

SENATE BILL 49

Introduced by Fritz, et al.

12/09	Introduced
12/09	Referred to Education & Cultural Resources
12/09	First Reading
12/10	Fiscal Note Requested
12/11	Hearing
12/14	Tabled in Committee
12/15	Motion Failed to Take from Committee and Place on 2nd Reading

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SENATE BILL NO. 49  
INTRODUCED BY *[Signature]* *[Signature]*  
A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING THE PUBLIC SCHOOL SYSTEM INTO K-12 SCHOOL DISTRICTS FOR THE SCHOOL FISCAL YEAR BEGINNING JULY 1, 1995; CREATING A STATE BOUNDARY COMMISSION AND LOCAL BOUNDARY COMMITTEES TO ESTABLISH K-12 SCHOOL DISTRICT BOUNDARIES; ELIMINATING THE DESIGNATION OF COUNTY HIGH SCHOOLS; PROVIDING METHODS FOR ELECTING TRUSTEES OF THE K-12 SCHOOL DISTRICTS; ELIMINATING OUT-OF-DISTRICT AND OUT-OF-COUNTY TUITION; PROVIDING FOR INTERLOCAL AGREEMENTS FOR SPECIAL EDUCATION TUITION; PROVIDING FOR PROTECTION OF EMPLOYEE CONTRACTS AND TEACHER TENURE RIGHTS IN K-12 DISTRICTS; DIRECTING THE JOINT INTERIM SUBCOMMITTEE ON SCHOOL REVENUE TO ASSESS NEEDED CHANGES TO THE CURRENT BASIC AND PER-ANB ENTITLEMENTS, GUARANTEED TAX BASE ENTITLEMENTS, AND OTHER FUNDING ISSUES NECESSARY TO ACCOMMODATE CREATION OF K-12 SCHOOL DISTRICTS; GENERALLY REVISING THE LAWS RELATING TO DISTRICTS TO PROVIDE FOR K-12 SCHOOL DISTRICTS; PROVIDING FOR CONTINGENT TRANSITION BUDGETS; AMENDING SECTIONS 13-37-206, 15-16-802, 15-24-102, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-37-117, 17-3-213, 17-7-502, 19-1-814, 20-1-211, 20-1-301, 20-1-308, 20-3-106, 20-3-205, 20-3-208, 20-3-210, 20-3-301, 20-3-305, 20-3-308, 20-3-311, 20-3-321, 20-3-324, 20-3-338,

1 20-4-201, 20-4-401, 20-4-402, 20-5-104, 20-5-201, 20-5-202,  
2 20-5-314, 20-5-316, 20-6-101, 20-6-104, 20-6-411, 20-6-413,  
3 20-6-501, 20-6-503, 20-6-701, 20-6-702, 20-6-703, 20-6-711,  
4 20-7-117, 20-7-305, 20-7-419, 20-7-420, 20-7-424, 20-7-457,  
5 20-7-705, 20-9-101, 20-9-102, 20-9-104, 20-9-141, 20-9-201,  
6 20-9-203, 20-9-212, 20-9-220, 20-9-306, 20-9-307, 20-9-308,  
7 20-9-311, 20-9-313, 20-9-321, 20-9-331, 20-9-335, 20-9-343,  
8 20-9-347, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-9-370,  
9 20-9-371, 20-9-402, 20-9-403, 20-9-406, 20-9-501, 20-9-507,  
10 20-10-105, 20-10-144, 20-10-146, 20-15-221, 20-15-404,  
11 20-16-106, 20-20-101, 20-20-301, 20-32-102, 39-4-107,  
12 90-6-309, 90-6-403, 90-6-404, AND 90-6-405, MCA, AND SECTION  
13 10, CHAPTER 466, LAWS OF 1993, SECTION 10, CHAPTER 593, LAWS  
14 OF 1993, AND SECTION 62, CHAPTER 633, LAWS OF 1993;  
15 REPEALING SECTIONS 7-2-2728, 19-1-815, 20-3-302, 20-3-306,  
16 20-3-312, 20-3-337, 20-3-341, 20-3-342, 20-3-343, 20-3-344,  
17 20-3-351, 20-3-352, 20-3-353, 20-3-354, 20-3-355, 20-3-356,  
18 20-3-361, 20-3-362, 20-4-403, 20-5-320, 20-5-321, 20-5-322,  
19 20-5-323, 20-5-324, 20-6-102, 20-6-103, 20-6-201, 20-6-202,  
20 20-6-203, 20-6-204, 20-6-205, 20-6-206, 20-6-207, 20-6-208,  
21 20-6-209, 20-6-210, 20-6-211, 20-6-213, 20-6-214, 20-6-215,  
22 20-6-216, 20-6-217, 20-6-218, 20-6-301, 20-6-303, 20-6-304,  
23 20-6-307, 20-6-308, 20-6-309, 20-6-311, 20-6-312, 20-6-313,  
24 20-6-314, 20-6-315, 20-6-316, 20-6-317, 20-6-318, 20-6-319,  
25 20-6-320, 20-6-321, 20-6-325, 20-6-401, 20-6-402, 20-6-403,

20-6-404, 20-6-405, 20-6-406, 20-6-407, 20-6-408, 20-6-409,  
 20-6-410, 20-6-411, 20-6-415, 20-6-502, 20-6-504, 20-6-505,  
 20-6-506, 20-6-508, 20-6-509, 20-6-602, 20-9-152, 20-9-202,  
 20-9-302, 20-9-303, 20-9-305, 20-9-333, 20-9-348, 20-9-451,  
 20-9-452, 20-9-453, 20-9-454, 20-9-455, 20-9-456, 20-9-505,  
 AND 20-9-506, MCA; AND PROVIDING EFFECTIVE DATES AND AN  
 APPLICABILITY DATE."

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

**NEW SECTION. Section 1. Purpose.** (1) It is the intent  
 of the legislature to:

(a) establish K-12 school districts for a program of  
 instruction from kindergarten through grade 12 by requiring  
 that an elementary school district or districts consolidate  
 with the high school district;

(b) improve the provision of public education in  
 Montana by reducing the number of school district  
 administrative units while leaving to the trustees the  
 determination of which schools will remain open;

(c) simplify and make more efficient the administration  
 of the public elementary schools and high schools of the  
 state;

(d) provide adequate and more equalized funding to  
 school districts to ensure that the legislature will be able  
 to provide a basic system of free quality public schools, as

required by the Montana constitution, and that school  
 districts will be able to meet the school accreditation  
 standards established by the board of public education as  
 the basic instructional program for the public schools of  
 Montana;

(e) guarantee that any state or local cost savings that  
 result from school district consolidation will be shared  
 among the state, the school districts, and the property  
 taxpayers of the districts; and

(f) distribute more equitably to the taxpayers of the  
 state the cost of public school education.

(2) It is the intent of the legislature that no school  
 building be closed prior to July 1, 1996, because of the  
 consolidation provisions of [sections 1 through 9].

**NEW SECTION. Section 2. Local boundary committee --  
 membership -- duties.** (1) There is a local boundary  
 committee for each county.

(2) The county commissioners of each county shall  
 appoint at least the following to a local boundary committee  
 no later than January 1, 1994:

(a) the county superintendent;

(b) the presiding officer of the board of county  
 commissioners;

(c) the county assessor; and

(d) (i) at least one trustee from each of the school

1 districts in the county; or

2 (ii) one trustee per 1,000 students, up to a maximum of  
3 seven members, if each district has at least one trustee on  
4 the committee.

5 (3) Additional committee representatives may be  
6 selected by a majority vote of each school board.

7 **NEW SECTION. Section 3. Powers and duties of local**  
8 **boundary committee.** (1) Each local boundary committee shall  
9 hold its first meeting by March 1, 1994.

10 (2) At its first meeting, the committee shall:

11 (a) elect a presiding officer and vice presiding  
12 officer, each of whom shall hold the position for the  
13 duration of the committee; and

14 (b) establish by resolution regular meeting times.

15 (3) The presiding officer:

16 (a) may call a special meeting of the committee upon at  
17 least 3 days' notice to the members and the public; and

18 (b) shall publish a notice of each meeting at least 3  
19 days prior to the meeting in a newspaper of general  
20 circulation in the area.

21 (4) The committee shall keep minutes of the meetings  
22 and preserve any records, correspondence, maps, exhibits,  
23 and other materials produced by or submitted to the  
24 committee.

25 (5) A majority of the members of a committee

1 constitutes a quorum.

2 (6) Each committee shall:

3 (a) define and map the boundaries of the K-12 school  
4 districts in its county;

5 (b) meet with any other local boundary committee on  
6 matters of mutual concern or dispute, including district  
7 boundaries that may cross county lines;

8 (c) on or before July 1, 1994, develop and submit a  
9 detailed proposed plan to the state boundary commission for  
10 approval, as provided in [section 5];

11 (d) hold a public meeting on the proposed plan before  
12 the plan is submitted to the state boundary commission; and

13 (e) report to the state boundary commission when  
14 requested on the progress of committee work.

15 (7) The committee terminates July 1, 1994, unless the  
16 term is extended by the 53rd legislature.

17 **NEW SECTION. Section 4. State boundary commission --**  
18 **membership -- compensation and expenses.** (1) There is a  
19 state boundary commission composed of five members appointed  
20 by the governor no later than January 1, 1994.

21 (2) Members of the commission include:

22 (a) one county superintendent;

23 (b) one classroom teacher;

24 (c) one member of a school board of trustees; and

25 (d) two Montana citizens whose children attend Montana

1 public schools.

2 (3) The governor shall select the presiding officer and  
3 vice presiding officer from the membership of the  
4 commission.

5 (4) The presiding officer of the commission shall call  
6 the first meeting of the commission no later than March 1,  
7 1994. The commission shall meet as often as necessary for  
8 the performance of its duties.

9 (5) A majority of the members of the state commission  
10 constitutes a quorum for the transaction of business.

11 (6) The members of the commission must receive:

12 (a) the expenses provided for in 2-18-501 through  
13 2-18-503 for each day of attendance at a commission meeting  
14 or in performance of any duty or service as a commission  
15 member; and

16 (b) the compensation provided for in 2-15-124 for each  
17 day of attendance at a commission meeting or in performance  
18 of any duty or service as a commission member.

19 (7) The superintendent of public instruction shall  
20 provide staff to the commission to:

21 (a) keep appropriate minutes and records of all  
22 proceedings, decisions, and actions of the commission; and

23 (b) preserve all correspondence, maps, exhibits, and  
24 other material submitted to or produced by the commission.

25 NEW SECTION. **Section 5.** Powers and duties of state

1 **boundary commission.** The state boundary commission shall:

2 (1) examine each proposed plan submitted by a local  
3 boundary committee under the provisions of [section 3];

4 (2) upon request, coordinate and assist local boundary  
5 committees to resolve any disputes between committees by  
6 September 1, 1994;

7 (3) determine the boundaries of a K-12 school district  
8 if the local boundary committee fails to submit a plan by  
9 July 1, 1994;

10 (4) approve each proposed plan by a majority of the  
11 commission members;

12 (5) prescribe, if necessary, additional procedures to  
13 be followed by a local boundary committee;

14 (6) provide notice to each local committee of approval  
15 by the commission of its K-12 boundary plan; and

16 (7) submit to the governor and the legislature by no  
17 later than January 1, 1995, a final report containing the  
18 following:

19 (a) the final actions of the commission;

20 (b) the final boundaries of each K-12 school district  
21 created under the provisions of 20-6-701; and

22 (c) any recommendations to the 1995 legislature for  
23 further policy or statutory changes necessary to establish  
24 K-12 school districts.

25 NEW SECTION. **Section 6.** Trustee elections --

1 appointment of transition committee. (1) An elementary  
2 school district that will cease to exist on June 30, 1995,  
3 shall elect trustees in April 1994 to serve until July 1,  
4 1995, in the manner provided for in Title 20, chapter 20.

5 (2) An elected trustee of an existing elementary or  
6 high school district shall hold office until July 1, 1995.

7 (3) The trustees of a high school district that will  
8 cease to exist on June 30, 1995, shall create a transition  
9 committee to advise the trustees of the high school district  
10 that will cease to exist on June 30, 1995, on the  
11 preparation of a budget and an operation plan for the K-12  
12 school district. The transition committee must be composed  
13 of at least one trustee from each elementary or high school  
14 district that will cease to exist on June 30, 1995.

15 NEW SECTION. Section 7. Trustees for K-12 school  
16 district. (1) The trustees for a K-12 school district  
17 established pursuant to 20-6-701 on July 1, 1995, must be  
18 seven members composed of trustees of the high school  
19 district that will cease to exist on June 30, 1995.

20 (2) Elections must be held in April 1995, pursuant to  
21 20-3-304, for trustees of the high school district that will  
22 cease to exist on June 30, 1995, whose terms have expired  
23 and, if necessary, for an additional number of trustee  
24 positions required to provide that there are seven trustees  
25 for the K-12 school district.

1 (3) The trustees elected in April 1995 shall determine  
2 staggered terms by lot to ensure that the terms of a  
3 majority of trustees of a K-12 school district will not be  
4 subject to election at the same time.

5 (4) The trustees of the high school district that will  
6 cease to exist on June 30, 1995, shall define district  
7 trustee boundaries for the trustees of the K-12 school  
8 district to be elected in 1996 pursuant to 20-3-304. A K-12  
9 school district must be divided into trustee districts that:

10 (a) are as compact and equal in population and area as  
11 possible;

12 (b) provide equitable voting rights for the minorities  
13 residing within the K-12 school district by ensuring that  
14 the access of minorities to the political process is not  
15 diluted in contravention of the Voting Rights Act Amendments  
16 of 1982, Public Law 97-205; and

17 (c) provide for the nomination and election of trustees  
18 as provided in 20-3-338.

19 (5) The trustees of the high school district that will  
20 cease to exist on June 30, 1995, shall prepare a budget and  
21 operation plan for the K-12 school district.

22 NEW SECTION. Section 8. Records of consolidated school  
23 districts. All files and records of a school district that  
24 is consolidated into a K-12 school district must be  
25 transferred to and maintained by the K-12 school district.

**NEW SECTION. Section 9. Inclusion of consolidated district in K-12 school district.** (1) When the territory of a school district is included in the territory of a K-12 school district, all tangible property, real and personal, of the consolidated district becomes the property of the K-12 school district and all funds remaining to the credit of the district after providing for payment of outstanding debts, except bonded indebtedness, must be transferred to the K-12 school district.

(2) Any unpaid taxes levied against property in the consolidated district must be credited to the K-12 school district as follows:

(a) taxes levied for the retirement of bonded indebtedness must be credited to the debt service fund for the bonds if any portion remains unpaid; and

(b) all other unpaid taxes levied for the district must be credited to the appropriate fund of the K-12 school district.

**NEW SECTION. Section 10. Existing employee rights in K-12 school district -- collective bargaining.** (1) For the purpose of this section, "public employee" has the meaning provided in 39-31-103.

(2) The rights of a public employee who was hired pursuant to a collective bargaining agreement in effect between July 1, 1994, and June 30, 1995, and who is an

employee of a school district that is being consolidated into a K-12 school district pursuant to 20-6-701 may not be impaired.

(3) A public employee of a school district on June 30, 1995, that becomes part of a K-12 school district is a public employee of the K-12 school district created July 1, 1995, and is authorized to transfer to the K-12 school district:

(a) any sick, vacation, or other leave accumulated before June 30, 1995;

(b) the date of hire and years of service accumulated before June 30, 1995; and

(c) all nontenure or probationary service time accumulated in a prior district.

(4) A public employee of a school district on June 30, 1995, who has permanent status or tenure under Montana law is protected and must be recognized as having permanent or tenured status by the board of trustees of the K-12 school district in which the public employee will perform duties

(5) The collective bargaining agreement of certified employees of a high school district that will cease to exist on June 30, 1995, is the contract for certified employees of a K-12 school district created pursuant to 20-6-701, and representation elections pursuant to 39-31-208 may not be held until after January 1, 1995. If a collective bargaining

1 agreement does not exist for a high school district that  
2 will cease to exist on June 30, 1995, the collective  
3 bargaining agreement for the largest elementary school in  
4 the new K-12 school district is controlling.

5 (6) The collective bargaining agreement for the largest  
6 classified employees' unit at the high school district that  
7 will cease to exist on June 30, 1995, is the contract for  
8 classified employees of a K-12 school district created  
9 pursuant to 20-6-701, and representation elections pursuant  
10 to 39-31-208 may not be held until after January 1, 1995.

11 (7) If collective bargaining is requested, the  
12 recognized bargaining agent of the contract for the high  
13 school district that will cease to exist on June 30, 1995,  
14 is the exclusive representative until another representative  
15 is elected pursuant to 39-31-208.

16 **Section 11.** Section 20-1-211, MCA, is amended to read:

17 "20-1-211. Expenses of officers or employees attending  
18 conventions -- educational associations. (1) ~~After July 17~~  
19 ~~1991, no school~~ A K-12 school district officer or an  
20 employee of any a K-12 school district shall may not receive  
21 payment from any public funds for traveling expenses or  
22 other expenses of any sort-or kind for attendance upon at  
23 any convention, meeting, or other gathering of public  
24 officers except for attendance upon-such at a convention,  
25 meeting, or other gatherings--as-said gathering that the

1 officer or employee may by--virtue-of-his-office find it  
2 necessary to attend.

3 (2) The board of trustees of any--county--or--district  
4 high--school--or--of--any a K-12 school district may by  
5 resolution adopted by a majority of the entire board make  
6 their district a member of any state association of school  
7 districts or school district trustees or any other strictly  
8 educational association and authorize the payment of dues to  
9 such an association and the necessary traveling expenses of  
10 employees or members of said the board to attend meetings of  
11 such the association or other meetings called for the  
12 express purpose of considering educational matters."

13 **Section 12.** Section 20-1-301, MCA, is amended to read:

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



defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that school year by 1/90th for each school day less than 180 school days."

**Section 13.** Section 20-1-308, MCA, is amended to read:

**"20-1-308. Religious instruction released time program.**

(1) The trustees of ~~an--elementary-or-high~~ a K-12 school district may provide for a religious instruction released time program under which a pupil may be released from regular school attendance for a period not to exceed 2 hours per week for the purpose of receiving religious instruction upon written request, renewed at least annually, of the pupil's parent or guardian.

(2) ~~No--religious~~ A religious instruction released time program may not be established or administered in such a way that uses public school property ~~is-utilized~~ for the purpose of religious instruction.

(3) ~~No--public--moneys~~ Public money may not be used, directly or indirectly, for ~~such~~ religious instruction.

(4) Any period for which a pupil is released under a religious instruction released time program is part of the school day and week for purposes of 20-1-301, 20-1-302, 20-5-103, 20-9-311, and all other provisions of Title 20, and ~~such~~ a release may not adversely affect the pupil's attendance record."

**Section 14.** Section 20-3-106, MCA, is amended to read:

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

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

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

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

(3) ~~negotiate-reciprocat-tuition-agreements-with--other states-in-accordance-with-the-provisions-of-20-5-314;~~

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

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

(6) (3) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

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

(8) (4) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget

1 format in accordance with the provisions of 20-9-103 and  
2 20-9-506;

3     †9†(5) establish a system of communication for  
4 calculating joint district revenues in accordance with the  
5 provisions of 20-9-151;

6     †10†(6) approve or disapprove the adoption of a  
7 district's budget amendment resolution under the conditions  
8 prescribed in 20-9-163 and adopt rules for an application  
9 for additional direct state aid for a budget amendment in  
10 accordance with the approval and disbursement provisions of  
11 20-9-166;

12     †11†(7) generally supervise the school financial  
13 administration provisions as prescribed by 20-9-201(2);

14     †12†(8) prescribe and furnish the annual report forms  
15 to enable the districts to report to the county  
16 superintendent in accordance with the provisions of  
17 20-9-213(5) and the annual report forms to enable the county  
18 superintendents to report to the superintendent of public  
19 instruction in accordance with the provisions of 20-3-209;

20     †13†(9) approve, disapprove, or adjust an increase of  
21 the average number belonging (ANB) in accordance with the  
22 provisions of 20-9-313 and 20-9-314;

23     †14†(10) distribute BASE aid and special education  
24 allowable cost payments in support of the BASE funding  
25 program, in accordance with the provisions of 20-9-331,

1 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through  
2 20-9-369;

3     †15†(11) provide for the uniform and equal provision of  
4 transportation by performing the duties prescribed by the  
5 provisions of 20-10-112;

6     †16†(12) approve or disapprove an adult education  
7 program for which a district proposes to levy a tax in  
8 accordance with the provisions of 20-7-705;

9     †17†(13) request, accept, deposit, and expend federal  
10 money in accordance with the provisions of 20-9-603;

11     †18†(14) authorize the use of federal money for the  
12 support of an interlocal cooperative agreement in accordance  
13 with the provisions of 20-9-703 and 20-9-704;

14     †19†(15) prescribe the form and contents of and approve  
15 or disapprove interstate contracts in accordance with the  
16 provisions of 20-9-705;

17     †20†(16) approve or disapprove the conduct of school on  
18 a Saturday or on pupil-instruction-related days in  
19 accordance with the provisions of 20-1-303 and 20-1-304;

20     †21†(17) recommend standards of accreditation for all  
21 schools to the board of public education and evaluate  
22 compliance with the standards and recommend accreditation  
23 status of every school to the board of public education in  
24 accordance with the provisions of 20-7-101 and 20-7-102;

25     †22†(18) collect and maintain a file of curriculum

1 guides and assist schools with instructional programs in  
2 accordance with the provisions of 20-7-113 and 20-7-114;

3 ~~†23†~~(19) establish and maintain a library of visual,  
4 aural, and other educational media in accordance with the  
5 provisions of 20-7-201;

6 ~~†24†~~(20) license textbook dealers and initiate  
7 prosecution of textbook dealers violating the law in  
8 accordance with the provisions of the textbooks part of this  
9 title;

10 ~~†25†~~(21) as the governing agent and executive officer of  
11 the state of Montana for K-12 vocational education, adopt  
12 the policies prescribed by and in accordance with the  
13 provisions of 20-7-301;

14 ~~†26†~~(22) supervise and coordinate the conduct of special  
15 education in the state in accordance with the provisions of  
16 20-7-403;

17 ~~†27†~~(23) administer the traffic education program in  
18 accordance with the provisions of 20-7-502;

19 ~~†28†~~(24) administer the school food services program in  
20 accordance with the provisions of 20-10-201, 20-10-202, and  
21 20-10-203;

22 ~~†29†~~(25) review school building plans and specifications  
23 in accordance with the provisions of 20-6-622;

24 ~~†30†~~(26) prescribe the method of identification and  
25 signals to be used by school safety patrols in accordance

1 with the provisions of 20-1-408;

2 ~~†31†~~(27) provide schools with information and technical  
3 assistance for compliance with the student assessment rules  
4 provided for in 20-2-121 and collect and summarize the  
5 results of the student assessment for the board of public  
6 education and the legislature;

7 ~~†32†~~(28) administer the distribution of guaranteed tax  
8 base aid in accordance with 20-9-366 through 20-9-369; and

9 ~~†33†~~(29) perform any other duty prescribed from time to  
10 time by this title, any other act of the legislature, or the  
11 policies of the board of public education."

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

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

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

20 ~~†2†~~ administer and file the oaths of members of the  
21 boards of trustees of the K-12 school districts in the  
22 county in accordance with the provisions of 20-3-307;

23 ~~†3†~~(2) register the teacher or specialist certificates  
24 or emergency authorization of employment of any person  
25 employed in the county as a teacher, specialist, principal,

1 or district superintendent in accordance with the provisions  
2 of 20-4-202;

3 ~~{4}--act--on--each--tuition--and--transportation--obligation~~  
4 ~~submitted--in--accordance--with--the--provisions--of--20-5-323--and~~  
5 ~~20-5-324;~~

6 {5}{3} file a copy of the audit report for a district  
7 in accordance with the provisions of 20-9-203;

8 ~~{6}--classify---districts---in---accordance---with---the~~  
9 ~~provisions--of--20-6-201--and--20-6-301;~~

10 {7}{4} keep a transcript and reconcile the district  
11 boundaries of the county in accordance with the provisions  
12 of 20-6-103 [sections 1 through 10];

13 {8}{5} fulfill all responsibilities assigned under the  
14 provisions of this title regulating the organization,  
15 alteration, or abandonment of districts;

16 ~~{9}--act--on--any--unification---proposition---and,---if~~  
17 ~~approved,--establish--additional--trustee--nominating--districts~~  
18 ~~in--accordance--with--20-6-312--and--20-6-313;~~

19 {10}{6} estimate the average number belonging (ANB) of  
20 an opening school in accordance with the provisions of  
21 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

22 ~~{11}--process--and,--when--required,--act--on--school--isolation~~  
23 ~~applications--in--accordance--with--the--provisions--of--20-9-302;~~

24 {12}{7} complete the budgets, compute the budgeted  
25 revenues revenue and tax levies, file final budgets and

1 budget amendments, and fulfill other responsibilities  
2 assigned under the provisions of this title regulating  
3 school budgeting systems;

4 {13}{8} submit an annual financial report to the  
5 superintendent of public instruction in accordance with the  
6 provisions of 20-9-211;

7 {14}{9} monthly, unless otherwise provided by law,  
8 order the county treasurer to apportion state money, county  
9 school money, and any other school money subject to  
10 apportionment in accordance with the provisions of 20-9-212,  
11 20-9-334, 20-9-347, 20-10-145, or 20-10-146;

12 {15}{10} act on any request to transfer average number  
13 belonging (ANB) in accordance with the provisions of  
14 20-9-313(3);

15 {16}{11} calculate the estimated budgeted general fund  
16 sources of revenue in accordance with the general fund  
17 revenue provisions of the general fund part of this title;

18 {17}{12} compute the revenues revenue and the district  
19 and county levy requirements for each fund included in each  
20 the K-12 school district's final budget and report the  
21 computations to the board of county commissioners in  
22 accordance with the provisions of the general fund,  
23 transportation, bonds, and other school funds parts of this  
24 title;

25 {18}{13} file and forward bus driver certifications,

1 transportation contracts, and state transportation  
2 reimbursement claims in accordance with the provisions of  
3 20-10-103, 20-10-143, or 20-10-145;

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

8 ~~{20}(14)~~ notify the superintendent of public instruction  
9 of a textbook dealer's activities when required under the  
10 provisions of 20-7-605 and otherwise comply with the  
11 textbook dealer provisions of this title;

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

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

21 ~~{23}(16)~~ administer the oath of office to trustees  
22 without the receipt of pay for administering the oath;

23 ~~{24}(17)~~ keep a record of official acts, preserve all  
24 reports submitted to the superintendent under the provisions  
25 of this title, preserve all books and instructional

1 equipment or supplies, keep all documents applicable to the  
2 administration of the office, and surrender all records,  
3 books, supplies, and equipment to the next superintendent;

4 ~~{25}(18)~~ within 90 days after the close of the school  
5 fiscal year, publish an annual report in the county  
6 newspaper stating the following financial information for  
7 the school fiscal year just ended for each K-12 school  
8 district of the county:

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

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

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

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

18 ~~{26}(19)~~ hold meetings for the members of the trustees  
19 from time to time at which matters for the good of the  
20 districts must be discussed."

21 **Section 16.** Section 20-3-208, MCA, is amended to read:

22 **"20-3-208. Authority to request, accept, and disburse**  
23 **money.** (1) A county superintendent may, with the advice and  
24 consent of the appropriate school boards, request and accept  
25 money made available from federal, state, or private sources

1 for purposes of public education.

2 (2) Subject to applicable federal and state guidelines  
3 and, in the case of money received from private sources,  
4 subject to any guidelines fixed by the donor, a county  
5 superintendent may, in ~~his~~ the county superintendent's  
6 discretion, disburse money received under this section to  
7 one or more ~~public-elementary-or-high~~ K-12 school districts  
8 according to their needs. The county superintendent shall  
9 supervise the utilization use of such the money with the  
10 approval of the appropriate school boards.

11 (3) The county superintendent may establish a fund, for  
12 which the county treasurer shall maintain a separate  
13 accounting, for the deposit of money received under this  
14 section."

15 **Section 17.** Section 20-3-210, MCA, is amended to read:

16 **"20-3-210. Controversy appeals and hearings.** (1) Except  
17 as provided under 20-3-211, the county superintendent shall  
18 hear and decide all matters of controversy arising in the  
19 county as a result of decisions of the trustees of a K-12  
20 school district in the county. Except as provided in  
21 subsection (2), exhaustion of administrative remedies under  
22 this chapter is required prior to filing an action in  
23 district court concerning a decision of the trustees. When  
24 appeals are made under 20-4-204 relating to the termination  
25 of services of a tenure teacher or under 20-4-207 relating

1 to the dismissal of a teacher under contract, the county  
2 superintendent may appoint a qualified attorney at law to  
3 act as a legal adviser who shall assist the superintendent  
4 in preparing findings of fact and conclusions of law.  
5 Subsequently, either the teacher or trustees may appeal to  
6 the superintendent of public instruction under the  
7 provisions for appeal of controversies in this title. The  
8 county superintendent shall hear and decide all  
9 controversies arising under:

10 (a) ~~20-5-320--and--20-5-321-relating-to-the-approval-of~~  
11 ~~out-of-district-attendance-agreements;~~

12 ~~(b)~~ 20-4-206(4); or

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

16 (2) Exhaustion of administrative remedies is not a  
17 prerequisite to filing an action in district court  
18 concerning a decision of the trustees of a K-12 school  
19 district in the following instances:

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

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

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

25 (3) The county superintendent shall hear the appeal and

1 take testimony in order to determine the facts related to  
 2 the controversy and may administer oaths to the witnesses  
 3 that testify at the hearing. The county superintendent shall  
 4 prepare a written transcript of the hearing proceedings. The  
 5 decision on the matter of controversy that is made by the  
 6 county superintendent must be based upon the facts  
 7 established at the hearing.

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

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

17 **Section 18.** Section 20-3-301, MCA, is amended to read:

18 "20-3-301. Election and term of office. (1) Every  
 19 trustee position prescribed by this title ~~shall--be~~ is  
 20 subject to election, and the term of office for each  
 21 position ~~shall--be~~ is 3 years unless it is otherwise  
 22 specifically prescribed by this title.

23 (2) ~~The--trustees--shall--be--composed-of-the-number-of~~  
 24 ~~trustee-positions-prescribed-for-a-district-by-20-3-341--and~~  
 25 ~~20-3-351.~~ When exercising the power and performing the

1 duties of trustees, the members shall act collectively and  
 2 only at a regular or a properly called special meeting.

3 ~~(3)--The-number-of-trustee-positions-in-a-district-shall~~  
 4 ~~vary--in--accordance-with-20-3-341-and-20-3-351-according-to~~  
 5 ~~the-type-of-district."~~

6 **Section 19.** Section 20-3-305, MCA, is amended to read:

7 "20-3-305. Candidate qualification and nomination. (1)  
 8 ~~Except--as--provided--in--20-3-338,--any~~ A person who is  
 9 qualified to vote in a district under the provisions of  
 10 20-20-301 ~~shall-be~~ is eligible for the office of trustee.

11 (2) ~~Except--as--provided--in--20-3-338,--any~~ Any five  
 12 electors qualified under the provisions of 20-20-301 of any  
 13 district, ~~except--a--first-class--elementary--district,~~ may  
 14 nominate as many trustee candidates as there are trustee  
 15 positions subject to election at the ensuing election. The  
 16 name of each person nominated for candidacy ~~shall~~ must be  
 17 submitted to the clerk of the district not less than 40 days  
 18 before the regular school election day at which ~~he~~ the  
 19 nominee is to be a candidate. If there are different terms  
 20 to be filled, the term for which each candidate is nominated  
 21 ~~shall~~ must also be indicated."

22 **Section 20.** Section 20-3-308, MCA, is amended to read:

23 "20-3-308. Vacancy of trustee position. (1) Any An  
 24 elected trustee position ~~shall-be~~ is vacant whenever the  
 25 incumbent:

(a) dies;

(b) resigns;

(c) moves ~~his~~ the trustee's residence from the applicable district or from ~~the--nominating a trustee~~ district ~~in--the--case--of--an-additional-trustee-in-a-high school-district~~ as provided in 20-3-338;

(d) is no longer a registered elector of the trustee district under the provisions of 20-20-301;

(e) is absent from the district for 60 consecutive days;

(f) fails to attend three consecutive meetings of the trustees without a good excuse;

(g) has been removed under the provisions of 20-3-310; or

(h) ceases to have the capacity to hold office under any other provision of law.

(2) A trustee position ~~also-shall-be~~ is vacant when an elected candidate fails to qualify under the provisions of 20-3-307."

**Section 21.** Section 20-3-311, MCA, is amended to read:

"20-3-311. Trustee travel reimbursement and ~~compensation--of--secretary--for-joint-board.~~ The members of the trustees of any a K-12 school district ~~shall may~~ not receive compensation for their services as trustees, except that ~~the-secretary-of-the-trustees-of-a-high-school-district~~

~~operating-a-county-high-school-or~~ the secretary of a joint board of trustees may be compensated for his services as the secretary. The members of the trustees who reside over 3 miles from the trustees' meeting place ~~shall must~~ be reimbursed at the rate as provided in 2-18-503, for every mile necessarily traveled between their residence and the meeting place and return in attending the regular and special meetings of the trustees, and all trustees ~~shall must~~ be similarly reimbursed for meetings called by the county superintendent. The travel reimbursement may be accumulated during the school fiscal year and paid at the end of the fiscal year, at the discretion of each trustee."

**Section 22.** Section 20-3-321, MCA, is amended to read:

"20-3-321. Organization and officers. (1) The trustees of each K-12 school district shall annually organize as a governing board of the district after the regular election day and after the issuance of the election certificates to the newly elected trustees, but not later than the third Saturday of April. In order to organize, the trustees of the K-12 school district ~~shall must~~ be given notice of the time and place where the organization meeting will be held, and at ~~such the~~ meeting they shall choose one of their number as the chairman presiding officer. In addition, ~~except-for-the trustees-of-a-high-school-district-operating-a--county--high school,~~ the trustees shall employ and appoint a competent



1 person, who is not a member of the trustees, as the clerk of  
 2 the district. ~~The--trustees--of--a--high--school--district~~  
 3 ~~operating-a-county-high-school-shall--appoint--a--secretary,~~  
 4 ~~who-shall-be-a-member-of-the-board;~~

5 (2) The chairman presiding officer of the trustees of  
 6 any K-12 school district shall serve until the next  
 7 organization meeting and shall preside at all the meetings  
 8 of the trustees in accordance with the customary rules of  
 9 order. He The presiding officer shall perform the duties  
 10 prescribed by this title and any other duties that normally  
 11 pertain to such the presiding officer."

12 **Section 23.** Section 20-3-324, MCA, is amended to read:

13 "20-3-324. Powers and duties. As prescribed elsewhere  
 14 in this title, the trustees of each K-12 school district  
 15 shall:

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

23 (2) employ and dismiss administrative personnel,  
 24 clerks, secretaries, teacher aides, custodians, maintenance  
 25 personnel, school bus drivers, food service personnel,

1 nurses, and any other personnel considered necessary to  
 2 carry out the various services of the district;

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

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

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

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

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

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

22 (9) conduct the fiscal business of the district in  
 23 accordance with the provisions of the school financial  
 24 administration part of this title;

25 (10) establish the ANB, BASE budget levy, over-BASE

1 budget levy, additional levy, and operating reserve--and  
 2 ~~state-impact--aid~~ amounts for the general fund of the  
 3 district in accordance with the provisions of the general  
 4 fund part of this title;

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

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

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

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

23 (15) hold in trust, acquire, and dispose of the real and  
 24 personal property of the district in accordance with the  
 25 provisions of the school sites and facilities part of this

1 title;

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

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

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

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

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

22 (21) for each member of the trustees, visit each school  
 23 of the district not less than once each school fiscal year  
 24 to examine its management, conditions, and needs, except  
 25 trustees from a ~~first-class-school~~ district may share the

responsibility for visiting each school in the district;

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

(23) provide that an American flag that measures approximately 12 inches by 18 inches be prominently displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

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

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

**Section 24.** Section 20-3-338, MCA, is amended to read:

**"20-3-338. Trustees elected by single-member district.**

(1) At each annual election provided for in 20-3-304, each trustee candidate in a single-member trustee district must be a qualified elector of the trustee district and have resided in the trustee district to be represented for at least 1 year prior to becoming a candidate for the trustee

position.

(2) Nomination of trustee candidates under the provisions of 20-3-305 ~~and 20-3-344~~ must be by electors of the trustee district.

(3) The election of each trustee must be submitted to the electors in the trustee district who are qualified to vote under the provisions of 20-20-301."

**Section 25.** Section 20-4-201, MCA, is amended to read:

**"20-4-201. Employment of teachers and specialists by contract.** (1) The trustees of any a K-12 school district ~~shall--have--the--authority--to~~ may employ any person as a teacher or specialist, but only a person who holds a valid Montana teacher or specialist certificate or for whom an emergency authorization of employment has been issued that qualifies ~~such~~ the person to perform the duties prescribed by the trustees for the position of employment. Each teacher or specialist ~~shall~~ must be employed under written contract, and each contract of employment ~~shall~~ must be authorized by a proper resolution of the trustees and ~~shall~~ must be executed in duplicate by the chairman presiding officer of the trustees and the clerk of the district in the name of the district and by the teacher or specialist.

(2) ~~No~~ A contract of employment with a teacher or specialist ~~shall~~ may not require ~~such~~ the teacher or specialist to teach more than 5 days a week or on any

1 holiday recognized by 20-1-305. No ~~A~~ deduction ~~shall~~ may not  
 2 be made from a teacher's or specialist's salary by reason of  
 3 the fact that a holiday falls on a school day. Any teacher's  
 4 or specialist's contract made in conflict with the  
 5 5-days-per-week provision of this section ~~shall~~ is not be  
 6 enforceable against the teacher or specialist.

7 (3) ~~Whenever the board of trustees of two or more~~  
 8 ~~school districts form a joint board of trustees under the~~  
 9 ~~provisions of 20-3-361, such joint board of trustees may~~  
 10 ~~execute a contract of employment with a teacher or~~  
 11 ~~specialist who shall serve the districts. When such a~~  
 12 ~~contract is executed, the districts shall prorate the~~  
 13 ~~compensation provided by such contract on the basis of the~~  
 14 ~~total number of instructional hours expended by such teacher~~  
 15 ~~or specialist within each district.~~

16 (4) Any contract executed under the provisions of this  
 17 section may contain the oath or affirmation prescribed in  
 18 20-4-104, and the teacher or specialist shall subscribe to  
 19 such the oath or affirmation before an officer authorized by  
 20 law to administer oaths."

21 **Section 26.** Section 20-4-401, MCA, is amended to read:

22 "20-4-401. Appointment and dismissal of district  
 23 superintendent or county high school principal. (1) The  
 24 trustees of any high school a K-12 school district, ~~except a~~  
 25 ~~county high school, and the trustees of the elementary~~

1 ~~district where its high school building is located shall~~  
 2 ~~jointly employ and appoint a district superintendent. The~~  
 3 ~~trustees of a county high school shall employ and appoint a~~  
 4 ~~district superintendent, except that they may employ and~~  
 5 ~~appoint a holder of a class 3 teacher certificate with a~~  
 6 ~~district superintendent endorsement as the county high~~  
 7 ~~school principal in lieu of a district superintendent. The~~  
 8 ~~trustees of any other district may employ and appoint a~~  
 9 ~~district superintendent.~~

10 (2) ~~Whenever a joint board of trustees has been formed~~  
 11 ~~by a county high school and the elementary district where~~  
 12 ~~the county high school is located, such joint board shall~~  
 13 ~~jointly employ and appoint a district superintendent. During~~  
 14 ~~the term of contract of the jointly appointed district~~  
 15 ~~superintendent, neither district shall separately employ and~~  
 16 ~~appoint a district superintendent or county high school~~  
 17 ~~principal.~~

18 (3) ~~School districts other than those provided in~~  
 19 ~~subsection (2) that form a joint board of trustees may~~  
 20 ~~jointly employ and appoint a district superintendent as~~  
 21 ~~allowed in 20-3-362.~~

22 (4)(2) The written contract of employment of a district  
 23 superintendent or a county high school principal shall be is  
 24 authorized by the proper resolution of the trustees of the  
 25 district or the joint board of trustees and executed in

1 duplicate by the chairman presiding officer of the trustees  
 2 ~~or--joint--board-of-trustees~~ and the ~~clerks-of-the-districts~~  
 3 clerk of the district in the name of the ~~districts--and--by~~  
 4 ~~the--district--superintendent--or--the--county--high--school~~  
 5 ~~principal~~ district. Such ~~The~~ contract ~~shall~~ may not be for a  
 6 term of ~~not~~ more than 3 years, and after the second  
 7 successive contract, the contract ~~shall-be-deemed-to may~~ be  
 8 renewed for a further term of 1 year from year to year  
 9 ~~thereafter~~ unless the trustees ~~shall~~, by resolution passed  
 10 by a majority vote of its membership, resolve to terminate  
 11 the services of the district superintendent ~~or--the--county~~  
 12 ~~high--school-principal~~ at the expiration of ~~his~~ the existing  
 13 contract. The trustees shall ~~take-such~~ approve a termination  
 14 action and notify the district superintendent ~~or--the--county~~  
 15 ~~high--school--principal~~ in writing of their intent to  
 16 terminate ~~his~~ the district superintendent's services at the  
 17 expiration of ~~his~~ the current contract not later than  
 18 February 1 of the last year of ~~such~~ the contract.

19 ~~{5}--Whenever-a-joint-board-of-trustees-employs-a-person~~  
 20 ~~as-the-district-superintendent-under-subsection-{2}-or--{3}-~~  
 21 ~~the-districts-shall-prorate-the-compensation-provided-by-the~~  
 22 ~~contract--of--employment--on--the--basis--of--the--number-of~~  
 23 ~~teachers-employed-by-each-district-~~

24 ~~{6}{3}~~ At any time the class 3 teacher certification or  
 25 the endorsement of the certificate of a district

1 superintendent ~~or--a--county--high--school--principal--that~~  
 2 ~~qualifies-such-person-to-hold-such-position~~ becomes invalid,  
 3 the trustees of the district ~~or--the--joint-board-of-trustees~~  
 4 shall discharge ~~such~~ the person as the district  
 5 superintendent ~~or--county-high-school-principal~~ regardless of  
 6 the unexpired term of ~~his~~ the contract. The trustees ~~shall~~  
 7 may not compensate ~~him~~ the district superintendent under the  
 8 terms of ~~his~~ the district superintendent's contract for any  
 9 services rendered subsequent to the date of the invalidation  
 10 of ~~his~~ the district superintendent's teacher certificate.

11 ~~{7}{4}~~ No A district superintendent ~~or--county-high~~  
 12 ~~school-principal--shall~~ may not engage in any work or  
 13 activity ~~which~~ that the trustees ~~may-deem~~ consider to be in  
 14 conflict with ~~his~~ the duties and employment ~~as~~ of the  
 15 district superintendent ~~or--county-high-school-principal."~~

16 **Section 27.** Section 20-4-402, MCA, is amended to read:

17 "20-4-402. Duties of district superintendent ~~or--county~~  
 18 ~~high-school-principal~~. The district superintendent ~~or--county~~  
 19 ~~high-school--principal~~ is the executive officer of the  
 20 trustees and, subject to the direction and control of the  
 21 trustees, ~~he~~ the district superintendent shall:

22 (1) have general supervision of all schools of the  
 23 district and the personnel employed by the district;

24 (2) implement and administer the policies of the  
 25 trustees of the district;

(3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of 20-7-111;

(4) select all textbooks and submit the selections to the trustees for their approval in accordance with the provisions of 20-7-602;

(5) select all reference and library books and submit the selections to the trustees for their approval in accordance with provisions of 20-7-204;

(6) have general supervision of all pupils of the district, enforce the compulsory attendance provisions of this title, and have the authority to suspend for good cause any pupil of the district;

(7) report the cumulative pupil attendance and pupil absence of the district and any other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent, or county superintendents when reporting for a joint district, within 10 days after the conclusion of each school semester; and

(8) perform any other duties in connection with the district as the trustees may prescribe."

**Section 28.** Section 20-5-104, MCA, is amended to read:

"20-5-104. **Attendance officer.** In order to enforce the compulsory attendance provisions of this title, each

district shall have at least one person serving as an attendance officer, ~~according to the following requirements:~~

~~(1) districts of the first and second class shall employ and appoint one or more attendance officers;~~

~~(2) districts of the third class may employ and appoint an attendance officer or may appoint a constable or other peace officer as an attendance officer; or~~

~~(3) the county superintendent shall be the attendance officer in third class districts that do not appoint an attendance officer."~~

**Section 29.** Section 20-5-201, MCA, is amended to read:

"20-5-201. **Duties and sanctions.** (1) A pupil shall:

(a) comply with the policies of the trustees and the rules of the school that the pupil attends;

(b) pursue the required course of instruction;

(c) submit to the authority of the teachers, principal, and district superintendent of the K-12 school district; and

(d) be subject to the control and authority of the teachers, principal, and district superintendent while the pupil is in school or on school premises, on the way to and from school, or during intermission or recess.

(2) A pupil who continually and willfully disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds,

furniture, equipment, book belonging to the district, or harms or threatens to harm another person or the person's property is liable for punishment, suspension, or expulsion under the provisions of this title. When a pupil defaces or damages school property the pupil's parent or guardian is liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent, or any trustee and the proof of any damage.

(3) In addition to the sanctions prescribed in this section, the trustees of a high K-12 school district may deny a high school pupil the honor of participating in the graduation exercise or exclude a high school pupil from participating in school activities. The trustees may not take action under this subsection until the incident or infraction causing the consideration has been investigated and the trustees have determined that the high school pupil was involved in the incident or infraction.

(4) (a) A K-12 school district may withhold the grades, diploma, or transcripts of a pupil who is responsible for the cost of school materials or the loss or damage of school property until the pupil or the pupil's parent or guardian satisfies the obligation.

(b) A K-12 school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a)

shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

(ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;

(iii) at the same time, notify the school district of any financial obligation of the pupil and request the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;

(iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school district to which the pupil has transferred; and

(v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts.

(c) Upon receiving notice that a K-12 school district has requested the withholding of the grades, diploma, or transcripts of a pupil under this subsection (4), a school district to which the pupil has transferred shall withhold the grades, diploma, or transcripts of the pupil until it

law, for high school purposes.

(5) As used in this title, unless the context clearly indicates otherwise, a county high school is considered a high school district subject to the limitations prescribed by law for a county high school as a result of its being a part of the county government. The boundaries of the high school district for a county high school are:

(a) the high school district boundaries established by the county high school boundary commission; or

(b) if no boundaries have been established, the county boundaries, except for any territory located in a joint high school district.

(6) A county high school recognized as a high school district under the provisions of subsection (5)(b) may not have a bonding authority; instead, the county shall exercise its bonding authority in the manner provided in 20-9-451.

**Section 34.** Section 20-6-104, MCA, is amended to read:

"20-6-104. Moratorium on creation of new district. (1) Following July 1, 1993 1995, a school district may not initiate the creation of a new elementary K-12 school district under the provisions of 20-6-216 and 20-6-217 or initiate the creation of a new high school district under the provisions of 20-6-303 and 20-6-325 20-6-701.

(2) This section does not apply to a petition to create a new elementary or high K-12 school district that was filed

prior to July 1, 1993 1995."

**Section 35.** Section 20-6-411, MCA, is amended to read:

"20-6-411. Bonded indebtedness to remain with original territory except when assumed by election. Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded indebtedness against any district or territory affected by a change of boundaries shall remain the indebtedness of the original territory against which such the bonds were issued and shall must be paid by levies on the original territory, except when elementary districts are consolidated with the mutual assumption of bonded indebtedness or when an elementary district is annexed with a joint assumption of the annexing district's bonded indebtedness with the annexing district. Any moneys money to the credit of the debt service fund of a district when its boundaries are changed shall must be used to pay the existing bond principal and interest of the original territory issuing such the bonds as it becomes due or for bond redemption under the bonding provisions of this title."

**Section 36.** Section 20-6-413, MCA, is amended to read:

"20-6-413. Cash disposition when district ceases to exist -- special levy for tuition debt. Whenever a district shall cease ceases to exist in any manner prescribed in this title, except when districts are consolidated 20-6-701, the cash on hand to the credit of the funds of the district and



1 the debts of ~~such the~~ district ~~shall~~ must be allocated in  
2 the following manner:

3 (1) Any cash to the credit of the district ~~shall~~ must  
4 be used to pay any debts of the district, including bonded  
5 indebtedness, except that any cash available in the debt  
6 service fund ~~shall~~ must be used first to pay bond interest  
7 and all outstanding bonds.

8 (2) If any cash remains to the credit of the district  
9 after paying its debts, the cash ~~shall~~ must be transferred  
10 by the county treasurer to the credit of the K-12 school  
11 district or districts assuming its territory. When the  
12 territory is assumed by more than one K-12 school district,  
13 the remaining cash ~~shall~~ must be prorated between the  
14 districts on the basis of the number of children attending  
15 school and residing within the territory assumed by each  
16 district as determined by the county superintendent.

17 (3) If any tuition debt remains as an obligation of the  
18 district, the tuition debt ~~shall-be is~~ the obligation of the  
19 taxable property of the discontinued district, except when  
20 the tuition debt has been assumed by the ~~consolidated--or~~  
21 annexing K-12 school district. The tuition debt ~~shall~~ must  
22 be financed by a mill levy on the property of the  
23 discontinued district and paid from these proceeds by the  
24 county superintendent.

25 (4) If any debts, other than bonded indebtedness and

1 tuition, remain as an obligation of the district after the  
2 cash has been utilized under the provisions of subsection  
3 (1) ~~above~~, the debts ~~shall~~ must be assigned in the same  
4 manner prescribed for the transfer of cash under subsection  
5 (2) ~~above~~."

6 **Section 37.** Section 20-6-501, MCA, is amended to read:

7 "20-6-501. Definition of various schools. As used in  
8 this title, unless the context clearly indicates otherwise,  
9 the term "school" means an institution a school program unit  
10 within a K-12 school district that is established for the  
11 teaching of children ~~that--is--established~~ and maintained  
12 under the laws of the state of Montana at public expense.  
13 The trustees of any a K-12 school district shall designate  
14 the grade assignments for the schools of the district, but  
15 for the purposes of this title, each school ~~shall--be is~~  
16 known as:

17 (1) an elementary school when it comprises the work of  
18 any combination of kindergarten, other preschool programs,  
19 or the first eight grades or their equivalents. A middle  
20 school is a school comprising the work of grades 4 through 8  
21 or any combination ~~thereof~~ of grades that has been  
22 accredited as a middle school under the provisions of  
23 20-7-102. When an accredited junior high school ~~or--an~~  
24 accredited-6-year-high-school is operated by the K-12 school  
25 district, grades 7 and 8 or their equivalents ~~shall~~ may not

receives notice, from the district that initiated the decision, that the decision has been rescinded under the terms of subsection (4)(a)."

**Section 30.** Section 20-5-202, MCA, is amended to read:

"20-5-202. Suspension and expulsion. As provided in 20-4-302, and 20-4-402~~and 20-4-403~~, any pupil may be suspended by a teacher, superintendent, or principal. The trustees of the K-12 school district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in suspending a pupil and to define the circumstances and procedures by which the trustees may expel a pupil. Expulsion ~~shall be~~ is a disciplinary action available only to the trustees."

**Section 31.** Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal attendance agreement with adjoining state or province. ~~{t}~~ The ~~superintendent of public instruction~~ superintendent of a K-12 school district may execute a reciprocal attendance agreement with the superintendent of public instruction or a department of education of any state or province adjoining Montana to allow a child who is a Montana resident to attend school in the adjoining state or province and a child of the adjoining state or province to attend school in Montana. In negotiating a reciprocal attendance agreement, ~~the~~ tuition rates prescribed by 20-5-323 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~~ the K-12 school district shall supply a copy of any reciprocal attendance agreement that is executed to the county superintendent of each county that may be affected by the agreement.

~~{2}--An out-of-district attendance agreement approved under the provisions of 20-5-320 and 20-5-321 must be completed for a child's attendance at a school outside the state or for an out-of-state child to attend a school in Montana."~~

**Section 32.** Section 20-5-316, MCA, is amended to read:

"20-5-316. Out-of-state tuition. ~~{t}~~ The county superintendent of schools of the county of the K-12 school district of residence shall make payments from the county basic tax for ~~elementary schools~~ equalization for children who are placed in facilities outside the state of Montana pursuant to 20-5-321 but not other than placements under the provisions of Title 20, chapter 7, part 4.

~~{2}--The county superintendent of schools of the county of residence shall make payments from the county basic special tax for high schools as provided in 20-9-334 for children who are placed in facilities outside the state of Montana as a result of a court order or placement by a state agency. This provision does not apply to children with~~

disabilities--that-are-defined-under-the-provisions-of-Title  
207-chapter-77-part-4."

**Section 33.** Section 20-6-101, MCA, is amended to read:

"20-6-101. Definition of elementary--and--high--school  
districts K-12 school district. (1) As used in this title,  
except as defined in 20-9-402 for bonding purposes or unless  
the context clearly indicates otherwise, the term "K-12  
school district" means the territory, regardless of county  
boundaries, organized under 20-6-701 and the provisions of  
this title to provide public educational services under the  
jurisdiction of the trustees prescribed by this title. High  
school-districts-may-encompass-all-or-parts-of-the-territory  
of-one-or-more-elementary-districts.

{2}--(a)--An--elementary-district-is-a-district-organized  
for-the-purpose-of-providing-public-education-for-all-grades  
up-to-and-including-grade-8-and-for-preschool--programs--and  
kindergartens.--An-elementary-district-may-be-inactive-if-the  
district--attaches--to--a--high--school--district--under-the  
provisions-of-20-6-701-to-form-a-K-12-school-district.

{b}--A-high-school-district-is-a-district-organized--for  
the--purpose--of-providing-those-public-educational-services  
authorized-by-this-title-for--all--grades--beyond--grade--8,  
including--postsecondary--programs--except--those--programs  
administered--by--community-college-districts-or-the-Montana  
university-system.--A-high-school-district-with--an--attached

elementary-district-may-provide-the-educational-services-for  
an-elementary-district-through-the-procedures-established-in  
20-6-701-through-20-6-703.

{3}{2} An-elementary A K-12 school district is known as  
"K-12 School District No. ...., ..... County" and-a-high  
school-district--except--a--high--school--district--where--a  
county--high--school--is--operated--is-known-as--"High-School  
District-No-.....-County". A district is a body  
corporate and, as a body corporate, may sue and be sued,  
contract and be contracted with, and acquire, hold, use, and  
dispose of real or personal property for school purposes,  
within the limitations prescribed by law. Unless the context  
clearly indicates otherwise, the trustees of elementary  
districts-and-high-school districts have the same types of  
powers, duties, and responsibilities authorized and imposed  
by the laws of Montana.

{4}--Unless-the-context-clearly-indicates-otherwise--an  
elementary-district-operating-a-high-school-in-a-county-that  
has---not---been---divided---into---high--school--districts--is  
considered-a-high-school-district-under-this-title--and--the  
trustees--of-the-elementary-district-are-the-trustees-of-the  
high-school-district.--An-elementary--district--operating--a  
high--school--may--not--have-the-bonding-authority-of-a-high  
school--district.--However--the--elementary--district--may  
exercise--its--bonding--authority--in-the-manner-provided-by

1 be considered as elementary grades.

2 (2) a high school when it comprises the work of one or  
3 more grades of schoolwork or their equivalents intermediate  
4 between the elementary schools and the institutions of  
5 higher education of the state of Montana. Types of high  
6 schools ~~shall~~ must be designated as follows:

7 (a) a junior high school is a school comprising the  
8 work of grades 7 through 9 or their equivalents that has  
9 been accredited as a junior high school under the provisions  
10 of 20-7-102;

11 (b) a senior high school is a school which that  
12 comprises the work of grades 10 through 12 or their  
13 equivalents and which that is operated in conjunction with a  
14 junior high school; and

15 ~~{c}--a-6-year-high-school-is--a--school--comprising--the~~  
16 ~~work--of--grades--7--through--12--or--their--equivalents--that--has~~  
17 ~~been--accredited--as--a-6-year-high-school--under--the--provisions~~  
18 ~~of-20-7-102;~~

19 ~~{d}{c}~~ a 4-year high school is a school comprising the  
20 work of grades 9 through 12 or their equivalents;

21 ~~{e}--a--county--high--school--is--a--4-year--high-school~~  
22 ~~operated-as-an-agency-of-county-government--and--established~~  
23 ~~under-the-provisions-of-the-acts-of-March-31-1899-March-14~~  
24 ~~1901-and-any-subsequent-amendments-thereto."~~

25 **Section 38.** Section 20-6-503, MCA, is amended to read:

1 "20-6-503. Opening or reopening of a high school in  
2 K-12 district. (1) The trustees of any high K-12 school  
3 district may open or reopen a high school of the district or  
4 a branch of a high school of the district when such the  
5 opening or reopening has been approved by the superintendent  
6 of public instruction; ~~except when a county high school is~~  
7 ~~discontinued by a unification action, the trustees may~~  
8 ~~establish by resolution a high school to be operated by~~  
9 ~~the high school district without further action or approval.~~  
10 When the trustees of a high K-12 school district resolve to  
11 open or reopen a high school, they shall apply to the  
12 superintendent of public instruction for approval to open or  
13 reopen such the school by June 1 before the school fiscal  
14 year in which they intend to open or reopen the high school.  
15 Such The application ~~shall~~ must state:

16 (a) their reasons why the high school should be opened  
17 or reopened;

18 (b) the probable enrollment of such-high the school;

19 (c) the distance and road conditions of the route to  
20 neighboring high schools;

21 (d) the taxable value of the district;

22 (e) the building and equipment facilities available for  
23 such-high the school;

24 (f) the planned course of instruction for such-high the  
25 school;

(g) the planned methods of complying with high school standards of accreditation; and

(h) any other information that may be required by the superintendent of public instruction.

(2) The superintendent of public instruction shall investigate the application for the opening or reopening of a high school and shall approve or disapprove the opening of the high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the high K-12 school district trustees may open such high school.

(3) Whenever the opening or reopening of a high school is approved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the high school. The ANB determined by the county superintendent shall must be used for budgeting and BASE funding program purposes.

(4) ~~Nothing herein contained shall~~ This section may not be construed so as to preclude the trustees of a high K-12 school district from establishing more than one high school in the district."

**Section 39.** Section 20-6-701, MCA, is amended to read:

"20-6-701. K-12 school districts required -- definition -- procedure for creation ---exception. (1) Except--as

~~provided--in--subsection--(4)--by~~ By the school fiscal year beginning July 1, 1995, each elementary district ~~with--the same--district--boundaries--as--a--high-school-district or a portion of the district~~ shall ~~attach-to--the~~ unify with a high school district for the purpose of establishing a K-12 school district.

(2) For the purposes of this title, unless the context clearly indicates otherwise, "K-12 school district" means a high school district with an one or more elementary district districts that ~~has have~~ been attached to the high school district under the procedures provided in this section, ~~with the--high--school--district--remaining-an-organized-district under-the-provisions-of-20-6-101-and-other-provisions-of-law and-the-elementary-district-becoming--an--inactive--district under-the-provisions-of-20-6-101.~~

(3) The ~~attachment-of-an-elementary-district-to-a-high school-district-to--form--a~~ boundary of the K-12 school district must be ~~conducted-under-the-following-procedure:~~

~~(a)--The---trustees---of--each--district--shall--pass--a resolution-requesting-the-county-superintendent-to-order--an attachment-involving-their-districts--~~

~~(b)--When---the---county---superintendent---receives---a resolution---from---each---of---the--districts,--the--county superintendent-shall,--within-10-days-after--receipt--of--the last--resolution,--order--the--attachment--of--the-elementary~~

district-to-the-high-school-district-to-take-effect-on--July  
 1--of--the-ensuing-school-fiscal-year--Within-30-days-of-the  
 order,--the-county-superintendent-shall-send-a-copy--of--the  
 order--to-the-board-of-county-commissioners,--the-trustees-of  
 the-districts-included-in--the--attachment--order,--and--the  
 superintendent--of-public-instruction established by a local  
boundary committee pursuant to [section 3] and approved by  
the state boundary commission pursuant to [section 5].

~~(4)--This--section--does--not--apply--to--a--school--district~~  
~~receiving-Public-law-81-874-funding-if-creation--of--a--K-12~~  
~~district--would--result--in--the--loss--of-Public-law-81-874~~  
~~funding."~~

**Section 40.** 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~~ Title 20, chapter 9, part 3.

(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~~ established according to [section 7].

(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 total per-ANB entitlements must be in accordance with  
 the provisions of 20-9-311;

(b) the basic county tax and revenues for the  
 elementary BASE funding 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~~  
~~BASE--funding--program--amount--for--the--district--must--be~~  
~~determined-in-accordance-with-20-9-333;~~ and

(c) the guaranteed tax base aid for BASE funding  
 program purposes for a K-12 school district must be  
 calculated separately, using each district's program's  
 guaranteed tax base ratio, as defined in 20-9-366. The BASE  
 budget levy to be levied for the K-12 school district must  
 be prorated based on the ratio of the BASE funding program  
 amounts for elementary school programs to the BASE funding  
 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~~  
~~district--retirement--obligation~~ under the provisions of  
~~20-9-501~~ 20-9-366 through 20-9-369.

(5) For the purposes of budgeting for a K-12 school  
 district, the trustees shall adopt a single fund for any of  
 the budgeted or nonbudgeted funds described in 20-9-201 for

the costs of operating all grades and programs of the district.

~~(6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."~~

**Section 41.** Section 20-6-703, MCA, is amended to read:

"20-6-703. Transitions after formation of K-12 school district. (1) When ~~an attachment order for~~ a K-12 school district ~~becomes effective on July 1~~ is created under the provisions of 20-6-701:

(a) the board of county commissioners shall execute all necessary and appropriate deeds, bills of sale, or other instruments for the conveyance of title to all real and personal property of the former elementary district to and the former high school district into the K-12 school district;

(b) the trustees of the former elementary district shall entrust the minutes of the board of trustees, the former elementary district documents, and other records to the high school K-12 school district ~~to which it is~~

attached; and

(c) the county treasurer shall transfer all end-of-the-year warrants and fund balances of the attached former elementary district ~~to the similar funds established for and high school districts to~~ the K-12 school district in the high school district.

(2) All taxes levied by and revenue due from a previous school fiscal year to an a former elementary district attached to a high school K-12 district must be payable to the appropriate fund of the high K-12 school district.

(3) The previous year's general fund budget amounts for the former elementary district and the former high school district that form a K-12 school district must be combined to determine the budget limitation for the ensuing school fiscal year pursuant to 20-9-308.

~~(4) An elementary district and a high school district that form a K-12 school district under the provisions of 20-6-701 may not be considered an enlarged district for the purpose of bonus payments under 20-6-401 through 20-6-408."~~

**Section 42.** Section 20-6-711, MCA, is amended to read:

"20-6-711. Tenure protected -- hiring preference for noncertified employees. (1) ~~Whenever an elementary district is attached to a high school district~~ For districts required to form a K-12 school district under the provisions of 20-6-701, a district superintendent, principal, teacher, or

other certified employee of ~~the elementary~~ a district who has a right of tenure under Montana law continues to have tenure in the K-12 school district and the board of trustees of the high K-12 school district in which the person will perform duties shall recognize and give effect to the right of tenure.

(2) A noncertified, nonprobationary employee of ~~an elementary~~ a district that is attached to a ~~high--school district--to--form--a~~ K-12 school district must be given preference in hiring for any position with the K-12 school district for which the employee has substantially equal qualifications and, upon acceptance of a position, may not be given probationary status."

**Section 43.** Section 20-7-117, MCA, is amended to read:

"20-7-117. Five-year-old schooling and preschool programs. (1) The trustees of ~~an elementary~~ a K-12 school district shall establish or make available a program capable of accommodating, at a minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for which the program is to be conducted or who have been enrolled by special permission of the board of trustees. The program must be an integral part of the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must

have reached the age of 5 on or before September 10 of the school year covered by the calculation or have been enrolled by special permission of the board of trustees.

(2) The trustees of ~~an--elementary~~ a K-12 school district may establish and operate a free preschool program for children between the ages of 3 and 5 years. When preschool programs are established, they must be an integral part of the elementary school and must be governed accordingly. Financing of preschool programs may not be supported by money available from state equalization aid."

**Section 44.** Section 20-7-305, MCA, is amended to read:

"20-7-305. Funding for secondary vocational education and industrial arts programs -- application -- rules. (1) The superintendent of public instruction shall annually distribute money from the biennial appropriation for secondary vocational education and industrial arts. The money ~~shall~~ must be allocated to high K-12 school districts providing approved secondary vocational education and industrial arts programs in accordance with this section and 20-7-306.

(2) A high K-12 school district providing secondary vocational education and industrial arts programs must apply to the superintendent of public instruction for funds available under this section and 20-7-306. The superintendent of public instruction shall by rule prescribe



the method for ANB determination, the form of the application, budget procedures, and accounting rules for the funds. The superintendent of public instruction may prescribe other requirements for the receipt of funding not inconsistent with Title 20, chapter 7, part 3.

(3) A secondary vocational education or industrial arts program or a course in such a program in a high K-12 school district may not be funded until that program or course has been offered by the school district for 1 school year.

(4) As used in this section and 20-7-306 the term "school district" means a district organized for the purpose of providing educational services for grades 9 K through 12, but the term does not include postsecondary vocational education centers."

**Section 45.** Section 20-7-419, MCA, is amended to read:

**"20-7-419. Rules.** The superintendent of public instruction shall adopt rules for the implementation of 20-7-420, 20-7-421, 20-7-422, 20-7-435, and 20-7-436, including but not limited to:

(1) ~~the calculation of tuition under 20-7-420;~~

~~(2)~~ the calculation and distribution of funds under 20-7-435; and

~~(3)~~ (2) the determination of responsibilities of children's psychiatric hospitals, residential treatment facilities, and public schools."

**Section 46.** Section 20-7-420, MCA, is amended to read:

**"20-7-420. Residency requirements -- financial responsibility for special education tuition agreement.**

(1) In accordance with the provisions of 1-1-215, a child's district of residence for special education purposes is the residence of the child's parents or of the child's guardian if the parents are deceased, 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 Except as provided in subsection (6), the county of residence is financially responsible for tuition and transportation ~~as established under 20-5-323~~ 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 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 an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state residential treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational services are

provided by a public school district under the provisions of 20-7-411 or 20-7-435, the superintendent of public instruction shall reimburse the district providing the services for the negotiated amount, as established pursuant to 20-7-435(5), that represents the district's costs of providing education and related services. Payments must be made from funds appropriated for this purpose. If the negotiated amount exceeds the daily membership rate under 20-7-435(3) and any per-ANB amount of direct state aid, the superintendent of public instruction shall pay the remaining balance from the state equalization aid account. However, the amount spent from the state equalization aid account for this purpose may not exceed \$500,000 during any biennium.

(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 related services 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 financial costs of

room and board and the treatment of the child.

(6) The trustees of a K-12 school district may negotiate an interlocal tuition agreement with another K-12 school district to allow a child in need of special education and related services to attend school in a district outside the child's district of residence. The tuition rate may be based on a flat amount or on an actual-cost-per-pupil amount."

**Section 47.** Section 20-7-424, MCA, is amended to read:

**"20-7-424. No tuition when attending state institution.**

Whenever a child is attending a state-funded institution in Montana, the resident district or county is not required to pay tuition to the state institution for the child, but whenever at the recommendation of institution officials the child attends classes conducted by a school within a local district, the district or county where the parents or guardian of the child maintains legal residence shall pay tuition to the K-12 school district operating the school in accordance with the provisions of ~~20-5-321~~ or 20-7-421, ~~whichever-section-applies-to-the-circumstances-of-the-child.~~ Transportation payments must be made for students enrolled in any K-12 school district classes or receiving training, including summer sessions, at the state institution. The schedule of transportation payments must be approved in accordance with existing transportation payment schedules

and must be approved by the county transportation committee and the superintendent of public instruction."

**Section 48.** Section 20-7-457, MCA, is amended to read:

"20-7-457. Funding provisions for special education purposes of cooperatives or---joint---boards. (1) The superintendent of public instruction shall pay directly to a cooperative or-to-a-joint-board-formed-under-20-3-361-prior-to-July-17-1992, for special education purposes the special education allowable cost payments determined pursuant to 20-9-321.

(2) A K-12 school district that elects to participate in a cooperative for special education purposes shall agree in the cooperative contract to participate for a period of at least 3 years.

~~{3}--A--school--district--that--elects--to--participate--in--a--joint--board--formed--under--20-3-361--for--special--education--purposes--shall--confirm--in--writing--to--the--joint--board--by--October-1-of-the-current-school-fiscal-year--the--district's--intention--to--participate--or--to--not--participate--in--a--joint--board--agreement--for--the--next--school--fiscal--year.~~

~~{4}{3}~~ A cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction. The superintendent shall adopt rules for approval of full service education

cooperatives.

~~{5}{4}~~ A full service education cooperative may establish a retirement fund, a miscellaneous programs fund, and a transportation fund, as provided for in 20-9-201, for the purposes of a full service education cooperative contract and the purposes allowed by law.

~~{6}{5}~~ Before July 1, 1994, the superintendent of public instruction, after consulting with regional representatives, shall define boundaries for cooperatives established for special education programs that incorporate the territory of all public school districts.

~~{7}{6}~~ Restructuring of cooperatives established for providing special education services must:

(a) be limited to a statewide total of no more than 23;

(b) include districts that are adjacent to each other and not overlapping into another cooperative's territory; and

(c) provide that all districts located within a cooperative's boundary may voluntarily become a cooperative member."

**Section 49.** Section 20-7-705, MCA, is amended to read:

"20-7-705. Adult education fund. (1) A separate adult education fund must be established when an adult education program is operated by a K-12 school district or community college district. The financial administration of the fund

1 must comply with the budgeting, financing, and expenditure  
2 provisions of the laws governing the schools.

3 (2) Whenever the trustees of a K-12 school district  
4 establish an adult education program under the provisions of  
5 20-7-702, they shall establish an adult education fund under  
6 the provisions of this section. The adult education fund is  
7 the depository for all ~~district~~ money received by the K-12  
8 school district in support of the adult education program.  
9 Federal and state adult education program money must be  
10 deposited in the miscellaneous programs fund.

11 (3) The trustees of a K-12 school district may  
12 authorize the levy of a tax of not more than 1 mill on the  
13 ~~district,--except--that--trustees--of--a--county-high-school~~  
14 ~~district-that-is-not-unified-with-an-elementary-district--or~~  
15 ~~of--a--K-12--school--district-formed-under-the-provisions-of~~  
16 ~~20-6-701-may-authorize-a-levy-of-not-more-than--2--mills--on~~  
17 ~~the--district,~~ for the operation of an adult education  
18 program when the superintendent of public instruction has  
19 approved the educational program to be supported by the  
20 levy. The trustees shall obtain the approval of the  
21 superintendent of public instruction before the fourth  
22 Monday of June in order to include the expenditures to be  
23 financed by the levy in the preliminary budget. The  
24 superintendent of public instruction shall promulgate rules  
25 and forms for the approval.

1 (4) Whenever the trustees of a K-12 school district  
2 decide to offer an adult education program during the  
3 ensuing school fiscal year, they shall budget for the cost  
4 of the program in the adult education fund of the  
5 preliminary budget. Any expenditures in support of the adult  
6 education program under the final adult education budget  
7 must be made in accordance with the financial administration  
8 provisions of this title for a budgeted fund.

9 (5) When a tax levy for an adult education program that  
10 has been approved by the superintendent of public  
11 instruction is included as a revenue item on the final adult  
12 education budget, the county superintendent shall report the  
13 levy requirement to the county commissioners on the fourth  
14 Monday of August and a levy on the district must be made by  
15 the county commissioners in accordance with 20-9-142."

16 **Section 50.** Section 20-9-101, MCA, is amended to read:  
17 "20-9-101. Application of budget system for districts.  
18 The school budgeting procedure and provisions of this title  
19 apply to ~~elementary-and--high~~ K-12 school districts and,  
20 whenever specified, to community college districts and to  
21 all funds requiring the adoption of a budget. Each district  
22 shall separately propose and adopt a budget in accordance  
23 with the requirements of this title."

24 **Section 51.** Section 20-9-102, MCA, is amended to read:  
25 "20-9-102. General supervision of school budgeting

1 system. The superintendent of public instruction has general  
2 supervision over the school budgeting procedure and  
3 provisions, as they relate to ~~elementary--and--high~~ K-12  
4 school districts, prescribed by law and shall establish such  
5 rules as that are necessary to secure compliance with the  
6 school budgeting laws."

7 **Section 52.** Section 20-9-104, MCA, is amended to read:

8 "20-9-104. General fund operating reserve. (1) At the  
9 end of each school fiscal year, the trustees of each K-12  
10 school district shall designate the portion of the general  
11 fund end-of-the-year fund balance that is to be earmarked as  
12 operating reserve for the purpose of paying general fund  
13 warrants issued by the district from July 1 to November 30  
14 of the ensuing school fiscal year. Except as provided in  
15 subsections (5) and (6), the amount of the general fund  
16 balance that is earmarked as operating reserve may not  
17 exceed 10% of the final general fund budget for the ensuing  
18 school fiscal year.

19 (2) The amount held as operating reserve may not be  
20 used for property tax reduction in the manner permitted by  
21 20-9-141(1)(b) for other receipts.

22 (3) Excess reserves as provided in subsection (5) may  
23 be appropriated to reduce the BASE budget levy, the  
24 over-BASE budget levy, or the additional levy provided by  
25 20-9-353, except that districts with a balance on June 30,

1 1993, in the excess reserve account for Public Law 81-874  
2 funds shall transfer the June 30, 1993, balance to the  
3 impact aid fund established in 20-9-514.

4 (4) Any portion of the general fund end-of-the-year  
5 fund balance that is not reserved under subsection (2) or  
6 reappropriated under subsection (3) is fund balance  
7 reappropriated and must be used for property tax reduction  
8 as provided in 20-9-141(1)(b)~~+++~~.

9 (5) For fiscal year 1994 and subsequent fiscal years,  
10 the limitation of subsection (1) does not apply when the  
11 amount in excess of the limitation is equal due to ~~or less~~  
12 ~~than one or more of the following:~~

13 ~~+++~~ (a) the unused balance of any amount received:

14 ~~+++~~ (a) in settlement of tax payments protested in a  
15 prior school fiscal year;

16 ~~+++~~ (b) in taxes from a prior school fiscal year as a  
17 result of a tax audit by the department of revenue or its  
18 agents; and

19 ~~+++~~ (c) in delinquent taxes from a prior school fiscal  
20 year; ~~or~~

21 ~~+++~~ (b) ~~any amount received as a general bonus payment~~  
22 ~~under 20-6-401.~~

23 (6) The limitation of subsection (1) does not apply  
24 when the amount earmarked as operating reserve is \$10,000 or  
25 less."

**Section 53.** Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each K-12 school district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district ~~by totaling:~~

~~{i}--the--district's--nonisolated--school--BASE---budget requirement--to--be--met--by--a--district--levy--as--provided--in 20-9-303;--and~~

~~{ii} based upon~~ any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the maximum general fund budget.

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

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

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following

sources:

(A) tuition payments for out-of-district pupils ~~under the provisions of 20-5-321 through 20-5-323;~~

(B) 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;

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

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

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

(F) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

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

(H) any other revenue received during the 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 general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE

1 budget levy requirement.

2 (d) Subtract any amount remaining after the  
3 determination in subsection (1)(c) from any additional  
4 funding requirement to be met by an over-BASE budget amount,  
5 ~~a-district-levy-as-provided-in-20-9-303~~, and any additional  
6 financing as provided in 20-9-353 to determine any  
7 additional general fund levy requirements.

8 (2) The county superintendent shall calculate the  
9 number of mills to be levied on the taxable property in the  
10 district to finance the general fund levy requirement for  
11 any amount that does not exceed the BASE budget amount for  
12 the district by dividing the amount determined in subsection  
13 (1)(c) by the sum of:

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

17 (b) the taxable valuation of the district divided by  
18 1,000.

19 (3) The net general fund levy requirement determined in  
20 subsections (1)(c) and (1)(d) must be reported to the county  
21 commissioners on the fourth Monday of August by the county  
22 superintendent as the general fund net levy requirement for  
23 the district, and a levy must be set by the county  
24 commissioners in accordance with 20-9-142."

25 **Section 54.** Section 20-9-201, MCA, is amended to read:

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

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

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

24 (2) The school financial administration provisions of  
25 this title apply to all money of ~~any-elementary-or-high a~~

K-12 school district. ~~Elementary-and-high-school-districts~~ A  
K-12 school district shall record the receipt and  
 disbursement of all money in accordance with generally  
 accepted accounting principles. The superintendent of public  
 instruction has general supervisory authority as prescribed  
 by law over the school financial administration provisions,  
 as they relate to ~~elementary-and-high~~ K-12 school districts.  
 The superintendent of public instruction shall adopt rules  
 necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the  
 trustees of a K-12 school district determine that a fund is  
 inactive and will no longer be used, the trustees shall  
 close the fund by transferring all cash and other account  
 balances to the general fund if the fund does not have a  
 cash or fund balance deficit."

**Section 55.** Section 20-9-203, MCA, is amended to read:

**"20-9-203. Examination of district accounting records.**

The accounting records of all ~~first-7--second-7--and~~  
~~third-class~~ K-12 school districts must be audited in  
 accordance with 2-7-503. The trustees of the district shall  
 file a copy of the completed audit report with the  
 department of commerce, the superintendent of public  
 instruction, and the county superintendent."

**Section 56.** Section 20-9-212, MCA, is amended to read:

**"20-9-212. Duties of county treasurer.** The county

treasurer of each county shall:

(1) receive and hold all school money subject to  
 apportionment and keep a separate accounting of its  
 apportionment to the ~~several~~ K-12 school districts that are  
 entitled to a portion of the money according to the  
 apportionments ordered by the county superintendent or by  
 the superintendent of public instruction. A separate  
 accounting must be maintained for each county fund supported  
 by a countywide levy for a specific, authorized purpose,  
 including:

(a) the basic county tax in support of the ~~elementary~~  
K-12 school district BASE aid;

(b) ~~the--basic--special-tax-for-high-schools-in-support~~  
~~of-the-high-school--BASE-aid;~~

~~(c)~~ the county tax in support of the transportation  
 schedules;

~~(d)~~ (c) the county tax in support of the ~~elementary-and~~  
~~high-school~~ K-12 school district retirement obligations; and

~~(e)~~ (d) any other county tax for schools, including the  
 community colleges, which may be authorized by law and  
 levied by the county commissioners.

(2) whenever requested, notify the county  
 superintendent and the superintendent of public instruction  
 of the amount of county school money on deposit in each of  
 the funds enumerated in subsection (1) and the amount of any



1 other school money subject to apportionment and apportion  
2 the county and other school money to the K-12 school  
3 districts in accordance with the apportionment ordered by  
4 the county superintendent or the superintendent of public  
5 instruction;

6 (3) keep a separate accounting of the receipts,  
7 expenditures, and cash balances for each fund;

8 (4) except as otherwise limited by law, pay all  
9 warrants properly drawn on the county or K-12 district  
10 school money and properly endorsed by their holders;

11 (5) receive all revenue collected by and for each K-12  
12 school district and deposit these receipts in the fund  
13 designated by law or by the district if a fund is not  
14 designated by law. Interest and penalties on delinquent  
15 school taxes must be credited to the same fund and K-12  
16 school district for which the original taxes were levied.

17 (6) send all revenue received for a joint district,  
18 part of which is situated in the county, to the county  
19 treasurer designated as the custodian of the revenue, no  
20 later than December 15 of each year and every 3 months after  
21 that date until the end of the school fiscal year;

22 (7) at the direction of the trustees of a K-12 school  
23 district, assist the district in the issuance and sale of  
24 tax and revenue anticipation notes as provided in Title 7,  
25 chapter 6, part 11;

1 (8) register K-12 school district warrants drawn on a  
2 budgeted fund in accordance with 7-6-2604 when there is  
3 insufficient money available in all funds of the district to  
4 make payment of the warrant. Redemption of registered  
5 warrants must be made in accordance with 7-6-2116, 7-6-2605,  
6 and 7-6-2606.

7 (9) invest the money of any K-12 school district as  
8 directed by the trustees of the district within 3 working  
9 days of the direction;

10 (10) each month give to the trustees of each K-12 school  
11 district an itemized report for each fund maintained by the  
12 district, showing the paid warrants, outstanding warrants,  
13 registered warrants, amounts and types of revenue received,  
14 and the cash balance;

15 (11) remit promptly to the state treasurer receipts for  
16 the county tax for a vocational-technical center when levied  
17 by the board of county commissioners under the provisions of  
18 20-16-202;

19 (12) invest the money received from the basic county tax  
20 for equalization, the-basic-special-tax, the county levy in  
21 support of the ~~elementary--and--high~~ K-12 school district  
22 retirement obligations, and the county levy in support of  
23 the transportation schedules within 3 working days of  
24 receipt. The money must be invested until the working day  
25 before it is required to be distributed to K-12 school

1 districts within the county or remitted to the state.  
 2 Permissible investments are specified in 20-9-213(4). All  
 3 investment income must be deposited, and credited  
 4 proportionately, in the funds established to account for the  
 5 taxes received for the purposes specified in subsections  
 6 (1)(a) through ~~(1)(d)~~ (1)(c).

7 (13) remit on a monthly basis to the state treasurer, in  
 8 accordance with the provisions of 15-1-504, all county  
 9 equalization revenue received under the provisions of  
 10 20-9-331 and 20-9-333, including all interest earned and  
 11 ~~excluding--any-amount-required-for-high-school-out-of-county~~  
 12 ~~tuition-under-the-provisions-of-20-9-334~~, in repayment of  
 13 the state advance for county equalization prescribed in  
 14 20-9-347. Any funds in excess of a state advance must be  
 15 used as required in 20-9-331(1)(b) ~~and-20-9-333(1)(b)~~."

16 **Section 57.** Section 20-9-220, MCA, is amended to read:

17 "20-9-220. Clearing accounts. (1) A clearing account  
 18 may be used by a K-12 school district for bookkeeping  
 19 purposes if:

20 (a) all funds from the account are disbursed through  
 21 issuance of warrants as provided in 20-9-221;

22 (b) records are kept showing the source and use of the  
 23 funds that passed through the account; and

24 (c) the balance in the account is no greater than the  
 25 amount necessary to cover outstanding warrants written

1 against the account.

2 (2) ~~An elementary school district--and--a--high--school~~  
 3 ~~district--that-are-unified-may-use-the-same-clearing-account~~  
 4 ~~if-the--account--is--maintained--in--accordance--with--rules~~  
 5 ~~adopted-by-the-superintendent-of-public-instruction.~~

6 ~~(3)--Nothing--in--this~~ This section may not be construed  
 7 to allow the use of funds for any purpose or in any manner  
 8 other than that expressly authorized in this title."

9 **Section 58.** Section 20-9-306, MCA, is amended to read:

10 "20-9-306. Definitions. As used in this title, unless  
 11 the context clearly indicates otherwise, the following  
 12 definitions apply:

13 (1) "BASE" means base amount for school equity.

14 (2) "BASE aid" means:

15 (a) direct state aid for 40% of the basic entitlement  
 16 and 40% of the total per-ANB entitlement for the general  
 17 fund budget of a K-12 school district; and

18 (b) guaranteed tax base aid for an eligible district  
 19 for any amount up to 40% of the basic entitlement, up to 40%  
 20 of the total per-ANB entitlement budgeted in the general  
 21 fund budget of a district, and up to 40% of the special  
 22 education allowable cost payment.

23 (3) "BASE budget" means the minimum general fund budget  
 24 of a K-12 school district, which includes 80% of the basic  
 25 entitlement, 80% of the total per-ANB entitlement, and up to

1 140% of the special education allowable cost payment.

2 (4) "BASE budget levy" means the district levy in  
3 support of the BASE budget of a K-12 school district, which  
4 may be supplemented by guaranteed tax base aid if the  
5 district is eligible under the provisions of 20-9-366  
6 through 20-9-369.

7 (5) "BASE funding program" means the state program for  
8 the equitable distribution of the state's share of the cost  
9 of Montana's basic system of public elementary schools and  
10 high schools, through county equalization aid as provided in  
11 20-9-331 and 20-9-333 and state equalization aid as provided  
12 in 20-9-343, in support of the BASE budgets of K-12 school  
13 districts and special education allowable cost payments as  
14 provided in 20-9-321.

15 (6) "Basic entitlement" means:

16 (a) \$200,000 for each high school program in a K-12  
17 school district; and

18 (b) \$18,000 for each elementary school district program  
19 in a K-12 school district or K-12 district elementary  
20 program without an approved and accredited junior high  
21 school or middle school; and

22 (c) the prorated entitlement for each ~~elementary-school~~  
23 ~~district---or~~ K-12 district elementary program with an  
24 approved and accredited junior high school or middle school,  
25 calculated as follows:

1 (i) \$18,000 times the ratio of the ANB for kindergarten  
2 through grade 6 to the total ANB of kindergarten through  
3 grade 8; plus

4 (ii) \$200,000 times the ratio of the ANB for grades 7  
5 and 8 to the total ANB of kindergarten through grade 8.

6 (7) "Direct state aid" means 40% of the basic  
7 entitlement and 40% of the total per-ANB entitlement for the  
8 general fund budget of a K-12 school district and funded  
9 with state and county equalization aid.

10 (8) "Maximum general fund budget" means a K-12 school  
11 district's general fund budget amount calculated from the  
12 basic entitlement for the district, the total per-ANB  
13 entitlement for the district, and up to 153% of special  
14 education allowable cost payments.

15 (9) "Over-BASE budget levy" means the district levy in  
16 support of any general fund amount budgeted that is above  
17 the BASE budget and below the maximum general fund budget  
18 for a K-12 school district.

19 (10) "Total per-ANB entitlement" means the K-12 school  
20 district entitlement resulting from the following  
21 calculations:

22 (a) ~~for a high-school-district-or~~ a K-12 district high  
23 school program, a maximum rate of \$4,900 for the first ANB  
24 is decreased at the rate of 50 cents per ANB for each  
25 additional ANB of the district high school program up

1 through 800 ANB, with each ANB in excess of 800 receiving  
2 the same amount of entitlement as the 800th ANB;

3 (b) for ~~an--elementary--school--district--or~~ a K-12  
4 district elementary program without an approved and  
5 accredited junior high school or middle school, a maximum  
6 rate of \$3,500 for the first ANB is decreased at the rate of  
7 20 cents per ANB for each additional ANB of the ~~district~~  
8 elementary program up through 1,000 ANB, with each ANB in  
9 excess of 1,000 receiving the same amount of entitlement as  
10 the 1,000th ANB; and

11 (c) for ~~an--elementary--school--district--or~~ a K-12  
12 district elementary program with an approved and accredited  
13 junior high school or middle school, the sum of:

14 (i) a maximum rate of \$3,500 for the first ANB for  
15 kindergarten through grade 6 is decreased at the rate of 20  
16 cents per ANB for each additional ANB up through 1,000 ANB,  
17 with each ANB in excess of 1,000 receiving the same amount  
18 of entitlement as the 1,000th ANB; and

19 (ii) a maximum rate of \$4,900 for the first ANB for  
20 grades 7 and 8 is decreased at the rate of 50 cents per ANB  
21 for each additional ANB for grades 7 and 8 up through 800  
22 ANB, with each ANB in excess of 800 receiving the same  
23 amount of entitlement as the 800th ANB."

24 **Section 59.** Section 20-9-307, MCA, is amended to read:

25 "20-9-307. **BASE funding program -- district general**

1 **fund budget -- funding sources.** (1) A basic system of free  
2 quality public elementary schools and high schools must be  
3 established and maintained throughout the state of Montana  
4 to provide equality of educational opportunity to all  
5 school-age children.

6 (2) The state shall in an equitable manner fund and  
7 distribute to the school districts the state's share of the  
8 cost of the basic school system through BASE aid to support  
9 the BASE funding program in the manner established in this  
10 title.

11 (3) The budgetary vehicle for achieving the financing  
12 system established in subsection (2) is the general fund  
13 budget of the school district. The purpose of the K-12  
14 school district general fund budget is to finance those  
15 instructional, administrative, facility maintenance, and  
16 other operational costs of a district not financed by other  
17 funds established for special purposes in this title.

18 (4) The BASE funding program for the districts in the  
19 state is financed by a combination of the following sources:

20 (a) county equalization money, as provided in 20-9-331  
21 ~~and-20-9-333~~;

22 (b) state equalization aid, as provided in 20-9-343,  
23 including guaranteed tax base aid for eligible districts as  
24 provided in 20-9-366 through 20-9-369;

25 (c) appropriations for special education; and

~~(d) a district levy as provided in 20-9-302 for support of a school not approved as an isolated school under the provisions of that section; and~~

~~(e) district levies or other revenue, as provided by 20-9-308 and 20-9-353."~~

**Section 60.** 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~~ Subject to [section 106], the trustees of a K-12 school 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 K-12 school 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) 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) 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) 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) ~~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-17-1993,--~~ Whenever Whenever the trustees of a K-12 school district adopt a general fund budget that exceeds one of the limitations in subsection (2)(a) but does not exceed the BASE budget for the district, the trustees shall submit a proposition on the amount that exceeds the limitation to the electors of the district, as provided in 20-9-353.

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

(3) Whenever the trustees of a K-12 school district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall:

(a) adopt a resolution stating the reasons and purposes for exceeding the BASE budget amount if the general fund budget adopted under this subsection (3) does not exceed the greater of:

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

(ii) 104% of the previous year's general fund budget per-ANB multiplied by the current year's ANB for budgeting purposes; or

~~(b) except-for-the-school-fiscal-year-beginning-July-17-1993,~~ submit a proposition on any amount of the over-BASE budget that exceeds one of the limitations in subsection (3)(a) to the electors of the district, as provided in

20-9-353.

~~{c}--For--the-school-fiscal-year-beginning-July-17-1993, a-district-may-not--exceed--the--limitations--in--subsection {3}{a}--~~

(4) (a) If the maximum general fund budget for a K-12 school district for an ensuing school fiscal year is less than the general fund budget for the district for the current school fiscal year, the trustees of the district may not adopt a general fund budget for the ensuing school fiscal year that is greater than the district's general fund budget for the current school fiscal year.

(b) Except for the school fiscal years year beginning ~~July--17--1993,--and~~ July 1, 1994, the trustees of the K-12 school district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

(5) Whenever the trustees of a K-12 school district adopt a general fund budget that does not exceed the BASE budget for the district, the trustees shall finance this amount with the following sources of revenue:

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

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

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

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

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

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

(6) The over-BASE budget amount of a K-12 school district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district as provided in 20-9-141.

[(7) For the purpose of this section, the general fund budget or general fund per-ANB budget for the school fiscal year ending June 30, 1993, is the general fund budget funded by any state, local, and federal revenue, excluding Public Law 81-874 receipts received in the school fiscal year ending June 30, 1993. Before excluding any Public Law 81-874 funding, a K-12 school district may increase the district general fund budget for the school fiscal year ending June 30, 1993, by the allowable increases in subsections (2) and (3).]"

**Section 61.** Section 20-9-311, MCA, is amended to read:

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

(a) count the regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year; and

(b) multiply the enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school year and 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 K-12 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

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 count calculation of the ANB  
7 unless the pupil resumes attendance prior to the day of the  
8 enrollment count.

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

12 (8) If a student spends less than half the time in the  
13 regular program and the balance of the time in school in the  
14 special education program, the student is considered a  
15 full-time special education pupil but is not considered  
16 regularly enrolled for ANB purposes. If a student spends  
17 half or more of the time in school in the regular program  
18 and the balance of the time in the special education  
19 program, the student is considered regularly enrolled for  
20 ANB purposes.

21 (9) The ANB of the regularly enrolled, full-time pupils  
22 for the public schools of a K-12 school district must be  
23 based on the aggregate of all the regularly enrolled,  
24 full-time pupils attending the schools of the district,  
25 except that when:

1 (a) (i) a school of the district is located more than  
2 20 miles beyond the incorporated limits of a city or town  
3 located in the district and at least 20 miles from any other  
4 school of the district, the number of regularly enrolled,  
5 full-time pupils of the school must be calculated separately  
6 for ANB purposes, and the district must receive a basic  
7 entitlement for the school calculated separately from the  
8 other schools of the district;

9 (ii) a school of the district is located more than 20  
10 miles from any other school of the district and no  
11 incorporated territory is involved in the district, the  
12 number of regularly enrolled, full-time pupils of the school  
13 must be calculated separately for ANB purposes, and the  
14 district must receive a basic entitlement for the school  
15 calculated separately from the other schools of the  
16 district; or

17 (iii) the superintendent of public instruction approves  
18 an application not to aggregate when conditions exist  
19 affecting transportation, such as poor roads, mountains,  
20 rivers, or other obstacles to travel, or when any other  
21 condition exists that would result in an unusual hardship to  
22 the pupils of the school if they were transported to another  
23 school, the number of regularly enrolled, full-time pupils  
24 of the school must be calculated separately for ANB  
25 purposes, and the district must receive a basic entitlement



1 for the school calculated separately from the other schools  
2 of the district;

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

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

13 (d) a school has not been accredited by the board of  
14 public education, the regularly enrolled, full-time pupils  
15 attending the nonaccredited school are not eligible for  
16 average number belonging calculation purposes, nor will an  
17 average number belonging for the nonaccredited school be  
18 used in determining the BASE funding program for the K-12  
19 school district.

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

1 (11) For average daily attendance reporting purposes,  
2 K-12 school districts shall provide the superintendent of  
3 public instruction with annual reports of school attendance  
4 for regularly enrolled students and special education  
5 students, using a format determined by the superintendent of  
6 public instruction. (Terminates June 30, 1994--sec. 62, Ch.  
7 633, L. 1993.)

8 20-9-311. (Effective July 1, 1994) Calculation of  
9 average number belonging (ANB). (1) Average number belonging  
10 (ANB) must be computed as follows:

11 (a) compute an average enrollment by adding a count of  
12 regularly enrolled full-time pupils who were enrolled as of  
13 the first Monday in October of the prior school fiscal year  
14 to a count of regularly enrolled pupils on February 1 of the  
15 prior school fiscal year, or the nearest school day if those  
16 dates do not fall on a school day, and divide the sum by  
17 two; and

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

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

25 (3) When a K-12 school district has approval to operate

1 less than 180 school days under 20-9-804, the total ANB must  
2 be calculated in accordance with the provisions of 20-9-805.

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

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

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

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

23 (8) The average number belonging of the regularly  
24 enrolled, full-time pupils for the public schools of a K-12  
25 school district must be based on the aggregate of all the

1 regularly enrolled, full-time pupils attending the schools  
2 of the district, except that when:

3 (a) (i) a school of the district is located more than  
4 20 miles beyond the incorporated limits of a city or town  
5 located in the district and at least 20 miles from any other  
6 school of the district, the number of regularly enrolled,  
7 full-time pupils of the school must be calculated separately  
8 for ANB purposes and the district must receive a basic  
9 entitlement for the school calculated separately from the  
10 other schools of the district;

11 (ii) a school of the district is located more than 20  
12 miles from any other school of the district and no  
13 incorporated territory is involved in the district, the  
14 number of regularly enrolled, full-time pupils of the school  
15 must be calculated separately for ANB purposes and the  
16 district must receive a basic entitlement for the school  
17 calculated separately from the other schools of the  
18 district; or

19 (iii) the superintendent of public instruction approves  
20 an application not to aggregate when conditions exist  
21 affecting transportation, such as poor roads, mountains,  
22 rivers, or other obstacles to travel, or when any other  
23 condition exists that would result in an unusual hardship to  
24 the pupils of the school if they were transported to another  
25 school, the number of regularly enrolled, full-time pupils

1 of the school must be calculated separately for ANB purposes  
2 and the district must receive a basic entitlement for the  
3 school calculated separately from the other schools of the  
4 district;

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

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

15 (d) a school has not been accredited by the board of  
16 public education, the regularly enrolled, full-time pupils  
17 attending the nonaccredited school are not eligible for  
18 average number belonging calculation purposes, nor will an  
19 average number belonging for the nonaccredited school be  
20 used in determining the BASE funding program for the K-12  
21 school district.

22 (9) When 11th or 12th grade students are regularly  
23 enrolled on a part-time basis, high schools may calculate  
24 the ANB to include an "equivalent ANB" for those students.  
25 The method for calculating an equivalent ANB must be

1 determined in a manner prescribed by the superintendent of  
2 public instruction.

3 (10) For average daily attendance reporting purposes,  
4 K-12 school districts shall provide the superintendent of  
5 public instruction with annual reports of school attendance  
6 for regularly enrolled students and special education  
7 students, using a format determined by the superintendent."

8 **Section 62.** Section 20-9-313, MCA, is amended to read:

9 "20-9-313. (Temporary) Circumstances under which the  
10 regular average number belonging may be increased. The  
11 average number belonging of a school, calculated in  
12 accordance with the ANB formula prescribed in 20-9-311, may  
13 be increased when:

14 (1) the opening of a new elementary school or the  
15 reopening of an elementary school has been approved in  
16 accordance with ~~20-6-502~~ 20-6-503. The average number  
17 belonging for the school must be established by the county  
18 superintendent and approved, disapproved, or adjusted by the  
19 superintendent of public instruction.

20 (2) the opening or reopening of a high school or a  
21 branch of ~~the-county-high~~ a school has been approved in  
22 accordance with ~~20-6-5037-20-6-5047-or-20-6-505~~. The average  
23 number belonging for the high school must be established by  
24 the county superintendent's estimate, after an investigation  
25 of the probable number of pupils that will attend the high

1 school.

2 (3) a K-12 school district anticipates an increase in  
3 the average number belonging due to the closing of any  
4 private or public school in the district or a neighboring  
5 district. The estimated increase in average number belonging  
6 must be established by the trustees and the county  
7 superintendent and approved, disapproved, or adjusted by the  
8 superintendent of public instruction no later than the  
9 fourth Monday in June.

10 (4) a K-12 school district anticipates an unusual  
11 enrollment increase in the ensuing school fiscal year. The  
12 increase in average number belonging must be based on  
13 estimates of increased enrollment approved by the  
14 superintendent of public instruction and must be computed in  
15 the manner prescribed by 20-9-314.

16 (5) for the initial year of operation of a program  
17 established under 20-7-117(1), the ANB to be used for budget  
18 purposes is the same as one-half the number of 5-year-old  
19 children residing in the K-12 school district as of  
20 September 10 of the preceding school year, either as shown  
21 on the official school census or as determined by some other  
22 procedure approved by the superintendent of public  
23 instruction;

24 (6) a full-time special pupil, as defined in 20-9-311,  
25 in a given school fiscal year may no longer be considered a

1 full-time special pupil in the ensuing school fiscal year  
2 (the superintendent of public instruction may grant one ANB  
3 for the pupil for the ensuing school fiscal year); or

4 (7) a high K-12 school district provides early  
5 graduation for any student who completes graduation  
6 requirements in less than eight semesters or the equivalent  
7 amount of secondary school enrollment or when a high K-12  
8 school district provides early graduation for a class of  
9 students who have completed the requirements for graduation  
10 after 175 pupil-instruction days in the 12th grade. The  
11 increase must be established by the trustees as though the  
12 student had attended to the end of the school fiscal year  
13 and must be approved, disapproved, or adjusted by the  
14 superintendent of public instruction.

15 20-9-313. (Effective July 1, 1994 1995) Circumstances  
16 under which the regular average number belonging may be  
17 increased. The average number belonging of a school,  
18 calculated in accordance with the ANB formula prescribed in  
19 20-9-311, may be increased when:

20 (1) the opening of a new elementary school or the  
21 reopening of an elementary school has been approved in  
22 accordance with ~~20-6-502~~ 20-6-503. The average number  
23 belonging for the school must be established by the county  
24 superintendent and approved, disapproved, or adjusted by the  
25 superintendent of public instruction.

(2) the opening or reopening of a high school or a branch of ~~the--county--high~~ a school has been approved in accordance with 20-6-503~~7~~-20-6-504~~7~~-or-20-6-505. The average number belonging for the high school must be established by the county superintendent's estimate, after an investigation of the probable number of pupils that will attend the high school.

(3) a K-12 school district anticipates an increase in the average number belonging due to the closing of any private or public school in the district or a neighboring district. The estimated increase in average number belonging must be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June.

(4) a K-12 school district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase in average number belonging must be based on estimates of increased enrollment approved by the superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

(5) for the initial year of operation of a program established under 20-7-117(1), the ANB to be used for budget purposes is the same as one-half the number of 5-year-old children residing in the K-12 school district as of

September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved by the superintendent of public instruction; or

(6) a high K-12 school district provides early graduation for any student who completes graduation requirements in less than eight semesters or the equivalent amount of secondary school enrollment or when a high K-12 school district provides early graduation for a class of students who have completed the requirements for graduation after 175 pupil-instruction days in the 12th grade. The increase must be established by the trustees as though the student had attended to the end of the school fiscal year and must be approved, disapproved, or adjusted by the superintendent of public instruction."

**Section 63.** Section 20-9-321, MCA, is amended to read:

"20-9-321. (Temporary) Allowable cost payment and contingency funds for special education. (1) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total estimated cost of the special education program for the school district on the basis of a special education program budget submitted by the district. The budget must be prepared on forms provided by the superintendent of public

1 instruction and must set out for each program:

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

5 (b) the number of pupils expected to be enrolled in the  
6 program; and

7 (c) any other data required by the superintendent of  
8 public instruction for budget justification purposes and to  
9 administer the provisions of this section.

10 (2) The total amount of allowable costs approved by the  
11 superintendent of public instruction is the special  
12 education allowable cost payment for current year special  
13 education program purposes.

14 (3) If a special education program is implemented or  
15 expanded during a given school term too late to be included  
16 in the determination of the district general fund budget for  
17 the school year as prescribed in this part, allowable costs  
18 approved under the budgeting provisions of subsections (1)  
19 and (2) for the operation of the program during the given  
20 year must be funded from any legislative appropriation for  
21 contingency financing for special education. Contingency  
22 funds granted under this subsection must be deposited in a  
23 separate account of the miscellaneous programs fund of the  
24 district as provided in 20-9-507.

25 (4) (a) The special education contingency funds in

1 subsection (3):

2 (i) are biennially appropriated;

3 (ii) are for emergencies that may arise in the special  
4 education programs of school districts or special education  
5 cooperatives; and

6 (iii) may be used to fund positions that have gone  
7 unfilled for a full school fiscal year and for which state  
8 special education funds were not awarded.

9 (b) The board of trustees of a K-12 school district or  
10 the management board of a special education cooperative may  
11 apply for contingency funding by submitting to the  
12 superintendent of public instruction, in the form prescribed  
13 by the superintendent of public instruction, written  
14 documentation that describes the need for the funds.  
15 (Terminates June 30, 1994 1995--sec. 62, Ch. 633, L. 1993.)

16 20-9-321. (Effective July 1, 1994 1995) Allowable cost  
17 payment for special education. (1) For the purpose of  
18 establishing the allowable cost payment for a current year  
19 special education program for a K-12 school district, the  
20 superintendent of public instruction shall determine the  
21 total special education payment to a K-12 school district  
22 or cooperative, ~~or--joint--board--for--special--education~~  
23 ~~services--formed-under-20-3-361-prior-to-July-17-1992~~, using  
24 the following factors:

25 (a) the district ANB student count as established

1 pursuant to 20-9-311 and 20-9-313;

2 (b) a per-ANB amount for the special education  
3 instructional block grant;

4 (c) a per-ANB amount for the special education related  
5 services block grant;

6 (d) weighted cost factors for cooperatives ~~or--joint~~  
7 ~~boards~~ meeting the requirements of 20-7-457, to compensate  
8 for the additional costs of operations and maintenance,  
9 travel, supportive services, recruitment, and  
10 administration;

11 (e) district and cooperative expenditure reports; and

12 (f) any other data required by the superintendent of  
13 public instruction to administer the provisions of this  
14 section.

15 (2) Special education allowable cost payments must be  
16 granted to each K-12 school district and cooperative with a  
17 special education program as follows:

18 (a) An instructional block grant must be awarded to  
19 each K-12 school district, based on the district ANB and the  
20 per-ANB special education instructional amount.

21 (b) A special education related services block grant  
22 must be awarded to each K-12 school district that is not a  
23 cooperative member, based on the district ANB and the  
24 per-ANB special education related services amount. The  
25 special education related services block grant amount for

1 districts that are members of approved cooperatives ~~or--a~~  
2 ~~joint-board~~ must be awarded to the cooperatives ~~or--joint~~  
3 ~~board~~. If a cooperative ~~or--joint--board~~ meets the  
4 requirements of 20-7-457, the special education related  
5 services block grant must be weighted for the factors in  
6 subsection (1)(d).

7 (3) The superintendent of public instruction shall  
8 annually determine the per-ANB special education  
9 instructional and special education related services block  
10 grant amounts based on the prior years' trustees'  
11 expenditure data for special education instruction and  
12 related services.

13 (4) The superintendent of public instruction shall  
14 adopt rules necessary to implement this section.

15 (5) A K-12 school district shall provide a 25% local  
16 contribution for special education, matching every \$3 of  
17 state special education instructional and special education  
18 related services block grants with at least one local  
19 dollar. A district that is a cooperative member is required  
20 to provide the 25% match of the special education related  
21 services grant amount to the special education cooperative,  
22 but the district is not required to match the weighted  
23 funding factors.

24 (6) The superintendent of public instruction shall  
25 determine the actual K-12 school district match based on the

trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(7) If a K-12 school district's allowable costs of special education, as verified by the trustees' reports, exceed by at least 10% the total of the special education instructional and special education related services block grant plus the required district match, the district is eligible for a 65% reimbursement of the costs that exceed the additional 10%. A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

**Section 64.** Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax and other revenues revenue for county equalization of the--~~elementary~~--~~district~~ BASE funding program. (1) The county commissioners of each county shall levy an annual basic tax of 33 55 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the ~~elementary~~ BASE funding

programs of the K-12 school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all ~~elementary schools of the K-12 school~~ districts of the county.

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

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the ~~elementary~~ BASE funding program programs of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):



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

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

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

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

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

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

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

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

61-3-537, and 67-3-204."

**Section 65.** Section 20-9-335, MCA, is amended to read:

"20-9-335. Formula for apportionment of county equalization money. (1) The superintendent of public instruction shall calculate the apportionment of revenue available in the ~~basic-county-tax-account-and-in-the-basic special-tax~~ countywide equalization fund for ~~high--schools~~ K-12 school districts in accordance with the following procedure:

(a) determine the percentage that the county equalization money available for the support of the ~~elementary~~ direct state aid of the K-12 school districts in the county is of the total ~~elementary~~ direct state aid of all K-12 school districts in the county;

(b) multiply the ~~elementary~~ direct state aid amount of each K-12 school district by the percentage determined in subsection (1)(a) to determine the portion of the county equalization money available to each K-12 school district.

~~{2}--The--procedure--in--subsection--(1)--must--also--be applied--for--the--high--school--direct--state-aid-after-the deduction--of--the--county's--obligation--for--high--school out-of-county-tuition--~~

~~{3}~~(2) Territory situated within a county may not be excluded from the calculations of the county equalization money under this section solely because the territory lies

within the boundaries of a joint district. Cash balances to the credit of any K-12 school district at the end of a school fiscal year may not be considered in the apportionment procedure prescribed in this section.

(4)(3) The county equalization money reported under these procedures is the first source of revenue for financing the ~~elementary--and--high--school~~ K-12 school district direct state aid payments."

**Section 66.** Section 20-9-343, MCA, is amended to read:

"20-9-343. (Temporary) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the account in the state special revenue fund that receives revenue as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the purposes of payment of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid, state reimbursement for school facilities, and matching funds for the systemic initiative for Montana mathematics and science grant;

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 per biennium; and

(c) the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend funds appropriated from the state equalization aid account as required for the purposes of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and the Montana educational telecommunications network, throughout the biennium, and for the biennium beginning July 1, 1993, equipment purchases that qualify as the state match for the systemic initiative for Montana mathematics and science grant.

(3) The following must be paid into the state equalization aid account for the public schools of the state:

(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) money allocated to state equalization from the collection of the severance tax on coal;

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

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

(f) money received from the state equalization aid levy under 20-9-360;

(g) income from the lottery, as provided in 23-7-402;

(h) the surplus revenues collected by the counties for BASE funding program support according to 20-9-331 and 20-9-333;

(i) investment income earned by investing money in the state equalization aid account in the state special revenue fund; and

(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account at the end of a fiscal year must be transferred to the general fund.

20-9-343. (Effective July 1, 1994 1995) Definition of

and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the account in the state special revenue fund that receives revenue as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the purposes of payment of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid, state reimbursement for school facilities, and matching funds for the systemic initiative for Montana mathematics and science grant;

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 per biennium; and

(c) the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend funds appropriated from the state equalization aid account as required for the purposes of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments

1 authorized under 20-7-420(3), and the Montana educational  
2 telecommunications network, throughout the biennium, and for  
3 the biennium beginning July 1, 1993, equipment purchases  
4 that qualify as the state match for the systemic initiative  
5 for Montana mathematics and science grant.

6 (3) The following must be paid into the state  
7 equalization aid account for the public schools of the  
8 state:

9 (a) money allocated to state equalization from the  
10 collection of the severance tax on coal;

11 (b) money received from the treasurer of the United  
12 States as the state's shares of oil, gas, and other mineral  
13 royalties under the federal Mineral Lands Leasing Act, as  
14 amended;

15 (c) interest and income money described in 20-9-341 and  
16 20-9-342;

17 (d) money received from the state equalization aid levy  
18 under 20-9-360;

19 (e) income from the lottery, as provided in 23-7-402;

20 (f) the surplus revenues collected by the counties for  
21 BASE funding program support according to 20-9-331 and  
22 20-9-333; and

23 (g) investment income earned by investing money in the  
24 state equalization aid account in the state special revenue  
25 fund.

1 (4) The superintendent of public instruction shall  
2 request the board of investments to invest the money in the  
3 state equalization aid account to maximize investment  
4 earnings to the account.

5 (5) Any surplus revenue in the state equalization aid  
6 account at the end of a fiscal year must be transferred to  
7 the general fund."

8 **Section 67.** Section 20-9-347, MCA, is amended to read:

9 "20-9-347. Distribution of BASE aid and special  
10 education allowable cost payments in support of BASE funding  
11 program -- exceptions. (1) The superintendent of public  
12 instruction shall:

13 (a) supply the county treasurer and the county  
14 superintendent with a monthly report of the payment of BASE  
15 aid in support of the BASE funding program of each K-12  
16 school district of the county;

17 (b) in the manner described in 20-9-344, provide for a  
18 state advance to each county in an amount that is no less  
19 than the amount anticipated to be raised for the basic  
20 county-tax countywide equalization fund as provided in  
21 20-9-331 and ~~for the basic special tax fund as provided in~~  
22 ~~20-9-333~~;

23 (c) adopt rules to implement the provisions of  
24 subsection (1)(b).

25 (2) (a) The superintendent of public instruction is

authorized to adjust the schedule prescribed in 20-9-344 for distribution of the BASE aid payments if the distribution will cause a K-12 school district to register warrants under the provisions of 20-9-212(8).

(b) To qualify for an adjustment in the payment schedule, a K-12 school district shall demonstrate to the superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid.

(3) The superintendent of public instruction shall:

(a) distribute special education allowable cost payments to K-12 school districts; and

(b) supply the county treasurer and the county superintendent ~~of--public--instruction~~ with a report of payments for special education allowable costs to districts of the county."

**Section 68.** Section 20-9-361, MCA, is amended to read:

"20-9-361. State and county equalization revenue -- statutory appropriation. Revenue received in support of state and county equalization under the provisions of

20-9-331~~7~~---~~20-9-333~~~~7~~ and 20-9-343 is statutorily appropriated, as provided in 17-7-502, to:

(1) the superintendent of public instruction to be used for county equalization and state equalization aid for the public schools, as provided by law, and must be accounted for in accordance with generally accepted accounting principles; and

(2) counties as provided in 20-9-360(2)."

**Section 69.** Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County retirement mill value per ~~elementary~~ K-12 ANB" or "~~county-retirement-mill-value-per-high--school--ANB~~" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county ~~elementary~~ K-12 ANB count ~~or-the-total-county-high--school--ANB--count~~ used to calculate the ~~elementary-school-districts'-and-high-school~~ K-12 school districts' current year total per-ANB entitlement amounts.

(2) (a) "~~District~~ Elementary or high school program guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible K-12 school district means the taxable valuation in the previous year of all property in the district divided by the sum of the

district's elementary or high school program's current year direct state aid and 40% of the special education allowable cost payment.

(b) "District Elementary or high school program mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the K-12 school district divided by 1,000, with the quotient divided by the ANB count of the district elementary or high school program used to calculate the district's current year total per-ANB entitlement amount.

(3) (a) "Statewide mill value per elementary program ANB" or "statewide mill value per high school program ANB", for school facility entitlement ~~and--retirement--guaranteed tax-base-purposes~~, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary program ANB count or the total state high school program ANB amount used to calculate the elementary ~~school--districts'~~ program's and or high school ~~districts'~~ program's current year total per-ANB entitlement amounts.

(b) "Statewide elementary or high school program guaranteed tax base ratio" ~~or--"statewide--high--school guaranteed--tax-base-ratio"~~, for guaranteed tax base funding for the BASE budget of an eligible K-12 school district,

means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 175% and divided by the total sum of either the state elementary ~~school districts'~~ program's or the high school ~~districts'~~ program's current year total direct state aid and 40% of special education allowable cost amounts.

(c) "Statewide retirement mill value per K-12 ANB", for retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state ANB count used to calculate the K-12 school districts' current year total per-ANB entitlement amounts."

**Section 70.** Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid. (1) If the district elementary or high school program guaranteed tax base ratio of ~~any~~ an elementary or high school district program, as calculated under the provisions of 20-6-702, is less than the corresponding statewide elementary or high school program guaranteed tax base ratio, the K-12 school district may receive guaranteed tax base aid based on the number of mills levied in the district in support of up to 40% of the basic entitlement, up to 40% of the total per-ANB entitlement, and up to 40% of the special education allowable cost payment budgeted within the general

fund budget.

(2) If the county retirement mill value per elementary K-12 ANB or ~~the county retirement mill value per high school ANB~~ is less than the corresponding statewide retirement mill value per elementary ANB or ~~high school K-12 ANB~~, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school K-12 school districts in the county.

(3) For the purposes of 20-9-370 and 20-9-371, if the district elementary or high school program mill value per elementary ANB or ~~the district mill value per high school ANB~~ is less than the corresponding statewide mill value per elementary or high school program ANB or ~~statewide mill value per high school ANB~~, the K-12 school district may receive guaranteed tax base aid based on the number of mills levied in support of the debt service fund."

**Section 71.** Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid -- reversion. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary K-12 school districts in the county is the difference between the county mill value per elementary K-12 ANB and the statewide mill value per elementary K-12 ANB, multiplied by the number of mills

levied in support of the retirement fund budgets for the elementary K-12 school districts in the county.

(2) ~~The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.~~

(3) The amount of guaranteed tax base aid that a K-12 school district may receive in support of up to 40% of the basic entitlement, up to 40% of the total per-ANB entitlement budgeted within the general fund budget, and up to 40% of the special education payment is calculated in the following manner:

(a) multiply the sum of ~~the district's~~ each program's direct state aid and 40% of the special education allowable cost payment by the corresponding statewide guaranteed tax base ratio;

(b) subtract the taxable valuation of the K-12 school district from the product of each program obtained in subsection (3)(a) (2)(a); and

(c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied by each program.

1     ~~4~~(3) Guaranteed tax base aid provided to any county  
2     or K-12 school district under this section is earmarked to  
3     finance the fund or portion of the fund for which it is  
4     provided. If a county or K-12 school district receives more  
5     guaranteed tax base aid than it is entitled to, the excess  
6     must be returned to the state as required by 20-9-344."

7     **Section 72.** Section 20-9-370, MCA, is amended to read:

8     **"20-9-370. Definitions.** As used in this title, unless  
9     the context clearly indicates otherwise, the following  
10    definitions apply:

11    (1) "School facility entitlement" means:

12    (a) \$220 per ANB for an elementary school program in a  
13    K-12 district;

14    (b) \$330 per ANB for a high school program in a K-12  
15    district; or

16    (c) \$270 per ANB for an approved and accredited junior  
17    high school or middle school in a K-12 district.

18    (2) "State reimbursement for school facilities" means  
19    the amount of state equalization aid distributed to a K-12  
20    school district that:

21    (a) is eligible for guaranteed tax base aid under the  
22    provisions of 20-9-366 through 20-9-369; and

23    (b) (i) for the school fiscal years beginning July 1,  
24    1993, and July 1, 1994, has outstanding bonded indebtedness  
25    on bonds sold in the debt service fund of the district after

1     July 1, 1991;

2     (ii) for the school fiscal year beginning July 1, 1995,  
3     and for succeeding school fiscal years, has outstanding  
4     bonded indebtedness on bonds sold in {and payable from} the  
5     debt service fund of the district in any year.

6     (3) "Total school facility entitlement" means the  
7     school facility entitlement times the total ANB for the K-12  
8     school district."

9     **Section 73.** Section 20-9-371, MCA, is amended to read:

10    **"20-9-371. Calculation and uses of school facility**  
11    **entitlement amount.** (1) The state reimbursement for school  
12    facilities for a K-12 school district is based on the  
13    percentage percentages determined in 20-9-346(2)(b) times  
14    (1-(district mill value per ANB/statewide mill value per  
15    ANB)) times the lesser of the total school facility  
16    entitlement calculated under the provisions of 20-9-370 or  
17    the district's current year debt service obligations on  
18    bonds that qualify under the provisions of 20-9-370(2)(b)(i)  
19    or (2)(b)(ii).

20    (2) ~~For the school fiscal years beginning July 1, 1993,~~  
21    ~~and July 1, 1994, the trustees of a district may apply the~~  
22    ~~state reimbursement for school facilities to reduce the levy~~  
23    ~~requirement for all outstanding bonded indebtedness on bonds~~  
24    ~~sold in the debt service fund of the district after July 1,~~  
25    ~~1991.~~



~~{3}--For--the--school--fiscal--year--beginning--July--17--1995--~~  
~~and--for--succeeding--school--fiscal--years--the~~ The trustees of  
 a district may apply the state reimbursement for school  
 facilities to reduce the levy requirement of all bonded  
 indebtedness in the district debt service fund."

**Section 74.** Section 20-9-402, MCA, is amended to read:

"20-9-402. Definition of school district for bonding  
 purposes. For the purposes of inebting ~~an--elementary~~  
~~district--a--high~~ a K-12 school district, or a community  
 college district by the issuance of bonds under the  
 provisions of this title, the term "school district" ~~shall~~  
~~mean~~ means any elementary--district,--high K-12 school  
 district, or community college district,--~~except--the~~  
~~following--types--of--high--schools--recognized--as--high--school~~  
~~districts--without--a--bonding--authority--in--20-6-101:~~

~~{1}--high--schools--operated--by--an--elementary--district--in~~  
~~a--county--that--has--not--been--divided--into--high--school~~  
~~districts,--or~~

~~{2}--county--high--schools--located--in--a--county--that--has~~  
~~not--been--divided--into--high--school--districts--by--the--county~~  
~~high--school--boundary--commission."~~

**Section 75.** Section 20-9-403, MCA, is amended to read:

"20-9-403. Bond issues for certain purposes. ~~{1}~~ The  
 trustees of a K-12 school district may issue and negotiate  
 bonds on the credit of the K-12 school district for the

purpose of:

~~{a}~~(1) building, altering, repairing, buying,  
 furnishing, equipping, purchasing lands for, and/or  
 obtaining a water supply for a school, teacherage,  
 dormitory, gymnasium, other building, or combination of said  
 buildings for school purposes;

~~{b}~~(2) buying a school bus or buses;

~~{c}~~(3) providing the necessary money to redeem matured  
 bonds, maturing bonds, or coupons appurtenant to bonds when  
 there is not sufficient money to redeem them;

~~{d}~~(4) providing the necessary money to redeem optional  
 or redeemable bonds when it is for the best interest of the  
 school district to issue refunding bonds; or

~~{e}~~(5) funding a judgment against the district,  
 including the repayment of tax protests lost by the  
 district.

~~{2}--Any--money--realized--from--the--sale--of--any--bonds~~  
~~issued--on--the--credit--of--a--high--school--district--shall--not--be~~  
~~used--for--any--of--the--above--purposes--in--an--elementary--school~~  
~~district,--and--such--money--may--be--used--for--any--of--the--above~~  
~~purposes--for--a--junior--high--school--but--only--to--the--extent~~  
~~that--the--9th--grade--of--the--high--school--is--served--thereby."~~

**Section 76.** Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) (a)  
~~Except--as--provided--in--subsection--(1)(c),--the--maximum--amount~~

~~for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of the indebtedness.~~

~~(b) Except as provided in subsection (1)(c) (1)(b), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of the indebtedness. The total indebtedness of the high school district with an attached elementary district must be limited to the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable value of the property for high school program purposes.~~

~~(c)(b) The maximum amount for which an elementary district or a high school district that qualifies for guaranteed tax base aid under the provisions of 20-9-367 may become indebted by the issuance of bonds, including all~~

indebtedness represented by outstanding bonds of previous issues and registered warrants, is the sum of 45% of the corresponding elementary or high school programs' statewide mill value per ANB times 1,000 times the district's elementary or high school program ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 45% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the K-12 school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a K-12 school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of

1 refunding bonds, any money to the credit of the debt service  
2 fund for the payment of the bonds to be refunded is applied  
3 toward the payment of the bonds and the refunding bond issue  
4 is decreased accordingly."

5 **Section 77.** Section 20-9-501, MCA, is amended to read:

6 "20-9-501. Retirement fund. (1) The trustees of a K-12  
7 school district employing personnel who are members of the  
8 teachers' retirement system or the public employees'  
9 retirement system or who are covered by unemployment  
10 insurance or who are covered by any federal social security  
11 system requiring employer contributions shall establish a  
12 retirement fund for the purposes of budgeting and paying the  
13 employer's contributions to the systems. The K-12 school  
14 district's contribution for each employee who is a member of  
15 the teachers' retirement system must be calculated in  
16 accordance with Title 19, chapter 20, part 6. The K-12  
17 school district's contribution for each employee who is a  
18 member of the public employees' retirement system must be  
19 calculated in accordance with 19-3-316. The K-12 school  
20 district's contributions for each employee covered by any  
21 federal social security system must be paid in accordance  
22 with federal law and regulation. The K-12 school district's  
23 contribution for each employee who is covered by  
24 unemployment insurance must be paid in accordance with Title  
25 39, chapter 51, part 11.

1 (2) The trustees of a K-12 school district required to  
2 make a contribution to a system referred to in subsection  
3 (1) shall include in the retirement fund of the preliminary  
4 budget the estimated amount of the employer's contribution.  
5 After the final retirement fund budget has been adopted, the  
6 trustees shall pay the employer contributions to the systems  
7 in accordance with the financial administration provisions  
8 of this title.

9 (3) When the final retirement fund budget has been  
10 adopted, the county superintendent shall establish the levy  
11 requirement by:

12 (a) determining the sum of the money available to  
13 reduce the retirement fund levy requirement by adding:

14 (i) any anticipated money that may be realized in the  
15 retirement fund during the ensuing school fiscal year,  
16 including anticipated revenue from property taxes and fees  
17 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
18 61-3-537, and 67-3-204;

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

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

23 (iv) any fund balance available for reappropriation as  
24 determined by subtracting the amount of the end-of-the-year  
25 fund balance earmarked as the retirement fund operating

reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the K-12 school district under the final retirement fund budget; and

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8) (7), subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all ~~elementary--school-districts, all-high~~ K-12 school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for ~~elementary-district~~

~~high~~ K-12 school district, and community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a ~~joint elementary--district--or--a--joint--high~~ K-12 school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for K-12 school districts that are members of special education cooperative agreements must be prorated to each county in which the K-12 school district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county ~~in the same manner as provided in~~ 20-9-152.

(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

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

(b) the taxable valuation of the K-12 school district divided by 1,000."

**Section 78.** Section 20-9-507, MCA, is amended to read:

"20-9-507. **Miscellaneous programs fund.** (1) The trustees of a K-12 school district receiving money from local, state, federal, or other sources ~~provided-in-20-5-324~~ ~~other--than--money-under-the-provisions-of-Title-I-of-Public Law-81-874~~ or federal money not designated for deposit in a specific fund of the district shall establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of miscellaneous program fund expenditures already realized by the district or may be a grant of money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the money is a reimbursement, the money may be expended at the discretion of the trustees for school purposes. When the money is a

grant, the money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all reimbursement money.

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

**Section 79.** Section 20-10-105, MCA, is amended to read:

"20-10-105. **Determination of residence.** When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, the residence must be established on the basis of the general state residence law as provided in 1-1-215. ~~Whenever-a-county-is-determined-to--be--responsible for-paying-tuition-for-any-pupil-in-accordance-with-20-5-321 through--20-5-323,--the--residence--of-the-pupil-for-tuition purposes-is-the-residence-of-the--pupil--for--transportation purposes.~~"

**Section 80.** Section 20-10-144, MCA, is amended to read:

"20-10-144. **Computation of revenue and net tax levy requirements** for district transportation fund budget. Before

1 the fourth Monday of July and in accordance with 20-9-123,  
2 the county superintendent shall compute the revenue  
3 available to finance the transportation fund budget of each  
4 K-12 school district. The county superintendent shall  
5 compute the revenue for each district on the following  
6 basis:

7 (1) The "schedule amount" of the preliminary budget  
8 expenditures that is derived from the rate schedules in  
9 20-10-141 and 20-10-142 must be determined by adding the  
10 following amounts:

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

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

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

1 fiscal year; plus

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

9 (e) any estimated costs for transporting a child out of  
10 district ~~when--the--child--has--mandatory--approval--to--attend~~  
11 ~~school--in--a--district--outside--the--district--of--residence.~~

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

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

23 (ii) one-half is the budgeted county transportation fund  
24 reimbursement and must be financed in the manner provided in  
25 20-10-146.

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

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

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

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

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

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

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

6 (e) anticipated or reappropriated revenue from property  
 7 taxes and fees imposed under 23-2-517, 23-2-803,  
 8 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

9 (f) anticipated revenue from coal gross proceeds under  
 10 15-23-703;

11 (g) anticipated net proceeds taxes for new production,  
 12 as defined in 15-23-601, and local government severance  
 13 taxes on any other production occurring after December 31,  
 14 1988;

15 (h) anticipated transportation payments for  
 16 out-of-district pupils ~~under---the--provisions--of--20-5-320~~  
 17 ~~through-20-5-324;~~

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

21 (j) any fund balance available for reappropriation as  
 22 determined by subtracting the amount of the end-of-the-year  
 23 fund balance earmarked as the transportation fund operating  
 24 reserve for the ensuing school fiscal year by the trustees  
 25 from the end-of-the-year fund balance in the transportation

1 fund. The operating reserve may not be more than 20% of the  
2 final transportation fund budget for the ensuing school  
3 fiscal year and is for the purpose of paying transportation  
4 fund warrants issued by the district under the final  
5 transportation fund budget.

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

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

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

15 (5) The transportation fund levy requirements  
16 determined in subsection (4) for each district must be  
17 reported to the county commissioners on the fourth Monday of  
18 August by the county superintendent as the transportation  
19 fund levy requirements for the district, and the levy must  
20 be made by the county commissioners in accordance with  
21 20-9-142."

22 **Section 81.** Section 20-10-146, MCA, is amended to read:

23 "20-10-146. County transportation reimbursement. (1)  
24 The apportionment of the county transportation reimbursement  
25 by the county superintendent for school bus transportation

1 or individual transportation that is actually rendered by a  
2 district in accordance with this title, board of public  
3 education transportation policy, and the transportation  
4 rules of the superintendent of public instruction must be  
5 the same as the state transportation reimbursement payment,  
6 except that:

7 (a) if any cash was used to reduce the budgeted county  
8 transportation reimbursement under the provisions of  
9 20-10-144(2)(b), the annual apportionment is limited to the  
10 budget amount; and

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

17 ~~(c) when county transportation reimbursement is~~  
18 ~~required under the mandatory attendance agreement provisions~~  
19 ~~of 20-5-321.~~

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

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



1 reimbursements--under--the--mandatory--attendance--agreement  
2 provisions-of-20-5-321;

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

6 (i) anticipated money that may be realized in the  
7 county transportation fund during the ensuing school fiscal  
8 year, including anticipated revenue from property taxes and  
9 fees imposed under 23-2-517, 23-2-803, 61-3-504(2),  
10 61-3-521, 61-3-537, and 67-3-204;

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

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

15 (iv) any fund balance available for reappropriation from  
16 the end-of-the-year fund balance in the county  
17 transportation fund;

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

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

23 (c) subtracting the money available as determined in  
24 subsection (2)(b) to reduce the levy requirement from the  
25 county transportation net levy requirement.

1 reimbursements--under--the--mandatory--attendance--agreement  
2 provisions-of-20-5-321;

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

6 (i) anticipated money that may be realized in the  
7 county transportation fund during the ensuing school fiscal  
8 year, including anticipated revenue from property taxes and  
9 fees imposed under 23-2-517, 23-2-803, 61-3-504(2),  
10 61-3-521, 61-3-537, and 67-3-204;

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

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

15 (iv) any fund balance available for reappropriation from  
16 the end-of-the-year fund balance in the county  
17 transportation fund;

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

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

23 (c) subtracting the money available as determined in  
24 subsection (2)(b) to reduce the levy requirement from the  
25 county transportation net levy requirement.

transmitted to the appropriate trustees not less than 40 days prior to the regular school election day.

(2) Notice of the community college district trustee election ~~shall~~ must be given by the board of trustees of the community college district by publication in one or more newspapers of general circulation within each county, not less than once a week for 2 consecutive weeks, the last insertion to be no more than 1 week prior to the date of the election. This notice ~~shall--be~~ is in addition to the election notice to be given by the trustees of the ~~component elementary~~ K-12 school districts under the school election laws.

(3) Should trustees be elected other than at large throughout the entire community college district, then only those qualified voters within the area from which the trustee or trustees are to be elected ~~shall~~ may cast their ballots for the trustee or trustees from that area. In addition to the nominating petition required by 20-15-219(2), all candidates for the office of trustee shall file their declarations of candidacy with the secretary of the board of trustees of the community college district not less than 30 days prior to the date of election. If an electronic voting system or voting machines are not used in the component ~~elementary~~ K-12 school district or districts which conduct the election, the board of trustees of the

community college district shall cause ballots to be printed and distributed for the polling places in ~~such-component the~~ K-12 school districts at the expense of the community college district, but in all other respects ~~said the~~ elections shall must be conducted in accordance with the school election laws. All costs incident to election of the community college trustees ~~shall~~ must be borne by the community college district, including one-half of the compensation of the judges for the school elections; provided that if the election of the community college district trustees is the only election conducted, the community college district shall compensate the K-12 school district for the total cost of the election."

**Section 83.** Section 20-15-404, MCA, is amended to read:

"20-15-404. Trustees to adhere to certain other laws. Unless the context clearly indicates otherwise, the trustees of a community college district shall adhere to:

(1) the teachers' retirement provisions of Title 19, chapter 20;

(2) the provisions of 20-1-201, 20-1-205, 20-1-211, and 20-1-212;

(3) the school property provisions of 20-6-604, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631, and 20-6-633 through 20-6-636;

(4) the adult education provisions of 20-7-701 through

1 20-7-713;

2 (5) the administration of finances provisions of  
3 20-9-115, 20-9-134, 20-9-207, 20-9-208, 20-9-210, 20-9-215,  
4 20-9-221 through 20-9-224, and 20-9-512;

5 (6) the school bond provisions of 20-9-401 through  
6 20-9-412, 20-9-421 through 20-9-446, ~~20-9-451~~ through  
7 ~~20-9-456~~, and 20-9-461 through 20-9-465;

8 (7) the special purpose funds provisions of 20-9-502,  
9 20-9-503, 20-9-507, 20-9-508, and 20-9-511;

10 (8) the educational cooperative agreements provisions  
11 of 20-9-701 through 20-9-704;

12 (9) the school elections provisions of Title 20,  
13 chapter 20;

14 (10) the students' rights provisions of 20-25-511  
15 through 20-25-516; and

16 (11) the health provisions of 50-1-206."

17 **Section 84.** Section 20-16-106, MCA, is amended to read:

18 "20-16-106. Vocational-technical center designation.

19 (1) Vocational-technical centers ~~shall~~ must be designated by  
20 the board of regents upon direction of the legislature.

21 (2) The board of regents shall recognize the  
22 vocational-technical centers designated prior to July 1,  
23 1987, in K-12 school district number 1 of Silver Bow County,  
24 ~~high K-12~~ school district number 1 of Lewis and Clark  
25 County, high K-12 school district "A" of Cascade County,

1 ~~Missoula-County-high-school~~, and high K-12 school district  
2 number 2 of Yellowstone County."

3 **Section 85.** Section 20-20-101, MCA, is amended to read:

4 "20-20-101. Definition. As used in this title, unless  
5 the context clearly indicates otherwise, "school election"  
6 means any election conducted by a K-12 school district or  
7 community college district for the purpose of electing  
8 trustees, for authorizing taxation, for authorizing the  
9 issuance of bonds by ~~an elementary district or a high~~ a K-12  
10 school district, or for accepting or rejecting any  
11 proposition that may be presented to the electorate for  
12 decision in accordance with the provisions of this title."

13 **Section 86.** Section 20-20-301, MCA, is amended to read:

14 "20-20-301. Qualifications of elector. An individual is  
15 entitled to vote at school elections if ~~he~~ the individual  
16 has the qualifications set forth in 13-1-111 and is a  
17 resident of the K-12 school district ~~or~~ in a school  
18 ~~district that has been apportioned into single-member~~  
19 ~~trustee districts according to 20-3-337, a resident of the~~  
20 ~~trustee district.~~"

21 **Section 87.** Section 20-32-102, MCA, is amended to read:

22 "20-32-102. Agency cooperation -- responsibilities. (1)  
23 To meet the objectives of the network, the following  
24 entities shall cooperate with one another:

25 (a) the department of administration, with its

1 responsibilities for telecommunications for agencies of  
2 state government;

3 (b) the superintendent of public instruction, with a  
4 supervisory role over the public system of elementary and  
5 high schools; and

6 (c) the commissioner of higher education, with  
7 responsibilities to the Montana university system, the  
8 vocational-technical centers, and the community colleges.

9 (2) The responsibilities of the superintendent of  
10 public instruction to the network include but are not  
11 limited to:

12 (a) general supervision of delivery of educational  
13 materials through telecommunications to ~~elementary-and-high~~  
14 K-12 school districts in the state;

15 (b) compilation, maintenance, and dissemination to  
16 participating school districts of information that  
17 identifies the educational programming available from within  
18 and from outside the state;

19 (c) training of teachers and other school personnel in  
20 the use of telecommunications technologies for instructional  
21 purposes;

22 (d) assistance to K-12 school districts in identifying  
23 and procuring the telecommunications technologies needed to  
24 interface with the network;

25 (e) identification of production capability for

1 telecommunication of educational materials;

2 (f) assistance to participating K-12 school districts  
3 with group purchases of instructional and educational  
4 materials;

5 (g) coordination with the commissioner of higher  
6 education and the units of the Montana university system to  
7 offer advanced placement courses, teacher inservice  
8 training, and other instruction through the network;

9 (h) payment of the superintendent's share of the  
10 network costs to the department of administration, as  
11 provided in 20-32-104;

12 (i) coordination with the department of administration  
13 to ensure compatibility of network components, to minimize  
14 duplication of efforts on behalf of the network, and to  
15 maximize use of the network by K-12 school districts; and

16 (j) determination of kinds of equipment, inservice, and  
17 district accounting necessary to implement the provisions of  
18 this part for K-12 school districts.

19 (3) The responsibilities of the department of  
20 administration to the network include but are not limited  
21 to:

22 (a) provision of technical support to the coordinating  
23 agencies referred to in subsection (1);

24 (b) development of standards of compatibility for the  
25 network;

1 (c) procurement and management of network equipment and  
2 facilities that have shared use by multiple users or  
3 agencies;

4 (d) assistance with procurement, installation,  
5 maintenance, and operation of end-terminal equipment and  
6 facilities of the network;

7 (e) minimizing any duplication of equipment and  
8 facilities within the network and in conjunction with the  
9 department of administration's other networking  
10 capabilities;

11 (f) coordination of use of the network by state  
12 agencies, subdivisions of the state, and public libraries in  
13 a manner that does not interfere with the delivery of the  
14 primary network function of providing educational services  
15 to K-12 school districts and state units of higher  
16 education;

17 (g) studying the use of the network by Native American  
18 tribal colleges and other nonpublic education institutions  
19 in the state, with the long-range goal of coordinating the  
20 use of the network with those entities; and

21 (h) maintenance of cost and usage records and a billing  
22 system for user agencies for services rendered that incur  
23 marginal costs for the network.

24 (4) The responsibilities of the commissioner of higher  
25 education to the network include but are not limited to:

1 (a) coordination of the use of the network among the  
2 units of higher education and with the superintendent of  
3 public instruction and the department of administration;

4 (b) assistance to the units of the Montana university  
5 system to provide college credit courses through the network  
6 to students throughout the state;

7 (c) coordination with the superintendent of public  
8 instruction to develop advance placement courses for high  
9 school students in Montana, teacher inservice training, and  
10 other services and instruction through the network;

11 (d) assistance to the units of the Montana university  
12 system, the vocational-technical centers, and the community  
13 colleges in defining their specific needs for interfacing  
14 with the network;

15 (e) assistance to participating units, centers, and  
16 colleges with group purchases of instructional and  
17 educational materials; and

18 (f) determination of the kinds of equipment, inservice,  
19 and accounting necessary to implement the provisions of this  
20 part for the university system, community colleges, and  
21 vocational-technical centers."

22 **Section 88.** Section 13-37-206, MCA, is amended to read:

23 **"13-37-206.** ~~Exception for certain school-districts--and~~  
24 ~~certain special districts. {1}-The-provisions-of-this-part,~~  
25 ~~except-13-37-217,-do-not-apply-to-candidates-for-the--office~~

~~of-trustee-of-a-school-district, their political committees,  
and--political--committees--organized-to-support-or-oppose-a  
school-district-issue-when-the-school-district-is;~~

~~(a)--a-first-class-district-located-in-a-county-having-a  
population-of-less-than-15,000;~~

~~(b)--a-second--or-third-class-district; or~~

~~(c)--a-county-high--school--district--having--a--student  
enrollment-of-less-than-2,000;~~

(2) The provisions of this part, except 13-37-217, do not apply to candidates for certain special district offices, their political committees, and political committees organized to support or oppose a special district issue when the special district is a conservation district, a fire district, a hospital district, an irrigation district, a sewer district, a transportation district, or a water district."

**Section 89.** Section 15-16-802, MCA, is amended to read:

"15-16-802. Suspension of certain state taxes. (1) Delinquent taxes, penalties, and interest for taxable years prior to 1988 are suspended for 36 months from May 22, 1989, for an airline incorporated in Montana that has filed for chapter 11 bankruptcy before May 22, 1989.

(2) The tax suspension provided by this section applies to property taxes levied under Title 15, chapter 10, and 20-9-3317-and-20-9-333.

(3) The repayment of all delinquent taxes, penalties, and interest suspended under subsection (1) must be included in the chapter 11 bankruptcy reorganization plan of the airline."

**Section 90.** Section 15-24-102, MCA, is amended to read:

"15-24-102. Valuation of interstate fleets -- determination of aggregate tax due -- exemption from mill levies. The department of revenue shall assess the taxable vehicles of any interstate motor vehicle fleet making application for proportional registration, as follows:

(1) The purchase price of the taxable vehicles depreciated by a schedule as prescribed by the department determines the depreciated value.

(2) The depreciated value multiplied by the percent of miles traveled in Montana, as prescribed by 61-3-721, is the market value.

(3) The sum of the market value of all taxable vehicles included in the fleet multiplied by 9% is the taxable value for the entire fleet as provided in 15-6-138.

(4) To determine the amount of tax due, the taxable value of the entire fleet must be multiplied by the statewide average county mill levy plus state levies as provided in 15-24-103.

(5) To determine the tax due under this chapter, state levies applicable to interstate motor vehicle fleets include

1 but are not limited to levies imposed under 15-10-101,  
2 15-10-106, 20-9-331, ~~20-9-333~~, 20-9-360, and 53-2-813.

3 (6) All taxes and fees collected on motor vehicle  
4 fleets under this chapter must be deposited and distributed  
5 as provided in 15-24-105."

6 **Section 91.** Section 15-24-1402, MCA, is amended to  
7 read:

8 **"15-24-1402. New or expanding industry -- assessment --**  
9 **notification.** (1) In the first 5 years after a construction  
10 permit is issued, qualifying improvements or modernized  
11 processes that represent new industry or expansion of an  
12 existing industry, as designated in the approving  
13 resolution, must be taxed at 50% of their taxable value.  
14 Each year thereafter, the percentage must be increased by  
15 equal percentages until the full taxable value is attained  
16 in the 10th year. In subsequent years, the property must be  
17 taxed at 100% of its taxable value.

18 (2) (a) In order for a taxpayer to receive the tax  
19 benefits described in subsection (1), the governing body of  
20 the affected county or the incorporated city or town must  
21 have approved by separate resolution for each project,  
22 following due notice as defined in 76-15-103 and a public  
23 hearing, the use of the schedule provided for in subsection  
24 (1) for its respective jurisdiction. The governing body may  
25 not grant approval for the project until all of the

1 applicant's taxes have been paid in full. Taxes paid under  
2 protest do not preclude approval.

3 (b) The governing body may end the tax benefits by  
4 majority vote at any time, but the tax benefits may not be  
5 denied an industrial facility that previously qualified for  
6 the benefits.

7 (c) The resolution provided for in subsection (2)(a)  
8 must include a definition of the improvements or modernized  
9 processes that qualify for the tax treatment that is to be  
10 allowed in the taxing jurisdiction. The resolution may  
11 provide that real property other than land, personal  
12 property, improvements, or any combination thereof is  
13 eligible for the tax benefits described in subsection (1).

14 (3) The taxpayer shall apply to the county assessor on  
15 a form provided by the department of revenue for the tax  
16 treatment allowed under subsection (1). The application by  
17 the taxpayer must first be approved by the governing body of  
18 the appropriate local taxing jurisdiction, and the governing  
19 body shall indicate in its approval that the property of the  
20 applicant qualifies for the tax treatment provided for in  
21 this section. Upon receipt of the form with the approval of  
22 the governing body of the affected taxing jurisdiction, the  
23 assessor shall make the assessment change pursuant to this  
24 section.

25 (4) The tax benefit described in subsection (1) applies

only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, ~~20-9-333, or~~ 20-9-360, or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit."

**Section 92.** Section 15-24-1703, MCA, is amended to read:

**"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of delinquent property taxes pursuant to this part:

(1) applies to all mills levied in the county or otherwise required under state law, including levies or assessments required under Title 15, chapter 10, 20-9-331, ~~20-9-333,~~ and 20-25-423;

(2) does not apply to assessments made against property for the payment of bonds issued pursuant to Title 7, chapter 12."

**Section 93.** Section 15-24-1802, MCA, is amended to

read:

**"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or K-12 school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private nonprofit corporation as provided in



1 Title 35, chapter 2, and is exempt from taxation under  
2 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

3 (b) is engaged in economic development and business  
4 assistance work in the area; and

5 (c) owns or leases and operates or will operate the  
6 business incubator.

7 (3) Upon receipt of approval of the governing body of  
8 the affected taxing jurisdiction, the assessor shall make  
9 the assessment change for the tax exemption provided for in  
10 this section.

11 (4) The tax exemption described in subsection (1)  
12 applies only to the number of mills levied and assessed by  
13 the governing body approving the exemption over which the  
14 governing body has sole discretion. If the governing body of  
15 a county, consolidated government, or incorporated city or  
16 town approves the exemption, the exemption applies to levies  
17 and assessments required under Title 15, chapter 10, or  
18 20-9-331, ~~or~~ 20-9-333 or otherwise required under state  
19 law."

20 **Section 94.** Section 15-24-1902, MCA, is amended to  
21 read:

22 "15-24-1902. Industrial park tax exemption -- procedure  
23 -- termination. (1) An industrial park owned and operated by  
24 a local economic development organization or a port  
25 authority is eligible for an exemption from property taxes

1 as provided in this section.

2 (2) In order to qualify for the tax exemption described  
3 in this section, the governing body of the county,  
4 consolidated government, incorporated city or town, or K-12  
5 school district in which the property is located shall  
6 approve the tax exemption by resolution, after due notice,  
7 as defined in 76-15-103, and hearing. The governing body may  
8 approve or disapprove the tax exemption provided for in  
9 subsection (1). If a tax exemption is approved, the  
10 governing body shall do so by a separate resolution for each  
11 industrial park in its respective jurisdiction. The  
12 governing body may not grant approval for the industrial  
13 park until all of the applicant's taxes have been paid in  
14 full. Taxes paid under protest do not preclude approval.  
15 Prior to holding the hearing, the governing body shall  
16 determine that:

17 (a) the local economic development organization:

18 (i) is a private, nonprofit corporation as provided in  
19 Title 35, chapter 2, and is exempt from taxation under  
20 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

21 (ii) is engaged in economic development and business  
22 assistance work in the area; and

23 (iii) owns and operates or will own and operate the  
24 industrial development park; or

25 (b) the port authority legally exists under the

1 provisions of 7-14-1101 or 7-14-1102.

2 (3) Upon receipt of approval of the governing body of  
3 the affected taxing jurisdiction, the assessor shall make  
4 the assessment change for the tax exemption provided for in  
5 this section.

6 (4) The tax exemption described in subsection (1)  
7 applies only to the number of mills levied and assessed by  
8 the governing body approving the exemption over which the  
9 governing body has sole discretion. If the governing body of  
10 a county, consolidated government, or incorporated city or  
11 town approves the exemption, the exemption applies to levies  
12 or assessments required under Title 15, chapter 10, or  
13 ~~20-9-3317~~~~-or-20-9-333~~ or otherwise required under state law.

14 (5) If a local economic development organization sells,  
15 leases, or otherwise disposes of the exempt property to a  
16 purchaser or lessee that is not a local economic development  
17 organization or a unit of federal, state, or local  
18 government, the tax exemption provided in this section  
19 terminates. The termination of the exemption applies January  
20 1 of the taxable year immediately following the sale, lease,  
21 or other disposition of the property. Upon termination of  
22 the exemption, the property must be assessed as provided in  
23 15-16-203."

24 **Section 95.** Section 15-24-2002, MCA, is amended to  
25 read:

1 **"15-24-2002. Building and land tax exemption --**  
2 **procedure -- termination.** (1) A building and land owned by a  
3 local economic development organization that the local  
4 economic development organization intends to sell or lease  
5 to a profit-oriented, employment-stimulating business are  
6 eligible for an exemption from property taxes as provided in  
7 this section.

8 (2) In order to qualify for the tax exemption described  
9 in this section, the governing body of the affected county,  
10 consolidated government, incorporated city or town, or K-12  
11 school district in which the building and land are located  
12 shall approve the tax exemption by resolution, after due  
13 notice, as defined in 76-15-103, and hearing. The governing  
14 body may approve or disapprove the tax exemption provided  
15 for in subsection (1). The governing body shall approve a  
16 tax exemption by a separate resolution. The governing body  
17 may not grant approval for the building and land until all  
18 of the applicant's taxes have been paid in full. Taxes paid  
19 under protest do not preclude approval. Prior to holding the  
20 hearing, the governing body shall determine that the local  
21 economic development organization:

22 (a) is a private, nonprofit corporation, as provided in  
23 Title 35, chapter 2, and is exempt from taxation under  
24 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

25 (b) is engaged in economic development and business

1 assistance work in the area; and  
 2 (c) owns or will own the building and land.  
 3 (3) Upon receipt of approval of the governing body of  
 4 the affected taxing jurisdiction, the assessor shall make  
 5 the assessment change for the tax exemption provided for in  
 6 this section.  
 7 (4) The tax exemption described in subsection (1)  
 8 applies only to the number of mills levied and assessed by  
 9 the governing body approving the exemption over which the  
 10 governing body has sole discretion. If the governing body of  
 11 a county, consolidated government, or incorporated city or  
 12 town approves the exemption, the exemption applies to levies  
 13 or assessments required under Title 15, chapter 10, or  
 14 20-9-331, ~~or 20-9-333~~ and other levies required under state  
 15 law.  
 16 (5) When a local economic development organization  
 17 sells, leases, or otherwise disposes of the exempt property  
 18 to a purchaser or lessee that is not a local economic  
 19 development organization or a unit of federal, state, or  
 20 local government, the tax exemption provided in this section  
 21 terminates. The termination of the exemption applies January  
 22 1 of the taxable year immediately following the sale, lease,  
 23 or other disposition of the property. Upon termination of  
 24 the exemption, the property must be assessed as provided in  
 25 15-16-203."

1 **Section 96.** Section 15-37-117, MCA, is amended to read:  
 2 "15-37-117. Disposition of metalliferous mines license  
 3 taxes. (1) Metalliferous mines license taxes collected under  
 4 the provisions of this part must, in accordance with the  
 5 provisions of 15-1-501(6), be allocated as follows:  
 6 (a) to the credit of the general fund of the state, 58%  
 7 of total collections each year;  
 8 (b) to the state special revenue fund to the credit of  
 9 a hard-rock mining impact trust account, 1.5% of total  
 10 collections each year;  
 11 (c) to the state resource indemnity trust fund, 15.5%  
 12 of total collections each year;  
 13 (d) to the county or counties identified as  
 14 experiencing fiscal and economic impacts, resulting in  
 15 increased employment or local government costs, under an  
 16 impact plan for a large-scale mineral development prepared  
 17 and approved pursuant to 90-6-307, in direct proportion to  
 18 the fiscal and economic impacts determined in the plan or,  
 19 if an impact plan has not been prepared, to the county in  
 20 which the mine is located, 25% of total collections each  
 21 year, to be allocated by the county commissioners as  
 22 follows:  
 23 (i) not less than 40% to the county hard-rock mine  
 24 trust reserve account established in 7-6-2225; and  
 25 (ii) all money not allocated to the account pursuant to

1 subsection (1)(d)(i) to be further allocated as follows:

2 (A) 33 1/3% is allocated to the county for planning or  
3 economic development activities; and

4 (B) ~~33-1/3%~~ 66 2/3% is allocated to the elementary  
5 ~~school-districts~~ K-12 districts within the county that have  
6 been affected by the development or operation of the metal  
7 mine; and

8 ~~{C}--33-1/3% is allocated to the high--school--districts~~  
9 ~~within the county that have been affected by the development~~  
10 ~~or operation of the metal mine.~~

11 (2) When an impact plan for a large-scale mineral  
12 development approved pursuant to 90-6-307 identifies a  
13 jurisdictional revenue disparity, the county shall  
14 distribute the proceeds allocated under subsection (1)(d) in  
15 a manner similar to that provided for property tax sharing  
16 under Title 90, chapter 6, part 4.

17 (3) The department shall return to the county in which  
18 metals are produced the tax collections allocated under  
19 subsection (1)(d). The allocation to the county described by  
20 subsection (1)(d) is a statutory appropriation pursuant to  
21 17-7-502."

22 **Section 97.** Section 17-3-213, MCA, is amended to read:

23 "17-3-213. Allocation to general road fund and  
24 countywide school levies. (1) The forest reserve funds so  
25 apportioned to each county must be apportioned by the county

1 treasurer in each county as follows:

2 (a) to the general road fund, 66 2/3% of the total  
3 amount received;

4 (b) to the following countywide school levies, 33 1/3%  
5 of the total sum received:

6 (i) county equalization for elementary schools provided  
7 for in 20-9-331; and

8 (ii) ~~county equalization for high schools--provided--for~~  
9 ~~in 20-9-333;~~

10 ~~{iii}~~ the county transportation fund provided for in  
11 20-10-146; and

12 ~~{iv}{iii}~~ the elementary-and-high K-12 school district  
13 retirement fund obligations provided for in 20-9-501.

14 (2) The apportionment of money to the funds provided  
15 for under subsection (1)(b) must be made by the county  
16 superintendent based on the proportion that the mill levy of  
17 each fund bears to the total number of mills for all the  
18 funds. Whenever the total amount of money available for  
19 apportionment under this section is greater than the total  
20 requirements of a levy, the excess money and any interest  
21 income must be retained in a separate reserve fund, to be  
22 reapportioned in the ensuing school fiscal year to the  
23 levies designated in subsection (1)(b).

24 (3) In counties in which special road districts have  
25 been created according to law, the board of county

commissioners shall distribute a proportionate share of the 66 2/3% of the total amount received for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."

**Section 98.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704;

17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; ~~20-6-406~~; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-2-707; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch.

567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

**Section 99.** Section 19-1-814, MCA, is amended to read:

"19-1-814. District's contribution to be first obligation. For the purposes of this part, the contributions with respect to services equivalent to the employer's tax established by the federal Social Security Act are the first obligation against any state funds received for school support by any K-12 school district, ~~high--school--district,~~ ~~or--county--high--school~~ and ~~shall~~ must be paid ~~therefrom~~ before any other expenditure."

**Section 100.** Section 39-4-107, MCA, is amended to read:

"39-4-107. State and municipal governments, school districts, mines, mills, and smelters. (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, the state government, or a ~~first-class~~ K-12 school district, and on all contracts let by them, and for all janitors (except in courthouses of sixth- and seventh-class counties), engineers, firefighters, caretakers, custodians, and laborers employed in or about any buildings, works, or grounds used or occupied for any purpose by such the municipal, county, or state government or ~~first-class~~ the

K-12 school district. A period of 8 hours constitutes a day's work in mills and smelters for the treatment of ores, in underground mines, and in the washing, reducing, and treatment of coal. This subsection does not apply in the event of an emergency when life or property is in imminent danger or to the situations specified in subsections (3) and (4).

(2) The provisions of subsection (1) do not apply to firefighters who are working a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative.

(3) In counties where regular road and bridge departments are maintained, the county commissioners may, with the approval of the employees or their duly constituted representative, establish a 40-hour workweek consisting of 4 consecutive 10-hour days. No An employee may not be required to work in excess of 8 hours in any one workday if he the employee prefers not to.

(4) In municipal and county governments, the employer and employee may agree to a workday of more than 8 hours and to a 7-day, 40-hour work period:

(a) through a collective bargaining agreement when a collective bargaining unit represents the employee; or

(b) by the mutual agreement of the employer and

1 employee when ~~no~~ a bargaining unit is not recognized."

2 **Section 101.** Section 90-6-309, MCA, is amended to read:

3 **"90-6-309. Tax prepayment -- large-scale mineral**  
4 **development.** (1) After permission to commence operation is  
5 granted by the appropriate governmental agency, and upon  
6 request of the governing body of a county in which a  
7 facility is to be located, a person intending to construct  
8 or locate a large-scale mineral development in this state  
9 shall prepay property taxes as specified in the impact plan.  
10 This prepayment shall exclude the 6-mill university levy  
11 established under 20-25-423 and may exclude the mandatory  
12 county levies for the school BASE funding program  
13 established in 20-9-331 ~~and 20-9-333~~.

14 (2) The person who is to prepay under this section is  
15 not obligated to prepay the entire amount established in  
16 subsection (1) at one time. Upon request of the governing  
17 body of an affected local government unit, the person shall  
18 prepay the amount shown to be needed from time to time as  
19 determined by the board.

20 (3) The person who is to prepay shall guarantee to the  
21 hard-rock mining impact board, through an appropriate  
22 financial institution, as may be required by the board, that  
23 property tax prepayments will be paid as needed for  
24 expenditures created by the impacts of the large-scale  
25 mineral development.

1 (4) When the mineral development facilities are  
2 completed and assessed by the department of revenue, they  
3 are subject during the first 3 years and thereafter to  
4 taxation as all other property similarly situated, except  
5 that in each year after the start of production, the local  
6 government unit that received a property tax prepayment  
7 shall provide for repayment of prepaid property taxes in  
8 accordance with subsection (5).

9 (5) A local government unit that received all or a  
10 portion of the property tax prepayment under this section  
11 shall provide for tax crediting as specified in the impact  
12 plan. The tax credit allowed in any year may not, however,  
13 exceed the tax obligation of the developer for that year,  
14 and the time period for tax crediting is limited to the  
15 productive life of the mining operation."

16 **Section 102.** Section 90-6-403, MCA, is amended to read:

17 **"90-6-403. Jurisdictional revenue disparity --**  
18 **conditioned exemption and reallocation of certain taxable**  
19 **valuation.** (1) When an impact plan for a large-scale mineral  
20 development approved pursuant to 90-6-307 identifies a  
21 jurisdictional revenue disparity, the board shall promptly  
22 notify the developer, all affected local government units,  
23 and the department of revenue of the disparity. Except as  
24 provided in this section and 90-6-404, the increase in  
25 taxable valuation of the mineral development that occurs

after the issuance and validation of a permit under 82-4-335 is not subject to the usual application of county and K-12 school district property tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to the application of property tax mill levies in the local government unit to which it is allocated.

(2) The total taxable valuation of a large-scale mineral development remains subject to the statewide mill levies and basic county levies for elementary and high school BASE funding programs as provided in 20-9-331 and 20-9-333.

(3) The provisions of subsection (1) remain in effect until the large-scale mineral development ceases operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."

**Section 103.** Section 90-6-404, MCA, is amended to read:

"90-6-404. Allocation of taxable valuation for local taxation purposes. When property of a large-scale mineral development is subject to the provisions of 90-6-403, the increase in taxable valuation must be allocated by the department of revenue as follows:

(1) If the board determines that the local government unit in which the ore body or the mineral deposit being

mined is located is not affected by the development and if this determination is shown on the impact plan, 20% of the total increase in taxable valuation of the gross proceeds must be allocated to that local government unit. This provision is intended to establish a minimum allocation for the units and does not prohibit proof by a unit that actual direct impacts would exceed 20% of the total impacts of the development.

(2) The remaining increase in taxable valuation of the mineral development must be allocated between affected counties and affected municipalities according to the following formula based on the place of residence of mineral development employees:

(a) A portion, not to exceed 20%, to affected municipalities, based on that percentage of the total number of mineral development employees that reside within municipal boundaries. The taxable valuation allocated to affected municipalities must be distributed to each municipality according to its percentage of the total number of mineral development employees who reside within municipal boundaries. That portion of the taxable valuation distributed to a municipality pursuant to this section is subject to the same county mill levy as other taxable properties located in the municipality.

(b) The remaining portion of the taxable valuation must



be distributed to each affected county according to its percentage of the total number of mineral development employees that reside within the county.

(3) The increase in taxable valuation equal to that subject to subsection (2) must be distributed pro rata among each affected high K-12 school district according to the percentage of the total number of mineral development high school students that reside within each district.

~~(4) The increase in taxable valuation equal to that subject to subsection (2) must be distributed pro rata among each affected elementary school district according to the percentage of the total number of mineral development elementary school students that reside within each district.~~

~~(5) The distribution formula specified in subsections (2) through (4) and (3) may be modified by an impact plan approved as provided in 90-6-307 or amended as provided in 90-6-311, if the modification is needed in order to ensure a reasonable correspondence between the occurrence of increased costs resulting from the mineral development and the allocation of taxable valuation resulting from the mineral development.~~

**Section 104.** Section 90-6-405, MCA, is amended to read:

**"90-6-405. Employee surveys.** (1) Each large-scale mineral development subject to the provisions of 90-6-403 and 90-6-404 shall, on or before May 1 of each year, conduct

a survey of its employees and promptly submit a report of its findings to the department of revenue. The report must include:

(a) the number of mineral development employees residing within each affected county;

(b) the number of mineral development employees residing within each affected municipality; and

(c) the number of mineral development students residing in each affected high K-12 school district; ~~and~~

~~(d) the number of mineral development students residing in each affected elementary school district.~~

(2) The initial allocation of the increase in taxable valuation made as provided in 90-6-403 and 90-6-404 ~~shall~~ must be made on the basis of the place of residence of employees and the district of enrollment of students as projected in the approved impact plan for that period of time between the issuance and validation of the permit and the submission of an employee survey as provided for in this section."

**NEW SECTION. Section 105.** Study of K-12 funding issues. (1) During the 1993-94 interim, the joint interim subcommittee on school revenue is directed to study funding issues related to the creation of K-12 school districts pursuant to [this act].

(2) The purpose of the study is to consider the

1 following with regard to the creation of K-12 school  
2 districts:

3 (a) modification of the current high school and  
4 elementary school district per-ANB and basic entitlements  
5 and guaranteed tax base entitlements to K-12 entitlements;

6 (b) use of county tax levies for retirement and  
7 transportation to support K-12 districts;

8 (c) assessment of the impact on Public Law 81-874  
9 districts and the potential loss of federal dollars in the  
10 reauthorization of Public Law 81-874; and

11 (d) any other issues related to the funding of K-12  
12 school districts.

13 (3) The joint interim subcommittee on school finance  
14 shall report its findings, conclusions, and options for  
15 consideration to the 53rd legislature.

16 NEW SECTION. Section 106. Contingent transition  
17 budgets. If legislation is not signed into law by March 1,  
18 1995, providing a method of creating a K-12 school district  
19 budget, then the superintendent of public instruction shall  
20 provide procedures for the school districts to create  
21 budgets. A K-12 school district budget may not exceed 104%  
22 of the combined total of the previous year's budget of all  
23 districts within the newly formed K-12 district.

24 **Section 107.** Section 10, Chapter 466, Laws of 1993, is  
25 amended to read:

1 "Section 10. **Effective dates.** (1) [Section 5] is  
2 effective January 1, 1994.

3 (2) [Sections 1, 3, 4, and 6 7 through 9] are effective  
4 July 1, 1994.

5 (3) [Section 6] is effective July 1, 1995."

6 **Section 108.** Section 10, Chapter 593, Laws of 1993, is  
7 amended to read:

8 "Section 10. **Effective dates.** (1) [Sections 1 through 6  
9 and this section] are effective on passage and approval.

10 (2) [Sections 7 through and 9] are effective July 1,  
11 1994.

12 (3) [Section 8] is effective July 1, 1995."

13 **Section 109.** Section 62, Chapter 633, Laws of 1993, is  
14 amended to read:

15 "Section 62. **Termination.** ~~{Sections---20---and---22}~~  
16 terminate (1) [Section 20] terminates June 30, 1994.

17 (2) [Section 22] terminates June 30, 1995."

18 NEW SECTION. Section 110. Name change -- short form  
19 amendments. (1) Wherever it appears in 15-23-703, 15-36-112,  
20 20-1-301, 20-1-308, 20-3-208, 20-6-103, 20-6-504, 20-7-303,  
21 20-7-305, 20-7-411, 20-9-101, 20-9-102, 20-9-161, 20-9-201,  
22 20-9-212, 20-9-344, 20-9-348, 20-9-501, 20-20-101, and in  
23 all laws enacted by the 1993 special session, the code  
24 commissioner is directed to change the term "elementary or  
25 high school" when it refers to a district to "K-12 school".

(2) Wherever it appears in 2-7-503, 2-7-504, 19-6-702, Title 20, 44-2-507, and in all laws enacted by the 1993 special session, the code commissioner is directed to change the term "school district" or "district" when it refers to a single public elementary school or high school district to "K-12 school district".

(3) Wherever it appears in 15-24-1501, 20-6-203, 20-6-205 through 20-6-215, 20-6-411, 20-6-414, 20-6-415, 20-6-502, 20-6-507, 20-7-117, 20-10-101, 20-15-201, 20-15-203, 20-15-208, 20-15-241, and in all laws enacted by the 1993 special session, the code commissioner is directed to change the term "elementary school" or "elementary" when it refers to a district to "K-12 school".

(4) Wherever it appears in 15-24-1501, 20-5-201, 20-5-311, 20-5-312, 20-5-313, 20-6-503, 20-7-306, 20-15-204, 20-15-241, and in all laws enacted by the 1993 special session, the code commissioner is directed to change the term "high school" when it refers to a district to "K-12 school".

(5) Wherever it appears in 15-16-803, 15-24-1402, 15-24-1603, and in all laws enacted by the 1993 special session, the code commissioner is directed to change the term "local high school district and elementary school district" to "K-12 school district".

**NEW SECTION. Section 111. Codification instruction.**

(1) [Sections 1 through 9] are intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through 9].

(2) [Section 10] is intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [section 10].

**NEW SECTION. Section 112. Repealer.** Sections 7-2-2728, 19-1-815, 20-3-302, 20-3-306, 20-3-312, 20-3-337, 20-3-341, 20-3-342, 20-3-343, 20-3-344, 20-3-351, 20-3-352, 20-3-353, 20-3-354, 20-3-355, 20-3-356, 20-3-361, 20-3-362, 20-4-403, 20-5-320, 20-5-321, 20-5-322, 20-5-323, 20-5-324, 20-6-102, 20-6-103, 20-6-201, 20-6-202, 20-6-203, 20-6-204, 20-6-205, 20-6-206, 20-6-207, 20-6-208, 20-6-209, 20-6-210, 20-6-211, 20-6-213, 20-6-214, 20-6-215, 20-6-216, 20-6-217, 20-6-218, 20-6-301, 20-6-303, 20-6-304, 20-6-307, 20-6-308, 20-6-309, 20-6-311, 20-6-312, 20-6-313, 20-6-314, 20-6-315, 20-6-316, 20-6-317, 20-6-318, 20-6-319, 20-6-320, 20-6-321, 20-6-325, 20-6-401, 20-6-402, 20-6-403, 20-6-404, 20-6-405, 20-6-406, 20-6-407, 20-6-408, 20-6-409, 20-6-410, 20-6-411, 20-6-415, 20-6-502, 20-6-504, 20-6-505, 20-6-506, 20-6-508, 20-6-509, 20-6-602, 20-9-152, 20-9-202, 20-9-302, 20-9-303, 20-9-305, 20-9-333, 20-9-348, 20-9-451, 20-9-452, 20-9-453, 20-9-454, 20-9-455, 20-9-456, 20-9-505, and 20-9-506, MCA, are repealed.

**NEW SECTION. Section 113. Effective dates** --

LC 0031/01

1 applicability. (1) [Sections 1 through 111 and this section]  
2 are effective on passage and approval.

3 (2) [Section 112] is effective July 1, 1995.

4 (3) [Sections 11 through 112] apply to the school  
5 fiscal year beginning July 1, 1995.

-End-