

HOUSE BILL 202

Introduced by Kadas

1/15	Introduced
1/15	Referred to Education & Cultural Resources
1/15	First Reading
1/22	Hearing
1/26	Fiscal Note Requested
2/01	Fiscal Note Received
2/01	Fiscal Note Printed
2/08	Committee Report--Bill Passed as Amended
2/10	2nd Reading Passed
2/11	Revised Fiscal Note Requested
2/17	Revised Fiscal Note Received
2/17	Revised Fiscal Note Printed
2/23	3rd Reading Passed
	Transmitted to Senate
3/01	First Reading
3/01	Referred to Education & Cultural Resources
3/17	Hearing
3/22	Committee Report--Bill Concurred as Amended
3/24	2nd Reading Concurred
3/25	3rd Reading Concurred
	Returned to House bill Amendments
4/01	2nd Reading Amendments Not Concurred
4/02	Conference Committee Appointed
	Senate
4/05	Conference Committee Appointed Died in Process

1 House BILL NO. 202
 2 INTRODUCED BY Kedlar
 3 BY REQUEST OF THE SUPERINTENDENT
 4 OF PUBLIC INSTRUCTION
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
 7 SCHOOL LAWS TO COMPLY WITH GENERALLY ACCEPTED ACCOUNTING
 8 PROCEDURES AND OTHER SCHOOL FUNDING PROVISIONS; AMENDING
 9 SECTIONS 20-1-101, 20-1-301, 20-3-205, 20-3-324, 20-6-401,
 10 20-6-621, 20-9-161, 20-9-166, 20-9-201, 20-9-224, 20-9-311,
 11 20-9-322, 20-9-331, 20-9-333, 20-9-334, 20-9-506, 20-9-508,
 12 20-9-604, 20-10-144, 20-10-146, 20-10-204, 20-10-206, AND
 13 77-1-507, MCA; REPEALING SECTIONS 20-9-335 AND 20-10-205,
 14 MCA; AND PROVIDING AN EFFECTIVE DATE."
 15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 17 **Section 1.** Section 20-1-101, MCA, is amended to read:
 18 "20-1-101. Definitions. As used in this title, unless
 19 the context clearly indicates otherwise, the following
 20 definitions apply:
 21 (1) "Agricultural experiment station" means the
 22 agricultural experiment station established at Montana state
 23 university.
 24 (2) "Attendance center" means a location, identified by
 25 a school district, where students are provided an

1 instructional program under the administration of a school
 2 or school district.
 3 (3) "Average number belonging" or "ANB" ~~shall mean~~
 4 means the average number of regularly enrolled, full-time
 5 pupils attending the public schools of a district.
 6 (4) The "board of public education" is the board
 7 created by Article X, section 9, subsection (3), of the 1972
 8 Montana constitution and 2-15-1507.
 9 (5) "Board of regents" means the board of regents of
 10 higher education created by Article X, section 9, subsection
 11 (2), of the 1972 Montana constitution and 2-15-1505.
 12 (6) "Commissioner" means the commissioner of higher
 13 education created by Article X, section 9, subsection (2),
 14 of the 1972 Montana constitution and 2-15-1506.
 15 (7) "County superintendent" means the county
 16 government official who is the school officer of the county.
 17 (8) "District superintendent" means any person who
 18 holds a valid class 3 Montana teacher certificate with a
 19 superintendent's endorsement that has been issued by the
 20 superintendent of public instruction under the provisions of
 21 this title and the policies adopted by the board of public
 22 education and who has been employed by a district as a
 23 district superintendent.
 24 (9) "K-12 vocational education" means vocational
 25 education in public school kindergarten through grade 12.

{9}(10) "Principal" means any person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher ~~shall be~~ is construed as including a principal, as herein defined in this section.

{10}(11) "Pupil" means any child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but has not yet reached ~~his~~ a 19th birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense. For purposes of calculating the average number belonging (ANB) pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached ~~his--19th--birthday~~ 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

{11}(12) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

{12}(13) "Regents" means the board of regents of higher education.

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

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

{15}(16) "State university" means the Montana state university, located at Bozeman.

{16}(17) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the constitution of Montana.

{17}(18) "System" means the Montana university system.

{18}(19) "Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher ~~shall--also--include~~ includes any

1 person for whom an emergency authorization of employment of
2 such--person has been issued under the provisions of
3 20-4-111.

4 ~~(19)~~(20) "Textbook" means a book or manual used as a
5 principal source of study material for a given class or
6 group of students.

7 ~~(20)~~(21) "Textbook dealer" means any party, company,
8 corporation, or other organization selling, offering to
9 sell, or offering for adoption textbooks to districts in the
10 state of Montana.

11 ~~(21)~~(22) "Trustees" means the governing board of a
12 district.

13 ~~(22)~~(23) "University" means the university of Montana,
14 located at Missoula.

15 ~~(23)~~(24) "Vocational education" means the instruction to
16 prepare or improve the pupil for gainful employment that
17 does not require a baccalaureate or higher degree. This
18 definition of vocational education ~~shall--include~~ includes
19 guidance and prevocational, related, or technical
20 instruction necessary to prepare the pupil for further
21 vocational education or for entry into employment.

22 ~~(24)~~(25) "Vocational-technical center" means an
23 institution used principally for the provision of
24 vocational-technical education to persons who qualify as
25 vocational-technical students. These centers are designated

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

4 ~~(25)~~(26) "Vocational-technical education" means
5 vocational-technical education of vocational-technical
6 students that is conducted by a vocational-technical center,
7 a unit of the Montana university system, or a community
8 college as designated by the board of regents."

9 **Section 2.** Section 20-1-301, MCA, is amended to read:

10 "20-1-301. School fiscal year. The school fiscal year
11 ~~shall--begin~~ begins on July 1 and ~~end~~ ends on June 30. At
12 least 180 school days of pupil instruction ~~shall~~ must be
13 conducted during each school fiscal year, except that 175
14 days of pupil instruction for graduating seniors may be
15 sufficient as provided in 20-9-313, or unless a variance for
16 kindergarten has been granted under 20-1-302 or a district
17 is granted a variance under the provisions of chapter 9,
18 part 8, of this title. For any elementary or high school
19 district that fails to provide for at least 180 school days
20 of pupil instruction, the superintendent of public
21 instruction shall reduce the ~~county-equalization-as--defined~~
22 ~~in--20-9-334--and--the~~ state equalization aid and state
23 advances for county equalization payments provided in
24 20-9-346 as-defined-in-20-9-343 for the district for that
25 school year by 1/90th for each school day less than 180

1 school days."

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

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

7 (1) determine, establish, and reestablish trustee
8 nominating districts in accordance with the provisions of
9 20-3-352, 20-3-353, and 20-3-354;

10 (2) administer and file the oaths of members of the
11 boards of trustees of the districts in ~~his~~ the county in
12 accordance with the provisions of 20-3-307;

13 (3) register the teacher or specialist certificates or
14 emergency authorization of employment of any person employed
15 in the county as a teacher, specialist, principal, or
16 district superintendent in accordance with the provisions of
17 20-4-202;

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

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

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

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

4 (8) fulfill all responsibilities assigned to ~~him~~ the
5 county superintendent under the provisions of this title
6 regulating the organization, alteration, or abandonment of
7 districts;

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

11 (10) estimate the average number belonging (ANB) of an
12 opening school in accordance with the provisions of
13 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

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

16 (12) complete the budgets, compute the budgeted revenues
17 and tax levies, file final budgets and budget amendments,
18 and fulfill other responsibilities assigned to ~~him~~ the
19 county superintendent under the provisions of this title
20 regulating school budgeting systems;

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

24 (14) monthly, unless otherwise provided by law, order
25 the county treasurer to apportion state money, county school

1 money, and any other school money subject to apportionment
2 in accordance with the provisions of 20-9-212, 20-9-334,
3 20-9-347, 20-10-145, or 20-10-146;

4 (15) act on any request to transfer average number
5 belonging (ANB) in accordance with the provisions of
6 20-9-313(3);

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

11 (17) compute the revenues and the district and county
12 levy requirements for each fund included in each district's
13 final budget and report the computations to the board of
14 county commissioners in accordance with the provisions of
15 the general fund, transportation, bonds, and other school
16 funds parts of this title;

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

21 (19) for districts that do not employ a district
22 superintendent or principal, recommend library book and
23 textbook selections in accordance with the provisions of
24 20-7-204 or 20-7-602;

25 (20) notify the superintendent of public instruction of

1 a textbook dealer's activities when required under the
2 provisions of 20-7-605 and otherwise comply with the
3 textbook dealer provisions of this title;

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

7 ~~†22†~~ perform any other duty prescribed from time to time
8 by this title, any other act of the legislature, the
9 policies of the board of public education, the policies of
10 the board of regents relating to community college
11 districts, or the rules of the superintendent of public
12 instruction;

13 ~~†23†~~(22) administer the oath of office to trustees
14 without the receipt of pay for administering the oath;

15 ~~†24†~~(23) keep a record of his official acts of the
16 county superintendent, preserve all reports submitted ~~to him~~
17 under the provisions of this title, preserve all books and
18 instructional equipment or supplies, keep all documents
19 applicable to the administration of the office, and
20 surrender all records, books, supplies, and equipment to his
21 a successor;

22 ~~†25†~~(24) within 90 days after the close of the school
23 fiscal year, publish an annual report in the county
24 newspaper stating the following financial information for
25 the school fiscal year just ended for each district of the

1 county:

2 (a) the total of the cash fund balances of all budgeted
3 funds maintained by the district at the beginning of the
4 year;

5 (b) the total receipts revenue that were was realized
6 in each budgeted fund maintained by the district;

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

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

12 ~~{26}~~(25) hold meetings for the members of the trustees
13 from time to time at which matters for the good of the
14 districts must be discussed."

15 **Section 4.** Section 20-3-324, MCA, is amended to read:

16 "20-3-324. Powers and duties. As prescribed elsewhere
17 in this title, the trustees of each district shall:

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

25 (2) employ and dismiss administrative personnel,

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

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

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

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

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

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

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

24 (9) conduct the fiscal business of the district in
25 accordance with the provisions of the school financial

1 administration part of this title;

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

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

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

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

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

24 (15) hold in trust, acquire, and dispose of the real and
25 personal property of the district in accordance with the

1 provisions of the school sites and facilities part of this
2 title;

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

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

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

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

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

23 (21) for each member of the trustees, visit each school
24 of the district not less than once each school fiscal year
25 to examine its management, conditions, and needs, except

trustees from a first-class school district may share the responsibility for visiting each school in the district;

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

(23) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110; and

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

Section 5. 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" means the elementary or high school districts incorporated into the enlarged district.

(2) "Eligible pupils" means the average number belonging (ANB) 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 provisions of the school laws, except that the pupils residing in the component district having the largest

total number of pupils are ineligible for bonus payment consideration.

(3) "Enlarged district" 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 must be \$450 per eligible pupil per year for a period of 3 years and must be deposited in the enlarged district's general fund. General bonus payment for third-class school districts must be \$750 per eligible pupil per year for a period of 3 years and must be deposited in the enlarged district's general fund. The general bonus payment must be made from the state school equalization aid account.

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

1 eligible-pupil."

2 **Section 6.** Section 20-6-621, MCA, is amended to read:

3 "20-6-621. Selection of school sites, approval
4 election, and lease of state lands. (1) The trustees of any
5 a district ~~shall have the authority to~~ may select the sites
6 for school buildings or for other school purposes, but ~~such~~
7 ~~the selection shall must~~ first be approved by the qualified
8 electors of the district before any contract for the
9 purchase of ~~such the~~ site is entered into by the trustees,
10 except the trustees ~~shall have the authority to~~ may select
11 and purchase or otherwise acquire property contiguous to an
12 existing site that is in use for school purposes without a
13 site approval election. Furthermore, the trustees may take
14 an option on a site prior to the site approval election.

15 (2) The election for the approval of a site ~~shall must~~
16 be called under the provisions of 20-20-201 and ~~shall must~~
17 be conducted in the manner prescribed by this title for
18 school elections. An elector who may vote at a school site
19 election ~~shall must~~ be qualified to vote under the
20 provisions of 20-20-301. If a majority of those voting at
21 the election approve the site selection, the trustees ~~shall~~
22 have the authority to purchase ~~such the~~ sites. A site
23 approval election ~~shall may~~ not be required when the site
24 was specifically identified in an election at which an
25 additional levy or the issuance of bonds was approved for

1 the purchase of ~~such the~~ site.

2 (3) Any site for a school building or other building of
3 the district that is selected or purchased by the trustees
4 ~~shall must~~:

5 (a) be in a place that is convenient, accessible, and
6 suitable;

7 (b) comply with the minimum size and other requirements
8 prescribed by the department of health and environmental
9 sciences of the state of Montana; and

10 (c) comply with the statewide building regulations, if
11 any, promulgated by the department of commerce.

12 (4) The board of land commissioners ~~shall have the~~
13 ~~authority to may~~ sell, at the appraised value, or to lease
14 for any period of time less than 99 years, at an amount of
15 \$1 per year, to a district any tract of state land of not
16 more than 10 acres to be used as a school site in ~~such the~~
17 district."

18 **Section 7.** Section 20-9-161, MCA, is amended to read:

19 "20-9-161. Definition of budget amendment for budgeting
20 purposes. As used in this title, unless the context clearly
21 indicates otherwise, the term "budget amendment" for the
22 purpose of school budgeting means an amendment to an adopted
23 budget of the district for the following reasons:

24 (1) an increase in the enrollment of an elementary or
25 high school district that is beyond what ~~could reasonably~~

1 have-been-anticipated was expected at the time of the
2 adoption of the budget for the current school fiscal year
3 whenever, because of the enrollment increase, the district's
4 budget for any or all of the regularly budgeted funds does
5 not provide sufficient financing to properly maintain and
6 support the district for the entire current school fiscal
7 year;

8 (2) the destruction or impairment of any school
9 property necessary to the maintenance of the school, by
10 fire, flood, storm, riot, insurrection, or act of God, to an
11 extent rendering school property unfit for its present
12 school use;

13 (3) a judgment for damages against the district issued
14 by a court after the adoption of the budget for the current
15 year;

16 (4) an enactment of legislation after the adoption of
17 the budget for the current year that imposes an additional
18 financial obligation on the district;

19 (5) the receipt of:

20 (a) a settlement of taxes protested in a prior school
21 fiscal year; or

22 (b) taxes from a prior school fiscal year as the result
23 of a tax audit by the department of revenue or its agents;
24 or

25 (c) delinquent taxes from a prior school fiscal year;

1 and

2 (d) a determination by the trustees that it is
3 necessary to expend all or a portion of the taxes received
4 under subsection (5)(a), (5)(b), or (5)(c) for a project or
5 projects that were deferred from a previous budget of the
6 district as a result of the protested taxes, tax audit, or
7 delinquent taxes; or

8 (6) any other unforeseen need of the district that
9 cannot be postponed until the next school year without dire
10 consequences affecting the safety of the students and
11 district employees or the educational functions of the
12 district."

13 **Section 8.** Section 20-9-166, MCA, is amended to read:

14 **"20-9-166. State financial aid for budget amendments.**

15 (1) Whenever a final budget amendment has been adopted for
16 the general fund or the transportation fund to finance the
17 cost of an amendment resulting from increased enrollment or
18 any other reason approved by the superintendent of public
19 instruction under the provisions of 20-9-163, the trustees
20 may apply to the superintendent of public instruction for an
21 increased payment from the state public school equalization
22 aid account for the foundation program or for state
23 transportation reimbursement, or both. The superintendent of
24 public instruction shall adopt rules for the application.
25 The superintendent of public instruction shall approve or

1 disapprove each application for increased state aid made in
 2 accordance with 20-9-314 and this section. When the
 3 superintendent of public instruction approves an
 4 application, he the superintendent of public instruction
 5 shall determine the additional amount of state aid from the
 6 state public school equalization aid account or the state
 7 transportation reimbursement that will be made available to
 8 the applicant district because of the increase in
 9 enrollment. The superintendent of public instruction shall
 10 notify the applicant district of his the approval or
 11 disapproval and, in the event of approval, the amount of
 12 additional state aid that will be made available for the
 13 general fund or the transportation fund. ~~The--superintendent~~
 14 ~~of--public--instruction--shall-disburse-the-state-aid-to-the~~
 15 ~~eligible-district-at-the-time-the--next--regular--state--aid~~
 16 ~~payment-is-made-~~

17 (2) For purposes of this section, "state aid" means
 18 both the state and county share of the foundation program
 19 schedule amount that may be granted to a school district
 20 from the state equalization aid account due to an
 21 unanticipated increase in enrollment."

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

23 "20-9-201. Definitions and application. (1) As used in
 24 this title, unless the context clearly indicates otherwise,
 25 "fund" means a separate detailed account of receipts and

1 expenditures for a specific purpose as authorized by law or
 2 by the superintendent of public instruction under the
 3 provisions of subsection (2). Funds are classified as
 4 follows:

5 (a) A "budgeted fund" means any fund for which a budget
 6 must be adopted in order to expend money from the fund. The
 7 general fund, transportation fund, bus depreciation reserve
 8 fund, tuition fund, retirement fund, debt service fund,
 9 building reserve fund, adult education fund, nonoperating
 10 fund, and any other funds designated by the legislature are
 11 budgeted funds.

12 (b) A "nonbudgeted fund" means any fund for which a
 13 budget is not required in order to expend money on deposit
 14 in the fund. The school food services fund, miscellaneous
 15 programs fund, building fund, lease or rental agreement
 16 fund, traffic education fund, interlocal cooperative fund,
 17 internal service fund, enterprise fund, agency fund,
 18 extracurricular fund, metal mines tax reserve fund,
 19 ~~endowment--fund~~ trust funds, and any other funds designated
 20 by the legislature are nonbudgeted funds.

21 (2) The school financial administration provisions of
 22 this title apply to all money of any elementary or high
 23 school district. Elementary and high school districts shall
 24 record the receipt and disbursement of all money in
 25 accordance with generally accepted accounting principles.

The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to the general fund if the fund does not have a cash or fund balance deficit."

Section 10. Section 20-9-224, MCA, is amended to read:

"20-9-224. Credit of refund -- refund of revenue not charged against spending authority. (1) Whenever a school district deposits with the county treasurer a refund or rebate of an expenditure made in the current school fiscal year, the county treasurer shall credit the budgeted fund to which it is deposited and restore the school district's spending authority in that fund in the amount of the refund or rebate.

(2) A refund of revenue previously received by a school district ~~shall~~ may not be charged against a school district's spending authority."

Section 11. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB). (1) Average number belonging must be computed by determining the total of the aggregate days of attendance by regularly enrolled, full-time pupils during the second semester of the preceding school fiscal year and the first semester of the current school fiscal year plus the aggregate days of absence by regularly enrolled, full-time pupils during the second semester of the preceding school fiscal year and the first semester of the current school fiscal year and by dividing the total by 180. However, when a school district has approval to operate less than 180 school days under 20-9-804, the total must be calculated in accordance with the provisions of 20-9-805. For the purpose of calculating ANB under this section, the days of attendance for a regularly enrolled pupil may not exceed 180 pupil-instruction days and 7 pupil-instruction-related days. Attendance for a part of a morning session or a part of an afternoon session by a pupil must be counted as attendance for one-half day. In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), attendance at or absence from a regular session of the program for at least 2 hours of either a morning or an afternoon session will be counted as one-half day attended or absent as the case may be. If a variance has been granted as provided in 20-1-302, ANB will be computed in a manner prescribed by the

superintendent of public instruction, but ~~in no case may~~ the ANB may not exceed one-half for each kindergarten pupil. When any a pupil has been absent, with or without excuse, for more than 10 consecutive school days, including pupil-instruction-related days, his an absence after the 10th day of absence may not be included in the aggregate days of absence and his the pupil's enrollment in the school may not be considered in the calculation of the average number belonging until he the pupil resumes attendance at school.

(2) If a student spends less than half his of the student's time in the regular program and the balance of his the student's time in school in the special education program, he the student is considered a full-time special pupil but is not considered regularly enrolled for ANB purposes. If a student spends half or more of his the student's time in school in the regular program and the balance of his the student's time in the special education program, he the student is considered regularly enrolled for ANB purposes.

(3) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 3 miles beyond the incorporated limits of a city or town located in the district and 3 miles from any other school of the district, all of the regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes; or

(ii) a school of the district is located more than 3 miles from any other school of the district and no incorporated territory is not involved in the district, all of the regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes;

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be

used in determining the foundation program for the district.

(4) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

(5) The ANB of an attendance center that is a component of a school for the purposes of accreditation must be aggregated with the ANB of the school regardless of the distance between the attendance center and the school."

Section 12. Section 20-9-322, MCA, is amended to read:

"20-9-322. Elementary instructional aide funding qualification. (1) An elementary school that anticipates has an ANB of at least 14 but less than 18 pupils for the ensuing school fiscal year may determine the foundation program amount under the provisions of 20-9-316(3) or 20-9-318(3) if eligibility is approved in accordance with the following provisions:

(a) ~~No--later--than-May-18-of-each-year,--the~~ The school district shall submit its application for approval for instructional aide funding to the superintendent of public instruction. The application must include:

- (i) ~~the-ANB-for-the-preceding-ANB-calculation-period;~~
- ~~+++~~ the current ANB and the number of grade levels

being taught on May 1 of the current year;

~~+++~~(ii) an estimate of the ANB and the number of grade levels anticipated for the ensuing ANB calculation period;

~~(iv)-the--factual--information--on-which-the-estimate-is based;~~ and

~~++~~(iii) any other information or data that may be required by the superintendent of public instruction.

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

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

(3) If the application is approved during the school fiscal year in which the aide is first hired, the increased amount of funding must be prorated on the portion of the school fiscal year during which the aide was employed.

(4) For the purposes of this section, the term "instructional aide" means:

1 (a) a person who is under the direct supervision of a
2 teacher; or

3 (b) a certified teacher."

4 **Section 13.** Section 20-9-331, MCA, is amended to read:

5 "20-9-331. Basic county tax and other revenues for
6 county equalization of the elementary district foundation
7 program. (1) The county commissioners of each county shall
8 levy an annual basic tax of 33 mills on the dollar of the
9 taxable value of all taxable property within the county,
10 except for property subject to a tax or fee under 23-2-517,
11 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
12 the purposes of local and state foundation program support.
13 The revenue collected from this levy must be apportioned to
14 the support of the elementary foundation programs of the
15 school districts in the county and to the state special
16 revenue fund, state equalization aid account, in the
17 following manner:

18 (a) In order to determine the amount of revenue raised
19 by this levy which is retained by the county, the sum of the
20 estimated revenue identified in subsection (2) must be
21 subtracted from the total of the foundation programs of all
22 elementary districts of the county.

23 (b) If the basic levy and other revenue prescribed by
24 this section produce more revenue than is required to repay
25 a state advance for county equalization, the county

1 treasurer shall remit the surplus funds to the state
2 treasurer for deposit to the state special revenue fund,
3 state equalization aid account, immediately upon occurrence
4 of a surplus balance and each subsequent month thereafter,
5 with any final remittance due no later than June 20 of the
6 fiscal year for which the levy has been set.

7 (2) The revenue realized from the county's portion of
8 the levy prescribed by this section and the revenue from the
9 following sources must be used for as the first source of
10 revenue for equalization of the elementary foundation
11 program of the county ~~as--prescribed--in-20-9-335~~, and a
12 separate accounting must be kept of the revenue by the
13 county treasurer in accordance with 20-9-212(1):

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

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

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

25 (d) 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 or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

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

Section 14. 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) The county commissioners of each county shall levy an annual basic special tax for high schools of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee 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 collected from this levy 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 sum of the estimated revenue identified in subsection (2) must be 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 and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds 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 revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for as the first source of revenue for the equalization of the high school foundation program of the county ~~as--prescribed--in--20-9-335,~~ and a separate accounting must be kept of the 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 money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703;

(d) net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

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

Section 15. Section 20-9-334, MCA, is amended to read:

~~"20-9-334. Apportionment-of-county-equalization--moneys~~
~~-----high-----school-----out-of-county~~ Out-of-county tuition obligations. ~~{1}--The-county-superintendent-shall-calculate~~
~~the-apportionment-of-revenues-deposited-in-the-basic--county~~
~~tax--account-and-the-revenues-deposited-in-the-basic-special~~
~~tax-for-high-schools-account-to-the-several-districts-of-the~~
~~county--The-apportionments--shall--be--known--as--"county~~
~~equalization-moneys"~~

{2} The county superintendent shall direct the county

treasurer to deduct from the revenues available in the basic special tax for high schools account, prior to remittance of the funds to the state treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the county's obligation for high school out-of-county tuition and elementary tuition for which the county is responsible."

Section 16. Section 20-9-508, MCA, is amended to read:

"20-9-508. Building fund. (1) The trustees of any district shall establish or credit the building fund whenever such the district:

(a) issues and sells bonds under the school district bonding provisions of this title for purposes other than refunding bonds of the district, except the issuance and sale of a bond to fund a judgment against the district as provided for in 20-9-403;

(b) receives federal money for the express purpose of building, enlarging, equipping, or remodeling, or repairing a school building or other building of the district;

(c) sells property of the district in accordance with the law authorizing such the sale;

(d) receives money as an insurance settlement for the destruction of any property or portion of property insured by the district if the insurance settlement proceeds will be used to build, enlarge, equip, remodel, or repair buildings

of the district;

(e) earns interest from the investment of building fund moneys under the provisions of 20-9-213(4), except interest earned from the investment of bond moneys proceeds under the provisions of 20-9-435 shall must be credited to a fund in accordance with such that section; or

(f) receives any other moneys money for the express purpose of building, enlarging, equipping, or remodeling, or repairing a school building or other building of the district.

(2) The financial administration of the building fund shall must be in accordance with the financial administration provisions of this title for a nonbudgeted fund and shall must provide for a separate accounting of the moneys money realized by each bond issue or by each construction project financed by a federal grant of moneys money. Any other moneys money to the credit of this fund shall must be expended for building, enlargement enlarging, equipping, remodeling, or repairing of buildings of the district at the discretion of the trustees.

(3) Moneys Money credited to the building fund under the provisions of subsection (1)(a) ~~of this section shall~~ must be expended for the express purpose or purposes authorized by the bond proposition approved at the election authorizing the issuance of such the bonds. Any money

realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the bonds were sold shall must be transferred to the debt service fund to be used for the redemption of bonds of such the issue.

(4) Moneys Money credited to the building fund under the provisions of subsection (1)(b) ~~of this section shall~~ must be expended for the express purpose or purposes authorized by the federal government in granting ~~such moneys~~ the money."

Section 17. Section 20-9-506, MCA, is amended to read:

"20-9-506. Budgeting and net levy requirement for nonoperating fund. (1) The trustees of any a district which that does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions of this title. Such The nonoperating budget shall must contain the nonoperating fund and, when appropriate, a debt service fund. The nonoperating budget form shall must be promulgated and distributed by the superintendent of public instruction under the provisions of 20-9-103.

(2) After the adoption of a final budget for the nonoperating fund, the county superintendent shall compute the net levy requirement for such the fund by subtracting

from the amount authorized by such the budget the sum of:

(a) the end-of-the-year cash fund balance of the nonoperating fund or, if it is the first year of nonoperation, the cash fund balance determined under the transfer provisions of 20-9-505;

(b) the estimated state and county transportation reimbursements; and

(c) any other moneys money that may become available during the ensuing school fiscal year.

(3) The county superintendent shall report the net nonoperating fund levy requirement and any net debt service fund levy requirement determined under the provisions of 20-9-439 to the county commissioners on the second Monday of August, and such the levies shall must be made on the district by the county commissioners in accordance with 20-9-142."

Section 18. Section 20-9-604, MCA, is amended to read:

"20-9-604. Gifts, legacies, devises, and administration of endowment--fund trust funds. (1) The trustees of any a district may accept gifts, legacies, and devises, subject to the conditions imposed by the deed of the donor or the will of the testator or without any conditions imposed. ~~Unless otherwise-specified-by-the-donor,-devisor,-or-testator,-when a-district-receives-a-gift,-legacy,-or-devise,-the~~ The trustees shall deposit such the gift, legacy, devise, or the

proceeds therefrom in an-endowment a trust fund. The Unless otherwise specified by the donor, devisor, or testator, when a district receives a gift, legacy, or devise, the trustees shall administer the endowment trust fund so-as to preserve the principal from loss, and only the income from the fund shall may be appropriated for any purpose.

(2) Unless the conditions of the endowment trust instrument require an immediate disbursement of the money, the money deposited in the endowment trust fund shall may be invested by the trustees, notwithstanding the provisions of any other state law, in:

(a) school district bonds of the district;

(b) bonds of other school districts within the state;

(c) first mortgage bonds, debentures, notes, and other evidences of indebtedness issued, assumed, or guaranteed by any solvent and operating public utility corporation existing under the laws of the United States of America or any state thereof, which bonds, debentures, notes, and other evidences of indebtedness are, at the time of such the investment, within the three highest quality grades for the rating of such bonds, debentures, notes, and other evidences of indebtedness by any nationally recognized investment rating agency;

(d) certificates of deposit of Montana banks insured by the federal deposit insurance corporation; or

(e) direct obligations of the United States government.

(3) All interest collected on the deposits or investments ~~shall~~ must be credited to the endowment trust fund. ~~No-portion-of-the-endowment~~ The trust fund may not be loaned to the district, ~~nor-may-any-money-of--the~~ The fund may not be invested in warrants of the district.

(4) Whenever ~~any~~ a district has been abandoned, the endowment trust fund of the abandoned district ~~shall~~ must be transferred and placed in the endowment trust fund in the district to which the territory is attached.

(5) As the custodian of the endowment trust fund, the county treasurer is liable on ~~his~~ the county treasurer's official bond for the endowment trust fund of any district of the county. No later than July 1 each school fiscal year, the county treasurer shall account to the trustees of each district on the condition of its endowment trust fund including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment trust fund in ~~his~~ any required reports to the board of county commissioners.

(6) The trustees of any district having an-endowment a trust fund shall provide suitable memorials for all persons or associations of persons making gifts to the district which that become a part of the endowment trust fund."

Section 19. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by ~~such~~ the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or

1 supervised correspondence study for the ensuing school
2 fiscal year; plus

3 (d) the amount budgeted on the preliminary budget for
4 the contingency amount permitted in 20-10-143, except if the
5 amount exceeds the greater of 10% of the total of
6 subsections (1)(a), (1)(b), and (1)(c) or \$100, ~~whichever-is~~
7 ~~larger~~, the contingency amount on the preliminary budget
8 must be reduced to the limitation amount and used in this
9 determination of the schedule amount.

10 (2) (a) The schedule amount determined in subsection
11 (1) or the total preliminary transportation fund budget,
12 whichever is smaller, is divided by 2 and is used to
13 determine the available state and county revenue to be
14 budgeted on the following basis:

15 (i) one-half is the budgeted state transportation
16 reimbursement, except that the state transportation
17 reimbursement for the transportation of special education
18 pupils under the provisions of 20-7-442 must be 50% of the
19 schedule amount attributed to the transportation of special
20 education pupils; and

21 (ii) one-half is the budgeted county transportation fund
22 reimbursement and must be financed in the manner provided in
23 20-10-146.

24 (b) When the district has a sufficient amount of cash
25 fund balance for reappropriation and other sources of

1 district revenue, as determined in subsection (3), to reduce
2 the total district obligation for financing to zero, any
3 remaining amount of district revenue and cash fund balance
4 reappropriated must be used to reduce the county financing
5 obligation in subsection (2)(a)(ii) and, if the county
6 financing obligations are reduced to zero, to reduce the
7 state financial obligation in subsection (2)(a)(i).

8 (c) The county revenue requirement for a joint
9 district, after the application of any district money under
10 subsection (2)(b), must be prorated to each county
11 incorporated by the joint district in the same proportion as
12 the ANB of the joint district is distributed by pupil
13 residence in each county.

14 (3) The total of the money available for the reduction
15 of property tax on the district for the transportation fund
16 must be determined by totaling:

17 (a) anticipated federal money received under the
18 provisions of Title I of Public Law 81-874 or other
19 anticipated federal money received in lieu of that federal
20 act;

21 (b) anticipated payments from other districts for
22 providing school bus transportation services for the
23 district;

24 (c) anticipated payments from a parent or guardian for
25 providing school bus transportation services for his a

1 child;

2 (d) anticipated or reappropriated interest to be earned
3 by the investment of transportation fund cash in accordance
4 with the provisions of 20-9-213(4);

5 (e) anticipated or reappropriated revenue from property
6 taxes and fees imposed under 23-2-517, 23-2-803,
7 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

8 (f) anticipated revenue from coal gross proceeds under
9 15-23-703;

10 (g) anticipated net proceeds taxes for new production,
11 as defined in 15-23-601, and local government severance
12 taxes on any other production occurring after December 31,
13 1988;

14 (h) any other revenue anticipated by the trustees to be
15 earned during the ensuing school fiscal year that may be
16 used to finance the transportation fund; and

17 (i) any fund balance available for reappropriation as
18 determined by subtracting the amount of the end-of-the-year
19 fund balance earmarked as the transportation fund operating
20 reserve for the ensuing school fiscal year by the trustees
21 from the end-of-the-year fund balance in the transportation
22 fund. The operating reserve may not be more than 20% of the
23 final transportation fund budget for the ensuing school
24 fiscal year and is for the purpose of paying transportation
25 fund warrants issued by the district under the final

1 transportation fund budget.

2 (4) The district levy requirement for each district's
3 transportation fund must be computed by:

4 (a) subtracting the schedule amount calculated in
5 subsection (1) from the total preliminary transportation
6 budget amount; and

7 (b) subtracting the amount of money available to reduce
8 the property tax on the district, as determined in
9 subsection (3), from the amount determined in subsection
10 (4)(a).

11 (5) The transportation fund levy requirements
12 determined in subsection (4) for each district must be
13 reported to the county commissioners on the second Monday of
14 August by the county superintendent as the transportation
15 fund levy requirements for the district, and the levy must
16 be made by the county commissioners in accordance with
17 20-9-142."

18 **Section 20.** Section 20-10-146, MCA, is amended to read:

19 "20-10-146. County transportation reimbursement. (1)
20 The apportionment of the county transportation reimbursement
21 by the county superintendent for school bus transportation
22 or individual transportation that is actually rendered by a
23 district in accordance with this title, board of public
24 education transportation policy, and the transportation
25 rules of the superintendent of public instruction must be

the same as the state transportation reimbursement payment except that:

(a) if any cash fund balance was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),

61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent and a

levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

Section 21. Section 20-10-204, MCA, is amended to read:

"20-10-204. Duties of trustees. (1) The trustees of any a district offering school food services may:

(a) enter into contracts with the superintendent of public instruction for the purpose of obtaining funds, supplies and equipment, food commodities, and facilities necessary for the establishment, operation, and maintenance of the school food services;

(b) sell food to the pupils and adults participating in the school food services in accordance with the policies of the superintendent of public instruction;

(c) accept any gift for use of the school food services; and

~~(d) allocate federal funds received in lieu of property taxation to the school food services fund in accordance with the provisions of 20-10-205; and~~

(e) adopt such policies for the operation of school

food services as that are consistent with the regulations of the superintendent of public instruction and with the laws of Montana.

(2) When the trustees of any a district offer school food services, they shall establish a school food services fund for the deposit of proceeds from the sale of food, gifts, and other moneys money specified in this section and for the expenditure of such-moneys the money in support of the school food services."

Section 22. Section 20-10-206, MCA, is amended to read:

"20-10-206. Pupils in state institutional schools included. The provisions of 20-10-201 through ~~20-10-205~~ 20-10-204 ~~shall~~ apply to pupils in state institutional schools meeting the requirements established by the superintendent of public instruction and the applicable federal laws and regulations."

Section 23. Section 77-1-507, MCA, is amended to read:

"77-1-507. School district use of proceeds. The money received by any a school district under this part ~~shall~~ must be designated as district money for the general maintenance and operation of the elementary schools of the district. ~~Such~~ The money may be used by the district ~~as all other cash~~ balances--are--used in accordance with the provisions of ~~20-9-335~~ Title 20."

NEW SECTION. **Section 24.** Repealer. Sections 20-9-335

LC 0805/01

1 and 20-10-205, MCA, are repealed.

2 NEW SECTION. **Section 25.** Effective date. [This act] is

3 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a fiscal note for HB0202, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising school laws to comply with generally accepted accounting procedures and other school funding provisions.

ASSUMPTIONS:

1. The only portion of this bill that has a fiscal impact is Section 12 which eliminates the May 10 deadline for a district to request teacher plus aide funding. This section affects elementary districts with between 14 and 18 ANB.
2. One district per year will request and qualify for increased state aid in the teacher plus aide foundation program category.
3. The maximum cost to the state for each district affected by Section 12 of this bill is \$10,000.

FISCAL IMPACT: This bill has the potential to increase state equalization program payments by \$10,000 annually.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The increased cost to the state will be offset by a reduction in the funding required from district reserves.

 2-1-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-1-93

MIKE KADAS, PRIMARY SPONSOR DATE
Fiscal Note for HB0202, as introduced

HB 202

STATE OF MONTANA - FISCAL NOTE
Form BD-15

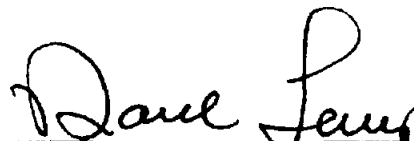
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0202, Third Reading.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising school laws to comply with generally accepted accounting procedures and other school funding provisions.

ASSUMPTIONS:

1. Section 12 allows an elementary district to request and receive teacher plus aide funding in the current year if the district has adopted a budget amendment and been approved for increased state equalization aid under the provisions of 20-9-166, MCA. This section affects elementary districts with between 14 and 18 ANB. One district per year will request and qualify for increased state aid in the teacher plus aide foundation program category. The maximum cost to the state for each district affected by section 12 of this bill is \$10,000.
2. In FY93, five school districts are operating attendance centers outside of their district boundaries, with a total enrollment of 118 students. The state provided \$264,872 in foundation program funding for these students in FY93.
3. These students will remain in the public school system and attend schools in the district where they reside.
4. The resident districts will anticipate the unusual enrollment increase and will apply for and be approved for additional foundation program payments under 20-9-314, MCA. Only that portion of the enrollment increase in excess of 6% will qualify for additional funding. As the foundation amount increases, the districts' permissive amount will expand by 35% of the increased foundation amount. Permissive levies will be matched with state GTB aid in eligible districts.
5. Foundation program payments to the students' resident districts will increase by \$159,200 in FY94 due to unusual enrollment increases approved for funding. There will be no offsetting reduction in the non-resident districts (which are currently operating the attendance centers) because of the time-lag in foundation program funding where FY94 is determined by attendance counts for the Spring and Fall 1992 semesters.
6. The non-resident districts will receive \$280,400 for these students in FY95 under current law. Under the proposed legislation, the non-resident district will receive one-half that amount (\$140,200) representing the Spring 1993 semester and the resident districts will receive \$115,600 in foundation and GTB for these students. The net savings to the state will be \$24,600 in FY95.
7. The full savings to the state will not be felt until FY96. The net savings to the state will be approximately \$51,000 per year (assuming no increase in the foundation schedules.)

(Continued)

 2-16-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-17-93
MIKE KADAS, PRIMARY SPONSOR DATE

Fiscal Note for HB0202, Third Reading

HB202-2

FISCAL IMPACT:

1. Section 12 of this bill has the potential to increase state equalization program payments by \$10,000 annually.
2. The estimated impact of limiting school attendance centers to within a school district's boundaries is shown below:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
State Equalization Aid	412,316,700	412,475,900	159,200	421,257,100	421,232,500	(24,600)

Revenues: No impact on state equalization aid revenues.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. The increased cost to the state of allowing a district to request and receive teacher plus aide funding in the current year will be offset by a reduction in the funding required from district reserves.
2. As a result of limiting a school district's authority to operate an attendance center to within the school district's boundaries, there will be shifts in expenditures and local tax levies among the resident and non-resident districts. Savings will continue to accrue to the state as long as the student population affected by this legislation shifts from small school districts to larger districts.

HB 202-#2

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 202

INTRODUCED BY KADAS

BY REQUEST OF THE SUPERINTENDENT

OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL LAWS TO COMPLY WITH GENERALLY ACCEPTED ACCOUNTING PROCEDURES AND OTHER SCHOOL FUNDING PROVISIONS; AMENDING SECTIONS 20-1-101, 20-1-301, 20-3-205, 20-3-324, 20-6-401, 20-6-621, 20-9-161, 20-9-166, 20-9-201, 20-9-224, 20-9-311, 20-9-322, 20-9-331, 20-9-333, 20-9-334, 20-9-506, 20-9-508, 20-9-604, 20-10-144, 20-10-146, 20-10-204, 20-10-206, AND 20-1-507, MCA; REPEALING SECTIONS 20-9-335 AND 20-10-205, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

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

~~(2) "Attendance center" means a location identified by a school district where students are provided an~~

~~instructional program under the administration of a school or school district.~~

~~(3)(2)~~ "Average number belonging" or "ANB" shall mean means the average number of regularly enrolled, full-time pupils attending the public schools of a district.

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

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

~~(5)(6)(5)~~ "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the 1972 Montana constitution and 2-15-1506.

~~(6)(7)(6)~~ "County superintendent" means the county government official who is the school officer of the county.

~~(7)(8)(7)~~ "District superintendent" means any person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

~~(8)(9)(8)~~ "K-12 vocational education" means vocational

1 education in public school kindergarten through grade 12.

2 ~~(9)~~~~(10)~~(9) "Principal" means any person who holds a
3 valid class 3 Montana teacher certificate with an applicable
4 principal's endorsement that has been issued by the
5 superintendent of public instruction under the provisions of
6 this title and the policies adopted by the board of public
7 education and who has been employed by a district as a
8 principal. For the purposes of this title, any reference to
9 a teacher ~~shall be~~ is construed as including a principal, as
10 herein defined in this section.

11 ~~(10)~~~~(11)~~(10) "Pupil" means any child who is 6 years of
12 age or older on or before September 10 of the year in which
13 the child is to enroll or has been enrolled by special
14 permission of the board of trustees under 20-5-101(3) but
15 has not yet reached his a 19th birthday and who is enrolled
16 in a school established and maintained under the laws of the
17 state of Montana at public expense. For purposes of
18 calculating the average number belonging (ANB) pursuant to
19 20-9-311, the definition of pupil includes a person who has
20 not yet reached his--~~19th--birthday~~ 19 years of age by
21 September 10 of the year and is enrolled under 20-5-101(3)
22 in a school established and maintained under the laws of the
23 state at public expense.

24 ~~(11)~~~~(12)~~(11) "Pupil instruction" means the conduct of
25 organized instruction of pupils enrolled in public schools

1 while under the supervision of a teacher.

2 ~~(12)~~~~(13)~~(12) "Regents" means the board of regents of
3 higher education.

4 (13) "SCHOOL ATTENDANCE CENTER" MEANS A LOCATION,
5 IDENTIFIED BY A SCHOOL DISTRICT, WHERE STUDENTS ARE PROVIDED
6 AN INSTRUCTIONAL PROGRAM UNDER THE ADMINISTRATION OF A
7 SCHOOL OR SCHOOL DISTRICT. A SCHOOL ATTENDANCE CENTER MUST
8 BE LOCATED WITHIN THE BOUNDARIES OF THE SCHOOL DISTRICT THAT
9 ESTABLISHES THE CENTER.

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

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

19 ~~(16)~~(16) "State university" means the Montana state
20 university, located at Bozeman.

21 ~~(17)~~(17) "Superintendent of public instruction" means
22 that state government official designated as a member of the
23 executive branch by the constitution of Montana.

24 ~~(18)~~(18) "System" means the Montana university system.

25 ~~(19)~~(19) "Teacher" means any person, except a district

1 superintendent, who holds a valid Montana teacher
 2 certificate that has been issued by the superintendent of
 3 public instruction under the provisions of this title and
 4 the policies adopted by the board of public education and
 5 who is employed by a district as a member of its
 6 instructional, supervisory, or administrative staff. This
 7 definition of a teacher ~~shall--also-include~~ includes any
 8 person for whom an emergency authorization of employment of
 9 such---person has been issued under the provisions of
 10 20-4-111.

11 ~~(19)~~(20) "Textbook" means a book or manual used as a
 12 principal source of study material for a given class or
 13 group of students.

14 ~~(20)~~(21) "Textbook dealer" means any party, company,
 15 corporation, or other organization selling, offering to
 16 sell, or offering for adoption textbooks to districts in the
 17 state of Montana.

18 ~~(21)~~(22) "Trustees" means the governing board of a
 19 district.

20 ~~(22)~~(23) "University" means the university of Montana,
 21 located at Missoula.

22 ~~(23)~~(24) "Vocational education" means the instruction to
 23 prepare or improve the pupil for gainful employment that
 24 does not require a baccalaureate or higher degree. This
 25 definition of vocational education ~~shall-include~~ includes

1 guidance and prevocational, related, or technical
 2 instruction necessary to prepare the pupil for further
 3 vocational education or for entry into employment.

4 ~~(24)~~(25) "Vocational-technical center" means an
 5 institution used principally for the provision of
 6 vocational-technical education to persons who qualify as
 7 vocational-technical students. These centers are designated
 8 by the board of regents upon direction by the legislature.
 9 All other public or private institutions or schools are
 10 hereby prohibited from using this title.

11 ~~(25)~~(26) "Vocational-technical education" means
 12 vocational-technical education of vocational-technical
 13 students that is conducted by a vocational-technical center,
 14 a unit of the Montana university system, or a community
 15 college as designated by the board of regents."

16 **Section 2.** Section 20-1-301, MCA, is amended to read:

17 "20-1-301. School fiscal year. The school fiscal year
 18 ~~shall-begin~~ begins on July 1 and ~~end~~ ends on June 30. At
 19 least 180 school days of pupil instruction ~~shall~~ must be
 20 conducted during each school fiscal year, except that 175
 21 days of pupil instruction for graduating seniors may be
 22 sufficient as provided in 20-9-313, or unless a variance for
 23 kindergarten has been granted under 20-1-302 or a district
 24 is granted a variance under the provisions of chapter 9,
 25 part 8, of this title. For any elementary or high school

1 district that fails to provide for at least 180 school days
 2 of pupil instruction, the superintendent of public
 3 instruction shall reduce the ~~county-equalization-as-defined~~
 4 ~~in--20-9-334--and--the~~ state equalization aid and state
 5 advances for county equalization payments provided in
 6 20-9-346 as--defined--in-20-9-343 for the district for that
 7 school year by 1/90th for each school day less than 180
 8 school days."

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

10 "20-3-205. Powers and duties. The county superintendent
 11 has general supervision of the schools of the county within
 12 the limitations prescribed by this title and shall perform
 13 the following duties or acts:

14 (1) determine, establish, and reestablish trustee
 15 nominating districts in accordance with the provisions of
 16 20-3-352, 20-3-353, and 20-3-354;

17 (2) administer and file the oaths of members of the
 18 boards of trustees of the districts in his the county in
 19 accordance with the provisions of 20-3-307;

20 (3) register the teacher or specialist certificates or
 21 emergency authorization of employment of any person employed
 22 in the county as a teacher, specialist, principal, or
 23 district superintendent in accordance with the provisions of
 24 20-4-202;

25 (4) act on each tuition application submitted to-him in

1 accordance with the provisions of 20-5-301, 20-5-302,
 2 20-5-304, and 20-5-311 and transmit the tuition information
 3 required by 20-5-312;

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

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

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

11 (8) fulfill all responsibilities assigned to him the
 12 county superintendent under the provisions of this title
 13 regulating the organization, alteration, or abandonment of
 14 districts;

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

18 (10) estimate the average number belonging (ANB) of an
 19 opening school in accordance with the provisions of
 20 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

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

23 (12) complete the budgets, compute the budgeted revenues
 24 and tax levies, file final budgets and budget amendments,
 25 and fulfill other responsibilities assigned to him the

1 county superintendent under the provisions of this title
2 regulating school budgeting systems;

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

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

11 (15) act on any request to transfer average number
12 belonging (ANB) in accordance with the provisions of
13 20-9-313(3);

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

18 (17) compute the revenues and the district and county
19 levy requirements for each fund included in each district's
20 final budget and report the computations to the board of
21 county commissioners in accordance with the provisions of
22 the general fund, transportation, bonds, and other school
23 funds parts of this title;

24 (18) file and forward bus driver certifications,
25 transportation contracts, and state transportation

1 reimbursement claims in accordance with the provisions of
2 20-10-103, 20-10-143, or 20-10-145;

3 (19) for districts that do not employ a district
4 superintendent or principal, recommend library book and
5 textbook selections in accordance with the provisions of
6 20-7-204 or 20-7-602;

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

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

14 ~~{22}~~ perform any other duty prescribed from time to time
15 by this title, any other act of the legislature, the
16 policies of the board of public education, the policies of
17 the board of regents relating to community college
18 districts, or the rules of the superintendent of public
19 instruction;

20 ~~{23}~~(22) administer the oath of office to trustees
21 without the receipt of pay for administering the oath;

22 ~~{24}~~(23) keep a record of his official acts of the
23 county superintendent, preserve all reports submitted to-him
24 under the provisions of this title, preserve all books and
25 instructional equipment, or supplies, keep all documents

applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his a successor;

~~(25)~~(24) 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 fund balances of all budgeted funds maintained by the district at the beginning of the year;

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

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

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

~~(26)~~(25) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

Section 4. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other

assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

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

(3) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

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

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

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

(7) organize, open, close, or acquire isolation status

1 for the schools of the district in accordance with the
 2 provisions of the school organization part of this title;
 3 (8) adopt and administer the annual budget or a budget
 4 amendment of the district in accordance with the provisions
 5 of the school budget system part of this title;
 6 (9) conduct the fiscal business of the district in
 7 accordance with the provisions of the school financial
 8 administration part of this title;
 9 (10) establish the ANB, foundation program, permissive,
 10 additional levy, operating reserve, and state impact aid
 11 amounts for the general fund of the district in accordance
 12 with the provisions of the general fund part of this title;
 13 (11) establish, maintain, budget, and finance the
 14 transportation program of the district in accordance with
 15 the provisions of the transportation parts of this title;
 16 (12) issue, refund, sell, budget, and redeem the bonds
 17 of the district in accordance with the provisions of the
 18 bonds parts of this title;
 19 (13) when applicable, establish, financially administer,
 20 and budget for the tuition fund, retirement fund, building
 21 reserve fund, adult education fund, nonoperating fund,
 22 school food services fund, miscellaneous federal programs
 23 fund, building fund, lease or rental agreement fund, traffic
 24 education fund, and interlocal cooperative agreement fund in
 25 accordance with the provisions of the other school funds

1 parts of this title;
 2 (14) when applicable, administer any interlocal
 3 cooperative agreement, gifts, legacies, or devises in
 4 accordance with the provisions of the miscellaneous
 5 financial parts of this title;
 6 (15) hold in trust, acquire, and dispose of the real and
 7 personal property of the district in accordance with the
 8 provisions of the school sites and facilities part of this
 9 title;
 10 (16) operate the schools of the district in accordance
 11 with the provisions of the school calendar part of this
 12 title;
 13 (17) establish and maintain the instructional services
 14 of the schools of the district in accordance with the
 15 provisions of the instructional services, textbooks,
 16 vocational education, and special education parts of this
 17 title;
 18 (18) establish and maintain the school food services of
 19 the district in accordance with the provisions of the school
 20 food services parts of this title;
 21 (19) make reports from time to time as the county
 22 superintendent, superintendent of public instruction, and
 23 board of public education may require;
 24 (20) retain, when considered advisable, a physician or
 25 registered nurse to inspect the sanitary conditions of the

1 school or the general health conditions of each pupil and,
2 upon request, make available to any parent or guardian any
3 medical reports or health records maintained by the district
4 pertaining to his the parent or guardian's child;

5 (21) for each member of the trustees, visit each school
6 of the district not less than once each school fiscal year
7 to examine its management, conditions, and needs, except
8 trustees from a first-class school district may share the
9 responsibility for visiting each school in the district;

10 (22) procure and display outside daily in suitable
11 weather at each school of the district an American flag that
12 measures not less than 4 feet by 6 feet;

13 (23) adopt and administer a district policy on
14 assessment for placement of any child who enrolls in a
15 school of the district from a nonpublic school that is not
16 accredited, as required in 20-5-110; and

17 (24) perform any other duty and enforce any other
18 requirements for the government of the schools prescribed by
19 this title, the policies of the board of public education,
20 or the rules of the superintendent of public instruction."

21 **Section 5.** Section 20-6-401, MCA, is amended to read:

22 "20-6-401. Definitions. As used in this part, unless
23 the context clearly indicates otherwise, the following
24 definitions apply:

25 (1) "Component districts" means the elementary or high

1 school districts incorporated into the enlarged district.

2 (2) "Eligible pupils" means the average number
3 belonging (ANB) in the operating schools of the component
4 districts and the tuition pupils residing in the component
5 districts and attending another district's school under the
6 tuition provisions of the school laws, except that the
7 pupils residing in the component district having the largest
8 total number of pupils are ineligible for bonus payment
9 consideration.

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

13 (4) "General bonus payment" for first- and second-class
14 school districts must be \$450 per eligible pupil per year
15 for a period of 3 years and must be deposited in the
16 enlarged district's general fund. General bonus payment for
17 third-class school districts must be \$750 per eligible pupil
18 per year for a period of 3 years and must be deposited in
19 the enlarged district's general fund. The general bonus
20 payment must be made from the state school equalization aid
21 account.

22 (5) "Transportation bonus payment" is the provision of
23 66 2/3% state financing of the on-schedule transportation
24 amount as provided by the transportation provisions of the
25 school laws. ~~When--an--eligible--pupil--is--entitled--to~~

transportation; the The enlarged district is entitled to the transportation bonus payment for the eligible pupil for a period of 3 years. The payment must be made from the state transportation aid account. When the eligible pupil rides a bus providing transportation for ineligible pupils, the 66 2/3% state financing of the on-schedule amount for this payment must be prorated to provide financing for the eligible pupil."

Section 6. Section 20-6-621, MCA, is amended to read:

"20-6-621. Selection of school sites, approval election, and lease of state lands. (1) The trustees of any a district shall have the authority to may select the sites for school buildings or for other school purposes, but such the selection shall must first be approved by the qualified electors of the district before any contract for the purchase of such the site is entered into by the trustees, except the trustees shall have the authority to may select and purchase or otherwise acquire property contiguous to an existing site that is in use for school purposes without a site approval election. Furthermore, the trustees may take an option on a site prior to the site approval election.

(2) The election for the approval of a site shall must be called under the provisions of 20-20-201 and shall must be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school site

election shall must be qualified to vote under the provisions of 20-20-301. If a majority of those voting at the election approve the site selection, the trustees shall have the authority to purchase such the sites. A site approval election shall may not be required when the site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of such the site.

(3) Any site for a school building or other building of the district that is selected or purchased by the trustees shall must:

(a) be in a place that is convenient, accessible, and suitable;

(b) comply with the minimum size and other requirements prescribed by the department of health and environmental sciences of the state of Montana; and

(c) comply with the statewide building regulations, if any, promulgated by the department of commerce.

(4) The board of land commissioners shall have the authority to may sell, at the appraised value, or to lease for any period of time less than 99 years, at an amount of \$1 per year, to a district any tract of state land of not more than 10 acres to be used as a school site in such the district."

Section 7. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could--reasonably have--been--anticipated was expected at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year; or

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents; or

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district as a result of the protested taxes, tax audit, or delinquent taxes; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Section 8. Section 20-9-166, MCA, is amended to read:

"20-9-166. State financial aid for budget amendments.

(1) Whenever a final budget amendment has been adopted for the general fund or the transportation fund to finance the cost of an amendment resulting from increased enrollment or any other reason approved by the superintendent of public

1 instruction under the provisions of 20-9-163, the trustees
 2 may apply to the superintendent of public instruction for an
 3 increased payment from the state public school equalization
 4 aid account for the foundation program or for state
 5 transportation reimbursement, or both. The superintendent of
 6 public instruction shall adopt rules for the application.
 7 The superintendent of public instruction shall approve or
 8 disapprove each application for increased state aid made in
 9 accordance with 20-9-314 and this section. When the
 10 superintendent of public instruction approves an
 11 application, he the superintendent of public instruction
 12 shall determine the additional amount of state aid from the
 13 state public school equalization aid account or the state
 14 transportation reimbursement that will be made available to
 15 the applicant district because of the increase in
 16 enrollment. The superintendent of public instruction shall
 17 notify the applicant district of his the approval or
 18 disapproval and, in the event of approval, the amount of
 19 additional state aid that will be made available for the
 20 general fund or the transportation fund. ~~The superintendent~~
 21 ~~of public instruction shall disburse the state aid to the~~
 22 ~~eligible district at the time the next regular state aid~~
 23 ~~payment is made.~~

24 (2) For purposes of this section, "state aid" means
 25 both the state and county share of the foundation program

1 schedule amount that may be granted to a school district
 2 from the state equalization aid account due to an
 3 unanticipated increase in enrollment."

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

5 "20-9-201. Definitions and application. (1) As used in
 6 this title, unless the context clearly indicates otherwise,
 7 "fund" means a separate detailed account of receipts and
 8 expenditures for a specific purpose as authorized by law or
 9 by the superintendent of public instruction under the
 10 provisions of subsection (2). Funds are classified as
 11 follows:

12 (a) A "budgeted fund" means any fund for which a budget
 13 must be adopted in order to expend money from the fund. The
 14 general fund, transportation fund, bus depreciation reserve
 15 fund, tuition fund, retirement fund, debt service fund,
 16 building reserve fund, adult education fund, nonoperating
 17 fund, and any other funds designated by the legislature are
 18 budgeted funds.

19 (b) A "nonbudgeted fund" means any fund for which a
 20 budget is not required in order to expend money on deposit
 21 in the fund. The school food services fund, miscellaneous
 22 programs fund, building fund, lease or rental agreement
 23 fund, traffic education fund, interlocal cooperative fund,
 24 internal service fund, enterprise fund, agency fund,
 25 extracurricular fund, metal mines tax reserve fund,

1 endowment-fund trust funds, and any other funds designated
2 by the legislature are nonbudgeted funds.

3 (2) The school financial administration provisions of
4 this title apply to all money of any elementary or high
5 school district. Elementary and high school districts shall
6 record the receipt and disbursement of all money in
7 accordance with generally accepted accounting principles.
8 The superintendent of public instruction has general
9 supervisory authority as prescribed by law over the school
10 financial administration provisions, as they relate to
11 elementary and high school districts. The superintendent of
12 public instruction shall adopt rules necessary to secure
13 compliance with the law.

14 (3) Except as otherwise provided by law, whenever the
15 trustees of a district determine that a fund is inactive and
16 will no longer be used, the trustees shall close the fund by
17 transferring all cash and other account balances to the
18 general fund if the fund does not have a cash or fund
19 balance deficit."

20 **Section 10.** Section 20-9-224, MCA, is amended to read:

21 "20-9-224. Credit of refund -- refund of revenue not
22 charged against spending authority. (1) Whenever a school
23 district deposits with the county treasurer a refund or
24 rebate of an expenditure made in the current school fiscal
25 year, the county treasurer shall credit the budgeted fund to

1 which it is deposited and restore the school district's
2 spending authority in that fund in the amount of the refund
3 or rebate.

4 (2) A refund of revenue previously received by a school
5 district ~~shall~~ may not be charged against a school
6 district's spending authority."

7 **Section 11.** Section 20-9-311, MCA, is amended to read:

8 "20-9-311. Calculation of average number belonging
9 (ANB). (1) Average number belonging must be computed by
10 determining the total of the aggregate days of attendance by
11 regularly enrolled, full-time pupils during the second
12 semester of the preceding school fiscal year and the first
13 semester of the current school fiscal year plus the
14 aggregate days of absence by regularly enrolled, full-time
15 pupils during the second semester of the preceding school
16 fiscal year and the first semester of the current school
17 fiscal year and by dividing the total by 180. However, when
18 a school district has approval to operate less than 180
19 school days under 20-9-804, the total must be calculated in
20 accordance with the provisions of 20-9-805. For the purpose
21 of calculating ANB under this section, the days of
22 attendance for a regularly enrolled pupil may not exceed 180
23 pupil-instruction days and 7 pupil-instruction-related days.
24 Attendance for a part of a morning session or a part of an
25 afternoon session by a pupil must be counted as attendance

1 for one-half day. In calculating the ANB for pupils enrolled
 2 in a program established under 20-7-117(1), attendance at or
 3 absence from a regular session of the program for at least 2
 4 hours of either a morning or an afternoon session will be
 5 counted as one-half day attended or absent as the case may
 6 be. If a variance has been granted as provided in 20-1-302,
 7 ANB will be computed in a manner prescribed by the
 8 superintendent of public instruction, but ~~in no case may~~ the
 9 ANB may not exceed one-half for each kindergarten pupil.
 10 When any a pupil has been absent, with or without excuse,
 11 for more than 10 consecutive school days, including
 12 pupil-instruction-related days, his an absence after the
 13 10th day of absence may not be included in the aggregate
 14 days of absence and his the pupil's enrollment in the school
 15 may not be considered in the calculation of the average
 16 number belonging until he the pupil resumes attendance at
 17 school.

18 (2) If a student spends less than half his of the
 19 student's time in the regular program and the balance of his
 20 the student's time in school in the special education
 21 program, he the student is considered a full-time special
 22 pupil but is not considered regularly enrolled for ANB
 23 purposes. If a student spends half or more of his the
 24 student's time in school in the regular program and the
 25 balance of his the student's time in the special education

1 program, he the student is considered regularly enrolled for
 2 ANB purposes.

3 (3) The average number belonging of the regularly
 4 enrolled, full-time pupils for the public schools of a
 5 district must be based on the aggregate of all the regularly
 6 enrolled, full-time pupils attending the schools of the
 7 district, except that when:

8 (a) (i) a school of the district is located more than 3
 9 miles beyond the incorporated limits of a city or town
 10 located in the district and 3 miles from any other school of
 11 the district, all of the regularly enrolled, full-time
 12 pupils of the school must be calculated separately for ANB
 13 purposes; or

14 (ii) a school of the district is located more than 3
 15 miles from any other school of the district and no
 16 incorporated territory is not involved in the district, all
 17 of the regularly enrolled, full-time pupils of the school
 18 must be calculated separately for ANB purposes;

19 (b) a junior high school has been approved and
 20 accredited as a junior high school, all of the regularly
 21 enrolled, full-time pupils of the junior high school must be
 22 considered as high school district pupils for ANB purposes;

23 (c) a middle school has been approved and accredited,
 24 all pupils below the 7th grade must be considered elementary
 25 school pupils for ANB purposes and the 7th and 8th grade

1 pupils must be considered high school pupils for ANB
2 purposes; or

3 (d) a school has not been accredited by the board of
4 public education, the regularly enrolled, full-time pupils
5 attending the nonaccredited school are not eligible for
6 average number belonging calculation purposes, nor will an
7 average number belonging for the nonaccredited school be
8 used in determining the foundation program for the district.

9 (4) When 11th or 12th grade students are regularly
10 enrolled on a part-time basis, high schools may calculate
11 the ANB to include an "equivalent ANB" for those students.
12 The method for calculating an equivalent ANB must be
13 determined in a manner prescribed by the superintendent of
14 public instruction.

15 (5) The ANB of an attendance center that is a component
16 of a school for the purposes of accreditation must be
17 aggregated with the ANB of the school regardless of the
18 distance between the SCHOOL attendance center and the
19 school."

20 **Section 12.** Section 20-9-322, MCA, is amended to read:

21 "20-9-322. Elementary instructional aide funding
22 qualification. (1) An elementary school that anticipates has
23 ANTICIPATES an ANB of at least 14 but less than 18 pupils
24 for the ensuing school fiscal year may determine the
25 foundation program amount under the provisions of

1 20-9-316(3) or 20-9-318(3) if eligibility is approved in
2 accordance with the following provisions:

3 (a) ~~No-later-than-May-10-of-each-year,-the~~ The NO LATER
4 THAN MAY 10 OF EACH YEAR, THE school district shall submit
5 its application for approval for instructional aide funding
6 to the superintendent of public instruction. The application
7 must include:

8 (i) ~~the-ANB-for-the-preceding-ANB-calculation-period;~~
9 ~~(ii) the current~~ ENSUING YEAR'S CERTIFIED ANB and the
10 number of grade levels being-taught-on-May-1-of-the-current
11 year;

12 ~~(iii)(ii)-an-estimate-of-the-ANB-and-the-number-of-grade~~
13 ~~levels~~ anticipated for the ensuing ANB calculation period;

14 ~~(iv)-the-factual-information-on-which--the--estimate--is~~
15 ~~based;~~ and

16 ~~(v)(iii)(II)~~ any other information or data that may be
17 required by the superintendent of public instruction.

18 (b) AN ELEMENTARY SCHOOL DISTRICT THAT HAS AN
19 ENROLLMENT INCREASE IN THE CURRENT YEAR THAT RESULTS IN AN
20 ADJUSTED ANB OF AT LEAST 14 BUT LESS THAN 18 PUPILS AND IS
21 APPROVED UNDER THE PROVISIONS OF 20-9-166 MAY SUBMIT THE
22 APPLICATION PROVIDED FOR UNDER SUBSECTION (1)(A) DURING THE
23 CURRENT SCHOOL YEAR.

24 (C) The superintendent of public instruction shall
25 immediately review all of the factors of the application and

shall approve the application if the anticipated ~~or-current~~
~~ACTUAL OR ADJUSTED~~ ANB is at least 14 but less than 18
 pupils and a minimum of five grade levels are being taught
 as-of-May-1-of ~~in the-current-year-or--documentation--is~~
~~provided--that--indicates--that--the--anticipated--ANB--will~~
~~require--a--minimum-of-five-grade-levels-to-be-taught-in-the~~
 ensuing school year.

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

(3) If the application is approved during the school
 fiscal year in which the aide is first hired, the increased
 amount of funding must be prorated on the portion of the
 school fiscal year during which the aide was employed.

(4) For the purposes of this section, the term
 "instructional aide" means:

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

(b) a certified teacher."

Section 13. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax and other revenues for
 county equalization of the elementary district foundation
 program. (1) The county commissioners of each county shall
 levy an annual basic tax of 33 mills on the dollar of the

taxable value of all taxable property within the county,
 except for property subject to a tax or fee 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 collected from this levy must be apportioned to
 the support of the elementary foundation programs of the
 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-sum-of-the
 estimated--revenue--identified--in--subsection--(2)--must-be
 subtracted-from-the-total-of-the-foundation-programs-of--all
 elementary-districts-of-the-county.

(b). If the basic levy and other revenue prescribed by
 this section produce more revenue than is required to repay
 a state advance for county equalization, the county
 treasurer shall remit the surplus funds 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 revenue realized from the county's portion of
 the levy prescribed by this section and the revenue from the

1 following sources must be used for as the first source of
 2 revenue for equalization of the elementary foundation
 3 program of the county ~~as--prescribed--in--20-9-335~~, and a
 4 separate accounting must be kept of the revenue by the
 5 county treasurer in accordance with 20-9-212(1):

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

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

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

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

21 (e) any federal or state money distributed to the
 22 county as payment in lieu of property taxation, including
 23 federal forest reserve funds allocated under the provisions
 24 of 17-3-213;

25 (f) gross proceeds taxes from coal under 15-23-703;

1 (g) net proceeds taxes for new production, as defined
 2 in 15-23-601, and local government severance taxes on any
 3 other production occurring after December 31, 1988; and

4 (h) anticipated revenue from property taxes and fees
 5 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 6 61-3-537, and 67-3-204."

7 **Section 14.** Section 20-9-333, MCA, is amended to read:

8 "20-9-333. Basic special levy and other revenues for
 9 county equalization of high school district foundation
 10 program. (1) The county commissioners of each county shall
 11 levy an annual basic special tax for high schools of 22
 12 mills on the dollar of the taxable value of all taxable
 13 property within the county, except for property subject to a
 14 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 15 61-3-537, and 67-3-204, for the purposes of local and state
 16 foundation program support. The revenue collected from this
 17 levy must be apportioned to the support of the foundation
 18 programs of high school districts in the county and to the
 19 state special revenue fund, state equalization aid account,
 20 in-the-following-manner:

21 ~~(a)--in-order-to-determine-the-amount-of-revenue-raised~~
 22 ~~by-this-levy-which-is-retained-by-the-county,-the-sum-of-the~~
 23 ~~estimated-revenue--identified--in--subsection--(2)--must--be~~
 24 ~~subtracted--from-the-sum-of-the-county's-high-school-tuition~~
 25 ~~obligation-and-the-total-of-the-foundation-programs--of--all~~

high-school-districts-of-the-county:

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds 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 revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for as the first source of revenue for the equalization of the high school foundation program of the county ~~as prescribed in 20-9-335~~, and a separate accounting must be kept of the 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 money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703;

(d) net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

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

Section 15. Section 20-9-334, MCA, is amended to read:

"20-9-334. Apportionment-of-county-equalization-moneys
~~high-school-out-of-county~~ Out-of-county COUNTY tuition obligations. ~~The county superintendent shall calculate the apportionment of revenues deposited in the basic county tax account and the revenues deposited in the basic special tax for high schools account to the several districts of the county. The apportionments shall be known as county equalization moneys.~~

(1) The county superintendent shall direct the county treasurer to deduct from the revenues available in the basic special tax for high schools account, prior to remittance of the funds to the state treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the county's obligation for high school out-of-county tuition and elementary tuition for which the county is responsible.

(2) PRIOR TO REMITTANCE OF FUNDS TO THE STATE TREASURER

1 UNDER THE PROVISIONS OF 15-1-504 AND 20-9-212, THE COUNTY
 2 SUPERINTENDENT SHALL DIRECT THE COUNTY TREASURER TO DEDUCT
 3 FROM THE REVENUE AVAILABLE IN THE BASIC SPECIAL COUNTY TAX
 4 FOR ELEMENTARY SCHOOLS ACCOUNT THE AMOUNT REQUIRED FOR THE
 5 MONTH TO PAY THE COUNTY'S OBLIGATION FOR ELEMENTARY
 6 OUT-OF-STATE TUITION."

7 **Section 16.** Section 20-9-508, MCA, is amended to read:

8 "20-9-508. Building fund. (1) The trustees of any
 9 district shall establish or credit the building fund
 10 whenever such the district:

11 (a) issues and sells bonds under the school district
 12 bonding provisions of this title for purposes other than
 13 refunding bonds of the district, except the issuance and
 14 sale of a bond to fund a judgment against the district as
 15 provided for in 20-9-403;

16 (b) receives federal money for the express purpose of
 17 building, enlarging, equipping, or remodeling, or repairing
 18 a school building or other building of the district;

19 (c) sells property of the district in accordance with
 20 the law authorizing such the sale;

21 (d) receives money as an insurance settlement for the
 22 destruction of any property or portion of property insured
 23 by the district if the insurance settlement proceeds will be
 24 used to build, enlarge, equip, remodel, or repair buildings
 25 of the district;

1 (e) earns interest from the investment of building fund
 2 moneys under the provisions of 20-9-213(4), except interest
 3 earned from the investment of bond moneys proceeds under the
 4 provisions of 20-9-435 shall must be credited to a fund in
 5 accordance with such that section; or

6 (f) receives any other moneys money for the express
 7 purpose of building, enlarging, equipping, or remodeling, or
 8 repairing a school building or other building of the
 9 district.

10 (2) The financial administration of the building fund
 11 shall must be in accordance with the financial
 12 administration provisions of this title for a nonbudgeted
 13 fund and shall must provide for a separate accounting of the
 14 moneys money realized by each bond issue or by each
 15 construction project financed by a federal grant of moneys
 16 money. Any other moneys money to the credit of this fund
 17 shall must be expended for building, enlargement enlarging,
 18 equipping, remodeling, or repairing of buildings of the
 19 district at the discretion of the trustees.

20 (3) Moneys Money credited to the building fund under
 21 the provisions of subsection (1)(a) of--this--section--shall
 22 must be expended for the express purpose or purposes
 23 authorized by the bond proposition approved at the election
 24 authorizing the issuance of such the bonds. Any money
 25 realized by the sale of bonds and remaining to the credit of

the building fund after the full accomplishment of the purpose for which the bonds were sold ~~shall~~ must be transferred to the debt service fund to be used for the redemption of bonds of such the issue.

(4) Moneys Money credited to the building fund under the provisions of subsection (1)(b) ~~of--this--section--shall~~ must be expended for the express purpose or purposes authorized by the federal government in granting such-moneys the money."

Section 17. Section 20-9-506, MCA, is amended to read:

"20-9-506. Budgeting and net levy requirement for nonoperating fund. (1) The trustees of any a district which that does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions of this title. Such The nonoperating budget ~~shall~~ must contain the nonoperating fund and, when appropriate, a debt service fund. The nonoperating budget form ~~shall~~ must be promulgated and distributed by the superintendent of public instruction under the provisions of 20-9-103.

(2) After the adoption of a final budget for the nonoperating fund, the county superintendent shall compute the net levy requirement for such the fund by subtracting from the amount authorized by such the budget the sum of:

(a) the end-of-the-year cash fund balance of the nonoperating fund or, if it is the first year of nonoperation, the cash fund balance determined under the transfer provisions of 20-9-505;

(b) the estimated state and county transportation reimbursements; and

(c) any other moneys money that may become available during the ensuing school fiscal year.

(3) The county superintendent shall report the net nonoperating fund levy requirement and any net debt service fund levy requirement determined under the provisions of 20-9-439 to the county commissioners on the second Monday of August, and such the levies ~~shall~~ must be made on the district by the county commissioners in accordance with 20-9-142."

Section 18. Section 20-9-604, MCA, is amended to read:

"20-9-604. Gifts, legacies, devises, and administration of endowment-fund trust funds. (1) The trustees of any a district may accept gifts, legacies, and devises, subject to the conditions imposed by the deed of the donor or the will of the testator or without any conditions imposed. ~~Unless otherwise-specified-by-the-donor-devisor-or-testator-when a--district--receives--a--gift--legacy--or--devise--the~~ The trustees shall deposit such the gift, legacy, devise, or the proceeds therefrom in an-endowment a trust fund. ~~The~~ Unless

1 otherwise specified by the donor, devisor, or testator, when
 2 a district receives a gift, legacy, or devise, the trustees
 3 shall administer the endowment trust fund so-as to preserve
 4 the principal from loss, and only the income from the fund
 5 shall may be appropriated for any purpose.

6 (2) Unless the conditions of the endowment trust
 7 instrument require an immediate disbursement of the money,
 8 the money deposited in the endowment trust fund shall may be
 9 invested by the trustees, notwithstanding the provisions of
 10 any other state law, in:

- 11 (a) school district bonds of the district;
- 12 (b) bonds of other school districts within the state;
- 13 (c) first mortgage bonds, debentures, notes, and other
 14 evidences of indebtedness issued, assumed, or guaranteed by
 15 any solvent and operating public utility corporation
 16 existing under the laws of the United States of America or
 17 any state thereof, which bonds, debentures, notes, and other
 18 evidences of indebtedness are, at the time of such the
 19 investment, within the three highest quality grades for the
 20 rating of such bonds, debentures, notes, and other evidences
 21 of indebtedness by any nationally recognized investment
 22 rating agency;
- 23 (d) certificates of deposit of Montana banks insured by
 24 the federal deposit insurance corporation; or
- 25 (e) direct obligations of the United States government.

1 (3) All interest collected on the deposits or
 2 investments shall must be credited to the endowment trust
 3 fund. ~~No-portion-of-the-endowment~~ The trust fund may not be
 4 loaned to the district, ~~nor-may-any-money-of-the~~ The fund
 5 may not be invested in warrants of the district.

6 (4) Whenever any a district has been abandoned, the
 7 endowment trust fund of the abandoned district shall must be
 8 transferred and placed in the endowment trust fund in the
 9 district to which the territory is attached.

10 (5) As the custodian of the endowment trust fund, the
 11 county treasurer is liable on his the county treasurer's
 12 official bond for the endowment trust fund of any district
 13 of the county. No later than July 1 each school fiscal year,
 14 the county treasurer shall account to the trustees of each
 15 district on the condition of its endowment trust fund
 16 including the status of the investments that have been made
 17 with the money of the fund. The county treasurer shall also
 18 include the endowment trust fund in his any required reports
 19 to the board of county commissioners.

20 (6) The trustees of any district having an-endowment a
 21 trust fund shall provide suitable memorials for all persons
 22 or associations of persons making gifts to the district
 23 which that become a part of the endowment trust fund."

24 **Section 19.** Section 20-10-144, MCA, is amended to read:

25 "20-10-144. Computation of revenues and net tax levy

requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school

fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds the greater of 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, ~~whichever is~~ larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of cash fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce

1 the total district obligation for financing to zero, any
 2 remaining amount of district revenue and cash fund balance
 3 reappropriated must be used to reduce the county financing
 4 obligation in subsection (2)(a)(ii) and, if the county
 5 financing obligations are reduced to zero, to reduce the
 6 state financial obligation in subsection (2)(a)(i).

7 (c) The county revenue requirement for a joint
 8 district, after the application of any district money under
 9 subsection (2)(b), must be prorated to each county
 10 incorporated by the joint district in the same proportion as
 11 the ANB of the joint district is distributed by pupil
 12 residence in each county.

13 (3) The total of the money available for the reduction
 14 of property tax on the district for the transportation fund
 15 must be determined by totaling:

16 (a) anticipated federal money received under the
 17 provisions of Title I of Public Law 81-874 or other
 18 anticipated federal money received in lieu of that federal
 19 act;

20 (b) anticipated payments from other districts for
 21 providing school bus transportation services for the
 22 district;

23 (c) anticipated payments from a parent or guardian for
 24 providing school bus transportation services for his a
 25 child;

1 (d) anticipated or reappropriated interest to be earned
 2 by the investment of transportation fund cash in accordance
 3 with the provisions of 20-9-213(4);

4 (e) anticipated or reappropriated revenue from property
 5 taxes and fees imposed under 23-2-517, 23-2-803,
 6 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

7 (f) anticipated revenue from coal gross proceeds under
 8 15-23-703;

9 (g) anticipated net proceeds taxes for new production,
 10 as defined in 15-23-601, and local government severance
 11 taxes on any other production occurring after December 31,
 12 1988;

13 (h) any other revenue anticipated by the trustees to be
 14 earned during the ensuing school fiscal year that may be
 15 used to finance the transportation fund; and

16 (i) any fund balance available for reappropriation as
 17 determined by subtracting the amount of the end-of-the-year
 18 fund balance earmarked as the transportation fund operating
 19 reserve for the ensuing school fiscal year by the trustees
 20 from the end-of-the-year fund balance in the transportation
 21 fund. The operating reserve may not be more than 20% of the
 22 final transportation fund budget for the ensuing school
 23 fiscal year and is for the purpose of paying transportation
 24 fund warrants issued by the district under the final
 25 transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 20. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment

except that:

(a) if any cash fund balance was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent and a levy must be set by the county commissioners in accordance

with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

Section 21. Section 20-10-204, MCA, is amended to read:

"20-10-204. Duties of trustees. (1) The trustees of any a district offering school food services may:

(a) enter into contracts with the superintendent of public instruction for the purpose of obtaining funds, supplies and equipment, food commodities, and facilities necessary for the establishment, operation, and maintenance of the school food services;

(b) sell food to the pupils and adults participating in the school food services in accordance with the policies of the superintendent of public instruction;

(c) accept any gift for use of the school food services; and

~~(d) allocate federal funds received in lieu of property taxation to the school food services fund in accordance with the provisions of 20-10-205; and~~

~~(e)~~ adopt such policies for the operation of school food services as that are consistent with the regulations of

1 the superintendent of public instruction and with the laws
2 of Montana.

3 (2) When the trustees of any a district offer school
4 food services, they shall establish a school food services
5 fund for the deposit of proceeds from the sale of food,
6 gifts, and other moneys money specified in this section and
7 for the expenditure of ~~such-moneys~~ the money in support of
8 the school food services."

9 **Section 22.** Section 20-10-206, MCA, is amended to read:

10 "20-10-206. Pupils in state institutional schools
11 included. The provisions of 20-10-201 through ~~20-10-205~~
12 20-10-204 ~~shall~~ apply to pupils in state institutional
13 schools meeting the requirements established by the
14 superintendent of public instruction and the applicable
15 federal laws and regulations."

16 **Section 23.** Section 77-1-507, MCA, is amended to read:

17 "77-1-507. School district use of proceeds. The money
18 received by any a school district under this part ~~shall~~ must
19 be designated as district money for the general maintenance
20 and operation of the elementary schools of the district.
21 Such The money may be used by the district ~~as-all-other-cash~~
22 ~~balances-are-used~~ in accordance with the provisions of
23 20-9-335 Title 20."

24 **NEW SECTION. Section 24. Repealer.** Sections 20-9-335
25 and 20-10-205, MCA, are repealed.

1 **NEW SECTION. Section 25.** Effective date. [This act] is
2 effective July 1, 1993.

-End-

1 HOUSE BILL NO. 202

2 INTRODUCED BY KADAS

3 BY REQUEST OF THE SUPERINTENDENT

4 OF PUBLIC INSTRUCTION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
7 SCHOOL LAWS TO COMPLY WITH GENERALLY ACCEPTED ACCOUNTING
8 PROCEDURES AND OTHER SCHOOL FUNDING PROVISIONS; AMENDING
9 SECTIONS 20-1-101, 20-1-301, 20-3-205, 20-3-324, 20-6-401,
10 20-6-621, 20-9-161, 20-9-166, 20-9-201, 20-9-224, 20-9-311,
11 20-9-322, 20-9-331, 20-9-333, 20-9-334, 20-9-506, 20-9-508,
12 20-9-604, 20-10-144, 20-10-146, 20-10-204, 20-10-206, AND
13 77-1-507, MCA; REPEALING SECTIONS 20-9-335 AND 20-10-205,
14 MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

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

24 (2) ~~"Attendance-center" means a location, identified by~~
25 ~~a school district, where students are provided an~~

1 ~~instructional program under the administration of a school~~
2 ~~or school district.~~

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

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

9 (5) "Board of regents" means the board of regents
10 of higher education created by Article X, section 9,
11 subsection (2), of the 1972 Montana constitution and
12 2-15-1505.

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

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

18 (8) "District superintendent" means any person
19 who holds a valid state license.

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 20, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 202 (first reading copy -- blue), respectfully report that House Bill No. 202 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 8.

Following: "PROVISIONS;"

Insert: "DEFINING ATTENDANCE CENTER;"

2. Page 2, line 2.

Following: "~~district.~~"

Insert: "(2) "Attendance center" means a location, identified by a school district, where students are provided an instructional program under the administration of a school or school district."

Renumber: subsequent subsections

3. Page 4, lines 4 through 9.

Strike: subsection (13) in its entirety

Renumber: subsequent subsections

4. Page 27, line 18.

Strike: "SCHOOL"

-END-

SENATE

HB 202

M- Amd. Coord.
LB Sec. of Senate

Waterman
Senator Carrying Bill

630741SC.Sma

HOUSE BILL NO. 202

INTRODUCED BY KADAS

BY REQUEST OF THE SUPERINTENDENT

OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL LAWS TO COMPLY WITH GENERALLY ACCEPTED ACCOUNTING PROCEDURES AND OTHER SCHOOL FUNDING PROVISIONS; DEFINING ATTENDANCE CENTER; AMENDING SECTIONS 20-1-101, 20-1-301, 20-3-205, 20-3-324, 20-6-401, 20-6-621, 20-9-161, 20-9-166, 20-9-201, 20-9-224, 20-9-311, 20-9-322, 20-9-331, 20-9-333, 20-9-334, 20-9-506, 20-9-508, 20-9-604, 20-10-144, 20-10-146, 20-10-204, 20-10-206, AND 77-1-507, MCA; REPEALING SECTIONS 20-9-335 AND 20-10-205, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

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

(2) "Attendance center" means a location, identified by

a school district, where students are provided an instructional program under the administration of a school or school district.

(2) "ATTENDANCE CENTER" MEANS A LOCATION, IDENTIFIED BY A SCHOOL DISTRICT, WHERE STUDENTS ARE PROVIDED AN INSTRUCTIONAL PROGRAM UNDER THE ADMINISTRATION OF A SCHOOL OR SCHOOL DISTRICT.

(3)(2)(3) "Average number belonging" or "ANB" shall mean means the average number of regularly enrolled, full-time pupils attending the public schools of a district.

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

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

(5)(6)(5)(6) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the 1972 Montana constitution and 2-15-1506.

(6)(7)(6)(7) "County superintendent" means the county government official who is the school officer of the county.

(7)(8)(7)(8) "District superintendent" means any person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the

superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(8)(9)(10) "K-12 vocational education" means vocational education in public school kindergarten through grade 12.

(9)(10)(11) "Principal" means any person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher ~~shall be~~ is construed as including a principal, as herein defined in this section.

(10)(11)(12) "Pupil" means any child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but has not yet reached his a 19th birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense. For purposes of calculating the average number belonging (ANB) pursuant to 20-9-311, the definition of pupil includes a person who has

not yet reached his ~~19th~~ 19 birthday 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

(11)(12)(13) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

(12)(13)(14) "Regents" means the board of regents of higher education.

(13)-"SCHOOL---ATTENDANCE---CENTER"---MEANS---A---LOCATION, IDENTIFIED BY A SCHOOL DISTRICT, WHERE STUDENTS ARE PROVIDED AN INSTRUCTIONAL PROGRAM UNDER THE ADMINISTRATION OF A SCHOOL OR SCHOOL DISTRICT. A SCHOOL ATTENDANCE CENTER MUST BE LOCATED WITHIN THE BOUNDARIES OF THE SCHOOL DISTRICT THAT ESTABLISHES THE CENTER.

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

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

(15)(16) "State university" means the Montana state

1 university, located at Bozeman.

2 ~~(16)~~(17) "Superintendent of public instruction" means
3 that state government official designated as a member of the
4 executive branch by the constitution of Montana.

5 ~~(17)~~(18) "System" means the Montana university system.

6 ~~(18)~~(19) "Teacher" means any person, except a district
7 superintendent, who holds a valid Montana teacher
8 certificate that has been issued by the superintendent of
9 public instruction under the provisions of this title and
10 the policies adopted by the board of public education and
11 who is employed by a district as a member of its
12 instructional, supervisory, or administrative staff. This
13 definition of a teacher ~~shall--also--include~~ includes any
14 person for whom an emergency authorization of employment of
15 ~~such--person~~ has been issued under the provisions of
16 20-4-111.

17 ~~(19)~~(20) "Textbook" means a book or manual used as a
18 principal source of study material for a given class or
19 group of students.

20 ~~(20)~~(21) "Textbook dealer" means any party, company,
21 corporation, or other organization selling, offering to
22 sell, or offering for adoption textbooks to districts in the
23 state of Montana.

24 ~~(21)~~(22) "Trustees" means the governing board of a
25 district.

1 ~~(22)~~(23) "University" means the university of Montana,
2 located at Missoula.

3 ~~(23)~~(24) "Vocational education" means the instruction to
4 prepare or improve the pupil for gainful employment that
5 does not require a baccalaureate or higher degree. This
6 definition of vocational education ~~shall--include~~ includes
7 guidance and prevocational, related, or technical
8 instruction necessary to prepare the pupil for further
9 vocational education or for entry into employment.

10 ~~(24)~~(25) "Vocational-technical center" means an
11 institution used principally for the provision of
12 vocational-technical education to persons who qualify as
13 vocational-technical students. These centers are designated
14 by the board of regents upon direction by the legislature.
15 All other public or private institutions or schools are
16 ~~hereby~~ prohibited from using this title.

17 ~~(25)~~(26) "Vocational-technical education" means
18 vocational-technical education of vocational-technical
19 students that is conducted by a vocational-technical center,
20 a unit of the Montana university system, or a community
21 college as designated by the board of regents."

22 **Section 2.** Section 20-1-301, MCA, is amended to read:

23 "20-1-301. School fiscal year. The school fiscal year
24 ~~shall--begin~~ begins on July 1 and ~~end~~ ends on June 30. At
25 least 180 school days of pupil instruction ~~shall~~ must be

1 conducted during each school fiscal year, except that 175
 2 days of pupil instruction for graduating seniors may be
 3 sufficient as provided in 20-9-313, or unless a variance for
 4 kindergarten has been granted under 20-1-302 or a district
 5 is granted a variance under the provisions of chapter 9,
 6 part 8, of this title. For any elementary or high school
 7 district that fails to provide for at least 180 school days
 8 of pupil instruction, the superintendent of public
 9 instruction shall reduce the ~~county-equalization-as--defined~~
 10 ~~in--20-9-334--and--the~~ state equalization aid and state
 11 advances for county equalization payments provided in
 12 20-9-346 as-defined-in-20-9-343 for the district for that
 13 school year by 1/90th for each school day less than 180
 14 school days."

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

16 "20-3-205. Powers and duties. The county superintendent
 17 has general supervision of the schools of the county within
 18 the limitations prescribed by this title and shall perform
 19 the following duties or acts:

20 (1) determine, establish, and reestablish trustee
 21 nominating districts in accordance with the provisions of
 22 20-3-352, 20-3-353, and 20-3-354;

23 (2) administer and file the oaths of members of the
 24 boards of trustees of the districts in ~~his~~ the county in
 25 accordance with the provisions of 20-3-307;

1 (3) register the teacher or specialist certificates or
 2 emergency authorization of employment of any person employed
 3 in the county as a teacher, specialist, principal, or
 4 district superintendent in accordance with the provisions of
 5 20-4-202;

6 (4) act on each tuition application submitted ~~to him~~ in
 7 accordance with the provisions of 20-5-301, 20-5-302,
 8 20-5-304, and 20-5-311 and transmit the tuition information
 9 required by 20-5-312;

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

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

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

17 (8) fulfill all responsibilities assigned to ~~him~~ the
 18 county superintendent under the provisions of this title
 19 regulating the organization, alteration, or abandonment of
 20 districts;

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

24 (10) estimate the average number belonging (ANB) of an
 25 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, file final budgets and budget amendments,
6 and fulfill other responsibilities assigned to him the
7 county superintendent under the provisions of this title
8 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) monthly, 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 the computations to the board of
2 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 that 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;

1 ~~†23†~~(22) administer the oath of office to trustees
2 without the receipt of pay for administering the oath;

3 ~~†24†~~(23) keep a record of his official acts of the
4 county superintendent, preserve all reports submitted to him
5 under the provisions of this title, preserve all books and
6 instructional equipment or supplies, keep all documents
7 applicable to the administration of the office, and
8 surrender all records, books, supplies, and equipment to his
9 a successor;

10 ~~†25†~~(24) within 90 days after the close of the school
11 fiscal year, publish an annual report in the county
12 newspaper stating the following financial information for
13 the school fiscal year just ended for each district of the
14 county:

15 (a) the total of the cash fund balances of all budgeted
16 funds maintained by the district at the beginning of the
17 year;

18 (b) the total receipts revenue that were was realized
19 in each budgeted fund maintained by the district;

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

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

25 ~~†26†~~(25) hold meetings for the members of the trustees

1 from time to time at which matters for the good of the
2 districts must be discussed."

3 **Section 4.** Section 20-3-324, MCA, is amended to read:

4 "20-3-324. Powers and duties. As prescribed elsewhere
5 in this title, the trustees of each district shall:

6 (1) employ or dismiss a teacher, principal, or other
7 assistant upon the recommendation of the district
8 superintendent, the county high school principal, or other
9 principal as the board considers necessary, accepting or
10 rejecting any recommendation as the trustees in their sole
11 discretion determine, in accordance with the provisions of
12 Title 20, chapter 4;

13 (2) employ and dismiss administrative personnel,
14 clerks, secretaries, teacher aides, custodians, maintenance
15 personnel, school bus drivers, food service personnel,
16 nurses, and any other personnel considered necessary to
17 carry out the various services of the district;

18 (3) administer the attendance and tuition provisions
19 and otherwise govern the pupils of the district in
20 accordance with the provisions of the pupils chapter of this
21 title;

22 (4) call, conduct, and certify the elections of the
23 district in accordance with the provisions of the school
24 elections chapter of this title;

25 (5) participate in the teachers' retirement system of

1 the state of Montana in accordance with the provisions of
2 the teachers' retirement system chapter of Title 19;

3 (6) participate in district boundary change actions in
4 accordance with the provisions of the districts chapter of
5 this title;

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

9 (8) adopt and administer the annual budget or a budget
10 amendment of the district in accordance with the provisions
11 of the school budget system part of this title;

12 (9) conduct the fiscal business of the district in
13 accordance with the provisions of the school financial
14 administration part of this title;

15 (10) establish the ANB, foundation program, permissive,
16 additional levy, operating reserve, and state impact aid
17 amounts for the general fund of the district in accordance
18 with the provisions of the general fund part of this title;

19 (11) establish, maintain, budget, and finance the
20 transportation program of the district in accordance with
21 the provisions of the transportation parts of this title;

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

25 (13) when applicable, establish, financially administer,

1 and budget for the tuition fund, retirement fund, building
2 reserve fund, adult education fund, nonoperating fund,
3 school food services fund, miscellaneous federal programs
4 fund, building fund, lease or rental agreement fund, traffic
5 education fund, and interlocal cooperative agreement fund in
6 accordance with the provisions of the other school funds
7 parts of this title;

8 (14) when applicable, administer any interlocal
9 cooperative agreement, gifts, legacies, or devises in
10 accordance with the provisions of the miscellaneous
11 financial parts of this title;

12 (15) hold in trust, acquire, and dispose of the real and
13 personal property of the district in accordance with the
14 provisions of the school sites and facilities part of this
15 title;

16 (16) operate the schools of the district in accordance
17 with the provisions of the school calendar part of this
18 title;

19 (17) establish and maintain the instructional services
20 of the schools of the district in accordance with the
21 provisions of the instructional services, textbooks,
22 vocational education, and special education parts of this
23 title;

24 (18) establish and maintain the school food services of
25 the district in accordance with the provisions of the school

1 food services parts of this title;

2 (19) make reports from time to time as the county
3 superintendent, superintendent of public instruction, and
4 board of public education may require;

5 (20) retain, when considered advisable, a physician or
6 registered nurse to inspect the sanitary conditions of the
7 school or the general health conditions of each pupil and,
8 upon request, make available to any parent or guardian any
9 medical reports or health records maintained by the district
10 pertaining to his the parent or guardian's child;

11 (21) for each member of the trustees, visit each school
12 of the district not less than once each school fiscal year
13 to examine its management, conditions, and needs, except
14 trustees from a first-class school district may share the
15 responsibility for visiting each school in the district;

16 (22) procure and display outside daily in suitable
17 weather at each school of the district an American flag that
18 measures not less than 4 feet by 6 feet;

19 (23) adopt and administer a district policy on
20 assessment for placement of any child who enrolls in a
21 school of the district from a nonpublic school that is not
22 accredited, as required in 20-5-110; and

23 (24) perform any other duty and enforce any other
24 requirements for the government of the schools prescribed by
25 this title, the policies of the board of public education,

1 or the rules of the superintendent of public instruction."

2 **Section 5.** Section 20-6-401, MCA, is amended to read:

3 "20-6-401. Definitions. As used in this part, unless
4 the context clearly indicates otherwise, the following
5 definitions apply:

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

8 (2) "Eligible pupils" means the average number
9 belonging (ANB) in the operating schools of the component
10 districts and the tuition pupils residing in the component
11 districts and attending another district's school under the
12 tuition provisions of the school laws, except that the
13 pupils residing in the component district having the largest
14 total number of pupils are ineligible for bonus payment
15 consideration.

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

19 (4) "General bonus payment" for first- and second-class
20 school districts must be \$450 per eligible pupil per year
21 for a period of 3 years and must be deposited in the
22 enlarged district's general fund. General bonus payment for
23 third-class school districts must be \$750 per eligible pupil
24 per year for a period of 3 years and must be deposited in
25 the enlarged district's general fund. The general bonus

1 payment must be made from the state school equalization aid
2 account.

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

15 Section 6. Section 20-6-621, MCA, is amended to read:

16 "20-6-621. Selection of school sites, approval
17 election, and lease of state lands. (1) The trustees of any
18 a district ~~shall have the authority to~~ may select the sites
19 for school buildings or for other school purposes, but ~~such~~
20 ~~the selection shall~~ must first be approved by the qualified
21 electors of the district before any contract for the
22 purchase of ~~such the~~ site is entered into by the trustees,
23 except the trustees ~~shall have the authority to~~ may select
24 ~~and purchase or otherwise acquire~~ property contiguous to an
25 existing site that is in use for school purposes without a

1 site approval election. Furthermore, the trustees may take
2 an option on a site prior to the site approval election.

3 (2) The election for the approval of a site ~~shall~~ must
4 be called under the provisions of 20-20-201 and ~~shall~~ must
5 be conducted in the manner prescribed by this title for
6 school elections. An elector who may vote at a school site
7 election ~~shall~~ must be qualified to vote under the
8 provisions of 20-20-301. If a majority of those voting at
9 the election approve the site selection, the trustees ~~shall~~
10 have the authority to purchase ~~such the~~ sites. A site
11 approval election ~~shall~~ may not be required when the site
12 was specifically identified in an election at which an
13 additional levy or the issuance of bonds was approved for
14 the purchase of ~~such the~~ site.

15 (3) Any site for a school building or other building of
16 the district that is selected or purchased by the trustees
17 ~~shall~~ must:

18 (a) be in a place that is convenient, accessible, and
19 suitable;

20 (b) comply with the minimum size and other requirements
21 prescribed by the department of health and environmental
22 sciences of the state of Montana; and

23 (c) comply with the statewide building regulations, if
24 any, promulgated by the department of commerce.

25 (4) The board of land commissioners ~~shall have the~~

1 authority-to may sell, at the appraised value, or to lease
 2 for any period of time less than 99 years, at an amount of
 3 \$1 per year, to a district any tract of state land of not
 4 more than 10 acres to be used as a school site in such the
 5 district."

6 **Section 7.** Section 20-9-161, MCA, is amended to read:

7 "20-9-161. Definition of budget amendment for budgeting
 8 purposes. As used in this title, unless the context clearly
 9 indicates otherwise, the term "budget amendment" for the
 10 purpose of school budgeting means an amendment to an adopted
 11 budget of the district for the following reasons:

12 (1) an increase in the enrollment of an elementary or
 13 high school district that is beyond what ~~could-reasonably~~
 14 ~~have-been-anticipated~~ was expected at the time of the
 15 adoption of the budget for the current school fiscal year
 16 whenever, because of the enrollment increase, the district's
 17 budget for any or all of the regularly budgeted funds does
 18 not provide sufficient financing to properly maintain and
 19 support the district for the entire current school fiscal
 20 year;

21 (2) the destruction or impairment of any school
 22 property necessary to the maintenance of the school, by
 23 fire, flood, storm, riot, insurrection, or act of God, to an
 24 extent rendering school property unfit for its present
 25 school use;

1 (3) a judgment for damages against the district issued
 2 by a court after the adoption of the budget for the current
 3 year;

4 (4) an enactment of legislation after the adoption of
 5 the budget for the current year that imposes an additional
 6 financial obligation on the district;

7 (5) the receipt of:

8 (a) a settlement of taxes protested in a prior school
 9 fiscal year; or

10 (b) taxes from a prior school fiscal year as the result
 11 of a tax audit by the department of revenue or its agents;
 12 or

13 (c) delinquent taxes from a prior school fiscal year;
 14 and

15 (d) a determination by the trustees that it is
 16 necessary to expend all or a portion of the taxes received
 17 under subsection (5)(a), (5)(b), or (5)(c) for a project or
 18 projects that were deferred from a previous budget of the
 19 district as a result of the protested taxes, tax audit, or
 20 delinquent taxes; or

21 (6) any other unforeseen need of the district that
 22 cannot be postponed until the next school year without dire
 23 consequences affecting the safety of the students and
 24 district employees or the educational functions of the
 25 district."

Section 8. Section 20-9-166, MCA, is amended to read:

"20-9-166. State financial aid for budget amendments.

(1) Whenever a final budget amendment has been adopted for the general fund or the transportation fund to finance the cost of an amendment resulting from increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of 20-9-163, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall adopt rules for the application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with 20-9-314 and this section. When the superintendent of public instruction approves an application, he the superintendent of public instruction shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment. The superintendent of public instruction shall notify the applicant district of ~~his~~ the approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the

general fund or the transportation fund. ~~The--superintendent of--public--instruction--shall-disburse-the-state-aid-to-the eligible-district-at-the-time-the--next--regular--state--aid payment-is-made.~~

(2) For purposes of this section, "state aid" means both the state and county share of the foundation program schedule amount that may be granted to a school district from the state equalization aid account due to an unanticipated increase in enrollment."

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

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, tuition fund, retirement fund, debt service fund, building reserve fund, adult education fund, nonoperating fund, and any other funds designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a

budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, internal service fund, enterprise fund, agency fund, extracurricular fund, metal mines tax reserve fund, endowment--fund trust funds, and any other funds designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to the general fund if the fund does not have a cash or fund balance deficit."

Section 10. Section 20-9-224, MCA, is amended to read:

"20-9-224. Credit of refund -- refund of revenue not charged against spending authority. (1) Whenever a school district deposits with the county treasurer a refund or rebate of an expenditure made in the current school fiscal year, the county treasurer shall credit the budgeted fund to which it is deposited and restore the school district's spending authority in that fund in the amount of the refund or rebate.

(2) A refund of revenue previously received by a school district ~~shall~~ may not be charged against a school district's spending authority."

Section 11. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB). (1) Average number belonging must be computed by determining the total of the aggregate days of attendance by regularly enrolled, full-time pupils during the second semester of the preceding school fiscal year and the first semester of the current school fiscal year plus the aggregate days of absence by regularly enrolled, full-time pupils during the second semester of the preceding school fiscal year and the first semester of the current school fiscal year and by dividing the total by 180. However, when a school district has approval to operate less than 180 school days under 20-9-804, the total must be calculated in

1 accordance with the provisions of 20-9-805. For the purpose
 2 of calculating ANB under this section, the days of
 3 attendance for a regularly enrolled pupil may not exceed 180
 4 pupil-instruction days and 7 pupil-instruction-related days.
 5 Attendance for a part of a morning session or a part of an
 6 afternoon session by a pupil must be counted as attendance
 7 for one-half day. In calculating the ANB for pupils enrolled
 8 in a program established under 20-7-117(1), attendance at or
 9 absence from a regular session of the program for at least 2
 10 hours of either a morning or an afternoon session will be
 11 counted as one-half day attended or absent as the case may
 12 be. If a variance has been granted as provided in 20-1-302,
 13 ANB will be computed in a manner prescribed by the
 14 superintendent of public instruction, but in no case may the
 15 ANB may not exceed one-half for each kindergarten pupil.
 16 When any a pupil has been absent, with or without excuse,
 17 for more than 10 consecutive school days, including
 18 pupil-instruction-related days, his an absence after the
 19 10th day of absence may not be included in the aggregate
 20 days of absence and his the pupil's enrollment in the school
 21 may not be considered in the calculation of the average
 22 number belonging until he the pupil resumes attendance at
 23 school.

24 (2) If a student spends less than half his of the
 25 student's time in the regular program and the balance of his

1 the student's time in school in the special education
 2 program, he the student is considered a full-time special
 3 pupil but is not considered regularly enrolled for ANB
 4 purposes. If a student spends half or more of his the
 5 student's time in school in the regular program and the
 6 balance of his the student's time in the special education
 7 program, he the student is considered regularly enrolled for
 8 ANB purposes.

9 (3) The average number belonging of the regularly
 10 enrolled, full-time pupils for the public schools of a
 11 district must be based on the aggregate of all the regularly
 12 enrolled, full-time pupils attending the schools of the
 13 district, except that when:

14 (a) (i) a school of the district is located more than 3
 15 miles beyond the incorporated limits of a city or town
 16 located in the district and 3 miles from any other school of
 17 the district, all of the regularly enrolled, full-time
 18 pupils of the school must be calculated separately for ANB
 19 purposes; or

20 (ii) a school of the district is located more than 3
 21 miles from any other school of the district and no
 22 incorporated territory is not involved in the district, all
 23 of the regularly enrolled, full-time pupils of the school
 24 must be calculated separately for ANB purposes;

25 (b) a junior high school has been approved and

1 accredited as a junior high school, all of the regularly
2 enrolled, full-time pupils of the junior high school must be
3 considered as high school district pupils for ANB purposes;

4 (c) a middle school has been approved and accredited,
5 all pupils below the 7th grade must be considered elementary
6 school pupils for ANB purposes and the 7th and 8th grade
7 pupils must be considered high school pupils for ANB
8 purposes; or

9 (d) a school has not been accredited by the board of
10 public education, the regularly enrolled, full-time pupils
11 attending the nonaccredited school are not eligible for
12 average number belonging calculation purposes, nor will an
13 average number belonging for the nonaccredited school be
14 used in determining the foundation program for the district.

15 (4) When 11th or 12th grade students are regularly
16 enrolled on a part-time basis, high schools may calculate
17 the ANB to include an "equivalent ANB" for those students.
18 The method for calculating an equivalent ANB must be
19 determined in a manner prescribed by the superintendent of
20 public instruction.

21 (5) The ANB of an attendance center that is a component
22 of a school for the purposes of accreditation must be
23 aggregated with the ANB of the school regardless of the
24 distance between the ~~SEH006~~ attendance center and the
25 school."

1 **Section 12.** Section 20-9-322, MCA, is amended to read:

2 "20-9-322. Elementary instructional aide funding
3 qualification. (1) An elementary school that anticipates ~~has~~
4 ANTICIPATES an ANB of at least 14 but less than 18 pupils
5 for the ensuing school fiscal year may determine the
6 foundation program amount under the provisions of
7 20-9-316(3) or 20-9-318(3) if eligibility is approved in
8 accordance with the following provisions:

9 (a) ~~No-later-than-May-10-of-each-year,-the~~ The NO LATER
10 THAN MAY 10 OF EACH YEAR, THE school district shall submit
11 its application for approval for instructional aide funding
12 to the superintendent of public instruction. The application
13 must include:

14 (i) ~~the-ANB-for-the-preceding-ANB-calculation-period;~~
15 ~~{ii}~~ the current ENSUING YEAR'S CERTIFIED ANB and the
16 number of grade levels being-taught-on-May-1-of-the--current
17 year;

18 ~~{iii}{ii}~~-an-estimate-of-the-ANB-and-the-number-of-grade
19 levels anticipated for the ensuing ANB calculation period;

20 ~~{iv}-the--factual--information--on-which-the-estimate-is~~
21 ~~based;~~ and

22 ~~{v}{iii}~~(II) any other information or data that may be
23 required by the superintendent of public instruction.

24 (b) AN ELEMENTARY SCHOOL DISTRICT THAT HAS AN
25 ENROLLMENT INCREASE IN THE CURRENT YEAR THAT RESULTS IN AN

1 ADJUSTED ANB OF AT LEAST 14 BUT LESS THAN 18 PUPILS AND IS
 2 APPROVED UNDER THE PROVISIONS OF 20-9-166 MAY SUBMIT THE
 3 APPLICATION PROVIDED FOR UNDER SUBSECTION (1)(A) DURING THE
 4 CURRENT SCHOOL YEAR.

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

14 (2) Whenever a school district applies for and is
 15 approved for instructional aide funding under the provisions
 16 of subsection (1), the district shall hire an instructional
 17 aide.

18 (3) If the application is approved during the school
 19 fiscal year in which the aide is first hired, the increased
 20 amount of funding must be prorated on the portion of the
 21 school fiscal year during which the aide was employed.

22 (4) For the purposes of this section, the term
 23 "instructional aide" means:

24 (a) a person who is under the direct supervision of a
 25 teacher; or

1 (b) a certified teacher."

2 **Section 13.** Section 20-9-331, MCA, is amended to read:

3 "20-9-331. Basic county tax and other revenues for
 4 county equalization of the elementary district foundation
 5 program. (1) The county commissioners of each county shall
 6 levy an annual basic tax of 33 mills on the dollar of the
 7 taxable value of all taxable property within the county,
 8 except for property subject to a tax or fee under 23-2-517,
 9 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 10 the purposes of local and state foundation program support.
 11 The revenue collected from this levy must be apportioned to
 12 the support of the elementary foundation programs of the
 13 school districts in the county and to the state special
 14 revenue fund, state equalization aid account,--in--the
 15 following manner:

16 (a)--in--order--to--determine--the--amount--of--revenue--raised
 17 by--this--levy--which--is--retained--by--the--county,--the--sum--of--the
 18 estimated--revenue--identified--in--subsection--(2)--must--be
 19 subtracted--from--the--total--of--the--foundation--programs--of--all
 20 elementary--districts--of--the--county;

21 (b). If the basic levy and other revenue prescribed by
 22 this section produce more revenue than is required to repay
 23 a state advance for county equalization, the county
 24 treasurer shall remit the surplus funds to the state
 25 treasurer for deposit to the state special revenue fund,

1 state equalization aid account, immediately upon occurrence
2 of a surplus balance and each subsequent month thereafter,
3 with any final remittance due no later than June 20 of the
4 fiscal year for which the levy has been set.

5 (2) The revenue realized from the county's portion of
6 the levy prescribed by this section and the revenue from the
7 following sources must be used for as the first source of
8 revenue for equalization of the elementary foundation
9 program of the county ~~as--prescribed--in--20-9-335~~, and a
10 separate accounting must be kept of the revenue by the
11 county treasurer in accordance with 20-9-212(1):

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

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

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

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

1 referred to in this section;

2 (e) any federal or state money distributed to the
3 county as payment in lieu of property taxation, including
4 federal forest reserve funds allocated under the provisions
5 of 17-3-213;

6 (f) gross proceeds taxes from coal under 15-23-703;

7 (g) net proceeds taxes for new production, as defined
8 in 15-23-601, and local government severance taxes on any
9 other production occurring after December 31, 1988; and

10 (h) ~~anticipated~~ revenue from property taxes and fees
11 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
12 61-3-537, and 67-3-204."

13 **Section 14.** Section 20-9-333, MCA, is amended to read:

14 **"20-9-333. Basic special levy and other revenues for**
15 **county equalization of high school district foundation**
16 **program.** (1) The county commissioners of each county shall
17 levy an annual basic special tax for high schools of 22
18 mills on the dollar of the taxable value of all taxable
19 property within the county, except for property subject to a
20 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
21 61-3-537, and 67-3-204, for the purposes of local and state
22 foundation program support. The revenue collected from this
23 levy must be apportioned to the support of the foundation
24 programs of high school districts in the county and to the
25 state special revenue fund, state equalization aid account,

1 in-the-following-manner:

2 {a}--In--order-to-determine-the-amount-of-revenue-raised
3 by-this-levy-which-is-retained-by-the-county,--the-sum-of-the
4 estimated-revenue--identified--in--subsection--(2)--must--be
5 subtracted--from-the-sum-of-the-county's-high-school-tuition
6 obligation-and-the-total-of-the-foundation-programs--of--all
7 high-school-districts-of-the-county:

8 {b} If the basic levy and other revenue prescribed by
9 this section produce more revenue than is required to repay
10 a state advance for county equalization, the county
11 treasurer shall remit the surplus funds to the state
12 treasurer for deposit to the state special revenue fund,
13 state equalization aid account, immediately upon occurrence
14 of a surplus balance and each subsequent month thereafter,
15 with any final remittance due no later than June 20 of the
16 fiscal year for which the levy has been set.

17 (2) The revenue realized from the county's portion of
18 the levy prescribed in this section and the revenue from the
19 following sources must be used for as the first source of
20 revenue for the equalization of the high school foundation
21 program of the county as--prescribed--in--20-9-335, and a
22 separate accounting must be kept of the revenue by the
23 county treasurer in accordance with 20-9-212(1):

24 (a) any money remaining at the end of the immediately
25 preceding school fiscal year in the county treasurer's

1 accounts for the various sources of revenue established in
2 this section;

3 (b) any federal or state money distributed to the
4 county as payment in lieu of property taxation, including
5 federal forest reserve funds allocated under the provisions
6 of 17-3-213;

7 (c) gross proceeds taxes from coal under 15-23-703;

8 (d) net proceeds taxes for new production, as defined
9 in 15-23-601, and local government severance taxes on any
10 other production occurring after December 31, 1988; and

11 (e) anticipated revenue from property taxes and fees
12 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
13 61-3-537, and 67-3-204."

14 **Section 15.** Section 20-9-334, MCA, is amended to read:

15 "20-9-334. Apportionment--of-county-equalization-moneys
16 ---high-school-out-of-county Out-of-county COUNTY tuition
17 obligations. {1}--The-county-superintendent-shall-calculate
18 the-apportionment-of-revenues-deposited-in-the-basic--county
19 tax--account-and-the-revenues-deposited-in-the-basic-special
20 tax-for-high-schools-account-to-the-several-districts-of-the
21 county.--The-apportionments--shall--be--known--as--"county
22 equalization-moneys":

23 {2}{1} The county superintendent shall direct the
24 county treasurer to deduct from the revenues available in
25 the basic special tax for high schools account, prior to

remittance of the funds to the state treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the county's obligation for high school out-of-county tuition ~~and elementary tuition for which the county is responsible.~~

(2) PRIOR TO REMITTANCE OF FUNDS TO THE STATE TREASURER UNDER THE PROVISIONS OF 15-1-504 AND 20-9-212, THE COUNTY SUPERINTENDENT SHALL DIRECT THE COUNTY TREASURER TO DEDUCT FROM THE REVENUE AVAILABLE IN THE BASIC SPECIAL COUNTY TAX FOR ELEMENTARY SCHOOLS ACCOUNT THE AMOUNT REQUIRED FOR THE MONTH TO PAY THE COUNTY'S OBLIGATION FOR ELEMENTARY OUT-OF-STATE TUITION."

Section 16. Section 20-9-508, MCA, is amended to read:

"20-9-508. Building fund. (1) The trustees of any district shall establish or credit the building fund whenever such the district:

(a) issues and sells bonds under the school district bonding provisions of this title for purposes other than refunding bonds of the district, except the issuance and sale of a bond to fund a judgment against the district as provided for in 20-9-403;

(b) receives federal money for the express purpose of building, enlarging, equipping, or remodeling, or repairing a school building or other building of the district;

(c) sells property of the district in accordance with

the law authorizing such the sale;

(d) receives money as an insurance settlement for the destruction of any property or portion of property insured by the district if the insurance settlement proceeds will be used to build, enlarge, equip, remodel, or repair buildings of the district;

(e) earns interest from the investment of building fund moneys under the provisions of 20-9-213(4), except interest earned from the investment of bond moneys proceeds under the provisions of 20-9-435 ~~shall~~ must be credited to a fund in accordance with such that section; or

(f) receives any other moneys money for the express purpose of building, enlarging, equipping, or remodeling, or repairing a school building or other building of the district.

(2) The financial administration of the building fund ~~shall~~ must be in accordance with the financial administration provisions of this title for a nonbudgeted fund and ~~shall~~ must provide for a separate accounting of the moneys money realized by each bond issue or by each construction project financed by a federal grant of moneys money. Any other moneys money to the credit of this fund ~~shall~~ must be expended for building, ~~enlargement~~ enlarging, equipping, remodeling, or repairing of buildings of the district at the discretion of the trustees.

1 (3) ~~Moneys~~ Money credited to the building fund under
 2 the provisions of subsection (1)(a) ~~of this section shall~~
 3 must be expended for the express purpose or purposes
 4 authorized by the bond proposition approved at the election
 5 authorizing the issuance of ~~such the~~ bonds. Any money
 6 realized by the sale of bonds and remaining to the credit of
 7 the building fund after the full accomplishment of the
 8 purpose for which the bonds were sold ~~shall must~~ be
 9 transferred to the debt service fund to be used for the
 10 redemption of bonds of ~~such the~~ issue.

11 (4) ~~Moneys~~ Money credited to the building fund under
 12 the provisions of subsection (1)(b) ~~of this section shall~~
 13 must be expended for the express purpose or purposes
 14 authorized by the federal government in granting ~~such-moneys~~
 15 the money."

16 **Section 17.** Section 20-9-506, MCA, is amended to read:

17 "20-9-506. Budgeting and net levy requirement for
 18 nonoperating fund. (1) The trustees of any a district which
 19 that does not operate a school or will not operate a school
 20 during the ensuing school fiscal year shall adopt a
 21 nonoperating school district budget in accordance with the
 22 school budgeting provisions of this title. ~~Such The~~
 23 nonoperating budget ~~shall must~~ contain the nonoperating fund
 24 and, when appropriate, a debt service fund. The nonoperating
 25 budget form ~~shall must~~ be promulgated and distributed by the

1 superintendent of public instruction under the provisions of
 2 20-9-103.

3 (2) After the adoption of a final budget for the
 4 nonoperating fund, the county superintendent shall compute
 5 the net levy requirement for ~~such the~~ fund by subtracting
 6 from the amount authorized by ~~such the~~ budget the sum of:

7 (a) the end-of-the-year ~~cash fund~~ balance of the
 8 nonoperating fund or, if it is the first year of
 9 nonoperation, the ~~cash fund~~ balance determined under the
 10 transfer provisions of 20-9-505;

11 (b) the estimated state and county transportation
 12 reimbursements; and

13 (c) any other ~~moneys money~~ that may become available
 14 during the ensuing school fiscal year.

15 (3) The county superintendent shall report the net
 16 nonoperating fund levy requirement and any net debt service
 17 fund levy requirement determined under the provisions of
 18 20-9-439 to the county commissioners on the second Monday of
 19 August, and ~~such the~~ levies ~~shall must~~ be made on the
 20 district by the county commissioners in accordance with
 21 20-9-142."

22 **Section 18.** Section 20-9-604, MCA, is amended to read:

23 "20-9-604. Gifts, legacies, devises, and administration
 24 of ~~endowment--fund~~ trust funds. (1) The trustees of any a
 25 district may accept gifts, legacies, and devises, subject to

1 the conditions imposed by the deed of the donor or the will
 2 of the testator or without any conditions imposed. ~~Unless~~
 3 ~~otherwise-specified-by-the-donor,-devisor,-or-testator,-when~~
 4 ~~a-district-receives-a-gift,-legacy,-or-devise,-the~~ The
 5 trustees shall deposit such the gift, legacy, devise, or the
 6 proceeds therefrom in an-endowment a trust fund. The Unless
 7 otherwise specified by the donor, devisor, or testator, when
 8 a district receives a gift, legacy, or devise, the trustees
 9 shall administer the endowment trust fund so-as to preserve
 10 the principal from loss, and only the income from the fund
 11 shall may be appropriated for any purpose.

12 (2) Unless the conditions of the endowment trust
 13 instrument require an immediate disbursement of the money,
 14 the money deposited in the endowment trust fund shall may be
 15 invested by the trustees, notwithstanding the provisions of
 16 any other state law, in:

- 17 (a) school district bonds of the district;
- 18 (b) bonds of other school districts within the state;
- 19 (c) first mortgage bonds, debentures, notes, and other
- 20 evidences of indebtedness issued, assumed, or guaranteed by
- 21 any solvent and operating public utility corporation
- 22 existing under the laws of the United States of America or
- 23 any state thereof, which bonds, debentures, notes, and other
- 24 evidences of indebtedness are, at the time of such the
- 25 investment, within the three highest quality grades for the

1 rating of such bonds, debentures, notes, and other evidences
 2 of indebtedness by any nationally recognized investment
 3 rating agency;

4 (d) certificates of deposit of Montana banks insured by
 5 the federal deposit insurance corporation; or

6 (e) direct obligations of the United States government.

7 (3) All interest collected on the deposits or
 8 investments shall must be credited to the endowment trust
 9 fund. ~~No-portion-of-the-endowment~~ The trust fund may not be
 10 loaned to the district, ~~nor-may-any-money-of--the~~ The fund
 11 may not be invested in warrants of the district.

12 (4) Whenever any a district has been abandoned, the
 13 endowment trust fund of the abandoned district shall must be
 14 transferred and placed in the endowment trust fund in the
 15 district to which the territory is attached.

16 (5) As the custodian of the endowment trust fund, the
 17 county treasurer is liable on his the county treasurer's
 18 official bond for the endowment trust fund of any district
 19 of the county. No later than July 1 each school fiscal year,
 20 the county treasurer shall account to the trustees of each
 21 district on the condition of its endowment trust fund
 22 including the status of the investments that have been made
 23 with the money of the fund. The county treasurer shall also
 24 include the endowment trust fund in his any required reports
 25 to the board of county commissioners.

(6) The trustees of any district having an an-endowment a trust fund shall provide suitable memorials for all persons or associations of persons making gifts to the district which that become a part of the endowment trust fund."

Section 19. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such the district); plus

(b) the total of all individual transportation per diem

reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds the greater of 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, ~~whichever is larger~~, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

1 (ii) one-half is the budgeted county transportation fund
2 reimbursement and must be financed in the manner provided in
3 20-10-146.

4 (b) When the district has a sufficient amount of cash
5 fund balance for reappropriation and other sources of
6 district revenue, as determined in subsection (3), to reduce
7 the total district obligation for financing to zero, any
8 remaining amount of district revenue and cash fund balance
9 reappropriated must be used to reduce the county financing
10 obligation in subsection (2)(a)(ii) and, if the county
11 financing obligations are reduced to zero, to reduce the
12 state financial obligation in subsection (2)(a)(i).

13 (c) The county revenue requirement for a joint
14 district, after the application of any district money under
15 subsection (2)(b), must be prorated to each county
16 incorporated by the joint district in the same proportion as
17 the ANB of the joint district is distributed by pupil
18 residence in each county.

19 (3) The total of the money available for the reduction
20 of property tax on the district for the transportation fund
21 must be determined by totaling:

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

1 (b) anticipated payments from other districts for
2 providing school bus transportation services for the
3 district;

4 (c) anticipated payments from a parent or guardian for
5 providing school bus transportation services for his a
6 child;

7 (d) anticipated or reappropriated interest to be earned
8 by the investment of transportation fund cash in accordance
9 with the provisions of 20-9-213(4);

10 (e) anticipated or reappropriated revenue from property
11 taxes and fees imposed under 23-2-517, 23-2-803,
12 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

13 (f) anticipated revenue from coal gross proceeds under
14 15-23-703;

15 (g) anticipated net proceeds taxes for new production,
16 as defined in 15-23-601, and local government severance
17 taxes on any other production occurring after December 31,
18 1988;

19 (h) any other revenue anticipated by the trustees to be
20 earned during the ensuing school fiscal year that may be
21 used to finance the transportation fund; and

22 (i) any fund balance available for reappropriation as
23 determined by subtracting the amount of the end-of-the-year
24 fund balance earmarked as the transportation fund operating
25 reserve for the ensuing school fiscal year by the trustees

1 from the end-of-the-year fund balance in the transportation
2 fund. The operating reserve may not be more than 20% of the
3 final transportation fund budget for the ensuing school
4 fiscal year and is for the purpose of paying transportation
5 fund warrants issued by the district under the final
6 transportation fund budget.

7 (4) The district levy requirement for each district's
8 transportation fund must be computed by:

9 (a) subtracting the schedule amount calculated in
10 subsection (1) from the total preliminary transportation
11 budget amount; and

12 (b) subtracting the amount of money available to reduce
13 the property tax on the district, as determined in
14 subsection (3), from the amount determined in subsection
15 (4)(a).

16 (5) The transportation fund levy requirements
17 determined in subsection (4) for each district must be
18 reported to the county commissioners on the second Monday of
19 August by the county superintendent as the transportation
20 fund levy requirements for the district, and the levy must
21 be made by the county commissioners in accordance with
22 20-9-142."

23 **Section 20.** Section 20-10-146, MCA, is amended to read:

24 "20-10-146. County transportation reimbursement. (1)

25 The apportionment of the county transportation reimbursement

1 by the county superintendent for school bus transportation
2 or individual transportation that is actually rendered by a
3 district in accordance with this title, board of public
4 education transportation policy, and the transportation
5 rules of the superintendent of public instruction must be
6 the same as the state transportation reimbursement payment
7 except that:

8 (a) if any cash fund balance was used to reduce the
9 budgeted county transportation reimbursement under the
10 provisions of 20-10-144(2)(b), the annual apportionment is
11 limited to the budget amount; and

12 (b) when the county transportation reimbursement for a
13 school bus has been prorated between two or more counties
14 because the school bus is conveying pupils of more than one
15 district located in the counties, the apportionment of the
16 county transportation reimbursement must be adjusted to pay
17 the amount computed under the proration.

18 (2) The county transportation net levy requirement for
19 the financing of the county transportation fund
20 reimbursements to districts is computed by:

21 (a) totaling the net requirement for all districts of
22 the county, including reimbursements to a special education
23 cooperative or prorated reimbursements to joint districts;

24 (b) determining the sum of the money available to
25 reduce the county transportation net levy requirement by

1 adding:

2 (i) anticipated money that may be realized in the
3 county transportation fund during the ensuing school fiscal
4 year, including anticipated revenue from property taxes and
5 fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
6 61-3-521, 61-3-537, and 67-3-204;

7 (ii) net proceeds taxes and local government severance
8 taxes on other oil and gas production occurring after
9 December 31, 1988;

10 (iii) coal gross proceeds taxes under 15-23-703;

11 (iv) any fund balance available for reappropriation from
12 the end-of-the-year fund balance in the county
13 transportation fund. The county transportation fund
14 operating reserve may not be more than 35% of the final
15 county transportation fund budget for the ensuing school
16 fiscal year and must be used for the purpose of paying
17 transportation fund warrants under the county transportation
18 fund budget.

19 (v) federal forest reserve funds allocated under the
20 provisions of 17-3-213; and

21 (vi) other revenue anticipated that may be realized in
22 the county transportation fund during the ensuing school
23 fiscal year; and

24 (c) notwithstanding the provisions of subsection (3),
25 subtracting the money available as determined in subsection

1 (2)(b) to reduce the levy requirement from the county
2 transportation net levy requirement.

3 (3) The net levy requirement determined in subsection
4 (2)(c) must be reported to the county commissioners on the
5 second Monday of August by the county superintendent and a
6 levy must be set by the county commissioners in accordance
7 with 20-9-142.

8 (4) The county superintendent shall apportion the
9 county transportation reimbursement from the proceeds of the
10 county transportation fund. The county superintendent shall
11 order the county treasurer to make the apportionments in
12 accordance with 20-9-212(2) and after the receipt of the
13 semiannual state transportation reimbursement payments."

14 **Section 21.** Section 20-10-204, MCA, is amended to read:

15 **"20-10-204. Duties of trustees.** (1) The trustees of any
16 a district offering school food services may:

17 (a) enter into contracts with the superintendent of
18 public instruction for the purpose of obtaining funds,
19 supplies and equipment, food commodities, and facilities
20 necessary for the establishment, operation, and maintenance
21 of the school food services;

22 (b) sell food to the pupils and adults participating in
23 the school food services in accordance with the policies of
24 the superintendent of public instruction;

25 (c) accept any gift for use of the school food

1 services; and

2 (d) ~~allocate federal funds received in lieu of property~~
3 ~~taxation to the school food services fund in accordance with~~
4 ~~the provisions of 20-10-205; and~~

5 (e) adopt such policies for the operation of school
6 food services as that are consistent with the regulations of
7 the superintendent of public instruction and with the laws
8 of Montana.

9 (2) When the trustees of any a district offer school
10 food services, they shall establish a school food services
11 fund for the deposit of proceeds from the sale of food,
12 gifts, and other ~~moneys~~ money specified in this section and
13 for the expenditure of ~~such moneys~~ the money in support of
14 the school food services."

15 **Section 22.** Section 20-10-206, MCA, is amended to read:

16 "20-10-206. Pupils in state institutional schools
17 included. The provisions of 20-10-201 through ~~20-10-205~~
18 20-10-204 ~~shall~~ apply to pupils in state institutional
19 schools meeting the requirements established by the
20 superintendent of public instruction and the applicable
21 federal laws and regulations."

22 **Section 23.** Section 77-1-507, MCA, is amended to read:

23 "77-1-507. School district use of proceeds. The money
24 received by any a school district under this part ~~shall~~ must
25 be designated as district money for the general maintenance

1 and operation of the elementary schools of the district.
2 Such The money may be used by the district ~~as all other cash~~
3 ~~balances--are--used~~ in accordance with the provisions of
4 ~~20-9-335 Title 20.~~"

5 NEW SECTION. **Section 24.** Repealer. Sections 20-9-335
6 and 20-10-205, MCA, are repealed.

7 NEW SECTION. **Section 25.** Effective date. [This act] is
8 effective July 1, 1993.

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