERMINED IN  
19 SUBSECTION (4).

20 ~~(5)~~ (9) (A) Any tuition receipts received under the  
21 provisions of Title 20, chapter 7, part 4, or ~~this part must~~  
22 [SECTION 4(3)] FOR THE CURRENT SCHOOL FISCAL YEAR THAT  
23 EXCEED THE TUITION RECEIPTS OF THE PRIOR YEAR MAY be  
24 deposited in ~~a---separate---account---~~ the district  
25 miscellaneous programs fund and must be used for that year

1 in the manner provided for in 20-9-507 to support the costs  
2 of the program for which the tuition was received.

3 (B) ANY OTHER TUITION RECEIPTS RECEIVED FOR THE CURRENT  
4 SCHOOL FISCAL YEAR THAT EXCEED THE TUITION RECEIPTS OF THE  
5 PRIOR YEAR MAY BE DEPOSITED IN THE DISTRICT MISCELLANEOUS  
6 PROGRAMS FUND AND MAY BE USED FOR THAT YEAR IN THE MANNER  
7 PROVIDED FOR IN THAT FUND. FOR THE ENSUING SCHOOL FISCAL  
8 YEAR, THE RECEIPTS MUST BE CREDITED TO THE DISTRICT GENERAL  
9 FUND BUDGET.

10 **Section 6.** Section 20-3-205, MCA, is amended to read:

11 "20-3-205. Powers and duties. The county superintendent  
12 has general supervision of the schools of the county within  
13 the limitations prescribed by this title and shall perform  
14 the following duties or acts:

15 (1) determine, establish, and reestablish trustee  
16 nominating districts in accordance with the provisions of  
17 20-3-352, 20-3-353, and 20-3-354;

18 (2) administer and file the oaths of members of the  
19 boards of trustees of the districts in ~~his~~ the county in  
20 accordance with the provisions of 20-3-307;

21 (3) register the teacher or specialist certificates or  
22 emergency authorization of employment of any person employed  
23 in the county as a teacher, specialist, principal, or  
24 district superintendent in accordance with the provisions of  
25 20-4-202;



1 (4) act on each tuition application and transportation  
2 obligation submitted to--him in accordance with the  
3 provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and  
4 transmit---the--tuition--information--required--by--20-5-312  
5 [sections 4 and 5];

6 (5) file a copy of the audit report for a district in  
7 accordance with the provisions of 20-9-203;

8 (6) classify districts in accordance with the  
9 provisions of 20-6-201 and 20-6-301;

10 (7) keep a transcript and reconcile the district  
11 boundaries of the county in accordance with the provisions  
12 of 20-6-103;

13 (8) fulfill all responsibilities assigned to--him under  
14 the provisions of this title regulating the organization,  
15 alteration, or abandonment of districts;

16 (9) act on any unification proposition and, if  
17 approved, establish additional trustee nominating districts  
18 in accordance with 20-6-312 and 20-6-313;

19 (10) estimate the average number belonging (ANB) of an  
20 opening school in accordance with the provisions of  
21 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

22 (11) process and, when required, act on school isolation  
23 applications in accordance with the provisions of 20-9-302;

24 (12) complete the budgets, compute the budgeted revenues  
25 and tax levies, file final budgets and budget amendments,

1 and fulfill other responsibilities assigned to him under the  
2 provisions of this title regulating school budgeting  
3 systems;

4 (13) submit an annual financial report to the  
5 superintendent of public instruction in accordance with the  
6 provisions of 20-9-211;

7 (14) monthly, unless otherwise provided by law, order  
8 the county treasurer to apportion state money, county school  
9 money, and any other school money subject to apportionment  
10 in accordance with the provisions of 20-9-212, 20-9-334,  
11 20-9-347, 20-10-145, or 20-10-146;

12 (15) act on any request to transfer average number  
13 belonging (ANB) in accordance with the provisions of  
14 20-9-313(3);

15 (16) calculate the estimated budgeted general fund  
16 sources of revenue in accordance with the provisions of  
17 20-9-348 and the other general fund revenue provisions of  
18 the general fund part of this title;

19 (17) compute the revenues and the district and county  
20 levy requirements for each fund included in each district's  
21 final budget and report the computations to the board of  
22 county commissioners in accordance with the provisions of  
23 the general fund, transportation, bonds, and other school  
24 funds parts of this title;

25 (18) file and forward bus driver certifications,

1 transportation contracts, and state transportation  
2 reimbursement claims in accordance with the provisions of  
3 20-10-103, 20-10-143, or 20-10-145;

4 (19) for districts that do not employ a district  
5 superintendent or principal, recommend library book and  
6 textbook selections in accordance with the provisions of  
7 20-7-204 or 20-7-602;

8 (20) notify the superintendent of public instruction of  
9 a textbook dealer's activities when required under the  
10 provisions of 20-7-605 and otherwise comply with the  
11 textbook dealer provisions of this title;

12 (21) act on district requests to allocate federal money  
13 for indigent children for school food services in accordance  
14 with the provisions of 20-10-205;

15 (22) perform any other duty prescribed from time to time  
16 by this title, any other act of the legislature, the  
17 policies of the board of public education, the policies of  
18 the board of regents relating to community college  
19 districts, or the rules of the superintendent of public  
20 instruction;

21 (23) administer the oath of office to trustees without  
22 the receipt of pay for administering the oath;

23 (24) keep a record of his official acts, preserve all  
24 reports submitted to him the superintendent under the  
25 provisions of this title, preserve all books and

1 instructional equipment or supplies, keep all documents  
2 applicable to the administration of the office, and  
3 surrender all records, books, supplies, and equipment to his  
4 successor the next superintendent;

5 (25) within 90 days after the close of the school fiscal  
6 year, publish an annual report in the county newspaper  
7 stating the following financial information for the school  
8 fiscal year just ended for each district of the county:

9 (a) the total of the cash balances of all funds  
10 maintained by the district at the beginning of the year;

11 (b) the total receipts that were realized in each fund  
12 maintained by the district;

13 (c) the total expenditures that were made from each  
14 fund maintained by the district; and

15 (d) the total of the cash balances of all funds  
16 maintained by the district at the end of the school fiscal  
17 year; and

18 (26) hold meetings for the members of the trustees from  
19 time to time at which matters for the good of the districts  
20 must be discussed."

21 **Section 7.** Section 20-3-210, MCA, is amended to read:

22 "20-3-210. Controversy appeals and hearings. (1) Except  
23 as provided under 20-3-211, the county superintendent shall  
24 hear and decide all matters of controversy arising in his  
25 the county as a result of decisions of the trustees of a

1 district in the county. Except as provided in subsection  
2 (2), exhaustion of administrative remedies under this  
3 chapter is required prior to filing an action in district  
4 court concerning a decision of the trustees. When appeals  
5 are made under 20-4-204 relating to the termination of  
6 services of a tenure teacher or under 20-4-207 relating to  
7 the dismissal of a teacher under contract, the county  
8 superintendent may appoint a qualified attorney at law to  
9 act as a legal adviser who shall assist the superintendent  
10 in preparing findings of fact and conclusions of law.  
11 Subsequently, either the teacher or trustees may appeal to  
12 the superintendent of public instruction under the  
13 provisions for appeal of controversies in this title.  
14 Furthermore--he The county superintendent shall hear and  
15 decide all controversies arising under:

16 (a) ~~20-5-304-or-20-5-311~~ [sections 1 and 2] relating to  
17 the approval of ~~tuition---applications~~ out-of-district  
18 attendance agreements;

19 (b) 20-4-206(4); or

20 (c) any other provision of this title for which a  
21 procedure for resolving controversies is not expressly  
22 prescribed.

23 (2) Exhaustion of administrative remedies is not a  
24 prerequisite to filing an action in district court  
25 concerning a decision of the trustees of a district in the

1 following instances:

2 (a) a state agency has been granted primary  
3 jurisdiction over the matter;

4 (b) the matter is governed by a specific statute; or

5 (c) the board of trustees has acted without  
6 jurisdiction or in excess of its jurisdiction.

7 (3) The county superintendent shall hear the appeal and  
8 take testimony in order to determine the facts related to  
9 the controversy and may administer oaths to the witnesses  
10 that testify at the hearing. He The county superintendent  
11 shall prepare a written transcript of the hearing  
12 proceedings. The decision on the matter of controversy ~~which~~  
13 that is made by the county superintendent ~~shall~~ must be  
14 based upon the facts established at ~~such~~ the hearing.

15 (4) The decision of the county superintendent may be  
16 appealed to the superintendent of public instruction, and if  
17 it is appealed, the county superintendent shall supply a  
18 transcript of the hearing and any other documents entered as  
19 testimony at the hearing to the superintendent of public  
20 instruction.

21 (5) Cost incurred by the office of the county  
22 superintendent ~~shall~~ must be paid from the general fund  
23 budget of the county in which the controversy is initiated."

24 **Section 8.** Section 20-5-314, MCA, is amended to read:

25 "20-5-314. Reciprocal ~~tuition~~ attendance agreement with

1 adjoining state ~~---county--payment--obligation.~~ (1) The  
2 superintendent of public instruction ~~shall--have--the~~  
3 ~~authority-to~~ may execute a reciprocal tuition ATTENDANCE  
4 agreement with the superintendent of public instruction or a  
5 department of education of any state adjoining Montana to  
6 ~~allow-the-eligible-children-of~~ for-a-reciprocal-tuition-rate  
7 for TO ALLOW a child who is a Montana resident to attend  
8 school in the adjoining state and ~~to-allow-children-of~~ for a  
9 child of the adjoining state to attend school in Montana. In  
10 negotiating a reciprocal tuition ATTENDANCE agreement, the  
11 tuition rates prescribed by ~~20-5-305-and-20-5-312--shall--be~~  
12 [section 4] are waived and the reciprocal tuition rate may  
13 be negotiated as a flat amount or an actual-cost-per-pupil  
14 amount. The superintendent of public instruction shall  
15 supply a copy of any reciprocal tuition ATTENDANCE agreement  
16 that is executed to the county superintendent of each county  
17 that may be affected by such the agreement.

18 (2) ~~Any-tuition~~ An out-of-district attendance agreement  
19 approved under the provisions of ~~20-5-3017-20-5-3027-or~~  
20 ~~20-5-311~~ [sections 1 and 2] must be completed for a child's  
21 attendance at a school outside of the state ~~shall-be~~  
22 ~~completed--in--accordance--with--the--applicable--reciprocal~~  
23 ~~tuition-agreement~~ or for an out-of-state child to attend a  
24 school in Montana.

25 ~~(3)--The--county-superintendent-of-schools-of-the-county~~

of the child's district of residence shall make payments  
from:

(a) the county basic tax for elementary schools, as  
provided in 20-9-331, for a child who is placed in  
facilities outside of the state, pursuant to {section  
2(1)(a) or (1)(b)}, but who is not a child with disabilities  
as defined pursuant to the provisions of Title 20, chapter  
7, part 4, or

(b) the county basic special tax for high schools, as  
provided in 20-9-333, for a child who is placed in  
facilities outside the state, pursuant to {section 2(1)(a)  
or (1)(b)}, but who is not a child with disabilities as  
defined pursuant to the provisions of Title 20, chapter 7,  
part 4."

**Section 9.** Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1)  
 Notwithstanding the provisions of subsections (2) through  
 (6), a K-12 school district formed under the provisions of  
 20-6-701 is subject to the provisions of law for high school  
 districts.

(2) The number of elected trustees of the K-12 school  
 district must be based on the classification of the attached  
 elementary district under the provisions of 20-3-341 and  
 20-3-351.

(3) Calculations for the following must be made



1 separately for the elementary school program and the high  
2 school program of a K-12 school district:

3 (a) the calculation of ANB for purposes of determining  
4 the foundation program schedule payments must be in  
5 accordance with the provisions of 20-9-311;

6 (b) the basic county tax and revenues for the  
7 elementary foundation program amount for the district must  
8 be determined in accordance with the provisions of 20-9-331,  
9 and the basic special tax and revenues for the high school  
10 foundation program amount for the district must be  
11 determined in accordance with 20-9-333; and

12 (c) the guaranteed tax base aid for the permissive levy  
13 amount for a K-12 school district must be calculated  
14 separately, using the mill value per elementary ANB and the  
15 mill value per high school ANB as defined in 20-9-366. The  
16 permissive amount to be levied for the K-12 school district  
17 must be prorated based on the ratio of the foundation  
18 program amounts for elementary school programs to the  
19 foundation program amounts for high school programs.

20 (4) The retirement obligation and eligibility for  
21 retirement guaranteed tax base aid for a K-12 school  
22 district must be calculated and funded as a high school  
23 district retirement obligation under the provisions of  
24 20-9-501.

25 (5) For the purposes of budgeting for a K-12 school

1 district, the trustees shall adopt a single fund for any of  
2 the budgeted or nonbudgeted funds described in 20-9-201 for  
3 the costs of operating all grades and programs of the  
4 district.

5 (6) Tuition for attendance in the K-12 school district  
6 must be determined separately for high school pupils and for  
7 elementary pupils under the provisions of ~~chapter-57-part-3~~  
8 [sections 1 through 5], except that the actual expenditures  
9 used for calculations in ~~20-5-305-and-20-5-312~~ [section 4]  
10 must be based on an amount prorated between the elementary  
11 and high school programs in the appropriate funds of each  
12 district in the year prior to the attachment of the  
13 districts."

14 **Section 10.** Section 20-7-420, MCA, is amended to read:

15 "20-7-420. Residency requirements -- financial  
16 responsibility for special education. (1) In accordance with  
17 the provisions of 1-1-215, a child's district of residence  
18 for special education purposes is the residence of ~~his~~ the  
19 child's parents or of ~~his~~ the child's guardian unless  
20 otherwise determined by the court. This applies to a child  
21 living at home, in an institution, or under foster care. If  
22 the parent has left the state, the parent's last known  
23 district of residence is the child's district of residence.

24 (2) The ~~district~~ county of residence is financially  
25 responsible for tuition and transportation as established

1 under ~~20-5-305-and-20-5-312~~ [section 4] for a child with  
2 disabilities, as defined in 20-7-401, including a child who  
3 has been placed by a state agency in a foster care or group  
4 home licensed by the state. The district county of residence  
5 is not financially responsible for tuition and  
6 transportation for a child with disabilities who is placed  
7 by a state agency in an out-of-state public school or an  
8 out-of-state private residential facility.

9 (3) If a child with disabilities who is in need of  
10 special education is placed in an in-state residential  
11 treatment facility or children's psychiatric hospital as  
12 defined in 20-7-436 but the educational placement is in a  
13 public school district, the district county of residence is  
14 responsible for tuition and transportation for the  
15 proportion of time the child is served in the public school  
16 district unless the public school district is operated  
17 primarily for the purpose of providing education to children  
18 who attend the residential facility or hospital.

19 (4) Under the provisions of 20-7-422(3), the  
20 superintendent of public instruction shall provide funds for  
21 the education fees required to provide a free appropriate  
22 public education for a child with disabilities who is in  
23 need of special education and is placed by a state agency in  
24 an out-of-state private residential facility or out-of-state  
25 public school, provided that, in determining the special

1 education services needed for the child with disabilities,  
2 the district of residence has complied with the rules  
3 promulgated under 20-7-402.

4 (5) A state agency that makes a placement of a child  
5 with disabilities is responsible for the room and board and  
6 the treatment of the child."

7 **Section 11.** Section 20-7-421, MCA, is amended to read:

8 "20-7-421. Arranging attendance in another district in  
9 lieu of a special education program -- tuition. (1) In  
10 accordance with a placement decision made by persons  
11 determining an individualized education program for a child  
12 with disabilities, the trustees may arrange for the  
13 attendance of a child in need of special education in  
14 another district within the state of Montana.

15 (2) Tuition and transportation as required under  
16 ~~20-5-305-and-20-5-312~~ [section 4] may be charged as provided  
17 in 20-7-420."

18 **Section 12.** Section 20-7-422, MCA, is amended to read:

19 "20-7-422. Out-of-state placement of children with  
20 disabilities -- payment of costs. (1) In accordance with a  
21 placement made by persons determining an individualized  
22 education program for a child with disabilities, the  
23 trustees of a district may arrange for the attendance of the  
24 child in a special education program offered outside of the  
25 state of Montana. ~~The-arrangements-are-not--subject--to--the~~

1 out-of-state-attendance-provisions-in-20-5-301-and-20-5-311-

2 (2) (a) Except as provided in subsection (3), when the  
3 persons determining the individualized education program of  
4 a child with disabilities who is in need of special  
5 education recommend placement in an out-of-state private  
6 residential facility, the trustees-of--the--district county  
7 ~~superintendent of the county~~ of residence shall negotiate  
8 the amount and manner of payment of all costs associated  
9 with the placement.

10 (b) ~~--If the placement of the child with disabilities has~~  
11 ~~met--the--requirements--of--20-7-402,--the superintendent of~~  
12 ~~public instruction--shall--approve--the--amount--of--special~~  
13 ~~education--instructional fees to be included as a contracted~~  
14 ~~service.--Only the special education instructional--fees--may~~  
15 ~~be--included--as--a--contracted--service for the purposes of~~  
16 ~~20-7-431(1)(a)(iii)(A)-~~

17 (3) Whenever a child with disabilities who is in need  
18 of special education is adjudicated by a court of competent  
19 jurisdiction to be an abused, neglected, or dependent child  
20 as defined in 41-3-102 or a youth in need of supervision or  
21 delinquent youth as defined in 41-5-103 and is placed by a  
22 state agency in an out-of-state private residential  
23 facility, the superintendent of public instruction shall  
24 negotiate with:

25 (a) the provider for the amount and manner of payment

1 of education fees consistent with the individualized  
 2 education program determined for the child under the  
 3 provisions of 20-7-402; and

4 (b) the state agency that makes the placement for the  
 5 portion of the placement costs that represents the child's  
 6 education program.

7 (4) Payments for a child with disabilities as  
 8 negotiated in subsection (3) must be paid by the  
 9 superintendent of public instruction from the state special  
 10 education appropriation."

11 **Section 13.** Section 20-7-424, MCA, is amended to read:

12 "20-7-424. No tuition when attending a state  
 13 institution. When Whenever a child is attending an A  
 14 STATE-FUNDED institution ~~supported-solely-by--funds--of--the~~  
 15 ~~state--of~~ IN Montana, the resident district or county ~~shall~~  
 16 ~~not--be~~ is not required to pay tuition to the state  
 17 institution for ~~such~~ the child, but whenever at the  
 18 recommendation of institution officials ~~such~~ the child  
 19 attends classes conducted by a school within a local  
 20 district, the ~~district-or~~ DISTRICT OR county, ~~whichever-is~~  
 21 ~~applicable,7-wherein~~ where the parents or guardian of the  
 22 child ~~maintain~~ maintains legal residence shall pay tuition  
 23 to the district ~~or-county~~ operating the school in accordance  
 24 with the provisions of ~~20-5-305-or~~ [section 2] or 20-7-421,  
 25 whichever section applies to the circumstances of the child.

1     Transportation payments ~~shall~~ must be made for students  
2     enrolled in ~~such~~ any school district classes or receiving  
3     training, including summer sessions, at the state  
4     institution. The schedule of transportation payments ~~shall~~  
5     must be approved in accordance with existing ~~special~~  
6     education transportation payment schedules and ~~shall~~ must be  
7     approved by the county transportation committee and the  
8     superintendent of public instruction."

9     **Section 14.** Section 20-9-141, MCA, is amended to read:

10     "20-9-141. Computation of general fund net levy  
11     requirement by county superintendent. (1) The county  
12     superintendent shall compute the levy requirement for each  
13     district's general fund on the basis of the following  
14     procedure:

15     (a) Determine the funding required for the district's  
16     final general fund budget less the amount established by the  
17     schedules in 20-9-316 through 20-9-321 by totaling:

18     (i) the district's nonisolated school foundation  
19     program requirement to be met by a district levy as provided  
20     in 20-9-303; and

21     (ii) any additional general fund budget amount adopted  
22     by the trustees of the district under the provisions of  
23     20-9-145 and 20-9-353, including any additional levies  
24     authorized by the electors of the district.

25     (b) Determine the money available for the reduction of

1 --the property tax on the district for the general fund by  
2 totaling:

3 (i) anticipated federal money received under the  
4 provisions of Title I of Public Law 81-874 or other  
5 anticipated federal money received in lieu of that federal  
6 act;

7 (ii) anticipated tuition payments for out-of-district  
8 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,  
9 and 20-5-313 [sections 2 through 4];

10 (iii) general fund balance reappropriated, as  
11 established under the provisions of 20-9-104;

12 (iv) anticipated or reappropriated state impact aid  
13 received under the provisions of 20-9-304;

14 (v) anticipated or reappropriated revenue from property  
15 taxes and fees imposed under 23-2-517, 23-2-803,  
16 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

17 (vi) anticipated net proceeds taxes for new production,  
18 as defined in 15-23-601;

19 (vii) anticipated revenue from local government  
20 severance taxes as provided in 15-36-112;

21 (viii) anticipated revenue from coal gross proceeds  
22 under 15-23-703;

23 (ix) anticipated interest to be earned or reappropriated  
24 interest earned by the investment of general fund cash in  
25 accordance with the provisions of 20-9-213(4);



1 (x) anticipated revenue from corporation license taxes  
2 collected from financial institutions under the provisions  
3 of 15-31-702; and

4 (xi) any other revenue anticipated by the trustees to be  
5 received during the ensuing school fiscal year that may be  
6 used to finance the general fund, excluding any guaranteed  
7 tax base aid.

8 (c) Notwithstanding the provisions of subsection (2),  
9 subtract the money available to reduce the property tax  
10 required to finance the general fund that has been  
11 determined in subsection (1)(b) from any additional general  
12 fund budget amount adopted by the trustees of the district  
13 as the permissive amount under the provisions of 20-9-145 to  
14 determine the general fund permissive net levy requirement.

15 (d) Subtract any amount remaining after the  
16 determination in subsection (1)(c) from any additional  
17 funding requirement to be met by a district levy as provided  
18 in 20-9-303 and 20-9-353 to determine the additional general  
19 fund levy requirement.

20 (2) The county superintendent shall calculate the  
21 number of mills to be levied on the taxable property in the  
22 district to finance the general fund permissive net levy  
23 requirement by dividing the amount determined in subsection  
24 (1)(c) by the sum of:

25 (a) the amount of guaranteed tax base aid that the

1 district will receive for each mill levied, as certified by  
 2 the superintendent of public instruction; and

3 (b) the taxable valuation of the district divided by  
 4 1,000.

5 (3) The net general fund levy requirement determined in  
 6 subsections (1)(c) and (1)(d) must be reported to the county  
 7 commissioners on the second Monday of August by the county  
 8 superintendent as the general fund permissive net levy  
 9 requirement and the additional general fund levy requirement  
 10 for the district, and a levy must be set by the county  
 11 commissioners in accordance with 20-9-142."

12 **Section 15.** Section 20-9-507, MCA, is amended to read:

13 "20-9-507. Miscellaneous programs fund. (1) The  
 14 trustees of a district receiving money from local, state,  
 15 federal, or other sources provided in ~~20-5-307(4)~~,  
 16 ~~20-5-312(8)~~, section 5 and 20-9-321(3) other than money  
 17 under the provisions of Title I of Public Law 81-874 or  
 18 federal money designated for deposit in a specific fund of  
 19 the district shall establish a miscellaneous programs fund  
 20 for the deposit of the money. The money may be a  
 21 reimbursement of miscellaneous program fund expenditures  
 22 already realized by the district or may be a grant of money  
 23 for the financing of expenditures to be realized by the  
 24 district for a special, approved program to be operated by  
 25 the district. When the money is a reimbursement, the money

1 may be expended at the discretion of the trustees for school  
2 purposes. When the money is a grant, the money must be  
3 expended according to the conditions of the program approval  
4 by the superintendent of public instruction or any other  
5 approval agent. Within the miscellaneous programs fund, the  
6 trustees shall cause a separate accounting to be maintained  
7 for each federal grant program and for the aggregate of all  
8 reimbursement money.

9 (2) The financial administration of the miscellaneous  
10 programs fund must be in accordance with the financial  
11 administration provisions of this title for a nonbudgeted  
12 fund."

13 **Section 16.** Section 20-10-105, MCA, is amended to read:

14 "20-10-105. Determination of residence. When the  
15 residence of an eligible transportee is a matter of  
16 controversy and is an issue before a board of trustees, a  
17 county transportation committee, or the superintendent of  
18 public instruction, the residence ~~shall~~ must be established  
19 on the basis of the general state residence law as provided  
20 in 1-1-215. Whenever ~~any-district-or~~ a county is determined  
21 to be responsible for paying tuition for any pupil in  
22 accordance with ~~20-5-3017-20-5-3027-or-20-5-311~~ [sections 2  
23 through 4], the residence of the pupil for tuition purposes  
24 is the residence of the pupil for transportation purposes."

25 **Section 17.** Section 20-10-144, MCA, is amended to read:

1       "20-10-144. Computation of revenues and net tax-levy  
2 requirements for district transportation fund budget. Before  
3 the fourth Monday of July and in accordance with 20-9-123,  
4 the county superintendent shall compute the revenue  
5 available to finance the transportation fund budget of each  
6 district. The county superintendent shall compute the  
7 revenue for each district on the following basis:

8       (1) The "schedule amount" of the preliminary budget  
9 expenditures that is derived from the rate schedules in  
10 20-10-141 and 20-10-142 must be determined by adding the  
11 following amounts:

12       (a) the sum of the maximum reimbursable expenditures  
13 for all approved school bus routes maintained by the  
14 district (to determine the maximum reimbursable expenditure,  
15 multiply the applicable rate per bus mile by the total  
16 number of miles to be traveled during the ensuing school  
17 fiscal year on each bus route approved by the county  
18 transportation committee and maintained by such district);  
19 plus

20       (b) the total of all individual transportation per diem  
21 reimbursement rates for the district as determined from the  
22 contracts submitted by the district multiplied by the number  
23 of pupil-instruction days scheduled for the ensuing school  
24 attendance year; plus

25       (c) any estimated costs for supervised home study or

1 supervised correspondence study for the ensuing school  
2 fiscal year; plus

3 (d) the amount budgeted on the preliminary budget for  
4 the contingency amount permitted in 20-10-143, except if the  
5 amount exceeds 10% of the total of subsections (1)(a),  
6 (1)(b), and (1)(c) or \$100, whichever is larger, the  
7 contingency amount on the preliminary budget must be reduced  
8 to the limitation amount and used in this determination of  
9 the schedule amount; PLUS

10 (E) ANY ESTIMATED COSTS FOR TRANSPORTING A CHILD OUT OF  
11 DISTRICT WHEN THE CHILD HAS MANDATORY APPROVAL TO ATTEND A  
12 DISTRICT OUTSIDE THE DISTRICT OF RESIDENCE.

13 (2) (a) The schedule amount determined in subsection  
14 (1) or the total preliminary transportation fund budget,  
15 whichever is smaller, is divided by 2 and is used to  
16 determine the available state and county revenue to be  
17 budgeted on the following basis:

18 (i) one-half is the budgeted state transportation  
19 reimbursement, except that the state transportation  
20 reimbursement for the transportation of special education  
21 pupils under the provisions of 20-7-442 must be 50% of the  
22 schedule amount attributed to the transportation of special  
23 education pupils; and

24 (ii) one-half is the budgeted county transportation fund  
25 reimbursement and must be financed in the manner provided in

1 20-10-146.

2 (b) When the district has a sufficient amount of cash  
3 for reappropriation and other sources of district revenue,  
4 as determined in subsection (3), to reduce the total  
5 district obligation for financing to zero, any remaining  
6 amount of district revenue and cash reappropriated must be  
7 used to reduce the county financing obligation in subsection  
8 (2)(a)(ii) and, if the county financing obligations are  
9 reduced to zero, to reduce the state financial obligation in  
10 subsection (2)(a)(i).

11 (c) The county revenue requirement for a joint  
12 district, after the application of any district money under  
13 subsection (2)(b), must be prorated to each county  
14 incorporated by the joint district in the same proportion as  
15 the ANB of the joint district is distributed by pupil  
16 residence in each county.

17 (3) The total of the money available for the reduction  
18 of property tax on the district for the transportation fund  
19 must be determined by totaling:

20 (a) anticipated federal money received under the  
21 provisions of Title I of Public Law 81-874 or other  
22 anticipated federal money received in lieu of that federal  
23 act;

24 (b) anticipated payments from other districts for  
25 providing school bus transportation services for the

1 district;

2 (c) anticipated payments from a parent or guardian for  
3 providing school bus transportation services for his a  
4 child;

5 (d) anticipated or reappropriated interest to be earned  
6 by the investment of transportation fund cash in accordance  
7 with the provisions of 20-9-213(4);

8 (e) anticipated or reappropriated revenue from property  
9 taxes and fees imposed under 23-2-517, 23-2-803,  
10 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

11 (f) anticipated revenue from coal gross proceeds under  
12 15-23-703;

13 (g) anticipated net proceeds taxes for new production,  
14 as defined in 15-23-601, and local government severance  
15 taxes on any other production occurring after December 31,  
16 1988;

17 (h) anticipated transportation payments for  
18 out-of-district pupils under the provisions of [sections 1  
19 through 5];

20 (i) any other revenue anticipated by the trustees to be  
21 earned during the ensuing school fiscal year that may be  
22 used to finance the transportation fund; and

23 ~~(i)~~ (j) any fund balance available for reappropriation  
24 as determined by subtracting the amount of the  
25 end-of-the-year fund balance earmarked as the transportation

1 fund operating reserve for the ensuing school fiscal year by  
2 the trustees from the end-of-the-year fund balance in the  
3 transportation fund. The operating reserve may not be more  
4 than 20% of the final transportation fund budget for the  
5 ensuing school fiscal year and is for the purpose of paying  
6 transportation fund warrants issued by the district under  
7 the final transportation fund budget.

8 (4) The district levy requirement for each district's  
9 transportation fund must be computed by:

10 (a) subtracting the schedule amount calculated in  
11 subsection (1) from the total preliminary transportation  
12 budget amount; and

13 (b) subtracting the amount of money available to reduce  
14 the property tax on the district, as determined in  
15 subsection (3), from the amount determined in subsection  
16 (4)(a).

17 (5) The transportation fund levy requirements  
18 determined in subsection (4) for each district must be  
19 reported to the county commissioners on the second Monday of  
20 August by the county superintendent as the transportation  
21 fund levy requirements for the district, and the levy must  
22 be made by the county commissioners in accordance with  
23 20-9-142."

24 **SECTION 18.** SECTION 20-10-146, MCA, IS AMENDED TO READ:

25 "20-10-146. County transportation reimbursement. (1)



1 The apportionment of the county transportation reimbursement  
2 by the county superintendent for school bus transportation  
3 or individual transportation that is actually rendered by a  
4 district in accordance with this title, board of public  
5 education transportation policy, and the transportation  
6 rules of the superintendent of public instruction must be  
7 the same as the state transportation reimbursement payment  
8 except that:

9 (a) if any cash was used to reduce the budgeted county  
10 transportation reimbursement under the provisions of  
11 20-10-144(2)(b), the annual apportionment is limited to the  
12 budget amount; and

13 (b) when the county transportation reimbursement for a  
14 school bus has been prorated between two or more counties  
15 because the school bus is conveying pupils of more than one  
16 district located in the counties, the apportionment of the  
17 county transportation reimbursement must be adjusted to pay  
18 the amount computed under the proration; and

19 (c) when county transportation reimbursement is  
20 required under the mandatory attendance agreement provisions  
21 of [section 2].

22 (2) The county transportation net levy requirement for  
23 the financing of the county transportation fund  
24 reimbursements to districts is computed by:

25 (a) totaling the net requirement for all districts of

1 the county, including reimbursements to a special education  
2 cooperative or prorated reimbursements to joint districts or  
3 reimbursements under the mandatory attendance agreement  
4 provisions of [section 2];

5 (b) determining the sum of the money available to  
6 reduce the county transportation net levy requirement by  
7 adding:

8 (i) anticipated money that may be realized in the  
9 county transportation fund during the ensuing school fiscal  
10 year, including anticipated revenue from property taxes and  
11 fees imposed under 23-2-517, 23-2-803, 61-3-504(2),  
12 61-3-521, 61-3-537, and 67-3-204;

13 (ii) net proceeds taxes and local government severance  
14 taxes on other oil and gas production occurring after  
15 December 31, 1988;

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

17 (iv) any fund balance available for reappropriation from  
18 the end-of-the-year fund balance in the county  
19 transportation fund. The county transportation fund  
20 operating reserve may not be more than 35% of the final  
21 county transportation fund budget for the ensuing school  
22 fiscal year and must be used for the purpose of paying  
23 transportation fund warrants under the county transportation  
24 fund budget.

25 (v) federal forest reserve funds allocated under the

1 provisions of 17-3-213; and

2 (vi) other revenue anticipated that may be realized in  
3 the county transportation fund during the ensuing school  
4 fiscal year; and

5 (c) notwithstanding the provisions of subsection (3),  
6 subtracting the money available as determined in subsection  
7 (2)(b) to reduce the levy requirement from the county  
8 transportation net levy requirement.

9 (3) The net levy requirement determined in subsection  
10 (2)(c) must be reported to the county commissioners on the  
11 second Monday of August by the county superintendent and a  
12 levy must be set by the county commissioners in accordance  
13 with 20-9-142.

14 (4) The county superintendent shall apportion the  
15 county transportation reimbursement from the proceeds of the  
16 county transportation fund. The county superintendent shall  
17 order the county treasurer to make the apportionments in  
18 accordance with 20-9-212(2) and after the receipt of the  
19 semiannual state transportation reimbursement payments."

20 NEW SECTION. **Section 19.** Repealer. Sections 20-5-301,  
21 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307,  
22 20-5-311, 20-5-312, 20-5-313, and 20-7-437, MCA, are  
23 repealed.

24 NEW SECTION. **Section 20.** Codification instruction.  
25 [Sections 1 through 5] are intended to be codified as an

1 integral part of Title 20, chapter 5, part 3, and the  
2 provisions of Title 20, chapter 5, part 3, apply to  
3 [sections 1 through 5].

4 NEW SECTION. Section 21. Effective date --  
5 applicability. [This act] is effective for the school fiscal  
6 year beginning July 1, 1993, and applies to calculations and  
7 payments for tuition for the school fiscal year beginning  
8 July 1, 1993.

-End-

*See 1-19-93*

Amendments to House Bill No. 202  
Third Reading Copy

EXHIBIT NO. 2

DATE 3/19/93

# BILL NO. 202

Requested by Senator Waterman  
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure  
March 17, 1993

1. Title, line 8.

Following: "PROVISIONS;"

Insert: "DEFINING ATTENDANCE CENTER;"

2. Page 2, line 2.

Following: "~~district~~."

Insert: "(2) "Attendance center" means a location, identified by  
a school district, where students are provided an  
instructional program under the administration of a school  
or school district."

Renumber: subsequent subsections

3. Page 4, lines 4 through 9.

Strike: subsection (13) in its entirety

Renumber: subsequent subsections

4. Page 27, line 18.

Strike: "SCHOOL"

*Am Passed 3/17/93*

SENATE EDUCATION  
EXHIBIT NO. 4  
DATE 3/8/93  
BILL NO. H B 443

Amendments to House Bill No. 443  
3rd Reading Copy

Requested by Representative McCulloch  
For the Senate Committee on Education

Prepared by Andrea Merrill  
March 4, 1993

1. Title, line 11.

Following: "MET;"

Insert: "REQUIRING TRUSTEES TO ADOPT A POLICY REGARDING AN APPEAL  
PROCESS FOR DECISIONS TO WITHHOLD A PUPIL'S GRADES, DIPLOMA,  
OR TRANSCRIPTS;"

2. Page 3, line 15.

Strike: "and"

3. Page 3, line 22.

Following: "transferred"

Insert: "; and

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

SENATE EDUCATION  
EXHIBIT NO. 3  
DATE 3/19/93  
BILL NO. 443