

HOUSE BILL 398

Introduced by J. Johnson, et al.

1/30	Introduced
1/30	Referred to Education & Cultural Resources
1/30	Fiscal Note Requested
1/30	First Reading
2/05	Hearing
2/08	Fiscal Note Received
2/09	Fiscal Note Printed
2/16	Committee Report--Bill Passed as Amended
2/17	2nd Reading Passed as Amended
2/19	3rd Reading Passed
	Transmitted to Senate
2/22	First Reading
2/22	Referred to Education & Cultural Resources
3/10	Hearing
3/19	Tabled in Committee

1 House BILL NO. 398
 2 INTRODUCED BY John Johnson, Blayne Smith, Kados, Hager, The Rock Ridge, Billant, Tully
 3 Book
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION
 5 RATES FOR AN OUT-OF-DISTRICT STUDENT PLACEMENT; AMENDING
 6 SECTIONS 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312,
 7 AND 20-7-424, MCA; AND PROVIDING AN EFFECTIVE DATE."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 20-5-305, MCA, is amended to read:

11 "20-5-305. Elementary tuition rates -- exclusion of
 12 nonresident students. (1) Whenever a pupil of an elementary
 13 district has been granted approval to attend a school
 14 outside of the district in which he resides of residence,
 15 under the provisions of 20-5-301 or 20-5-302, the district
 16 of residence shall pay tuition to the elementary district
 17 where the pupil attends school. Except as provided in
 18 subsection subsections (2) and (3), the basis of the rate of
 19 tuition shall be is a flat rate determined by the attended
 20 district. The rate of tuition must be determined on March 15
 21 by:

22 (a) -- totaling -- the -- previous -- school -- fiscal -- year's
 23 expenditures -- from -- the -- district -- general -- fund, -- the -- debt
 24 service fund, and, if the pupil is a resident of another
 25 county, the retirement fund;

1 (b) -- dividing the amount determined in subsection (1)(a)
 2 by the October 1 enrollment of the district for the previous
 3 school fiscal year, as reported to the office of public
 4 instruction for purposes of accreditation pursuant to
 5 20-7-102 and 20-9-344; and

6 (c) -- subtracting -- from -- the -- amount -- determined -- in
 7 subsection (1)(b) -- the -- per ANB -- amount -- allowed -- by -- the
 8 foundation program schedules and the per ANB amount that is
 9 the ANB value per mill calculated pursuant to 20-9-366,
 10 multiplied by the number of permissive and retirement mills
 11 levied the superintendent of public instruction by March 15
 12 of each year using statewide district expenditure data to
 13 determine an average district contribution as a basis for
 14 establishing the annual tuition rate.

15 (2) The tuition for a full-time elementary special
 16 education pupil children with disabilities must be
 17 determined under rules adopted by the superintendent of
 18 public instruction for the calculation of elementary tuition
 19 for full-time elementary special education pupils as
 20 designated in 20-9-311 for funding purposes.

21 (3) The tuition rate for out-of-district placement
 22 pursuant to 20-5-301(3)(e) and (3)(f) for a student without
 23 disabilities who requires a program with costs that exceed
 24 the average district costs may be determined as the actual
 25 individual costs of providing that program according to the

1 following:

2 (a) the district of attendance and the district,
3 person, or entity responsible for the tuition payments shall
4 negotiate an agreement with the district of attendance for
5 the tuition cost; and

6 (b) the average district per-ANB foundation payment
7 amount received in the year for which the tuition charges
8 are calculated must be subtracted from the per student
9 program costs for a Montana resident student.

10 (4) If a district is to receive tuition payments for an
11 out-of-district student who is not a Montana resident, the
12 district of attendance may not count that student for ANB
13 purposes."

14 **Section 2.** Section 20-5-306, MCA, is amended to read:

15 **"20-5-306. End-of-term tuition report and notification**
16 **of resident elementary district -- report -- reimbursement.**

17 (1) At the close of the school term of each school fiscal
18 year and before July 15, the trustees of each elementary
19 district shall report to the county superintendent:

20 (a) the names of, addresses, and resident districts for
21 the pupils attending the schools of the district under an
22 approved tuition agreement with-the-district-of-residence-of
23 each-pupil;

24 (b) the number of days of school attended-by enrollment
25 for each pupil;

1 (c) the amount-if-any-of-each-pupil's-tuition-payment
2 that-the-trustees--in--their--discretion--may--waive--(any
3 waiver--of--tuition--shall-be-applied-equally-to-all-pupils)
4 annual tuition rate for each child's tuition; and

5 (d) the rate of the current school fiscal year tuition,
6 as determined under the provisions of 20-5-305; and

7 (e) the names, addresses, districts of attendance, and
8 amount of tuition paid by the district for resident students
9 attending public schools out-of-state.

10 (2) When the county superintendent receives a tuition
11 report from a district, he the superintendent shall
12 immediately send the reported information to the county
13 superintendent of each county in which the reported pupils
14 reside. In turn, every county superintendent shall notify
15 each elementary district ~~of-his~~ in the county of the tuition
16 amounts owed to other elementary districts ~~of~~ in the county
17 or outside of the county. ~~Such~~ The amounts ~~shall~~ must be
18 established from the tuition rate and other information
19 reported by the district in which the pupil attended school.
20 No tuition ~~shall-be~~ is due when a pupil attends less than 40
21 days of school in ~~such~~ the district.

22 (3) Before July 30, the county superintendent shall
23 report the information in subsection (1) to the
24 superintendent of public instruction.

25 (4) The superintendent of public instruction shall

1 calculate out-of-state ANB reimbursement for districts
2 paying out-of-state tuition for district students."

3 **Section 3.** Section 20-5-307, MCA, is amended to read:

4 "20-5-307. Budgeting, levy requirement, and paying
5 elementary tuition. (1) The tuition amount that has been
6 established in 20-5-305 must be paid during the ensuing
7 school fiscal year. The trustees of the elementary district
8 shall include the amount in the tuition fund of the
9 preliminary budget. If the trustees should fail to include
10 the amount or any portion of it in the preliminary budget,
11 they shall adjust the budgeted amount in adopting the final
12 budget to provide for the total tuition amount that is due
13 during the ensuing school fiscal year. The adjustment is not
14 subject to the budget adjustment provisions of 20-9-132.

15 (2) The county superintendent shall report the net
16 tuition fund levy requirement for each elementary district
17 to the county commissioners on the second Monday of August,
18 and a levy on the district must be made by the county
19 commissioners in accordance with 20-9-142. The levy
20 requirement must be calculated by subtracting from the total
21 expenditure amount authorized in the final tuition fund
22 budget the sum of the fund balance in the tuition fund at
23 the end of the immediately preceding school fiscal year plus
24 any other anticipated money that may be realized in the
25 tuition fund.

1 (3) The trustees shall pay by warrants drawn on the
2 tuition fund the tuition amounts owed to each district
3 included in the county superintendent's notification
4 provided under the provisions of 20-5-306. At least one-half
5 of the payments must be made in December, and the remaining
6 payments must be made by June 15 of the fiscal year.

7 (4) Any unanticipated tuition receipts received under
8 the provisions of chapter 7, part 4, or this part for the
9 current school fiscal year that exceed the tuition receipts
10 of the prior year must may be deposited in a separate
11 account of the district miscellaneous programs fund and may
12 must be used for that year in-the-manner-provided-for-in
13 that-fund to support costs for the program for which the
14 tuition was received. For-the-ensuing-school-fiscal-year,
15 the-receipts-must-be-credited-to-the-district--general--fund
16 budget."

17 **Section 4.** Section 20-5-311, MCA, is amended to read:

18 "20-5-311. High school tuition. (1) A child may be
19 enrolled in and attend a high school outside of the high
20 school district in--which-he-resides of residence when the
21 high school is located in Montana or in a county of another
22 state that is adjacent to the state of Montana. When a
23 parent or guardian of a child wishes to have his a child
24 attend a school under the provisions of this section, he the
25 parent or guardian shall apply to the county superintendent

1 of the county of his residence before July 1 of the school
 2 fiscal year for which he ~~seeks~~ approval is sought, except in
 3 those cases when substantial changes in circumstances
 4 ~~occurred-subsequently--to~~ justify later application. The
 5 application must be made on a tuition agreement form
 6 supplied by the county superintendent. The trustees of the
 7 district of residence, the trustees of the district in which
 8 the child wishes to attend school, and the county
 9 superintendent are the approval agents for tuition to
 10 another high school within the county. The county
 11 superintendent of the county of residence and the trustees
 12 of the district in which the child wishes to attend school
 13 are the approval agents for attendance outside the county.

14 (2) (a) The approval agents shall approve a tuition
 15 application when a child lives closer to a high school of
 16 another district than any high school located within his the
 17 resident district or when, due to road or geographic
 18 conditions, it is impractical to attend the high school
 19 nearest his the child's residence. However, the approval
 20 agents are not required to approve a tuition application for
 21 a student seeking to attend a high school outside the state
 22 of Montana or the resident district if the resident district
 23 provides transportation. This exception does not apply when
 24 the child resides in a county different from the county in
 25 which the school he the child wishes to attend is located.

1 (b) The approval agents shall approve a tuition
 2 application when a child, as a result of a court order or
 3 placement by a state agency or parent in a group home
 4 licensed by the state, is required to attend high school
 5 outside the district of residence:

6 (i) but within the state of Montana or another state
 7 that maintains a reciprocal tuition agreement under
 8 20-5-314; or

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

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

19 (B) placement of a child with disabilities pursuant to
 20 Title 20, chapter 7, part 4.

21 (c) In approving a tuition agreement under this
 22 provision, unless the child is a child with disabilities,
 23 the approval agents may require the child to attend the high
 24 school closest to his the child's residence. The approval
 25 agents may approve any other tuition application that

satisfies the geographic requirements of this section.

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

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

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

Section 5. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition -- exclusion of nonresident students. (1) Except as provided in subsection subsections (2) and (3), on March--15,--the--trustees-of-each-high-school-district-shall determine-the-rate-of-tuition-for-the-current-school--fiscal year-by:

(a)--totaling--the--previous--school--fiscal--year's expenditures--from--the--district--general--fund,--the--debt service-fund,--and,--if--the--pupil--is--a--resident--of--another county,--the--retirement-fund;

(b)--dividing--the--amount--determined--in--subsection--(1)(a) above--by--the--October-1-enrollment-of-the-district-for-the previous-school-fiscal-year,--as--reported--to--the--office--of public-instruction-for-purposes-of-accreditation-pursuant-to 20-7-102-and-20-9-344,--and

(c)--subtracting--from--the--amount--determined--in subsection--(1)(b)--the--per-ANB--amount--allowed--by--the foundation-program-schedules-and-the-per-ANB-amount--that--is the--ANB--value--per--mill--calculated-pursuant-to-20-9-366, multiplied-by-the-number-of-permissive-and-retirement--mills levied the basis of the rate of tuition is a flat rate determined by the superintendent of public instruction by March 15 of each year using statewide district expenditure data to determine an average district contribution as a basis for establishing the annual tuition rate.

(2) The tuition for a--full-time-high-school-special education--pupil children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time-high-school special education pupils as-designated in-20-9-311-for-funding-purposes.

1 (3) The tuition rate for out-of-district placement
 2 pursuant to 20-5-301(3)(e) and (3)(f) for a student without
 3 disabilities who requires a program with costs that exceed
 4 the average district costs may be determined as the actual
 5 individual costs of providing that program according to the
 6 following:

7 (a) the district of attendance and the district,
 8 person, or entity responsible for the tuition payments shall
 9 negotiate an agreement with the district of attendance for
 10 the tuition cost; and

11 (b) the average district per-ANB foundation payment
 12 amount received in the year for which the tuition charges
 13 are calculated must be subtracted from the per student
 14 program costs for a Montana resident student.

15 (4) If a district is to receive tuition payments for an
 16 out-of-district student who is not a Montana resident, the
 17 district of attendance may not count that student for ANB
 18 purposes.

19 ~~(3)~~ (5) Before July 15, the trustees shall report to the
 20 county superintendent of the county in which the district is
 21 located:

22 (a) the names, addresses, and resident districts of the
 23 pupils attending the schools of the district under an
 24 approved tuition agreement;

25 (b) the number of days of school attended by each

1 pupil;

2 ~~(c) the amount, if any, of each pupil's tuition payment~~
 3 ~~that--the--trustees, in their discretion, have the authority~~
 4 ~~to waive annual tuition rate for each child's tuition; and~~

5 (d) the rate of current school fiscal year tuition, as
 6 determined under the provisions of this section; and

7 (e) the names, addresses, districts of attendance, and
 8 amount of tuition paid by the district for resident students
 9 attending public schools out-of-state.

10 (6) Before July 30, the county superintendent shall
 11 report the information in subsection (5) to the
 12 superintendent of public instruction.

13 (7) The superintendent of public instruction shall
 14 calculate out-of-state ANB reimbursement for districts
 15 paying out-of-state tuition payments for district students.

16 ~~(4)~~ (8) When the county superintendent receives a
 17 tuition report from a district, he the superintendent shall
 18 immediately send the reported information to the
 19 superintendent of each district in which the reported pupils
 20 reside.

21 ~~(5)~~ (9) When the district superintendent receives a
 22 tuition report or reports for high school pupils residing in
 23 his the district and attending an out-of-district high
 24 school under approved tuition agreements, he the
 25 superintendent shall determine the total amount of tuition

1 due the out-of-district high schools on the basis of the
2 following per-pupil schedule: the rate of tuition, number of
3 pupils attending under an approved tuition agreement, and
4 other information provided by each high school district
5 where resident district pupils have attended school.

6 ~~†6†~~(10) The total amount of the high school tuition,
7 with consideration of any tuition waivers, for pupils
8 attending a high school outside the county of residence must
9 be financed by the county basic special tax for high schools
10 as provided in 20-9-334. In December, the county
11 superintendent shall ~~cause-the-payment~~ pay by county warrant
12 of at least one-half of the high school tuition obligations
13 established under this section out of the first money
14 realized from the county basic special tax for high schools.
15 The remaining obligations must be paid by June 15 of the
16 school fiscal year. The payments must be made to the county
17 treasurer of the county where each high school entitled to
18 tuition is located. Except as provided in subsection ~~†8†~~
19 ~~(12)~~, the county treasurer shall credit tuition receipts to
20 the general fund of the applicable high school district, and
21 the tuition receipts must be used in accordance with the
22 provisions of 20-9-141.

23 ~~†7†~~(11) For pupils attending a high school outside their
24 district of residence but within the county of residence,
25 the total amount of the tuition, with consideration of any

1 tuition waivers, must be paid during the ensuing school
2 fiscal year. The trustees of the sending high school
3 district shall include the tuition amount in the tuition
4 fund of the preliminary and final budgets. This budgeted
5 tuition amount is not subject to the budget adjustment
6 provisions of 20-9-132. The county superintendent shall
7 report the net tuition fund levy requirement for each high
8 school district to the county commissioners on the second
9 Monday of August, and a levy on the district must be made by
10 the county commissioners in accordance with 20-9-142. The
11 levy requirement must be calculated by subtracting from the
12 total expenditure amount authorized in the final tuition
13 fund budget the sum of the fund balance in the tuition fund
14 at the end of the immediately preceding school fiscal year
15 plus any other anticipated money that may be realized in the
16 tuition fund. The trustees shall pay by warrants drawn on
17 the tuition fund the tuition amounts owed to each district
18 included in the county superintendent's notification.
19 Payments must be made whenever there is a sufficient amount
20 of cash available in the tuition fund but no later than the
21 end of the school fiscal year for which the budget is
22 adopted. However, if the trustees of either the sending or
23 receiving high school district feel the transfer privilege
24 provided by this subsection is being abused, they may appeal
25 to the county superintendent of schools, who shall hold a

1 hearing and either approve or disapprove the transfer.

2 ~~{8}(12)~~ Any unanticipated tuition receipts received
3 under the provisions of chapter 7, part 4, or this part for
4 the current school fiscal year that exceed the tuition
5 receipts of the prior year must ~~may~~ be deposited in a
6 separate account of the district miscellaneous programs fund
7 and ~~may~~ must be used for that year ~~in-the-manner-provided~~
8 ~~for-in-that-fund to support costs for the program for which~~
9 ~~the tuition was received. For--the-ensuing-school-fiscal~~
10 ~~year, the-receipts-must-be-credited-to-the-district--general~~
11 ~~fund-budget."~~

12 **Section 6.** Section 20-7-424, MCA, is amended to read:

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

1 payments ~~shall~~ must be made for students enrolled in such
2 the classes or receiving training, including summer
3 sessions, at the state institution. The schedule of
4 transportation payments ~~shall~~ must be approved in accordance
5 with existing special education transportation payment
6 schedules and ~~shall~~ must be approved by the county
7 transportation committee and the superintendent of public
8 instruction."

9 **NEW SECTION. Section 7.** Instruction to code
10 commissioner. Section 20-7-437 is intended to be renumbered
11 and codified as an integral part of Title 20, chapter 5.

12 **NEW SECTION. Section 8.** Effective date. [This act] is
13 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 HB0398, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the tuition rates for an out-of-district student placement.

ASSUMPTIONS:

1. Foundation program schedules will be remain at the fiscal 1993 levels in the next biennium.
2. Each year approximately 10 elementary students from Montana border counties will attend public schools out of state for which the home district will receive an out-of-state ANB reimbursement.
3. The average out-of-state ANB reimbursement will be \$1000.
4. Tuition payments for Montana border county high school students who attend public school across the state borders, will continue to be paid from county equalization funds therefore these districts will not receive an out-of-state ANB reimbursement.
5. A flat tuition rate based on expenditure data will neither increase nor decrease the costs of tuition, but will reduce the complexity of the tuition calculations currently in statute.
6. Negotiating the tuition costs for court and family services placements of regular education students who require expensive educational programs will not increase state costs for tuition.
7. We lack information to estimate the effect of eliminating foundation payments for non state resident students of a district for whom the district receives tuition payment.
8. Section 3 allowing deposit of tuition revenues that exceed those of the prior year in the miscellaneous programs fund rather than the general fund will not have a fiscal impact as current practice is to do this.

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Foundation Schedules	362,375,200	362,385,200	10,000	369,994,800	370,004,800	10,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Elementary school districts would receive additional revenue for out-of-state regular education students in border counties and foundation program funding to supplement current tuition payments that are entirely locally funded.

TECHNICAL NOTES:

Section 20-5-312 (3) is a high school section but makes a reference to an elementary statute. The reference 20-5-301(3)(e) and (3)(f) should be replaced by 20-5-311(2)(b).

David Lewis 2-8-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

John Johnson 2/9/93
 JOHN JOHNSON, PRIMARY SPONSOR DATE
 Fiscal Note for HB0398, as introduced

HB 398

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 398

INTRODUCED BY J. JOHNSON, BLAYLOCK, SWANSON,

KADAS, HARPER, MCCAFFREE, PECK, SCHYE,

GILBERT, TUNBY, ZOOK, BRUSKI-MAUS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION RATES FOR AN OUT-OF-DISTRICT STUDENT PLACEMENT; AMENDING SECTIONS 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, AND 20-7-424, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-305, MCA, is amended to read:

"20-5-305. Elementary tuition rates -- exclusion of nonresident students. (1) Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides of residence, under the provisions of 20-5-301 or 20-5-302, the district of residence shall pay tuition to the elementary district where the pupil attends school. Except as provided in subsection subsections (2) and (3), the basis of the rate of tuition shall be is a flat rate FOR EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES determined by the attended district. The rate of tuition must be determined on March 15 by:

(a) -- totating -- the -- previous -- school -- fiscal -- year's

expenditures -- from -- the -- district -- general -- fund, -- the -- debt service fund, and, if the pupil is a -- resident -- of -- another county, -- the -- retirement fund;

(b) -- dividing the amount determined in subsection (1)(a) by the October 1 enrollment of the district for the previous school -- fiscal -- year -- as -- reported -- to the office of public instruction -- for -- purposes -- of -- accreditation -- pursuant -- to 20-7-102 and 20-9-344; and

(c) -- subtracting -- from -- the -- amount -- determined -- in subsection -- (1)(b) -- the -- per-ANB -- amount -- allowed -- by -- the foundation program schedules and the per-ANB amount that -- is the -- ANB -- value -- per -- mill -- calculated pursuant to 20-9-366, multiplied by the number of permissive and retirement -- mills levied the superintendent of public instruction by March 15 of each year using statewide district expenditure data FOR THE GENERAL FUND, DEBT SERVICE FUND, AND RETIREMENT FUND to determine an average district contribution as a basis for establishing the annual tuition rate.

(2) The tuition for a -- full-time -- elementary special education -- pupil children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of elementary tuition for full-time -- elementary special education pupils as designated in 20-9-311 for funding purposes.

(3) The tuition rate for out-of-district placement

pursuant to 20-5-301(3)(e) and (3)(f) for a student without disabilities who requires a program with costs that exceed the average district costs may MUST be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall negotiate APPROVE an agreement with the district of attendance for the tuition cost; and

(b) the average district per-ANB foundation payment amount received in the year for which the tuition charges are calculated must be subtracted from the per student program costs for a Montana resident student.

(4) If a district is to receive tuition payments for an out-of-district student who is not a Montana resident, the district of attendance may not count that student for ANB purposes."

Section 2. Section 20-5-306, MCA, is amended to read:

"20-5-306. End-of-term tuition report and notification of resident elementary district -- report -- reimbursement.

(1) At the close of the school term of each school fiscal year and before July 15, the trustees of each elementary district shall report to the county superintendent:

(a) the names of, addresses, and resident districts for the pupils attending the schools of the district under an

approved tuition agreement with-the-district-of-residence-of each-pupil;

(b) the number of days of school attended-by enrollment for each pupil;

(c) the amount,-if-any,-of-each-pupil's-tuition-payment that--the--trustees,-in--their--discretion,-may-waive-(any waiver-of-tuition-shall-be-applied-equally--to--all--pupils)-annual tuition rate for each child's tuition; and

(d) the rate of the current school fiscal year tuition, as determined under the provisions of 20-5-305; and

(e) the names, addresses, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out-of-state.

(2) When the county superintendent receives a tuition report from a district, he the superintendent shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside. In turn, every county superintendent shall notify each elementary district of-his in the county of the tuition amounts owed to other elementary districts of in the county or outside of the county. Such The amounts shall must be established from the tuition rate and other information reported by the district in which the pupil attended school. No tuition shall-be is due when a pupil attends less than 40 days of school in such the district.

(3) Before July 30, the county superintendent shall report the information in subsection (1) to the superintendent of public instruction.

(4) The superintendent of public instruction shall calculate out-of-state ANB reimbursement for districts paying out-of-state tuition for district students."

Section 3. Section 20-5-307, MCA, is amended to read:

"20-5-307. Budgeting, levy requirement, and paying elementary tuition. (1) The tuition amount that has been established in 20-5-305 must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include the amount in the tuition fund of the preliminary budget. If the trustees should fail to include the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. The adjustment is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund

budget the sum of the fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year that exceed the tuition receipts of the prior year must may be deposited in a separate account of the district miscellaneous programs fund and may must be used for that year in-the--manner--provided--for--in that--fund to support costs for the program for which the tuition was received. For-the-ensuing--school--fiscal--year, the--receipts--must-be-credited-to-the-district-general-fund budget."

Section 4. Section 20-5-311, MCA, is amended to read:

"20-5-311. High school tuition. (1) A child may be enrolled in and attend a high school outside of the high school district in-which-he-resides of residence when the high school is located in Montana or in a county of another

1 state that is adjacent to the state of Montana. When a
 2 parent or guardian of a child wishes to have his a child
 3 attend a school under the provisions of this section, he the
 4 parent or guardian shall apply to the county superintendent
 5 of the county of his residence before July 1 of the school
 6 fiscal year for which he-seeks approval is sought, except in
 7 those cases when substantial changes in circumstances
 8 occurred--subsequently--to justify later application. The
 9 application must be made on a tuition agreement form
 10 supplied by the county superintendent. The trustees of the
 11 district of residence, the trustees of the district in which
 12 the child wishes to attend school, and the county
 13 superintendent are the approval agents for tuition to
 14 another high school within the county. The county
 15 superintendent of the county of residence and the trustees
 16 of the district in which the child wishes to attend school
 17 are the approval agents for attendance outside the county.

18 (2) (a) The approval agents shall approve a tuition
 19 application when a child lives closer to a high school of
 20 another district than any high school located within his the
 21 resident district or when, due to road or geographic
 22 conditions, it is impractical to attend the high school
 23 nearest his the child's residence. However, the approval
 24 agents are not required to approve a tuition application for
 25 a student seeking to attend a high school outside the state

1 of Montana or the resident district if the resident district
 2 provides transportation. This exception does not apply when
 3 the child resides in a county different from the county in
 4 which the school he the child wishes to attend is located.

5 (b) The approval agents shall approve a tuition
 6 application when a child, as a result of a court order or
 7 placement by a state agency or parent in a group home
 8 licensed by the state, is required to attend high school
 9 outside the district of residence:

10 (i) but within the state of Montana or another state
 11 that maintains a reciprocal tuition agreement under
 12 20-5-314; or

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

22 (A) an order issued under Title 40, chapter 4, part 2;
 23 (B) placement of a child with disabilities pursuant to
 24 Title 20, chapter 7, part 4.

25 (c) In approving a tuition agreement under this

provision, unless the child is a child with disabilities, the approval agents may require the child to attend the high school closest to his the child's residence. The approval agents may approve any other tuition application that satisfies the geographic requirements of this section.

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

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

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

Section 5. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition -- exclusion of nonresident students. (1)

Except as provided in subsection subsections (2) and (3), on March 15, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the previous school fiscal year's expenditures from the district general fund, the debt service fund, and if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (a) above by the October 1 enrollment of the district for the previous school fiscal year, as reported to the office of public instruction for purposes of accreditation pursuant to 20-7-102 and 20-9-344; and

(c) subtracting from the amount determined in subsection (b) the per ANB amount allowed by the foundation program schedules and the per ANB amount that is the ANB value per mill calculated pursuant to 20-9-366, multiplied by the number of permissive and retirement mills levied the basis of the rate FOR EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES of tuition is a flat rate determined by the superintendent of public instruction by March 15 of each year using statewide district expenditure data FOR THE GENERAL FUND, DEBT SERVICE FUND, AND RETIREMENT FUND to determine an average district contribution as a basis for establishing the annual tuition rate.

(2) The tuition for ~~a--full-time-high-school-special~~
~~education--pupil~~ children with disabilities must be
determined under rules adopted by the superintendent of
public instruction for the calculation of tuition for
~~full-time-high-school~~ special education pupils ~~as-designated~~
~~in-20-9-311-for-funding-purposes.~~

(3) The tuition rate for out-of-district placement
pursuant to ~~20-5-301(3)(e)-and-(3)(f)~~ 20-5-311(2)(B) for a
student without disabilities who requires a program with
costs that exceed the average district costs may MUST be
determined as the actual individual costs of providing that
program according to the following:

(a) the district of attendance and the district,
person, or entity responsible for the tuition payments shall
negotiate APPROVE an agreement with the district of
attendance for the tuition cost; and

(b) the average district per-ANB foundation payment
amount received in the year for which the tuition charges
are calculated must be subtracted from the per student
program costs for a Montana resident student.

(4) If a district is to receive tuition payments for an
out-of-district student who is not a Montana resident, the
district of attendance may not count that student for ANB
purposes.

~~(3)(5)~~ Before July 15, the trustees shall report to the

county superintendent of the county in which the district is
located:

(a) the names, addresses, and resident districts of the
pupils attending the schools of the district under an
approved tuition agreement;

(b) the number of days of school attended by each
pupil;

(c) the amount, ~~if any, of each pupil's tuition payment~~
~~that--the--trustees, in their discretion, have the authority~~
~~to-waive~~ annual tuition rate for each child's tuition; and

(d) the rate of current school fiscal year tuition, as
determined under the provisions of this section; and

(e) the names, addresses, districts of attendance, and
amount of tuition paid by the district for resident students
attending public schools out-of-state.

(6) Before July 30, the county superintendent shall
report the information in subsection (5) to the
superintendent of public instruction.

(7) The superintendent of public instruction shall
calculate out-of-state ANB reimbursement for districts
paying out-of-state tuition payments for district students.

~~(4)(8)~~ When the county superintendent receives a
tuition report from a district, he the superintendent shall
immediately send the reported information to the
superintendent of each district in which the reported pupils

1 reside.

2 †5†(9) When the district superintendent receives a
3 tuition report or reports for high school pupils residing in
4 his the district and attending an out-of-district high
5 school under approved tuition agreements, he the
6 superintendent shall determine the total amount of tuition
7 due the out-of-district high schools on the basis of the
8 following per-pupil schedule: the rate of tuition, number of
9 pupils attending under an approved tuition agreement, and
10 other information provided by each high school district
11 where resident district pupils have attended school.

12 †6†(10) The total amount of the high school tuition,
13 with consideration of any tuition waivers, for pupils
14 attending a high school outside the county of residence must
15 be financed by the county basic special tax for high schools
16 as provided in 20-9-334. In December, the county
17 superintendent shall ~~cause-the-payment~~ pay by county warrant
18 ~~of at least one-half of the high school tuition obligations~~
19 ~~established under this section out of the first money~~
20 ~~realized from the county basic special tax for high schools.~~
21 The remaining obligations must be paid by June 15 of the
22 school fiscal year. The payments must be made to the county
23 treasurer of the county where each high school entitled to
24 tuition is located. Except as provided in subsection †8†
25 (12), the county treasurer shall credit tuition receipts to

1 the general fund of the applicable high school district, and
2 the tuition receipts must be used in accordance with the
3 provisions of 20-9-141.

4 †7†(11) For pupils attending a high school outside their
5 district of residence but within the county of residence,
6 the total amount of the tuition, with consideration of any
7 tuition waivers, must be paid during the ensuing school
8 fiscal year. The trustees of the sending high school
9 district shall include the tuition amount in the tuition
10 fund of the preliminary and final budgets. This budgeted
11 tuition amount is not subject to the budget adjustment
12 provisions of 20-9-132. The county superintendent shall
13 report the net tuition fund levy requirement for each high
14 school district to the county commissioners on the second
15 Monday of August, and a levy on the district must be made by
16 the county commissioners in accordance with 20-9-142. The
17 levy requirement must be calculated by subtracting from the
18 total expenditure amount authorized in the final tuition
19 fund budget the sum of the fund balance in the tuition fund
20 at the end of the immediately preceding school fiscal year
21 plus any other anticipated money that may be realized in the
22 tuition fund. The trustees shall pay by warrants drawn on
23 the tuition fund the tuition amounts owed to each district
24 included in the county superintendent's notification.
25 Payments must be made whenever there is a sufficient amount

of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

~~{8}{12}~~ Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year that exceed the tuition receipts of the prior year must ~~may~~ be deposited in a separate account of the district miscellaneous programs fund and may must be used for that year ~~in-the-manner-provided for-in-that-fund to support costs for the program for which the tuition was received. For--the-ensuing-school-fiscal year--the-receipts-must-be-credited-to-the-district--general fund-budget--~~

Section 6. Section 20-7-424, MCA, is amended to read:

"20-7-424. No tuition when attending a state institution. When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county ~~shall~~ is not be required to pay tuition to the state institution for ~~such~~ the child, but whenever at the recommendation of institution officials ~~such~~ the child attends classes conducted by a school within a

local district, the district or county, whichever is applicable, wherein where the parents or guardian of the child maintain legal residence shall pay tuition to the district ~~or--county~~ operating the school in accordance with the provisions of 20-5-305 or 20-7-421, whichever section applies to the circumstances of the child. Transportation payments ~~shall~~ must be made for students enrolled in ~~such~~ the classes or receiving training, including summer sessions, at the state institution. The schedule of transportation payments ~~shall~~ must be approved in accordance with existing special education transportation payment schedules and ~~shall~~ must be approved by the county transportation committee and the superintendent of public instruction."

NEW SECTION. **Section 7.** Instruction to code commissioner. Section 20-7-437 is intended to be renumbered and codified as an integral part of Title 20, chapter 5.

NEW SECTION. **Section 8.** Effective date. [This act] is effective July 1, 1993.

-End-

HOUSE BILL NO. 398

INTRODUCED BY J. JOHNSON, BLAYLOCK, SWANSON,

KADAS, HARPER, MCCAFFREE, PECK, SCHYE,

GILBERT, TUNBY, ZOOK, BRUSKI-MAUS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION RATES FOR AN OUT-OF-DISTRICT STUDENT PLACEMENT; AMENDING SECTIONS 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, AND 20-7-424, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-5-305, MCA, is amended to read:

"20-5-305. Elementary tuition rates ~~----exclusion-of nonresident-students.~~ (1) Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides of residence, under the provisions of 20-5-301 or 20-5-302, the district of residence shall pay tuition to the elementary district where the pupil attends school. Except as provided in subsection subsections (2) and (3), the basis of the rate of tuition shall be is a flat rate FOR EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES determined by the attended district. ~~The rate of tuition must be determined on March 15~~ by:

(a) ~~totaling the previous school fiscal year's~~

expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) ~~dividing the amount determined in subsection (1)(a) by the October 1 enrollment of the district for the previous school fiscal year, as reported to the office of public instruction for purposes of accreditation pursuant to 20-7-102 and 20-9-344; and~~

(c) ~~subtracting from the amount determined in subsection (1)(b) the per ANB amount allowed by the foundation program schedules and the per ANB amount that is the ANB value per mill calculated pursuant to 20-9-366, multiplied by the number of permissive and retirement mills levied the superintendent of public instruction by March 15 of each year using statewide district expenditure data FOR THE GENERAL FUND, DEBT SERVICE FUND, AND RETIREMENT FUND to determine an average district contribution as a basis for establishing the annual tuition rate.~~

(2) The tuition for a full-time elementary special education pupil children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of elementary tuition for full-time elementary special education pupils as designated in 20-9-311 for funding purposes.

(3) The tuition rate for out-of-district placement

1 pursuant to 20-5-301(3)(e) and (3)(f) for a student without
 2 disabilities who requires a program with costs that exceed
 3 the average district costs may MUST be determined as the
 4 actual individual costs of providing that program according
 5 to the following:

6 (a) the district of attendance and the district,
 7 person, or entity responsible for the tuition payments shall
 8 negotiate APPROVE an agreement with the district of
 9 attendance for the tuition cost; and

10 (b) the average district per-ANB foundation payment
 11 amount received in the year for which the tuition charges
 12 are calculated must be subtracted from the per student
 13 program costs for a Montana resident student.

14 ~~“(4) If a district is to receive tuition payments for an~~
 15 ~~out-of-district student who is not a Montana resident, the~~
 16 ~~district of attendance may not count that student for ANB~~
 17 ~~purposes.”~~

18 **Section 2.** Section 20-5-306, MCA, is amended to read:

19 **"20-5-306. End-of-term tuition report and notification**
 20 **of resident elementary district -- report -- reimbursement.**

21 (1) At the close of the school term of each school fiscal
 22 year and before July 15, the trustees of each elementary
 23 district shall report to the county superintendent:

24 (a) the names of, addresses, and resident districts for
 25 the pupils attending the schools of the district under an

1 approved tuition agreement with the district of residence of
 2 each pupil;

3 (b) the number of days of school attended by enrollment
 4 for each pupil;

5 (c) the amount, if any, of each pupil's tuition payment
 6 that the trustees, in their discretion, may waive (any
 7 waiver of tuition shall be applied equally to all pupils)
 8 annual tuition rate for each child's tuition; and

9 (d) the rate of the current school fiscal year tuition,
 10 as determined under the provisions of 20-5-305; and

11 (e) the names, addresses, districts of attendance, and
 12 amount of tuition paid by the district for resident students
 13 attending public schools out-of-state.

14 (2) When the county superintendent receives a tuition
 15 report from a district, he the superintendent shall
 16 immediately send the reported information to the county
 17 superintendent of each county in which the reported pupils
 18 reside. In turn, every county superintendent shall notify
 19 each elementary district of his in the county of the tuition
 20 amounts owed to other elementary districts of in the county
 21 or outside of the county. Such The amounts shall must be
 22 established from the tuition rate and other information
 23 reported by the district in which the pupil attended school.
 24 No tuition shall be is due when a pupil attends less than 40
 25 days of school in such the district.

(3) Before July 30, the county superintendent shall report the information in subsection (1) to the superintendent of public instruction.

(4) The superintendent of public instruction shall calculate out-of-state ANB reimbursement for districts paying out-of-state tuition for district students."

Section 3. Section 20-5-307, MCA, is amended to read:

"20-5-307. Budgeting, levy requirement, and paying elementary tuition. (1) The tuition amount that has been established in 20-5-305 must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include the amount in the tuition fund of the preliminary budget. If the trustees should fail to include the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. The adjustment is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund

budget the sum of the fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year that exceed the tuition receipts of the prior year must may be deposited in a separate account of the district miscellaneous programs fund and must be used for that year ~~in the manner provided for in that fund~~ to support costs for the program for which the tuition was received. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

Section 4. Section 20-5-311, MCA, is amended to read:

"20-5-311. High school tuition. (1) A child may be enrolled in and attend a high school outside of the high school district ~~in which he resides~~ of residence when the high school is located in Montana or in a county of another

1 state that is adjacent to the state of Montana. When a
 2 parent or guardian of a child wishes to have his a child
 3 attend a school under the provisions of this section, he the
 4 parent or guardian shall apply to the county superintendent
 5 of the county of his residence before July 1 of the school
 6 fiscal year for which he seeks approval is sought, except in
 7 those cases when substantial changes in circumstances
 8 occurred--subsequently--to justify later application. The
 9 application must be made on a tuition agreement form
 10 supplied by the county superintendent. The trustees of the
 11 district of residence, the trustees of the district in which
 12 the child wishes to attend school, and the county
 13 superintendent are the approval agents for tuition to
 14 another high school within the county. The county
 15 superintendent of the county of residence and the trustees
 16 of the district in which the child wishes to attend school
 17 are the approval agents for attendance outside the county.

18 (2) (a) The approval agents shall approve a tuition
 19 application when a child lives closer to a high school of
 20 another district than any high school located within his the
 21 resident district or when, due to road or geographic
 22 conditions, it is impractical to attend the high school
 23 nearest his the child's residence. However, the approval
 24 agents are not required to approve a tuition application for
 25 a student seeking to attend a high school outside the state

1 of Montana or the resident district if the resident district
 2 provides transportation. This exception does not apply when
 3 the child resides in a county different from the county in
 4 which the school he the child wishes to attend is located.

5 (b) The approval agents shall approve a tuition
 6 application when a child, as a result of a court order or
 7 placement by a state agency or parent in a group home
 8 licensed by the state, is required to attend high school
 9 outside the district of residence:

10 (i) but within the state of Montana or another state
 11 that maintains a reciprocal tuition agreement under
 12 20-5-314; or

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

- 22 (A) an order issued under Title 40, chapter 4, part 2;
- 23 (B) placement of a child with disabilities pursuant to
- 24 Title 20, chapter 7, part 4.
- 25 (c) In approving a tuition agreement under this

1 provision, unless the child is a child with disabilities,
2 the approval agents may require the child to attend the high
3 school closest to his the child's residence. The approval
4 agents may approve any other tuition application that
5 satisfies the geographic requirements of this section.

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

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

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

23 **Section 5.** Section 20-5-312, MCA, is amended to read:

24 "20-5-312. Reporting, budgeting, and payment for high
25 school tuition -----exclusion--of-nonresident-students. (1)

1 Except as provided in subsection subsections (2) and (3), on
2 March-15,--the-trustees-of-each-high--school--district--shall
3 determine--the-rate-of-tuition-for-the-current-school-fiscal
4 year-by:

5 (a)--totaling--the---previous---school---fiscal---year's
6 expenditures--from--the--district--general--fund,--the--debt
7 service--fund,--and,--if--the-pupil-is-a-resident-of-another
8 county,--the-retirement-fund;

9 (b)--dividing-the-amount-determined-in-subsection-(1)(a)
10 above-by-the-October-1-enrollment-of-the--district--for--the
11 previous--school--fiscal--year,--as-reported-to-the-office-of
12 public-instruction-for-purposes-of-accreditation-pursuant-to
13 20-7-102-and-20-9-344;--and

14 (c)--subtracting--from--the---amount---determined---in
15 subsection--(1)(b)--the--per-ANB--amount--allowed---by---the
16 foundation--program-schedules-and-the-per-ANB-amount-that-is
17 the-ANB-value-per--mill--calculated--pursuant--to--20-9-366,
18 multiplied--by-the-number-of-permissive-and-retirement-mills
19 levied the basis of the rate FOR EACH FUNDING CATEGORY IN
20 THE FOUNDATION PROGRAM SCHEDULES of tuition is a flat rate
21 determined by the superintendent of public instruction by
22 March 15 of each year using statewide district expenditure
23 data FOR THE GENERAL FUND, DEBT SERVICE FUND, AND RETIREMENT
24 FUND to determine an average district contribution as a
25 basis for establishing the annual tuition rate.

(2) The tuition for ~~a full-time high school special education--pupil~~ children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time-high-school special education pupils as designated ~~in 20-9-311 for funding purposes.~~

(3) The tuition rate for out-of-district placement pursuant to ~~20-5-301(3)(e) and (3)(f)~~ 20-5-311(2)(B) for a student without disabilities who requires a program with costs that exceed the average district costs may MUST be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall negotiate APPROVE an agreement with the district of attendance for the tuition cost; and

(b) the average district per-ANB foundation payment amount received in the year for which the tuition charges are calculated must be subtracted from the per student program costs for a Montana resident student.

~~(4)--If a district is to receive tuition payments for an out-of-district student who is not a Montana resident, the district of attendance may not count that student for ANB purposes.~~

~~(3)(5)(4)~~ Before July 15, the trustees shall report to

the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) ~~the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, have the authority to waive~~ annual tuition rate for each child's tuition; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section; and

(e) the names, addresses, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out-of-state.

~~(6)(5)~~ Before July 30, the county superintendent shall report the information in subsection ~~(5)~~ (4) to the superintendent of public instruction.

~~(7)(6)~~ The superintendent of public instruction shall calculate out-of-state ANB reimbursement for districts paying out-of-state tuition payments for district students.

~~(4)(6)(7)~~ When the county superintendent receives a tuition report from a district, he the superintendent shall immediately send the reported information to the superintendent of each district in which the reported pupils

1 reside.

2 ~~(5)~~~~(9)~~~~(8)~~ When the district superintendent receives a
3 tuition report or reports for high school pupils residing in
4 his the district and attending an out-of-district high
5 school under approved tuition agreements, he the
6 superintendent shall determine the total amount of tuition
7 due the out-of-district high schools on the basis of the
8 following per-pupil schedule: the rate of tuition, number of
9 pupils attending under an approved tuition agreement, and
10 other information provided by each high school district
11 where resident district pupils have attended school.

12 ~~(6)~~~~(10)~~~~(9)~~ The total amount of the high school tuition,
13 with consideration of any tuition waivers, for pupils
14 attending a high school outside the county of residence must
15 be financed by the county basic special tax for high schools
16 as provided in 20-9-334. In December, the county
17 superintendent shall ~~cause-the-payment~~ pay by county warrant
18 of at least one-half of the high school tuition obligations
19 established under this section out of the first money
20 realized from the county basic special tax for high schools.
21 The remaining obligations must be paid by June 15 of the
22 school fiscal year. The payments must be made to the county
23 treasurer of the county where each high school entitled to
24 tuition is located. Except as provided in subsection ~~(8)~~
25 ~~(12)~~ (11), the county treasurer shall credit tuition

1 receipts to the general fund of the applicable high school
2 district, and the tuition receipts must be used in
3 accordance with the provisions of 20-9-141.

4 ~~(7)~~~~(11)~~~~(10)~~ For pupils attending a high school outside
5 their district of residence but within the county of
6 residence, the total amount of the tuition, with
7 consideration of any tuition waivers, must be paid during
8 the ensuing school fiscal year. The trustees of the sending
9 high school district shall include the tuition amount in the
10 tuition fund of the preliminary and final budgets. This
11 budgeted tuition amount is not subject to the budget
12 adjustment provisions of 20-9-132. The county superintendent
13 shall report the net tuition fund levy requirement for each
14 high school district to the county commissioners on the
15 second Monday of August, and a levy on the district must be
16 made by the county commissioners in accordance with
17 20-9-142. The levy requirement must be calculated by
18 subtracting from the total expenditure amount authorized in
19 the final tuition fund budget the sum of the fund balance in
20 the tuition fund at the end of the immediately preceding
21 school fiscal year plus any other anticipated money that may
22 be realized in the tuition fund. The trustees shall pay by
23 warrants drawn on the tuition fund the tuition amounts owed
24 to each district included in the county superintendent's
25 notification. Payments must be made whenever there is a

sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

~~(8)(12)(11)~~ Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year that exceed the tuition receipts of the prior year must may be deposited in a separate account of the district miscellaneous programs fund and may must be used for that year ~~in-the-manner-provided for-in-that-fund to support costs for the program for which the tuition was received. For--the-ensuing-school-fiscal year--the-receipts-must-be-credited-to-the-district--general fund-budget--~~

Section 6. Section 20-7-424, MCA, is amended to read:

"20-7-424. No tuition when attending a state institution. When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county ~~shall is~~ not be required to pay tuition to the state institution for such the child, but whenever at the recommendation of institution officials such

the child attends classes conducted by a school within a local district, the district or county, whichever is applicable, wherein where the parents or guardian of the child maintain legal residence shall pay tuition to the district or--county operating the school in accordance with the provisions of 20-5-305 or 20-7-421, whichever section applies to the circumstances of the child. Transportation payments ~~shall must~~ be made for students enrolled in such the classes or receiving training, including summer sessions, at the state institution. The schedule of transportation payments ~~shall must~~ be approved in accordance with existing special education transportation payment schedules and ~~shall must~~ be approved by the county transportation committee and the superintendent of public instruction."

NEW SECTION. Section 7. Instruction to code commissioner. Section 20-7-437 is intended to be renumbered and codified as an integral part of Title 20, chapter 5.

NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 1993.

-End-