

1 Senate BILL NO. 62  
 2 INTRODUCED BY Fasbender, Matho

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER ALL OF THE  
 5 POWERS, DUTIES, AND FUNCTIONS OF THE SUPERINTENDENT OF  
 6 PUBLIC INSTRUCTION, EXCEPT THOSE PRESCRIBED BY THE 1972  
 7 MONTANA CONSTITUTION, TO THE BOARD OF PUBLIC EDUCATION;  
 8 PROVIDING FOR AN EXECUTIVE DIRECTOR OF THE BOARD OF PUBLIC  
 9 EDUCATION; AMENDING SECTIONS 44-127, 71-2406, 75-5612,  
 10 75-5615, 75-5706, 75-6010, 75-6318, 75-6719, 75-6917,  
 11 75-6918, 75-7502, 75-7707, 75-7803, 75-8002, 75-9205,  
 12 81-104, 82A-212, AND 82A-511; REPEALING SECTIONS 75-5704,  
 13 75-5705, 75-5707, AND 75-7703, R.C.M. 1947."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Substitution of board of public education  
 17 for superintendent of public instruction in various  
 18 sections. Any reference in sections 10-803, 14-675, 16-4022,  
 19 23-3702, 31-127, 31-129, 32-4605, 66-803, 66-1227, 66-1231,  
 20 69-4110, 71-2414, 75-5709, 75-5802, 75-5805, 75-5809,  
 21 75-5811, 75-5929, 75-5932, 75-5933, 75-6003, 75-6005,  
 22 75-6006, 75-6008, 75-6009, 75-6011, 75-6101, 75-6104,  
 23 75-6108, 75-6113, 75-6130, 75-6207, 75-6209, 75-6315,  
 24 75-6316, 75-6319, 75-6416, 75-6516.2, 75-6527, 75-6528,  
 25 75-6543, 75-6544, 75-6545, 75-6602, 75-6603, 75-6604,

1 75-6605, 75-6608, 75-6609, 75-6702, 75-6704, 75-6705,  
 2 75-6710, 75-6720, 75-6721, 75-6723, 75-6725, 75-6728,  
 3 75-6729, 75-6802, 75-6803, 75-6804, subsections (1) and (5)  
 4 of 75-6806, 75-6902, 75-6903, 75-6904, 75-6905, 75-6906,  
 5 75-6919, 75-6920, 75-6921, 75-6922, 75-6923, 75-6925,  
 6 75-7002, 75-7003, 75-7005, 75-7006, 75-7008, 75-7012,  
 7 75-7014, 75-7015, 75-7016, 75-7017, 75-7018, 75-7019,  
 8 75-7020, 75-7022, 75-7023, 75-7207, 75-7210, 75-7212,  
 9 75-7303, 75-7306, 75-7307, 75-7308, 75-7403, 75-7404,  
 10 75-7405, 75-7505, 75-7506, 75-7511, 75-7605, 75-7607,  
 11 75-7608, 75-7710, 75-7714, 75-7804, 75-7805, 75-7806,  
 12 75-7808, 75-7810, 75-7811, 75-7812, 75-7813.1, 75-7814,  
 13 75-7815, 75-7901, 75-7904, 75-7905, 75-7906, 75-8003,  
 14 75-8004, 75-8005, 75-8007, 75-8129, 75-8206, 75-8303,  
 15 75-8310, 80-2711, 82-3101, 82-3105, AND 82-4521, R.C.M.  
 16 1947, to the superintendent of public instruction, state  
 17 superintendent of public instruction, state superintendent,  
 18 office of the superintendent of public instruction, or  
 19 office of the state superintendent of public instruction  
 20 means the board of public education; and all pronouns such  
 21 as he, him, his, who, or similar pronouns referring to the  
 22 superintendent of public instruction in those sections are  
 23 changed to it, its, which, or other appropriate pronoun,  
 24 whichever is grammatically correct for reference to the  
 25 board of public education within the context of each of

1 those sections.

2 Section 2. Deletion of reference to superintendent of  
3 public instruction in various sections. Any reference in  
4 sections 75-5607, 75-5934, 75-6002, 75-6539, subsection (6)  
5 of 75-6806, 75-7004, 75-7501, 75-7520, 75-7802, 75-9303,  
6 82-601, 82-4001, 82A-107, and 82A-110, R.C.M. 1947, to the  
7 superintendent of public instruction, state superintendent  
8 of public instruction, state superintendent, office of the  
9 superintendent of public instruction, or office of the state  
10 superintendent of public instruction and all words in those  
11 sections which are dependent upon any such reference for  
12 their meaning are deleted.

13 Section 3. Appointment of executive director of the  
14 board of public education -- term -- compensation -- staff.

15 (1) The board of public education shall appoint an executive  
16 director.

17 (2) The board of public education shall prescribe the  
18 term and duties of the executive director and set his  
19 compensation.

20 (3) The board of public education shall provide  
21 sufficient staff, office space, and supplies to the  
22 executive director for him to carry out his duties.

23 Section 4. Section 44-127, R.C.M. 1947, is amended to  
24 read as follows:

25 "44-127. State library commission created. A

1 commission is hereby created to be known as the state  
2 library commission. This commission shall consist of the  
3 librarian of the state university, ~~the state superintendent~~  
4 ~~of public instruction~~ a designee of the board of public  
5 education, ex officio member, and the three members to be  
6 appointed by the governor, who shall serve ~~one 1, two 2,~~ and  
7 ~~three 3~~ years respectively. As these terms expire, annually  
8 thereafter one person shall be appointed, for a term of  
9 ~~three 3~~ years. The commission shall annually elect a  
10 chairman from its membership. The members of ~~said the~~  
11 commission ~~shall~~ may receive no compensation for their  
12 services except their travel expenses, as provided for in  
13 ~~sections 59-538, 59-539, and 59-801.~~"

14 Section 5. Section 71-2406, R.C.M. 1947, is amended to  
15 read as follows:

16 "71-2406. Advisory council. (1) The governor shall  
17 appoint a developmental disabilities advisory council in  
18 accordance with ~~section~~ 82A-110.

19 (2) The council is composed of ~~twenty-one (21)~~ members  
20 appointed or reappointed annually by the governor, and  
21 consists of the following:

22 (a) the directors of the departments of social and  
23 rehabilitation services, health and environmental sciences,  
24 and institutions, or their designees;

25 (b) ~~the superintendent of public instruction or a~~

1 designee of the board of public education:

2 (c) one ~~(1)~~ recognized private professional in each  
3 discipline of medicine, law, psychology, and social work;

4 (d) two members of the state senate;

5 (e) two members of the state house of representatives;

6 (f) four ~~(4)~~ consumers or representatives of consumers  
7 or consumer organizations in the discipline of developmental  
8 disabilities; and

9 (g) one ~~(1)~~ member of each of the five ~~(5)~~ regional  
10 councils provided for in 71-2407, who shall also be  
11 consumers or representatives of consumers or consumer  
12 organizations in the discipline of developmental  
13 disabilities.

14 (3) The advisory council shall:

15 (a) advise the department, other state agencies,  
16 councils, local governments, and private organizations on  
17 programs for services to the developmentally disabled;

18 (b) develop a plan for a statewide system of community  
19 based services for the developmentally disabled; and

20 (c) serve in any capacity required by federal law for  
21 the administration of federal programs for services to the  
22 developmentally disabled.

23 (4) The advisory council is allocated to the  
24 department."

25 Section 6. Section 75-5612, R.C.M. 1947, is amended to

1 read as follows:

2 "75-5612. Officers of boards -- quorum. (1) The board  
3 of public education and the board of regents shall each  
4 select a chairman from among their appointed members.

5 (2) The ~~superintendent of public instruction executive~~  
6 director of the board of public education shall serve as  
7 secretary to the board of public education, and the  
8 commissioner shall serve as secretary to the board of  
9 regents.

10 (3) A majority of the appointed members of each board  
11 constitutes a quorum for the transaction of business."

12 Section 7. Section 75-5615, R.C.M. 1947, is amended to  
13 read as follows:

14 "75-5615. Combined boards as state board -- budget  
15 review -- officers -- meetings -- quorum. (1) The board of  
16 public education and the board of regents meeting together  
17 as the state board of education shall be responsible for  
18 long-range planning, and for coordinating and evaluating  
19 policies and programs for the public educational systems of  
20 the state. The state board of education shall review and  
21 unify the budget requests of educational entities assigned  
22 by law to the board of public education, the board of  
23 regents, or the state board of education and shall submit a  
24 unified budget request with recommendations to the  
25 appropriate state agency.

1 (2) The governor is the president of, the  
 2 ~~superintendent of public instruction executive director of~~  
 3 ~~the board of public education~~ is the secretary to, and the  
 4 commissioner shall be a ~~non-voting~~ nonvoting participant at  
 5 all meetings of the state board of education.

6 (3) The state board of education may select a member  
 7 to chair its meetings in the absence of the governor.

8 (4) A tie vote at any meeting may be broken by the  
 9 governor.

10 (5) A majority of members appointed to the board of  
 11 public education and the board of regents shall constitute a  
 12 quorum for transaction of business as the state board of  
 13 education.

14 (6) The board of public education and the board of  
 15 regents shall meet at least twice yearly as the state board  
 16 of education on any two of the dates specified in ~~section 5,~~  
 17 ~~subsection (1) [75-5613(1)].~~

18 (7) Other meetings of the state board of education may  
 19 be called by the governor, by both the secretary to the  
 20 board of public education and the secretary to the board of  
 21 regents, or by joint action of eight ~~(8)~~ appointed members,  
 22 four ~~(4)~~ each from the board of public education and the  
 23 board of regents. All meetings of the state board of  
 24 education shall be for the purposes set forth in subsection  
 25 (1) above or for the purpose of considering other matters of

1 common concern to the board of public education and the  
 2 board of regents, but the state board of education may not  
 3 exercise the powers and duties assigned by the 1972 Montana  
 4 constitution and by law to the board of public education and  
 5 the board of regents."

6 Section 8. Section 75-5706, R.C.M. 1947, is amended to  
 7 read as follows:

8 "75-5706. Administrative powers and duties. In  
 9 administering ~~the~~ its affairs of ~~his office,~~ the  
 10 ~~superintendent of public instruction board of public~~  
 11 ~~education shall have~~ has the power and it ~~shall be his~~ is  
 12 its duty to:

13 (1) keep a record of ~~his~~ its official acts and all  
 14 documents applicable to the administration of ~~the office~~ its  
 15 affairs, preserve all official reports submitted to ~~him~~ it  
 16 for the period required by law, ~~and surrender them to his~~  
 17 ~~successor at the expiration of his term;~~

18 (2) preserve all books, educational media,  
 19 instructional equipment, and any other articles of  
 20 educational interest and value which come into ~~his~~ its  
 21 possession, ~~and surrender them to his successor at the~~  
 22 ~~expiration of his term;~~

23 (3) cause the printing and distribution of all reports  
 24 and forms necessary for the proper conduct of business by a  
 25 district or school in the manner prescribed by the

1 provisions of this ~~title~~ title;

2 (4) provide and keep an official seal of the  
3 ~~superintendent of public instruction board of public~~  
4 education by which ~~his~~ its official acts shall be  
5 authenticated;

6 (5) whenever ~~he deems~~ it considers necessary but not  
7 more than once every ~~four~~ (4) years, cause the printing of a  
8 complete and updated volume of the school laws of the state  
9 which shall be offered and sold at cost of the printing and  
10 shipping to any school official or other person;

11 (6) whenever a replacement volume is not printed under  
12 the provisions of subsection (5), cause the printing of a  
13 cumulative supplement to the most recent volume of school  
14 laws immediately after the conclusion of any session of the  
15 legislative assembly at which new school laws or amendments  
16 to the school laws were adopted. It shall be offered and  
17 sold at cost of the printing and shipping to any school  
18 official or other person;

19 (7) submit a written report to the governor of ~~his~~ its  
20 activities during the immediately preceding fiscal biennium  
21 in accordance with the provisions of ~~section~~ 82-4002, ~~R. C.~~  
22 ~~M., 1947~~;

23 (8) if ~~deemed~~ considered necessary, publish a biennial  
24 report of the ~~superintendent of public instruction board of~~  
25 public education, as prescribed by ~~section~~ 82-4002, ~~R. C.~~

1 ~~M., 1947~~;

2 (9) counsel with and advise county superintendents on  
3 matters involving the welfare of the schools and, when  
4 requested, shall give a county superintendent a written  
5 answer to any question concerning school law;

6 (10) call an annual meeting of the county  
7 superintendents when ~~he deems~~ it considers it advisable;

8 (11) as far as ~~he shall find~~ it considers practicable,  
9 designate qualified persons to address public assemblies on  
10 subjects pertaining to education in Montana; and

11 (12) faithfully work in all practical and possible ways  
12 for the welfare of the public schools of the state."

13 Section 9. Section 75-6010, R.C.M. 1947, is amended to  
14 read as follows:

15 "75-6010. Suspension, revocation, and denial --  
16 appeals. The board of public education ~~shall have the power~~  
17 ~~and authority to~~ may suspend or revoke the teacher  
18 certificate of any person for any of the following reasons:

19 (1) ~~any~~ any reason that would have required or  
20 authorized the denial of the teacher certificate to such  
21 person if it had been known at the time such certificate was  
22 issued;

23 (2) ~~by~~ by reason of incompetency, immorality,  
24 intemperance, physical inability, or conviction of a felony  
25 under state law; or

1 (3) ~~By~~ by reason of the failure of the certificate  
 2 holder to comply with the terms of any contract between such  
 3 holder and the trustees of a district without the consent of  
 4 the trustees in writing or without good cause. Such breach  
 5 of contract shall constitute unprofessional conduct.

6 Whenever a substantial reason for the suspension or  
 7 revocation of the teacher certificate of any person is  
 8 brought to the attention of the board of public education,  
 9 it shall afford the person an opportunity to defend himself  
 10 and his qualifications against the charge before the board.  
 11 ~~The superintendent of public instruction~~ board of public  
 12 education shall give a ~~thirty (30) day~~ 30-day written  
 13 notification to any person when the board of ~~education~~  
 14 intends to consider the suspension or revocation of his  
 15 certificate. The board of public education shall implement  
 16 an investigation of the reasons for the suspension or  
 17 revocation charge and then, if the investigation warrants  
 18 further action, conduct a hearing in the manner provided by  
 19 board of public education policies.

20 After a full investigation and proper hearing, the  
 21 board of public education may suspend or revoke the person's  
 22 teacher certificate, except that in cases of a first  
 23 violation under subsection (3) above, the maximum penalty  
 24 shall may not be more than a suspension of the person's  
 25 certificate for the current school fiscal year and the

1 ensuing school fiscal year.

2 ~~Whenever the superintendent of public instruction~~  
 3 ~~denies the issuance or the renewal of a teacher certificate~~  
 4 ~~to a person, he may appeal the denial to the board of~~  
 5 ~~education. The appeal shall be heard in the same manner~~  
 6 ~~provided for in this section for suspension or revocation~~  
 7 ~~and in accordance with the policies of the board of~~  
 8 ~~education. The decision of the board of education shall be~~  
 9 ~~final."~~

10 Section 10. Section 75-6318, R.C.M. 1947, is amended  
 11 to read as follows:

12 "75-6318. Reciprocal tuition agreement with adjoining  
 13 state. ~~The superintendent of public instruction shall have~~  
 14 ~~the authority to~~ board of public education may execute a  
 15 reciprocal tuition agreement with the superintendent of  
 16 public instruction or a department of education of any state  
 17 adjoining Montana to allow the eligible children of Montana  
 18 to attend school in the adjoining state and to allow  
 19 children of the adjoining state to attend school in Montana.  
 20 In negotiating a reciprocal tuition agreement, the tuition  
 21 rates prescribed by ~~section~~ 75-7201 and ~~section~~ 75-6317  
 22 shall be waived and the reciprocal tuition rate may be  
 23 negotiated as a flat amount or an actual-cost-per-pupil  
 24 amount. ~~The superintendent of public instruction~~ board of  
 25 public education shall supply a copy of any reciprocal

1 tuition agreement that is executed to the county  
2 superintendent of each county that may be affected by such  
3 agreement.

4 Any tuition agreement approved under the provisions of  
5 ~~sections~~ 75-6313, 75-6314, or 75-6316 for a child's  
6 attendance at a school outside of the state shall be  
7 completed in accordance with the applicable reciprocal  
8 tuition agreement."

9 Section 11. Section 75-6719, R.C.M. 1947, is amended  
10 to read as follows:

11 "75-6719. Completion, filing, and delivery of final  
12 budgets. After the final budget of each district has been  
13 adopted by the budget board, and the county commissioners  
14 have levied the taxes to support such budgets, the county  
15 superintendent, as clerk of the budget board, shall complete  
16 all the remaining portions of the budget forms and shall  
17 file a copy of the final budgets in the office of the budget  
18 board. The county superintendent shall also:

19 (1) send the final budget information to the  
20 ~~superintendent of public instruction board of public~~  
21 ~~education~~ on the forms provided by the ~~superintendent board,~~  
22 on or before the first day of September;

23 (2) deliver a copy of the final budget for each  
24 district to the county treasurer on or before the first day  
25 of September; and

1 (3) send a copy of each district's final budget to the  
2 applicable school district on or before the first day of  
3 September."

4 Section 12. Section 75-6917, R.C.M. 1947, is amended  
5 to read as follows:

6 "75-6917. Purpose of state equalization aid and duties  
7 of the board of public education for distribution. Except as  
8 provided in 75-6917.1, the moneys available for state  
9 equalization aid shall be distributed and apportioned to  
10 provide an annual minimum operating revenue for the  
11 elementary and high schools in each county, exclusive of  
12 revenues required for debt service and for the payment of  
13 any and all costs and expense incurred in connection with  
14 any adult education program, recreation program, school food  
15 services program, new buildings, new grounds, and  
16 transportation.

17 The board of public education shall administer and  
18 distribute the state equalization aid in the manner and with  
19 the powers and duties provided by law. To this end, the  
20 board of public education shall:

21 (1) adopt policies for regulating the distribution of  
22 state equalization aid in accordance with the provisions of  
23 law;

24 (2) have the power to require such reports from the  
25 county superintendents, budget boards, county treasurers,

1 and trustees as it may ~~deem~~ consider necessary; and

2 (3) ~~order the superintendent of public instruction to~~  
3 distribute the state equalization aid on the basis of each  
4 district's annual entitlement to such aid as established by  
5 the ~~superintendent of public instruction~~ board of public  
6 education. In ~~ordering the distribution of~~ distributing  
7 state equalization aid, the board of public education ~~shall~~  
8 may not increase or decrease the state equalization aid  
9 distribution to any district on account of any difference  
10 which may occur during the school fiscal year between  
11 budgeted and actual receipts from any other source of school  
12 revenue.

13 Should a district receive more state equalization aid  
14 than it is entitled to, the county treasurer must return the  
15 overpayment to the state upon the request of the  
16 ~~superintendent of public instruction~~ board of public  
17 education in the manner prescribed by the municipal division  
18 of the department of community affairs."

19 Section 13. Section 75-6918, R.C.M. 1987, is amended  
20 to read as follows:

21 "75-6918. ~~Duties~~ Other duties of the ~~superintendent of~~  
22 ~~public instruction~~ board of public education for state  
23 equalization aid distribution. The ~~superintendent of public~~  
24 ~~instruction~~ board of public education shall administer the  
25 distribution of the state equalization aid by:

1 (1) establishing each district's annual entitlement to  
2 state equalization aid, based on the data reported in the  
3 budget for each district that has been duly adopted for the  
4 current school fiscal year and verified by the  
5 ~~superintendent of public instruction,~~ board of public  
6 education and by applying such verified data under the  
7 provisions of the state equalization aid allocation  
8 procedure prescribed in ~~section~~ 75-6919;

9 ~~(2) recommending to the board of public education the~~  
10 ~~annual entitlement of all districts to state equalization~~  
11 ~~aid to enable the board of public education to order the~~  
12 ~~distribution of state equalization aid;~~

13 ~~(2)~~ (2) distributing by state warrant the state  
14 equalization aid for each district entitled to such aid, to  
15 the county treasurer of the county where the district is  
16 located, ~~in accordance with the distribution ordered by the~~  
17 ~~board of public education;~~

18 ~~(3)~~ (3) keeping a record ~~in his office~~ of the full and  
19 complete data concerning moneys available for state  
20 equalization aid and the entitlements for state equalization  
21 aid of the several districts of the state;

22 ~~(4)~~ (4) reporting to the board of public education the  
23 ~~estimated amount which will be available for state~~  
24 ~~equalization aid;~~ and

25 ~~(4)~~ (4) reporting to both branches of the state



1 legislative assembly in any year when a session is convened  
 2 the figures and data available ~~in his office~~ to the board  
 3 concerning distributions of state equalization aid during  
 4 the preceding ~~two~~ 2 school fiscal years, the amount of state  
 5 equalization aid then available, the apportionment made of  
 6 such available moneys but not yet distributed, and the  
 7 latest estimate of accruals of moneys available for state  
 8 equalization aid."

9 Section 14. Section 75-7502, R.C.M. 1947, is amended  
 10 to read as follows:

11 "75-7502. Accreditation of schools. Every school year  
 12 the conditions under which each elementary school, middle  
 13 school, junior high school, and high school operates shall  
 14 be reviewed by the ~~superintendent of public instruction~~  
 15 board of public education to determine each school's  
 16 compliance with the standards of accreditation. The  
 17 accreditation status of every school shall then be  
 18 established by the board of public education ~~upon the~~  
 19 ~~recommendation of the superintendent of public instruction,~~  
 20 and notification of such status for the applicable school  
 21 year shall be given to each district."

22 Section 15. Section 75-7707, R.C.M. 1947, is amended  
 23 to read as follows:

24 "75-7707. ~~Post-secondary~~ Postsecondary  
 25 vocational-technical center designation. ~~Post-secondary~~

1 postsecondary vocational-technical centers shall be  
 2 designated by the board of public education only upon  
 3 direction of the legislature. Applications for designation  
 4 must be made in accordance with the following procedure:

5 (1) The trustees of any high school district, of a  
 6 county high school, of a community college district, or the  
 7 governing board of any unit of the Montana university system  
 8 may submit an application for designation of a  
 9 ~~post-secondary~~ postsecondary vocational-technical center to  
 10 be operated by such trustees or governing board. The  
 11 application for designation shall be ~~submitted~~ submitted in  
 12 accordance with the time, data and form requirements  
 13 prescribed by the board of public education. Applicant high  
 14 school districts, county high schools, or community college  
 15 districts shall be located in a county with a taxable  
 16 valuation of at least ~~forty-five million dollars~~  
 17 ~~(\$45,000,000)~~ \$45 million.

18 (2) Applications are to be presented to the  
 19 ~~superintendent of public instruction acting in his capacity~~  
 20 ~~as the executive officer for vocational education of the~~  
 21 board of public education. ~~The superintendent of public~~  
 22 ~~instruction shall review the application and present it to~~  
 23 ~~the board of education along with his recommendations.~~ The  
 24 board of public education shall ~~then~~ examine the application  
 25 and ~~recommendations of the superintendent of public~~

1 ~~instruction and either adopt the recommendations of the~~  
 2 ~~superintendent of public instruction or draft its own~~  
 3 recommendations. The application, together with all  
 4 recommendations shall be presented by the board of public  
 5 education to the next following legislative assembly.

6 The board of public education shall recognize the  
 7 presently designated ~~post-secondary~~ postsecondary  
 8 vocational-technical centers operated by the respective  
 9 board of trustees of school district number 1 of Silver Bow  
 10 County, high school district number 1 of Lewis and Clark  
 11 County, high school district "A" of Cascade County, Missoula  
 12 County high school, and high school district number 2 of  
 13 Yellowstone County."

14 Section 16. Section 75-7803, R.C.M. 1947, is amended  
 15 to read as follows:

16 "75-7803. Duties of ~~superintendent of public~~  
 17 ~~instruction~~ board of public education. The ~~superintendent of~~  
 18 ~~public instruction~~ board of public education shall supervise  
 19 and ~~co-ordinate~~ coordinate the conduct of special education  
 20 in the state by:

21 (1) ~~recommending to the board of public education for~~  
 22 ~~adoption of~~ adopting those policies necessary to establish a  
 23 planned and ~~co-ordinated~~ coordinated program of special  
 24 education in the state;

25 (2) administering the policies ~~adopted by the board of~~

1 ~~public education~~ which it adopts:

2 (3) certifying special education teachers on the basis  
 3 of the special qualifications for such teachers as  
 4 ~~prescribed by the board of public education it prescribes;~~

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

8 (5) determining the type of instruction required by  
 9 children needing special education and preparing appropriate  
 10 curricula guides for such instruction;

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

16 (7) recommending to districts the type of special  
 17 education class or program needed to serve the special  
 18 education children of such district;

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

25 (9) providing supervision for and consulting with

1 district superintendents, principals, teachers, and  
2 trustees;

3 (10) conducting conferences, offering advice and  
4 otherwise ~~co-operating~~ cooperating with parents and other  
5 interested persons;

6 (11) acting as the ~~co-ordinating~~ coordinating agency  
7 with 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) establishing regional special education services  
14 for children in need of special education in accordance with  
15 its own policies ~~of the board of public education~~. Funds  
16 for such services shall be appropriated to the  
17 ~~superintendent of public instruction board of public~~  
18 education from state equalization funds and shall be  
19 coordinated with other federal, state, and local funds as  
20 may be made available to support regional special education  
21 programs and services."

22 Section 17. Section 75-8002, R.C.M. 1947, is amended  
23 to read as follows:

24 "75-8002. Acceptance, expenditure, and administration  
25 of federal school food services moneys. The ~~superintendent~~

1 ~~of public instruction board of public education~~ is  
2 authorized to accept and direct the disbursement of funds  
3 appropriated by Act of Congress and apportioned to the state  
4 for use in financing school food services. This  
5 authorization shall apply to federal funds available for  
6 school food services under the National School Lunch Act  
7 (Public Law 396, 79th Congress, chapter 281, 2nd Session),  
8 Child Nutrition Act of 1966 (Public Law 642, 89th Congress),  
9 any amendments to these public laws, and any other public  
10 laws enacted to provide assistance for school food services.

11 The ~~superintendent of public instruction board of~~  
12 public education shall deposit all federal funds for school  
13 food services with the state treasurer who shall credit such  
14 funds to the federal and private grant clearance fund. Any  
15 disbursement of the federal school food services funds shall  
16 be directed by the ~~superintendent of public instruction~~  
17 board of public education.

18 The ~~superintendent of public instruction board of~~  
19 public education may:

20 (1) enter into agreements and ~~co-operate~~ cooperate  
21 with any federal agency, district, or other agency or  
22 person, prescribe such regulations, employ such personnel,  
23 and take such other action as ~~he may deem it considers~~  
24 necessary to:

25 (a) provide for the establishment, operation, and

1 expansion of school food services; and

2 (b) disburse federal and state funds according to the  
3 requirements of federal and state law;

4 (2) give technical advice and assistance to any  
5 district establishing or operating school food services and  
6 assist in the training of personnel for such services;

7 (3) accept any gift for use in providing school food  
8 services;

9 (4) conduct studies of methods of improving and  
10 expanding school food services and appraise the nutritive  
11 benefits of school food services.

12 ~~The superintendent of public instruction shall report~~  
13 ~~annually to the board of education on the financial,~~  
14 ~~administrative, and operational phases of school food~~  
15 ~~services."~~

16 Section 18. Section 75-9205, R.C.M. 1947, is amended  
17 to read as follows:

18 "75-9205. Advisory council. (1) There is created an  
19 advisory council. The council is composed of five ~~(5)~~  
20 members appointed by the governor and two ~~(2)~~ ex officio  
21 members. Two ~~(2)~~ members shall represent the Montana  
22 Proprietary School Association, one ~~(1)~~ member shall  
23 represent the advisory council for vocational education, one  
24 ~~(1)~~ member shall represent the Montana personnel and  
25 guidance association, and one ~~(1)~~ member from the public at

1 large who has no connection with education. The ex officio  
2 members shall be the ~~superintendent of public instruction a~~  
3 ~~designee of the board of public education~~ and the  
4 commissioner of higher education. Members of the council  
5 shall serve for ~~five (5)~~ years, except that the initial  
6 appointments shall be one ~~(1)~~ for ~~three (3)~~ years, two ~~(2)~~  
7 for ~~four (4)~~ years, and two ~~(2)~~ for ~~five (5)~~ years.

8 (2) The council shall advise the department of  
9 policies, rules, regulations, and procedures necessary for  
10 carrying out the provisions of this act.

11 (3) The council's organization, meetings, quorum, and  
12 compensation are as provided in ~~sections 82A-110."~~

13 Section 19. Section 81-104, R.C.M. 1947, is amended to  
14 read as follows:

15 "81-104. Meetings of board. The board shall hold  
16 regular meetings at least once each month, and may hold  
17 special meetings whenever considered necessary, upon call of  
18 the president or a majority of the members. Three ~~(3)~~  
19 members of the board constitute a quorum for the transaction  
20 of business. The governor is the president of the board; in  
21 his absence the lieutenant governor, shall preside, ~~and in~~  
22 ~~his absence the superintendent of public instruction shall~~  
23 ~~preside."~~

24 Section 20. Section 82A-212, R.C.M. 1947, is amended  
25 to read as follows:

1 "82A-212. Teachers' retirement board — composition —  
 2 terms — allocated. (1) There is a teachers' retirement  
 3 board.

4 (2) The board consists of five ~~(5)~~ members appointed  
 5 by the governor. The members are:

6 (a) ~~The superintendent of public instruction a~~  
 7 designee of the board of public education;

8 (b) ~~Two (2)~~ two persons appointed from the teaching  
 9 profession who are members of the retirement system;

10 (c) ~~Two (2)~~ two persons appointed as representatives  
 11 of the public.

12 (3) Each appointed member of the board shall serve a  
 13 term of ~~four (4)~~ years. Each appointed member shall take and  
 14 subscribe to the oath prescribed by section 3 of ~~article~~  
 15 Article III of the constitution of the state. The oath  
 16 shall be filed in the office of the secretary of state.

17 (4) The board is allocated to the department for  
 18 administrative purposes only as prescribed in ~~section~~  
 19 82A-108. However, the board may hire its own personnel, and  
 20 ~~section 82A-108(2) (d)~~ does not apply."

21 Section 21. Section 82A-511, R.C.M. 1947, is amended  
 22 to read as follows:

23 "82A-511. Educational broadcasting commission —  
 24 appointment — terms — allocation. (1) There is an  
 25 educational broadcasting commission.

1 (2) The commission consists of:

2 (a) ~~the superintendent of public instruction or his~~  
 3 designee a designee of the board of public education;

4 (b) the commissioner of higher education or his  
 5 designee;

6 (c) the director of administration or his designee;

7 (d) five ~~(5)~~ residents of the state appointed by the  
 8 governor from separate lists of ~~ten (10)~~ nominees provided  
 9 by the board of public education and by the board of regents  
 10 of higher education. No more than three ~~(3)~~ appointed  
 11 members may be from a single United States congressional  
 12 district.

13 (3) Each appointed member shall serve for a term of  
 14 ~~five (5)~~ years. Of the first members appointed, the  
 15 governor shall determine the terms so that one ~~(1)~~ term  
 16 shall expire every year.

17 (4) The commission is allocated to the state board of  
 18 education for administrative purposes only as prescribed in  
 19 ~~section 82A-100~~ except that ~~section 82A-108(2) (d)~~ does not  
 20 apply and the commission may hire its own personnel."

21 Section 22. Repealer. Sections 75-5704, 75-5705,  
 22 75-5707, and 75-7703, R.C.M. 1947, are repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 27-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 62 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:

An act to transfer all of the powers, duties, and functions of the Superintendent of Public Instruction, except those prescribed by the 1972 Montana Constitution, to the Board of Public Education; providing for an executive director of the Board of Public Education.

## ASSUMPTIONS:

1. Staff of the Superintendent of Public Instruction performing duties relating to the duties being transferred to the Board of Public Education will be transferred to the Board of Public Education.
2. The salary of the Superintendent of Public Education will continue at the current level.

## FISCAL IMPACT:

	FY 78	FY 79
Salaries and benefits		
Board's Chief State School Officer	\$40,000	\$40,800
Secretary	10,000	10,200
Benefits	<u>6,750</u>	<u>6,885</u>
Total personal services	56,750	57,885
Operating Expenses	4,000	4,000
Equipment	<u>1,500</u>	<u>0</u>
Total additional cost	<u>\$62,250</u>	<u>\$61,885</u>

*Richard L. Dancy for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-18-77