

CHAPTER NO. 558

HOUSE BILL NO. 624

INTRODUCED BY MARKS, IVERSON, KEYSER, LORY, ELLISON,  
VINGER, NATHE, THOFT, CURTISS, DONALDSON, CONROY,  
KOLSTAD, ROTH, SPILKER, HAND

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Education.
February 17, 1979	Committee recommend bill do not pass.
February 19, 1979	Objection raised to adverse committee report.
February 20, 1979	Motion pass consideration.
February 22, 1979	Second reading, do pass as amended.  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.
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, pass  
consideration.

March 30, 1979

Second reading, amendments  
adopted.

March 31, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

1 *Howe* BILL NO. *624*  
 2 INTRODUCED BY *Mark Jensen* *Theresa Long*  
 3 *Ellison* *WATH* *Ell* *Curtis* *Donaldson*  
 4 *Conroy* *Wolsten* *Rota* *Spitzer*  
 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS *Hand*

5 RELATING TO SPECIAL EDUCATION; CHANGING AGE REQUIREMENTS FOR  
 6 ADMISSION AND ACCEPTANCE OF CERTAIN PUPILS TO SCHOOL;  
 7 REQUIRING THE BOARD OF PUBLIC EDUCATION TO ESTABLISH  
 8 POLICIES THAT CLARIFY THE EDUCATIONAL RESPONSIBILITIES OF  
 9 SCHOOL DISTRICTS IN SERVING HANDICAPPED CHILDREN BETWEEN THE  
 10 AGES OF 6 AND 18 AND FOR THE APPROPRIATE PLACEMENT OF SUCH  
 11 CHILDREN; MAKING SCHOOL DISTRICT PROVISION OF SPECIAL  
 12 EDUCATION PROGRAMS PERMISSIVE IN CERTAIN CASES; AND AMENDING  
 13 SECTIONS 20-1-101, 20-5-101, 20-7-402, 20-7-411, 20-7-412,  
 14 AND 20-7-414, MCA."

15  
 16 IF IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 20-1-101, MCA, is amended to read:

18 "20-1-101. Definitions. As used in this title, unless  
 19 the context clearly indicates otherwise, the following  
 20 definitions apply:

21 (1) "Agricultural experiment station" means the  
 22 agricultural experiment station established at Montana state  
 23 university.

24 (2) "Average number belonging" or "ANB" shall mean the  
 25 average number of regularly enrolled, full-time pupils

1 attending the public schools of a district.

2 (3) "The board of public education" is the board  
 3 created by Article X, section 9, subsection (3) of the 1972  
 4 Montana constitution and 2-15-1507.

5 (4) "Board of regents" means the board of regents of  
 6 higher education created by Article X, section 9, subsection  
 7 (2) of the 1972 Montana constitution and 2-15-1505.

8 (5) "Commissioner" means the commissioner of higher  
 9 education created by Article X, section 9, subsection (2) of  
 10 the 1972 Montana constitution and 2-15-1506.

11 (6) "County superintendent" means the county  
 12 government official who is the school officer of the county.

13 (7) "District superintendent" means any person who  
 14 holds a valid class 3 Montana teacher certificate with a  
 15 superintendent's endorsement that has been issued by the  
 16 superintendent of public instruction under the provisions of  
 17 this title and the policies adopted by the board of public  
 18 education and who has been employed by a district as a  
 19 district superintendent.

20 (8) "Postsecondary vocational-technical center" means  
 21 a school used principally for the provision of postsecondary  
 22 vocational-technical education to persons who qualify as  
 23 postsecondary vocational-technical pupils. These centers are  
 24 designated by the board of public education upon direction  
 25 by the legislature. All other public or private schools are

1 hereby prohibited from using this title.

2 (9) "Postsecondary vocational-technical education"  
3 means vocational-technical education of postsecondary  
4 vocational-technical pupils which is conducted by a  
5 postsecondary vocational-technical center or other programs  
6 as designated by the board of public education.  
7 Postsecondary vocational-technical education shall include  
8 the 13th and 14th year and beyond but will not include work  
9 toward a baccalaureate degree.

10 (10) "Postsecondary vocational-technical pupil" means a  
11 person who has completed or left school, is at least 16  
12 years of age, and is available for study in preparation for  
13 entering the labor market, for reentering the labor market,  
14 or for employment stability or advancement in employment.

15 (11) "Principal" means any person who holds a valid  
16 class 3 Montana teacher certificate with an applicable  
17 principal's endorsement that has been issued by the  
18 superintendent of public instruction under the provisions of  
19 this title and the policies adopted by the board of public  
20 education and who has been employed by a district as a  
21 principal. For the purposes of this title, any reference to  
22 a teacher shall be construed as including a principal, as  
23 herein defined.

24 (12) "Pupil" means any child who is 6 years of age or  
25 older but has not yet reached his ~~21st~~ 19th birthday and who

1 is enrolled in a school established and maintained under the  
2 laws of the state of Montana at public expense.

3 (13) "Pupil instruction" means the conduct of organized  
4 instruction of pupils enrolled in public schools while under  
5 the supervision of a teacher.

6 (14) "Regents" means the board of regents of higher  
7 education.

8 (15) "School food services" means a service of  
9 providing food for the pupils of a district on a nonprofit  
10 basis and shall include any food service financially  
11 assisted through funds or commodities provided by the United  
12 States government.

13 (16) "The state board of education" is the board  
14 composed of the board of public education and the board of  
15 regents as specified in Article X, section 9, subsection (1)  
16 of the 1972 Montana constitution.

17 (17) "State university" means the Montana state  
18 university, located at Bozeman.

19 (18) "Superintendent of public instruction" means that  
20 state government official designated as a member of the  
21 executive branch by the constitution of Montana.

22 (19) "System" means the Montana university system.

23 (20) "Teacher" means any person, except a district  
24 superintendent, who holds a valid Montana teacher  
25 certificate that has been issued by the superintendent of

1 public instruction under the provisions of this title and  
 2 the policies adopted by the board of public education and  
 3 who is employed by a district as a member of its  
 4 instructional, supervisory, or administrative staff. This  
 5 definition of a teacher shall also include any person for  
 6 whom an emergency authorization of employment of such person  
 7 has been issued under the provisions of 20-4-111.

8 (21) "Textbook" means a book or manual used as a  
 9 principal source of study material for a given class or  
 10 group of students.

11 (22) "Textbook dealer" means any party, company,  
 12 corporation, or other organization selling, offering to  
 13 sell, or offering for adoption textbooks to districts in the  
 14 state of Montana.

15 (23) "Trustees" means the governing board of a  
 16 district.

17 (24) "University" means the university of Montana,  
 18 located at Missoula.

19 (25) "Vocational education" means the instruction to  
 20 prepare or improve the pupil for gainful employment that  
 21 does not require a baccalaureate or higher degree. This  
 22 definition of vocational education shall include guidance  
 23 and prevocational, related, or technical instruction  
 24 necessary to prepare the pupil for further vocational  
 25 education or for entry into employment."

1 Section 2. Section 20-5-101, MCA, is amended to read:  
 2 "20-5-101. Admittance of child to school. (1) The  
 3 trustees shall assign and admit any child to a school in the  
 4 district when the child is:

5 (a) 6 years of age or older but has not yet reached  
 6 his ~~21st~~ 19th birthday;

7 (b) a resident of the district; and

8 (c) otherwise qualified under the provisions of this  
 9 title to be admitted to such school.

10 (2) In complying with subsection (1)(a) above, the  
 11 trustees shall have the authority to establish reasonable  
 12 age requirements for entry into the 1st grade so long as an  
 13 otherwise qualified child is permitted to enter the 1st  
 14 grade sometime during his seventh year or earlier.

15 ~~(3) The trustees may, at their discretion, assign and~~  
 16 ~~admit a child to a school in the district who is under 6~~  
 17 ~~years of age or an adult who is 19 years of age or older.~~

18 ~~(3)(4)~~ The trustees of any district shall have the  
 19 authority to assign and admit any nonresident child to a  
 20 school in the district under the tuition provisions of this  
 21 title."

22 Section 3. Section 20-7-402, MCA, is amended to read:

23 "20-7-402. Special education to comply with board  
 24 policies. (1) The conduct of special education programs  
 25 shall comply with the policies recommended by the

1 superintendent of public instruction and adopted by the  
2 board of public education. These policies shall assure and  
3 include but are not limited to:

4 ~~(a) guidelines that clearly distinguish the~~  
5 ~~educational responsibilities of school districts in serving~~  
6 ~~handicapped children between the ages of 6 and 18,~~  
7 ~~inclusive;~~

8 ~~(b) guidelines for the placement of handicapped~~  
9 ~~children between the ages of 6 and 18, inclusive, in the~~  
10 ~~least restrictive alternative setting where they can receive~~  
11 ~~an appropriate education;~~

12 ~~(c) due process for all handicapped children;~~

13 ~~(d) use of child study teams to identify~~  
14 ~~handicapped children and use of instructional teams to plan~~  
15 ~~individual education programs;~~

16 ~~(e) comprehensive evaluation for each handicapped~~  
17 ~~child; and~~

18 ~~(f) other policies needed to assure a free and~~  
19 ~~appropriate public education.~~

20 (2) The superintendent of public instruction shall  
21 promulgate rules to administer the policies of the board of  
22 public education."

23 Section 4. Section 20-7-411, MCA, is amended to read:

24 "20-7-411. Regular classes preferred -- obligation to  
25 establish special education program. (1) All handicapped

1 children in Montana are entitled to a free appropriate  
2 public education provided in the least restrictive  
3 alternative setting. To the maximum extent appropriate,  
4 handicapped children, including children in public or  
5 private institutions or other care facilities, shall be  
6 educated with children who are not handicapped. Separate  
7 schooling or other removal of handicapped children from the  
8 regular educational environment may occur only when the  
9 nature or severity of the handicap is such that education in  
10 regular classes with the use of supplementary aids and  
11 services cannot be achieved satisfactorily. ~~Separate~~  
12 ~~schooling or other removal must be done pursuant to the~~  
13 ~~guidelines of the board of public education required under~~  
14 ~~20-7-402. All special education programs established in a~~  
15 ~~school district must meet the needs of handicapped children~~  
16 ~~at least as well as the needs of nonhandicapped children are~~  
17 ~~being met by the district.~~

18 (2) After September 1, 1977, the board of trustees of  
19 every school district must provide or establish and maintain  
20 a special education program for every handicapped person as  
21 herein defined between the ages of 6 and 18, inclusive, who  
22 meets the guidelines established by the board of public  
23 education. ~~After September 1, 1988, such services shall be~~  
24 ~~provided for all handicapped children between the ages of 3~~  
25 ~~and 21, inclusive.~~

(3) The board of trustees of any school district may meet its obligation to serve handicapped persons by establishing its own special education program, by establishing a cooperative special education program, or by participating in a regional services program."

Section 5. Section 20-7-412, MCA, is amended to read:

"20-7-412. Establishment of individual district special education program. (1) The trustees of any district, upon obtaining the approval of the superintendent of public instruction, shall establish and maintain a special education program whenever, in the judgment of the trustees and the superintendent of public instruction:

(a) there are sufficient numbers of handicapped children in the district who meet the guidelines established by the board of public education to justify the establishment of a program; or

(b) an individual child who meets the guidelines established by the board of public education requires special education services such as home or hospital tutoring, school-to-home telephone communication, or other individual programs.

(2) ~~Prior to September 1, 1980, programs~~ Programs may be established for handicapped children ~~ages 3 through 5 and after September 1, 1980, children~~ persons between the ages of 0 through 2 ~~may be provided service~~ and 25 ~~who do not~~

meet the guidelines established by the board of public education when the superintendent of public instruction and the trustees have determined that such programs will:

(a) assist a ~~child~~ person to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of ~~skills~~ skills which will provide the ~~child~~ person with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the ~~child~~ person.

(3) ~~Prior to September 1, 1980, programs may be established for handicapped persons between the ages of 18 and 21 inclusive when the superintendent of public instruction and the trustees have determined that such programs will contribute to the educational development of those persons.~~ Approval and operation of programs established pursuant to subsection (2) do not obligate the state or a school district to offer regular educational programs to a similar age group unless specifically provided by law.

(4) When an agency which has responsibility for a handicapped person ~~over 21 but not more than 25, inclusive,~~

1 cannot provide appropriate services to that person, the  
 2 agency may contract with the local school district to  
 3 provide such services."

4 Section 6. Section 20-7-414, MCA, is amended to read:

5 "20-7-414. Determination of children in need and type  
 6 of special education needed -- approval of classes and  
 7 programs by superintendent. (1) The determination of the  
 8 children requiring special education and the type of special  
 9 education needed by these children shall be the  
 10 responsibility of the trustees, and such determination shall  
 11 be made in compliance with the policies and guidelines  
 12 established by the board of public education relating to the  
 13 educational responsibility of school districts for  
 14 handicapped persons and with the procedures established in  
 15 the rules of the superintendent of public instruction.

16 (2) Whenever the trustees of any district intend to  
 17 establish a special education class or program, they shall  
 18 apply for approval and funding of the class or program by  
 19 the superintendent of public instruction. The superintendent  
 20 of public instruction shall approve or disapprove the  
 21 application for the special education class or program on  
 22 the basis of its compliance with the laws of the state of  
 23 Montana, the special education policies adopted by the board  
 24 of public education, and the rules of the superintendent of  
 25 public instruction. No special education class may be

1 operated by the trustees without the approval of the  
 2 superintendent of public instruction. Each special education  
 3 class or program must be approved annually to be funded as  
 4 part of the maximum-budget-without-a-vote for special  
 5 education."

-End-



## 1 HOUSE BILL NO. 624

2 INTRODUCED BY MARKS, IVERSON, KEYSER, LORY, ELLISON,

3 VINGER, NATHE, THOFT, CURTISS, DONALDSON, CONROY,

4 KOLSTAD, ROTH, SPILKER, HAND

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
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8 ADMISSION AND ACCEPTANCE OF CERTAIN PUPILS TO SCHOOL;  
9 REQUIRING--THE--BOARD--OF--PUBLIC--EDUCATION--TO--ESTABLISH  
10 POLICIES--THAT--CLARIFY--THE--EDUCATIONAL--RESPONSIBILITIES--OF  
11 SCHOOL--DISTRICTS--IN--SERVING--HANDICAPPED--CHILDREN--BETWEEN--THE  
12 AGES--OF--6--AND--18--AND--FOR--THE--APPROPRIATE--PLACEMENT--OF--SUCH  
13 CHILDREN; MAKING SCHOOL DISTRICT PROVISION OF SPECIAL  
14 EDUCATION PROGRAMS PERMISSIVE IN CERTAIN CASES; AND AMENDING  
15 SECTIONS 20-1-101, 20-5-101, 20-7-402, 20-7-411, AND  
16 20-7-412, AND 20-7-414, MCA."

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

19 Section 1. Section 20-1-101, MCA, is amended to read:

20 "20-1-101. Definitions. As used in this title, unless  
21 the context clearly indicates otherwise, the following  
22 definitions apply:23 (1) "Agricultural experiment station" means the  
24 agricultural experiment station established at Montana state  
25 university.1 (2) "Average number belonging" or "ANB" shall mean the  
2 average number of regularly enrolled, full-time pupils  
3 attending the public schools of a district.4 (3) "The board of public education" is the board  
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14 government official who is the school officer of the county.15 (7) "District superintendent" means any person who  
16 holds a valid class 3 Montana teacher certificate with a  
17 superintendent's endorsement that has been issued by the  
18 superintendent of public instruction under the provisions of  
19 this title and the policies adopted by the board of public  
20 education and who has been employed by a district as a  
21 district superintendent.22 (8) "Postsecondary vocational-technical center" means  
23 a school used principally for the provision of postsecondary  
24 vocational-technical education to persons who qualify as  
25 postsecondary vocational-technical pupils. These centers are

1 designated by the board of public education upon direction  
2 by the legislature. All other public or private schools are  
3 hereby prohibited from using this title.

4 (9) "Postsecondary vocational-technical education"  
5 means vocational-technical education of postsecondary  
6 vocational-technical pupils which is conducted by a  
7 postsecondary vocational-technical center or other programs  
8 as designated by the board of public education.  
9 Postsecondary vocational-technical education shall include  
10 the 13th and 14th year and beyond but will not include work  
11 toward a baccalaureate degree.

12 (10) "Postsecondary vocational-technical pupil" means a  
13 person who has completed or left school, is at least 16  
14 years of age, and is available for study in preparation for  
15 entering the labor market, for reentering the labor market,  
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17 (11) "Principal" means any person who holds a valid  
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19 principal's endorsement that has been issued by the  
20 superintendent of public instruction under the provisions of  
21 this title and the policies adopted by the board of public  
22 education and who has been employed by a district as a  
23 principal. For the purposes of this title, any reference to  
24 a teacher shall be construed as including a principal, as  
25 herein defined.

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2 older but has not yet reached his ~~21st~~ 19th birthday and who  
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4 laws of the state of Montana at public expense.

5 (13) "Pupil instruction" means the conduct of organized  
6 instruction of pupils enrolled in public schools while under  
7 the supervision of a teacher.

8 (14) "Regents" means the board of regents of higher  
9 education.

10 (15) "School food services" means a service of  
11 providing food for the pupils of a district on a nonprofit  
12 basis and shall include any food service financially  
13 assisted through funds or commodities provided by the United  
14 States government.

15 (16) "The state board of education" is the board  
16 composed of the board of public education and the board of  
17 regents as specified in Article X, section 9, subsection (1)  
18 of the 1972 Montana constitution.

19 (17) "State university" means the Montana state  
20 university, located at Bozeman.

21 (18) "Superintendent of public instruction" means that  
22 state government official designated as a member of the  
23 executive branch by the constitution of Montana.

24 (19) "System" means the Montana university system.

25 (20) "Teacher" means any person, except a district

1 superintendent, who holds a valid Montana teacher  
 2 certificate that has been issued by the superintendent of  
 3 public instruction under the provisions of this title and  
 4 the policies adopted by the board of public education and  
 5 who is employed by a district as a member of its  
 6 instructional, supervisory, or administrative staff. This  
 7 definition of a teacher shall also include any person for  
 8 whom an emergency authorization of employment of such person  
 9 has been issued under the provisions of 20-4-111.

10 (21) "Textbook" means a book or manual used as a  
 11 principal source of study material for a given class or  
 12 group of students.

13 (22) "Textbook dealer" means any party, company,  
 14 corporation, or other organization selling, offering to  
 15 sell, or offering for adoption textbooks to districts in the  
 16 state of Montana.

17 (23) "Trustees" means the governing board of a  
 18 district.

19 (24) "University" means the university of Montana,  
 20 located at Missoula.

21 (25) "Vocational education" means the instruction to  
 22 prepare or improve the pupil for gainful employment that  
 23 does not require a baccalaureate or higher degree. This  
 24 definition of vocational education shall include guidance  
 25 and prevocational, related, or technical instruction

1 necessary to prepare the pupil for further vocational  
 2 education or for entry into employment."

3 Section 2. Section 20-5-101, MCA, is amended to read:  
 4 "20-5-101. Admittance of child to school. (1) The  
 5 trustees shall assign and admit any child to a school in the  
 6 district when the child is:

7 (a) 6 years of age or older but has not yet reached  
 8 his 21st 19th birthday;

9 (b) a resident of the district; and

10 (c) otherwise qualified under the provisions of this  
 11 title to be admitted to such school.

12 (2) In complying with subsection (1)(a) above, the  
 13 trustees shall have the authority to establish reasonable  
 14 age requirements for entry into the 1st grade so long as an  
 15 otherwise qualified child is permitted to enter the 1st  
 16 grade sometime during his seventh year or earlier.

17 ~~(3) The trustees may, at their discretion, assign and~~  
 18 ~~admit a child to a school in the district who is under 6~~  
 19 ~~years of age or an adult who is 19 years of age or older.~~

20 ~~†††††~~ The trustees of any district shall have the  
 21 authority to assign and admit any nonresident child to a  
 22 school in the district under the tuition provisions of this  
 23 title."

24 Section-3--Section-20-7-402--MCA--is--amended--to--read--  
 25 "20-7-402--Special--education--to--comply--with--board

1 policies--(1) The conduct--of--special--education--programs  
 2 shall---comply---with---the---policies---recommended--by--the  
 3 superintendent-of-public--instruction--and--adopted--by--the  
 4 board--of--public-education. These policies shall assure and  
 5 include but are not limited to:  
 6 (a) guidelines--that--clearly--distinguish--the  
 7 educational--responsibilities--of--school--districts--in--serving  
 8 handicapped--children--between--the--ages--of--6--and--18,  
 9 inclusive;  
 10 (b) guidelines--for--the placement--of--handicapped  
 11 children between the ages of 6 and 18, inclusive, in--the  
 12 least-restrictive-alternative-setting where they can receive  
 13 an-appropriate-education;  
 14 (c) due-process-for-all-handicapped-children;  
 15 (d) use--of--child--study--teams--to--identify  
 16 handicapped-children-and-use-of-instructional--teams-to--plan  
 17 individual-education-programs;  
 18 (e) comprehensive--evaluation--for--each-handicapped  
 19 child; and  
 20 (f) other policies needed--to--assure--a--free--and  
 21 appropriate-public-education.  
 22 (2) The--superintendent--of--public--instruction shall  
 23 promulgate rules to administer the policies of the board of  
 24 public-education."

25 Section 3. Section 20-7-411, MCA, is amended to read:

1 "20-7-411. Regular classes preferred -- obligation to  
 2 establish special education program. (1) All handicapped  
 3 children in Montana are entitled to a free appropriate  
 4 public education provided in the least restrictive  
 5 alternative setting. To the maximum extent appropriate,  
 6 handicapped children, including children in public or  
 7 private institutions or other care facilities, shall be  
 8 educated with children who are not handicapped. Separate  
 9 schooling or other removal of handicapped children from the  
 10 regular educational environment may occur only when the  
 11 nature or severity of the handicap is such that education in  
 12 regular classes with the use of supplementary aids and  
 13 services cannot be achieved satisfactorily. ~~Separate~~  
 14 ~~schooling or other removal must be done pursuant to the~~  
 15 ~~guidelines of the board of public education required under~~  
 16 ~~20-7-402. All special education programs established in a~~  
 17 ~~school district must meet the needs of handicapped children~~  
 18 ~~at least as well as the needs of nonhandicapped children are~~  
 19 ~~being met by the district.~~

20 (2) After September 1, 1977, the board of trustees of  
 21 every school district must provide or establish and maintain  
 22 a special education program for every handicapped person as  
 23 herein defined AS HEREIN DEFINED between the ages of 6 and  
 24 18, inclusive: ~~who meets the guidelines established by the~~  
 25 ~~board of public education. After September 1, 1988, such~~

1 services--shall--be--provided--for--all--handicapped--children  
2 between--the--ages--of--3--and--21--inclusive

3 (3) The board of trustees of any school district may  
4 meet its obligation to serve handicapped persons by  
5 establishing its own special education program, by  
6 establishing a cooperative special education program, or by  
7 participating in a regional services program."

8 Section 4. Section 20-7-412, MCA, is amended to read:

9 "20-7-412. Establishment of individual district  
10 special education program. (1) The trustees of any district,  
11 upon obtaining the approval of the superintendent of public  
12 instruction, shall establish and maintain a special  
13 education program whenever, in the judgment of the trustees  
14 and the superintendent of public instruction:

15 (a) there are sufficient numbers of handicapped  
16 children in the district ~~who meet the guidelines established~~  
17 ~~by the board of public education~~ to justify the  
18 establishment of a program; or

19 (b) an individual child ~~who meets the guidelines~~  
20 ~~established by the board of public education~~ requires  
21 special education services such as home or hospital  
22 tutoring, school-to-home telephone communication, or other  
23 individual programs.

24 (2) Prior--to--September--14--1988--programs PROGRAMS may  
25 be established for handicapped children--ages--3--through--5--and

1 after--September--14--1988--children persons between the ages  
2 of 0 through--2--may--be--provided--service and 25 who do not  
3 ~~meet the guidelines established by the board of public~~  
4 ~~education~~ when the superintendent of public instruction and  
5 the trustees have determined that such programs will:

6 (a) assist a child person to achieve levels of  
7 competence that will enable him to participate in the  
8 regular instruction of the district when he could not  
9 participate without special education;

10 (b) permit the conservation or early acquisition of  
11 skills which will provide the child person with an equal  
12 opportunity to participate in the regular instruction of the  
13 district; or

14 (c) provide other demonstrated educational advantages  
15 which will materially benefit the child person.

16 (3) Prior--to--September--14--1988--programs--may--be  
17 established--for--handicapped--persons--between--the--ages--of--18  
18 and--21--inclusive--when--the--superintendent--of--public  
19 instruction--and--the--trustees--have--determined--that--such  
20 programs--will--contribute--to--the--educational--development--of  
21 those--persons. Approval and operation of programs  
22 established pursuant to subsection (2) do not obligate the  
23 state or a school district to offer regular educational  
24 programs to a similar age group unless specifically  
25 provided by law.

1           (4) When an agency which has responsibility for a  
2 handicapped person over-21-but-not-more-than-75,--inclusive  
3 cannot provide appropriate services to that person, the  
4 agency may contract with the local school district to  
5 provide such services."

6           Section 5. Section 20-7-414, MCA, is amended to read:

7           "20-7-414. Determination of children in need and type  
8 of special education needed -- approval of classes and  
9 programs by superintendent. (1) The determination of the  
10 children requiring special education and the type of special  
11 education needed by these children shall be the  
12 responsibility of the trustees, and such determination shall  
13 be made in compliance with the ~~policies--and--guidelines~~  
14 ~~established-by-the-board-of-public-education-relating-to-the~~  
15 ~~educational--responsibility--of--school--districts--for~~  
16 ~~handicapped-persons--and--with--the~~ procedures established in  
17 the rules of the superintendent of public instruction.

18           (2) Whenever the trustees of any district intend to  
19 establish a special education class or program, they shall  
20 apply for approval and funding of the class or program by  
21 the superintendent of public instruction. The superintendent  
22 of public instruction shall approve or disapprove the  
23 application for the special education class or program on  
24 the basis of its compliance with the laws of the state of  
25 Montana, the special education policies adopted by the board

1 of public education, and the rules of the superintendent of  
2 public instruction. No special education class may be  
3 operated by the trustees without the approval of the  
4 superintendent of public instruction. Each special education  
5 class or program must be approved annually to be funded as  
6 part of the ~~maximum-budget-without-a-vote~~ for special  
7 education."

-End-

## 1 HOUSE BILL NO. 624

2 INTRODUCED BY MARKS, IVERSON, KEYSER, LORY, ELLISON,

3 VINGER, NATHE, THOFT, CURFISS, DONALDSON, CONROY,

4 KOLSTAD, ROTH, SPILKER, HAND

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
7 RELATING TO SPECIAL EDUCATION; CHANGING AGE REQUIREMENTS FOR  
8 ADMISSION AND ACCEPTANCE OF CERTAIN PUPILS TO SCHOOL;  
9 ~~REQUIRING--THE--BOARD--OF--PUBLIC--EDUCATION--TO--ESTABLISH~~  
10 ~~POLICIES--THAT--CLARIFY--THE--EDUCATIONAL--RESPONSIBILITIES--OF~~  
11 ~~SCHOOL--DISTRICTS--IN--SERVING--HANDICAPPED--CHILDREN--BETWEEN--THE~~  
12 ~~AGES--OF--6--AND--18--AND--FOR--THE--APPROPRIATE--PLACEMENT--OF--SUCH~~  
13 ~~CHILDREN;~~ MAKING SCHOOL DISTRICT PROVISION OF SPECIAL  
14 EDUCATION PROGRAMS PERMISSIVE IN CERTAIN CASES; AND AMENDING  
15 SECTIONS 20-1-101, 20-5-101, 20-7-402, 20-7-411, AND  
16 20-7-412, AND ~~20-7-414,~~ MCA."

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

19 Section 1. Section 20-1-101, MCA, is amended to read:

20 "20-1-101. Definitions. As used in this title, unless  
21 the context clearly indicates otherwise, the following  
22 definitions apply:23 (1) "Agricultural experiment station" means the  
24 agricultural experiment station established at Montana state  
25 university.1 (2) "Average number belonging" or "ANB" shall mean the  
2 average number of regularly enrolled, full-time pupils  
3 attending the public schools of a district.4 (3) "The board of public education" is the board  
5 created by Article X, section 9, subsection (3) of the 1972  
6 Montana constitution and 2-15-1507.7 (4) "Board of regents" means the board of regents of  
8 higher education created by Article X, section 9, subsection  
9 (2) of the 1972 Montana constitution and 2-15-1505.10 (5) "Commissioner" means the commissioner of higher  
11 education created by Article X, section 9, subsection (2) of  
12 the 1972 Montana constitution and 2-15-1506.13 (6) "County superintendent" means the county  
14 government official who is the school officer of the county.15 (7) "District superintendent" means any person who  
16 holds a valid class 3 Montana teacher certificate with a  
17 superintendent's endorsement that has been issued by the  
18 superintendent of public instruction under the provisions of  
19 this title and the policies adopted by the board of public  
20 education and who has been employed by a district as a  
21 district superintendent.22 (8) "Postsecondary vocational-technical center" means  
23 a school used principally for the provision of postsecondary  
24 vocational-technical education to persons who qualify as  
25 postsecondary vocational-technical pupils. These centers are

1 designated by the board of public education upon direction  
2 by the legislature. All other public or private schools are  
3 hereby prohibited from using this title.

4 (9) "Postsecondary vocational-technical education"  
5 means vocational-technical education of postsecondary  
6 vocational-technical pupils which is conducted by a  
7 postsecondary vocational-technical center or other programs  
8 as designated by the board of public education.  
9 Postsecondary vocational-technical education shall include  
10 the 13th and 14th year and beyond but will not include work  
11 toward a baccalaureate degree.

12 (10) "Postsecondary vocational-technical pupil" means a  
13 person who has completed or left school, is at least 16  
14 years of age, and is available for study in preparation for  
15 entering the labor market, for reentering the labor market,  
16 or for employment stability or advancement in employment.

17 (11) "Principal" means any person who holds a valid  
18 class 3 Montana teacher certificate with an applicable  
19 principal's endorsement that has been issued by the  
20 superintendent of public instruction under the provisions of  
21 this title and the policies adopted by the board of public  
22 education and who has been employed by a district as a  
23 principal. For the purposes of this title, any reference to  
24 a teacher shall be construed as including a principal, as  
25 herein defined.

1 (12) "Pupil" means any child who is 6 years of age or  
2 older but has not yet reached his 21st 19th birthday and who  
3 is enrolled in a school established and maintained under the  
4 laws of the state of Montana at public expense.

5 (13) "Pupil instruction" means the conduct of organized  
6 instruction of pupils enrolled in public schools while under  
7 the supervision of a teacher.

8 (14) "Regents" means the board of regents of higher  
9 education.

10 (15) "School food services" means a service of  
11 providing food for the pupils of a district on a nonprofit  
12 basis and shall include any food service financially  
13 assisted through funds or commodities provided by the United  
14 States government.

15 (16) "The state board of education" is the board  
16 composed of the board of public education and the board of  
17 regents as specified in Article X, section 9, subsection (1)  
18 of the 1972 Montana constitution.

19 (17) "State university" means the Montana state  
20 university, located at Bozeman.

21 (18) "Superintendent of public instruction" means that  
22 state government official designated as a member of the  
23 executive branch by the constitution of Montana.

24 (19) "System" means the Montana university system.

25 (20) "Teacher" means any person, except a district



1 superintendent, who holds a valid Montana teacher  
 2 certificate that has been issued by the superintendent of  
 3 public instruction under the provisions of this title and  
 4 the policies adopted by the board of public education and  
 5 who is employed by a district as a member of its  
 6 instructional, supervisory, or administrative staff. This  
 7 definition of a teacher shall also include any person for  
 8 whom an emergency authorization of employment of such person  
 9 has been issued under the provisions of 20-4-111.

10 (21) "Textbook" means a book or manual used as a  
 11 principal source of study material for a given class or  
 12 group of students.

13 (22) "Textbook dealer" means any party, company,  
 14 corporation, or other organization selling, offering to  
 15 sell, or offering for adoption textbooks to districts in the  
 16 state of Montana.

17 (23) "Trustees" means the governing board of a  
 18 district.

19 (24) "University" means the university of Montana,  
 20 located at Missoula.

21 (25) "Vocational education" means the instruction to  
 22 prepare or improve the pupil for gainful employment that  
 23 does not require a baccalaureate or higher degree. This  
 24 definition of vocational education shall include guidance  
 25 and prevocational, related, or technical instruction

1 necessary to prepare the pupil for further vocational  
 2 education or for entry into employment."

3 Section 2. Section 20-5-101, MCA, is amended to read:

4 "20-5-101. Admittance of child to school. (1) The  
 5 trustees shall assign and admit any child to a school in the  
 6 district when the child is:

7 (a) 6 years of age or older but has not yet reached  
 8 his 21<sup>st</sup> 19<sup>th</sup> birthday;

9 (b) a resident of the district; and

10 (c) otherwise qualified under the provisions of this  
 11 title to be admitted to such school.

12 (2) In complying with subsection (1)(a) above, the  
 13 trustees shall have the authority to establish reasonable  
 14 age requirements for entry into the 1st grade so long as an  
 15 otherwise qualified child is permitted to enter the 1st  
 16 grade sometime during his seventh year or earlier.

17 ~~(3) The trustees may, at their discretion, assign and~~  
 18 ~~admit a child to a school in the district who is under 6~~  
 19 ~~years of age or an adult who is 19 years of age or older.~~

20 ~~(3)(4)~~ The trustees of any district shall have the  
 21 authority to assign and admit any nonresident child to a  
 22 school in the district under the tuition provisions of this  
 23 title."

24 Section 3--Section 20-7-402, MCA, is amended to read:

25 "20-7-402--Special education--to--comply--with--board

1 policies, ~~(1) the conduct of special education programs~~  
 2 ~~shall comply with the policies recommended by the~~  
 3 ~~superintendent of public instruction and adopted by the~~  
 4 ~~board of public education. These policies shall assure and~~  
 5 ~~include but are not limited to~~  
 6 ~~(a) guidelines that clearly distinguish the~~  
 7 ~~educational responsibilities of school districts in serving~~  
 8 ~~handicapped children between the ages of 6 and 18~~  
 9 ~~inclusive;~~  
 10 ~~(b) guidelines for the placement of handicapped~~  
 11 ~~children between the ages of 6 and 18 inclusive in the~~  
 12 ~~least restrictive alternative setting where they can receive~~  
 13 ~~an appropriate education;~~  
 14 ~~(c) due process for all handicapped children;~~  
 15 ~~(d) use of child study teams to identify~~  
 16 ~~handicapped children and use of instructional teams to plan~~  
 17 ~~individual education programs;~~  
 18 ~~(e) comprehensive evaluation for each handicapped~~  
 19 ~~child; and~~  
 20 ~~(f) other policies needed to assure a free and~~  
 21 ~~appropriate public education.~~  
 22 ~~(2) The superintendent of public instruction shall~~  
 23 ~~promulgate rules to administer the policies of the board of~~  
 24 ~~public education."~~  
 25 Section 3. Section 20-7-411, MCA, is amended to read:

1 \*20-7-411. Regular classes preferred -- obligation to  
 2 establish special education program. (1) All handicapped  
 3 children in Montana are entitled to a free appropriate  
 4 public education provided in the least restrictive  
 5 alternative setting. To the maximum extent appropriate,  
 6 handicapped children, including children in public or  
 7 private institutions or other care facilities, shall be  
 8 educated with children who are not handicapped. Separate  
 9 schooling or other removal of handicapped children from the  
 10 regular educational environment may occur only when the  
 11 nature or severity of the handicap is such that education in  
 12 regular classes with the use of supplementary aids and  
 13 services cannot be achieved satisfactorily. ~~Separate~~  
 14 ~~schooling or other removal must be done pursuant to the~~  
 15 ~~guidelines of the board of public education required under~~  
 16 ~~20-7-402. All special education programs established in a~~  
 17 ~~school district must meet the needs of handicapped children~~  
 18 ~~at least as well as the needs of nonhandicapped children are~~  
 19 ~~being met by the district.~~  
 20 (2) After September 1, 1977, the board of trustees of  
 21 every school district must provide or establish and maintain  
 22 a special education program for every handicapped person as  
 23 herein defined ~~AS HEREIN DEFINED~~ between the ages of 6 and  
 24 18, ~~inclusive, who meets the guidelines established by the~~  
 25 ~~board of public education. After September 1, 1986, such~~

1 services--shall--be--provided--for--all--handicapped--children  
2 between--the--ages--of--3--and--21--inclusive

3 (3) The board of trustees of any school district may  
4 meet its obligation to serve handicapped persons by  
5 establishing its own special education program, by  
6 establishing a cooperative special education program, or by  
7 participating in a regional services program."

8 Section 4. Section 20-7-412, MCA, is amended to read:

9 "20-7-412. Establishment of individual district  
10 special education program. (1) The trustees of any district,  
11 upon obtaining the approval of the superintendent of public  
12 instruction, shall establish and maintain a special  
13 education program whenever, in the judgment of the trustees  
14 and the superintendent of public instruction:

15 (a) there are sufficient numbers of handicapped  
16 children in the district ~~who meet the guidelines established~~  
17 ~~by the board of public education~~ to justify the  
18 establishment of a program; or

19 (b) an individual child ~~who meets the guidelines~~  
20 ~~established by the board of public education~~ requires  
21 special education services such as home or hospital  
22 tutoring, school-to-home telephone communication, or other  
23 individual programs.

24 (2) ~~Prior to September 1, 1980, programs~~ Programs may  
25 be established for handicapped children ages 3 through 5 and

1 after September 1, 1980, children persons between the ages  
2 of 0 through 2 may be provided service and 21 ~~21~~ ~~who do not~~  
3 ~~meet the guidelines established by the board of public~~  
4 ~~education~~ when the superintendent of public instruction and  
5 the trustees have determined that such programs will:

6 (a) assist a child person to achieve levels of  
7 competence that will enable him to participate in the  
8 regular instruction of the district when he could not  
9 participate without special education;

10 (b) permit the conservation or early acquisition of  
11 skills which will provide the child person with an equal  
12 opportunity to participate in the regular instruction of the  
13 district; or

14 (c) provide other demonstrated educational advantages  
15 which will materially benefit the child person.

16 (3) ~~Prior to September 1, 1980, programs may be~~  
17 ~~established for handicapped persons between the ages of 10~~  
18 ~~and 21 inclusive when the superintendent of public~~  
19 ~~instruction and the trustees have determined that such~~  
20 ~~programs will contribute to the educational development of~~  
21 ~~these persons.~~ Approval and operation of programs  
22 established pursuant to subsection (2) do not obligate the  
23 state or a school district to offer regular educational  
24 programs to a similar age group unless specifically  
25 provided by law.

1 (4) When an agency which has responsibility for a  
 2 handicapped person over 21 but not more than 25, inclusive  
 3 ~~OVER 21 BUT NOT MORE THAN 25, INCLUSIVE,~~ cannot provide  
 4 appropriate services to that person, the agency may contract  
 5 with the local school district to provide such services."

6 Section 5, Section 20-7-414, MCA, is amended to read  
 7 "20-7-414--Determination--of--children--in--need--and--type  
 8 of--special--education--needed-----approval--of--classes--and  
 9 programs--by--superintendents---(1)--The--determination--of--the  
 10 children--requiring--special--education--and--the--type--of--special  
 11 education--needed--by--these--children--shall--be--the  
 12 responsibility--of--the--trustees--and--such--determination--shall  
 13 be--made--in--compliance--with--the ~~policies--and--guidelines~~  
 14 ~~established--by--the--board--of--public--education--relating--to--the~~  
 15 ~~educational--responsibility--of--school--districts--for~~  
 16 ~~handicapped--persons--and--with--the~~ procedures--established--in  
 17 the--rules--of--the--superintendent--of--public--instruction

18 (2)--Whenever--the--trustees--of--any--district--intend--to  
 19 establish--a--special--education--class--or--program--they--shall  
 20 apply--for--approval--and--funding--of--the--class--or--program--by  
 21 the--superintendent--of--public--instruction--The--superintendent  
 22 of--public--instruction--shall--approve--or--disapprove--the  
 23 application--for--the--special--education--class--or--program--on  
 24 the--basis--of--its--compliance--with--the--laws--of--the--state--of  
 25 Montana--the--special--education--policies--adopted--by--the--board

1 of--public--education--and--the--rules--of--the--superintendent--of  
 2 public--instruction--No--special--education--class--may--be  
 3 operated--by--the--trustees--without--the--approval--of--the  
 4 superintendent--of--public--instruction--Each--special--education  
 5 class--or--program--must--be--approved--annually--to--be--funded--as  
 6 part--of--the--maximum--budget--without--a--vote--for--special  
 7 education"

-End-

HOUSE BILL NO. 624

INTRODUCED BY MARKS, IVERSON, KEYSER, LORY, ELLISON,  
VINGER, NATHE, THOFT, CURTISS, DONALDSON, CONROY,  
KOLSTAD, ROTH, SPILKER, HAND

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
RELATING TO SPECIAL EDUCATION; CHANGING AGE REQUIREMENTS FOR  
ADMISSION AND ACCEPTANCE OF CERTAIN PUPILS TO SCHOOL;  
REQUIRING--THE--BOARD--OF--PUBLIC--EDUCATION--TO--ESTABLISH  
POLICIES--THAT--CLARIFY--THE--EDUCATIONAL--RESPONSIBILITIES--OF  
SCHOOL--DISTRICTS--IN--SERVING--HANDICAPPED--CHILDREN--BETWEEN--THE  
AGES--OF--6--AND--18--AND--FOR--THE--APPROPRIATE--PLACEMENT--OF--SUCH  
CHILDREN; MAKING SCHOOL DISTRICT PROVISION OF SPECIAL  
EDUCATION PROGRAMS PERMISSIVE IN CERTAIN CASES; AND AMENDING  
SECTIONS 20-1-101, 20-5-101, 20-7-402, 20-7-411, AND  
20-7-412, AND 20-7-414, MCA."

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

Section 1. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless  
the context clearly indicates otherwise, the following  
definitions apply:

(1) "Agricultural experiment station" means the  
agricultural experiment station established at Montana state  
university.

(2) "Average number belonging" or "ANB" shall mean the  
average number of regularly enrolled, full-time pupils  
attending the public schools of a district.

(3) "The board of public education" is the board  
created by Article X, section 9, subsection (3) of the 1972  
Montana constitution and 2-15-1507.

(4) "Board of regents" means the board of regents of  
higher education created by Article X, section 9, subsection  
(2) of the 1972 Montana constitution and 2-15-1505.

(5) "Commissioner" means the commissioner of higher  
education created by Article X, section 9, subsection (2) of  
the 1972 Montana constitution and 2-15-1506.

(6) "County superintendent" means the county  
government official who is the school officer of the county.

(7) "District superintendent" means any person who  
holds a valid class 3 Montana teacher certificate with a  
superintendent's endorsement that has been issued by the  
superintendent of public instruction under the provisions of  
this title and the policies adopted by the board of public  
education and who has been employed by a district as a  
district superintendent.

(8) "Postsecondary vocational-technical center" means  
a school used principally for the provision of postsecondary  
vocational-technical education to persons who qualify as  
postsecondary vocational-technical pupils. These centers are

1 designated by the board of public education upon direction  
2 by the legislature. All other public or private schools are  
3 hereby prohibited from using this title.

4 (9) "Postsecondary vocational-technical education"  
5 means vocational-technical education of postsecondary  
6 vocational-technical pupils which is conducted by a  
7 postsecondary vocational-technical center or other programs  
8 as designated by the board of public education.  
9 Postsecondary vocational-technical education shall include  
10 the 13th and 14th year and beyond but will not include work  
11 toward a baccalaureate degree.

12 (10) "Postsecondary vocational-technical pupil" means a  
13 person who has completed or left school, is at least 16  
14 years of age, and is available for study in preparation for  
15 entering the labor market, for reentering the labor market,  
16 or for employment stability or advancement in employment.

17 (11) "Principal" means any person who holds a valid  
18 class 3 Montana teacher certificate with an applicable  
19 principal's endorsement that has been issued by the  
20 superintendent of public instruction under the provisions of  
21 this title and the policies adopted by the board of public  
22 education and who has been employed by a district as a  
23 principal. For the purposes of this title, any reference to  
24 a teacher shall be construed as including a principal, as  
25 herein defined.

1 (12) "Pupil" means any child who is 6 years of age or  
2 older but has not yet reached his 21st ~~19th~~ birthday and who  
3 is enrolled in a school established and maintained under the  
4 laws of the state of Montana at public expense.

5 (13) "Pupil instruction" means the conduct of organized  
6 instruction of pupils enrolled in public schools while under  
7 the supervision of a teacher.

8 (14) "Regents" means the board of regents of higher  
9 education.

10 (15) "School food services" means a service of  
11 providing food for the pupils of a district on a nonprofit  
12 basis and shall include any food service financially  
13 assisted through funds or commodities provided by the United  
14 States government.

15 (16) "The state board of education" is the board  
16 composed of the board of public education and the board of  
17 regents as specified in Article X, section 9, subsection (1)  
18 of the 1972 Montana constitution.

19 (17) "State university" means the Montana state  
20 university, located at Bozeman.

21 (18) "Superintendent of public instruction" means that  
22 state government official designated as a member of the  
23 executive branch by the constitution of Montana.

24 (19) "System" means the Montana university system.

25 (20) "Teacher" means any person, except a district

March 20, 1979

SENATE STANDING COMMITTEE REPORT  
(Education)

That House Bill No. 624, third reading bill, be amended as follows:

1. Page 10, line 2.

Following: "and"

Strike: "25"

Insert: "21"

2. Page 11.

Following: line 2

Insert: "over 21 but not more than 25, inclusive,"

3. Page 11, line 6 through line 7 on page 12.

Strike: section 5 in its entirety