

1 House BILL NO. 624  
2 INTRODUCED BY Blumenthal

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SPECIAL  
5 EDUCATION LAWS TO BROADEN ALLOWABLE TRAVEL COSTS FOR SPECIAL  
6 EDUCATION PERSONNEL, INCLUDE SPECIAL EQUIPMENT FOR SCHOOL  
7 BUSES WITHIN ALLOWABLE COSTS, MANDATE TRANSPORTATION FOR  
8 SPECIAL EDUCATION STUDENTS, STRIKE THE PROVISION REQUIRING  
9 THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DISCOVER  
10 CHILDREN IN NEED OF SPECIAL EDUCATION, STRIKE THE PROVISION  
11 ALLOWING FOR SPECIAL EDUCATION FOR PERSONS OVER 25 YEARS OF  
12 AGE, REPEAL A PROVISION WHICH JEOPARDIZES FEDERAL FUNDING,  
13 AND OTHERWISE REVISE SUCH LAWS; AMENDING SECTIONS 75-7803,  
14 75-7806, 75-7813.1, AND 75-7814, R.C.M. 1947; REPEALING  
15 SECTION 75-7812, R.C.M. 1947."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 75-7803, R.C.M. 1947, is amended to  
19 read as follows:

20 "75-7803. Duties of superintendent of public  
21 instruction. The superintendent of public instruction shall  
22 supervise and co-ordinate the conduct of special education  
23 in the state by:

24 (1) recommending to the board of public education for  
25 adoption of those policies necessary to establish a planned

1 and co-ordinated program of special education in the state;  
2 (2) administering the policies adopted by the board of  
3 public education;

4 (3) certifying special education teachers on the basis  
5 of the special qualifications for such teachers as  
6 prescribed by the board of public education;

7 ~~(4) discovering through observation, examination or~~  
8 ~~testing the children in the state who are in need of special~~  
9 ~~education;~~

10 ~~(5)~~(4) determining the type of instruction required by  
11 children needing special education and preparing appropriate  
12 curriculum guides for such instruction;

13 ~~(6)~~(5) seeking appropriate medical, psychiatric, and  
14 psychological assistance from the state department of health  
15 and other public agencies in diagnosing the special  
16 education needs of children, in planning programs, and in  
17 admitting and discharging children from such programs;

18 ~~(7)~~(6) recommending to districts the type of special  
19 education class or program needed to serve the special  
20 education children of such district;

21 ~~(8)~~(7) approving, as they are established or proposed  
22 and annually thereafter, those special education classes or  
23 programs which comply with the laws of the state of Montana,  
24 policies of the board of public education, and the  
25 regulations of the superintendent of public instruction;

1        ~~(9)(B)~~ providing supervision for and consulting with  
 2 district superintendents, principals, teachers and trustees;  
 3        ~~(10)(9)~~ conducting conferences, offering advice and  
 4 otherwise co-operating with parents and other interested  
 5 persons;  
 6        ~~(11)(10)~~ acting as the co-ordinating agency with  
 7 federal agencies, other state agencies, political  
 8 subdivisions of the state, and private bodies on matters  
 9 concerning special education, reserving to the other  
 10 agencies and political subdivisions their full  
 11 responsibilities for other aspects of the care of children  
 12 needing special education; and  
 13        ~~(12)(11)~~ establishing regional special education  
 14 services for children in need of special education in  
 15 accordance with policies of the board of public education.  
 16 Funds for such services shall be appropriated to the  
 17 superintendent of public instruction from state equalization  
 18 funds and shall be coordinated with other federal, state,  
 19 and local funds as may be made available to support regional  
 20 special education programs and services."  
 21        Section 2. Section 75-7806, R.C.M. 1947, is amended to  
 22 read as follows:  
 23        "75-7806. Discretionary establishment of special  
 24 education program. (1) The trustees of any district may  
 25 establish and maintain a special education program for:

1        ~~(1)(a)~~ four (4) or more educable mentally retarded  
 2 children;  
 3        ~~(2)(b)~~ four (4) or more physically handicapped  
 4 children;  
 5        ~~(3)(c)~~ four (4) or more trainable mentally retarded  
 6 children;  
 7        ~~(4)(d)~~ four (4) or more educationally handicapped  
 8 persons between the ages of six (6) and twenty-one (21);  
 9        ~~(5)(e)~~ individual children requiring special education  
 10 such as home or hospital tutoring, school-to-home telephone  
 11 communication, or other individual programs; or  
 12        ~~(6)(f)~~ educable mentally retarded children, trainable  
 13 mentally retarded children, educationally handicapped  
 14 children, or physically handicapped children under the age  
 15 of six (6) years of age when the superintendent of public  
 16 instruction has determined that such programs will:  
 17        ~~(7)(i)~~ assist a child to achieve levels of competence  
 18 that will enable him to participate in the regular  
 19 instruction of the district when he could not participate  
 20 without special education;  
 21        ~~(8)(ii)~~ permit the conservation or early acquisition of  
 22 skills which will provide the child with an equal  
 23 opportunity to participate in the regular instruction of the  
 24 district; or  
 25        ~~(9)(iii)~~ provide other demonstrated educational

1 advantages which will materially benefit the child; or,  
 2 ~~{7}--educable-mentally-retarded-persons,--educationally~~  
 3 ~~handicapped--persons,--or-physically-handicapped-persons-who~~  
 4 ~~are-not-less-than-twenty-one-{21}-or-more--than--twenty-five~~  
 5 ~~{25}---years--of--age--when--the--superintendent--of--public~~  
 6 ~~instruction-has-determined-that-such-programs-will-assist--a~~  
 7 ~~person--to-achieve-levels-of-competence-that-will-enable-him~~  
 8 ~~to-better-participate-in-society;~~

9 ~~{8}{2}~~ ~~Eligibility~~ Eligibility for enrollment in  
 10 special education programs shall be determined under  
 11 regulations of the superintendent of public instruction  
 12 issued pursuant to policies adopted by the board of public  
 13 education."

14 Section 3. Section 75-7813.1, R.C.M. 1947, is amended  
 15 to read as follows:

16 "75-7813.1. Allowable cost schedule for special  
 17 programs -- the superintendent of public instruction to make  
 18 rules -- annual accounting. (1) For the purpose of  
 19 determining the maximum-budget-without-a-vote for special  
 20 education as defined in sections 75-6905 (20) and 75-6905  
 21 (21), the following schedule of allowable costs shall be  
 22 followed by the school district in preparation of its  
 23 special education budget for state aid request purposes and  
 24 by the superintendent of public instruction in his review  
 25 and approval of the budget for the purposes of determining

1 the amount of the maximum-budget-without-a-vote for special  
 2 education for the district, and as used in this schedule,  
 3 "full-time special pupil" and "regular ANB" are to be  
 4 determined in accordance with sections 75-6902 and 75-6903.

5 (a) Administration; salaries, benefits, supplies and  
 6 other expenses of the superintendent's office, the office of  
 7 the board of trustees, and the business office including:

8 (i) salaries of professional administrative  
 9 personnel--a portion of the entire cost corresponding to the  
 10 portion of entire working time which each such person  
 11 devotes to the special program;

12 (ii) salaries of clerical personnel for administrative  
 13 staff--the amount allowed for budget purposes per full-time  
 14 special pupil may not exceed the amount budgeted per regular  
 15 ANB for the current year;

16 (iii) supplies and other expenses--the amount allowed  
 17 for budget purposes per full-time special pupil may not  
 18 exceed the amount budgeted per regular ANB for the current  
 19 year.

20 (b) Instruction; salaries, benefits, supplies,  
 21 textbooks and other expenses including:

22 (i) salaries of principals and clerical personnel--a  
 23 portion of the entire cost corresponding to the portion of  
 24 the entire working time which each such person devotes to  
 25 the special program but not to exceed one and seventy-five

1 hundredths (1.75) times the amount budgeted per regular ANB  
2 for the current year;

3 (ii) salaries and benefits of special program teachers,  
4 regular program teachers, teacher aides, special education  
5 supervisors, audiologists, and speech and hearing  
6 clinicians--the entire cost if employed full-time in the  
7 special program. If such personnel are shared between  
8 special and regular programs--a portion of the entire cost  
9 corresponding to the entire working time which each such  
10 person devotes to the special program;

11 (iii) teaching supplies and textbooks--if used  
12 exclusively for special programs the actual total cost. If  
13 shared with regular programs--the amount allowed for budget  
14 purposes per full-time special pupil may not exceed the  
15 amount budgeted per regular ANB for the current year;

16 (iv) other expenses--with the exception of the  
17 following items, the amount allowed for budget purposes per  
18 full-time special pupil may not exceed the amount budgeted  
19 per regular ANB for the current year:

20 (A) Contracted services, including fees paid for  
21 professional advice and consultation regarding special  
22 students or the special program, and the delivery of special  
23 education services by non-profit agencies--the actual total  
24 cost.

25 (B) Transportation costs for special education

1 personnel who must travel ~~on-an-itinerant-basis-from-school~~  
2 ~~to-school-or-district-to-district--~~ in order to fulfill the  
3 ~~responsibilities of their particular job description--~~the  
4 actual cost to the district calculated on the same mileage  
5 rate basis used by the district for other travel  
6 reimbursement purposes.

7 ~~(C) Special equipment for school buses necessary to~~  
8 ~~accommodate special students--the actual total cost.~~

9 (c) Library services; salaries, books and periodicals  
10 and other expenses--the amount allowed for budget purposes  
11 per full-time special pupil may not exceed the amount  
12 budgeted per regular ANB for the current year.

13 (d) Supportive services; salaries, benefits and other  
14 expenses:

15 (i) salaries and benefits of professional supportive  
16 personnel--the entire cost if employed full-time in the  
17 special program. If such personnel are shared between  
18 special and regular programs--a portion of the entire cost  
19 corresponding to the entire working time which each such  
20 person devotes to the special program.

21 Professional supportive personnel may include  
22 counselors, social workers, psychologists, psychometrists,  
23 physicians, nurses, and physical and occupational  
24 therapists.

25 (ii) salaries and benefits of clerical personnel for

1 professional personnel in supportive services--the entire  
 2 cost if employed full-time in the special program. If such  
 3 personnel are shared between special and regular programs--a  
 4 portion of the entire cost corresponding to the entire  
 5 working time which each such person devotes to the special  
 6 program;

7 (iii) other expenses--the amount allowed for budget  
 8 purposes per full-time special pupil may not exceed the  
 9 amount budgeted per regular ANB for the current year.

10 (e) Operation of plant; salaries, benefits, heat for  
 11 buildings, utilities except heating, and other supplies and  
 12 expenses--the superintendent of public instruction shall  
 13 make regulations fixing a ratio for operation spending per  
 14 full-time special pupil to such spending per current year's  
 15 regular ANB. The proration shall be based on the ratio  
 16 between the number of special pupils per class and the  
 17 number of regular pupils per class and any other relevant  
 18 factors.

19 (f) Maintenance of plant; salaries, benefits,  
 20 replacements and parts, contracted services--the  
 21 superintendent of public instruction shall make regulations  
 22 fixing a ratio for maintenance spending per full-time  
 23 special pupil to such spending per current year's regular  
 24 ANB. The proration shall be based on the ratio between the  
 25 number of special pupils per class and the number of regular

1 pupils per class and any other relevant factors.

2 (g) School food services--the amount allowed for  
 3 budget purposes per full-time special pupil may not exceed  
 4 the amount budgeted per regular ANB for the current year.

5 (h) Student body and auxiliary services; salaries and  
 6 other expenses--the amount allowed for budget purposes per  
 7 full-time special pupil may not exceed the amount budgeted  
 8 per regular ANB for the current year.

9 (i) Other current charges; insurance, rental of land  
 10 and buildings, and other expenses:

11 (i) rental of land and buildings, when such premises  
 12 meet all requirements of the board of public education and  
 13 the department of health and environmental sciences--no such  
 14 costs may be charged to the special program without specific  
 15 authorization from the superintendent of public instruction  
 16 unless the land and buildings are shared between the special  
 17 and regular pupils, and the amount of the total cost that  
 18 may be charged to the special program may not exceed  
 19 whatever proportion the number of special full-time pupils  
 20 are to the total enrollment of the school district of the  
 21 previous year. Provided, however, that any school district  
 22 renting land and buildings for special education purposes  
 23 prior to the 1974-75 school year is not subject to this  
 24 requirement, and will charge a portion of the total cost  
 25 when shared with regular programs, to be prorated based on

1 the amount of building space used by each type of program;

2 (ii) insurance--the superintendent of public  
3 instruction shall make regulations fixing a ratio for  
4 insurance spending per full-time special pupil to such  
5 spending per current year's regular ANB. The proration shall  
6 be based on the ratio between the number of special pupils  
7 per class and the number of regular pupils per class and any  
8 other relevant factors;

9 (iii) all other expenses--the amount allowed for budget  
10 purposes per full-time special pupil for a school year may  
11 not exceed the amount budgeted per regular ANB for the  
12 current school year.

13 (j) Capital outlay; sites, buildings, remodeling and  
14 improvements, equipment and other:

15 (i) classroom remodeling and improvements for a  
16 program for physically handicapped students--the actual  
17 total cost; all other remodeling and improvements--the  
18 amount allowed for budget purposes per full-time special  
19 pupil for a school year may not exceed the amount budgeted  
20 per regular ANB for the current school year;

21 (ii) equipment--the actual total cost;

22 (iii) sites--buildings--no such costs may be charged to  
23 the special program unless the sites and/or buildings are  
24 shared between the special and regular students, and the  
25 amount of the total cost that may be charged to the special

1 program may not exceed whatever proportion the number of  
2 special full-time pupils are to the total full-time  
3 enrollment of the school.

4 (iv) other--the amount allowed for budget purposes may  
5 not exceed the amount budgeted per regular ANB for the  
6 current year.

7 (k) Room and board costs when the special pupil has to  
8 attend a program at such a distance from his home that  
9 commuting is undesirable as determined by the superintendent  
10 of public instruction.

11 (2) The superintendent of public instruction shall,  
12 prior to the time when a district must have prepared its  
13 budget for the 1975-1976 year, promulgate rules and  
14 regulations, in accordance with the policies of the board of  
15 public education, for:

16 (a) keeping necessary records for supportive and  
17 administrative personnel and any personnel shared between  
18 special and regular programs;

19 (b) defining the total special program caseload that  
20 shall be assigned to specific support persons and the kinds  
21 of professional specialties to be considered relevant to the  
22 program before the district may count an allowable cost  
23 under subsection (1)(d) of this section;

24 (c) defining the kinds or types of equipment whose  
25 costs may be counted under subsections (1)(j)(ii) of this

1 section; and

2 (d) prescribing formulas for calculating the portion  
3 of operation and maintenance costs, insurance, building and  
4 rental costs properly allocable to the special programs, as  
5 prescribed by subsections (1)(e), (1)(f), (1)(i)(i), and  
6 (1)(i)(ii) of this section.

7 (3) An annual accounting of all expenditures of school  
8 district general fund monies for special education shall be  
9 made by the district trustees on forms furnished by the  
10 superintendent of public instruction. The superintendent of  
11 public instruction shall make rules for such accounting."

12 Section 4. Section 75-7814, R.C.M. 1947, is amended to  
13 read as follows:

14 "75-7814. Special education child eligibility for  
15 transportation. With the approval of the superintendent of  
16 public instruction, any special education child shall be  
17 eligible for transportation ~~which shall be provided by the~~  
18 ~~appropriate district~~ when:

19 (1) he is enrolled in a special education class or  
20 program operated by the district of such child's residence;

21 (2) he is enrolled under an approved tuition agreement  
22 in a special education class or program operated by a  
23 Montana district other than the child's resident district;  
24 or

25 (3) he is enrolled under an approved tuition agreement

1 in a special education class or program operated outside of  
2 the state of Montana."

3 Section 5. Repealer. Section 75-7812, R.C.M. 1947, is  
4 repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 311-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 19 77, there is hereby submitted a Fiscal Note for House Bill 624 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 624 revises special education laws by broadening allowable travel costs for special education personnel, providing special equipment for school buses, mandating transportation for special education students, and striking numerous existing provisions from the statutes.

## ASSUMPTIONS:

1. The fiscal note provides estimates for only two provisions of the proposed legislation: bus equipment and travel for special education personnel. Costs associated with the other provisions are indeterminable.
2. Three (3) percent of the 1,400 school buses in Montana would be converted or replaced by buses equipped for special education.
3. The additional special education costs for buses would be \$1,500 per bus.
4. There are 25 special education administrators and 1,500 teachers in the state.
5. Administration would attend one out-of-state meeting and five in-state meetings per year. Teachers would attend one state meeting per year.

## FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Bus equipment	\$ 63,000	\$ 0
Special education travel	<u>168,500</u>	<u>178,600</u>
	<u>\$231,500</u>	<u>\$178,600</u>

## CONCLUSION:

Based on the estimates provided, enactment of House Bill 624 will result in additional 1979 Biennium expenditures of \$410,100. However, the provision on line 2 of page 8 which provides for transportation expenses for special education personnel could entail costs far in excess of those estimated since there is no limiting language.

*Richard L. Long*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 4, 1977