

HOUSE BILL 81

Introduced Boharski

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| 12/09 | Introduced |
| 12/09 | Referred to Education & Cultural Resources |
| 12/09 | First Reading |
| 12/09 | Fiscal Note Requested |
| 12/10 | Hearing |
| 12/15 | Fiscal Note Received |
| 12/15 | Taken from Committee and Placed on 2d Reading the Next Legislative Day |
| 12/16 | Fiscal Note Printed |
| 12/16 | 2nd Reading Do Pass as Amended Motion Failed |

1 House BILL NO. 81
2 INTRODUCED BY Jim Bohrsch
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
5 SCHOOL BUDGETING AND FINANCING LAWS; PROVIDING AN INDIVIDUAL
6 INCOME TAX CREDIT FOR QUALIFYING ELEMENTARY AND SECONDARY
7 EDUCATION EXPENSES PAID BY AN INDIVIDUAL FOR A DEPENDENT
8 MINOR; REQUIRING A DECLARATION OF INTENT TO CLAIM A TAX
9 CREDIT; REQUIRING SCHOOL DISTRICTS TO TAKE DECLARATIONS INTO
10 ACCOUNT IN BUDGETING; REQUIRING A VOTE TO INCREASE A SCHOOL
11 DISTRICT'S PREVIOUS YEAR GENERAL FUND BUDGET OR PER-ANB
12 AMOUNT; AMENDING SECTIONS 20-9-161, 20-9-162, 20-9-163,
13 20-9-308, 20-9-311, AND 20-9-353, MCA; AND PROVIDING AN
14 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

15
16 WHEREAS, Article X, section 1(1), of the Montana
17 Constitution guarantees equality of educational opportunity
18 to each person of the state; and

19 WHEREAS, the Legislature finds that educational
20 opportunity is promoted by increasing available educational
21 options and choices; and

22 WHEREAS, the right of parents to guide the education of
23 their children is a basic civil right protected under the
24 United States and Montana Constitutions; and

25 WHEREAS, Article X, section 1(3), of the Montana

1 Constitution directs the Legislature to provide a basic
2 system of free quality public elementary and secondary
3 schools; and

4 WHEREAS, the Legislature finds that competition among
5 schools can promote the quality of public education; and

6 WHEREAS, the Legislature finds that parental choice in
7 education can reduce the Montana property and income tax
8 burdens and increase the amount of money available to
9 educate each child in the public schools.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Elementary and secondary
13 education expense tax credit. (1) There is a credit against
14 the taxes otherwise due under this chapter for qualified
15 elementary and secondary education expenses paid by an
16 individual for a dependent who is a minor during the tax
17 year. In order to claim the credit, the individual must have
18 a completed intent form to claim an education tax credit on
19 file with the state pursuant to [section 2].

20 (2) (a) Education expenses that qualify for the credit
21 under this section are amounts paid as tuition, fees, and
22 textbook purchases by an individual for a dependent who is
23 in compliance with Title 20, chapter 5, part 1.

24 (b) Qualifying education expenses do not include
25 amounts paid:

(i) to a governmental entity as property taxes, assessments, or fees; or

(ii) for materials used in teaching religious tenets or used in worship.

(3) The amount of the credit for qualifying education expenses is as follows:

(a) up to \$375 for the tax year beginning January 1, 1994, but only for the amount by which those expenses have increased from the previous tax year;

(b) up to \$875 for the tax year beginning January 1, 1995; and

(c) up to \$1,000 for tax years beginning on or after January 1, 1996.

(4) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. Any amount of the credit allowed under this section that is in excess of an individual's tax liability must be refunded to the individual.

(5) In the case of a married individual filing a separate return, the amount of the credit under subsection (3) is limited to one-half of the applicable amount.

NEW SECTION. Section 2. Intent to claim education tax credit -- form. (1) The superintendent of public instruction shall provide a form on which to declare the intent to claim

an education tax credit. The form must outline the tax credit provided by [section 1] and must contain an affidavit that the individual completing the form intends to enroll a dependent minor in a school other than a public school in the district of residence during the following school year. The form must be distributed to each student attending public school. Forms must also be provided to and be available from each county superintendent of schools.

(2) In order to be eligible for the tax credit provided for in [section 1], an individual shall annually complete the form provided for in subsection (1) and return the form to an official of the individual's district of residence by May 10. Each district shall forward the forms to the county superintendent, who shall then forward the forms to the superintendent of public instruction. The number of eligible dependent minors indicated on the forms who were enrolled during that year must be excluded from ANB calculations for the ensuing school year.

(3) The superintendent of public instruction shall forward a copy of each form to the department of revenue for use in determining eligibility for the tax credit provided for in [section 1].

Section 3. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly

1 indicates otherwise, the term "budget amendment" for the
2 purpose of school budgeting means an amendment to an adopted
3 budget of the district for the following reasons:

4 (1) an increase in the enrollment of an elementary or
5 high school district that is:

6 (a) beyond what could reasonably have been anticipated
7 at the time of the adoption of the budget for the current
8 school fiscal year whenever, because of the enrollment
9 increase, the district's budget for any or all of the
10 regularly budgeted funds does not provide sufficient
11 financing to properly maintain and support the district for
12 the entire current school fiscal year; or

13 (b) because of enrollment of students for whom a form
14 to declare the intent to claim an education tax credit was
15 filed as provided in [section 2];

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

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

24 (4) an enactment of legislation after the adoption of
25 the budget for the current year that imposes an additional

1 financial obligation on the district;

2 (5) the receipt of:

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

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

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

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

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

20 **Section 4.** Section 20-9-162, MCA, is amended to read:

21 **"20-9-162. Authorization for budget amendment adoption.**

22 (1) (a) Notwithstanding the provisions of subsections (2)
23 and (3), a budget amendment may be adopted at any time of
24 the school fiscal year, except that a budget amendment
25 required by an enrollment increase as provided in

20-9-161(1)(a) may not be adopted until after October 1.

(b) The trustees may approve a budget amendment pursuant to 20-9-161(2) through (6) by a resolution.

(c) Whenever the trustees of a district decide that a budget amendment is necessary, they may proclaim the need for the budget amendment by a majority vote of the trustees. The proclamation must state the facts constituting the need for the budget amendment, the funds affected by the budget amendment, the anticipated source of financing, the estimated amount of money required to finance the budget amendment, and the time and place the trustees will meet for the purpose of considering and adopting the budget amendment for the current school fiscal year.

(2) The trustees shall send a copy of the proclamation to the county superintendent and to the board of county commissioners of the county.

(3) The trustees shall submit a budget amendment for an enrollment increase to the superintendent of public instruction for approval in the manner provided in 20-9-163."

Section 5. Section 20-9-163, MCA, is amended to read:

"20-9-163. Resolution for budget amendment -- petition to superintendent of public instruction. (1) Whenever the trustees of a district decide that a budget amendment is necessary because of an enrollment increase, they may

petition the superintendent of public instruction to adopt a resolution for the budget amendment. The petition must be signed by a majority of the trustees.

(2) The petition must state the facts constituting the need for the budget amendment, the estimated amount of money required to fund the budget amendment, the funds affected by the budget amendment, the anticipated source of financing for the budget amendment, and the current year enrollment.

(3) The superintendent of public instruction shall promptly approve or disapprove the petition requesting approval to adopt a resolution for a budget amendment because of increased enrollment. If the petition is for a budget amendment for an enrollment increase as provided in 20-9-161(1)(a), the superintendent of public instruction shall adjust the district's maximum general fund budget based on the approved enrollment increase. Upon approval, a district may not adopt a budget amendment if the amount will cause the district to exceed the district's adjusted maximum general fund budget. If the petition is approved, the trustees may adopt a resolution for a budget amendment and take all other steps required for the adoption of a budget amendment. Approval of a petition by the superintendent of public instruction authorizes the board of trustees to initiate a budget amendment by resolution and does not relieve the trustees of the necessity of complying with the

requirements of the school budgeting laws. Approval of the petition may not be construed as approval of any subsequent application for increased state aid on account of the budget amendment."

Section 6. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets. (1) ~~For the school fiscal year beginning on July 1, 1993, the~~ The trustees of a district shall adopt a general fund budget that:

(a) except as provided in subsection (2), is at least equal to the BASE budget established for the district; or

(b) except as provided in subsection (4), does not exceed the maximum general fund budget established for the district.

(2) (a) If the BASE budget for a district ~~for the school fiscal year beginning on July 1, 1993,~~ is greater than the general fund budget of the district for the prior school fiscal year, the trustees of the district:

(i) may increase the general fund budget for the district by 4% of the previous year's general fund budget or by 4% of the previous year's general fund budget per-ANB multiplied by the current year's ANB for budgeting purposes; but

(ii) may not adopt a general fund budget that reflects less than the following general fund budget growth amounts

for the appropriate school fiscal year:

(A) ~~20% of the range between the district general fund budget for the school fiscal year ending June 30, 1993, and the BASE budget for the district for the school fiscal year beginning July 1, 1993;~~

~~(B)~~ 25% of the range between the district general fund budget for the school fiscal year ending June 30, 1994, and the BASE budget for the district for the school fiscal year beginning July 1, 1994;

~~(C)~~ (B) 33.3% of the range between the district general fund budget for the school fiscal year ending June 30, 1995, and the BASE budget for the district for the school fiscal year beginning July 1, 1995;

~~(D)~~ (C) 50% of the range between the district general fund budget for the school fiscal year ending June 30, 1996, and the BASE budget for the district for the school fiscal year beginning July 1, 1996; or

~~(E)~~ (D) the remainder of the range between the district general fund budget for the school fiscal year ending June 30, 1997, and the BASE budget for the district for the school fiscal year beginning July 1, 1997.

(b) (i) ~~For the school fiscal year beginning July 1, 1993, a district may not exceed the limitations in subsection (2)(a);~~

~~(ii) Except for the school fiscal year beginning July 1,~~

1 ~~1993,--whenever~~ Whenever the trustees of a district adopt a
 2 general fund budget that exceeds one of the limitations in
 3 subsection (2)(a) but does not exceed the BASE budget for
 4 the district, the trustees shall submit a proposition on the
 5 amount that exceeds the limitation to the electors of the
 6 district, as provided in 20-9-353.

7 (ii) Whenever the trustees of a district adopt a general
 8 fund budget that does not exceed one of the limitations in
 9 subsection (2)(a) but does exceed the BASE budget for the
 10 district, the trustees shall submit a proposition on the
 11 amount that exceeds the BASE budget to the electors of the
 12 district, as provided in 20-9-353.

13 (c) Nothing in this section is intended to require a
 14 district to budget in excess of its BASE budget.

15 (3) Whenever (a) Except as provided in subsection
 16 (2)(b)(ii), whenever the trustees of a district adopt a
 17 general fund budget that exceeds the BASE budget for the
 18 district but does not exceed the maximum general fund budget
 19 for the district, the trustees shall:

20 ~~(a)--adopt-a-resolution-stating-the-reasons-and-purposes~~
 21 ~~for--exceeding--the--BASE--budget--amount--if--the~~ submit a
 22 proposition to the electors of the district, as provided in
 23 20-9-353, for any budget amount that exceeds the previous
 24 year's general fund budget amount or the previous year's
 25 general fund budget per-ANB multiplied by the current year's

1 ANB for budgeting purposes.

2 (b) A general fund budget adopted under this subsection
 3 (3) does may not exceed the greater of:

4 (i) 104% of the previous year's general fund budget; or

5 (ii) 104% of the previous year's general fund budget
 6 per-ANB multiplied by the current year's ANB for budgeting
 7 purposes, ~~or.~~

8 ~~(b)--except-for-the-school-fiscal-year-beginning-July-1,~~
 9 ~~1993,--submit--a--proposition-on-any-amount-of-the-over-BASE~~
 10 ~~budget-that-exceeds-one-of--the--limitations--in--subsection~~
 11 ~~(3)(a)--to--the--electors--of--the--district,--as-provided-in~~
 12 ~~20-9-353.~~

13 ~~(c)--For-the-school-fiscal-year-beginning-July-1,--1993,~~
 14 ~~a--district--may--not--exceed--the-limitations-in-subsection~~
 15 ~~(3)(a).~~

16 (4) (a) If the maximum general fund budget for a
 17 district for an ensuing school fiscal year is less than the
 18 general fund budget for the district for the current school
 19 fiscal year, the trustees of the district may not adopt a
 20 general fund budget for the ensuing school fiscal year that
 21 is greater than the district's general fund budget for the
 22 current school fiscal year.

23 (b) Except for the school fiscal ~~years~~ year beginning
 24 ~~July-1, 1993, and~~ July 1, 1994, the trustees of the district
 25 shall submit a proposition to raise any general fund budget

1 amount that is in excess of the maximum general fund budget
2 for the district to the electors who are qualified under
3 20-20-301 to vote on the proposition, as provided in
4 20-9-353.

5 (5) Whenever the trustees of a district adopt a general
6 fund budget that does not exceed the BASE budget for the
7 district, the trustees shall finance this amount with the
8 following sources of revenue:

9 (a) state equalization aid as provided in 20-9-343,
10 including any guaranteed tax base aid for which the district
11 may be eligible, as provided in 20-9-366 through 20-9-369;

12 (b) county equalization aid, as provided in 20-9-331
13 and 20-9-333;

14 (c) a district levy for support of a school not
15 approved as an isolated school under the provisions of
16 20-9-302;

17 (d) payments in support of special education programs
18 under the provisions of 20-9-321;

19 (e) nonlevy revenue as provided in 20-9-141; and

20 (f) a BASE budget levy on the taxable value of all
21 property within the district.

22 (6) The over-BASE budget amount of a district must be
23 financed by a levy on the taxable value of all property
24 within the district or other revenue available to the
25 district as provided in 20-9-141.

1 [(7) For the purpose of this section, the general fund
2 budget or general fund per-ANB budget for the school fiscal
3 year ending June 30, 1993, is the general fund budget funded
4 by any state, local, and federal revenue, excluding Public
5 Law 81-874 receipts received in the school fiscal year
6 ending June 30, 1993. Before excluding any Public Law 81-874
7 funding, a district may increase the district general fund
8 budget for the school fiscal year ending June 30, 1993, by
9 the allowable increases in subsections (2) and (3).]"

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

11 **"20-9-311. (Temporary) Calculation of average number**
12 **belonging (ANB).** (1) Average number belonging (ANB) must be
13 computed as follows:

14 (a) count the regularly enrolled full-time pupils who
15 were enrolled as of the first Monday in October of the prior
16 school fiscal year and subtract the number of students who
17 were enrolled during the prior year as indicated on the
18 forms provided for in [section 2]; and

19 (b) multiply the enrollment calculated in subsection
20 (1)(a) by the sum of the pupil-instruction and the approved
21 pupil-instruction-related days for the current school year
22 and divide by 180.

23 (2) For the purpose of calculating ANB under subsection
24 (1), up to 7 approved pupil-instruction-related days may be
25 included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-804, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction, but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When any pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the count calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided for in 20-7-117, may not be included in the ANB calculations.

(8) If a student spends less than half the time in the regular program and the balance of the time in school in the

special education program, the student is considered a full-time special education pupil but is not considered regularly enrolled for ANB purposes. If a student spends half or more of the time in school in the regular program and the balance of the time in the special education program, the student is considered regularly enrolled for ANB purposes.

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

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes, and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and no incorporated territory is involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes, and the district must receive a basic entitlement for the school

1 calculated separately from the other schools of the
2 district; or

3 (iii) the superintendent of public instruction approves
4 an application not to aggregate when conditions exist
5 affecting transportation, such as poor roads, mountains,
6 rivers, or other obstacles to travel, or when any other
7 condition exists that would result in an unusual hardship to
8 the pupils of the school if they were transported to another
9 school, the number of regularly enrolled, full-time pupils
10 of the school must be calculated separately for ANB
11 purposes; and the district must receive a basic entitlement
12 for the school calculated separately from the other schools
13 of the district;

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

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

23 (d) a school has not been accredited by the board of
24 public education, the regularly enrolled, full-time pupils
25 attending the nonaccredited school are not eligible for

1 average number belonging calculation purposes, nor will an
2 average number belonging for the nonaccredited school be
3 used in determining the BASE funding program for the
4 district.

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

11 (11) For average daily attendance reporting purposes,
12 districts shall provide the superintendent of public
13 instruction with annual reports of school attendance for
14 regularly enrolled students and special education students,
15 using a format determined by the superintendent of public
16 instruction. (Terminates June 30, 1994--sec. 62, Ch. 633, L.
17 1993.)

18 20-9-311. (Effective July 1, 1994) Calculation of
19 average number belonging (ANB). (1) Average number belonging
20 (ANB) must be computed as follows:

21 (a) compute an average enrollment by:

22 (i) adding a count of regularly enrolled full-time
23 pupils who were enrolled as of the first Monday in October
24 of the prior school fiscal year to a count of regularly
25 enrolled pupils on February 1 of the prior school fiscal

1 year, or the nearest school day if those dates do not fall
2 on a school day; and

3 (ii) divide the sum by two; and

4 (iii) subtract the number of students who were enrolled
5 during the prior school fiscal year as indicated on the
6 forms provided for in [section 2]; and

7 (b) multiply the average enrollment calculated in
8 subsection (1)(a) by the sum of the pupil-instruction and
9 the approved pupil-instruction-related days for the current
10 school fiscal year and ~~divided~~ divide by 180.

11 (2) For the purpose of calculating ANB under subsection
12 (1), up to 7 approved pupil-instruction-related days may be
13 included in the calculation.

14 (3) When a school district has approval to operate less
15 than 180 school days under 20-9-804, the total ANB must be
16 calculated in accordance with the provisions of 20-9-805.

17 (4) Enrollment for a part of a morning session or a
18 part of an afternoon session by a pupil must be counted as
19 enrollment for one-half day.

20 (5) In calculating the ANB for pupils enrolled in a
21 program established under 20-7-117(1), enrollment at a
22 regular session of the program for at least 2 hours of
23 either a morning or an afternoon session must be counted as
24 one-half pupil for ANB purposes. If a variance has been
25 granted as provided in 20-1-302, ANB must be computed in a

1 manner prescribed by the superintendent of public
2 instruction, but the ANB for a kindergarten student may not
3 exceed one-half for each kindergarten pupil.

4 (6) When any pupil has been absent, with or without
5 excuse, for more than 10 consecutive school days, the pupil
6 may not be included in the enrollment count used in the
7 calculation of the ANB unless the pupil resumes attendance
8 prior to the day of the enrollment count.

9 (7) The enrollment of prekindergarten pupils, as
10 provided in 20-7-117, may not be included in the ANB
11 calculations.

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

17 (a) (i) a school of the district is located more than
18 20 miles beyond the incorporated limits of a city or town
19 located in the district and at least 20 miles from any other
20 school of the district, the number of regularly enrolled,
21 full-time pupils of the school must be calculated separately
22 for ANB purposes and the district must receive a basic
23 entitlement for the school calculated separately from the
24 other schools of the district;

25 (ii) a school of the district is located more than 20

1 miles from any other school of the district and no
 2 incorporated territory is involved in the district, the
 3 number of regularly enrolled, full-time pupils of the school
 4 must be calculated separately for ANB purposes and the
 5 district must receive a basic entitlement for the school
 6 calculated separately from the other schools of the
 7 district; or

8 (iii) the superintendent of public instruction approves
 9 an application not to aggregate when conditions exist
 10 affecting transportation, such as poor roads, mountains,
 11 rivers, or other obstacles to travel, or when any other
 12 condition exists that would result in an unusual hardship to
 13 the pupils of the school if they were transported to another
 14 school, the number of regularly enrolled, full-time pupils
 15 of the school must be calculated separately for ANB purposes
 16 and the district must receive a basic entitlement for the
 17 school calculated separately from the other schools of the
 18 district;

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

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

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

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

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

16 (10) For average daily attendance reporting purposes,
 17 districts shall provide the superintendent of public
 18 instruction with annual reports of school attendance for
 19 regularly enrolled students and special education students,
 20 using a format determined by the superintendent."

21 **Section 8.** Section 20-9-353, MCA, is amended to read:

22 "20-9-353. Additional financing for general fund --
 23 election for authorization to impose. (1) Except as limited
 24 by 20-9-308, the trustees of a district may propose to adopt
 25 a general fund budget in excess of the maximum general fund

1 budget amount for the district.

2 ~~(2) Except-as-provided-in-20-9-308(4)(b), when~~ When the
3 trustees of a district determine that an additional amount
4 of financing is required for the general fund budget that is
5 in excess of the maximum general fund budget amount, the
6 trustees shall submit the proposition to finance the excess
7 amount of general fund financing to the electors who are
8 qualified under 20-20-301 to vote upon the proposition. The
9 special election must be called and conducted in the manner
10 prescribed by this title for school elections. The ballot
11 for the election must state the amount of money to be
12 financed, the approximate number of mills required to raise
13 all or a portion of the money, and the purpose for which the
14 money will be expended. The ballot must be in the following
15 format:

16 PROPOSITION

17 Shall the district be authorized to expend the sum of
18 (state the amount to be expended), and being approximately
19 (give number) mills, for the purpose of (insert the purpose
20 for which the additional financing is made)?

21 ☐ FOR budget authority and any levy.

22 ☐ AGAINST budget authority and any levy.

23 (3) If the election on any additional financing for the
24 general fund is approved by a majority vote of the electors
25 voting at the election, the proposition carries and the

1 trustees may use any portion or all of the authorized amount
2 in adopting the preliminary general fund budget. The
3 trustees shall certify any additional levy amount authorized
4 by the special election on the budget form that is submitted
5 to the county superintendent, and the county commissioners
6 shall levy the authorized number of mills on the taxable
7 value of all taxable property within the district, as
8 prescribed in 20-9-141, to raise the amount of the
9 additional levy.

10 (4) Authorization to levy an additional tax under the
11 provisions of this section is effective for only 1 school
12 fiscal year and must be authorized by a special election
13 conducted before August 1 of the school fiscal year for
14 which it is effective.

15 (5) If the trustees of a district are required to
16 submit a proposition to finance a ~~base~~ BASE budget amount,
17 as provided in 20-9-308(2)(b), or an over-BASE budget
18 amount, as provided in 20-9-308(3)(b), to the electors of
19 the district, the trustees shall comply with the provisions
20 of subsections (2) through (4)."

21 NEW SECTION. Section 9. Codification instruction. (1)
22 [Section 1] is intended to be codified as an integral part
23 of Title 15, chapter 30, part 1, and the provisions of Title
24 15, chapter 30, part 1, apply to [section 1].

25 (2) [Section 2] is intended to be codified as an

1 integral part of Title 20, chapter 3, part 1, and the
2 provisions of Title 20, chapter 3, part 1, apply to [section
3 2].

4 NEW SECTION. **Section 10. Severability.** If a part of
5 [this act] is invalid, all valid parts that are severable
6 from the invalid part remain in effect. If a part of [this
7 act] is invalid in one or more of its applications, the part
8 remains in effect in all valid applications that are
9 severable from the invalid applications.

10 NEW SECTION. **Section 11. Effective date** --
11 **applicability.** [This act] is effective on passage and
12 approval and applies to tax years commencing after December
13 31, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0081, with House Floor Amendments.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising school budgeting and financing laws; providing an individual income tax credit for qualifying elementary and secondary education expenses paid by an individual for a dependent minor; requiring a declaration of intent to claim a tax credit; requiring school districts to take declarations into account in budgeting; requiring a vote to increase a school district's previous year general fund budget or per-ANB amount; amending sections 20-9-161, 20-9-162, 20-9-163, 20-9-308, 20-9-311, and 20-9-353, MCA; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. The proposal applies beginning with tax year 1994.
2. The full amount of the credit available will be used for each student currently receiving educational benefits in compliance with Title 20, chapter 5, part 1 who is not in attendance in a public school.
3. The credit is of the refundable type; that is, households will be allowed the full amount of the credit regardless of whether they have a positive tax liability or not.
4. The full impact of the tax year impact is felt in the following fiscal year.
5. The state obligation for educating a student not in resident districts will be \$375 in the first year that this bill is effective.
6. Enrollment in Montana public schools will continue to grow at an annual rate of approximately 2% per year, as will non-public school enrollment.
7. Research indicates that projecting choice/open enrollment plans enrollment potential is highly unpredictable. However, the assumption is made that if transfers occurred 1% ,or 1,638 ANB, would transfer in the first year.
8. The Tax Year 94 tax credits are based on enrollment for the first semester of the 1994-1995 school year assuming 1,638 would apply and qualify for the \$375 credit.
9. The per student entitlement is \$3,500 for K-6 grade students and \$4,900 for 7-12 grade students.
10. A ratio of 51% GTB to 49% local support is used to determine change in state funds if transfers occur.
11. Non-public students are prorated 70% K-6 and 30% grades 7-12.
12. These estimates do not include public school students whose parents pay tuition costs to send their children to public schools outside of the resident district. Estimates are not available. That will be an additional tax credit.

David Lewis 12-16 4:00 PM

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

WILLIAM BOHARSKI, PRIMARY SPONSOR DATE
Fiscal Note for HB0081, with House Floor Amendments

HB 81

Fiscal Note Request, HB0081, with House Floor Amendments
Form BD-15 page 2
(continued)

FISCAL IMPACT:

| | FY '94 | | | FY '95 | | |
|------------------------------|--------------------|---------------------|-------------------|--------------------|---------------------|-------------------|
| | <u>Current Law</u> | <u>Proposed Law</u> | <u>Difference</u> | <u>Current Law</u> | <u>Proposed Law</u> | <u>Difference</u> |
| <u>Expenditures:</u> | | | | | | |
| Direct State Aid | 270,694,900 | 270,694,900 | 0 | 280,399,000 | 277,830,700 | (2,568,300) |
| GTB Aid-- BASE Budgets | 111,778,400 | 111,778,400 | 0 | 120,925,000 | 119,615,200 | (1,309,800) |
| Dept of Rev - Administration | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>29,644</u> | <u>29,644</u> |
| Total | 382,473,300 | 382,473,300 | 0 | 401,324,000 | 397,475,544 | (3,848,456) |
| <u>Revenues:</u> | | | | | | |
| Individual Income Tax | 327,093,000 | 327,093,000 | 0 | 341,848,000 | 341,234,000 | (614,000) |
| Penalties/Interest | <u>1,275,000</u> | <u>1,275,000</u> | <u>0</u> | <u>2,973,000</u> | <u>2,973,000</u> | <u>0</u> |
| Total | 328,368,000 | 328,368,000 | 0 | 344,821,000 | 344,207,000 | (614,000) |
| <u>Fund Information:</u> | | | | | | |
| General Fund | 195,895,335 | 195,895,335 | 0 | 315,080,224 | 314,519,642 | (560,582) |
| School Equalization Account | 104,015,574 | 104,015,574 | 0 | 0 | 0 | 0 |
| Long-Range Building | <u>28,457,091</u> | <u>28,457,091</u> | <u>0</u> | <u>29,740,776</u> | <u>29,687,358</u> | <u>(53,418)</u> |
| Total | 328,368,000 | 328,368,000 | 0 | 344,821,000 | 344,207,000 | (614,000) |

Net Impact: Expenditures would be reduced by \$3,848,456 while revenues would be reduced by \$614,000 providing a net gain of \$3,234,456 in FY94.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

In future years the cost or savings to the state from HB81 will be determined primarily by increases in the tax credit and the number of current public school students who enroll in private schools. In HB81 the tax credit rises to \$875 in tax year 1995 and \$1000 in tax year 1996 when the credits are fully implemented. This would result in a total cost of \$10,467,000 for the estimated 10,467 private school students who would be enrolled in private school in FY97 excluding any who would move from public to private school in response to the incentives in HB81. Based on an average state savings of \$2,367 for each student who leaves a public school and a cost of \$1,000 for the associated tax credit, each student who leaves a public school to enroll in a private school would generate a net savings of \$1,367. If more than 7,650 current public school students make this change there would be a annual net gain to the state, if less than this number change there would be a annual net loss to the state. The Office of Public instruction estimates that by 1997 approximately 3,340, or 2% of current public school enrollments would enroll in private schools which, if accurate, would result in a annual net loss to the state of nearly \$6 million.

MOTION TO MOVE FROM
COMMITTEE TO 2ND READING

53rd Legislature
Special Session 11/93

LC 0111/01

LC 0111/01

COMM. ON EDUCATION
AND CULTURAL RESOURCES

1 House BILL NO. 81
2 INTRODUCED BY Jim E. Behrsk
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
5 SCHOOL BUDGETING AND FINANCING LAWS; PROVIDING AN INDIVIDUAL
6 INCOME TAX CREDIT FOR QUALIFYING ELEMENTARY AND SECONDARY
7 EDUCATION EXPENSES PAID BY AN INDIVIDUAL FOR A DEPENDENT
8 MINOR; REQUIRING A DECLARATION OF INTENT TO CLAIM A TAX
9 CREDIT; REQUIRING SCHOOL DISTRICTS TO TAKE DECLARATIONS INTO
10 ACCOUNT IN BUDGETING; REQUIRING A VOTE TO INCREASE A SCHOOL
11 DISTRICT'S PREVIOUS YEAR GENERAL FUND BUDGET OR PER-ANB
12 AMOUNT; AMENDING SECTIONS 20-9-161, 20-9-162, 20-9-163,
13 20-9-308, 20-9-311, AND 20-9-353, MCA; AND PROVIDING AN
14 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
15

16 WHEREAS, Article X, section 1(1), of the Montana
17 Constitution guarantees equality of educational opportunity
18 to each person of the state; and

19 WHEREAS, the Legislature finds that educational
20 opportunity is promoted by increasing available educational
21 options and choices; and

22 WHEREAS, the right of parents to guide the education of
23 their children is a basic civil right protected under the
24 United States and Montana Constitutions; and

25 WHEREAS, Article X, section 1(3), of the Montana

1 Constitution directs the Legislature to provide a basic
2 system of free quality public elementary and secondary
3 schools; and

4 WHEREAS, the Legislature finds that competition among
5 schools can promote the quality of public education; and

6 WHEREAS, the Legislature finds that parental choice in
7 education can reduce the Montana property and income tax
8 burdens and increase the amount of money available to
9 educate each child in the public schools.
10

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

12 NEW SECTION. **Section 1. Elementary and secondary**
13 **education expense tax credit.** (1) There is a credit against
14 the taxes otherwise due under this chapter for qualified
15 elementary and secondary education expenses paid by an
16 individual for a dependent who is a minor during the tax
17 year. In order to claim the credit, the individual must have
18 a completed intent form to claim an education tax credit on
19 file with the state pursuant to [section 2].

20 (2) (a) Education expenses that qualify for the credit
21 under this section are amounts paid as tuition, fees, and
22 textbook purchases by an individual for a dependent who is
23 in compliance with Title 20, chapter 5, part 1.

24 (b) Qualifying education expenses do not include
25 amounts paid:

1 (i) to a governmental entity as property taxes,
 2 assessments, or fees; or
 3 (ii) for materials used in teaching religious tenets or
 4 used in worship.
 5 (3) The amount of the credit for qualifying education
 6 expenses is as follows:
 7 (a) up to \$375 for the tax year beginning January 1,
 8 1994, but only for the amount by which those expenses have
 9 increased from the previous tax year;
 10 (b) up to \$875 for the tax year beginning January 1,
 11 1995; and
 12 (c) up to \$1,000 for tax years beginning on or after
 13 January 1, 1996.
 14 (4) A deduction or credit is not allowed under any
 15 other provision of this chapter with respect to any amount
 16 for which a credit is allowed under this section. Any amount
 17 of the credit allowed under this section that is in excess
 18 of an individual's tax liability must be refunded to the
 19 individual.
 20 (5) In the case of a married individual filing a
 21 separate return, the amount of the credit under subsection
 22 (3) is limited to one-half of the applicable amount.
 23 **NEW SECTION. Section 2.** Intent to claim education tax
 24 credit -- form. (1) The superintendent of public instruction
 25 shall provide a form on which to declare the intent to claim

1 an education tax credit. The form must outline the tax
 2 credit provided by [section 1] and must contain an affidavit
 3 that the individual completing the form intends to enroll a
 4 dependent minor in a school other than a public school in
 5 the district of residence during the following school year.
 6 The form must be distributed to each student attending
 7 public school. Forms must also be provided to and be
 8 available from each county superintendent of schools.
 9 (2) In order to be eligible for the tax credit provided
 10 for in [section 1], an individual shall annually complete
 11 the form provided for in subsection (1) and return the form
 12 to an official of the individual's district of residence by
 13 May 10. Each district shall forward the forms to the county
 14 superintendent, who shall then forward the forms to the
 15 superintendent of public instruction. The number of eligible
 16 dependent minors indicated on the forms who were enrolled
 17 during that year must be excluded from ANB calculations for
 18 the ensuing school year.
 19 (3) The superintendent of public instruction shall
 20 forward a copy of each form to the department of revenue for
 21 use in determining eligibility for the tax credit provided
 22 for in [section 1].
 23 **Section 3.** Section 20-9-161, MCA, is amended to read:
 24 **"20-9-161. Definition of budget amendment for budgeting**
 25 **purposes.** As used in this title, unless the context clearly

1 indicates otherwise, the term "budget amendment" for the
2 purpose of school budgeting means an amendment to an adopted
3 budget of the district for the following reasons:

4 (1) an increase in the enrollment of an elementary or
5 high school district that is;

6 (a) beyond what could reasonably have been anticipated
7 at the time of the adoption of the budget for the current
8 school fiscal year whenever, because of the enrollment
9 increase, the district's budget for any or all of the
10 regularly budgeted funds does not provide sufficient
11 financing to properly maintain and support the district for
12 the entire current school fiscal year; or

13 (b) because of enrollment of students for whom a form
14 to declare the intent to claim an education tax credit was
15 filed as provided in [section 2];

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

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

24 (4) an enactment of legislation after the adoption of
25 the budget for the current year that imposes an additional

1 financial obligation on the district;

2 (5) the receipt of:

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

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

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

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

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

20 **Section 4.** Section 20-9-162, MCA, is amended to read:

21 **"20-9-162. Authorization for budget amendment adoption.**

22 (1) (a) Notwithstanding the provisions of subsections (2)
23 and (3), a budget amendment may be adopted at any time of
24 the school fiscal year, except that a budget amendment
25 required by an enrollment increase as provided in

20-9-161(1)(a) may not be adopted until after October 1.

(b) The trustees may approve a budget amendment pursuant to 20-9-161(2) through (6) by a resolution.

(c) Whenever the trustees of a district decide that a budget amendment is necessary, they may proclaim the need for the budget amendment by a majority vote of the trustees. The proclamation must state the facts constituting the need for the budget amendment, the funds affected by the budget amendment, the anticipated source of financing, the estimated amount of money required to finance the budget amendment, and the time and place the trustees will meet for the purpose of considering and adopting the budget amendment for the current school fiscal year.

(2) The trustees shall send a copy of the proclamation to the county superintendent and to the board of county commissioners of the county.

(3) The trustees shall submit a budget amendment for an enrollment increase to the superintendent of public instruction for approval in the manner provided in 20-9-163."

Section 5. Section 20-9-163, MCA, is amended to read:

"20-9-163. Resolution for budget amendment -- petition to superintendent of public instruction. (1) Whenever the trustees of a district decide that a budget amendment is necessary because of an enrollment increase, they may

petition the superintendent of public instruction to adopt a resolution for the budget amendment. The petition must be signed by a majority of the trustees.

(2) The petition must state the facts constituting the need for the budget amendment, the estimated amount of money required to fund the budget amendment, the funds affected by the budget amendment, the anticipated source of financing for the budget amendment, and the current year enrollment.

(3) The superintendent of public instruction shall promptly approve or disapprove the petition requesting approval to adopt a resolution for a budget amendment because of increased enrollment. If the petition is for a budget amendment for an enrollment increase as provided in 20-9-161(1)(a), the superintendent of public instruction shall adjust the district's maximum general fund budget based on the approved enrollment increase. Upon approval, a district may not adopt a budget amendment if the amount will cause the district to exceed the district's adjusted maximum general fund budget. If the petition is approved, the trustees may adopt a resolution for a budget amendment and take all other steps required for the adoption of a budget amendment. Approval of a petition by the superintendent of public instruction authorizes the board of trustees to initiate a budget amendment by resolution and does not relieve the trustees of the necessity of complying with the

1 requirements of the school budgeting laws. Approval of the
2 petition may not be construed as approval of any subsequent
3 application for increased state aid on account of the budget
4 amendment."

5 **Section 6.** Section 20-9-308, MCA, is amended to read:

6 "20-9-308. BASE budgets and maximum general fund
7 budgets. (1) ~~For the school fiscal year beginning on July 1,~~
8 ~~1993, the~~ The trustees of a district shall adopt a general
9 fund budget that:

10 (a) except as provided in subsection (2), is at least
11 equal to the BASE budget established for the district; or

12 (b) except as provided in subsection (4), does not
13 exceed the maximum general fund budget established for the
14 district.

15 (2) (a) If the BASE budget for a district ~~for the~~
16 ~~school fiscal year beginning on July 1, 1993,~~ is greater
17 than the general fund budget of the district for the prior
18 school fiscal year, the trustees of the district:

19 (i) may increase the general fund budget for the
20 district by 4% of the previous year's general fund budget or
21 by 4% of the previous year's general fund budget per-ANB
22 multiplied by the current year's ANB for budgeting purposes;
23 but

24 (ii) may not adopt a general fund budget that reflects
25 less than the following general fund budget growth amounts

1 for the appropriate school fiscal year:

2 (A) ~~20% of the range between the district general fund~~
3 ~~budget for the school fiscal year ending June 30, 1993, and~~
4 ~~the BASE budget for the district for the school fiscal year~~
5 ~~beginning July 1, 1993;~~

6 ~~(B)~~ 25% of the range between the district general fund
7 budget for the school fiscal year ending June 30, 1994, and
8 the BASE budget for the district for the school fiscal year
9 beginning July 1, 1994;

10 ~~(C)~~ (B) 33.3% of the range between the district general
11 fund budget for the school fiscal year ending June 30, 1995,
12 and the BASE budget for the district for the school fiscal
13 year beginning July 1, 1995;

14 ~~(D)~~ (C) 50% of the range between the district general
15 fund budget for the school fiscal year ending June 30, 1996,
16 and the BASE budget for the district for the school fiscal
17 year beginning July 1, 1996; or

18 ~~(E)~~ (D) the remainder of the range between the district
19 general fund budget for the school fiscal year ending June
20 30, 1997, and the BASE budget for the district for the
21 school fiscal year beginning July 1, 1997.

22 (b) (i) ~~For the school fiscal year beginning July 1,~~
23 ~~1993, a district may not exceed the limitations in~~
24 ~~subsection (2)(a);~~

25 ~~(ii) Except for the school fiscal year beginning July 1,~~

1 ~~1993,--whenever~~ Whenever the trustees of a district adopt a
 2 general fund budget that exceeds one of the limitations in
 3 subsection (2)(a) but does not exceed the BASE budget for
 4 the district, the trustees shall submit a proposition on the
 5 amount that exceeds the limitation to the electors of the
 6 district, as provided in 20-9-353.

7 (ii) Whenever the trustees of a district adopt a general
 8 fund budget that does not exceed one of the limitations in
 9 subsection (2)(a) but does exceed the BASE budget for the
 10 district, the trustees shall submit a proposition on the
 11 amount that exceeds the BASE budget to the electors of the
 12 district, as provided in 20-9-353.

13 (c) Nothing in this section is intended to require a
 14 district to budget in excess of its BASE budget.

15 (3) Whenever (a) Except as provided in subsection
 16 (2)(b)(ii), whenever the trustees of a district adopt a
 17 general fund budget that exceeds the BASE budget for the
 18 district but does not exceed the maximum general fund budget
 19 for the district, the trustees shall:

20 (a)--adopt-a-resolution-stating-the-reasons-and-purposes
 21 for--exceeding--the--BASE--budget--amount--if--the submit a
 22 proposition to the electors of the district, as provided in
 23 20-9-353, for any budget amount that exceeds the previous
 24 year's general fund budget amount or the previous year's
 25 general fund budget per-ANB multiplied by the current year's

1 ANB for budgeting purposes.

2 (b) A general fund budget adopted under this subsection
 3 (3) does may not exceed the greater of:

4 (i) 104% of the previous year's general fund budget; or

5 (ii) 104% of the previous year's general fund budget
 6 per-ANB multiplied by the current year's ANB for budgeting
 7 purposes, ~~or.~~

8 ~~(b)--except-for-the-school-fiscal-year-beginning-July-1,~~
 9 ~~1993,--submit--a--proposition-on-any-amount-of-the-over-BASE~~
 10 ~~budget-that-exceeds-one-of--the--limitations--in--subsection~~
 11 ~~(3)(a)--to--the--electors--of--the--district,as-provided-in~~
 12 ~~20-9-353.~~

13 ~~(c)--For-the-school-fiscal-year-beginning-July-1,--1993,~~
 14 ~~a--district--may--not--exceed--the-limitations-in-subsection~~
 15 ~~(3)(a):~~

16 (4) (a) If the maximum general fund budget for a
 17 district for an ensuing school fiscal year is less than the
 18 general fund budget for the district for the current school
 19 fiscal year, the trustees of the district may not adopt a
 20 general fund budget for the ensuing school fiscal year that
 21 is greater than the district's general fund budget for the
 22 current school fiscal year.

23 (b) Except for the school fiscal years year beginning
 24 ~~July-1,--1993,--and~~ July 1, 1994, the trustees of the district
 25 shall submit a proposition to raise any general fund budget

1 amount that is in excess of the maximum general fund budget
2 for the district to the electors who are qualified under
3 20-20-301 to vote on the proposition, as provided in
4 20-9-353.

5 (5) Whenever the trustees of a district adopt a general
6 fund budget that does not exceed the BASE budget for the
7 district, the trustees shall finance this amount with the
8 following sources of revenue:

9 (a) state equalization aid as provided in 20-9-343,
10 including any guaranteed tax base aid for which the district
11 may be eligible, as provided in 20-9-366 through 20-9-369;

12 (b) county equalization aid, as provided in 20-9-331
13 and 20-9-333;

14 (c) a district levy for support of a school not
15 approved as an isolated school under the provisions of
16 20-9-302;

17 (d) payments in support of special education programs
18 under the provisions of 20-9-321;

19 (e) nonlevy revenue as provided in 20-9-141; and

20 (f) a BASE budget levy on the taxable value of all
21 property within the district.

22 (6) The over-BASE budget amount of a district must be
23 financed by a levy on the taxable value of all property
24 within the district or other revenue available to the
25 district as provided in 20-9-141.

1 [(7) For the purpose of this section, the general fund
2 budget or general fund per-ANB budget for the school fiscal
3 year ending June 30, 1993, is the general fund budget funded
4 by any state, local, and federal revenue, excluding Public
5 Law 81-874 receipts received in the school fiscal year
6 ending June 30, 1993. Before excluding any Public Law 81-874
7 funding, a district may increase the district general fund
8 budget for the school fiscal year ending June 30, 1993, by
9 the allowable increases in subsections (2) and (3).]"

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

11 "20-9-311. (Temporary) Calculation of average number
12 belonging (ANB). (1) Average number belonging (ANB) must be
13 computed as follows:

14 (a) count the regularly enrolled full-time pupils who
15 were enrolled as of the first Monday in October of the prior
16 school fiscal year and subtract the number of students who
17 were enrolled during the prior year as indicated on the
18 forms provided for in [section 2]; and

19 (b) multiply the enrollment calculated in subsection
20 (1)(a) by the sum of the pupil-instruction and the approved
21 pupil-instruction-related days for the current school year
22 and divide by 180.

23 (2) For the purpose of calculating ANB under subsection
24 (1), up to 7 approved pupil-instruction-related days may be
25 included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-804, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction, but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When any pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the count calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided for in 20-7-117, may not be included in the ANB calculations.

(8) If a student spends less than half the time in the regular program and the balance of the time in school in the

special education program, the student is considered a full-time special education pupil but is not considered regularly enrolled for ANB purposes. If a student spends half or more of the time in school in the regular program and the balance of the time in the special education program, the student is considered regularly enrolled for ANB purposes.

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

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes, and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and no incorporated territory is involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes, and the district must receive a basic entitlement for the school

1 calculated separately from the other schools of the
2 district; or

3 (iii) the superintendent of public instruction approves
4 an application not to aggregate when conditions exist
5 affecting transportation, such as poor roads, mountains,
6 rivers, or other obstacles to travel, or when any other
7 condition exists that would result in an unusual hardship to
8 the pupils of the school if they were transported to another
9 school, the number of regularly enrolled, full-time pupils
10 of the school must be calculated separately for ANB
11 purposes, and the district must receive a basic entitlement
12 for the school calculated separately from the other schools
13 of the district;

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

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

23 (d) a school has not been accredited by the board of
24 public education, the regularly enrolled, full-time pupils
25 attending the nonaccredited school are not eligible for

1 average number belonging calculation purposes, nor will an
2 average number belonging for the nonaccredited school be
3 used in determining the BASE funding program for the
4 district.

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

11 (11) For average daily attendance reporting purposes,
12 districts shall provide the superintendent of public
13 instruction with annual reports of school attendance for
14 regularly enrolled students and special education students,
15 using a format determined by the superintendent of public
16 instruction. (Terminates June 30, 1994--sec. 62, Ch. 633, L.
17 1993.)

18 20-9-311. (Effective July 1, 1994) Calculation of
19 average number belonging (ANB). (1) Average number belonging
20 (ANB) must be computed as follows:

21 (a) compute an average enrollment by:

22 (i) adding a count of regularly enrolled full-time
23 pupils who were enrolled as of the first Monday in October
24 of the prior school fiscal year to a count of regularly
25 enrolled pupils on February 1 of the prior school fiscal

year, or the nearest school day if those dates do not fall on a school day; and

(ii) divide the sum by two; and

(iii) subtract the number of students who were enrolled during the prior school fiscal year as indicated on the forms provided for in [section 2]; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and ~~divided~~ divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-804, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided in 20-1-302, ANB must be computed in a

manner prescribed by the superintendent of public instruction, but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When any pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

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

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20

1 miles from any other school of the district and no
 2 incorporated territory is involved in the district, the
 3 number of regularly enrolled, full-time pupils of the school
 4 must be calculated separately for ANB purposes and the
 5 district must receive a basic entitlement for the school
 6 calculated separately from the other schools of the
 7 district; or

8 (iii) the superintendent of public instruction approves
 9 an application not to aggregate when conditions exist
 10 affecting transportation, such as poor roads, mountains,
 11 rivers, or other obstacles to travel, or when any other
 12 condition exists that would result in an unusual hardship to
 13 the pupils of the school if they were transported to another
 14 school, the number of regularly enrolled, full-time pupils
 15 of the school must be calculated separately for ANB purposes
 16 and the district must receive a basic entitlement for the
 17 school calculated separately from the other schools of the
 18 district;

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

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

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

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

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

16 (10) For average daily attendance reporting purposes,
 17 districts shall provide the superintendent of public
 18 instruction with annual reports of school attendance for
 19 regularly enrolled students and special education students,
 20 using a format determined by the superintendent."

21 **Section 8.** Section 20-9-353, MCA, is amended to read:

22 "20-9-353. Additional financing for general fund --
 23 election for authorization to impose. (1) Except as limited
 24 by 20-9-308, the trustees of a district may propose to adopt
 25 a general fund budget in excess of the maximum general fund

budget amount for the district.

(2) ~~Except-as-provided-in-20-9-308(4)(b)}~~ When the trustees of a district determine that an additional amount of financing is required for the general fund budget that is in excess of the maximum general fund budget amount, the trustees shall submit the proposition to finance the excess amount of general fund financing to the electors who are qualified under 20-20-301 to vote upon the proposition. The special election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state the amount of money to be financed, the approximate number of mills required to raise all or a portion of the money, and the purpose for which the money will be expended. The ballot must be in the following format:

PROPOSITION

Shall the district be authorized to expend the sum of (state the amount to be expended), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional financing is made)?

☐ FOR budget authority and any levy.

☐ AGAINST budget authority and any levy.

(3) If the election on any additional financing for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the

trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify any additional levy amount authorized by the special election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141, to raise the amount of the additional levy.

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

(5) If the trustees of a district are required to submit a proposition to finance a ~~base~~ BASE budget amount, as provided in 20-9-308(2)(b), or an over-BASE budget amount, as provided in 20-9-308(3)(b), to the electors of the district, the trustees shall comply with the provisions of subsections (2) through (4)."

NEW SECTION. Section 9. Codification instruction. (1)

[Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an

1 integral part of Title 20, chapter 3, part 1, and the
2 provisions of Title 20, chapter 3, part 1, apply to [section
3 2].

4 NEW SECTION. Section 10. Severability. If a part of
5 [this act] is invalid, all valid parts that are severable
6 from the invalid part remain in effect. If a part of [this
7 act] is invalid in one or more of its applications, the part
8 remains in effect in all valid applications that are
9 severable from the invalid applications.

10 NEW SECTION. Section 11. Effective date --
11 applicability. [This act] is effective on passage and
12 approval and applies to tax years commencing after December
13 31, 1993.

-End-