

HOUSE BILL NO. 469

INTRODUCED BY COCCHIARELLA, BOHARSKI,
J. JOHNSON, SPRING

IN THE HOUSE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
	FIRST READING.
FEBRUARY 16, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 17, 1993	PRINTING REPORT.
FEBRUARY 18, 1993	SECOND READING, DO PASS.
FEBRUARY 19, 1993	ENGROSSING REPORT.
FEBRUARY 20, 1993	THIRD READING, PASSED. AYES, 49; NOES, 48.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
	FIRST READING.

IN THE HOUSE

MARCH 18, 1993	ON MOTION, ADDITIONAL SPONSORS ADDED.
MARCH 22, 1993	ON MOTION, ADDITIONAL SPONSORS ADDED.
MARCH 23, 1993	ON MOTION, ADDITIONAL SPONSORS ADDED.

IN THE SENATE

MARCH 23, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 25, 1993	SECOND READING, CONCURRED IN.
MARCH 26, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 1.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 2, 1993

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 5, 1993

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 16, 1993

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 17, 1993

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 19, 1993

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 469
2 INTRODUCED BY Carrillo
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A CHILD TO
5 ATTEND A SCHOOL DISTRICT OUTSIDE THE CHILD'S DISTRICT OF
6 RESIDENCE, SUBJECT TO DISCRETIONARY APPROVAL BY THE TRUSTEES
7 OF THE DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE
8 APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN
9 CERTAIN CIRCUMSTANCES; REQUIRING THAT THE COUNTY OF
10 RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS
11 ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; AMENDING
12 SECTIONS 20-3-205, 20-3-210, 20-5-314, 20-6-702, 20-7-420,
13 20-7-421, 20-7-422, 20-7-424, 20-9-141, 20-9-507, 20-10-105,
14 AND 20-10-144, MCA; REPEALING SECTIONS 20-5-301, 20-5-302,
15 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311,
16 20-5-312, 20-5-313, AND 20-7-437, MCA; AND PROVIDING AN
17 EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

20 A statement of intent is required for this bill because
21 [section 4] of the bill gives the superintendent of public
22 instruction authority to adopt administrative rules
23 regarding tuition rates for children attending a school
24 outside the child's district of residence under the
25 mandatory attendance approval requirements in [section 2] of



1 the bill.

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

NEW SECTION. Section 1. Attendance with discretionary
approval. (1) A child may be enrolled in and attend a school
in a Montana school district that is outside of the child's
district of residence, subject to discretionary approval by
the trustees of the district of choice. If the trustees
grant discretionary approval of the child's attendance in a
school of the district, the parent or guardian may not be
charged tuition but may be charged for transportation.

(2) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.

19 (3) The attendance agreement must set forth the
20 financial obligations, if any, of each party for costs
21 incurred for transporting the child under Title 20, chapter
22 10. The district of residence and the district of choice may
23 jointly approve the application if the district of residence
24 provides for transportation.

25 (4) The trustees of the district where the child wishes

to attend have the discretion to approve any attendance agreement. When the trustees approve an out-of-district attendance agreement, they shall send a copy of the agreement to the county superintendent of the child's county of residence within 10 days.

(5) This section does not preclude the trustees of a district from approving an attendance agreement for group educational program offerings with another district if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. The trustees of the district of residence may budget for those tuition and transportation costs from the district's tuition and transportation funds.

NEW SECTION. Section 2. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement, permitting payment of tuition and transportation, is mandatory and does not require approval of the trustees of the district of residence or the district of choice for an out-of-district child whenever:

(a) the child has been adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in 41-5-103, and has been placed in a licensed youth care

facility that is approved by the department of family services and, as a result of the placement, is required to attend school outside of the child's district of residence;

(b) the child is required to attend school outside of the district of residence as the result of a placement by a state agency or parent in a group home licensed by the state or an order of a court of competent jurisdiction; or

(c) the child is required to attend school outside of the district of residence as the result of placement pursuant to Title 20, chapter 7, part 4.

(2) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an out-of-district attendance agreement in consultation with an appropriate official of the district the child will attend.

(3) Except as provided in subsection (4), the trustees shall approve the out-of-district attendance agreement and notify the county superintendent of schools of the county of the child's residence of the approval of the agreement within 10 days.

(4) Unless the child is a child with disabilities who resides in the district, the trustees of the district where the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find

1 that, due to insufficient room and overcrowding, the
2 accreditation of the school would be adversely affected by
3 the acceptance of the child.

4 (5) This section does not preclude the trustees from
5 waiving any portion of the tuition payment, but any waiver
6 must be applied equally to all students.

7 NEW SECTION. Section 3. Residency determination --
8 notification -- appeal for attendance agreement. (1) In
9 considering an out-of-district attendance agreement, the
10 trustees shall determine the child's district of residence
11 on the basis of the provisions of 1-1-215.

12 (2) The trustees shall notify the parent or guardian of
13 the child involved in the out-of-district attendance
14 agreement of the approximate date for approval or
15 disapproval of the agreement within 10 days of the initial
16 application for an agreement.

17 (3) Within 10 days of approval or disapproval of an
18 out-of-district attendance agreement, the trustees shall
19 provide copies of the approved or disapproved attendance
20 agreement to the parent or guardian and to the child's
21 district of residence.

22 (4) If an out-of-district attendance agreement is
23 disapproved or no action is taken, the parent may appeal the
24 disapproval or lack of action to the county superintendent
25 and, subsequently, to the superintendent of public

1 instruction under the provisions for the appeal of
2 controversies in this title.

3 NEW SECTION. Section 4. Tuition and transportation
4 rates. (1) Whenever a child has mandatory approval to attend
5 a school outside of the child's district of residence under
6 the provisions of [section 2], the county of the child's
7 residence shall pay tuition and transportation to the
8 district where the child attends school.

9 (2) The superintendent of public instruction shall
10 adopt rules to set the tuition rates for all out-of-district
11 attendance within the following guidelines:

12 (a) Tuition rates for all out-of-district children who
13 are not in a special education program must be a flat rate.

14 (b) Tuition rates for children with disabilities must
15 be determined according to rules adopted by the
16 superintendent of public instruction.

17 (3) When a child without disabilities has been placed
18 by a state agency in an out-of-state residential program,
19 the amount of daily tuition may not be greater than the
20 average annual cost per student in the child's district of
21 residence. This calculation for tuition purposes is
22 determined by totaling all of the expenditures for all of
23 the district budgeted funds for the preceding school fiscal
24 year and dividing that amount by the October 1 enrollment in
25 the preceding school fiscal year. For the purposes of this

subsection, the following do not apply:

(a) placement of a child with disabilities pursuant to Title 20, chapter 7, part 4; or

(b) placement made in a state with a reciprocal tuition agreement pursuant to 20-5-314.

(4) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost per student in the child's district of residence or 21.25 cents per mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceeding fiscal year.

NEW SECTION. Section 5. Tuition report and payment provisions. (1) At the close of the school term of each school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

(a) the name and district of residence of each child who is attending a school of the district under an approved mandatory out-of-district attendance agreement;

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of [section 4], and the tuition cost for each reported child.

(2) The county superintendent shall send, as soon as practicable, the reported information to the county superintendent of the county in which a reported child resides.

(3) The mandatory tuition and transportation obligation for an elementary school child attending a school outside of the child's district of residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for the child's county of residence. The total amount of the mandatory tuition and transportation obligation for a high school child attending a school outside of the child's district of residence must be financed by the county basic tax for high school districts, as provided in 20-9-333, for the child's county of residence.

(4) By December 31 of the school fiscal year, the county superintendent shall pay at least one-half of any tuition and transportation obligation established under this section out of the money realized to date from the appropriate basic county tax account provided for in 20-9-334. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school district that is entitled to tuition and transportation. Except as provided in subsection

(5), the county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a transportation payment.

(5) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or this part must be deposited in a separate account to the district miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

Section 6. Section 20-3-205, MCA, is amended to read:

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

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

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

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed

in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

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

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

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

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

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

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

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

(11) process and, when required, act on school isolation

1 applications in accordance with the provisions of 20-9-302;
 2 (12) complete the budgets, compute the budgeted revenues
 3 and tax levies, file final budgets and budget amendments,
 4 and fulfill other responsibilities assigned to him under the
 5 provisions of this title regulating school budgeting
 6 systems;
 7 (13) submit an annual financial report to the
 8 superintendent of public instruction in accordance with the
 9 provisions of 20-9-211;
 10 (14) monthly, unless otherwise provided by law, order
 11 the county treasurer to apportion state money, county school
 12 money, and any other school money subject to apportionment
 13 in accordance with the provisions of 20-9-212, 20-9-334,
 14 20-9-347, 20-10-145, or 20-10-146;
 15 (15) act on any request to transfer average number
 16 belonging (ANB) in accordance with the provisions of
 17 20-9-313(3);
 18 (16) calculate the estimated budgeted general fund
 19 sources of revenue in accordance with the provisions of
 20 20-9-348 and the other general fund revenue provisions of
 21 the general fund part of this title;
 22 (17) compute the revenues and the district and county
 23 levy requirements for each fund included in each district's
 24 final budget and report the computations to the board of
 25 county commissioners in accordance with the provisions of

1 the general fund, transportation, bonds, and other school
 2 funds parts of this title;
 3 (18) file and forward bus driver certifications,
 4 transportation contracts, and state transportation
 5 reimbursement claims in accordance with the provisions of
 6 20-10-103, 20-10-143, or 20-10-145;
 7 (19) for districts that do not employ a district
 8 superintendent or principal, recommend library book and
 9 textbook selections in accordance with the provisions of
 10 20-7-204 or 20-7-602;
 11 (20) notify the superintendent of public instruction of
 12 a textbook dealer's activities when required under the
 13 provisions of 20-7-605 and otherwise comply with the
 14 textbook dealer provisions of this title;
 15 (21) act on district requests to allocate federal money
 16 for indigent children for school food services in accordance
 17 with the provisions of 20-10-205;
 18 (22) perform any other duty prescribed from time to time
 19 by this title, any other act of the legislature, the
 20 policies of the board of public education, the policies of
 21 the board of regents relating to community college
 22 districts, or the rules of the superintendent of public
 23 instruction;
 24 (23) administer the oath of office to trustees without
 25 the receipt of pay for administering the oath;

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

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

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

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

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

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

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

24 **Section 7.** Section 20-3-210, MCA, is amended to read:

25 "20-3-210. Controversy appeals and hearings. (1) Except

1 as provided under 20-3-211, the county superintendent shall
 2 hear and decide all matters of controversy arising in his
 3 the county as a result of decisions of the trustees of a
 4 district in the county. Except as provided in subsection
 5 (2), exhaustion of administrative remedies under this
 6 chapter is required prior to filing an action in district
 7 court concerning a decision of the trustees. When appeals
 8 are made under 20-4-204 relating to the termination of
 9 services of a tenure teacher or under 20-4-207 relating to
 10 the dismissal of a teacher under contract, the county
 11 superintendent may appoint a qualified attorney at law to
 12 act as a legal adviser who shall assist the superintendent
 13 in preparing findings of fact and conclusions of law.
 14 Subsequently, either the teacher or trustees may appeal to
 15 the superintendent of public instruction under the
 16 provisions for appeal of controversies in this title.
 17 Furthermore--he The county superintendent shall hear and
 18 decide all controversies arising under:

19 (a) ~~20-5-304-or-20-5-311~~ [sections 1 and 2] relating to
 20 the approval of tuition---applications out-of-district
 21 attendance agreements;

22 (b) 20-4-206(4); or

23 (c) any other provision of this title for which a
 24 procedure for resolving controversies is not expressly
 25 prescribed.

(2) Exhaustion of administrative remedies is not a prerequisite to filing an action in district court concerning a decision of the trustees of a district in the following instances:

(a) a state agency has been granted primary jurisdiction over the matter;

(b) the matter is governed by a specific statute; or

(c) the board of trustees has acted without jurisdiction or in excess of its jurisdiction.

(3) The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He The county superintendent shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which that is made by the county superintendent shall must be based upon the facts established at such the hearing.

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

(5) Cost incurred by the office of the county superintendent shall must be paid from the general fund

budget of the county in which the controversy is initiated."

Section 8. Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal tuition attendance agreement with adjoining state -- county payment obligation. (1) The superintendent of public instruction ~~shall--have--the~~ authority to may execute a reciprocal tuition agreement with the superintendent of public instruction or a department of education of any state adjoining Montana ~~to--allow-the~~ eligible-children-of for a reciprocal tuition rate for a child who is a Montana resident to attend school in the adjoining state and ~~to-allow-children-of~~ for a child of the adjoining state to attend school in Montana. In negotiating a reciprocal tuition agreement, the tuition rates prescribed by 20-5-305-and-20-5-312-~~shall-be~~ [section 4] are waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition agreement that is executed to the county superintendent of each county that may be affected by such the agreement.

(2) ~~Any-tuition~~ An out-of-district attendance agreement approved under the provisions of 20-5-301~~7~~--20-5-302~~7~~--or 20-5-311 [sections 1 and 2] must be completed for a child's attendance at a school outside of the state ~~shall--be~~ completed--in--accordance--with--the--applicable--reciprocal

tuition--agreement or for an out-of-state child to attend a school in Montana.

(3) The county superintendent of schools of the county of the child's district of residence shall make payments from:

(a) the county basic tax for elementary schools, as provided in 20-9-331, for a child who is placed in facilities outside of the state, pursuant to [section 2(1)(a) or (1)(b)], but who is not a child with disabilities as defined pursuant to the provisions of Title 20, chapter 7, part 4; or

(b) the county basic special tax for high schools, as provided in 20-9-333, for a child who is placed in facilities outside the state, pursuant to [section 2(1)(a) or (1)(b)], but who is not a child with disabilities as defined pursuant to the provisions of Title 20, chapter 7, part 4."

Section 9. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached

elementary district under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the foundation program schedule payments must be in accordance with the provisions of 20-9-311;

(b) the basic county tax and revenues for the elementary foundation program amount for the district must be determined in accordance with the provisions of 20-9-331, and the basic special tax and revenues for the high school foundation program amount for the district must be determined in accordance with 20-9-333; and

(c) the guaranteed tax base aid for the permissive levy amount for a K-12 school district must be calculated separately, using the mill value per elementary ANB and the mill value per high school ANB as defined in 20-9-366. The permissive amount to be levied for the K-12 school district must be prorated based on the ratio of the foundation program amounts for elementary school programs to the foundation program amounts for high school programs.

(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school

1 district retirement obligation under the provisions of
2 20-9-501.

3 (5) For the purposes of budgeting for a K-12 school
4 district, the trustees shall adopt a single fund for any of
5 the budgeted or nonbudgeted funds described in 20-9-201 for
6 the costs of operating all grades and programs of the
7 district.

8 (6) Tuition for attendance in the K-12 school district
9 must be determined separately for high school pupils and for
10 elementary pupils under the provisions of ~~chapter-5, part--3~~
11 [sections 1 through 5], except that the actual expenditures
12 used for calculations in ~~20-5-305-and-20-5-312~~ [section 4]
13 must be based on an amount prorated between the elementary
14 and high school programs in the appropriate funds of each
15 district in the year prior to the attachment of the
16 districts."

17 **Section 10.** Section 20-7-420, MCA, is amended to read:

18 "20-7-420. Residency requirements -- financial
19 responsibility for special education. (1) In accordance with
20 the provisions of 1-1-215, a child's district of residence
21 for special education purposes is the residence of ~~his~~ the
22 child's parents or of ~~his~~ the child's guardian unless
23 otherwise determined by the court. This applies to a child
24 living at home, in an institution, or under foster care. If
25 the parent has left the state, the parent's last known

1 district of residence is the child's district of residence.

2 (2) The district county of residence is financially
3 responsible for tuition and transportation as established
4 under ~~20-5-305--and--20-5-312~~ [section 4] for a child with
5 disabilities, as defined in 20-7-401, including a child who
6 has been placed by a state agency in a foster care or group
7 home licensed by the state. The district county of residence
8 is not financially responsible for tuition and
9 transportation for a child with disabilities who is placed
10 by a state agency in an out-of-state public school or an
11 out-of-state private residential facility.

12 (3) If a child with disabilities who is in need of
13 special education is placed in an in-state residential
14 treatment facility or children's psychiatric hospital as
15 defined in 20-7-436 but the educational placement is in a
16 public school district, the district county of residence is
17 responsible for tuition and transportation for the
18 proportion of time the child is served in the public school
19 district unless the public school district is operated
20 primarily for the purpose of providing education to children
21 who attend the residential facility or hospital.

22 (4) Under the provisions of 20-7-422(3), the
23 superintendent of public instruction shall provide funds for
24 the education fees required to provide a free appropriate
25 public education for a child with disabilities who is in

1 need of special education and is placed by a state agency in
2 an out-of-state private residential facility or out-of-state
3 public school, provided that, in determining the special
4 education services needed for the child with disabilities,
5 the district of residence has complied with the rules
6 promulgated under 20-7-402.

7 (5) A state agency that makes a placement of a child
8 with disabilities is responsible for the room and board and
9 the treatment of the child."

10 **Section 11.** Section 20-7-421, MCA, is amended to read:

11 "20-7-421. Arranging attendance in another district in
12 lieu of a special education program -- tuition. (1) In
13 accordance with a placement decision made by persons
14 determining an individualized education program for a child
15 with disabilities, the trustees may arrange for the
16 attendance of a child in need of special education in
17 another district within the state of Montana.

18 (2) Tuition and transportation as required under
19 ~~20-5-305 and 20-5-312~~ [section 4] may be charged as provided
20 in 20-7-420."

21 **Section 12.** Section 20-7-422, MCA, is amended to read:

22 "20-7-422. Out-of-state placement of children with
23 disabilities -- payment of costs. (1) In accordance with a
24 placement made by persons determining an individualized
25 education program for a child with disabilities, the

1 trustees of a district may arrange for the attendance of the
2 child in a special education program offered outside of the
3 state of Montana. ~~The arrangements are not subject to the~~
4 ~~out-of-state attendance provisions in 20-5-301 and 20-5-311.~~

5 (2) ~~(a)~~ Except as provided in subsection (3), when the
6 persons determining the individualized education program of
7 a child with disabilities who is in need of special
8 education recommend placement in an out-of-state private
9 residential facility, the ~~trustees of the district~~ county
10 superintendent of the county of residence shall negotiate
11 the amount and manner of payment of all costs associated
12 with the placement.

13 ~~(b)--If the placement of the child with disabilities has~~
14 ~~met the requirements of 20-7-402, the superintendent of~~
15 ~~public instruction shall approve the amount of special~~
16 ~~education instructional fees to be included as a contracted~~
17 ~~service. Only the special education instructional fees may~~
18 ~~be included as a contracted service for the purposes of~~
19 ~~20-7-431(i)(a)(iii)(A).~~

20 (3) Whenever a child with disabilities who is in need
21 of special education is adjudicated by a court of competent
22 jurisdiction to be an abused, neglected, or dependent child
23 as defined in 41-3-102 or a youth in need of supervision or
24 delinquent youth as defined in 41-5-103 and is placed by a
25 state agency in an out-of-state private residential

1 facility, the superintendent of public instruction shall
2 negotiate with:

3 (a) the provider for the amount and manner of payment
4 of education fees consistent with the individualized
5 education program determined for the child under the
6 provisions of 20-7-402; and

7 (b) the state agency that makes the placement for the
8 portion of the placement costs that represents the child's
9 education program.

10 (4) Payments for a child with disabilities as
11 negotiated in subsection (3) must be paid by the
12 superintendent of public instruction from the state special
13 education appropriation."

14 **Section 13.** Section 20-7-424, MCA, is amended to read:

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

1 school in accordance with the provisions of ~~20-5-305--or~~
2 [section 2] or 20-7-421, whichever section applies to the
3 circumstances of the child. Transportation payments ~~shall~~
4 must be made for students enrolled in such any school
5 district classes or receiving training, including summer
6 sessions, at the state institution. The schedule of
7 transportation payments ~~shall~~ must be approved in accordance
8 with existing ~~special--education~~ transportation payment
9 schedules and ~~shall~~ must be approved by the county
10 transportation committee and the superintendent of public
11 instruction."

12 **Section 14.** Section 20-9-141, MCA, is amended to read:

13 "20-9-141. Computation of general fund net levy
14 requirement by county superintendent. (1) The county
15 superintendent shall compute the levy requirement for each
16 district's general fund on the basis of the following
17 procedure:

18 (a) Determine the funding required for the district's
19 final general fund budget less the amount established by the
20 schedules in 20-9-316 through 20-9-321 by totaling:

21 (i) the district's nonisolated school foundation
22 program requirement to be met by a district levy as provided
23 in 20-9-303; and

24 (ii) any additional general fund budget amount adopted
25 by the trustees of the district under the provisions of

20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

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

(ii) anticipated tuition payments for out-of-district pupils under the provisions of ~~20-5-303, 20-5-307, 20-5-312, and 20-5-313~~ [sections 2 through 4];

(iii) general fund balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated 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;

(vi) anticipated net proceeds taxes for new production, as defined in 15-23-601;

(vii) anticipated revenue from local government severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

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

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

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any additional general fund budget amount adopted by the trustees of the district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by a district levy as provided in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy

1 requirement by dividing the amount determined in subsection
2 (1)(c) by the sum of:

3 (a) the amount of guaranteed tax base aid that the
4 district will receive for each mill levied, as certified by
5 the superintendent of public instruction; and

6 (b) the taxable valuation of the district divided by
7 1,000.

8 (3) The net general fund levy requirement determined in
9 subsections (1)(c) and (1)(d) must be reported to the county
10 commissioners on the second Monday of August by the county
11 superintendent as the general fund permissive net levy
12 requirement and the additional general fund levy requirement
13 for the district, and a levy must be set by the county
14 commissioners in accordance with 20-9-142."

15 **Section 15.** Section 20-9-507, MCA, is amended to read:

16 "20-9-507. Miscellaneous programs fund. (1) The
17 trustees of a district receiving money from local, state,
18 federal, or other sources provided in ~~20-5-307(4)~~
19 ~~20-5-312(8)~~, [section 5] and 20-9-321(3) other than money
20 under the provisions of Title I of Public Law 81-874 or
21 federal money designated for deposit in a specific fund of
22 the district shall establish a miscellaneous programs fund
23 for the deposit of the money. The money may be a
24 reimbursement of miscellaneous program fund expenditures
25 already realized by the district or may be a grant of money

1 for the financing of expenditures to be realized by the
2 district for a special, approved program to be operated by
3 the district. When the money is a reimbursement, the money
4 may be expended at the discretion of the trustees for school
5 purposes. When the money is a grant, the money must be
6 expended according to the conditions of the program approval
7 by the superintendent of public instruction or any other
8 approval agent. Within the miscellaneous programs fund, the
9 trustees shall cause a separate accounting to be maintained
10 for each federal grant program and for the aggregate of all
11 reimbursement money.

12 (2) The financial administration of the miscellaneous
13 programs fund must be in accordance with the financial
14 administration provisions of this title for a nonbudgeted
15 fund."

16 **Section 16.** Section 20-10-105, MCA, is amended to read:

17 "20-10-105. Determination of residence. When the
18 residence of an eligible transportee is a matter of
19 controversy and is an issue before a board of trustees, a
20 county transportation committee, or the superintendent of
21 public instruction, the residence ~~shall~~ must be established
22 on the basis of the general state residence law as provided
23 in 1-1-215. Whenever ~~any-district-or~~ a county is determined
24 to be responsible for paying tuition for any pupil in
25 accordance with ~~20-5-301, 20-5-302, or 20-5-311~~ [sections 2

through 4], the residence of the pupil for tuition purposes is the residence of the pupil for transportation purposes."

Section 17. 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 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 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 for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

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

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

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

(b) anticipated payments from other districts for providing school bus transportation services for the

district;

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

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

(e) anticipated or reappropriated 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;

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

(g) anticipated 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;

(h) anticipated transportation payments for out-of-district pupils under the provisions of [sections 1 through 5];

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

~~++~~(j) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation

fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final 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."

NEW SECTION. Section 18. Repealer. Sections 20-5-301, 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307,

20-5-311, 20-5-312, 20-5-313, and 20-7-437, MCA, are repealed.

NEW SECTION. Section 19. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 20, chapter 5, part 3, and the provisions of Title 20, chapter 5, part 3, apply to [sections 1 through 5].

NEW SECTION. Section 20. Effective date -- applicability. [This act] is effective for the school fiscal year beginning July 1, 1993, and applies to calculations and payments for tuition for the school fiscal year beginning 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 HB0469, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act permitting a child to attend a school district outside the child's district of residence, subject to discretionary approval by the trustees of the district of choice; requiring mandatory attendance approval by the trustees of the district of choice in certain circumstances; requiring that the county of residence pay any tuition and transportation obligations associated with mandatory attendance approval.

ASSUMPTIONS:

1. Regulations for elementary and high school tuition are not changed by this bill.
2. Out-of-district tuition charges could only be made for special education students, placements by courts or agencies in licensed youth care facilities or group homes, or for group program offerings (7th & 8th grade, Kindergarten), or students attending out of state.
3. Tuition for out-of-state students who are not special education students, or placements in licensed facilities or group program offerings would continue to be paid from the district tuition fund.
4. All mandatory tuition and transportation costs for special education or placements by court or agencies in licensed youth care facilities or group homes would be paid from county equalization.
5. Tuition data is not available on numbers of students attending out-of-district, so rough estimates must be projected based on historic tuition revenue data and special education child count figures. One-fifth of past tuition costs which would be affected under this bill are assumed (\$500,000).

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
Tuition payments						
County Equalization	1,000,000	500,000	(500,000)	1,000,000	500,000	(500,000)
Transportation payments						
County Equalization	0	8,000	8,000	0	8,000	8,000
Total	\$1,000,000	\$508,000	(\$492,000)	\$1,000,000	\$508,000	(\$492,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: Local district tuition receipts would be reduced and deposited in the miscellaneous fund. However, tuition rates declined following increased state contributions after implementation of House Bill 28. Local district tuition fund costs would be greatly reduced from the FY92 actual of \$1.5 million.

David Lewis 2-18-93

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

Vicki Cocchiarella 2/20/93
VICKI COCCHIARELLA, PRIMARY SPONSOR DATE

Fiscal Note for HB0469, as introduced

HB 469

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

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INTRODUCED BY House BILL NO. 469
Carchia

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A CHILD TO ATTEND A SCHOOL DISTRICT OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE, SUBJECT TO DISCRETIONARY APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN CERTAIN CIRCUMSTANCES; REQUIRING THAT THE COUNTY OF RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; AMENDING SECTIONS 20-3-205, 20-3-210, 20-5-314, 20-6-702, 20-7-420, 20-7-421, 20-7-422, 20-7-424, 20-9-141, 20-9-507, 20-10-105, AND 20-10-144, MCA; REPEALING SECTIONS 20-5-301, 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, 20-5-313, AND 20-7-437, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] of the bill gives the superintendent of public instruction authority to adopt administrative rules regarding tuition rates for children attending a school outside the child's district of residence under the mandatory attendance approval requirements in [section 2] of

THERE ARE NO CHANGES ON THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO INTRODUCED (WHITE) BILL
FOR COMPLETE TEXT.



1 House BILL NO. 469
2 INTRODUCED BY Cochran
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A CHILD TO
5 ATTEND A SCHOOL DISTRICT OUTSIDE THE CHILD'S DISTRICT OF
6 RESIDENCE, SUBJECT TO DISCRETIONARY APPROVAL BY THE TRUSTEES
7 OF THE DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE
8 APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN
9 CERTAIN CIRCUMSTANCES; REQUIRING THAT THE COUNTY OF
10 RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS
11 ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; AMENDING
12 SECTIONS 20-3-205, 20-3-210, 20-5-314, 20-6-702, 20-7-420,
13 20-7-421, 20-7-422, 20-7-424, 20-9-141, 20-9-507, 20-10-105,
14 AND 20-10-144, MCA; REPEALING SECTIONS 20-5-301, 20-5-302,
15 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311,
16 20-5-312, 20-5-313, AND 20-7-437, MCA; AND PROVIDING AN
17 EFFECTIVE DATE AND AN APPLICABILITY DATE."
18

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SENATE STANDING COMMITTEE REPORT

Page 1 of 12
March 22, 1993

Page 2 of 12
March 22, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 469 (first reading copy -- white), respectfully report that House Bill No. 469 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 4.
Following: "ACT"
Insert: "REVISING THE TUITION LAWS;"

2. Title, line 7.
Following: first "OF"
Insert: "THE RESIDENT DISTRICT AND"

3. Title, line 9.
Following: "THE"
Insert: "DISTRICT OR"

4. Title, line 11.
Following: "APPROVAL;"
Insert: "PROVIDING TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING A SCHOOL DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH THE MISCELLANEOUS PROGRAMS FUND;"

5. Title, line 14.
Strike: "AND"
Following: "20-10-144,"
Insert: "AND 20-10-146,"

6. Title, line 16.
Following: "20-5-312,"
Insert: "AND"
Following: "20-5-313,"
Strike: "AND 20-7-437,"

7. Page 1, line 23 through page 2, line 1.
Following: "regarding" on line 23
Insert: "a flat"
Following: "tuition"
Strike: "rates"
Insert: "rate"
Following: "for" on line 23

Strike: remainder of line 23 through "bill" on page 2, line 1
Insert: "each funding category in the foundation program schedules, using statewide district expenditure and revenue data for certain funds"

8. Page 2, line 7.
Following: "residence"
Insert: "or a public school in a district of another state or province that is adjacent to the county of the child's residence"

9. Page 2, line 8.
Following: first "of"
Insert: "the resident district and"

10. Page 2, line 10.
Following: "may"
Strike: "not"

11. Page 2, line 11.
Following: "tuition"
Strike: "but"
Insert: "and"

12. Page 2, line 12.
Following: "{2}"
Insert: "{a}"

13. Page 2, line 19.
Strike: "{3}"
Insert: "{b}"

14. Page 2, line 20.
Following: "any,"
Strike: "of each party"
Insert: "for tuition and"

15. Page 2, lines 22 through 25.
Following: "10."
Strike: remainder of line 22 through "{4}" on line 25
Insert: "{c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students.
(3) An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both the district of residence and the district of choice approve the agreement.

W. A. M. D. Amd. Coord.
W. A. M. D. Sec. of Senate
W. A. M. D. Senator Carrying Bill

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SENATE
HB 469
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(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named in the agreement for the designated school year.

(7)"

Renumber: subsequent subsections

16. Page 3, lines 2 through 5.

Following: "agreement."

Strike: remainder of line 2 through "days." on line 5

17. Page 3, line 7.

Following: "for"

Strike: "group"

18. Page 3, line 8.

Following: "offerings"

Strike: "with another district"

Insert: "not provided by the resident district, such as the kindergarten or grades 7 and 8 programs,"

19. Page 3, lines 11 through 13.

Following: "requirement." on line 11

Strike: remainder of line 11 through "funds." on line 13

Insert: "For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement."

(9) (a) A provision of this title may not be construed to deny a parent the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent has agreed to pay the tuition as prescribed by [section 4]. However, under this subsection (9), the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian"

includes an individual shareholder of a domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in [sections 1 through 5], the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

20. Page 3, lines 16 and 17.

Following: "agreement" on line 16

Strike: remainder of line 16 through "transportation," on line 17

Insert: "that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence"

21. Page 3, lines 17 through 20.

Following: "mandatory" on line 17

Strike: remainder of line 17 through "child" on line 20

22. Page 3, line 21.

Following: line 20

Insert: "(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district;

(b) the child resides in a location where, due to road or geographic conditions, it is impractical to attend the school nearest the child's residence;

(c) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided the child resides more than 3 miles from an elementary school in the

resident district or the parent must move to the elementary district where the high school is located to enroll another child in high school;"

Renumber: subsequent subsections

23. Page 4, line 3.
Following: "residence;"
Insert: "or"

24. Page 4, lines 7 through 10.
Following: "jurisdiction" on line 7
Strike: "; or" through "4" on line 10

25. Page 4, line 11.
Following: "(2)"
Insert: "(a)"

26. Page 4, line 17.
Following: line 16
Insert: "(b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition and transportation as provided in [section 4] and Title 20, chapter 10.
(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students."

27. Page 4, line 17.
Following: "trustees"
Insert: "of the resident district and the trustees of the district of choice"

28. Page 4, line 21.
Following: "days."
Insert: "The county superintendent shall approve the agreement for payment under [section 5(6)]."

29. Page 5, lines 4 through 6.
Strike: subsection (5) in its entirety

30. Page 5, line 12.
Following: "(2)"
Strike: "The"
Insert: "Within 10 days of the initial application for an agreement, the"
Following: "trustees"
Insert: "of the district of choice"

31. Page 5, line 13.
Following: "child"
Insert: "and the trustees of the district of residence"

32. Page 5, line 14.
Following: "the"
Strike: "approximate"
Insert: "anticipated"

33. Page 5, lines 15 and 16.
Following: "agreement" on line 15
Strike: remainder of line 15 through "agreement" on line 16

34. Page 5, line 22.
Following: line 21
Insert: "(4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the district of residence shall approve or disapprove the agreement under the provisions of this part and forward the completed agreement to the county superintendent of schools of the county of residence, the trustees of the district of choice, and the parent or guardian."
Renumber: subsequent subsection

35. Page 6, line 4.
Following: "(1)"
Strike: "Whenever"
Insert: "Except as provided in subsections (3) and (4), whenever"
Following: "has"
Strike: "mandatory"

36. Page 6, lines 6 through 16.
Following: "provisions of" on line 6
Strike: remainder of line 6 through "instruction." on line 16
Insert: "[section 1 or 2], the basis of the rate of tuition is a flat rate for each funding category in the foundation program schedules determined by rule by the superintendent of public instruction by March 15 of each year, using statewide district expenditure and revenue data for the general fund, debt service fund, and retirement fund to determine the average district contribution.
(2) The tuition for children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.
(3) The tuition rate for out-of-district placement pursuant to [section 2(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average

district costs 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 approve an agreement with the district of attendance for the tuition cost; and

(b) for a Montana resident student, 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."

Renumber: subsequent subsections

37. Page 6, line 17.

Following: "child"

Strike: "without disabilities"

Insert: "attends a public school of another state or province or"

38. Page 7, line 3.

Following: "4;"

Strike: "or"

39. Page 7, line 4.

Following: "state"

Insert: "or province"

40. Page 7, line 5.

Following: "20-5-314"

Strike: "."

Insert: "; or"

41. Page 7, line 6.

Following: line 5

Insert: "(c) an order issued under Title 40, chapter 4, part 2."

42. Page 7, line 25.

Following: "child"

Insert: "; and

(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident students attending public schools out of state"

43. Page 8, line 5.

Following: line 4

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

(4) The superintendent of public instruction shall

determine the total foundation amount for which the district would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference between the actual amount paid and the amount calculated in this subsection.

(5) Notwithstanding the requirements of subsection (6), tuition payment provisions for out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4."

Renumber: subsequent subsections

44. Page 8, line 5.

Strike: "The mandatory"

Insert: "Except as provided in subsection (7), when a child has approval to attend a school outside the child's district of residence under the provisions of [section 1 or 2], the district of residence shall finance the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

(7) When a child has mandatory approval under the provisions of [section 2], the"

45. Page 8, line 7.

Following: "child's"

Strike: "district"

Insert: "county"

46. Page 8, lines 9 through 13.

Following: "residence" on line 9

Strike: remainder of line 9 through "by" on line 13

Insert: "or for a high school child attending a school outside the county of residence by"

47. Page 8, line 17.

Following: "superintendent"

Insert: "or the trustees"

48. Page 8, line 21.

Following: "20-9-334"

Insert: "or from the district tuition or transportation fund"

49. Page 9, line 1.

Strike: "(5)"

Insert: "(10)"

50. Page 9, line 7.

Following: line 6

Insert: "(9) The superintendent of public instruction shall

reimburse the district of residence from the state equalization account for the foundation amount determined in subsection (4)."

Renumber: subsequent subsection

51. Page 9, line 7.

Following: "(5)"

Insert: "(a)"

52. Page 9, line 8.

Following: "4, or"

Strike: "this part must"

Insert: "[section 4(3)] for the current school fiscal year that exceed the tuition receipts of the prior year may"

53. Page 9, line 9.

Following: "deposited in"

Strike: "a separate account to"

54. Page 9, line 13.

Following: line 12

Insert: "(b) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

55. Page 16, line 4.

Following: "state"

Strike: "-- county payment obligation"

Insert: "or province"

56. Page 16, lines 8, 11 and 12.

Following: "state"

Insert: "or province"

57. Page 16, line 6.

Page 16, line 13.

Page 16, line 18.

Following: "reciprocal"

Strike: "tuition"

Insert: "attendance"

58. Page 16, line 9.

Following: "children of"

Strike: "for a reciprocal tuition rate for"

Insert: "to allow"

59. Page 16, line 11.

Following: "of"

Strike: "for"

60. Page 17, lines 3 through 17.

Strike: subsection (3) in its entirety

61. Page 22, lines 9 and 10.

Following: "district" on line 9

Strike: remainder of line 9 through "county" on line 10

Insert: "trustees of the district"

62. Page 23, line 16.

Following: "attending"

Strike: "an"

Insert: "a state-funded"

63. Page 23, line 17.

Following: "institution"

Strike: remainder of line 17

Insert: "in"

64. Page 23, line 22.

Following: "or"

Insert: "district or"

65. Page 30, line 12.

Following: "amount"

Insert: "; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence"

66. Page 33, line 24.

Following: line 23

Insert: "Section 18. 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 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; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of section 21.

(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 or reimbursements under the mandatory attendance agreement provisions of section 21;

(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."

Renumber: subsequent sections

67. Page 34, line 1.

Following: "20-5-312,"

Insert: "and"

Following: "20-5-313,"

Strike: "and 20-7-437,"

68. Page 34, line 8.

Following: line 7

Insert: "NEW SECTION. Section 21. Instruction to code

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

Renumber: subsequent section

-END-

HOUSE BILL NO. 469

INTRODUCED BY COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION LAWS; PERMITTING A CHILD TO ATTEND A SCHOOL DISTRICT OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE, SUBJECT TO DISCRETIONARY APPROVAL BY THE TRUSTEES OF THE RESIDENT DISTRICT AND THE DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN CERTAIN CIRCUMSTANCES; REQUIRING THAT THE DISTRICT OR COUNTY OF RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; PROVIDING TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING A SCHOOL DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH THE MISCELLANEOUS PROGRAMS FUND; AMENDING SECTIONS 20-3-205, 20-3-210, 20-5-314, 20-6-702, 20-7-420, 20-7-421, 20-7-422, 20-7-424, 20-9-141, 20-9-507, 20-10-105, AND 20-10-144, AND 20-10-146, MCA; REPEALING SECTIONS 20-5-301, 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, AND 20-5-313, AND ~~20-7-437~~, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

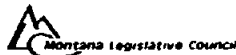
A statement of intent is required for this bill because [section 4] of the bill gives the superintendent of public

instruction authority to adopt administrative rules regarding A FLAT tuition rates RATE for children-attending-a school-outside-the-child's-district-of-residence--under--the mandatory-attendance-approval-requirements-in-(section-2)-of the--bill EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES, USING STATEWIDE DISTRICT EXPENDITURE AND REVENUE DATA FOR CERTAIN FUNDS.

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

NEW SECTION. Section 1. Attendance with discretionary approval. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence OR A PUBLIC SCHOOL IN A DISTRICT OF ANOTHER STATE OR PROVINCE THAT IS ADJACENT TO THE COUNTY OF THE CHILD'S RESIDENCE, subject to discretionary approval by the trustees of THE RESIDENT DISTRICT AND the district of choice. If the trustees grant discretionary approval of the child's attendance in a school of the district, the parent or guardian may not be charged tuition but AND may be charged for transportation.

(2) (A) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district



1 attendance agreement form supplied by the district and
2 developed by the superintendent of public instruction.

3 †3†(B) The attendance agreement must set forth the
4 financial obligations, if any, of each party FOR TUITION AND
5 for costs incurred for transporting the child under Title
6 20, chapter 10. The district of residence and the district
7 of choice may jointly approve the application if the
8 district of residence provides for transportation.

9 †4†(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE
10 ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE
11 APPLIED EQUALLY TO ALL STUDENTS.

12 (3) AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT APPROVED
13 UNDER THIS SECTION REQUIRES THAT THE PARENT OR GUARDIAN
14 INITIATE THE REQUEST FOR AN OUT-OF-DISTRICT ATTENDANCE
15 AGREEMENT AND THAT THE TRUSTEES OF BOTH THE DISTRICT OF
16 RESIDENCE AND THE DISTRICT OF CHOICE APPROVE THE AGREEMENT.

17 (4) IF THE TRUSTEES OF THE DISTRICT OF CHOICE WAIVE
18 TUITION, APPROVAL OF THE RESIDENT DISTRICT TRUSTEES IS NOT
19 REQUIRED.

20 (5) THE TRUSTEES OF A SCHOOL DISTRICT MAY APPROVE OR
21 DISAPPROVE THE OUT-OF-DISTRICT ATTENDANCE AGREEMENT
22 CONSISTENT WITH THIS PART AND THE POLICY ADOPTED BY THE
23 LOCAL BOARD OF TRUSTEES FOR OUT-OF-DISTRICT ATTENDANCE
24 AGREEMENTS.

25 (6) THE APPROVAL OF AN OUT-OF-DISTRICT ATTENDANCE

1 AGREEMENT BY THE APPLICABLE APPROVAL AGENTS OR AS THE RESULT
2 OF AN APPEAL MUST AUTHORIZE THE CHILD NAMED IN THE AGREEMENT
3 TO ENROLL IN AND ATTEND THE SCHOOL NAMED IN THE AGREEMENT
4 FOR THE DESIGNATED SCHOOL YEAR.

5 (7) The trustees of the district where the child wishes
6 to attend have the discretion to approve any attendance
7 agreement. When the trustees approve an out-of-district
8 attendance agreement, they shall send a copy of the
9 agreement to the county superintendent of the child's county
10 of residence within 10 days.

11 †5†(8) This section does not preclude the trustees of a
12 district from approving an attendance agreement for group
13 educational program offerings with another district NOT
14 PROVIDED BY THE RESIDENT DISTRICT, SUCH AS THE KINDERGARTEN
15 OR GRADES 7 AND 8 PROGRAMS, if the trustees of both
16 districts agree to the terms and conditions for attendance
17 and any tuition and transportation requirement. The trustees
18 of the district of residence may budget for those tuition
19 and transportation costs from the district's tuition and
20 transportation funds. FOR PURPOSES OF THIS SUBSECTION, THE
21 TRUSTEES OF THE RESIDENT DISTRICT SHALL INITIATE THE
22 OUT-OF-DISTRICT AGREEMENT.

23 (9) (A) A PROVISION OF THIS TITLE MAY NOT BE CONSTRUED
24 TO DENY A PARENT THE RIGHT TO SEND A CHILD, AT PERSONAL
25 EXPENSE, TO ANY SCHOOL OF A DISTRICT OTHER THAN THE RESIDENT

1 DISTRICT WHEN THE TRUSTEES OF THE DISTRICT OF CHOICE HAVE
 2 APPROVED AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT AND THE
 3 PARENT HAS AGREED TO PAY THE TUITION AS PRESCRIBED BY
 4 [SECTION 4]. HOWEVER, UNDER THIS SUBSECTION (9), THE TUITION
 5 RATE MUST BE REDUCED BY THE AMOUNT THE PARENT OR GUARDIAN OF
 6 THE CHILD PAID IN DISTRICT AND COUNTY PROPERTY TAXES DURING
 7 THE IMMEDIATELY PRECEDING SCHOOL FISCAL YEAR FOR THE BENEFIT
 8 AND SUPPORT OF THE DISTRICT IN WHICH THE CHILD WILL ATTEND
 9 SCHOOL.

10 (B) FOR THE PURPOSES OF THIS SECTION, "PARENT OR
 11 GUARDIAN" INCLUDES AN INDIVIDUAL SHAREHOLDER OF A DOMESTIC
 12 CORPORATION AS DEFINED IN 35-1-113 WHOSE SHARES ARE 95% HELD
 13 BY RELATED FAMILY MEMBERS TO THE SIXTH DEGREE OF
 14 CONSANGUINITY OR BY MARRIAGE TO THE SIXTH DEGREE OF
 15 AFFINITY.

16 (C) THE TAX AMOUNT TO BE CREDITED TO REDUCE ANY TUITION
 17 CHARGE TO A PARENT OR GUARDIAN UNDER SUBSECTION (9)(A) IS
 18 DETERMINED IN THE FOLLOWING MANNER:

19 (I) DETERMINE THE PERCENTAGE OF THE TOTAL SHARES OF THE
 20 CORPORATION HELD BY THE SHAREHOLDER PARENT OR PARENTS OR
 21 GUARDIAN;

22 (II) DETERMINE THE PORTION OF PROPERTY TAXES PAID IN THE
 23 PRECEDING SCHOOL FISCAL YEAR BY THE CORPORATION, PARENT, OR
 24 GUARDIAN FOR THE BENEFIT AND SUPPORT OF THE DISTRICT IN
 25 WHICH THE CHILD WILL ATTEND SCHOOL.

1 (D) THE PERCENTAGE OF TOTAL SHARES AS DETERMINED IN
 2 SUBSECTION (9)(C)(I) IS THE PERCENTAGE OF TAXES PAID AS
 3 DETERMINED IN SUBSECTION (9)(C)(II) THAT IS TO BE CREDITED
 4 TO REDUCE THE TUITION CHARGE.

5 (10) AS USED IN [SECTIONS 1 THROUGH 5], THE TERM
 6 "GUARDIAN" MEANS THE GUARDIAN OF A MINOR AS PROVIDED IN
 7 TITLE 72, CHAPTER 5, PART 2.

8 NEW SECTION. Section 2. Attendance with mandatory
 9 approval -- tuition and transportation. (1) An
 10 out-of-district attendance agreement, ~~permitting payment of~~
 11 ~~tuition and transportation,~~ THAT ALLOWS A CHILD TO ENROLL IN
 12 AND ATTEND A SCHOOL IN A MONTANA SCHOOL DISTRICT THAT IS
 13 OUTSIDE OF THE CHILD'S DISTRICT OF RESIDENCE OR IN A PUBLIC
 14 SCHOOL DISTRICT OF A STATE OR PROVINCE THAT IS ADJACENT TO
 15 THE COUNTY OF THE CHILD'S RESIDENCE is mandatory and ~~does~~
 16 ~~not require approval of the trustees of the district of~~
 17 ~~residence or the district of choice for an out-of-district~~
 18 child whenever:

19 (A) THE CHILD RESIDES CLOSER TO THE SCHOOL THAT THE
 20 CHILD WISHES TO ATTEND AND MORE THAN 3 MILES FROM THE SCHOOL
 21 THE CHILD WOULD ATTEND IN THE RESIDENT DISTRICT;

22 (B) THE CHILD RESIDES IN A LOCATION WHERE, DUE TO ROAD
 23 OR GEOGRAPHIC CONDITIONS, IT IS IMPRACTICAL TO ATTEND THE
 24 SCHOOL NEAREST THE CHILD'S RESIDENCE;

25 (C) THE CHILD IS A MEMBER OF A FAMILY WHO MUST SEND

ANOTHER CHILD OUTSIDE OF THE ELEMENTARY DISTRICT TO ATTEND HIGH SCHOOL AND THE CHILD OF ELEMENTARY AGE MAY MORE CONVENIENTLY ATTEND AN ELEMENTARY SCHOOL WHERE THE HIGH SCHOOL IS LOCATED, PROVIDED THE CHILD RESIDES MORE THAN 3 MILES FROM AN ELEMENTARY SCHOOL IN THE RESIDENT DISTRICT OR THE PARENT MUST MOVE TO THE ELEMENTARY DISTRICT WHERE THE HIGH SCHOOL IS LOCATED TO ENROLL ANOTHER CHILD IN HIGH SCHOOL;

~~(a)~~(D) the child has been adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of family services and, as a result of the placement, is required to attend school outside of the child's district of residence;
OR

~~(b)~~(E) the child is required to attend school outside of the district of residence as the result of a placement by a state agency or parent in a group home licensed by the state or an order of a court of competent jurisdiction; or

~~(c)--the-child-is-required-to-attend-school--outside--of--the--district--of--residence--as--the--result--of--placement pursuant-to-Title-20, chapter-77, part-4.~~

(2) (A) Whenever a parent or guardian of a child, an

agency of the state, or a court wishes to have a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an out-of-district attendance agreement in consultation with an appropriate official of the district the child will attend.

(B) THE ATTENDANCE AGREEMENT MUST SET FORTH THE FINANCIAL OBLIGATIONS, IF ANY, FOR COSTS INCURRED FOR TUITION AND TRANSPORTATION AS PROVIDED IN [SECTION 4] AND TITLE 20, CHAPTER 10.

(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE APPLIED EQUALLY TO ALL STUDENTS.

(3) Except as provided in subsection (4), the trustees OF THE RESIDENT DISTRICT AND THE TRUSTEES OF THE DISTRICT OF CHOICE shall approve the out-of-district attendance agreement and notify the county superintendent of schools of the county of the child's residence of the approval of the agreement within 10 days. THE COUNTY SUPERINTENDENT SHALL APPROVE THE AGREEMENT FOR PAYMENT UNDER [SECTION 5(6)].

(4) Unless the child is a child with disabilities who resides in the district, the trustees of the district where the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find that, due to insufficient room and overcrowding, the accreditation of the school would be adversely affected by

the acceptance of the child.

~~{5}--This section does not preclude the trustees from waiving any portion of the tuition payment, but any waiver must be applied equally to all students.~~

NEW SECTION. Section 3. Residency determination -- notification -- appeal for attendance agreement. (1) In considering an out-of-district attendance agreement, the trustees shall determine the child's district of residence on the basis of the provisions of 1-1-215.

(2) The WITHIN 10 DAYS OF THE INITIAL APPLICATION FOR AN AGREEMENT, THE trustees OF THE DISTRICT OF CHOICE shall notify the parent or guardian of the child AND THE TRUSTEES OF THE DISTRICT OF RESIDENCE involved in the out-of-district attendance agreement of the approximate ANTICIPATED date for approval or disapproval of the agreement within 10 days of the initial application for an agreement.

(3) Within 10 days of approval or disapproval of an out-of-district attendance agreement, the trustees shall provide copies of the approved or disapproved attendance agreement to the parent or guardian and to the child's district of residence.

(4) WITHIN 15 DAYS OF RECEIPT OF AN APPROVED OUT-OF-DISTRICT ATTENDANCE AGREEMENT, THE TRUSTEES OF THE DISTRICT OF RESIDENCE SHALL APPROVE OR DISAPPROVE THE AGREEMENT UNDER THE PROVISIONS OF THIS PART AND FORWARD THE

COMPLETED AGREEMENT TO THE COUNTY SUPERINTENDENT OF SCHOOLS OF THE COUNTY OF RESIDENCE, THE TRUSTEES OF THE DISTRICT OF CHOICE, AND THE PARENT OR GUARDIAN.

~~{4}{5}~~ If an out-of-district attendance agreement is disapproved or no action is taken, the parent may appeal the disapproval or lack of action to the county superintendent and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies in this title.

NEW SECTION. Section 4. Tuition and transportation rates. (1) Whenever EXCEPT AS PROVIDED IN SUBSECTIONS {3} AND {4}, WHENEVER a child has mandatory approval to attend a school outside of the child's district of residence under the provisions of {section-2}, the county of the child's residence shall pay tuition and transportation to the district where the child attends school.

~~{2}--The superintendent of public instruction shall adopt rules to set the tuition rates for all out-of-district attendance within the following guidelines:~~

~~{a}--Tuition rates for all out-of-district children who are not in a special education program must be a flat rate.~~

~~{b}--Tuition rates for children with disabilities must be determined according to rules adopted by the superintendent of public instruction. [SECTION 1 OR 2], THE BASIS OF THE RATE OF TUITION IS A FLAT RATE FOR EACH FUNDING~~

CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES DETERMINED BY
RULE BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION BY MARCH 15
OF EACH YEAR, USING STATEWIDE DISTRICT EXPENDITURE AND
REVENUE DATA FOR THE GENERAL FUND, DEBT SERVICE FUND, AND
RETIREMENT FUND TO DETERMINE THE AVERAGE DISTRICT
CONTRIBUTION.

(2) THE TUITION FOR CHILDREN WITH DISABILITIES MUST BE
DETERMINED UNDER RULES ADOPTED BY THE SUPERINTENDENT OF
PUBLIC INSTRUCTION FOR THE CALCULATION OF TUITION FOR
SPECIAL EDUCATION PUPILS.

(3) THE TUITION RATE FOR OUT-OF-DISTRICT PLACEMENT
PURSUANT TO [SECTION 2(1)(D) AND (1)(E)] FOR A STUDENT
WITHOUT DISABILITIES WHO REQUIRES A PROGRAM WITH COSTS THAT
EXCEED THE AVERAGE DISTRICT COSTS 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
APPROVE AN AGREEMENT WITH THE DISTRICT OF ATTENDANCE FOR THE
TUITION COST; AND

(B) FOR A MONTANA RESIDENT STUDENT, 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.

†3†(4) When a child without--disabilities ATTENDS A
PUBLIC SCHOOL OF ANOTHER STATE OR PROVINCE OR has been
placed by a state agency in an out-of-state residential
program, the amount of daily tuition may not be greater than
the average annual cost per student in the child's district
of residence. This calculation for tuition purposes is
determined by totaling all of the expenditures for all of
the district budgeted funds for the preceding school fiscal
year and dividing that amount by the October 1 enrollment in
the preceding school fiscal year. For the purposes of this
subsection, the following do not apply:

(a) placement of a child with disabilities pursuant to
Title 20, chapter 7, part 4; or

(b) placement made in a state OR PROVINCE with a
reciprocal tuition agreement pursuant to 20-5-314.; OR

(C) AN ORDER ISSUED UNDER TITLE 40, CHAPTER 4, PART 2.

†4†(5) The amount, if any, charged for transportation
may not exceed the lesser of the average transportation cost
per student in the child's district of residence or 21.25
cents per mile. The average expenditures for the district
transportation fund for the preceding school fiscal year
must be calculated by dividing the transportation fund
expenditures by the October 1 enrollment for the preceding
fiscal year.

NEW SECTION. Section 5. Tuition report and payment

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

(a) the name and district of residence of each child who is attending a school of the district under an approved mandatory out-of-district attendance agreement;

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of [section 4], and the tuition cost for each reported child; AND

(D) THE NAMES, DISTRICTS OF ATTENDANCE, AND AMOUNT OF TUITION TO BE PAID BY THE DISTRICT FOR RESIDENT STUDENTS ATTENDING PUBLIC SCHOOLS OUT OF STATE.

(2) The county superintendent shall send, as soon as practicable, the reported information to the county superintendent of the county in which a reported child resides.

(3) BEFORE JULY 30, THE COUNTY SUPERINTENDENT SHALL REPORT THE INFORMATION IN SUBSECTION (1)(D) TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

(4) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL DETERMINE THE TOTAL FOUNDATION AMOUNT FOR WHICH THE DISTRICT WOULD BE ELIGIBLE IF THE STUDENT WERE ENROLLED IN THE RESIDENT DISTRICT. THE REIMBURSEMENT AMOUNT IS THE

DIFFERENCE BETWEEN THE ACTUAL AMOUNT PAID AND THE AMOUNT CALCULATED IN THIS SUBSECTION.

(5) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (6), TUITION PAYMENT PROVISIONS FOR OUT-OF-DISTRICT PLACEMENT OF STUDENTS WITH DISABILITIES MUST BE DETERMINED PURSUANT TO TITLE 20, CHAPTER 7, PART 4.

†3) (6) The-mandatory EXCEPT AS PROVIDED IN SUBSECTION (7), WHEN A CHILD HAS APPROVAL TO ATTEND A SCHOOL OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE UNDER THE PROVISIONS OF [SECTION 1 OR 2], THE DISTRICT OF RESIDENCE SHALL FINANCE THE TUITION AMOUNT FROM THE DISTRICT TUITION FUND AND ANY TRANSPORTATION AMOUNT FROM THE TRANSPORTATION FUND.

(7) WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE PROVISIONS OF [SECTION 2], THE tuition and transportation obligation for an elementary school child attending a school outside of the child's district COUNTY of residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for the child's county of residence--The-total-amount-of--the--mandatory--tuition--and transportation--obligation-for-a-high-school-child-attending a-school-outside-of-the-child's-district-of--residence--must be-financed-by OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL OUTSIDE THE COUNTY OF RESIDENCE BY the county basic tax for high school districts, as provided in 20-9-333, for the child's county of residence.

1 ~~†††~~(8) By December 31 of the school fiscal year, the
 2 county superintendent OR THE TRUSTEES shall pay at least
 3 one-half of any tuition and transportation obligation
 4 established under this section out of the money realized to
 5 date from the appropriate basic county tax account provided
 6 for in 20-9-334 OR FROM THE DISTRICT TUITION OR
 7 TRANSPORTATION FUND. The remaining tuition and
 8 transportation obligation must be paid by June 15 of the
 9 school fiscal year. The payments must be made to the county
 10 treasurer in each county with a school district that is
 11 entitled to tuition and transportation. Except as provided
 12 in subsection ~~†5†~~ (10), the county treasurer shall credit
 13 tuition receipts to the general fund of a school district
 14 entitled to a tuition payment. The tuition receipts must be
 15 used in accordance with the provisions of 20-9-141. The
 16 county treasurer shall credit transportation receipts to the
 17 transportation fund of a school district entitled to a
 18 transportation payment.

19 (9) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL
 20 REIMBURSE THE DISTRICT OF RESIDENCE FROM THE STATE
 21 EQUALIZATION ACCOUNT FOR THE FOUNDATION AMOUNT DETERMINED IN
 22 SUBSECTION (4).

23 ~~†5†~~(10) (A) Any tuition receipts received under the
 24 provisions of Title 20, chapter 7, part 4, or ~~this part must~~
 25 [SECTION 4(3)] FOR THE CURRENT SCHOOL FISCAL YEAR THAT

1 EXCEED THE TUITION RECEIPTS OF THE PRIOR YEAR MAY be
 2 deposited in ~~a---separate---account---~~ the district
 3 miscellaneous programs fund and must be used for that year
 4 in the manner provided for in 20-9-507 to support the costs
 5 of the program for which the tuition was received.

6 (B) ANY OTHER TUITION RECEIPTS RECEIVED FOR THE CURRENT
 7 SCHOOL FISCAL YEAR THAT EXCEED THE TUITION RECEIPTS OF THE
 8 PRIOR YEAR MAY BE DEPOSITED IN THE DISTRICT MISCELLANEOUS
 9 PROGRAMS FUND AND MAY BE USED FOR THAT YEAR IN THE MANNER
 10 PROVIDED FOR IN THAT FUND. FOR THE ENSUING SCHOOL FISCAL
 11 YEAR, THE RECEIPTS MUST BE CREDITED TO THE DISTRICT GENERAL
 12 FUND BUDGET.

13 Section 6. Section 20-3-205, MCA, is amended to read:

14 "20-3-205. Powers and duties. The county superintendent
 15 has general supervision of the schools of the county within
 16 the limitations prescribed by this title and shall perform
 17 the following duties or acts:

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

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

24 (3) register the teacher or specialist certificates or
 25 emergency authorization of employment of any person employed

1 in the county as a teacher, specialist, principal, or
2 district superintendent in accordance with the provisions of
3 20-4-202;

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

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

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

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

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

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

22 (10) estimate the average number belonging (ANB) of an
23 opening school in accordance with the provisions of
24 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

25 (11) process and, when required, act on school isolation

1 applications in accordance with the provisions of 20-9-302;

2 (12) complete the budgets, compute the budgeted revenues
3 and tax levies, file final budgets and budget amendments,
4 and fulfill other responsibilities assigned to him under the
5 provisions of this title regulating school budgeting
6 systems;

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

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

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

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

22 (17) compute the revenues and the district and county
23 levy requirements for each fund included in each district's
24 final budget and report the computations to the board of
25 county commissioners in accordance with the provisions of

1 the general fund, transportation, bonds, and other school
2 funds parts of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **Section 7.** Section 20-3-210, MCA, is amended to read:

25 "20-3-210. Controversy appeals and hearings. (1) Except

1 as provided under 20-3-211, the county superintendent shall
 2 hear and decide all matters of controversy arising in his
 3 the county as a result of decisions of the trustees of a
 4 district in the county. Except as provided in subsection
 5 (2), exhaustion of administrative remedies under this
 6 chapter is required prior to filing an action in district
 7 court concerning a decision of the trustees. When appeals
 8 are made under 20-4-204 relating to the termination of
 9 services of a tenure teacher or under 20-4-207 relating to
 10 the dismissal of a teacher under contract, the county
 11 superintendent may appoint a qualified attorney at law to
 12 act as a legal adviser who shall assist the superintendent
 13 in preparing findings of fact and conclusions of law.
 14 Subsequently, either the teacher or trustees may appeal to
 15 the superintendent of public instruction under the
 16 provisions for appeal of controversies in this title.
 17 Furthermore, ~~he~~ The county superintendent shall hear and
 18 decide all controversies arising under:

19 (a) ~~20-5-304 or 20-5-311~~ [sections 1 and 2] relating to
 20 the approval of ~~tuition--applications out-of-district~~
 21 attendance agreements;

22 (b) 20-4-206(4); or

23 (c) any other provision of this title for which a
 24 procedure for resolving controversies is not expressly
 25 prescribed.

1 (2) Exhaustion of administrative remedies is not a
 2 prerequisite to filing an action in district court
 3 concerning a decision of the trustees of a district in the
 4 following instances:

5 (a) a state agency has been granted primary
 6 jurisdiction over the matter;

7 (b) the matter is governed by a specific statute; or

8 (c) the board of trustees has acted without
 9 jurisdiction or in excess of its jurisdiction.

10 (3) The county superintendent shall hear the appeal and
 11 take testimony in order to determine the facts related to
 12 the controversy and may administer oaths to the witnesses
 13 that testify at the hearing. He The county superintendent
 14 shall prepare a written transcript of the hearing
 15 proceedings. The decision on the matter of controversy which
 16 that is made by the county superintendent ~~shall~~ must be
 17 based upon the facts established at such the hearing.

18 (4) The decision of the county superintendent may be
 19 appealed to the superintendent of public instruction, and if
 20 it is appealed, the county superintendent shall supply a
 21 transcript of the hearing and any other documents entered as
 22 testimony at the hearing to the superintendent of public
 23 instruction.

24 (5) Cost incurred by the office of the county
 25 superintendent ~~shall~~ must be paid from the general fund

budget of the county in which the controversy is initiated."

Section 8. Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal tuition attendance agreement with adjoining state OR PROVINCE ~~----county--payment--obligation.~~

(1) The superintendent of public instruction ~~shall have the~~ authority to may execute a reciprocal tuition ATTENDANCE agreement with the superintendent of public instruction or a department of education of any state OR PROVINCE adjoining Montana ~~to allow the eligible children of for--a--reciprocal~~ tuition--rate--for TO ALLOW a child who is a Montana resident to attend school in the adjoining state OR PROVINCE and to ~~allow--children--of for~~ a child of the adjoining state OR PROVINCE to attend school in Montana. In negotiating a reciprocal tuition ATTENDANCE agreement, the tuition rates prescribed by ~~20-5-305 and 20-5-312 shall be~~ [section 4] are waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition ATTENDANCE agreement that is executed to the county superintendent of each county that may be affected by such the agreement.

(2) ~~Any-tuition~~ An out-of-district attendance agreement approved under the provisions of ~~20-5-301, 20-5-302, or 20-5-311~~ [sections 1 and 2] must be completed for a child's attendance at a school outside of the state ~~shall be~~

~~completed--in--accordance--with--the--applicable--reciprocal~~ tuition--agreement or for an out-of-state child to attend a school in Montana.

~~{3}--The--county--superintendent--of--schools--of--the--county~~ of--the--child's--district--of--residence--shall--make--payments from:

~~{a}--the--county--basic--tax--for--elementary--schools,--as~~ provided--in--20-9-331,--for--a--child--who--is--placed--in facilities outside of the state, pursuant to ~~{section~~ 2{1}{a} or {1}{b}}, but who is not a child with disabilities ~~as--defined--pursuant--to--the--provisions--of--Title--20,--chapter~~ 7,--part--4,--or

~~{b}--the--county--basic--special--tax--for--high--schools,--as~~ provided--in--20-9-333,--for--a--child--who--is--placed--in facilities outside the state, pursuant to ~~{section--2{1}{a}}~~ or--{1}{b}}, but who is not a child with disabilities ~~as defined pursuant to the provisions of Title 20, chapter 7,~~ part 4."

Section 9. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school

1 district must be based on the classification of the attached
2 elementary district under the provisions of 20-3-341 and
3 20-3-351.

4 (3) Calculations for the following must be made
5 separately for the elementary school program and the high
6 school program of a K-12 school district:

7 (a) the calculation of ANB for purposes of determining
8 the foundation program schedule payments must be in
9 accordance with the provisions of 20-9-311;

10 (b) the basic county tax and revenues for the
11 elementary foundation program amount for the district must
12 be determined in accordance with the provisions of 20-9-331,
13 and the basic special tax and revenues for the high school
14 foundation program amount for the district must be
15 determined in accordance with 20-9-333; and

16 (c) the guaranteed tax base aid for the permissive levy
17 amount for a K-12 school district must be calculated
18 separately, using the mill value per elementary ANB and the
19 mill value per high school ANB as defined in 20-9-366. The
20 permissive amount to be levied for the K-12 school district
21 must be prorated based on the ratio of the foundation
22 program amounts for elementary school programs to the
23 foundation program amounts for high school programs.

24 (4) The retirement obligation and eligibility for
25 retirement guaranteed tax base aid for a K-12 school

1 district must be calculated and funded as a high school
2 district retirement obligation under the provisions of
3 20-9-501.

4 (5) For the purposes of budgeting for a K-12 school
5 district, the trustees shall adopt a single fund for any of
6 the budgeted or nonbudgeted funds described in 20-9-201 for
7 the costs of operating all grades and programs of the
8 district.

9 (6) Tuition for attendance in the K-12 school district
10 must be determined separately for high school pupils and for
11 elementary pupils under the provisions of ~~chapter-5, part-3~~
12 [sections 1 through 5], except that the actual expenditures
13 used for calculations in ~~20-5-305-and-20-5-312~~ [section 4]
14 must be based on an amount prorated between the elementary
15 and high school programs in the appropriate funds of each
16 district in the year prior to the attachment of the
17 districts."

18 **Section 10.** Section 20-7-420, MCA, is amended to read:

19 **"20-7-420. Residency requirements -- financial**
20 **responsibility for special education.** (1) In accordance with
21 the provisions of 1-1-215, a child's district of residence
22 for special education purposes is the residence of his the
23 child's parents or of his the child's guardian unless
24 otherwise determined by the court. This applies to a child
25 living at home, in an institution, or under foster care. If

the parent has left the state, the parent's last known district of residence is the child's district of residence.

(2) The district county of residence is financially responsible for tuition and transportation as established under ~~20-5-305-and-20-5-312~~ [section 4] for a child with disabilities, as defined in 20-7-401, including a child who has been placed by a state agency in a foster care or group home licensed by the state. The district county of residence is not financially responsible for tuition and transportation for a child with disabilities who is placed by a state agency in an out-of-state public school or an out-of-state private residential facility.

(3) If a child with disabilities who is in need of special education is placed in an in-state residential treatment facility or children's psychiatric hospital as defined in 20-7-436 but the educational placement is in a public school district, the district county of residence is responsible for tuition and transportation for the proportion of time the child is served in the public school district unless the public school district is operated primarily for the purpose of providing education to children who attend the residential facility or hospital.

(4) Under the provisions of 20-7-422(3), the superintendent of public instruction shall provide funds for the education fees required to provide a free appropriate

public education for a child with disabilities who is in need of special education and is placed by a state agency in an out-of-state private residential facility or out-of-state public school, provided that, in determining the special education services needed for the child with disabilities, the district of residence has complied with the rules promulgated under 20-7-402.

(5) A state agency that makes a placement of a child with disabilities is responsible for the room and board and the treatment of the child."

Section 11. Section 20-7-421, MCA, is amended to read:

"20-7-421. Arranging attendance in another district in lieu of a special education program -- tuition. (1) In accordance with a placement decision made by persons determining an individualized education program for a child with disabilities, the trustees may arrange for the attendance of a child in need of special education in another district within the state of Montana.

(2) Tuition and transportation as required under ~~20-5-305-and-20-5-312~~ [section 4] may be charged as provided in 20-7-420."

Section 12. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state placement of children with disabilities -- payment of costs. (1) In accordance with a placement made by persons determining an individualized

education program for a child with disabilities, the trustees of a district may arrange for the attendance of the child in a special education program offered outside of the state of Montana. ~~The arrangements are not subject to the out-of-state attendance provisions in 20-5-301 and 20-5-311.~~

(2) ~~(a)~~ Except as provided in subsection (3), when the persons determining the individualized education program of a child with disabilities who is in need of special education recommend placement in an out-of-state private residential facility, the trustees of the district ~~county~~ superintendent of the county TRUSTEES OF THE DISTRICT of residence shall negotiate the amount and manner of payment of all costs associated with the placement.

~~(b) If the placement of the child with disabilities has met the requirements of 20-7-402, the superintendent of public instruction shall approve the amount of special education instructional fees to be included as a contracted service. Only the special education instructional fees may be included as a contracted service for the purposes of 20-7-431(i)(a)(iii)(A).~~

(3) Whenever a child with disabilities who is in need of special education is adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child as defined in 41-3-102 or a youth in need of supervision or delinquent youth as defined in 41-5-103 and is placed by a

state agency in an out-of-state private residential facility, the superintendent of public instruction shall negotiate with:

(a) the provider for the amount and manner of payment of education fees consistent with the individualized education program determined for the child under the provisions of 20-7-402; and

(b) the state agency that makes the placement for the portion of the placement costs that represents the child's education program.

(4) Payments for a child with disabilities as negotiated in subsection (3) must be paid by the superintendent of public instruction from the state special education appropriation."

Section 13. Section 20-7-424, MCA, is amended to read:

"20-7-424. No tuition when attending a state institution. When Whenever a child is attending an A STATE-FUNDED institution supported solely by funds of the state of IN Montana, the resident district or county shall not be is not 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 DISTRICT OR county, whichever is applicable, wherein where the parents or guardian of the

1 child ~~maintain~~ maintains legal residence shall pay tuition
 2 to the district ~~or county~~ operating the school in accordance
 3 with the provisions of ~~20-5-305 or~~ [section 2] or 20-7-421,
 4 whichever section applies to the circumstances of the child.
 5 Transportation payments ~~shall~~ must be made for students
 6 enrolled in ~~such~~ any school district classes or receiving
 7 training, including summer sessions, at the state
 8 institution. The schedule of transportation payments ~~shall~~
 9 must be approved in accordance with existing ~~special~~
 10 ~~education~~ transportation payment schedules and ~~shall~~ must be
 11 approved by the county transportation committee and the
 12 superintendent of public instruction."

13 **Section 14.** Section 20-9-141, MCA, is amended to read:

14 "20-9-141. Computation of general fund net levy
 15 requirement by county superintendent. (1) The county
 16 superintendent shall compute the levy requirement for each
 17 district's general fund on the basis of the following
 18 procedure:

19 (a) Determine the funding required for the district's
 20 final general fund budget less the amount established by the
 21 schedules in 20-9-316 through 20-9-321 by totaling:

22 (i) the district's nonisolated school foundation
 23 program requirement to be met by a district levy as provided
 24 in 20-9-303; and

25 (ii) any additional general fund budget amount adopted

1 by the trustees of the district under the provisions of
 2 20-9-145 and 20-9-353, including any additional levies
 3 authorized by the electors of the district.

4 (b) Determine the money available for the reduction of
 5 the property tax on the district for the general fund by
 6 totaling:

7 (i) anticipated federal money received under the
 8 provisions of Title I of Public Law 81-874 or other
 9 anticipated federal money received in lieu of that federal
 10 act;

11 (ii) anticipated tuition payments for out-of-district
 12 pupils under the provisions of ~~20-5-303, 20-5-307, 20-5-312,~~
 13 ~~and 20-5-313~~ [sections 2 through 4];

14 (iii) general fund balance reappropriated, as
 15 established under the provisions of 20-9-104;

16 (iv) anticipated or reappropriated state impact aid
 17 received under the provisions of 20-9-304;

18 (v) anticipated or reappropriated revenue from property
 19 taxes and fees imposed under 23-2-517, 23-2-803,
 20 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

21 (vi) anticipated net proceeds taxes for new production,
 22 as defined in 15-23-601;

23 (vii) anticipated revenue from local government
 24 severance taxes as provided in 15-36-112;

25 (viii) anticipated revenue from coal gross proceeds

1 under 15-23-703;

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

5 (x) anticipated revenue from corporation license taxes
6 collected from financial institutions under the provisions
7 of 15-31-702; and

8 (xi) any other revenue anticipated by the trustees to be
9 received during the ensuing school fiscal year that may be
10 used to finance the general fund, excluding any guaranteed
11 tax base aid.

12 (c) Notwithstanding the provisions of subsection (2),
13 subtract the money available to reduce the property tax
14 required to finance the general fund that has been
15 determined in subsection (1)(b) from any additional general
16 fund budget amount adopted by the trustees of the district
17 as the permissive amount under the provisions of 20-9-145 to
18 determine the general fund permissive net levy requirement.

19 (d) Subtract any amount remaining after the
20 determination in subsection (1)(c) from any additional
21 funding requirement to be met by a district levy as provided
22 in 20-9-303 and 20-9-353 to determine the additional general
23 fund levy requirement.

24 (2) The county superintendent shall calculate the
25 number of mills to be levied on the taxable property in the

1 district to finance the general fund permissive net levy
2 requirement by dividing the amount determined in subsection
3 (1)(c) by the sum of:

4 (a) the amount of guaranteed tax base aid that the
5 district will receive for each mill levied, as certified by
6 the superintendent of public instruction; and

7 (b) the taxable valuation of the district divided by
8 1,000.

9 (3) The net general fund levy requirement determined in
10 subsections (1)(c) and (1)(d) must be reported to the county
11 commissioners on the second Monday of August by the county
12 superintendent as the general fund permissive net levy
13 requirement and the additional general fund levy requirement
14 for the district, and a levy must be set by the county
15 commissioners in accordance with 20-9-142."

16 **Section 15.** Section 20-9-507, MCA, is amended to read:

17 "20-9-507. **Miscellaneous programs fund.** (1) The
18 trustees of a district receiving money from local, state,
19 federal, or other sources provided in ~~20-5-307(4)~~
20 ~~20-5-312(8)~~ [section 5] and 20-9-321(3) other than money
21 under the provisions of Title I of Public Law 81-874 or
22 federal money designated for deposit in a specific fund of
23 the district shall establish a miscellaneous programs fund
24 for the deposit of the money. The money may be a
25 reimbursement of miscellaneous program fund expenditures

1 already realized by the district or may be a grant of money
 2 for the financing of expenditures to be realized by the
 3 district for a special, approved program to be operated by
 4 the district. When the money is a reimbursement, the money
 5 may be expended at the discretion of the trustees for school
 6 purposes. When the money is a grant, the money must be
 7 expended according to the conditions of the program approval
 8 by the superintendent of public instruction or any other
 9 approval agent. Within the miscellaneous programs fund, the
 10 trustees shall cause a separate accounting to be maintained
 11 for each federal grant program and for the aggregate of all
 12 reimbursement money.

13 (2) The financial administration of the miscellaneous
 14 programs fund must be in accordance with the financial
 15 administration provisions of this title for a nonbudgeted
 16 fund."

17 **Section 16.** Section 20-10-105, MCA, is amended to read:

18 "20-10-105. Determination of residence. When the
 19 residence of an eligible transportee is a matter of
 20 controversy and is an issue before a board of trustees, a
 21 county transportation committee, or the superintendent of
 22 public instruction, the residence shall must be established
 23 on the basis of the general state residence law as provided
 24 in 1-1-215. Whenever ~~any-district-or~~ a county is determined
 25 to be responsible for paying tuition for any pupil in

1 accordance with ~~20-5-301, 20-5-302, or 20-5-311~~ sections 2
 2 through 4], the residence of the pupil for tuition purposes
 3 is the residence of the pupil for transportation purposes."

4 **Section 17.** Section 20-10-144, MCA, is amended to read:

5 "20-10-144. Computation of revenues and net tax levy
 6 requirements for district transportation fund budget. Before
 7 the fourth Monday of July and in accordance with 20-9-123,
 8 the county superintendent shall compute the revenue
 9 available to finance the transportation fund budget of each
 10 district. The county superintendent shall compute the
 11 revenue for each district on the following basis:

12 (1) The "schedule amount" of the preliminary budget
 13 expenditures that is derived from the rate schedules in
 14 20-10-141 and 20-10-142 must be determined by adding the
 15 following amounts:

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

24 (b) the total of all individual transportation per diem
 25 reimbursement rates for the district as determined from the

1 contracts submitted by the district multiplied by the number
2 of pupil-instruction days scheduled for the ensuing school
3 attendance year; plus

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

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

14 (E) ANY ESTIMATED COSTS FOR TRANSPORTING A CHILD OUT OF
15 DISTRICT WHEN THE CHILD HAS MANDATORY APPROVAL TO ATTEND
16 SCHOOL IN A DISTRICT OUTSIDE THE DISTRICT OF RESIDENCE.

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

22 (i) one-half is the budgeted state transportation
23 reimbursement, except that the state transportation
24 reimbursement for the transportation of special education
25 pupils under the provisions of 20-7-442 must be 50% of the

1 schedule amount attributed to the transportation of special
2 education pupils; and

3 (ii) one-half is the budgeted county transportation fund
4 reimbursement and must be financed in the manner provided in
5 20-10-146.

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

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

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

24 (a) anticipated federal money received under the
25 provisions of Title I of Public Law 81-874 or other

1 anticipated federal money received in lieu of that federal
2 act;

3 (b) anticipated payments from other districts for
4 providing school bus transportation services for the
5 district;

6 (c) anticipated payments from a parent or guardian for
7 providing school bus transportation services for his a
8 child;

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

12 (e) anticipated or reappropriated revenue from property
13 taxes and fees imposed under 23-2-517, 23-2-803,
14 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

15 (f) anticipated revenue from coal gross proceeds under
16 15-23-703;

17 (g) anticipated net proceeds taxes for new production,
18 as defined in 15-23-601, and local government severance
19 taxes on any other production occurring after December 31,
20 1988;

21 (h) anticipated transportation payments for
22 out-of-district pupils under the provisions of [sections 1
23 through 5];

24 (i) any other revenue anticipated by the trustees to be
25 earned during the ensuing school fiscal year that may be

1 used to finance the transportation fund; and

2 ~~(i)~~(j) any fund balance available for reappropriation
3 as determined by subtracting the amount of the
4 end-of-the-year fund balance earmarked as the transportation
5 fund operating reserve for the ensuing school fiscal year by
6 the trustees from the end-of-the-year fund balance in the
7 transportation fund. The operating reserve may not be more
8 than 20% of the final transportation fund budget for the
9 ensuing school fiscal year and is for the purpose of paying
10 transportation fund warrants issued by the district under
11 the final transportation fund budget.

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

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

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

21 (5) The transportation fund levy requirements
22 determined in subsection (4) for each district must be
23 reported to the county commissioners on the second Monday of
24 August by the county superintendent as the transportation
25 fund levy requirements for the district, and the levy must

be made by the county commissioners in accordance with 20-9-142."

SECTION 18. 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 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; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of [section 2].

(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 or reimbursements under the mandatory attendance agreement provisions of [section 2];

(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

1 fiscal year and must be used for the purpose of paying
2 transportation fund warrants under the county transportation
3 fund budget.

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

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

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

13 (3) The net levy requirement determined in subsection
14 (2)(c) must be reported to the county commissioners on the
15 second Monday of August by the county superintendent and a
16 levy must be set by the county commissioners in accordance
17 with 20-9-142.

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

24 NEW SECTION. Section 19. Repealer. Sections 20-5-301,
25 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307,

1 20-5-311, 20-5-312, AND 20-5-313, ~~and-20-7-437~~, MCA, are
2 repealed.

3 NEW SECTION. Section 20. Codification instruction.
4 [Sections 1 through 5] are intended to be codified as an
5 integral part of Title 20, chapter 5, part 3, and the
6 provisions of Title 20, chapter 5, part 3, apply to
7 [sections 1 through 5].

8 NEW SECTION. SECTION 21. INSTRUCTION TO CODE
9 COMMISSIONER. SECTION 20-7-437 IS INTENDED TO BE RENUMBERED
10 AND CODIFIED AS AN INTEGRAL PART OF TITLE 20, CHAPTER 5.

11 NEW SECTION. Section 22. Effective date --
12 applicability. [This act] is effective for the school fiscal
13 year beginning July 1, 1993, and applies to calculations and
14 payments for tuition for the school fiscal year beginning
15 July 1, 1993.

-End-

Free Conference Committee
on House Bill 469
Report No. 1, April 14, 1993

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 469 and recommend as follows:

1. Page 8, line 19.

Strike: "(6)"

Insert: "(5)"

2. Page 13, lines 21 and 22.

Strike: "." on line 21 through "INSTRUCTION" on line 22

Insert: ", who"

Renumber: subsequent subsections

3. Page 14, line 3.

Following: "SUBSECTION"

Strike: "(6)"

Insert: "(5)"

4. Page 15, line 12.

Following: "~~(5)~~"

Strike: "(10)"

Insert: "(9)"

5. Page 15, line 22.

Following: "SUBSECTION"

Strike: "(4)"

Insert: "(3)"

And this Free Conference Committee report be adopted.

For the House:

Killian Spring
Rep. Spring, Chair

Vicki Cocchiarella
Rep. Cocchiarella

Wm E Boharski
Rep. Boharski

For the Senate:

Chet Blaylock
Sen. Blaylock, Chair

Sam Stangor
Sen. Stangor

John Hertel
Sen. Hertel

ADOPT

REJECT

F.C.C.R.#1
HB 469
820842CC.Hpf

2-11-93
152

HOUSE BILL NO. 469

INTRODUCED BY COCCHIARELLA, BOHARSKI,

J. JOHNSON, SPRING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION LAWS; PERMITTING A CHILD TO ATTEND A SCHOOL DISTRICT OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE, SUBJECT TO DISCRETIONARY APPROVAL BY THE TRUSTEES OF THE RESIDENT DISTRICT AND THE DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN CERTAIN CIRCUMSTANCES; REQUIRING THAT THE DISTRICT OR COUNTY OF RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; PROVIDING TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING A SCHOOL DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH THE MISCELLANEOUS PROGRAMS FUND; AMENDING SECTIONS 20-3-205, 20-3-210, 20-5-314, 20-6-702, 20-7-420, 20-7-421, 20-7-422, 20-7-424, 20-9-141, 20-9-507, 20-10-105, AND 20-10-144, AND 20-10-146, MCA; REPEALING SECTIONS 20-5-301, 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, AND 20-5-313, AND 20-7-437, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

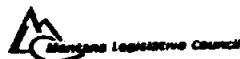
A statement of intent is required for this bill because

[section 4] of the bill gives the superintendent of public instruction authority to adopt administrative rules regarding A FLAT tuition rates RATE for children-attending-a school-outside-the-child's-district-of-residence--under--the mandatory-attendance-approval-requirements-in-[section-2]-of the--bill EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES, USING STATEWIDE DISTRICT EXPENDITURE AND REVENUE DATA FOR CERTAIN FUNDS.

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

NEW SECTION. Section 1. Attendance with discretionary approval. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence OR A PUBLIC SCHOOL IN A DISTRICT OF ANOTHER STATE OR PROVINCE THAT IS ADJACENT TO THE COUNTY OF THE CHILD'S RESIDENCE, subject to discretionary approval by the trustees of THE RESIDENT DISTRICT AND the district of choice. If the trustees grant discretionary approval of the child's attendance in a school of the district, the parent or guardian may not be charged tuition but AND may be charged for transportation.

(2) (A) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend.



The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.

(3)(B) The attendance agreement must set forth the financial obligations, if any, of each party FOR TUITION AND for costs incurred for transporting the child under Title 20, chapter 10. The district of residence and the district of choice may jointly approve the application if the district of residence provides for transportation.

(4)(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE APPLIED EQUALLY TO ALL STUDENTS.

(3) AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT APPROVED UNDER THIS SECTION REQUIRES THAT THE PARENT OR GUARDIAN INITIATE THE REQUEST FOR AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT AND THAT THE TRUSTEES OF BOTH THE DISTRICT OF RESIDENCE AND THE DISTRICT OF CHOICE APPROVE THE AGREEMENT.

(4) IF THE TRUSTEES OF THE DISTRICT OF CHOICE WAIVE TUITION, APPROVAL OF THE RESIDENT DISTRICT TRUSTEES IS NOT REQUIRED.

(5) THE TRUSTEES OF A SCHOOL DISTRICT MAY APPROVE OR DISAPPROVE THE OUT-OF-DISTRICT ATTENDANCE AGREEMENT CONSISTENT WITH THIS PART AND THE POLICY ADOPTED BY THE LOCAL BOARD OF TRUSTEES FOR OUT-OF-DISTRICT ATTENDANCE AGREEMENTS.

(6) THE APPROVAL OF AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT BY THE APPLICABLE APPROVAL AGENTS OR AS THE RESULT OF AN APPEAL MUST AUTHORIZE THE CHILD NAMED IN THE AGREEMENT TO ENROLL IN AND ATTEND THE SCHOOL NAMED IN THE AGREEMENT FOR THE DESIGNATED SCHOOL YEAR.

(7) The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement. When the trustees approve an out-of-district attendance agreement, they shall send a copy of the agreement to the county superintendent of the child's county of residence within 10 days.

(5)(8) This section does not preclude the trustees of a district from approving an attendance agreement for group educational program offerings with another district NOT PROVIDED BY THE RESIDENT DISTRICT, SUCH AS THE KINDERGARTEN OR GRADES 7 AND 8 PROGRAMS, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. The trustees of the district of residence may budget for those tuition and transportation costs from the district's tuition and transportation funds. FOR PURPOSES OF THIS SUBSECTION, THE TRUSTEES OF THE RESIDENT DISTRICT SHALL INITIATE THE OUT-OF-DISTRICT AGREEMENT.

(9) (A) A PROVISION OF THIS TITLE MAY NOT BE CONSTRUED TO DENY A PARENT THE RIGHT TO SEND A CHILD, AT PERSONAL

EXPENSE, TO ANY SCHOOL OF A DISTRICT OTHER THAN THE RESIDENT DISTRICT WHEN THE TRUSTEES OF THE DISTRICT OF CHOICE HAVE APPROVED AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT AND THE PARENT HAS AGREED TO PAY THE TUITION AS PRESCRIBED BY [SECTION 4]. HOWEVER, UNDER THIS SUBSECTION (9), THE TUITION RATE MUST BE REDUCED BY THE AMOUNT THE PARENT OR GUARDIAN OF THE CHILD PAID IN DISTRICT AND COUNTY PROPERTY TAXES DURING THE IMMEDIATELY PRECEDING SCHOOL FISCAL YEAR FOR THE BENEFIT AND SUPPORT OF THE DISTRICT IN WHICH THE CHILD WILL ATTEND SCHOOL.

(B) FOR THE PURPOSES OF THIS SECTION, "PARENT OR GUARDIAN" INCLUDES AN INDIVIDUAL SHAREHOLDER OF A DOMESTIC CORPORATION AS DEFINED IN 35-1-113 WHOSE SHARES ARE 95% HELD BY RELATED FAMILY MEMBERS TO THE SIXTH DEGREE OF CONSANGUINITY OR BY MARRIAGE TO THE SIXTH DEGREE OF AFFINITY.

(C) THE TAX AMOUNT TO BE CREDITED TO REDUCE ANY TUITION CHARGE TO A PARENT OR GUARDIAN UNDER SUBSECTION (9)(A) IS DETERMINED IN THE FOLLOWING MANNER:

(I) DETERMINE THE PERCENTAGE OF THE TOTAL SHARES OF THE CORPORATION HELD BY THE SHAREHOLDER PARENT OR PARENTS OR GUARDIAN;

(II) DETERMINE THE PORTION OF PROPERTY TAXES PAID IN THE PRECEDING SCHOOL FISCAL YEAR BY THE CORPORATION, PARENT, OR GUARDIAN FOR THE BENEFIT AND SUPPORT OF THE DISTRICT IN

WHICH THE CHILD WILL ATTEND SCHOOL.

(D) THE PERCENTAGE OF TOTAL SHARES AS DETERMINED IN SUBSECTION (9)(C)(I) IS THE PERCENTAGE OF TAXES PAID AS DETERMINED IN SUBSECTION (9)(C)(II) THAT IS TO BE CREDITED TO REDUCE THE TUITION CHARGE.

(10) AS USED IN [SECTIONS 1 THROUGH 5], THE TERM "GUARDIAN" MEANS THE GUARDIAN OF A MINOR AS PROVIDED IN TITLE 72, CHAPTER 5, PART 2.

NEW SECTION. Section 2. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement, permitting payment of tuition and transportation, THAT ALLOWS A CHILD TO ENROLL IN AND ATTEND A SCHOOL IN A MONTANA SCHOOL DISTRICT THAT IS OUTSIDE OF THE CHILD'S DISTRICT OF RESIDENCE OR IN A PUBLIC SCHOOL DISTRICT OF A STATE OR PROVINCE THAT IS ADJACENT TO THE COUNTY OF THE CHILD'S RESIDENCE is mandatory and does not require approval of the trustees of the district of residence or the district of choice for an out-of-district child whenever:

(A) THE CHILD RESIDES CLOSER TO THE SCHOOL THAT THE CHILD WISHES TO ATTEND AND MORE THAN 3 MILES FROM THE SCHOOL THE CHILD WOULD ATTEND IN THE RESIDENT DISTRICT;

(B) THE CHILD RESIDES IN A LOCATION WHERE, DUE TO ROAD OR GEOGRAPHIC CONDITIONS, IT IS IMPRACTICAL TO ATTEND THE SCHOOL NEAREST THE CHILD'S RESIDENCE;

(C) THE CHILD IS A MEMBER OF A FAMILY WHO MUST SEND ANOTHER CHILD OUTSIDE OF THE ELEMENTARY DISTRICT TO ATTEND HIGH SCHOOL AND THE CHILD OF ELEMENTARY AGE MAY MORE CONVENIENTLY ATTEND AN ELEMENTARY SCHOOL WHERE THE HIGH SCHOOL IS LOCATED, PROVIDED THE CHILD RESIDES MORE THAN 3 MILES FROM AN ELEMENTARY SCHOOL IN THE RESIDENT DISTRICT OR THE PARENT MUST MOVE TO THE ELEMENTARY DISTRICT WHERE THE HIGH SCHOOL IS LOCATED TO ENROLL ANOTHER CHILD IN HIGH SCHOOL;

~~(a)~~(D) the child has been adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of family services and, as a result of the placement, is required to attend school outside of the child's district of residence;
OR

~~(b)~~(E) the child is required to attend school outside of the district of residence as the result of a placement by a state agency or parent in a group home licensed by the state or an order of a court of competent jurisdiction; or
~~(c) --the child is required to attend school outside of the district of residence as the result of placement pursuant to Title 20, chapter 7, part 4.~~

(2) (A) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an out-of-district attendance agreement in consultation with an appropriate official of the district the child will attend.

(B) THE ATTENDANCE AGREEMENT MUST SET FORTH THE FINANCIAL OBLIGATIONS, IF ANY, FOR COSTS INCURRED FOR TUITION AND TRANSPORTATION AS PROVIDED IN [SECTION 4] AND TITLE 20, CHAPTER 10.

(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE APPLIED EQUALLY TO ALL STUDENTS.

(3) Except as provided in subsection (4), the trustees OF THE RESIDENT DISTRICT AND THE TRUSTEES OF THE DISTRICT OF CHOICE shall approve the out-of-district attendance agreement and notify the county superintendent of schools of the county of the child's residence of the approval of the agreement within 10 days. THE COUNTY SUPERINTENDENT SHALL APPROVE THE AGREEMENT FOR PAYMENT UNDER [SECTION 5(6) (5)].

(4) Unless the child is a child with disabilities who resides in the district, the trustees of the district where the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find that, due to insufficient room and overcrowding, the

1 accreditation of the school would be adversely affected by
2 the acceptance of the child.

3 ~~{5}--This section does not preclude the trustees from~~
4 ~~waiving any portion of the tuition payment, but any waiver~~
5 ~~must be applied equally to all students.~~

6 NEW SECTION. Section 3. Residency determination --
7 notification -- appeal for attendance agreement. (1) In
8 considering an out-of-district attendance agreement, the
9 trustees shall determine the child's district of residence
10 on the basis of the provisions of 1-1-215.

11 (2) The WITHIN 10 DAYS OF THE INITIAL APPLICATION FOR
12 AN AGREEMENT, THE trustees OF THE DISTRICT OF CHOICE shall
13 notify the parent or guardian of the child AND THE TRUSTEES
14 OF THE DISTRICT OF RESIDENCE involved in the out-of-district
15 attendance agreement of the approximate ANTICIPATED date for
16 approval or disapproval of the agreement within 10 days of
17 the initial application for an agreement.

18 (3) Within 10 days of approval or disapproval of an
19 out-of-district attendance agreement, the trustees shall
20 provide copies of the approved or disapproved attendance
21 agreement to the parent or guardian and to the child's
22 district of residence.

23 (4) WITHIN 15 DAYS OF RECEIPT OF AN APPROVED
24 OUT-OF-DISTRICT ATTENDANCE AGREEMENT, THE TRUSTEES OF THE
25 DISTRICT OF RESIDENCE SHALL APPROVE OR DISAPPROVE THE

1 AGREEMENT UNDER THE PROVISIONS OF THIS PART AND FORWARD THE
2 COMPLETED AGREEMENT TO THE COUNTY SUPERINTENDENT OF SCHOOLS
3 OF THE COUNTY OF RESIDENCE, THE TRUSTEES OF THE DISTRICT OF
4 CHOICE, AND THE PARENT OR GUARDIAN.

5 ~~{4}~~(5) If an out-of-district attendance agreement is
6 disapproved or no action is taken, the parent may appeal the
7 disapproval or lack of action to the county superintendent
8 and, subsequently, to the superintendent of public
9 instruction under the provisions for the appeal of
10 controversies in this title.

11 NEW SECTION. Section 4. Tuition and transportation
12 rates. (1) Whenever EXCEPT AS PROVIDED IN SUBSECTIONS (3)
13 AND (4), WHENEVER a child has mandatory approval to attend a
14 school outside of the child's district of residence under
15 the provisions of {section-2}, the county of the child's
16 residence shall pay tuition and transportation to the
17 district where the child attends school.

18 ~~{2}--The superintendent of public instruction shall~~
19 ~~adopt rules to set the tuition rates for all out-of-district~~
20 ~~attendance within the following guidelines:~~

21 ~~{a}--Tuition rates for all out-of-district children who~~
22 ~~are not in a special education program must be a flat rate~~

23 ~~{b}--Tuition rates for children with disabilities must~~
24 ~~be determined according to rules adopted by the~~
25 ~~superintendent of public instruction.~~ [SECTION 1 OR 2], THE

BASIS OF THE RATE OF TUITION IS A FLAT RATE FOR EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES DETERMINED BY RULE BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION BY MARCH 15 OF EACH YEAR, USING STATEWIDE DISTRICT EXPENDITURE AND REVENUE DATA FOR THE GENERAL FUND, DEBT SERVICE FUND, AND RETIREMENT FUND TO DETERMINE THE AVERAGE DISTRICT CONTRIBUTION.

(2) THE TUITION FOR CHILDREN WITH DISABILITIES MUST BE DETERMINED UNDER RULES ADOPTED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR THE CALCULATION OF TUITION FOR SPECIAL EDUCATION PUPILS.

(3) THE TUITION RATE FOR OUT-OF-DISTRICT PLACEMENT PURSUANT TO [SECTION 2(1)(D) AND (1)(E)] FOR A STUDENT WITHOUT DISABILITIES WHO REQUIRES A PROGRAM WITH COSTS THAT EXCEED THE AVERAGE DISTRICT COSTS 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 APPROVE AN AGREEMENT WITH THE DISTRICT OF ATTENDANCE FOR THE TUITION COST; AND

(B) FOR A MONTANA RESIDENT STUDENT, THE AVERAGE DISTRICT PER-ANNUAL 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.

(3)(4) When a child without--disabilities ATTENDS A PUBLIC SCHOOL OF ANOTHER STATE OR PROVINCE OR has been placed by a state agency in an out-of-state residential program, the amount of daily tuition may not be greater than the average annual cost per student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with disabilities pursuant to Title 20, chapter 7, part 4; or

(b) placement made in a state OR PROVINCE with a reciprocal tuition agreement pursuant to 20-5-314; OR

(C) AN ORDER ISSUED UNDER TITLE 40, CHAPTER 4, PART 2.

(4)(5) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost per student in the child's district of residence or 21.25 cents per mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

1 NEW SECTION. Section 5. Tuition report and payment
 2 provisions. (1) At the close of the school term of each
 3 school fiscal year and before July 15, the trustees of a
 4 district shall report to the county superintendent:

5 (a) the name and district of residence of each child
 6 who is attending a school of the district under an approved
 7 mandatory out-of-district attendance agreement;

8 (b) the number of days of enrollment for each child
 9 reported under the provisions of subsection (1)(a);

10 (c) the annual tuition rate for each child's tuition
 11 payment, as determined under the provisions of [section 4],
 12 and the tuition cost for each reported child; AND

13 (D) THE NAMES, DISTRICTS OF ATTENDANCE, AND AMOUNT OF
 14 TUITION TO BE PAID BY THE DISTRICT FOR RESIDENT STUDENTS
 15 ATTENDING PUBLIC SCHOOLS OUT OF STATE.

16 (2) The county superintendent shall send, as soon as
 17 practicable, the reported information to the county
 18 superintendent of the county in which a reported child
 19 resides.

20 (3) BEFORE JULY 30, THE COUNTY SUPERINTENDENT SHALL
 21 REPORT THE INFORMATION IN SUBSECTION (1)(D) TO THE
 22 SUPERINTENDENT OF PUBLIC INSTRUCTION.

23 ~~(4) THE SUPERINTENDENT OF PUBLIC INSTRUCTION, WHO SHALL~~
 24 DETERMINE THE TOTAL FOUNDATION AMOUNT FOR WHICH THE DISTRICT
 25 WOULD BE ELIGIBLE IF THE STUDENT WERE ENROLLED IN THE

1 RESIDENT DISTRICT. THE REIMBURSEMENT AMOUNT IS THE
 2 DIFFERENCE BETWEEN THE ACTUAL AMOUNT PAID AND THE AMOUNT
 3 CALCULATED IN THIS SUBSECTION.

4 ~~(5)(4)~~ NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION
 5 ~~(6)~~ (5), TUITION PAYMENT PROVISIONS FOR OUT-OF-DISTRICT
 6 PLACEMENT OF STUDENTS WITH DISABILITIES MUST BE DETERMINED
 7 PURSUANT TO TITLE 20, CHAPTER 7, PART 4.

8 ~~(3)(6)(5)~~ The---mandatory EXCEPT AS PROVIDED IN
 9 SUBSECTION (6), WHEN A CHILD HAS APPROVAL TO ATTEND A SCHOOL
 10 OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE UNDER THE
 11 PROVISIONS OF [SECTION 1 OR 2], THE DISTRICT OF RESIDENCE
 12 SHALL FINANCE THE TUITION AMOUNT FROM THE DISTRICT TUITION
 13 FUND AND ANY TRANSPORTATION AMOUNT FROM THE TRANSPORTATION
 14 FUND.

15 ~~(7)(6)~~ WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE
 16 PROVISIONS OF [SECTION 2], THE tuition and transportation
 17 obligation for an elementary school child attending a school
 18 outside of the child's district COUNTY of residence must be
 19 financed by the county basic tax for elementary districts,
 20 as provided in 20-9-331, for the child's county of
 21 residence--The-total-amount-of--the-mandatory--tuition--and
 22 transportation--obligation-for-a-high-school-child-attending
 23 a-school-outside-of-the-child's-district-of--residence--must
 24 be-financed-by OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL
 25 OUTSIDE THE COUNTY OF RESIDENCE BY the county basic tax for

high school districts, as provided in 20-9-333, for the child's county of residence.

~~(4)~~~~(8)~~(7) By December 31 of the school fiscal year, the county superintendent OR THE TRUSTEES shall pay at least one-half of any tuition and transportation obligation established under this section out of the money realized to date from the appropriate basic county tax account provided for in 20-9-334 OR FROM THE DISTRICT TUITION OR TRANSPORTATION FUND. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school district that is entitled to tuition and transportation. Except as provided in subsection ~~(5)~~ ~~(10)~~ (9), the county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a transportation payment.

~~(9)~~(8) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL REIMBURSE THE DISTRICT OF RESIDENCE FROM THE STATE EQUALIZATION ACCOUNT FOR THE FOUNDATION AMOUNT DETERMINED IN SUBSECTION ~~(4)~~ (3).

~~(5)~~~~(10)~~(9) (A) Any tuition receipts received under the

provisions of Title 20, chapter 7, part 4, or ~~this part must~~ [SECTION 4(3)] FOR THE CURRENT SCHOOL FISCAL YEAR THAT EXCEED THE TUITION RECEIPTS OF THE PRIOR YEAR MAY be deposited in ~~a separate account~~ to the district miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(B) ANY OTHER TUITION RECEIPTS RECEIVED FOR THE CURRENT SCHOOL FISCAL YEAR THAT EXCEED THE TUITION RECEIPTS OF THE PRIOR YEAR MAY BE DEPOSITED IN THE DISTRICT MISCELLANEOUS PROGRAMS FUND AND MAY BE USED FOR THAT YEAR IN THE MANNER PROVIDED FOR IN THAT FUND. FOR THE ENSUING SCHOOL FISCAL YEAR, THE RECEIPTS MUST BE CREDITED TO THE DISTRICT GENERAL FUND BUDGET.

Section 6. Section 20-3-205, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned to-him under the provisions of this title regulating school budgeting systems;

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

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

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

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

(17) compute the revenues and the district and county 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) administer the oath of office to trustees without
2 the receipt of pay for administering the oath;

3 (24) keep a record of his official acts, preserve all
4 reports submitted to him the superintendent under the
5 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 successor the next superintendent;

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

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

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

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

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

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

1 **Section 7.** Section 20-3-210, MCA, is amended to read:

2 "20-3-210. Controversy appeals and hearings. (1) Except
3 as provided under 20-3-211, the county superintendent shall
4 hear and decide all matters of controversy arising in his
5 the county as a result of decisions of the trustees of a
6 district in the county. Except as provided in subsection
7 (2), exhaustion of administrative remedies under this
8 chapter is required prior to filing an action in district
9 court concerning a decision of the trustees. When appeals
10 are made under 20-4-204 relating to the termination of
11 services of a tenure teacher or under 20-4-207 relating to
12 the dismissal of a teacher under contract, the county
13 superintendent may appoint a qualified attorney at law to
14 act as a legal adviser who shall assist the superintendent
15 in preparing findings of fact and conclusions of law.
16 Subsequently, either the teacher or trustees may appeal to
17 the superintendent of public instruction under the
18 provisions for appeal of controversies in this title.
19 ~~Furthermore, he~~ The county superintendent shall hear and
20 decide all controversies arising under:

21 (a) ~~20-5-304 or 20-5-311~~ [sections 1 and 2] relating to
22 the approval of ~~tuition--applications~~ out-of-district
23 attendance agreements;

24 (b) 20-4-206(4); or

25 (c) any other provision of this title for which a

1 procedure for resolving controversies is not expressly
2 prescribed.

3 (2) Exhaustion of administrative remedies is not a
4 prerequisite to filing an action in district court
5 concerning a decision of the trustees of a district in the
6 following instances:

7 (a) a state agency has been granted primary
8 jurisdiction over the matter;

9 (b) the matter is governed by a specific statute; or

10 (c) the board of trustees has acted without
11 jurisdiction or in excess of its jurisdiction.

12 (3) The county superintendent shall hear the appeal and
13 take testimony in order to determine the facts related to
14 the controversy and may administer oaths to the witnesses
15 that testify at the hearing. ~~He~~ The county superintendent
16 shall prepare a written transcript of the hearing
17 proceedings. The decision on the matter of controversy which
18 that is made by the county superintendent shall must be
19 based upon the facts established at such the hearing.

20 (4) The decision of the county superintendent may be
21 appealed to the superintendent of public instruction, and if
22 it is appealed, the county superintendent shall supply a
23 transcript of the hearing and any other documents entered as
24 testimony at the hearing to the superintendent of public
25 instruction.

(5) Cost incurred by the office of the county superintendent shall must be paid from the general fund budget of the county in which the controversy is initiated."

Section 8. Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal tuition attendance agreement with adjoining state OR PROVINCE ~~----county--payment--obligation.~~

(1) The superintendent of public instruction shall have the authority to may execute a reciprocal tuition ATTENDANCE agreement with the superintendent of public instruction or a department of education of any state OR PROVINCE adjoining Montana to allow the eligible children of ~~for--a--reciprocal~~ tuition--rate--for TO ALLOW a child who is a Montana resident to attend school in the adjoining state OR PROVINCE and to ~~allow--children--of~~ for a child of the adjoining state OR PROVINCE to attend school in Montana. In negotiating a reciprocal tuition ATTENDANCE agreement, the tuition rates prescribed by 20-5-305 and 20-5-312 shall be [section 4] are waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition ATTENDANCE agreement that is executed to the county superintendent of each county that may be affected by such the agreement.

(2) Any tuition An out-of-district attendance agreement approved under the provisions of 20-5-301, 20-5-302, or

20-5-311 [sections 1 and 2] must be completed for a child's attendance at a school outside of the state ~~shall be~~ completed--in--accordance--with--the--applicable--reciprocal tuition--agreement or for an out-of-state child to attend a school in Montana.

~~{3}--The--county--superintendent--of--schools--of--the--county~~ of--the--child's--district--of--residence--shall--make--payments from:

~~{a}--the--county--basic--tax--for--elementary--schools,--as~~ provided--in--20-9-331,--for--a--child--who--is--placed--in facilities--outside--of--the--state,--pursuant--to--{section 2{1}{a}--or--{1}{b}}--but--who--is--not--a--child--with--disabilities as--defined--pursuant--to--the--provisions--of--Title--20,--chapter 7,--part--4,--or

~~{b}--the--county--basic--special--tax--for--high--schools,--as~~ provided--in--20-9-333,--for--a--child--who--is--placed--in facilities--outside--the--state,--pursuant--to--{section--2{1}{a} or--{1}{b}}--but--who--is--not--a--child--with--disabilities--as defined--pursuant--to--the--provisions--of--Title--20,--chapter--7, part--4,--"

Section 9. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school

1 districts.

2 (2) The number of elected trustees of the K-12 school
3 district must be based on the classification of the attached
4 elementary district under the provisions of 20-3-341 and
5 20-3-351.

6 (3) Calculations for the following must be made
7 separately for the elementary school program and the high
8 school program of a K-12 school district:

9 (a) the calculation of ANB for purposes of determining
10 the foundation program schedule payments must be in
11 accordance with the provisions of 20-9-311;

12 (b) the basic county tax and revenues for the
13 elementary foundation program amount for the district must
14 be determined in accordance with the provisions of 20-9-331,
15 and the basic special tax and revenues for the high school
16 foundation program amount for the district must be
17 determined in accordance with 20-9-333; and

18 (c) the guaranteed tax base aid for the permissive levy
19 amount for a K-12 school district must be calculated
20 separately, using the mill value per elementary ANB and the
21 mill value per high school ANB as defined in 20-9-366. The
22 permissive amount to be levied for the K-12 school district
23 must be prorated based on the ratio of the foundation
24 program amounts for elementary school programs to the
25 foundation program amounts for high school programs.

1 (4) The retirement obligation and eligibility for
2 retirement guaranteed tax base aid for a K-12 school
3 district must be calculated and funded as a high school
4 district retirement obligation under the provisions of
5 20-9-501.

6 (5) For the purposes of budgeting for a K-12 school
7 district, the trustees shall adopt a single fund for any of
8 the budgeted or nonbudgeted funds described in 20-9-201 for
9 the costs of operating all grades and programs of the
10 district.

11 (6) Tuition for attendance in the K-12 school district
12 must be determined separately for high school pupils and for
13 elementary pupils under the provisions of chapter-57-part-3
14 [sections 1 through 5], except that the actual expenditures
15 used for calculations in 20-5-305-and-20-5-312 [section 4]
16 must be based on an amount prorated between the elementary
17 and high school programs in the appropriate funds of each
18 district in the year prior to the attachment of the
19 districts."

20 **Section 10.** Section 20-7-420, MCA, is amended to read:

21 "20-7-420. Residency requirements -- financial
22 responsibility for special education. (1) In accordance with
23 the provisions of 1-1-215, a child's district of residence
24 for special education purposes is the residence of his the
25 child's parents or of his the child's guardian unless

otherwise determined by the court. This applies to a child living at home, in an institution, or under foster care. If the parent has left the state, the parent's last known district of residence is the child's district of residence.

(2) The district county of residence is financially responsible for tuition and transportation as established under ~~20-5-305-and-20-5-312~~ [section 4] for a child with disabilities, as defined in 20-7-401, including a child who has been placed by a state agency in a foster care or group home licensed by the state. The district county of residence is not financially responsible for tuition and transportation for a child with disabilities who is placed by a state agency in an out-of-state public school or an out-of-state private residential facility.

(3) If a child with disabilities who is in need of special education is placed in an in-state residential treatment facility or children's psychiatric hospital as defined in 20-7-436 but the educational placement is in a public school district, the district county of residence is responsible for tuition and transportation for the proportion of time the child is served in the public school district unless the public school district is operated primarily for the purpose of providing education to children who attend the residential facility or hospital.

(4) Under the provisions of 20-7-422(3), the

superintendent of public instruction shall provide funds for the education fees required to provide a free appropriate public education for a child with disabilities who is in need of special education and is placed by a state agency in an out-of-state private residential facility or out-of-state public school, provided that, in determining the special education services needed for the child with disabilities, the district of residence has complied with the rules promulgated under 20-7-402.

(5) A state agency that makes a placement of a child with disabilities is responsible for the room and board and the treatment of the child."

Section 11. Section 20-7-421, MCA, is amended to read:

"20-7-421. Arranging attendance in another district in lieu of a special education program -- tuition. (1) In accordance with a placement decision made by persons determining an individualized education program for a child with disabilities, the trustees may arrange for the attendance of a child in need of special education in another district within the state of Montana.

(2) Tuition and transportation as required under ~~20-5-305-and-20-5-312~~ [section 4] may be charged as provided in 20-7-420."

Section 12. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state placement of children with

1 disabilities -- payment of costs. (1) In accordance with a
2 placement made by persons determining an individualized
3 education program for a child with disabilities, the
4 trustees of a district may arrange for the attendance of the
5 child in a special education program offered outside of the
6 state of Montana. ~~The arrangements are not subject to the~~
7 ~~out-of-state attendance provisions in 20-5-301 and 20-5-311.~~

8 (2) (a) Except as provided in subsection (3), when the
9 persons determining the individualized education program of
10 a child with disabilities who is in need of special
11 education recommend placement in an out-of-state private
12 residential facility, the ~~trustees of the district~~ county
13 superintendent of the county TRUSTEES OF THE DISTRICT of
14 residence shall negotiate the amount and manner of payment
15 of all costs associated with the placement.

16 (b) ~~if the placement of the child with disabilities has~~
17 ~~met the requirements of 20-7-402, the superintendent of~~
18 ~~public instruction shall approve the amount of special~~
19 ~~education instructional fees to be included as a contracted~~
20 ~~service. Only the special education instructional fees may~~
21 ~~be included as a contracted service for the purposes of~~
22 ~~20-7-431(1)(a)(iii)(A).~~

23 (3) Whenever a child with disabilities who is in need
24 of special education is adjudicated by a court of competent
25 jurisdiction to be an abused, neglected, or dependent child

1 as defined in 41-3-102 or a youth in need of supervision or
2 delinquent youth as defined in 41-5-103 and is placed by a
3 state agency in an out-of-state private residential
4 facility, the superintendent of public instruction shall
5 negotiate with:

6 (a) the provider for the amount and manner of payment
7 of education fees consistent with the individualized
8 education program determined for the child under the
9 provisions of 20-7-402; and

10 (b) the state agency that makes the placement for the
11 portion of the placement costs that represents the child's
12 education program.

13 (4) Payments for a child with disabilities as
14 negotiated in subsection (3) must be paid by the
15 superintendent of public instruction from the state special
16 education appropriation."

17 **Section 13.** Section 20-7-424, MCA, is amended to read:

18 "20-7-424. No tuition when attending a state
19 institution. When Whenever a child is attending an A
20 STATE-FUNDED institution supported solely by funds of the
21 state of IN Montana, the resident district or county shall
22 not be is not required to pay tuition to the state
23 institution for such the child, but whenever at the
24 recommendation of institution officials such the child
25 attends classes conducted by a school within a local

1 district, the ~~district or~~ DISTRICT OR county, ~~whichever is~~
 2 ~~applicable, wherein where~~ the parents or guardian of the
 3 child ~~maintain~~ maintains legal residence shall pay tuition
 4 to the district or county operating the school in accordance
 5 with the provisions of 20-5-305 or [section 2] or 20-7-421,
 6 whichever section applies to the circumstances of the child.
 7 Transportation payments ~~shall~~ must be made for students
 8 enrolled in such any school district classes or receiving
 9 training, including summer sessions, at the state
 10 institution. The schedule of transportation payments ~~shall~~
 11 must be approved in accordance with existing special
 12 education transportation payment schedules and ~~shall~~ must be
 13 approved by the county transportation committee and the
 14 superintendent of public instruction."

15 **Section 14.** Section 20-9-141, MCA, is amended to read:

16 "20-9-141. Computation of general fund net levy
 17 requirement by county superintendent. (1) The county
 18 superintendent shall compute the levy requirement for each
 19 district's general fund on the basis of the following
 20 procedure:

21 (a) Determine the funding required for the district's
 22 final general fund budget less the amount established by the
 23 schedules in 20-9-316 through 20-9-321 by totaling:

24 (i) the district's nonisolated school foundation
 25 program requirement to be met by a district levy as provided

1 in 20-9-303; and

2 (ii) any additional general fund budget amount adopted
 3 by the trustees of the district under the provisions of
 4 20-9-145 and 20-9-353, including any additional levies
 5 authorized by the electors of the district.

6 (b) Determine the money available for the reduction of
 7 the property tax on the district for the general fund by
 8 totaling:

9 (i) anticipated federal money received under the
 10 provisions of Title I of Public Law 81-874 or other
 11 anticipated federal money received in lieu of that federal
 12 act;

13 (ii) anticipated tuition payments for out-of-district
 14 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
 15 and 20-5-313 [sections 2 through 4];

16 (iii) general fund balance reappropriated, as
 17 established under the provisions of 20-9-104;

18 (iv) anticipated or reappropriated state impact aid
 19 received under the provisions of 20-9-304;

20 (v) anticipated or reappropriated revenue from property
 21 taxes and fees imposed under 23-2-517, 23-2-803,
 22 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

23 (vi) anticipated net proceeds taxes for new production,
 24 as defined in 15-23-601;

25 (vii) anticipated revenue from local government

1 severance taxes as provided in 15-36-112;

2 (viii) anticipated revenue from coal gross proceeds
3 under 15-23-703;

4 (ix) anticipated interest to be earned or reappropriated
5 interest earned by the investment of general fund cash in
6 accordance with the provisions of 20-9-213(4);

7 (x) anticipated revenue from corporation license taxes
8 collected from financial institutions under the provisions
9 of 15-31-702; and

10 (xi) any other revenue anticipated by the trustees to be
11 received during the ensuing school fiscal year that may be
12 used to finance the general fund, excluding any guaranteed
13 tax base aid.

14 (c) Notwithstanding the provisions of subsection (2),
15 subtract the money available to reduce the property tax
16 required to finance the general fund that has been
17 determined in subsection (1)(b) from any additional general
18 fund budget amount adopted by the trustees of the district
19 as the permissive amount under the provisions of 20-9-145 to
20 determine the general fund permissive net levy requirement.

21 (d) Subtract any amount remaining after the
22 determination in subsection (1)(c) from any additional
23 funding requirement to be met by a district levy as provided
24 in 20-9-303 and 20-9-353 to determine the additional general
25 fund levy requirement.

1 (2) The county superintendent shall calculate the
2 number of mills to be levied on the taxable property in the
3 district to finance the general fund permissive net levy
4 requirement by dividing the amount determined in subsection
5 (1)(c) by the sum of:

6 (a) the amount of guaranteed tax base aid that the
7 district will receive for each mill levied, as certified by
8 the superintendent of public instruction; and

9 (b) the taxable valuation of the district divided by
10 1,000.

11 (3) The net general fund levy requirement determined in
12 subsections (1)(c) and (1)(d) must be reported to the county
13 commissioners on the second Monday of August by the county
14 superintendent as the general fund permissive net levy
15 requirement and the additional general fund levy requirement
16 for the district, and a levy must be set by the county
17 commissioners in accordance with 20-9-142."

18 **Section 15.** Section 20-9-507, MCA, is amended to read:

19 "20-9-507. Miscellaneous programs fund. (1) The
20 trustees of a district receiving money from local, state,
21 federal, or other sources provided in 20-5-307(4),
22 20-5-312(8), [section 5] and 20-9-321(3) other than money
23 under the provisions of Title I of Public Law 81-874 or
24 federal money designated for deposit in a specific fund of
25 the district shall establish a miscellaneous programs fund

1 for the deposit of the money. The money may be a
 2 reimbursement of miscellaneous program fund expenditures
 3 already realized by the district or may be a grant of money
 4 for the financing of expenditures to be realized by the
 5 district for a special, approved program to be operated by
 6 the district. When the money is a reimbursement, the money
 7 may be expended at the discretion of the trustees for school
 8 purposes. When the money is a grant, the money must be
 9 expended according to the conditions of the program approval
 10 by the superintendent of public instruction or any other
 11 approval agent. Within the miscellaneous programs fund, the
 12 trustees shall cause a separate accounting to be maintained
 13 for each federal grant program and for the aggregate of all
 14 reimbursement money.

15 (2) The financial administration of the miscellaneous
 16 programs fund must be in accordance with the financial
 17 administration provisions of this title for a nonbudgeted
 18 fund."

19 **Section 16.** Section 20-10-105, MCA, is amended to read:

20 "20-10-105. Determination of residence. When the
 21 residence of an eligible transportee is a matter of
 22 controversy and is an issue before a board of trustees, a
 23 county transportation committee, or the superintendent of
 24 public instruction, the residence shall must be established
 25 on the basis of the general state residence law as provided

1 in 1-1-215. Whenever ~~any district or~~ a county is determined
 2 to be responsible for paying tuition for any pupil in
 3 accordance with ~~20-5-301, 20-5-302, or 20-5-311~~ [sections 2
 4 through 4], the residence of the pupil for tuition purposes
 5 is the residence of the pupil for transportation purposes."

6 **Section 17.** Section 20-10-144, MCA, is amended to read:

7 "20-10-144. Computation of revenues and net tax levy
 8 requirements for district transportation fund budget. Before
 9 the fourth Monday of July and in accordance with 20-9-123,
 10 the county superintendent shall compute the revenue
 11 available to finance the transportation fund budget of each
 12 district. The county superintendent shall compute the
 13 revenue for each district on the following basis:

14 (1) The "schedule amount" of the preliminary budget
 15 expenditures that is derived from the rate schedules in
 16 20-10-141 and 20-10-142 must be determined by adding the
 17 following amounts:

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

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

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

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

16 (E) ANY ESTIMATED COSTS FOR TRANSPORTING A CHILD OUT OF
17 DISTRICT WHEN THE CHILD HAS MANDATORY APPROVAL TO ATTEND
18 SCHOOL IN A DISTRICT OUTSIDE THE DISTRICT OF RESIDENCE.

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

24 (i) one-half is the budgeted state transportation
25 reimbursement, except that the state transportation

1 reimbursement for the transportation of special education
2 pupils under the provisions of 20-7-442 must be 50% of the
3 schedule amount attributed to the transportation of special
4 education pupils; and

5 (ii) one-half is the budgeted county transportation fund
6 reimbursement and must be financed in the manner provided in
7 20-10-146.

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

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

23 (3) The total of the money available for the reduction
24 of property tax on the district for the transportation fund
25 must be determined by totaling:

1 (a) anticipated federal money received under the
2 provisions of Title I of Public Law 81-874 or other
3 anticipated federal money received in lieu of that federal
4 act;

5 (b) anticipated payments from other districts for
6 providing school bus transportation services for the
7 district;

8 (c) anticipated payments from a parent or guardian for
9 providing school bus transportation services for his a
10 child;

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

14 (e) anticipated or reappropriated revenue from property
15 taxes and fees imposed under 23-2-517, 23-2-803,
16 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

17 (f) anticipated revenue from coal gross proceeds under
18 15-23-703;

19 (g) anticipated net proceeds taxes for new production,
20 as defined in 15-23-601, and local government severance
21 taxes on any other production occurring after December 31,
22 1988;

23 (h) anticipated transportation payments for
24 out-of-district pupils under the provisions of [sections 1
25 through 5];

1 (i) any other revenue anticipated by the trustees to be
2 earned during the ensuing school fiscal year that may be
3 used to finance the transportation fund; and

4 ~~††~~(j) any fund balance available for reappropriation
5 as determined by subtracting the amount of the
6 end-of-the-year fund balance earmarked as the transportation
7 fund operating reserve for the ensuing school fiscal year by
8 the trustees from the end-of-the-year fund balance in the
9 transportation fund. The operating reserve may not be more
10 than 20% of the final transportation fund budget for the
11 ensuing school fiscal year and is for the purpose of paying
12 transportation fund warrants issued by the district under
13 the final transportation fund budget.

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

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

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

23 (5) The transportation fund levy requirements
24 determined in subsection (4) for each district must be
25 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 18. 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 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; and

(c) when county transportation reimbursement is

required under the mandatory attendance agreement provisions of [section 2].

(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 or reimbursements under the mandatory attendance agreement provisions of [section 2];

(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

1 operating reserve may not be more than 35% of the final
2 county transportation fund budget for the ensuing school
3 fiscal year and must be used for the purpose of paying
4 transportation fund warrants under the county transportation
5 fund budget.

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

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

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

15 (3) The net levy requirement determined in subsection
16 (2)(c) must be reported to the county commissioners on the
17 second Monday of August by the county superintendent and a
18 levy must be set by the county commissioners in accordance
19 with 20-9-142.

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

1 NEW SECTION. Section 19. Repealer. Sections 20-5-301,
2 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307,
3 20-5-311, 20-5-312, AND 20-5-313, and 20-7-437, MCA, are
4 repealed.

5 NEW SECTION. Section 20. Codification instruction.
6 [Sections 1 through 5] are intended to be codified as an
7 integral part of Title 20, chapter 5, part 3, and the
8 provisions of Title 20, chapter 5, part 3, apply to
9 [sections 1 through 5].

10 NEW SECTION. SECTION 21. INSTRUCTION TO CODE
11 COMMISSIONER. SECTION 20-7-437 IS INTENDED TO BE RENUMBERED
12 AND CODIFIED AS AN INTEGRAL PART OF TITLE 20, CHAPTER 5.

13 NEW SECTION. Section 22. Effective date --
14 applicability. [This act] is effective for the school fiscal
15 year beginning July 1, 1993, and applies to calculations and
16 payments for tuition for the school fiscal year beginning
17 July 1, 1993.

-End-