

HOUSE BILL 623

Introduced by Thomas, et al.

2/13	Introduced
2/13	Referred to Ed. Fund. Select Committee
2/15	Fiscal Note Requested
2/16	Hearing
2/21	Fiscal Note Received
2/28	Fiscal Note Printed
3/02	Hearing
3/04	Hearing
3/07	Hearing
3/08	Tabled in Committee

1 HOUSE BILL NO. 623  
 2 INTRODUCED BY THOMAS NATHAN  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE  
 5 PUBLIC SCHOOL FUNDING; TO INCLUDE COMPREHENSIVE INSURANCE IN  
 6 THE GENERAL FUND BUDGET; TO REQUIRE THE SCHOOL FOUNDATION  
 7 PROGRAM TO FUND 100 PERCENT OF DISTRICTS' GENERAL FUND  
 8 BUDGETS WITHOUT A VOTED LEVY OF ALL ELEMENTARY AND HIGH  
 9 SCHOOLS, AS SET BY FOUNDATION PROGRAM SCHEDULES; TO LIMIT BY  
 10 SCHOOL FISCAL YEAR 1995 THE MAXIMUM GENERAL FUND BUDGET OF A  
 11 DISTRICT TO 117 PERCENT OF THE FOUNDATION PROGRAM AMOUNT FOR  
 12 THE DISTRICT; TO LIMIT THE GENERAL FUND RESERVE OF A  
 13 DISTRICT TO 20 PERCENT EXCEPT FOR DISTRICTS NOT RECEIVING  
 14 STATE EQUALIZATION AID; TO ELIMINATE THE PRESENT PERMISSIVE  
 15 LEVY; TO INDEX THE RATE OF INCREASE IN THE SCHEDULE AMOUNTS  
 16 TO THE RATE OF ANNUAL INFLATION; TO REALLOCATE LOTTERY  
 17 REVENUE FROM RETIREMENT EQUALIZATION TO STATE EQUALIZATION  
 18 AID; TO PROVIDE A STATE LEVY ON PROPERTY TO FUND 90 PERCENT  
 19 OF THE DISTRICTS' COSTS FOR RETIREMENT, SOCIAL SECURITY, AND  
 20 UNEMPLOYMENT INSURANCE; TO PROVIDE FOR A STATUTORY  
 21 APPROPRIATION OF THE PROCEEDS; TO EXCLUDE THE LEVY FROM THE  
 22 PROPERTY TAX LIMITATIONS OF INITIATIVE MEASURE NO. 105; TO  
 23 ELIMINATE TUITION PAYMENTS BETWEEN DISTRICTS; TO REQUIRE  
 24 DISTRIBUTION OF STATE EQUALIZATION AID IN MONTHLY PAYMENTS;  
 25 AMENDING SECTIONS 15-10-402, 17-7-502, 20-3-106, 20-3-205,

1 20-3-210, 20-3-324, 20-3-331, 20-5-101, 20-5-102, 20-5-301,  
 2 20-5-302, 20-5-304, 20-5-311, 20-5-314, 20-6-401, 20-6-603,  
 3 20-6-608, 20-7-414, 20-7-420 THROUGH 20-7-422, 20-7-424,  
 4 20-7-431, 20-9-104, 20-9-141, 20-9-201, 20-9-301, 20-9-303,  
 5 20-9-315, 20-9-318 THROUGH 20-9-322, 20-9-331, 20-9-333,  
 6 20-9-343, 20-9-344, 20-9-353, 20-9-505, 20-9-531, 20-9-532,  
 7 20-10-105, AND 23-5-1027, MCA; REPEALING SECTIONS 20-5-303,  
 8 20-5-305 THROUGH 20-5-307, 20-5-312, 20-5-313, 20-9-105,  
 9 20-9-316, 20-9-317, AND 20-9-352, MCA; AND PROVIDING AN  
 10 EFFECTIVE DATE."

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

13 **Section 1.** Section 15-10-402, MCA, is amended to read:  
 14 **"15-10-402. Property tax limited to 1986 levels.** (1)  
 15 Except as provided in subsections (2) and (3), the amount of  
 16 taxes levied on property described in 15-6-133, 15-6-134,  
 17 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any  
 18 taxing jurisdiction, exceed the amount levied for taxable  
 19 year 1986.

20 (2) The limitation contained in subsection (1) does not  
 21 apply to levies for rural improvement districts, Title 7,  
 22 chapter 12, part 21; special improvement districts, Title 7,  
 23 chapter 12, part 41; the statewide levy created in [section  
 24 43]; or bonded indebtedness.

25 (3) New construction or improvements to or deletions

1 from property described in subsection (1) are subject to  
2 taxation at 1986 levels.

3 (4) As used in this section, the "amount of taxes  
4 levied" and the "amount levied" mean the actual dollar  
5 amount of taxes imposed on an individual piece of property,  
6 notwithstanding an increase or decrease in value due to  
7 inflation, reappraisal, adjustments in the percentage  
8 multiplier used to convert appraised value to taxable value,  
9 changes in the number of mills levied, or increase or  
10 decrease in the value of a mill."

11 **Section 2.** Section 17-7-502, MCA, is amended to read:

12 "17-7-502. Statutory appropriations -- definition --  
13 requisites for validity. (1) A statutory appropriation is an  
14 appropriation made by permanent law that authorizes spending  
15 by a state agency without the need for a biennial  
16 legislative appropriation or budget amendment.

17 (2) Except as provided in subsection (4), to be  
18 effective, a statutory appropriation must comply with both  
19 of the following provisions:

20 (a) The law containing the statutory authority must be  
21 listed in subsection (3).

22 (b) The law or portion of the law making a statutory  
23 appropriation must specifically state that a statutory  
24 appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing

1 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
2 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;  
3 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;  
4 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;  
5 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;  
6 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;  
7 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;  
8 20-9-531; 23-5-610; 23-5-1027; 33-31-212; 33-31-401;  
9 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205;  
10 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228;  
11 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;  
12 90-15-103; section 13, House Bill No. 861, Laws of 1985; and  
13 section 1, Chapter 454, Laws of 1987.

14 (4) There is a statutory appropriation to pay the  
15 principal, interest, premiums, and costs of issuing, paying,  
16 and securing all bonds, notes, or other obligations, as due,  
17 that have been authorized and issued pursuant to the laws of  
18 Montana. Agencies that have entered into agreements  
19 authorized by the laws of Montana to pay the state  
20 treasurer, for deposit in accordance with 17-2-101 through  
21 17-2-107, as determined by the state treasurer, an amount  
22 sufficient to pay the principal and interest as due on the  
23 bonds or notes have statutory appropriation authority for  
24 such payments. (In subsection (3): pursuant to sec. 15, Ch.  
25 607, L. 1987, the inclusion of 15-65-121 terminates June 30,

1 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion  
 2 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.  
 3 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.  
 4 1987, terminates July 1, 1988.)"

5 **Section 3.** Section 20-3-106, MCA, is amended to read:

6 **"20-3-106. Supervision of schools -- powers and duties.**

7 The superintendent of public instruction has the general  
 8 supervision of the public schools and districts of the  
 9 state, and he shall perform the following duties or acts in  
 10 implementing and enforcing the provisions of this title:

11 (1) resolve any controversy resulting from the  
 12 proration of costs by a joint board of trustees under the  
 13 provisions of 20-3-362;

14 (2) issue, renew, or deny teacher certification and  
 15 emergency authorizations of employment;

16 (3) negotiate reciprocal tuition attendance agreements  
 17 with other states in accordance with the provisions of  
 18 20-5-314;

19 (4) serve on the teachers' retirement board in  
 20 accordance with the provisions of 2-15-1010;

21 (5) approve or disapprove the orders of a high school  
 22 boundary commission in accordance with the provisions of  
 23 20-6-311;

24 (6) approve or disapprove the opening or reopening of a  
 25 school in accordance with the provisions of 20-6-502,

1 20-6-503, 20-6-504, or 20-6-505;

2 (7) approve or disapprove school isolation within the  
 3 limitations prescribed by 20-9-302;

4 (8) generally supervise the school budgeting procedures  
 5 prescribed by law in accordance with the provisions of  
 6 20-9-102 and prescribe the school budget format in  
 7 accordance with the provisions of 20-9-103 and 20-9-506;

8 (9) establish a system of communication for calculating  
 9 joint district revenues in accordance with the provisions of  
 10 20-9-151;

11 (10) approve or disapprove the adoption of a district's  
 12 emergency budget resolution under the conditions prescribed  
 13 in 20-9-163 and publish rules for an application for  
 14 additional state aid for an emergency budget in accordance  
 15 with the approval and disbursement provisions of 20-9-166;

16 (11) generally supervise the school financial  
 17 administration provisions as prescribed by 20-9-201(2);

18 (12) prescribe and furnish the annual report forms to  
 19 enable the districts to report to the county superintendent  
 20 in accordance with the provisions of 20-9-213(5) and the  
 21 annual report forms to enable the county superintendents to  
 22 report to the superintendent of public instruction in  
 23 accordance with the provisions of 20-3-209;

24 (13) approve, disapprove, or adjust an increase of the  
 25 average number belonging (ANB) in accordance with the

1 provisions of 20-9-313 and 20-9-314;  
 2 (14) distribute state equalization aid in support of the  
 3 foundation program in accordance with the provisions of  
 4 20-9-342, 20-9-346, and 20-9-347;  
 5 (15) distribute state impact aid in accordance with the  
 6 provisions of 20-9-304;  
 7 (16) provide for the uniform and equal provision of  
 8 transportation by performing the duties prescribed by the  
 9 provisions of 20-10-112;  
 10 (17) approve or disapprove an adult education program  
 11 for which a district proposes to levy a tax in accordance  
 12 with the provisions of 20-7-705;  
 13 (18) request, accept, deposit, and expend federal moneys  
 14 money in accordance with the provisions of 20-9-603;  
 15 (19) authorize the use of federal moneys money for the  
 16 support of an interlocal cooperative agreement in accordance  
 17 with the provisions of 20-9-703 and 20-9-704;  
 18 (20) prescribe the form and contents of and approve or  
 19 disapprove interstate contracts in accordance with the  
 20 provisions of 20-9-705;  
 21 (21) approve or disapprove the conduct of school on a  
 22 Saturday or on pupil-instruction-related days in accordance  
 23 with the provisions of 20-1-303 and 20-1-304;  
 24 (22) recommend standards of accreditation for all  
 25 schools to the board of public education and evaluate

1 compliance with such the standards and recommend  
 2 accreditation status of every school to the board of public  
 3 education in accordance with the provisions of 20-7-101 and  
 4 20-7-102;  
 5 (23) collect and maintain a file of curriculum guides  
 6 and assist schools with instructional programs in accordance  
 7 with the provisions of 20-7-113 and 20-7-114;  
 8 (24) establish and maintain a library of visual, aural,  
 9 and other educational media in accordance with the  
 10 provisions of 20-7-201;  
 11 (25) license textbook dealers and initiate prosecution  
 12 of textbook dealers violating the law in accordance with the  
 13 provisions of the textbooks part of this title;  
 14 (26) as the governing agent and executive officer of the  
 15 state of Montana for K-12 vocational education, adopt the  
 16 policies prescribed by and in accordance with the provisions  
 17 of 20-7-301;  
 18 (27) supervise and coordinate the conduct of special  
 19 education in the state in accordance with the provisions of  
 20 20-7-403;  
 21 (28) administer the traffic education program in  
 22 accordance with the provisions of 20-7-502;  
 23 (29) administer the school food services program in  
 24 accordance with the provisions of 20-10-201, 20-10-202, and  
 25 20-10-203;

(30) review school building plans and specifications in accordance with the provisions of 20-6-622;

(31) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408;

(32) provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of ~~such~~ the student assessment for the board of public education and the legislature;

(33) administer the distribution of state retirement equalization aid in accordance with 20-9-532; and

(34) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

**Section 4.** Section 20-3-205, MCA, is amended to read:

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

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

(2) administer and file the oaths of members of the boards of trustees of the districts in his county in

accordance with the provisions of 20-3-307;

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

(4) act on each tuition attendance application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 ~~and-transmit--the~~ tuition-information-required-by-20-5-312;

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

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

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

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

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

(10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of

1 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

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

4 (12) complete the budgets, compute the budgeted revenues  
5 and tax levies, give notices of the budget meetings, file  
6 final and emergency budgets, and fulfill such other  
7 responsibilities assigned to him under the provisions of  
8 this title regulating school budgeting systems;

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

12 (14) quarterly, unless otherwise provided by law, order  
13 the county treasurer to apportion state money, county school  
14 money, and any other school money subject to apportionment  
15 in accordance with the provisions of 20-9-212, 20-9-334,  
16 20-9-347, 20-10-145, or 20-10-146;

17 (15) act on any request to transfer average number  
18 belonging (ANB) in accordance with the provisions of  
19 20-9-313(3);

20 (16) calculate the estimated budgeted general fund  
21 sources of revenue in accordance with the provisions of  
22 20-9-348 and the other general fund revenue provisions of  
23 the general fund part of this title;

24 (17) compute the revenues and the district and county  
25 levy requirements for each fund included in each district's

1 final budget and report such the computations to the board  
2 of county commissioners in accordance with the provisions of  
3 the general fund, transportation, bonds, and other school  
4 funds parts of this title;

5 (18) file and forward bus driver certifications,  
6 transportation contracts, and state transportation  
7 reimbursement claims in accordance with the provisions of  
8 20-10-103, 20-10-143, or 20-10-145;

9 (19) for districts which do not employ a district  
10 superintendent or principal, recommend library book and  
11 textbook selections in accordance with the provisions of  
12 20-7-204 or 20-7-602;

13 (20) notify the superintendent of public instruction of  
14 a textbook dealer's activities when required under the  
15 provisions of 20-7-605 and otherwise comply with the  
16 textbook dealer provisions of this title;

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

20 (22) perform any other duty prescribed from time to time  
21 by this title, any other act of the legislature, the  
22 policies of the board of public education, the policies of  
23 the board of regents relating to community college  
24 districts, or the rules of the superintendent of public  
25 instruction;

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

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender such all records, books, supplies, and equipment to his successor;

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

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

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

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

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

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

**Section 5.** Section 20-3-210, MCA, is amended to read:

**"20-3-210. Controversy appeals and hearings.** (1) Except as provided under 20-3-211, the county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. When appeals are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney at law to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the superintendent of public instruction under the provisions for appeal of controversies in this title. ~~Furthermore--he~~ The county superintendent shall hear and decide all controversies arising under:

(a) section 20-5-304 or 20-5-311 relating to the approval of ~~tuition~~ attendance applications; or

(b) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

(2) The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written

1 transcript of the hearing proceedings. The decision on the  
2 matter of controversy which is made by the county  
3 superintendent ~~shall~~ must be based upon the facts  
4 established at ~~such~~ the hearing.

5 (3) The decision of the county superintendent may be  
6 appealed to the superintendent of public instruction, and if  
7 it is appealed, the county superintendent shall supply a  
8 transcript of the hearing and any other documents entered as  
9 testimony at the hearing to the superintendent of public  
10 instruction.

11 (4) ~~Cost~~ Costs incurred by the office of the county  
12 superintendent ~~shall~~ must be paid from the general fund  
13 budget of the county in which the controversy is initiated."

14 **Section 6.** Section 20-3-324, MCA, is amended to read:

15 "20-3-324. Powers and duties. As prescribed elsewhere  
16 in this title, the trustees of each district shall ~~have--the~~  
17 ~~power--and--it--shall--be--their--duty--to--perform--the--following~~  
18 ~~duties--or--acts:~~

19 (1) employ or dismiss a teacher, principal, or other  
20 assistant upon the recommendation of the district  
21 superintendent, the county high school principal, or other  
22 principal as the board ~~may--deem~~ considers necessary,  
23 accepting or rejecting ~~such~~ any recommendation as the  
24 trustees ~~shall~~ in their sole discretion determine, in  
25 accordance with the provisions of Title 20, chapter 4;

1 (2) employ and dismiss administrative personnel,  
2 clerks, secretaries, teacher aides, custodians, maintenance  
3 personnel, school bus drivers, food service personnel,  
4 nurses, and any other personnel ~~deemed~~ considered necessary  
5 to carry out the various services of the district;

6 (3) administer the attendance ~~and--tuition~~ provisions  
7 and otherwise govern the pupils of the district in  
8 accordance with the provisions of the pupils chapter of this  
9 title;

10 (4) call, conduct, and certify the elections of the  
11 district in accordance with the provisions of the school  
12 elections chapter of this title;

13 (5) participate in the teachers' retirement system of  
14 the state of Montana in accordance with the provisions of  
15 the teachers' retirement system chapter of Title 19;

16 (6) participate in district boundary change actions in  
17 accordance with the provisions of the districts chapter of  
18 this title;

19 (7) organize, open, close, or acquire isolation status  
20 for the schools of the district in accordance with the  
21 provisions of the school organization part of this title;

22 (8) adopt and administer the annual budget or an  
23 emergency budget of the district in accordance with the  
24 provisions of the school budget system part of this title;

25 (9) conduct the fiscal business of the district in

1 accordance with the provisions of the school financial  
2 administration part of this title;

3 (10) establish the ANB, foundation program, ~~permissive~~  
4 ~~levy~~, additional levy, cash reserve, and state impact aid  
5 amount for the general fund of the district in accordance  
6 with the provisions of the general fund part of this title;

7 (11) establish, maintain, budget, and finance the  
8 transportation program of the district in accordance with  
9 the provisions of the transportation parts of this title;

10 (12) issue, refund, sell, budget, and redeem the bonds  
11 of the district in accordance with the provisions of the  
12 bonds parts of this title;

13 (13) when applicable, establish, financially administer,  
14 and budget for the ~~tuition-fund~~, retirement fund, building  
15 reserve fund, adult education fund, nonoperating fund,  
16 school food services fund, miscellaneous federal programs  
17 fund, building fund, lease or rental agreement fund, traffic  
18 education fund, and interlocal cooperative agreement fund in  
19 accordance with the provisions of the other school funds  
20 parts of this title;

21 (14) when applicable, administer any interlocal  
22 cooperative agreement, gifts, legacies, or devises in  
23 accordance with the provisions of the miscellaneous  
24 financial parts of this title;

25 (15) hold in trust, acquire, and dispose of the real and

1 personal property of the district in accordance with the  
2 provisions of the school sites and facilities part of this  
3 title;

4 (16) operate the schools of the district in accordance  
5 with the provisions of the school calendar part of this  
6 title;

7 (17) establish and maintain the instructional services  
8 of the schools of the district in accordance with the  
9 provisions of the instructional services, textbooks,  
10 vocational education, and special education parts of this  
11 title;

12 (18) establish and maintain the school food services of  
13 the district in accordance with the provisions of the school  
14 food services parts of this title;

15 (19) make ~~such~~ reports from time to time as the county  
16 superintendent, superintendent of public instruction, and  
17 board of public education may require;

18 (20) retain, when deemed considered advisable, a  
19 physician or registered nurse to inspect the sanitary  
20 conditions of the school or the general health conditions of  
21 each pupil and, upon request, make available to any parent  
22 or guardian any medical reports or health records maintained  
23 by the district pertaining to his child;

24 (21) for each member of the trustees, visit each school  
25 of the district not less than once each school fiscal year

1 to examine its management, conditions, and needs, except  
2 trustees from a first-class school district may share the  
3 responsibility for visiting each school in the district;

4 (22) procure and display outside daily in suitable  
5 weather at each school of the district an American flag  
6 ~~which shall be~~ that measures not less than 4 feet by 6 feet;  
7 and

8 (23) perform any other duty and enforce any other  
9 requirements for the government of the schools prescribed by  
10 this title, the policies of the board of public education,  
11 or the rules of the superintendent of public instruction."

12 **Section 7.** Section 20-3-331, MCA, is amended to read:

13 "20-3-331. Purchase of liability insurance. The  
14 trustees of any district may purchase insurance coverage for  
15 the district, trustees, and employees against liability for  
16 the death, injury, or disability of any person or damage to  
17 property. The trustees shall include the cost of coverage in  
18 the general fund budget of the district."

19 **Section 8.** Section 20-5-101, MCA, is amended to read:

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

23 (a) 6 years of age or older on or before September 10  
24 of the year in which the child is to enroll but has not yet  
25 reached his 19th birthday;

1 (b) a resident of the district; and

2 (c) otherwise qualified under the provisions of this  
3 title to be admitted to ~~such the~~ school.

4 (2) The trustees of any district ~~shall--have--the~~  
5 ~~authority to~~ may assign and admit any nonresident child to a  
6 school in the district under the ~~tuition out-of-district~~  
7 attendance provisions of this title.

8 (3) The trustees may at their discretion assign and  
9 admit a child to a school in the district who is under 6  
10 years of age or an adult who is 19 years of age or older if  
11 there are exceptional circumstances that merit waiving the  
12 age provision of this section."

13 **Section 9.** Section 20-5-102, MCA, is amended to read:

14 "20-5-102. Compulsory enrollment and excuses. (1)  
15 Except as provided in subsection (2), any parent, guardian,  
16 or other person who is responsible for the care of any child  
17 who is 7 years of age or older prior to the first day of  
18 school in any school fiscal year shall cause the child to be  
19 instructed in the program prescribed by the board of public  
20 education pursuant to 20-7-111 until the later of the  
21 following dates:

22 (a) the child's 16th birthday; or

23 (b) the date of completion of the work of the 8th  
24 grade.

25 (2) Such A parent, guardian, or other person shall

1 enroll the child in the school assigned by the trustees of  
2 the district within the first week of the school term or  
3 when he establishes residence in the district unless the  
4 child is:

5 (a) enrolled in a school of another district or state  
6 under any of the tuition out-of-district attendance  
7 provisions of this title;

8 (b) provided with supervised correspondence study or  
9 supervised home study under the transportation provisions of  
10 this title;

11 (c) excused from enrollment in a school of the district  
12 when it is shown that his bodily or mental condition does  
13 not permit his attendance and the child cannot be instructed  
14 under the special education provisions of this title;

15 (d) excused from compulsory school attendance upon a  
16 determination by a district judge that such attendance is  
17 not in the best interest of the child;

18 (e) excused by the board of trustees upon a  
19 determination that such attendance by a child who has  
20 attained the age of 16 is not in the best interest of the  
21 child and the school; or

22 (f) enrolled in a nonpublic or home school that  
23 complies with the provisions of 20-5-109. For the purposes  
24 of this subsection (f), a home school is the instruction by  
25 a parent of his child, stepchild, or ward in his residence

1 and a nonpublic school includes a parochial, church,  
2 religious, or private school.

3 (3) The excuse provided for in subsection (2)(c) of  
4 this section ~~shall~~ must be issued by the district  
5 superintendent or the county superintendent when there is no  
6 district superintendent employed by the district. Whenever  
7 an excuse is denied by the applicable official, an appeal of  
8 such the decision may be made to the district court of the  
9 county within 10 days after the decision upon giving a bond  
10 in the amount set by the court to pay all costs of the  
11 appeal. The decision of the district court ~~shall be~~ is  
12 final."

13 **Section 10.** Section 20-5-301, MCA, is amended to read:

14 "20-5-301. Elementary tuition attendance outside  
15 district of residence with mandatory approval. (1) Any child  
16 may be enrolled in and attend an elementary school outside  
17 of the elementary district in which he resides when such the  
18 elementary school is located in:

19 (a) any other district of the county of his residence;  
20 (b) a county adjoining his county of residence; or  
21 (c) a district of another state that is adjacent to the  
22 county of his residence.

23 (2) When a parent or guardian of a child wishes to have  
24 his child attend a school under the provisions of this  
25 section, he shall apply to the county superintendent of the

1 county of his residence before July 1 of the school fiscal  
 2 year for which he seeks approval except in those cases when  
 3 substantial changes in circumstances occurred subsequently  
 4 to justify later application. The application ~~shall~~ must be  
 5 made on ~~a-tuition~~ an attendance agreement form supplied by  
 6 the county superintendent and ~~shall~~ must be approved, before  
 7 permission to enroll in and attend school outside of the  
 8 district under the provisions of this section may be  
 9 granted, by:

10 (a) the trustees of the elementary district in which  
 11 the child resides;

12 (b) the trustees of the district where the child wishes  
 13 to attend school; and

14 (c) the county superintendent of the county of the  
 15 child's residence.

16 (3) In considering the approval of ~~a--tuition~~ an  
 17 attendance application, the ~~tuition~~ approval agents  
 18 prescribed in this section shall approve ~~such~~ the  
 19 application for a resident child when:

20 (a) the child resides less than 3 miles from the school  
 21 which he wishes to attend and more than 3 miles from any  
 22 school of his resident elementary district;

23 (b) the child resides more than 3 miles from any school  
 24 of his resident elementary district and ~~such~~ the district  
 25 does not provide transportation under the provisions of this

1 title;

2 (c) the child resides more than 3 miles from any school  
 3 of his resident elementary district, the resident district  
 4 does not provide transportation under the provisions of this  
 5 title, and school bus transportation is furnished by the  
 6 district operating the school which he wishes to attend;

7 (d) the child is a member of a family who must send  
 8 another child outside of the elementary district to attend  
 9 high school and the child of elementary age may more  
 10 conveniently attend an elementary school where the high  
 11 school is located, provided the child resides more than 3  
 12 miles from an elementary school of the resident district or  
 13 the parent must move to the elementary district where the  
 14 high school is located in order to enroll the other child in  
 15 high school;

16 (e) the child has been declared by a court of competent  
 17 jurisdiction to be an abused, neglected, or dependent child,  
 18 as defined in 41-3-102, or a delinquent youth, as defined in  
 19 41-5-103, and has been ordered to be placed in a licensed  
 20 youth care facility which is approved by the department of  
 21 family services and as a result of the order the child is  
 22 required to attend elementary school outside of the district  
 23 of his residence; (for purposes of this subsection, the  
 24 prescribed geographic relationship of the receiving district  
 25 to the district of residence does not apply); or

(f) the child is required to attend elementary school outside the district of residence as the result of an order of a court of competent jurisdiction. For the purposes of this subsection (f), the following do not apply:

(i) the prescribed geographic relationship of the receiving district to the district of residence in this subsection (3); or

(ii) an order issued under Title 40, chapter 4, part 2.

(4) The trustees of the district where the school to be attended is located may disapprove a ~~tuition~~ an attendance agreement that satisfies any of the mandatory approval conditions specified in subsection (3) ~~above~~ when they find that, due to insufficient room and overcrowding, the accreditation of the school would be adversely affected by the acceptance of the child. In the event of disapproval, the trustees shall ~~so~~ notify the parent in writing within 15 days of the first receipt of the application."

**Section 11.** Section 20-5-302, MCA, is amended to read:

"20-5-302. Elementary tuition attendance outside district of residence with discretionary approval. In considering the approval of a ~~tuition~~ an attendance application that is not required to be approved under the provisions of 20-5-301, the ~~tuition~~ approval agents prescribed in 20-5-301 may approve ~~such~~ the application when ~~such~~ the approval agents, individually, determine that the

~~tuition~~ attendance agreement should be approved because of:

(1) the distance and road conditions between the child's residence and any school of his resident district;

(2) the trading center of the child's parents;

(3) an opportunity to live with his relatives;

(4) dormitory facilities in the district to be attended;

(5) the living conditions of the child's family;

(6) the availability of transportation; or

(7) the type of educational program available in the school to be attended."

**Section 12.** Section 20-5-304, MCA, is amended to read:

"20-5-304. Distances, notification, and appeal for elementary tuition attendance purposes. (1) In considering any approval of an application submitted under the provisions of 20-5-301 or 20-5-302, the approval agents shall determine mileage distances on the basis of the shortest practical route between the child's residence and the school building, and they shall determine the child's residence on the basis of the provisions of 1-1-215.

(2) The county superintendent shall notify the parent or guardian and the trustees of the districts involved in the ~~tuition~~ application of the ~~tuition~~ attendance agreement approval or disapproval. If a ~~tuition~~ an attendance agreement is disapproved by any approval agent, the parent

may appeal ~~such the~~ disapproval to the county superintendent and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies in this title. The approval of any ~~tuition~~ attendance agreement by the approval agents or upon appeal ~~shall-authorize~~ authorizes the child named in ~~such the~~ agreement to enroll in and attend the school named in ~~such the~~ agreement for the ensuing school fiscal year.

~~{3}--The-rate-of-tuition-and-the-budgeting--and--payment procedure--prescribed-in-20-5-305-shall-be-applicable-to-any tuition-application-approved-under-the--provisions--of--this section--"~~

**Section 13.** Section 20-5-311, MCA, is amended to read:

"20-5-311. High school ~~tuition~~ attendance outside district of residence. (1) Any child may be enrolled in and attend a high school outside of the high school district in which he resides when ~~such the~~ high school is located in Montana or in a county of another state that is adjacent to the state of Montana. When a parent or guardian of a child wishes to have his child attend a school under the provisions of this section, he shall apply to the county superintendent of the county of his residence before July 1 of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances ~~occurred~~ occur subsequently to and justify later

application. ~~Such The~~ application ~~shall must~~ be made on a ~~tuition an attendance~~ agreement form supplied by the county superintendent. The trustees of the district of residence, the trustees of the district in which the child wishes to attend school, and the county superintendent are the approval agents for ~~tuition-to~~ attendance at another high school within the county. The county superintendent of the county of residence and the trustees of the district in which the child wishes to attend school are the approval agents for attendance outside the county.

(2) (a) ~~{i}~~ The approval agents shall approve ~~a-tuition~~ an attendance application when a child lives closer to a high school of another district than any high school located within his resident district or when, due to road or geographic conditions, it is impractical to attend the high school nearest his residence.

~~{ii}~~ However, the approval agents are not required to approve ~~a-tuition~~ an attendance application for a student seeking to attend a high school outside the state of Montana or the resident district if the resident district provides transportation. This exception does not apply when:

~~{A}~~ the child resides in a county different from the county ~~wherein~~ in which the school he wishes to attend is located; ~~or~~

~~{B}--the-child-has-enrolled-in-a-high-school-outside-his~~

1 resident-district--and--has--received--an--approved--tuition  
 2 agreement--on--or-before-April-30,1985--For-the-purposes-of  
 3 this-subsection-(2)(a)(ii)(B),the-child-has--the--right--to  
 4 continue--his--high--school--education-in-the-receiving-high  
 5 school-outside-his-resident-district-on-an-approved--tuition  
 6 agreement,subject-to-the-provisions-of-this-section.

7 (b) The approval agents shall approve a-tuition an  
 8 attendance application when a child, as a result of a court  
 9 order, is required to attend high school outside the  
 10 district of residence:

11 (i) but within the state of Montana or another state,  
 12 whether or not that state maintains a reciprocal tuition  
 13 attendance agreement under 20-5-314; or

14 (ii)-in-a-state-that-does-not-have-a-reciprocal--tuition  
 15 agreement--pursuant-to-20-5-314--The-amount-of-daily-tuition  
 16 may-not-be-greater-than-the-average-daily-cost--per--student  
 17 in--the--district-of-residence--The-amount-of-annual-tuition  
 18 may-not-be-greater-than-the-average-annual-cost-per--student  
 19 in--the--district--of--residence--The-county-superintendent  
 20 shall-calculate-the-average-annual--and--the--average--daily  
 21 cost--per--student--For-purposes-of-this-subsection-(b),the  
 22 following-do-not-apply:

23 (A)--an-order-issued-under-Title-40,chapter-4,part--2;

24 (B)--placement--of-a-child-pursuant-to-Title-20,chapter  
 25 7,part-4.

1 (c) In approving a--tuition an attendance agreement  
 2 under this provision section, the approval agents may  
 3 require the child to attend the high school closest to his  
 4 residence. The approval agents may approve any other  
 5 tuition attendance application that satisfies the geographic  
 6 requirements of this section.

7 (3) The trustees of the district where the child wishes  
 8 to attend school shall approve or disapprove any tuition  
 9 attendance application submitted to them under the  
 10 provisions of this section within 15 days after the receipt  
 11 of the application.

12 (4) The county superintendent shall notify the parent  
 13 or guardian and the trustees of the district where the child  
 14 wishes to attend school of the tuition attendance agreement  
 15 approval or disapproval. If a--tuition an attendance  
 16 agreement is disapproved by one or more approval agents, the  
 17 parent may appeal such the disapproval to the county  
 18 superintendent and, subsequently, to the superintendent of  
 19 public instruction under the provision for the appeal of  
 20 controversies in this title.

21 (5) The approval of any tuition attendance agreement by  
 22 all of the applicable approval agents or upon appeal shall  
 23 authorize authorizes the child named in such the agreement  
 24 to enroll in and attend the school named in such the  
 25 agreement for the ensuing school fiscal year."

**Section 14.** Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal tuition attendance agreement with adjoining state. (1) The superintendent of public instruction ~~shall have the authority to~~ may execute a reciprocal tuition attendance agreement with the superintendent of public instruction or a department of education of any state adjoining Montana to allow the eligible children of Montana to attend school in the adjoining state and to allow children of the adjoining state to attend school in Montana. In negotiating a reciprocal tuition attendance agreement, the ~~tuition rates prescribed by 20-5-305 and 20-5-312 shall be waived and the~~ reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition attendance agreement that is executed to the county superintendent of each county that may be affected by ~~such~~ the agreement.

(2) Any tuition attendance agreement approved under the provisions of 20-5-301, 20-5-302, or 20-5-311 for a child's attendance at a school outside of the state shall be completed in accordance with ~~the applicable reciprocal~~ tuition agreement this section."

**Section 15.** Section 20-6-401, MCA, is amended to read:

"20-6-401. Definitions. As used in this part, unless

the context clearly indicates otherwise, the following definitions apply:

(1) "Component districts" ~~are~~ means the elementary or high school districts incorporated into the enlarged district.

(2) "Eligible pupils" ~~shall be~~ means the average number belonging (ANB) for the current school year in the operating schools of the component districts and the ~~tuition~~ pupils residing in the component districts and attending another district's school under the tuition out-of-district attendance provisions of the school laws, except that the pupils residing in the component district having the largest total number of pupils ~~shall be~~ are ineligible for bonus payment consideration.

(3) "Enlarged district" ~~is~~ means the elementary or high school district resulting from the consolidation or annexation of two or more component districts.

(4) "General bonus payment" for first- and second-class school districts ~~shall~~ must be \$300 per eligible pupil per year for a period of 3 years and ~~will~~ must be deposited in the enlarged district's general fund. General bonus payment for third-class school districts ~~shall~~ must be \$500 per eligible pupil per year for a period of 3 years and ~~will~~ must be deposited in the enlarged district's general fund. ~~Such~~ The general bonus payment ~~shall~~ must be made from the

1 state school equalization aid account.

2 (5) "Transportation bonus payment" ~~will--be~~ is the  
3 provision of 66 2/3% state financing of the on-schedule  
4 transportation amount as provided by the transportation  
5 provisions of the school laws. When an eligible pupil is  
6 entitled to transportation, the enlarged district ~~shall--be~~  
7 is entitled to the transportation bonus payment for ~~such the~~  
8 eligible pupil for a period of 3 years. ~~Such~~ The payment  
9 ~~shall~~ must be made from the state transportation aid  
10 account. When the eligible pupil rides a bus providing  
11 transportation for ineligible pupils, the 66 2/3% state  
12 financing of the on-schedule amount for this payment ~~shall~~  
13 must be prorated to provide ~~such~~ financing for the eligible  
14 pupil."

15 **Section 16.** Section 20-6-603, MCA, is amended to read:

16 "20-6-603. Trustees' authority to acquire or dispose of  
17 sites and buildings -- when election required. (1) The  
18 trustees of any district ~~shall-have-the-authority-to~~ may  
19 purchase, build, exchange, or otherwise acquire, or sell, or  
20 otherwise dispose of sites and buildings of the district.  
21 ~~Such--action--shall~~ Action may not be taken by the trustees  
22 without the approval of the qualified electors of the  
23 district at an election called for ~~such the purpose of~~  
24 approval unless:

25 (a) a bond issue has been authorized for the purpose of

1 constructing, purchasing, or acquiring the site or building;

2 (b) an additional levy under the provisions of 20-9-353  
3 has been approved for the purpose of constructing,  
4 purchasing, or acquiring the site or building;

5 (c) the cost of constructing, purchasing, or acquiring  
6 the site or building is financed without exceeding the  
7 ~~maximum-general-fund-budget-without-a-vote~~ amount prescribed  
8 in ~~20-9-316~~ 20-9-318 through 20-9-321 and, in the case of a  
9 site purchase, the site has been approved under the  
10 provisions of 20-6-621; or

11 (d) ~~moneys--are~~ money is otherwise available under the  
12 provisions of this title and the ballot for the site  
13 approval for ~~such the~~ building incorporated a description of  
14 the building to be located on the site.

15 (2) When an election is conducted under the provisions  
16 of this section, it ~~shall~~ must be called under the  
17 provisions of 20-20-201 and ~~shall~~ must be conducted in the  
18 manner prescribed by this title for school elections. An  
19 elector qualified to vote under the provisions of 20-20-301  
20 ~~shall-be-permitted-to~~ may vote in ~~such the~~ election. If a  
21 majority of those electors voting at the election approve  
22 the proposed action, the trustees may take the proposed  
23 action."

24 **Section 17.** Section 20-6-608, MCA, is amended to read:

25 "20-6-608. Authority and duty of trustees to insure

1 district property. The trustees of any district shall have  
 2 ~~the authority and it shall be their duty to~~ insure any or  
 3 all real and personal property of the district. The trustees  
 4 shall include the cost of insurance in the general fund  
 5 budget of the district."

6 **Section 18.** 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~~ is the  
 12 responsibility of the trustees, and ~~such the~~ determination  
 13 ~~shall must~~ be made in compliance with the procedures  
 14 established in the rules of the superintendent of public  
 15 instruction. Whenever the trustees of a school district or  
 16 the governing authority of an institution learn of a  
 17 handicapped child in their jurisdiction who is in need of  
 18 special education, they shall determine whether the child is  
 19 in need of a surrogate parent by determining whether the  
 20 parents or guardian is unknown or unavailable or if the  
 21 child is a ward of the state. The determination must be made  
 22 within 10 days of the date on which the trustees of a school  
 23 district or the governing authority of an institution  
 24 learned of the presence of the child in the district. If the  
 25 child is in need of a surrogate parent, the trustees of a

1 school district or the governing authority of an institution  
 2 must nominate a surrogate parent for the child as provided  
 3 in 20-7-461.

4 (2) Whenever the trustees of any district intend to  
 5 establish a special education class or program, they shall  
 6 apply for approval and funding of the class or program by  
 7 the superintendent of public instruction. The superintendent  
 8 of public instruction shall approve or disapprove the  
 9 application for the special education class or program on  
 10 the basis of its compliance with the laws of the state of  
 11 Montana, the special education policies adopted by the board  
 12 of public education, and the rules of the superintendent of  
 13 public instruction. No special education class may be  
 14 operated by the trustees without the approval of the  
 15 superintendent of public instruction. Each special education  
 16 class or program must be approved annually to be funded as  
 17 part of the ~~maximum-budget-without-a-vote~~ foundation program  
 18 for special education."

19 **Section 19.** Section 20-7-420, MCA, is amended to read:

20 "20-7-420. Residency requirements for financial  
 21 responsibility for special education. (1) In accordance with  
 22 the provisions of 1-1-215, a child's district of residence  
 23 for special education purposes is the residence of his  
 24 parents or of his guardian unless otherwise determined by  
 25 the court. This applies to a child living at home, in an

1 institution, or under foster care. If the parent has left  
2 the state, the parent's last known district of residence is  
3 the child's district of residence.

4 ~~{2}--The---district---of---residence---is---financially~~  
5 ~~responsible--for--tuition--as-established-under-20-5-305-and~~  
6 ~~20-5-312-for-special-education-students."~~

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

8 "20-7-421. Arranging attendance in another district in  
9 lieu of a special education program ---tuition. {1} With the  
10 approval of the superintendent of public instruction, the  
11 trustees may arrange for the attendance of a child in need  
12 of special education in a special education program in  
13 another district within the state of Montana.

14 ~~{2}--Tuition-as-required-under-20-5-305-and-20-5-312-may~~  
15 ~~be-charged-as-provided-in-20-7-420."~~

16 **Section 21.** Section 20-7-422, MCA, is amended to read:

17 "20-7-422. Out-of-state tuition for special education  
18 children. (1) If the trustees of any district recommend to  
19 the superintendent of public instruction the attendance of  
20 a child in need of special education in a special education  
21 program offered outside of the state of Montana, such the  
22 arrangements shall are not be subject to the out-of-state  
23 attendance provisions of the laws governing the attendance  
24 of pupils in schools outside the state of Montana.

25 (2) Whenever the attendance of a child at an

1 out-of-state special education program is approved by the  
2 superintendent of public instruction, ~~it--shall--be--the~~  
3 ~~responsibility-of~~ the superintendent of public instruction  
4 shall, in cooperation with the department of family  
5 services, to negotiate the program for the child and the  
6 amount and manner of payment of tuition. The amount of  
7 tuition ~~shall~~ must be included as a contracted service in  
8 20-7-431(1)(a)(iii)(A) in the ~~maximum-budget-without-a-vote~~  
9 general fund budget for special education."

10 **Section 22.** Section 20-7-424, MCA, is amended to read:

11 "20-7-424. No tuition when attending a state  
12 institution. When a child is attending an institution  
13 supported solely by funds of the state of Montana, the  
14 resident district or county ~~shall~~ may not be required to pay  
15 tuition to the state institution for such the child;--but  
16 ~~whenever-at-the-recommendation-of-institution-officials-such~~  
17 ~~child--attends--classes-conducted-by-a-school-within-a-local~~  
18 ~~district--the-district-or-county--whichever--is--applicable,~~  
19 ~~wherein--the-parents-or-guardian-of-the-child-maintain-legal~~  
20 ~~residence--shall--pay--tuition--to--the--district--or--county~~  
21 ~~operating--the--school--in--accordance-with-the-provisions-of~~  
22 ~~20-5-305-or--20-7-421;--whichever--section--applies--to--the~~  
23 ~~circumstances--of--the--child.~~ Transportation payments ~~shall~~  
24 must be made for students enrolled in such classes or  
25 receiving training, including summer sessions, at the state

1 institution. The schedule of transportation payments ~~shall~~  
2 must be approved in accordance with existing special  
3 education transportation payment schedules and ~~shall~~ must be  
4 approved by the county transportation committee and the  
5 superintendent of public instruction."

6 **Section 23.** Section 20-7-431, MCA, is amended to read:

7 "20-7-431. Allowable cost schedule for special programs  
8 -- superintendent to make rules -- annual accounting. (1)

9 For the purpose of determining the  
10 ~~maximum-budget-without-a-vote~~ foundation program for special  
11 education as defined in 20-9-321, the following schedule of  
12 allowable costs ~~shall~~ must be followed by the school  
13 district in preparation of its special education budget for  
14 state aid request purposes and by the superintendent of  
15 public instruction in his review and approval of the budget  
16 (for the purposes of determining the amount of the  
17 ~~maximum-budget-without-a-vote~~ foundation program for special  
18 education for the district, and as used in this schedule,  
19 "full-time special pupil" and "regular ANB" are to be  
20 determined in accordance with 20-9-311 and 20-9-313):

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

23 (i) salaries and benefits of special program teachers,  
24 regular program teachers, teacher aides, special education  
25 supervisors, audiologists, and speech and hearing

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

6 (ii) teaching supplies and textbooks if used exclusively  
7 for special programs--the actual total cost;

8 (iii) other expenses:

9 (A) contracted services, including fees paid for  
10 professional advice and consultation regarding special  
11 students or the special program, and the delivery of special  
12 education services by public or private agencies--the actual  
13 total cost;

14 (B) transportation costs for special education  
15 personnel who must travel on an itinerant basis from school  
16 to school or district to district or to in-state child study  
17 team meetings or in-state individualized education program  
18 meetings--the actual cost to the district calculated on the  
19 same mileage rate used by the district for other travel  
20 reimbursement purposes;

21 (b) supportive services, including:

22 (i) salaries and benefits of professional supportive  
23 personnel--the entire cost if employed full time in the  
24 special program; if such personnel are shared between  
25 special and regular programs--a portion of the entire cost

1 corresponding to the entire working time which each such  
 2 person devotes to the special program. Professional  
 3 supportive personnel may include counselors, social workers,  
 4 psychologists, psychometrists, physicians, nurses, and  
 5 physical and occupational therapists.

6 (ii) salaries and benefits of clerical personnel for who  
 7 assist professional personnel in supportive services--the  
 8 entire cost if employed full time in the special program; if  
 9 such personnel are shared between special and regular  
 10 programs--a portion of the entire cost corresponding to the  
 11 entire working time which each such person devotes to the  
 12 special program;

13 (c) equipment:

14 (i) equipment--the actual total cost;

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

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

23 (iv) repair and maintenance of equipment--the actual  
 24 total cost;

25 (d) 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~~ adopt rules in  
 6 accordance with the policies of the board of public  
 7 education for:

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

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

16 (c) defining the kinds or types of equipment whose  
 17 costs may be counted under subsection (1)(c)(i) of this  
 18 section.

19 (3) An annual accounting of all expenditures of school  
 20 district general fund ~~moneys~~ money for special education  
 21 ~~shall~~ must be made by the district trustees on forms  
 22 furnished by the superintendent of public instruction. The  
 23 superintendent of public instruction shall make rules for  
 24 ~~such the~~ accounting.

25 (4) If a board of trustees chooses to exceed the budget

approved by the superintendent of public instruction, costs in excess of the approved budget may not be reimbursed under the ~~maximum-budget-without-a-vote~~ foundation program for special education.

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

(6) (a) Notwithstanding other provisions of the law, the superintendent of public instruction ~~shall~~ may not approve a ~~maximum-budget-without-a-vote~~ foundation program amount for special education which exceeds legislative appropriations; however, any unexpended balance from the first year of a biennial appropriation may be spent in the second year of the biennium in addition to the second year appropriation.

(b) If the total allowable cost of the special education budgets exceeds legislative appropriations available for special education, each district shall receive a pro rata share of the available appropriations based upon prioritized budget items as established by the superintendent of public instruction. The amount of the approved budgets in excess of the available appropriations may not be reimbursed under the

~~maximum-budget-without-a-vote~~ foundation program for special education and is the responsibility of the school district."

**Section 24.** Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund cash reserve. At the end of each school fiscal year, the trustees of each district shall designate ~~what~~ the portion of the general fund end-of-the-year cash balance ~~shall~~ that must be earmarked as cash reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. ~~The~~ Except for districts that did not receive state equalization aid during the current school fiscal year, the amount of the general fund cash balance that is earmarked as cash reserve ~~shall~~ may not exceed 35% 20% of the final general fund budget for the ensuing school fiscal year and ~~shall~~ may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts. Districts that did not receive state equalization aid during the current year may maintain a cash reserve of 35% of the general fund budget for the ensuing school year. Any portion of the general fund end-of-the-year cash balance that is not earmarked for cash reserve purposes ~~shall-be~~ is cash reappropriated which ~~shall~~ must be used for property tax reduction as provided in 20-9-141(1)(b)(iii)(ii)."

**Section 25.** Section 20-9-141, MCA, is amended to read:

1 "20-9-141. Computation of general fund net levy  
2 requirement by county superintendent. (1) The county  
3 superintendent shall compute the levy requirement for each  
4 district's general fund on the basis of the following  
5 procedure:

6 (a) Determine the total of the funding required for the  
7 district's final general fund budget less the amount  
8 established by the schedules in 20-9-316 20-9-318 through  
9 20-9-321 by totaling:

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

13 ~~{iii}-the--district's--permissive-levy-amount-as-provided~~  
14 ~~in-20-9-352; and~~

15 ~~{iii}{ii}~~ any additional general fund budget amount  
16 adopted by the trustees of the district under the provisions  
17 of 20-9-353, including any additional levies authorized by  
18 the electors of the district.

19 (b) Determine the ~~total-of-the-moneys~~ money available  
20 for the reduction of the property tax on the district for  
21 the general fund by totaling:

22 (i) anticipated federal ~~moneys~~ money received under the  
23 provisions of Title I of Public Law 81-874 or other  
24 anticipated federal ~~moneys~~ money received in lieu of such  
25 federal ~~that~~ act;

1 ~~{iii}-anticipated-tuition--payments--for--out-of-district~~  
2 ~~pupils-under-the-provisions-of-20-5-303, 20-5-307, 20-5-312,~~  
3 ~~and-20-5-313;~~

4 ~~{iii}{ii}~~ general fund cash reappropriated, as  
5 established under the provisions of 20-9-104;

6 ~~{iv}{iii}~~ anticipated or reappropriated state impact aid  
7 received under the provisions of 20-9-304;

8 ~~{v}{iv}~~ anticipated revenue from ~~vehicle~~ property taxes  
9 and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),  
10 61-3-521, and 61-3-537, and 67-3-204;

11 ~~{vi}{v}~~ anticipated net proceeds taxes for interim  
12 production and new production, as defined in 15-23-601;

13 ~~{vii}{vi}~~ anticipated interest to be earned or  
14 reappropriated interest earned by the investment of general  
15 fund cash in accordance with the provisions of 20-9-213(4);  
16 and

17 (vii) anticipated revenue from corporation license taxes  
18 collected from financial institutions under the provisions  
19 of 15-31-702; and

20 (viii) any other revenue anticipated by the trustees to  
21 be received during the ensuing school fiscal year which may  
22 be used to finance the general fund.

23 (c) Subtract the ~~total-of-the-moneys~~ money available to  
24 reduce the property tax required to finance the general fund  
25 that has been determined in subsection (1)(b) from the total

1 requirement determined in subsection (1)(a).

2 (2) The net general fund levy requirement determined in  
3 subsection (1)(c) ~~shall~~ must be reported to the county  
4 commissioners on the second Monday of August by the county  
5 superintendent as the general fund levy requirement for the  
6 district, and a levy ~~shall~~ must be made by the county  
7 commissioners in accordance with 20-9-142."

8 **Section 26.** Section 20-9-201, MCA, is amended to read:

9 "20-9-201. Definitions and application. (1) As used in  
10 this title, unless the context clearly indicates otherwise,  
11 "fund" means a separate detailed account of receipts and  
12 expenditures for a specific purpose as authorized by law.  
13 Funds are classified as follows:

14 (a) A "budgeted fund" means any fund for which a budget  
15 must be adopted in order to expend any money from ~~such~~ the  
16 fund. The general fund, transportation fund, bus  
17 depreciation reserve fund, ~~elementary---tuition---fund,~~  
18 retirement fund, debt service fund, leased facilities fund,  
19 building reserve fund, adult education fund, nonoperating  
20 fund, ~~vocational-technical-center-fund,~~ and any other funds  
21 so designated by the legislature ~~shall--be~~ are budgeted  
22 funds.

23 (b) A "nonbudgeted fund" means any fund for which a  
24 budget is not required in order to expend any money on  
25 deposit in ~~such~~ the fund. The school food services fund,

1 miscellaneous federal programs fund, building fund, lease or  
2 rental agreement fund, traffic education fund, interlocal  
3 cooperative fund, and any other funds so designated by the  
4 legislature ~~shall-be~~ are nonbudgeted funds.

5 (2) The school financial administration provisions of  
6 this title apply to all money of any elementary or high  
7 school district except the extracurricular money realized  
8 from pupil activities. The superintendent of public  
9 instruction has general supervisory authority as prescribed  
10 by law over the school financial administration provisions,  
11 as they relate to elementary and high school districts, ~~--as~~  
12 ~~prescribed-by-law-and~~ He shall ~~establish-such~~ adopt rules ~~as~~  
13 ~~are~~ necessary to secure compliance with the law."

14 **Section 27.** Section 20-9-301, MCA, is amended to read:

15 "20-9-301. Purpose ~~and-definition~~ of foundation program  
16 and definition of general fund budget. (1) A uniform system  
17 of free public schools sufficient for the education of and  
18 open to all school age children of the state ~~shall~~ must be  
19 established and maintained throughout the state of Montana.  
20 The state shall aid in the support of its several school  
21 districts on the basis of their financial need as measured  
22 by the foundation program and in the manner established in  
23 this title.

24 (2) The principal budgetary vehicle for achieving the  
25 minimum financing as established by the foundation program

1 ~~shall--be~~ is the general fund budget of the district. The  
 2 purpose of the general fund ~~shall-be~~ budget is to finance  
 3 those general maintenance and operational costs of a  
 4 district not financed by other funds established for special  
 5 purposes in this title, including insurance.

6 (3) The amount of the general fund budget for each  
 7 school fiscal year ~~shall may~~ not exceed the financing  
 8 limitations established by this title but ~~shall--be--no may~~  
 9 not be less than the amount established by law as the  
 10 foundation program. The general fund budget ~~shall must~~ be  
 11 financed by the foundation program revenues and may be  
 12 supplemented by ~~the-permissive-levy-and an~~ additional voted  
 13 levies levy in the manner provided by law."

14 **Section 28.** Section 20-9-303, MCA, is amended to read:

15 "20-9-303. Definition of foundation program ~~and--its~~  
 16 ~~proportion--of-the-maximum-general-fund-without-a-voted-levy~~  
 17 ~~schedule-amount~~ -- nonisolated school foundation program  
 18 financing -- special education funds. (1) As used in this  
 19 title, the term "foundation program" ~~shall--mean means~~ the  
 20 minimum operating expenditures, ~~as-established-herein,~~ that  
 21 are sufficient to provide for the educational program of a  
 22 school. The foundation program relates only to those  
 23 expenditures authorized by a district's general fund budget  
 24 and ~~shall may~~ not include expenditures from any other fund.  
 25 It ~~shall-be~~ is financed by:

1 (a) county equalization ~~moneys money~~; and

2 (b) state equalization aid.

3 (2) The dollar amount of the foundation program ~~shall~~  
 4 ~~be-----80%~~ is 100% of the  
 5 ~~maximum-general-fund-budget-without-a-voted-levy--limitation~~  
 6 ~~as--set--forth-in-the~~ schedules in ~~20-9-316~~ 20-9-318 through  
 7 20-9-321. The foundation program of an elementary school  
 8 having an ANB of nine or fewer pupils for 2 consecutive  
 9 years which is not approved as an isolated school under the  
 10 provisions of 20-9-302 ~~shall-be-80%~~ is 100% of the schedule  
 11 amount, but the county and state shall participate in  
 12 financing one-half of the foundation program, and the  
 13 district shall finance the remaining one-half by a tax  
 14 levied on the property of the district. When a school of  
 15 nine or fewer pupils is approved as isolated under the  
 16 provisions of 20-9-302, the county and state shall  
 17 participate in the financing of the total amount of the  
 18 foundation program.

19 (3) Funds provided to support the special education  
 20 accounting budget may be expended only for special education  
 21 purposes as approved by the superintendent of public  
 22 instruction in accordance with the special education  
 23 budgeting provisions of this title. Expenditures for special  
 24 education ~~shall must~~ be accounted for separately from the  
 25 balance of the school district general fund. Transfers

between items within the special education budget for accounting purposes may be made at the discretion of the board of trustees in accordance with the financial administration part of this title. The unexpended balance of the special education accounting budget ~~shall carry~~ carries over to the next year to reduce the amount of funding required to finance the district's ensuing year's ~~maximum-budget-without-a-vote~~ foundation program amount for special education."

**Section 29.** Section 20-9-315, MCA, is amended to read:

"20-9-315. Maximum general fund budget and exceptions.

The total amount of the general fund budget of any district ~~shall may~~ not be greater than the ~~general--fund--budget~~ foundation program amount specified in ~~20-9-316~~ 20-9-318 through 20-9-321, except when a district has adopted an emergency general fund budget under the provisions of 20-9-165 or when a district satisfies the requirements of 20-9-353."

**Section 30.** Section 20-9-318, MCA, is amended to read:

"20-9-318. Elementary school ~~maximum-budget~~ foundation program schedule for ~~1987-88~~ school fiscal year 1990 and succeeding years. For ~~1987-88~~ the school fiscal year ending June 30, 1990, and succeeding school years, the elementary school ~~maximum-budget~~ foundation program schedule is as follows:

(1) For each elementary school having an ANB of nine or fewer pupils, the maximum ~~shall-be-\$20,150~~ is \$32,253 if ~~said the~~ school is approved as an isolated school.

(2) For schools with an ANB of 10 pupils but less than 18 pupils, the maximum ~~shall--be-\$20,150~~ is \$32,253 plus \$842-50 \$1,348 per pupil on the basis of the average number belonging over nine.

(3) For schools with an ANB of at least 14 pupils but less than 18 pupils that qualify for instructional aide funding under 20-9-322, the maximum ~~shall-be-\$33,042~~ is \$52,867 plus \$842-50 \$1,348 per pupil on the basis of the average number belonging over 14.

(4) For schools with an ANB of 18 pupils and employing one teacher, the maximum ~~shall-be-\$27,741~~ is \$44,386 plus \$842-50 \$1,348 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 25.

(5) For schools with an ANB of 18 pupils and employing two full-time teachers, the maximum ~~shall-be-\$44,290~~ is \$70,864 plus \$527-60 \$844.20 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 50.

(6) For schools having an ANB in excess of 40, the maximum, on the basis of the total pupils (ANB) in the district ~~for-elementary-pupils-will-be,~~ is as follows:

(a) For a school having an ANB of more than 40 and

employing a minimum of three teachers, the maximum of ~~\$1,957~~ \$3,131 must be decreased at the rate of ~~\$1.90~~ \$3.04 for each additional pupil until the total number (ANB) ~~shall~~ have-reached reaches a total of 100 pupils.

(b) For a school having an ANB of more than 100 pupils, the maximum of ~~\$1,943~~ \$2,949 must be decreased at the rate of ~~\$1.74~~ \$2.78 for each additional pupil until the ANB ~~shall-have-reached~~ reaches 300 pupils.

(c) For a school having an ANB of more than 300 pupils, the maximum ~~shall~~ may not exceed ~~\$1,496~~ \$2,394 for each pupil.

(7) The maximum per pupil for all pupils (ANB) and for all elementary schools ~~shall~~ must be computed on the basis of the amount allowed herein in this section on account of the last eligible pupil (ANB). All elementary schools operated within the incorporated limits of a city or town ~~shall~~ must be treated as one school for the purpose of this schedule.

(8) The amounts in subsections (1) through (6) must be adjusted annually in the manner prescribed in this subsection and, as adjusted, constitute the elementary school foundation program schedule for the succeeding school year. By December 31 of each year, the superintendent of public instruction shall multiply each amount in subsections (1) through (6) by the inflation factor for the current

school fiscal year, which is determined by dividing the consumer price index for July of the current school fiscal year by the consumer price index for July 1988. The term "consumer price index" means the consumer price index, United States city average, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

**Section 31.** Section 20-9-319, MCA, is amended to read:

"20-9-319. High school maximum---budget foundation program schedule for 1987-88 school fiscal year 1990 and succeeding years. For 1987-88 the school fiscal year ending June 30, 1990, and succeeding school years, the high school maximum-budget foundation program schedule is as follows:

(1) For each high school having an ANB of 24 or fewer pupils, the maximum ~~shall-be-\$114,845~~ is \$192,939.

(2) For a secondary high school having an ANB of more than 24 pupils, the maximum ~~\$47,805~~ shall of \$8,039 must be decreased at the rate of ~~\$26.10~~ \$43.85 for each additional pupil until the ANB ~~shall-have-reached~~ reaches a total of 40 such pupils.

(3) For a school having an ANB of more than 40 pupils, the maximum of ~~\$47,360~~ \$7,338 must be decreased at the rate of ~~\$26.10~~ \$43.85 for each additional pupil until the ANB ~~shall-have-reached~~ reaches 100 pupils.

(4) For a school having an ANB of more than 100 pupils,

1 a the maximum of ~~\$2,802~~ \$4,707 must be decreased at  
2 the rate of ~~\$4.37~~ \$7.34 for each additional pupil until the  
3 ANB ~~shall have reached~~ reaches 200 pupils.

4 (5) For a school having an ANB of more than 200 pupils,  
5 the maximum of ~~\$2,365~~ \$3,973 must be decreased by  
6 ~~\$2.40~~ \$4.03 for each additional pupil until the ANB ~~shall~~  
7 ~~have reached~~ reaches 300 pupils.

8 (6) For a school having an ANB of more than 300 pupils,  
9 the maximum of ~~\$2,125~~ \$3,570 must be decreased at the  
10 rate of ~~44~~ 74 cents for each additional pupil until the ANB  
11 ~~shall have reached~~ reaches 600 pupils.

12 (7) For a school having an ANB over of more than 600  
13 pupils, the maximum ~~shall~~ may not exceed ~~\$1,993~~ \$3,348 per  
14 pupil.

15 (8) The maximum per pupil for all pupils (ANB) and for  
16 all high schools ~~shall~~ must be computed on the basis of the  
17 amount allowed herein in this section on account of the last  
18 eligible pupil (ANB). All high schools and junior high  
19 schools which have been approved and accredited as junior  
20 high schools, operated within the incorporated limits of a  
21 city or town, ~~shall~~ must be treated as one school for the  
22 purpose of this schedule.

23 (9) The amounts in subsections (1) through (7) must be  
24 adjusted annually in the manner prescribed in this  
25 subsection and, as adjusted, constitute the high school

1 foundation program schedule for the succeeding school year.  
2 By December 31 of each year, the superintendent of public  
3 instruction shall multiply each amount in subsections (1)  
4 through (7) by the inflation factor for the current school  
5 fiscal year, which is determined by dividing the consumer  
6 price index for July of the current school fiscal year by  
7 the consumer price index for July 1988. The term "consumer  
8 price index" means the consumer price index, United States  
9 city average, for all items, using the 1982-84 base of 100,  
10 as published by the bureau of labor statistics of the U.S.  
11 department of labor."

12 **Section 32.** Section 20-9-320, MCA, is amended to read:

13 "20-9-320. Maximum---general---fund---budget Foundation  
14 program amount for junior high school. (1) The general---fund  
15 budget foundation program amount for an approved and  
16 accredited junior high school shall must be prorated between  
17 the elementary district general---fund---budget foundation  
18 program amount and the high school district general-fund  
19 budget foundation program amount in the following manner:

20 (a) determine the per-ANB schedule amount for the  
21 school, as defined by ~~20-9-317~~ and 20-9-319, from the high  
22 school schedule;

23 (b) calculate the ANB for the regularly enrolled  
24 full-time pupils enrolled in the 7th and 8th grades of the  
25 junior high school;

1 (c) multiply the per-ANB schedule amount determined in  
 2 subsection (1)(a) by the ANB calculated in subsection (1)(b)  
 3 to determine the authorized ~~general-fund-budget~~ amount which  
 4 ~~shall--be~~ available for the elementary district ~~general-fund~~  
 5 ~~budget~~ foundation program; and

6 (d) subtract the amount determined in subsection (1)(c)  
 7 from the total authorized ~~general-fund-budget~~ amount for the  
 8 school to determine the authorized ~~general--fund--budget~~  
 9 amount ~~which-shall-be~~ available for the high school district  
 10 ~~general-fund-budget~~ foundation program.

11 (2) The ~~general-fund-budget~~ amount determined for each  
 12 school of a district under the schedules provided in  
 13 ~~20-9-316-through~~ 20-9-318 and 20-9-319 ~~shall must~~ be totaled  
 14 to determine the  
 15 ~~maximum-general-fund-budget-without-a-voted-levy~~ foundation  
 16 program amount for ~~such the~~ district."

17 **Section 33.** Section 20-9-321, MCA, is amended to read:

18 "20-9-321. ~~Maximum--general--fund--budget~~ Foundation  
 19 program and contingency funds for special education. (1) For  
 20 the purpose of establishing the  
 21 ~~maximum-budget-without-a-vote~~ foundation program amount for  
 22 a current year special education program for a school  
 23 district, the superintendent of public instruction ~~will~~  
 24 shall determine the total estimated cost of the special  
 25 education program for the school district on the basis of a

1 special education program budget submitted by the district.  
 2 The budget ~~will~~ must be prepared on forms provided by the  
 3 superintendent of public instruction and ~~will~~ must set out  
 4 for each program:

5 (a) the estimated allowable costs associated with  
 6 operating the program where allowable costs are as defined  
 7 in 20-7-431;

8 (b) the number of pupils expected to be enrolled in the  
 9 program; and

10 (c) any other data required by the superintendent of  
 11 public instruction for budget justification purposes and to  
 12 administer the provisions of 20-9-315 and 20-9-318 through  
 13 20-9-321.

14 (2) The total amount of allowable costs approved by the  
 15 superintendent of public instruction ~~shall-be~~ is the special  
 16 education ~~maximum-budget-without-a-vote~~ foundation program  
 17 amount for current year special education program purposes.  
 18 The total amount of allowable costs that are approved for  
 19 the special education budget ~~shall~~ may not, under any  
 20 condition, be less than the ~~maximum-budget-without-a-vote~~  
 21 foundation program amount for one regular ANB for each  
 22 ~~special~~ full-time special pupil in the school district.

23 (3) If a special education program is implemented or  
 24 expanded during a given school term too late to be included  
 25 in the determination of the district

1 ~~maximum-budget-without-a-vote~~ foundation program for the  
 2 school year as prescribed in this part, allowable costs  
 3 approved under the budgeting provisions of subsections (1)  
 4 and (2) for the operation of the program during the given  
 5 year must be funded from any legislative appropriation for  
 6 contingency financing for special education. Contingency  
 7 funds granted under this subsection must be deposited in a  
 8 separate account of the miscellaneous programs fund of the  
 9 district as provided in 20-9-507. However, if contingency  
 10 funds are not available, then subject to the approval of the  
 11 program by the superintendent under the emergency budget  
 12 provisions of 20-9-161(5), allowable costs for the given  
 13 year may be added to the ~~maximum-budget-without-a-vote~~  
 14 foundation program amount for special education for the  
 15 subsequent school year. Such The allowable costs must be  
 16 recorded as previous year special education expenses in the  
 17 school district budget for the subsequent school year.

18 (4) The sum of the previous year special education  
 19 expenses as defined in subsection (3) ~~above~~ and the  
 20 ~~maximum-budget-without-a-vote~~ foundation program amount for  
 21 current year special education as defined in subsections (1)  
 22 and (2) ~~shall-be~~ is the special education budget for  
 23 accounting purposes.

24 (5) The ~~maximum-budget-without-a-vote~~ foundation  
 25 program amount for special education ~~will~~ must be added to

1 the ~~maximum-budget-without-a-vote~~ foundation program amount  
 2 of the regular program ANB defined in 20-9-311 and 20-9-313  
 3 to obtain the total ~~maximum-budget-without-a-vote~~ foundation  
 4 program amount for the district."

5 **Section 34.** Section 20-9-322, MCA, is amended to read:  
 6 "20-9-322. Elementary instructional aide funding  
 7 qualification. (1) Any elementary school that anticipates an  
 8 ANB of at least 14 but less than 18 pupils for the ensuing  
 9 school fiscal year may determine the ~~maximum--general--fund~~  
 10 budget foundation program amount under the provisions of  
 11 ~~20-9-316(3)-or~~ 20-9-318(3) if eligibility is approved in  
 12 accordance with the following provisions:

13 (a) No later than May 10 of each year, the school  
 14 district shall submit its application for approval for  
 15 instructional aide funding to the superintendent of public  
 16 instruction. The application ~~shall~~ must include:

17 (i) the previous year's ANB;  
 18 (ii) an estimate of the current school fiscal year's  
 19 ANB, as calculated under the provisions of 20-9-314(1), and  
 20 the number of grade levels being taught on May 1 of the  
 21 current year;

22 (iii) an estimate of the ANB and the number of grade  
 23 levels anticipated for the ensuing school fiscal year;

24 (iv) the factual information on which such estimates are  
 25 based; and

1 (v) any other information or data that may be required  
2 by the superintendent of public instruction.

3 (b) The superintendent of public instruction shall  
4 immediately review all of the factors of the application and  
5 shall approve the application if the anticipated ANB is at  
6 least 14 but less than 18 pupils and a minimum of five grade  
7 levels are being taught as of May 1 of the current year or  
8 documentation is provided which indicates that the  
9 anticipated ANB will require a minimum of five grade levels  
10 to be taught in the ensuing school year.

11 (2) Whenever a school district applies for and is  
12 approved for instructional aide funding under the provisions  
13 of subsection (1), the district ~~must~~ shall hire an  
14 instructional aide.

15 (3) For the purposes of this section, the term  
16 "instructional aide" means:

17 (a) a person who is under the direct supervision of a  
18 teacher; or

19 (b) a certified teacher."

20 **Section 35.** Section 20-9-331, MCA, is amended to read:

21 "20-9-331. Basic county tax and other revenues for  
22 county equalization of the elementary district foundation  
23 program. (1) ~~It shall be the duty of the~~ The county  
24 commissioners of each county ~~to~~ shall levy an annual basic  
25 tax of 28 mills on the dollars of the taxable value of all

1 taxable property within the county, except ~~for--vehicles~~  
2 property subject to taxation a tax or fee under 23-2-517,  
3 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
4 the purposes of local and state foundation program support.  
5 The revenue ~~to--be~~ collected from this levy ~~shall~~ must be  
6 apportioned to the support of the foundation programs of the  
7 elementary school districts in the county and to the state  
8 special revenue fund, state equalization aid account, in the  
9 following manner:

10 (a) In order to determine the amount of revenue raised  
11 by this levy which is retained by the county, the sum of the  
12 estimated ~~revenues~~ revenue identified in subsection (2)  
13 below ~~shall~~ must be subtracted from the sum of the county  
14 elementary transportation obligation and the total of the  
15 foundation programs of all elementary districts of the  
16 county.

17 (b) If the basic levy prescribed by this section  
18 produces more revenue than is required to finance the  
19 difference determined above, the county treasurer shall  
20 remit the surplus funds to the state treasurer for deposit  
21 to the state special revenue fund, state equalization aid  
22 account, immediately upon occurrence of a surplus balance  
23 and each subsequent month thereafter, with any final  
24 remittance due no later than June 20 of the fiscal year for  
25 which the levy has been set.

(2) The proceeds realized from the county's portion of the levy prescribed by this section and the revenues revenue from the following sources shall must be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall must be kept of such these proceeds and revenues revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of the property taxation

~~established-by-the-county--levy--required--by--this--section~~  
including federal forest reserve funds allocated in 17-3-213;

(f) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(g) anticipated revenue from vehicle property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2) and, 61-3-521, 61-3-537, and 67-3-204."

**Section 36.** Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) ~~It--shall--be--the--duty--of--the~~ The county commissioners of each county to shall levy an annual basic special tax for high schools of 17 mills on the dollar of the taxable value of all taxable property within the county, except for ~~vehicles-subject-to--taxation--under--61-3-504(2)~~ property subject to a tax or fee in lieu of tax under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue ~~to-be~~ collected from this levy shall must be apportioned to the support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised

by this levy which is retained by the county, the estimated revenues revenue identified in ~~subsections (2)(a) and (2)(b)~~ below--shall be subsection (2) is subtracted from the ~~sum of the county's high school tuition obligation and the~~ total of the foundation programs of all high school districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined above in subsection (1)(a), the county treasurer shall remit the surplus to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The proceeds realized from the county's portion of the levy prescribed in this section and the ~~revenues~~ revenue from the following sources ~~shall~~ must be used for the equalization of the high school district foundation programs of the county as prescribed in 20-9-334, and a separate accounting ~~shall~~ must be kept of these proceeds and revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in

this section;

(b) any federal or state ~~moneys~~ money distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(d) anticipated revenue from ~~vehicle~~ property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, and 61-3-537, and 67-3-204."

**Section 37.** Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means ~~those moneys~~ the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state equalization aid ~~shall~~ must be made in a single sum for the biennium. The superintendent of public instruction ~~has~~ authority to may spend ~~such the~~ appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the

1 biennium.

2 (3) The following ~~shall~~ must be paid into the state  
3 special revenue fund for state equalization aid to public  
4 schools of the state:

5 (a) ~~31.8% of all~~ money received from the collection of  
6 income taxes under chapter 30 of Title 15, as provided by  
7 15-1-501;

8 (b) ~~25% of all money~~, except as provided in 15-31-702,  
9 money received from the collection of corporation license  
10 and income taxes under chapter 31 of Title 15, as provided  
11 by 15-1-501;

12 (c) ~~100% of the~~ money allocated to state equalization  
13 from the collection of the severance tax on coal;

14 (d) ~~100% of the~~ money received from the treasurer of  
15 the United States as the state's shares of oil, gas, and  
16 other mineral royalties under the federal Mineral Lands  
17 Leasing Act, as amended;

18 (e) interest and income money described in 20-9-341 and  
19 20-9-342;

20 (f) income from the education trust fund account; and

21 (g) income from the lottery, as provided for in  
22 23-5-1027; and

23 (g)(h) in addition to these revenues, the surplus  
24 revenues collected by the counties for foundation program  
25 support according to 20-9-331 and 20-9-333.

1 (4) Any surplus revenue in the state equalization aid  
2 account in the second year of a biennium may be used to  
3 reduce the appropriation required for the next succeeding  
4 biennium."

5 **Section 38.** Section 20-9-344, MCA, is amended to read:

6 "20-9-344. Purpose of state equalization aid and duties  
7 of the board of public education for distribution --  
8 conditions of first payment. (1) The money available for  
9 state equalization aid ~~shall~~ must be distributed and  
10 apportioned to provide an annual minimum operating revenue  
11 for the elementary and high schools in each county,  
12 exclusive of revenues required for debt service and for the  
13 payment of any ~~and all~~ costs and expense incurred in  
14 connection with any adult education program, recreation  
15 program, school food services program, new buildings, ~~new~~  
16 and grounds, and transportation.

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

21 (a) adopt policies for regulating the distribution of  
22 state equalization aid in accordance with the provisions of  
23 law and in a manner that ~~would most effectively meet the~~  
24 financial needs of districts provides for monthly  
25 distribution of money in the state equalization aid account

1 until each district receives its annual equalization aid  
2 entitlement;

3 (b) have the power to require such reports from the  
4 county superintendents, budget boards, county treasurers,  
5 and trustees as it ~~may-deem~~ considers necessary; and

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

16 (3) Should a district receive more state equalization  
17 aid than it is entitled to, the county treasurer ~~must~~ shall  
18 return the overpayment to the state upon the request of the  
19 superintendent of public instruction in the manner  
20 prescribed by the department of commerce.

21 (4) The first payment of state equalization aid must  
22 be:

23 (a) based on an estimate of 20% of each district's  
24 entitlement; and

25 (b) distributed by July 15 of the school fiscal year."

1 **Section 39.** Section 20-9-353, MCA, is amended to read:

2 "20-9-353. Additional levy for general fund -- election  
3 for authorization to impose. (1) ~~The~~ Except as limited by  
4 subsection (5), the trustees of any district may propose to  
5 adopt a general fund budget in excess of the ~~general--fund~~  
6 ~~budget--amount~~ foundation program for ~~such the~~ district as  
7 established by the schedules in ~~20-9-316~~ 20-9-318 through  
8 20-9-321 for any of the following purposes:

9 (a) building, altering, repairing, or enlarging any  
10 schoolhouse of the district;

11 (b) furnishing additional school facilities for the  
12 district;

13 (c) acquisition of land for the district;

14 (d) proper maintenance and operation of the school  
15 programs of the district.

16 (2) When the trustees of any district determine that an  
17 additional amount of financing is required for the general  
18 fund budget that is in excess of the statutory schedule  
19 amount, the trustees shall submit the proposition of an  
20 additional levy to raise ~~such the~~ excess amount of general  
21 fund financing to the electors who are qualified under  
22 20-20-301 to vote upon ~~such the~~ proposition, except that ~~no~~  
23 ~~an election shall-be~~ is not required to permit the school  
24 trustees to use any funds available to finance the  
25 additional amount other than those funds to be raised by the

1 additional levy. ~~Such~~ The special election ~~shall~~ must be  
 2 called and conducted in the manner prescribed by this title  
 3 for school elections. The ballot for ~~such~~ the election ~~shall~~  
 4 must state only the amount of money to be raised by  
 5 additional property taxation, the approximate number of  
 6 mills required to raise ~~such~~ the money, and the purpose for  
 7 which ~~such~~ the money will be expended. ~~and it shall~~ The  
 8 ballot must be in the following format:

9 PROPOSITION

10 Shall a levy be made in addition to the levies  
 11 authorized by law in ~~such~~ the number of mills as may be  
 12 necessary to raise the sum of (state the amount to be raised  
 13 by additional tax levy), and being approximately (give  
 14 number) mills, for the purpose of (insert the purpose for  
 15 which the additional tax levy is made)?

16 ☐ FOR the levy.

17 ☐ AGAINST the levy.

18 (3) If the election on any additional levy for the  
 19 general fund is approved by a majority vote of ~~those~~ the  
 20 electors voting at ~~such~~ the election, the proposition ~~shall~~  
 21 carry carries and the trustees may use any portion or all of  
 22 the authorized amount in adopting the preliminary general  
 23 fund budget. The trustees shall certify the additional levy  
 24 amount authorized by ~~such--a~~ the special election on the  
 25 budget form that is submitted to the county superintendent,

1 and the county commissioners shall levy ~~such~~ the authorized  
 2 number of mills on the taxable value of all taxable property  
 3 within the district, as prescribed in 20-9-141, ~~as--are~~  
 4 required to raise the amount of ~~such~~ the additional levy.

5 (4) Authorization to levy an additional tax under the  
 6 provisions of this section ~~shall-be~~ is effective for only 1  
 7 school fiscal year and ~~shall~~ must be authorized by a special  
 8 election conducted before August 1 of the school fiscal year  
 9 for which it is effective.

10 (5) For school fiscal year 1995 and each succeeding  
 11 year, the trustees of a district may not adopt a general  
 12 fund budget that exceeds 117% of the amount set forth in the  
 13 schedules in 20-9-318 through 20-9-321."

14 **Section 40.** Section 20-9-505, MCA, is amended to read:

15 "20-9-505. Purpose and establishment of nonoperating  
 16 fund. (1) The trustees of any district that will not operate  
 17 any school during the ensuing school fiscal year shall  
 18 establish a nonoperating fund on the first day of ~~such~~ the  
 19 school fiscal year. In establishing the nonoperating fund,  
 20 the trustees shall cause the transfer of the end-of-the-year  
 21 cash balance of each fund maintained by the district during  
 22 the immediately preceding school fiscal year to the  
 23 nonoperating fund. However, cash balances of the debt  
 24 service fund and the miscellaneous federal programs fund, if  
 25 any, ~~shall~~ must be maintained in their individual funds.

1 (2) The trustees of a district establishing a  
 2 nonoperating fund for the first year of nonoperation may  
 3 earmark a portion of the nonoperating fund cash balance as a  
 4 nonoperating fund cash reserve when they anticipate the  
 5 reopening of a school in the following school fiscal year.  
 6 ~~Such~~ The cash reserve ~~shall~~ may not be more than the general  
 7 fund cash reserve designated for the immediately preceding  
 8 school fiscal year. If a school is not operated in the  
 9 following school fiscal year, the authority of the trustees  
 10 to earmark a nonoperating fund cash reserve ~~shall--terminate~~  
 11 ~~terminates~~ and the ~~moneys~~ money earmarked as a cash reserve  
 12 ~~shall must~~ be used to reduce the levy requirement of the  
 13 nonoperating fund. If the trustees acquire approval to  
 14 reopen a school in the following school fiscal year under  
 15 the provisions of 20-6-502 or 20-6-503 and operate ~~such~~ the  
 16 school, the nonoperating fund cash reserve ~~shall~~ must be  
 17 restored as the general fund cash reserve.

18 (3) The purpose of the nonoperating fund ~~shall-be~~ is to  
 19 centralize the financing and budgeting for the limited  
 20 functions of a district not operating a school. ~~Such~~ The  
 21 functions ~~shall~~ include:

- 22 ~~{a)--elementary--tuition-obligations-to-other-districts;~~  
 23 ~~{b)}~~ (a) transportation of the resident pupils;  
 24 ~~{c)}~~ (b) maintenance of district-owned property; and  
 25 ~~{d)}~~ (c) any other nonoperating school function of the

1 district ~~deemed~~ considered necessary by the trustees or  
 2 required by law.

3 (4) Any expenditure of nonoperating fund ~~moneys--shall~~  
 4 money must be made in accordance with the financial  
 5 administration provisions of this title for a budgeted  
 6 fund."

7 **Section 41.** Section 20-9-531, MCA, is amended to read:

8 "20-9-531. State retirement equalization account --  
 9 ~~authorization-to-appropriate~~ appropriation. There is a state  
 10 retirement equalization account in the state special revenue  
 11 fund. ~~Money--determined~~ Retirement equalization aid as  
 12 calculated in 20-9-532 must be deposited in the account. ~~The~~  
 13 ~~legislature-may-appropriate-the-money~~ Money in the account  
 14 is statutorily appropriated, as provided in 17-7-502, to the  
 15 superintendent of public instruction to assist the counties  
 16 in equalizing ~~a--portion~~ 90% of the retirement fund  
 17 obligations as provided in 20-9-501."

18 **Section 42.** Section 20-9-532, MCA, is amended to read:

19 "20-9-532. Calculation and distribution of retirement  
 20 equalization aid. (1) The superintendent of public  
 21 instruction shall administer the distribution of retirement  
 22 equalization aid by:

- 23 (a) determining the estimated revenue available from  
 24 ~~the net-lottery-revenue-as-provided-in--23-5-1927~~ statewide  
 25 mill levy imposed under [section 43];

1       {b}--establishing--a--list--containing--each--county--that  
2       levied--in--the--prior--school--fiscal--year--in--excess--of--9--mills  
3       to--fund--its--required--contribution--for--retirement--fund  
4       obligations;

5       {c}{b} establishing the estimated dollar amount per  
6       average-number-belonging-{ANB}-by-dividing for each district  
7       by multiplying the amount determined in subsection (1)(a) by  
8       the total-ANB-of-the-counties-listed-pursuant-to-subsection  
9       {1}{b}-for--the--prior--school--fiscal--year ratio of the  
10       district's actual cost for retirement, as established under  
11       20-9-501, during the preceding school fiscal year, to the  
12       total retirement costs of all districts in the state during  
13       the preceding school fiscal year;

14       {d}{c} notifying the county superintendent of each  
15       county listed--in-subsection-{1}{b} by the fourth Monday in  
16       July of the estimated retirement equalization aid available  
17       to the county, calculated separately for elementary and high  
18       school districts and prorated as specified in 20-9-501 for  
19       any joint school district, so that each county  
20       superintendent may use the amounts in the manner prescribed  
21       in 20-9-501 to calculate the retirement fund levy  
22       requirements for elementary and high school districts in the  
23       county;

24       {e}{d} distributing by October 1 the amount of  
25       retirement equalization aid for each county listed--pursuant

1       to-subsection-{1}{b}; and

2       {f}{e} keeping a record of the complete data concerning  
3       revenue available for retirement equalization aid and the  
4       distribution of such the aid.

5       (2) If the actual proceeds available for retirement  
6       equalization are not sufficient to finance the estimated  
7       dollar amount per-ANB provided for in subsection {1}{c}  
8       (1)(b), each county listed--pursuant-to-subsection-{1}{b}  
9       must receive a prorated amount."

10       NEW SECTION. **Section 43.** Retirement equalization aid  
11       -- state mill levy. (1) The superintendent of public  
12       instruction shall annually:

13       (a) prescribe a levy on all taxable property within the  
14       state, except property for which fees and taxes are imposed  
15       under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537,  
16       and 67-3-205, that is sufficient to fund 90% of the  
17       retirement, federal social security, and unemployment  
18       insurance costs of the public school districts for the  
19       preceding school fiscal year, including all elementary  
20       districts, high school districts, and any prorated joint  
21       districts or special education cooperative agreement  
22       requirements; and

23       (b) report the levy requirement to the board of county  
24       commissioners of each county by the second Monday of August  
25       as the respective county requirement for state retirement

1 equalization aid.

2 (2) The county commissioners shall impose the levy in  
3 the manner provided in 20-9-142. The proceeds of the levy  
4 must be remitted to the state treasurer for deposit in the  
5 state retirement equalization account in the state special  
6 revenue fund.

7 **Section 44.** Section 20-10-105, MCA, is amended to read:

8 "20-10-105. Determination of residence. When the  
9 residence of an eligible transportee is a matter of  
10 controversy and is an issue before a board of trustees, a  
11 county transportation committee, or the superintendent of  
12 public instruction, the residence ~~shall~~ must be established  
13 on the basis of the general state residence law as provided  
14 in 1-1-215. ~~Whenever any district or county is determined to~~  
15 ~~be responsible for paying tuition for any pupil in~~  
16 ~~accordance with 20-5-301, 20-5-302, or 20-5-311, the~~  
17 ~~residence of the pupil for tuition purposes is the residence~~  
18 ~~of the pupil for transportation purposes."~~

19 **Section 45.** Section 23-5-1027, MCA, is amended to read:

20 "23-5-1027. Disposition of revenue. (1) (a) As near as  
21 possible to 45% of the money paid for tickets or chances  
22 must be paid out as prize money, except as provided in  
23 subsection (1)(b).

24 (b) In the case of a regional lottery game, a maximum  
25 of 50% of the money paid for tickets or chances may be paid

1 out as prize money.

2 (2) Up to 15% of the gross revenue from the state  
3 lottery may be used by the director to pay the operating  
4 expenses of the state lottery. Commissions paid to lottery  
5 ticket or chance sales agents are not a state lottery  
6 operating expense.

7 (3) Funds to pay the operating expenses of the lottery  
8 are statutorily appropriated as provided in 17-7-502.

9 (4) That part of all gross revenue not used for the  
10 payment of prizes, commissions, and operating expenses is  
11 net revenue and must be paid quarterly from the enterprise  
12 fund established by 23-5-1026 to the superintendent of  
13 public instruction for distribution as state equalization  
14 ~~aid to the retirement fund obligations of elementary and~~  
15 ~~high school districts in the manner provided in 20-9-532 to~~  
16 the public schools of Montana."

17 NEW SECTION. **Section 46.** Repealer. Sections 20-5-303,  
18 20-5-305 through 20-5-307, 20-5-312, 20-5-313, 20-9-105,  
19 20-9-316, 20-9-317, and 20-9-352, MCA, are repealed.

20 NEW SECTION. **Section 47.** Extension of authority. Any  
21 existing authority to make rules on the subject of the  
22 provisions of [this act] is extended to the provisions of  
23 [this act].

24 NEW SECTION. **Section 48.** Codification instruction.  
25 [Section 43] is intended to be codified as an integral part

LC 1734/01

1 of Title 20, chapter 9, and the provisions of Title 20 apply  
2 to [section 43].

3 NEW SECTION. **Section 49.** Effective date. [This act] is  
4 effective July 1, 1989.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB623, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act to generally revise public school funding; to include comprehensive insurance in the general fund budget; to require the school foundation program to fund 100 percent of district's general fund budgets without a voted levy of all elementary and high schools, as set by foundation program schedules; to limit by school fiscal year 1995 the maximum general fund budget of a district to 117 percent of the foundation program amount for the district; to limit the general fund reserve of a district to 20 percent except for districts not receiving state equalization aid; to eliminate the present permissive levy; to index the rate of increase in the schedule amounts to the rate of annual inflation; to reallocate lottery revenue from retirement equalization to state equalization aid; to provide a state levy on property to fund 90 percent of the districts' costs for retirement, social security, and unemployment insurance; to provide for a statutory appropriation of the proceeds; to exclude the levy from the property tax limitations of initiative measure no. 105; to eliminate tuition payments between districts; to require distribution of state equalization aid in monthly payments; amending Sections 15-10-402, 17-7-502, 20-3-106, 20-3-205, 20-3-210, 20-3-324, 20-3-331, 20-5-101, 20-5-102, 20-5-301, 20-5-302, 20-5-304, 20-5-311, 20-5-314, 20-6-401, 20-6-603, 20-6-608, 20-7-414, 20-7-420 through 20-7-422, 20-7-424, 20-7-431, 20-9-104, 20-9-141, 20-9-201, 20-9-301, 20-9-303, 20-9-315, 20-9-318 through 20-9-322, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-353, 20-9-505, 20-9-531, 20-9-532, 20-10-105 and 23-5-1027, MCA; repealing Sections 20-5-303, 20-5-305 through 20-5-307, 20-5-312, 20-5-313, 20-9-105, 20-9-316, 20-9-317, and 20-9-352, MCA; and providing an effective date.

ASSUMPTIONS:

1. MGF BWV is \$283.9M in FY90, and \$287.9M in FY91.
2. Elementary share of Foundation program remains constant at 63.4%, and the high school share remains at 36.6%.
3. Values in the Foundation schedules are increased by a factor of 1.60 for elementary schools and 1.68 for high schools for FY90. Values in succeeding years are increased for inflation.
4. Expenditures for retirement will be \$52M in FY90, and \$52M in FY91.
5. Revenue from the district permissive levy under current law will be \$15.8M in FY90 and \$15.5M in FY91.
6. Lottery revenue will be \$13.5M each year of the FY90-FY91 biennium. 40% of this money will be used for equalization aid.
7. Ninety percent of retirement expenses will be funded through a statewide levy under proposed law.
8. Assume a 4.7% inflation rate for FY91.

Ray Shackelford 2/21/89  
RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
OFFICE OF BUDGET AND PROGRAM PLANNING

Fred Thomas 2/27/89  
FRED THOMAS, PRIMARY SPONSOR DATE

Fiscal Note for HB623, as introduced**HB 623**

Fiscal Note Request HB623 as introduced

Form BD-15

Page 2

9. The state participation in funding at least 90% of teacher retirement costs (Section 39) requires an estimate of total teacher retirement liabilities. The total is computed by determining the revenues from retirement fund levies in each county for elementary and high school, and adding in an estimated \$5.4M from lottery revenues. No adjustment was included for revenues from federal forest funds (see technical note 2).
10. Funding for teacher retirement is funded by county levies and, in part, by a portion of federal forest funds (17-3-213, MCA). To the extent that the county levies decrease - to fund only 10% of the total retirement liability - the portion of the federal forest fund revenues will shift from retirement to County Equalization.
11. Monthly distributions (Section 36(2)(a)) require a 20% payment in July and a payment schedule specified by the Board of Public Education for the other 11 payments. It is assumed that August through May are at 7.3% each month and June is the remaining 7%.
12. District budget capping at 117% does not take effect until FY95; no analysis is provided here.

FISCAL IMPACT:

	Current	FY90		Current	FY91	
	Law	Proposed		Law	Proposed	
	Law	Law	Difference	Law	Law	Difference
<u>Revenues:</u>	\$273.544M	\$312.411M	\$ 38.867M	\$ 277.8M	\$ 316.353M	\$ 38.553M
<u>Expenditures:</u>						
Foundation Program	\$268.144M	\$462.6M	\$194.456M	\$ 272.4M	\$ 484.3M	\$ 211.9M
Retirement	5.4M	47.4M	42.0M	5.4M	47.4M	42.0M
OPI-Operating Expenses	-0-	.149M	.149M	-0-	.044M	.044M
TOTAL EXPENDITURES	\$273.544M	\$510.149M	\$236.605M	\$ 277.8M	\$ 531.744M	\$ 253.944M

Net Effect:

Revenues less						
Expenditures:	\$ -0-	(\$197.738M)	(\$197.738M)	\$ -0-	(\$ 215.391M)	(\$215.391M)

LOCAL IMPACT:

Including comprehensive insurance costs in the General Fund will reduce district levies; comprehensive insurance is about \$10.5M per year.

TECHNICAL NOTES:

1. Section 39 says that the state shall fund "at least" 90% of retirement costs. It would be better to provide a formula - e.g. 90% of the total prior year retirement fund expense.

**HB 623**