

CHAPTER NO. 481

HOUSE BILL NO. 453

INTRODUCED BY SOUTH

IN THE HOUSE

January 29, 1979	Introduced and referred to Committee on Education and Cultural Resources.
February 17, 1979	Committee recommend bill do pass. Report adopted.
February 19, 1979	Second reading, pass consideration.
February 20, 1979	Motion pass consideration.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Education.
March 20, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1979	Second reading, concurred in as amended.
March 24, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 26, 1979	Returned from second house. Concurred in as amended. On motion consideration passed for the day.
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March 29, 1979

Second reading, amendments  
adopted.

March 30, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 453

INTRODUCED BY Salkin

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING FROM SPECIAL EDUCATION ALLOWABLE COSTS THE BENEFITS FOR TEACHERS' RETIREMENT, PUBLIC EMPLOYEES' RETIREMENT, SOCIAL SECURITY, AND UNEMPLOYMENT COMPENSATION; CLARIFYING THE PROCEDURES FOR FIXING AND LEVYING OF TAXES FOR THESE BENEFITS WHEN SPECIAL EDUCATION COOPERATIVE AGREEMENTS INVOLVE MORE THAN ONE COUNTY; AND AMENDING SECTIONS 20-7-431 AND 20-9-501, MCA."

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

Section 1. Section 20-7-431, MCA, is amended to read:

"20-7-431. Allowable cost schedule for special programs -- superintendent to make rules -- annual accounting. (1) For the purpose of determining the maximum-budget-without-a-vote for special education as defined in 20-9-321, the following schedule of allowable costs shall be followed by the school district in preparation of its special education budget for state aid request purposes and by the superintendent of public instruction in his review and approval of the budget (for the purposes of determining the amount of the maximum-budget-without-a-vote for special education for the district, and as used in this schedule, "full-time special

pupil" and "regular ANB" are to be determined in accordance with 20-9-311 and 20-9-313):

(a) administration: salaries, benefits, supplies, and other expenses of the superintendent's office, the office of the board of trustees, and the business office including:

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

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

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

(b) instruction: salaries, benefits, supplies, textbooks, and other expenses including:

(i) salaries of principals and clerical personnel--a portion of the entire cost corresponding to the portion of the entire working time which each such person devotes to the special program, but not to exceed 1.75 times the amount budgeted per regular ANB for the current year;

(ii) salaries and benefits of special program teachers,

1 regular program teachers, teacher aides, special education  
2 supervisors, audiologists, and speech and hearing  
3 clinicians--the entire cost if employed full time in the  
4 special program; if such personnel are shared between  
5 special and regular programs--a portion of the entire cost  
6 corresponding to the entire working time which each such  
7 person devotes to the special program;

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

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

17 (A) contracted services, including fees paid for  
18 professional advice and consultation regarding special  
19 students or the special program, and the delivery of special  
20 education services by public or private agencies--the actual  
21 total cost;

22 (B) transportation costs for special education  
23 personnel who must travel on an itinerant basis from school  
24 to school or district to district--the actual cost to the  
25 district calculated on the same mileage rate used by the

1 district for other travel reimbursement purposes;

2 (c) library services: salaries, books and periodicals,  
3 and other expenses--the amount allowed for budget purposes  
4 per full-time special pupil may not exceed the amount  
5 budgeted per regular ANB for the current year;

6 (d) supportive services: salaries, benefits, and other  
7 expenses:

8 (i) salaries and benefits of professional supportive  
9 personnel--the entire cost if employed full time in the  
10 special program; if such personnel are shared between  
11 special and regular programs--a portion of the entire cost  
12 corresponding to the entire working time which each such  
13 person devotes to the special program. Professional  
14 supportive personnel may include counselors, social workers,  
15 psychologists, psychometrists, physicians, nurses, and  
16 physical and occupational therapists.

17 (ii) salaries and benefits of clerical personnel for  
18 professional personnel in supportive services--the entire  
19 cost if employed full time in the special program; if such  
20 personnel are shared between special and regular programs--a  
21 portion of the entire cost corresponding to the entire  
22 working time which each such person devotes to the special  
23 program;

24 (iii) other expenses--the amount allowed for budget  
25 purposes per full-time special pupil may not exceed the

1 amount budgeted per regular ANB for the current year;

2 (e) operation of plant: salaries, benefits, heat for  
 3 buildings, utilities except heating, and other supplies and  
 4 expenses--the superintendent of public instruction shall  
 5 make regulations fixing a ratio for operation spending per  
 6 full-time special pupil to such spending per current year's  
 7 regular ANB. The proration shall be based on the ratio  
 8 between the number of special pupils per class and the  
 9 number of regular pupils per class and any other relevant  
 10 factors.

11 (f) maintenance of plant: salaries, benefits,  
 12 replacements and parts, contracted services--the  
 13 superintendent of public instruction shall make regulations  
 14 fixing a ratio for maintenance spending per full-time  
 15 special pupil to such spending per current year's regular  
 16 ANB. The proration shall be based on the ratio between the  
 17 number of special pupils per class and the number of regular  
 18 pupils per class and any other relevant factors.

19 (g) school food services--the amount allowed for  
 20 budget purposes per full-time special pupil may not exceed  
 21 the amount budgeted per regular ANB for the current year;

22 (h) student body and auxiliary services: salaries and  
 23 other expenses--the amount allowed for budget purposes per  
 24 full-time special pupil may not exceed the amount budgeted  
 25 per regular ANB for the current year;

1 (i) other current charges: insurance, rental of land  
 2 and buildings, and other expenses:

3 (i) rental of land and buildings, when such premises  
 4 meet all requirements of the board of public education and  
 5 the department of health and environmental sciences--no such  
 6 costs may be charged to the special program without specific  
 7 authorization from the superintendent of public instruction  
 8 unless the land and buildings are shared between the special  
 9 and regular pupils, and the amount of the total cost that  
 10 may be charged to the special program may not exceed  
 11 whatever proportion the number of special full-time pupils  
 12 are to the total enrollment of the school district of the  
 13 previous year. However, any school district renting land and  
 14 buildings for special education purposes prior to the  
 15 1974-75 school year is not subject to this requirement and  
 16 will charge a portion of the total cost when shared with  
 17 regular programs, to be prorated based on the amount of  
 18 building space used by each type of program.

19 (ii) insurance--the superintendent of public  
 20 instruction shall make regulations fixing a ratio for  
 21 insurance spending per full-time special pupil to such  
 22 spending per current year's regular ANB. The proration shall  
 23 be based on the ratio between the number of special pupils  
 24 per class and the number of regular pupils per class and any  
 25 other relevant factors.

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1 (iii) all other expenses--the amount allowed for budget  
2 purposes per full-time special pupil for a school year may  
3 not exceed the amount budgeted per regular ANB for the  
4 current school year;

5 (j) capital outlay: remodeling and improvements,  
6 equipment, and other:

7 (i) classroom remodeling and improvements for a  
8 program for handicapped students who need special  
9 facilities--the actual total cost; all other remodeling and  
10 improvements--the amount allowed for budget purposes per  
11 full-time special pupil for a school year may not exceed the  
12 amount budgeted per regular ANB for the current school year;

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

14 (iii) special equipment for district-owned school buses  
15 necessary to accommodate special students--the actual total  
16 cost;

17 (iv) special equipment for school buses contracted to  
18 transport special students--that portion of the contract  
19 price attributable to the cost of special equipment or  
20 personnel required to accommodate special students--the  
21 actual special cost;

22 (v) other--the amount allowed for budget purposes may  
23 not exceed the amount budgeted per regular ANB for the  
24 current year;

25 (k) room and board costs when the special pupil has to

1 attend a program at such a distance from his home that  
2 commuting is undesirable as determined by the superintendent  
3 of public instruction.

4 (2) The superintendent of public instruction shall,  
5 prior to September 1, 1977, revise the rules in accordance  
6 with the policies of the board of public education for:

7 (a) keeping necessary records for supportive and  
8 administrative personnel and any personnel shared between  
9 special and regular programs;

10 (b) defining the total special program caseload that  
11 shall be assigned to specific support persons and the kinds  
12 of professional specialties to be considered relevant to the  
13 program before the district may count an allowable cost  
14 under subsection (1)(d) of this section;

15 (c) defining the kinds or types of equipment whose  
16 costs may be counted under subsection (1)(j)(ii) of this  
17 section; and

18 (d) prescribing formulas for calculating the portion  
19 of operation and maintenance costs, insurance, building, and  
20 rental costs properly allocable to the special programs, as  
21 prescribed by subsections (1)(e), (1)(f), (1)(i)(i), and  
22 (1)(i)(ii) of this section.

23 (3) An annual accounting of all expenditures of school  
24 district general fund moneys for special education shall be  
25 made by the district trustees on forms furnished by the

1 superintendent of public instruction. The superintendent of  
2 public instruction shall make rules for such accounting.

3 (4) If a board of trustees chooses to exceed the  
4 budget approved by the superintendent of public instruction,  
5 costs in excess of the approved budget may not be reimbursed  
6 under the ~~maximum-budget-without-a-vote~~ for special  
7 education.

8 (5) Allowable costs prescribed in this section do not  
9 include the costs of the teachers' retirement system, the  
10 public employees' retirement system, the federal social  
11 security system, or the costs for unemployment compensation  
12 insurance."

13 Section 2. Section 20-9-501, MCA, is amended to read:

14 "20-9-501. Retirement fund. (1) The trustees of any  
15 district employing personnel who are members of the  
16 teachers' retirement system or the public employees'  
17 retirement system or who are covered by unemployment  
18 compensation or who are covered by any federal social  
19 security system requiring employer contributions shall  
20 establish a retirement fund for the purposes of budgeting  
21 and paying the employer's contributions to such systems. The  
22 district's contribution for each employee who is a member of  
23 the teachers' retirement system shall be calculated in  
24 accordance with Title 19, chapter 4, part 6. The district's  
25 contribution for each employee who is a member of the public

1 employees' retirement system shall be calculated in  
2 accordance with 19-3-801. The district may levy a special  
3 tax to pay its contribution to the public employees'  
4 retirement system under the conditions prescribed in  
5 19-3-204. The district's contributions for each employee  
6 covered by any federal social security system shall be paid  
7 in accordance with federal law and regulation. The  
8 district's contribution for each employee who is covered by  
9 unemployment compensation shall be paid in accordance with  
10 Title 39, chapter 51, part 11.

11 (2) The trustees of any district required to make a  
12 contribution to any such system shall include in the  
13 retirement fund of the preliminary budget the estimated  
14 amount of the employer's contribution and such additional  
15 moneys, within legal limitations, as they may wish to  
16 provide for the retirement fund cash reserve. After the  
17 final retirement fund budget has been adopted, the trustees  
18 shall pay the employer contributions to such systems in  
19 accordance with the financial administration provisions of  
20 this title.

21 (3) When the final retirement fund budget has been  
22 adopted, the county superintendent shall establish the levy  
23 requirement by:

24 (a) determining the sum of the moneys available to  
25 reduce the retirement fund levy requirement by adding:

1 (i) any anticipated moneys that may be realized in the  
 2 retirement fund during the ensuing school fiscal year; and  
 3 (ii) any cash available for reappropriation as  
 4 determined by subtracting the amount of the end-of-the-year  
 5 cash balance earmarked as the retirement fund cash reserve  
 6 for the ensuing school fiscal year by the trustees from the  
 7 end-of-the-year cash balance in the retirement fund. The  
 8 retirement fund cash reserve shall not be more than 35% of  
 9 the final retirement fund budget for the ensuing school  
 10 fiscal year and shall be used for the purpose of paying  
 11 retirement fund warrants issued by the district under the  
 12 final retirement fund budget.

13 (b) subtracting the total of the moneys available for  
 14 reduction of the levy requirement as determined in  
 15 subsection (3)(a) from the budgeted amount for expenditures  
 16 in the final retirement fund budget.

17 (4) The county superintendent shall total the net  
 18 retirement fund levy requirements separately for all  
 19 elementary school districts, all high school districts, and  
 20 all community college districts of the county, including any  
 21 prorated joint district or special educational cooperative  
 22 agreement levy requirements, and shall report each such levy  
 23 requirement to the county commissioners on the second Monday  
 24 of August as the respective county levy requirements for  
 25 elementary district, high school district, and community

1 college district retirement funds. The county commissioners  
 2 shall fix and set such county levy in accordance with  
 3 20-9-142.

4 (5) The net retirement fund levy requirement for a  
 5 joint elementary district or a joint high school district  
 6 shall be prorated to each county in which a part of such  
 7 district is located in the same proportion as the district  
 8 ANB of the joint district is distributed by pupil residence  
 9 in each such county. The county superintendents of the  
 10 counties affected shall jointly determine the net retirement  
 11 fund levy requirement for each county as provided in  
 12 20-9-151.

13 (6) The net retirement fund levy requirement for  
 14 districts that are members of special educational  
 15 cooperative agreements shall be prorated to each county in  
 16 which such district is located in the same proportion as the  
 17 budget for the special education cooperative agreement of  
 18 the district bears to the total budget of the cooperative.  
 19 The county superintendents of the counties affected shall  
 20 jointly determine the net retirement fund levy requirement  
 21 for each county in the same manner as provided in 20-9-151  
 22 and fix and levy the net retirement fund levy for each  
 23 county in the same manner as provided in 20-9-152."

--End--



## STATE OF MONTANA

Request No. 455-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received March 8, 1979, there is hereby submitted a Fiscal Note for House Bill 453 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 453 removes special education teacher employment benefits from the allowable reimburseable cost formulas and places these expenses back on the school districts.

## ASSUMPTION:

1. The number of special education children will remain the same.
2. The cost of educating special education children will remain the same.

## FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Special education costs under current law	\$28,240,260	\$28,240,260
Special education costs under proposed law	<u>26,052,307</u>	<u>26,052,307</u>
Net savings	<u>\$ 2,187,953</u>	<u>\$ 2,187,953</u>

This savings could accrue to the State General Fund appropriation to the Foundation Program, result in a decreased deficiency levy, or allow for an increase in Foundation Program schedules.

## LOCAL IMPACT:

Additional costs of \$2,187,953 per year would be funded by local districts.

*Richard L. Tracy*  
 BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 Date: 3/21/79

1 HOUSE BILL NO. 453  
 2 INTRODUCED BY S. J. K.

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING FROM SPECIAL  
 5 EDUCATION ALLOWABLE COSTS THE BENEFITS FOR TEACHERS'  
 6 RETIREMENT, PUBLIC EMPLOYEES' RETIREMENT, SOCIAL SECURITY,  
 7 AND UNEMPLOYMENT COMPENSATION; CLARIFYING THE PROCEDURES FOR  
 8 FIXING AND LEVYING OF TAXES FOR THESE BENEFITS WHEN SPECIAL  
 9 EDUCATION COOPERATIVE AGREEMENTS INVOLVE MORE THAN ONE  
 10 COUNTY; AND AMENDING SECTIONS 20-7-431 AND 20-9-501, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 20-7-431, MCA, is amended to read:  
 14 "20-7-431. Allowable cost schedule for special  
 15 programs -- superintendent to make rules -- annual  
 16 accounting. (1) For the purpose of determining the  
 17 maximum-budget-without-a-vote for special education as  
 18 defined in 20-9-321, the following schedule of allowable  
 19 costs shall be followed by the school district in  
 20 preparation of its special education budget for state aid  
 21 request purposes and by the superintendent of public  
 22 instruction in his review and approval of the budget (for  
 23 the purposes of determining the amount of the  
 24 maximum-budget-without-a-vote for special education for the  
 25 district, and as used in this schedule, "full-time special

1 pupil" and "regular ANB" are to be determined in accordance  
 2 with 20-9-311 and 20-9-313):

3 (a) administration: salaries, benefits, supplies, and  
 4 other expenses of the superintendent's office, the office of  
 5 the board of trustees, and the business office including:

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

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

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

18 (b) instruction: salaries, benefits, supplies,  
 19 textbooks, and other expenses including:

20 (i) salaries of principals and clerical personnel--a  
 21 portion of the entire cost corresponding to the portion of  
 22 the entire working time which each such person devotes to  
 23 the special program, but not to exceed 1.75 times the amount  
 24 budgeted per regular ANB for the current year;

25 (ii) salaries and benefits of special program teachers,

1 regular program teachers, teacher aides, special education  
2 supervisors, audiologists, and speech and hearing  
3 clinicians--the entire cost if employed full time in the  
4 special program; if such personnel are shared between  
5 special and regular programs--a portion of the entire cost  
6 corresponding to the entire working time which each such  
7 person devotes to the special program;

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

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

17 (A) contracted services, including fees paid for  
18 professional advice and consultation regarding special  
19 students or the special program, and the delivery of special  
20 education services by public or private agencies--the actual  
21 total cost;

22 (B) transportation costs for special education  
23 personnel who must travel on an itinerant basis from school  
24 to school or district to district--the actual cost to the  
25 district calculated on the same mileage rate used by the

1 district for other travel reimbursement purposes;

2 (c) library services: salaries, books and periodicals,  
3 and other expenses--the amount allowed for budget purposes  
4 per full-time special pupil may not exceed the amount  
5 budgeted per regular ANB for the current year;

6 (d) supportive services: salaries, benefits, and other  
7 expenses:

8 (i) salaries and benefits of professional supportive  
9 personnel--the entire cost if employed full time in the  
10 special program; if such personnel are shared between  
11 special and regular programs--a portion of the entire cost  
12 corresponding to the entire working time which each such  
13 person devotes to the special program. Professional  
14 supportive personnel may include counselors, social workers,  
15 psychologists, psychometrists, physicians, nurses, and  
16 physical and occupational therapists.

17 (ii) salaries and benefits of clerical personnel for  
18 professional personnel in supportive services--the entire  
19 cost if employed full time in the special program; if such  
20 personnel are shared between special and regular programs--a  
21 portion of the entire cost corresponding to the entire  
22 working time which each such person devotes to the special  
23 program;

24 (iii) other expenses--the amount allowed for budget  
25 purposes per full-time special pupil may not exceed the

1 amount budgeted per regular ANB for the current year;

2 (e) operation of plant: salaries, benefits, heat for  
3 buildings, utilities except heating, and other supplies and  
4 expenses--the superintendent of public instruction shall  
5 make regulations fixing a ratio for operation spending per  
6 full-time special pupil to such spending per current year's  
7 regular ANB. The proration shall be based on the ratio  
8 between the number of special pupils per class and the  
9 number of regular pupils per class and any other relevant  
10 factors.

11 (f) maintenance of plant: salaries, benefits,  
12 replacements and parts, contracted services--the  
13 superintendent of public instruction shall make regulations  
14 fixing a ratio for maintenance spending per full-time  
15 special pupil to such spending per current year's regular  
16 ANB. The proration shall be based on the ratio between the  
17 number of special pupils per class and the number of regular  
18 pupils per class and any other relevant factors.

19 (g) school food services--the amount allowed for  
20 budget purposes per full-time special pupil may not exceed  
21 the amount budgeted per regular ANB for the current year;

22 (h) student body and auxiliary services: salaries and  
23 other expenses--the amount allowed for budget purposes per  
24 full-time special pupil may not exceed the amount budgeted  
25 per regular ANB for the current year;

1 (i) other current charges: insurance, rental of land  
2 and buildings, and other expenses:

3 (i) rental of land and buildings, when such premises  
4 meet all requirements of the board of public education and  
5 the department of health and environmental sciences--no such  
6 costs may be charged to the special program without specific  
7 authorization from the superintendent of public instruction  
8 unless the land and buildings are shared between the special  
9 and regular pupils, and the amount of the total cost that  
10 may be charged to the special program may not exceed  
11 whatever proportion the number of special full-time pupils  
12 are to the total enrollment of the school district of the  
13 previous year. However, any school district renting land and  
14 buildings for special education purposes prior to the  
15 1974-75 school year is not subject to this requirement and  
16 will charge a portion of the total cost when shared with  
17 regular programs, to be prorated based on the amount of  
18 building space used by each type of program.

19 (ii) insurance--the superintendent of public  
20 instruction shall make regulations fixing a ratio for  
21 insurance spending per full-time special pupil to such  
22 spending per current year's regular ANB. The proration shall  
23 be based on the ratio between the number of special pupils  
24 per class and the number of regular pupils per class and any  
25 other relevant factors.

1 (iii) all other expenses--the amount allowed for budget  
2 purposes per full-time special pupil for a school year may  
3 not exceed the amount budgeted per regular ANB for the  
4 current school year;

5 (j) capital outlay: remodeling and improvements,  
6 equipment, and others:

7 (i) classroom remodeling and improvements for a  
8 program for handicapped students who need special  
9 facilities--the actual total cost; all other remodeling and  
10 improvements--the amount allowed for budget purposes per  
11 full-time special pupil for a school year may not exceed the  
12 amount budgeted per regular ANB for the current school year;

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

14 (iii) special equipment for district-owned school buses  
15 necessary to accommodate special students--the actual total  
16 cost;

17 (iv) special equipment for school buses contracted to  
18 transport special students--that portion of the contract  
19 price attributable to the cost of special equipment or  
20 personnel required to accommodate special students--the  
21 actual special cost;

22 (v) other--the amount allowed for budget purposes may  
23 not exceed the amount budgeted per regular ANB for the  
24 current year;

25 (k) room and board costs when the special pupil has to

1 attend a program at such a distance from his home that  
2 commuting is undesirable as determined by the superintendent  
3 of public instruction.

4 (2) The superintendent of public instruction shall,  
5 prior to September 1, 1977, revise the rules in accordance  
6 with the policies of the board of public education for:

7 (a) keeping necessary records for supportive and  
8 administrative personnel and any personnel shared between  
9 special and regular programs;

10 (b) defining the total special program caseload that  
11 shall be assigned to specific support persons and the kinds  
12 of professional specialties to be considered relevant to the  
13 program before the district may count an allowable cost  
14 under subsection (1)(d) of this section;

15 (c) defining the kinds or types of equipment whose  
16 costs may be counted under subsection (1)(j)(ii) of this  
17 section; and

18 (d) prescribing formulas for calculating the portion  
19 of operation and maintenance costs, insurance, building, and  
20 rental costs properly allocable to the special programs, as  
21 prescribed by subsections (1)(e), (1)(f), (1)(i)(i), and  
22 (1)(i)(ii) of this section.

23 (3) An annual accounting of all expenditures of school  
24 district general fund moneys for special education shall be  
25 made by the district trustees on forms furnished by the

1 superintendent of public instruction. The superintendent of  
2 public instruction shall make rules for such accounting.

3 (4) If a board of trustees chooses to exceed the  
4 budget approved by the superintendent of public instruction,  
5 costs in excess of the approved budget may not be reimbursed  
6 under the maximum-budget-without-a-vote for special  
7 education.

8 (5) Allowable costs prescribed in this section do not  
9 include the costs of the teachers' retirement system, the  
10 public employees' retirement system, the federal social  
11 security system, or the costs for unemployment compensation  
12 insurance."

13 Section 2. Section 20-9-501, MCA, is amended to read:

14 "20-9-501. Retirement fund. (1) The trustees of any  
15 district employing personnel who are members of the  
16 teachers' retirement system or the public employees'  
17 retirement system or who are covered by unemployment  
18 compensation or who are covered by any federal social  
19 security system requiring employer contributions shall  
20 establish a retirement fund for the purposes of budgeting  
21 and paying the employer's contributions to such systems. The  
22 district's contribution for each employee who is a member of  
23 the teachers' retirement system shall be calculated in  
24 accordance with Title 19, chapter 4, part 6. The district's  
25 contribution for each employee who is a member of the public

1 employees' retirement system shall be calculated in  
2 accordance with 19-3-801. The district may levy a special  
3 tax to pay its contribution to the public employees'  
4 retirement system under the conditions prescribed in  
5 19-3-204. The district's contributions for each employee  
6 covered by any federal social security system shall be paid  
7 in accordance with federal law and regulation. The  
8 district's contribution for each employee who is covered by  
9 unemployment compensation shall be paid in accordance with  
10 Title 39, chapter 51, part 11.

11 (2) The trustees of any district required to make a  
12 contribution to any such system shall include in the  
13 retirement fund of the preliminary budget the estimated  
14 amount of the employer's contribution and such additional  
15 moneys, within legal limitations, as they may wish to  
16 provide for the retirement fund cash reserve. After the  
17 final retirement fund budget has been adopted, the trustees  
18 shall pay the employer contributions to such systems in  
19 accordance with the financial administration provisions of  
20 this title.

21 (3) When the final retirement fund budget has been  
22 adopted, the county superintendent shall establish the levy  
23 requirement by:

24 (a) determining the sum of the moneys available to  
25 reduce the retirement fund levy requirement by adding:

1 (i) any anticipated moneys that may be realized in the  
 2 retirement fund during the ensuing school fiscal year; and  
 3 (ii) any cash available for reappropriation as  
 4 determined by subtracting the amount of the end-of-the-year  
 5 cash balance earmarked as the retirement fund cash reserve  
 6 for the ensuing school fiscal year by the trustees from the  
 7 end-of-the-year cash balance in the retirement fund. The  
 8 retirement fund cash reserve shall not be more than 35% of  
 9 the final retirement fund budget for the ensuing school  
 10 fiscal year and shall be used for the purpose of paying  
 11 retirement fund warrants issued by the district under the  
 12 final retirement fund budget.

13 (b) subtracting the total of the moneys available for  
 14 reduction of the levy requirement as determined in  
 15 subsection (3)(a) from the budgeted amount for expenditures  
 16 in the final retirement fund budget.

17 (4) The county superintendent shall total the net  
 18 retirement fund levy requirements separately for all  
 19 elementary school districts, all high school districts, and  
 20 all community college districts of the county, including any  
 21 prorated joint district or special educational cooperative  
 22 agreement levy requirements, and shall report each such levy  
 23 requirement to the county commissioners on the second Monday  
 24 of August as the respective county levy requirements for  
 25 elementary district, high school district, and community

1 college district retirement funds. The county commissioners  
 2 shall fix and set such county levy in accordance with  
 3 20-9-142.

4 (5) The net retirement fund levy requirement for a  
 5 joint elementary district or a joint high school district  
 6 shall be prorated to each county in which a part of such  
 7 district is located in the same proportion as the district  
 8 ANB of the joint district is distributed by pupil residence  
 9 in each such county. The county superintendents of the  
 10 counties affected shall jointly determine the net retirement  
 11 fund levy requirement for each county as provided in  
 12 20-9-151.

13 (6) The net retirement fund levy requirement for  
 14 districts that are members of special educational  
 15 cooperative agreements shall be prorated to each county in  
 16 which such district is located in the same proportion as the  
 17 budget for the special education cooperative agreement of  
 18 the district bears to the total budget of the cooperative.  
 19 The county superintendents of the counties affected shall  
 20 jointly determine the net retirement fund levy requirement  
 21 for each county in the same manner as provided in 20-9-151  
 22 and fix and levy the net retirement fund levy for each  
 23 county in the same manner as provided in 20-9-152."

-End-

1 HOUSE BILL NO. 453  
2 INTRODUCED BY SOUTH

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING FROM SPECIAL  
5 EDUCATION ALLOWABLE COSTS THE BENEFITS FOR TEACHERS'  
6 RETIREMENT, PUBLIC EMPLOYEES' RETIREMENT, SOCIAL SECURITY,  
7 AND UNEMPLOYMENT COMPENSATION; CLARIFYING THE PROCEDURES FOR  
8 FIXING AND LEVYING OF TAXES FOR THESE BENEFITS WHEN SPECIAL  
9 EDUCATION COOPERATIVE AGREEMENTS INVOLVE MORE THAN ONE  
10 COUNTY; PROVIDING FOR SPECIAL EDUCATION TUITION;  
11 ESTABLISHING PROCEDURES IF APPROVED BUDGETS EXCEED  
12 APPROPRIATIONS; AND AMENDING SECTIONS 20-7-421, 20-7-431,  
13 AND 20-9-501, MCA."

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

16 Section 1. Section 20-7-431, MCA, is amended to read:

17 "20-7-431. Allowable cost schedule for special  
18 programs -- superintendent to make rules -- annual  
19 accounting. (1) For the purpose of determining the  
20 maximum-budget-without-a-vote for special education as  
21 defined in 20-9-321, the following schedule of allowable  
22 costs shall be followed by the school district in  
23 preparation of its special education budget for state aid  
24 request purposes and by the superintendent of public  
25 instruction in his review and approval of the budget (for

1 the purposes of determining the amount of the  
2 maximum-budget-without-a-vote for special education for the  
3 district, and as used in this schedule, "full-time special  
4 pupil" and "regular ANB" are to be determined in accordance  
5 with 20-9-311 and 20-9-313):

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

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

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

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

21 (b) instruction: salaries, benefits, supplies,  
22 textbooks, and other expenses including:

23 (i) salaries of principals and clerical personnel--a  
24 portion of the entire cost corresponding to the portion of  
25 the entire working time which each such person devotes to



1 the special program; but not to exceed 1.75 times the amount  
2 budgeted per regular ANB 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 following  
17 items--the amount allowed for budget purposes per full-time  
18 special pupil may not exceed the amount budgeted per regular  
19 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 public or private agencies--the actual  
24 total 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--the actual cost to the  
3 district calculated on the same mileage rate used by the  
4 district for other travel reimbursement purposes;

5 (c) library services; salaries, books and periodicals,  
6 and other expenses--the amount allowed for budget purposes  
7 per full-time special pupil may not exceed the amount  
8 budgeted per regular ANB for the current year;

9 (d) supportive services; salaries, benefits, and other  
10 expenses:

11 (i) salaries and benefits of professional supportive  
12 personnel--the entire cost if employed full time in the  
13 special program; if such personnel are shared between  
14 special and regular programs--a portion of the entire cost  
15 corresponding to the entire working time which each such  
16 person devotes to the special program. Professional  
17 supportive personnel may include counselors, social workers,  
18 psychologists, psychometrists, physicians, nurses, and  
19 physical and occupational therapists.

20 (ii) salaries and benefits of clerical personnel for  
21 professional personnel in supportive services--the entire  
22 cost if employed full time in the special program; if such  
23 personnel are shared between special and regular programs--a  
24 portion of the entire cost corresponding to the entire  
25 working time which each such person devotes to the special

1 program;

2 (iii) other expenses--the amount allowed for budget  
3 purposes per full-time special pupil may not exceed the  
4 amount budgeted per regular ANB for the current year;

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

14 (f) maintenance of plant: salaries, benefits,  
15 replacements and parts, contracted services--the  
16 superintendent of public instruction shall make regulations  
17 fixing a ratio for maintenance spending per full-time  
18 special pupil to such spending per current year's regular  
19 ANB. The proration shall be based on the ratio between the  
20 number of special pupils per class and the number of regular  
21 pupils per class and any other relevant factors.

22 (g) school food services--the amount allowed for  
23 budget purposes per full-time special pupil may not exceed  
24 the amount budgeted per regular ANB for the current year;

25 (h) student body and auxiliary services: salaries and

1 other expenses--the amount allowed for budget purposes per  
2 full-time special pupil may not exceed the amount budgeted  
3 per regular ANB for the current year;

4 (i) other current charges: insurance, rental of land  
5 and buildings, and other expenses:

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

22 (ii) insurance--the superintendent of public  
23 instruction shall make regulations fixing a ratio for  
24 insurance spending per full-time special pupil to such  
25 spending per current year's regular ANB. The proration shall

1 be based on the ratio between the number of special pupils  
2 per class and the number of regular pupils per class and any  
3 other relevant factors.

4 (iii) all other expenses--the amount allowed for budget  
5 purposes per full-time special pupil for a school year may  
6 not exceed the amount budgeted per regular ANB for the  
7 current school year;

8 (j) capital outlay: remodeling and improvements,  
9 equipment, and other:

10 (i) classroom remodeling and improvements for a  
11 program for, handicapped students who need special  
12 facilities--the actual total cost; all other remodeling and  
13 improvements--the amount allowed for budget purposes per  
14 full-time special pupil for a school year may not exceed the  
15 amount budgeted per regular ANB for the current school year;

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

17 (iii) special equipment for district-owned school buses  
18 necessary to accommodate special students--the actual total  
19 cost;

20 (iv) special equipment for school buses contracted to  
21 transport special students--that portion of the contract  
22 price attributable to the cost of special equipment or  
23 personnel required to accommodate special students--the  
24 actual special cost;

25 (v) other--the amount allowed for budget purposes may

1 not exceed the amount budgeted per regular ANB for the  
2 current year;

3 (k) room and board costs when the special pupil has to  
4 attend a program at such a distance from his home that  
5 commuting is undesirable as determined by the superintendent  
6 of public instruction.

7 (2) The superintendent of public instruction shall,  
8 prior to September 1, 1977, revise the rules in accordance  
9 with the policies of the board of public education for:

10 (a) keeping necessary records for supportive and  
11 administrative personnel and any personnel shared between  
12 special and regular programs;

13 (b) defining the total special program caseload that  
14 shall be assigned to specific support persons and the kinds  
15 of professional specialties to be considered relevant to the  
16 program before the district may count an allowable cost  
17 under subsection (1){d} of this section;

18 (c) defining the kinds or types of equipment whose  
19 costs may be counted under subsection (1){j}{ii} of this  
20 section; and

21 (d) prescribing formulas for calculating the portion  
22 of operation and maintenance costs, insurance, building, and  
23 rental costs properly allocable to the special programs, as  
24 prescribed by subsections (1){e}, (1){f}, (1){i}{i}, and  
25 (1){i}{ii} of this section.

1 (3) An annual accounting of all expenditures of school  
2 district general fund moneys for special education shall be  
3 made by the district trustees on forms furnished by the  
4 superintendent of public instruction. The superintendent of  
5 public instruction shall make rules for such accounting.

6 (4) If a board of trustees chooses to exceed the  
7 budget approved by the superintendent of public instruction,  
8 costs in excess of the approved budget may not be reimbursed  
9 under the maximum-budget-without-a-vote for special  
10 education.

11 (5) Allowable costs prescribed in this section do not  
12 include the costs of the teachers' retirement system, the  
13 public employees' retirement system, the federal social  
14 security system, or the costs for unemployment compensation  
15 insurance.

16 ~~(6) IF SPECIAL EDUCATION BUDGETS APPROVED BY THE~~  
17 ~~SUPERINTENDENT OF PUBLIC INSTRUCTION EXCEED LEGISLATIVE~~  
18 ~~APPROPRIATIONS AVAILABLE FOR SPECIAL EDUCATION, EACH~~  
19 ~~DISTRICT SHALL RECEIVE A PRO-RATA SHARE OF THE AVAILABLE~~  
20 ~~APPROPRIATIONS BASED UPON ITS BUDGET AS A PERCENTAGE OF ALL~~  
21 ~~APPROVED SPECIAL EDUCATION BUDGETS, THE AMOUNT OF THE~~  
22 ~~APPROVED BUDGETS IN EXCESS OF THE AVAILABLE APPROPRIATIONS~~  
23 ~~MAY NOT BE REIMBURSED UNDER THE~~  
24 ~~MAXIMUM BUDGET WITHOUT A VOTE FOR SPECIAL EDUCATION AND IS~~  
25 ~~THE RESPONSIBILITY OF THE SCHOOL DISTRICT, NOTWITHSTANDING~~

1 ~~OTHER PROVISIONS OF THE LAW THE SUPERINTENDENT OF PUBLIC~~  
2 ~~INSTRUCTION SHALL NOT APPROVE A~~  
3 ~~MAXIMUM BUDGET WITHOUT A VOTE FOR SPECIAL EDUCATION WHICH~~  
4 ~~EXCEEDS LEGISLATIVE APPROPRIATIONS.~~

5 SECTION 2. SECTION 20-7-421, MCA, IS AMENDED TO READ:

6 "20-7-421. Arranging attendance in another district in  
7 lieu of a special education program -- tuition. (1) With the  
8 approval of the superintendent of public instruction, the  
9 trustees may arrange for the attendance of a child in need  
10 of special education in a special education program in  
11 another district within the state of Montana. Arrangements  
12 for the attendance of a child in need of special education  
13 are not subject to the laws governing the attendance of  
14 pupils in schools outside the district, and no tuition shall  
15 be charged the district of residence. However, tuition as  
16 required under 20-5-303 may be charged for children who are  
17 not considered full-time special education pupils as defined  
18 in 20-9-311 except as provided in subsection (2).

19 (2) The resident district of pupils attending a  
20 special education program in another district is responsible  
21 for payment of tuition as established in 20-5-305 and  
22 20-5-312."

23 Section 3. Section 20-9-501, MCA, is amended to read:

24 "20-9-501. Retirement fund. (1) The trustees of any  
25 district employing personnel who are members of the

1 teachers' retirement system or the public employees'  
 2 retirement system or who are covered by unemployment  
 3 compensation or who are covered by any federal social  
 4 security system requiring employer contributions shall  
 5 establish a retirement fund for the purposes of budgeting  
 6 and paying the employer's contributions to such systems. The  
 7 district's contribution for each employee who is a member of  
 8 the teachers' retirement system shall be calculated in  
 9 accordance with Title 19, chapter 4, part 6. The district's  
 10 contribution for each employee who is a member of the public  
 11 employees' retirement system shall be calculated in  
 12 accordance with 19-3-801. The district may levy a special  
 13 tax to pay its contribution to the public employees'  
 14 retirement system under the conditions prescribed in  
 15 19-3-204. The district's contributions for each employee  
 16 covered by any federal social security system shall be paid  
 17 in accordance with federal law and regulation. The  
 18 district's contribution for each employee who is covered by  
 19 unemployment compensation shall be paid in accordance with  
 20 Title 39, chapter 51, part 11.

21 (2) The trustees of any district required to make a  
 22 contribution to any such system shall include in the  
 23 retirement fund of the preliminary budget the estimated  
 24 amount of the employer's contribution and such additional  
 25 moneys, within legal limitations, as they may wish to

1 provide for the retirement fund cash reserve. After the  
 2 final retirement fund budget has been adopted, the trustees  
 3 shall pay the employer contributions to such systems in  
 4 accordance with the financial administration provisions of  
 5 this title.

6 (3) When the final retirement fund budget has been  
 7 adopted, the county superintendent shall establish the levy  
 8 requirement by:

9 (a) determining the sum of the moneys available to  
 10 reduce the retirement fund levy requirement by adding:

11 (i) any anticipated moneys that may be realized in the  
 12 retirement fund during the ensuing school fiscal year; and

13 (ii) any cash available for reappropriation as  
 14 determined by subtracting the amount of the end-of-the-year  
 15 cash balance earmarked as the retirement fund cash reserve  
 16 for the ensuing school fiscal year by the trustees from the  
 17 end-of-the-year cash balance in the retirement fund. The  
 18 retirement fund cash reserve shall not be more than 35% of  
 19 the final retirement fund budget for the ensuing school  
 20 fiscal year and shall be used for the purpose of paying  
 21 retirement fund warrants issued by the district under the  
 22 final retirement fund budget.

23 (b) subtracting the total of the moneys available for  
 24 reduction of the levy requirement as determined in  
 25 subsection (3)(a) from the budgeted amount for expenditures

1 in the final retirement fund budget.

2 (4) The county superintendent shall total the net  
3 retirement fund levy requirements separately for all  
4 elementary school districts, all high school districts, and  
5 all community college districts of the county, including any  
6 prorated joint district or special educational cooperative  
7 agreement levy requirements, and shall report each such levy  
8 requirement to the county commissioners on the second Monday  
9 of August as the respective county levy requirements for  
10 elementary district, high school district, and community  
11 college district retirement funds. The county commissioners  
12 shall fix and set such county levy in accordance with  
13 20-9-142.

14 (5) The net retirement fund levy requirement for a  
15 joint elementary district or a joint high school district  
16 shall be prorated to each county in which a part of such  
17 district is located in the same proportion as the district  
18 ANB of the joint district is distributed by pupil residence  
19 in each such county. The county superintendents of the  
20 counties affected shall jointly determine the net retirement  
21 fund levy requirement for each county as provided in  
22 20-9-151.

23 (6) The net retirement fund levy requirement for  
24 districts that are members of special educational  
25 cooperative agreements shall be prorated to each county in

1 which such district is located in the same proportion as the  
2 budget for the special education cooperative agreement of  
3 the district bears to the total budget of the cooperative.  
4 The county superintendents of the counties affected shall  
5 jointly determine the net retirement fund levy requirement  
6 for each county in the same manner as provided in 20-9-151  
7 and fix and levy the net retirement fund levy for each  
8 county in the same manner as provided in 20-9-152."

-End-

March 20, 1979

SENATE STANDING COMMITTEE REPORT  
(Education)

That House Bill No. 453, third reading bill, as follows:

1. Title, line 10.

Following: "COUNTY;"

Insert: "PROVIDING FOR SPECIAL EDUCATION TUITION; ESTABLISHING PROCEDURES  
IF APPROVED BUDGETS EXCEED APPROPRIATIONS;"

2. Title, line 10.

Following: "SECTIONS"

Insert: "20-7-421,"

Following: "20-7-431"

Insert: ", "

3. Page 9, line 13.

Following: line 12

Insert: "(6) If special education budgets approved by the superintendent of public instruction exceed legislative appropriations available for special education, each district shall receive a pro rata share of the available appropriations based upon its budget as a percentage of all approved special education budgets. The amount of the approved budgets in excess of the available appropriations may not be reimbursed under the maximum-budget-without-a-vote for special education and is the responsibility of the school district.

Section 2. Section 20-7-421. MCA, IS AMENDED TO READ:

"20-7-421. Arranging attendance in another district in lieu of a special education program -- tuition. (1) With the approval of the superintendent of public instruction, the trustees may arrange for the attendance of a child in need of special education in a special education program in another district within the state of Montana. Arrangements for the attendance of a child in need of special education are not subject to the laws governing the attendance of pupils in schools outside the district, ~~and no tuition shall be charged the district of residence. However, tuition as required under 20-5-303 may be charged for children who are not considered full-time special education pupils as defined in 20-9-311~~ except as provided in subsection (2).

(2) The resident district of pupils attending a special education program in another district is responsible for payment of tuition as established in 20-5-305 and 20-5-312." "

Renumber: subsequent sections

March 22, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 453, third reading bill, be amended as follows:

1. Page 9, following line 12.

Strike: subsection 6 in its entirety.

Insert: "Notwithstanding other provisions of the law the superintendent of public instruction shall not approve a maximum-budget-without-a-vote for special education which exceeds legislative appropriations."