

1 House BILL NO. 221
2 INTRODUCED BY John F. Edwards
3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING A RECOMMENDATION OF THE GOVERNOR'S
6 TASK FORCE TO RENEW MONTANA GOVERNMENT BY ELIMINATING THE DUTIES OF A COUNTY
7 SUPERINTENDENT OF SCHOOLS; TRANSFERRING DUTIES OF A COUNTY SUPERINTENDENT TO THE
8 BOARD OF PUBLIC EDUCATION, COUNTY TREASURER, BOARD OF COUNTY COMMISSIONERS, SCHOOL
9 DISTRICT, SCHOOL DISTRICT CLERK, OR COUNTY CLERK AND RECORDER; ESTABLISHING A CASE
10 CONTROVERSY PROCEDURE; AMENDING SECTIONS 7-2-2253, 7-2-2727, 7-6-2801, 17-3-213, 20-1-204,
11 20-1-208, 20-2-121, 20-3-105, 20-3-106, 20-3-201, 20-3-202, 20-3-204, 20-3-307, 20-3-309, 20-3-311,
12 20-3-324, 20-3-337, 20-3-352, 20-3-353, 20-3-354, 20-3-356, 20-4-202, 20-4-204, 20-4-206, 20-4-207,
13 20-4-208, 20-4-301, 20-4-302, 20-4-402, 20-5-104, 20-5-109, 20-5-314, 20-5-316, 20-5-321, 20-5-322,
14 20-5-324, 20-6-103, 20-6-201, 20-6-203, 20-6-205, 20-6-208, 20-6-209, 20-6-210, 20-6-211, 20-6-213,
15 20-6-214, 20-6-215, 20-6-217, 20-6-301, 20-6-303, 20-6-304, 20-6-307, 20-6-309, 20-6-312, 20-6-313,
16 20-6-315, 20-6-317, 20-6-320, 20-6-321, 20-6-325, 20-6-413, 20-6-415, 20-6-418, 20-6-502, 20-6-503,
17 20-6-504, 20-6-506, 20-6-507, 20-6-701, 20-7-114, 20-7-116, 20-7-204, 20-7-205, 20-7-602, 20-7-605,
18 20-7-606, 20-7-608, 20-7-705, 20-9-113, 20-9-121, 20-9-122, 20-9-123, 20-9-131, 20-9-134, 20-9-141,
19 20-9-142, 20-9-151, 20-9-152, 20-9-162, 20-9-164, 20-9-165, 20-9-203, 20-9-206, 20-9-211, 20-9-212,
20 20-9-213, 20-9-302, 20-9-313, 20-9-332, 20-9-334, 20-9-344, 20-9-347, 20-9-353, 20-9-369, 20-9-438,
21 20-9-439, 20-9-501, 20-9-503, 20-9-506, 20-9-804, 20-10-103, 20-10-104, 20-10-112, 20-10-124,
22 20-10-131, 20-10-132, 20-10-143, 20-10-144, 20-10-145, 20-10-146, 20-10-147, 20-10-205,
23 20-15-325, 20-20-108, 20-20-201, 20-20-416, AND 52-2-211, MCA; REPEALING SECTIONS 7-4-3005,
24 20-3-107, 20-3-205, 20-3-206, 20-3-207, 20-3-208, 20-3-209, 20-3-210, 20-3-211, 20-3-212, 20-9-114,
25 AND 20-9-348, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

26
27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

28

29 **NEW SECTION.** **Section 1. Controversy -- appeal procedure.** (1) The board of public education
30 shall decide matters of controversy when they are appealed from:

1 (a) a decision of the trustees or board of county commissioners; or

2 (b) a decision of a county transportation committee under the provisions of 20-10-132.

5 (a) prescribe and enforce regulations for the certification and training of hearings officers and for
6 the conduct of appeals by all school officials of the state; and

7 (b) maintain a list of trained hearings officers.

11 (4) Within 30 days of the appeal request, the hearings officer, on behalf of the board of public
12 education, shall hold a hearing on the record. No later than 10 days after the hearing, the hearings officer
13 shall submit a recommendation to the board of public education. Within 10 days following the next regular
14 meeting of board of public education, it shall issue a written decision, including findings of fact and reasons
15 for its decision. The decision by the board of public education constitutes its final order, which is subject
16 to the provisions of Title 2, chapter 4, relating to final agency decisions or orders, including judicial review
17 under Title 2, chapter 4, part 7.

(5) The decision by the board of public education may be appealed to district court no later than 60 days after the date of the final order.

(6) A person may not serve as a hearings officer under this section until the person has successfully completed the training course established by the board of public education.

22 (7) Costs incurred by the board of public education pursuant to this section must be paid from the
23 general fund.

25 **Section 2.** Section 7-2-2253, MCA, is amended to read:

26 "7-2-2253. Procedure to transfer money to school and road funds. (1) The ~~county superintendent~~
27 ~~of schools~~ clerk and recorder of an old county shall furnish the ~~county superintendent of schools~~ clerk and
28 recorder of the new county with a certification of the average number belonging (ANB) in the different
29 school districts in the territory set apart to form the new county and shall certify to the board of county
30 commissioners of the old county the amount due. The board of the old county shall order a warrant drawn



1 on the treasury of the old county for all the money that is or may be due by apportionment or otherwise
2 to the different school districts embraced in the new county and taken from the old county.

3 (2) The county treasurer shall certify to the county commissioners of an old county the amount
4 due in the different road funds. The county commissioners shall order a warrant drawn on the treasury of
5 the old county in favor of the new county for all money that is or may be due by apportionment or
6 otherwise to the different road and district funds in the territory set apart to form the new county and taken
7 from the old county, ~~which~~. The amounts ~~shall~~ must be properly credited in both counties.

8 (3) Whenever in the formation of a new county a road or school district has been divided, the board
9 of county commissioners shall by resolution direct the treasurer to transfer the proper proportionate amount
10 of the money remaining in the fund of ~~such~~ the district to the treasurer of the new county."

11

12 **Section 3.** Section 7-2-2727, MCA, is amended to read:

13 **"7-2-2727. Effect of abandonment on school and special districts.** (1) All school districts and other
14 special districts of an abandoned and abolished county ~~shall~~ continue as and ~~be~~ become ~~such~~ school
15 districts and special districts of the county to which ~~such~~ the territory is attached and becomes a part. The
16 members of the boards of trustees or directors of ~~such~~ the school districts or other special districts ~~shall~~
17 continue to be the trustees and directors ~~thereof~~ of the districts until the terms of office for which they
18 were elected or appointed ~~shall~~ expire. If any of ~~such~~ the school districts ~~shall bear~~ bears the same numbers
19 as school districts of the county to which the territory within the boundaries of ~~such~~ the abandoned and
20 abolished county is attached and made a part, the ~~county superintendent~~ school district clerk shall either
21 renumber the school districts of ~~said~~ the abandoned and abolished county or shall give them ~~such~~ a
22 designation in addition to their numbers ~~as will~~ to distinguish them from the districts in the county to which
23 ~~such~~ the territory is attached and made a part. If the territory of any school district ~~shall be~~ is divided and
24 parts are attached to two or more counties, ~~such~~ the school district ~~shall~~ must be a joint school district of
25 ~~such~~ the counties.

26 (2) All funds of all school districts and of all other special districts of an abandoned and abolished
27 county ~~shall~~ must be transferred to and paid ~~ever~~ to the county treasurer of the county to which the
28 territory of ~~such~~ the school district is attached and becomes a part and ~~shall~~ must be accounted for by ~~said~~
29 the county treasurer as the funds of ~~such~~ those districts. If a joint school district is created, the ~~state~~
30 superintendent of public instruction shall designate the county treasurer to whom ~~such~~ the funds are to be

1 transferred and paid ~~ever~~. All taxes levied for all school funds and funds of other special districts of ~~such~~
2 ~~the~~ abandoned and abolished county remaining unpaid at the time ~~said~~ ~~the~~ county ceased to exist and all
3 other money ~~which~~ ~~that~~ would have accrued to ~~such~~ ~~the~~ funds if ~~said~~ ~~the~~ county had not been abandoned
4 and abolished, when received by ~~such~~ ~~the~~ county treasurer, ~~shall~~ ~~must~~ be deposited to the credit of the
5 proper school or special district funds."

6

7 **Section 4.** Section 7-6-2801, MCA, is amended to read:

8 "7-6-2801. **Management of school funds.** The county treasurer ~~must~~ ~~shall~~:

9 (1) keep all school money in a separate fund and keep a separate account of its disbursement to
10 the several school districts ~~which~~ ~~that~~ are entitled to receive it, according to the ~~apportionment of the~~
11 ~~county superintendent of schools~~ ~~financial duties assigned to the county treasurer in Title 20~~ and according
12 to the appropriate rules adopted by the superintendent of public instruction as authorized in Title 20;

13 (2) ~~notify the county superintendent of the amount of the county school fund in the county~~
14 ~~treasury subject to apportionment, whenever required, and inform him of the amount of school money~~
15 ~~belonging to any other fund subject to apportionment, or as otherwise provided by law~~ ~~distribute funds~~
16 ~~collected as provided by law; and~~

17 (3) pay all warrants drawn on county or district school money, in accordance with the provisions
18 of law, whenever ~~such~~ ~~the~~ warrants are countersigned by the district clerk and properly endorsed by the
19 holders;.

20 (4) ~~make annually, during the month of September, a financial report for the preceding year ending~~
21 ~~August 31 to the county superintendent, in such form as is required by him."~~

22

23 **Section 5.** Section 17-3-213, MCA, is amended to read:

24 "17-3-213. **Allocation to general road fund and countywide school levies.** (1) The forest reserve
25 funds ~~so~~ apportioned to each county must be apportioned by the county treasurer in each county as
26 follows:

27 (a) to the general road fund, 66 2/3% of the total amount received;
28 (b) to the following countywide school levies, 33 1/3% of the total sum received:
29 (i) county equalization for elementary schools provided for in 20-9-331; and
30 (ii) county equalization for high schools provided for in 20-9-333;

- (iii) the county transportation fund provided for in 20-10-146; and
- (iv) the elementary and high school district retirement fund obligations provided for in 20-9-501.

(2) The apportionment of money to the funds provided for under subsection (1)(b) must be made county ~~superintendent treasurer~~ based on the proportion that the mill levy of each fund bears to the number of mills for all the funds. Whenever the total amount of money available for apportionment this section is greater than the total requirements of a levy, the excess money and any interest must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year levies designated in subsection (1)(b).

(3) In counties in which special road districts have been created according to law, the board of commissioners shall distribute a proportionate share of the 66 2/3% of the total amount received general road fund to the special road districts within the county based upon the percentage that the area of the road district bears to the total area of the entire county."

Section 6. Section 20-1-204, MCA, is amended to read:

"20-1-204. County attorney's duties. Upon request of the county superintendent or the trustees of a school district or community college district, the county attorney ~~shall~~ must be their legal adviser and shall prosecute and defend all suits to which ~~such~~ those persons, in their capacity as public officials, are a party; however, However, the trustees of any a school district or community college district may, in their discretion, employ any other attorney licensed in Montana to perform any legal services in connection with school or community college board business."

Section 7. Section 20-1-208, MCA, is amended to read:

"20-1-208. **Educational impact statements.** When a ~~county superintendent of schools~~ ~~board of commissioners~~ finds that a person intends to construct or locate a major industrial facility, as in 20-9-407, or intends to open a new strip mine, as defined by 82-4-103, within the county, the ~~superintendent~~ ~~board of county commissioners~~ may require ~~such~~ the person to file with the county an educational impact statement. An educational impact statement is a report estimating the increased burdens on public schools in the county as a consequence of the major industrial facility or strip mine. The ~~superintendent~~ ~~shall~~ ~~must~~ indicate:

(1) the number of persons to be employed during the construction or preparation and during the

1 operation of the major industrial facility or strip mine and their anticipated residential distribution;
2 (2) the number and anticipated distribution of persons employed in providing goods and services
3 to the persons enumerated in ~~the preceding category~~ subsection (1);
4 (3) the number of school age children anticipated to be living with the persons enumerated in ~~the~~
5 ~~preceding categories~~ subsections (1) and (2); and
6 (4) the time periods covered by each preceding estimate."

7

8 **Section 8.** Section 20-2-121, MCA, is amended to read:

9 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:
10 (1) effect an orderly and uniform system for teacher certification and specialist certification and
11 for the issuance of an emergency authorization of employment by adopting the policies prescribed by
12 20-4-102 and 20-4-111;

13 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the
14 denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

15 (3) administer and order the distribution of BASE aid in accordance with the provisions of
16 20-9-344;

17 (4) adopt and enforce policies to provide uniform standards and regulations for the design,
18 construction, and operation of school buses in accordance with the provisions of 20-10-111;

19 (5) approve or disapprove a reduction of the number of hours in a district's school day in
20 accordance with the provisions of 20-1-302;

21 (6) adopt policies prescribing the conditions when school may be conducted on Saturday and the
22 types of pupil-instruction-related days and approval procedure for ~~such~~ the days in accordance with the
23 provisions of 20-1-303 and 20-1-304;

24 (7) adopt standards of accreditation and establish the accreditation status of every school in
25 accordance with the provisions of 20-7-101 and 20-7-102;

26 (8) approve or disapprove educational media selected by the superintendent of public instruction
27 for the educational media library in accordance with the provisions of 20-7-201;

28 (9) adopt policies for the conduct of special education in accordance with the provisions of
29 20-7-402;

30 (10) adopt rules for issuance of documents certifying equivalency of completion of secondary

1 education in accordance with 20-7-131;
2 (11) adopt policies for the conduct of programs for gifted and talented children in accordance with
3 the provisions of 20-7-903 and 20-7-904;
4 (12) adopt rules for student assessment in the public schools;
5 (13) adopt rules necessary to implement [section 1] and decide matters of controversy when they
6 are appealed pursuant to [section 1] from a decision of a board of trustees or a county transportation
7 committee; and
8 (13) (14) perform any other duty prescribed from time to time by this title or any other act of the
9 legislature."

10
11 **Section 9.** Section 20-3-105, MCA, is amended to read:
12 "20-3-105. **Administrative powers and duties.** In administering the affairs of ~~his~~ the
13 superintendent's office, the superintendent of public instruction shall ~~have the power and it shall be his duty~~
14 ~~to:~~

15 (1) keep a record of ~~his~~ official acts and all documents applicable to the administration of the office,
16 preserve all official reports submitted ~~to him~~ for the period required by law, and surrender them to ~~his~~
17 ~~successor at the expiration of his term~~ the next superintendent upon expiration of the term of office;
18 (2) preserve all books, educational media, instructional equipment, and any other articles of
19 educational interest and value which come into ~~his~~ the superintendent's possession and surrender them to
20 ~~his successor at the expiration of his term~~ the next superintendent upon expiration of the term of office;
21 (3) cause the printing and distribution of all reports and forms necessary for the proper conduct
22 of business by a district or school in the manner prescribed by the provisions of this title;
23 (4) provide and keep an official seal of the superintendent of public instruction by which ~~his~~ the
24 official acts ~~shall~~ must be authenticated;
25 (5) if ~~he deems~~ considered necessary, cause the printing of a complete and updated volume of the
26 school laws of the state, which ~~shall~~ must be offered and sold at cost of the printing and shipping to any
27 school official or other person;
28 (6) whenever a replacement volume is not printed under the provisions of subsection (5), cause
29 the printing of a cumulative supplement to the most recent volume of school laws immediately after the
30 conclusion of any session of the legislature at which new school laws or amendments to the school laws

1 were adopted. It ~~shall~~ must be offered and sold at cost of the printing and shipping to any school official
2 or other person.

3 (7) if ~~deemed~~ considered necessary, publish a biennial report of the superintendent of public
4 instruction;

5 (8) counsel with and advise ~~county superintendents~~ school districts on matters involving the
6 welfare of the schools and, when requested, give ~~a county superintendent~~ school districts a written answer
7 to any question concerning school law;

8 ~~(9) call an annual meeting of the county superintendents when he deems it advisable;~~

9 ~~(10) (9) as far as he shall find it practicable, address public assemblies on subjects pertaining to~~
10 education in Montana; and

11 ~~(11) (10) faithfully~~ work in all practical and possible ways for the welfare of the public schools of
12 the state."

13

14 **Section 10.** Section 20-3-106, MCA, is amended to read:

15 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
16 has the general supervision of the public schools and districts of the state and shall perform the following
17 duties or acts in implementing and enforcing the provisions of this title:

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

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

21 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
22 20-5-314;

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

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

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

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

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

1 20-9-103 and 20-9-506;

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

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

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

8 (12) prescribe and furnish the annual report forms to enable the districts to report ~~to the county~~
9 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the
10 ~~county superintendents~~ districts to report to the superintendent of public instruction in accordance with the
11 provisions of 20-3-209;

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

14 (14) distribute BASE aid and special education allowable cost payments in support of the BASE
15 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,
16 and 20-9-366 through 20-9-369;

17 (15) provide for the uniform and equal provision of transportation by performing the duties
18 prescribed by the provisions of 20-10-112;

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

21 (17) request, accept, deposit, and expend federal money in accordance with the provisions of
22 20-9-603;

23 (18) authorize the use of federal money for the support of an interlocal cooperative agreement in
24 accordance with the provisions of 20-9-703 and 20-9-704;

25 (19) prescribe the form and contents of and approve or disapprove interstate contracts in
26 accordance with the provisions of 20-9-705;

27 (20) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days
28 in accordance with the provisions of 20-1-303 and 20-1-304;

29 (21) recommend standards of accreditation for all schools to the board of public education and
30 evaluate compliance with the standards and recommend accreditation status of every school to the board

1 of public education in accordance with the provisions of 20-7-101 and 20-7-102;

2 (22) collect and maintain a file of curriculum guides and assist schools with instructional programs

3 in accordance with the provisions of 20-7-113 and 20-7-114;

4 (23) establish and maintain a library of visual, aural, and other educational media in accordance with

5 the provisions of 20-7-201;

6 (24) license textbook dealers and initiate prosecution of textbook dealers violating the law in

7 accordance with the provisions of the textbooks part of this title;

8 (25) as the governing agent and executive officer of the state of Montana for K-12 vocational

9 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

10 (26) supervise and coordinate the conduct of special education in the state in accordance with the

11 provisions of 20-7-403;

12 (27) administer the traffic education program in accordance with the provisions of 20-7-502;

13 (28) administer the school food services program in accordance with the provisions of 20-10-201,

14 20-10-202, and 20-10-203;

15 (29) review school building plans and specifications in accordance with the provisions of 20-6-622;

16 (30) prescribe the method of identification and signals to be used by school safety patrols in

17 accordance with the provisions of 20-1-408;

18 (31) provide schools with information and technical assistance for compliance with the student

19 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment

20 for the board of public education and the legislature;

21 (32) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through

22 20-9-369; and

23 (33) perform any other duty prescribed from time to time by this title, any other act of the

24 legislature, or the policies of the board of public education."

25

26 **Section 11.** Section 20-3-201, MCA, is amended to read:

27 **"20-3-201. Election and qualifications -- part-time office allowed.** (1) A county superintendent ~~must~~

28 ~~may~~ be elected in each county of the state unless a county manager form of government has been

29 organized in the county. ~~The If an election is held for this position, the~~ county superintendent must be

30 elected at the general election preceding the expiration of the term of office of the incumbent.

(2) Upon verification by the county clerk and recorder, a person is qualified to file for and assume the office of county superintendent who:

(a) is a qualified elector;

(b) holds a valid, current class 1 professional certificate, class 2 standard certificate, or class 3 administrative and supervisory certificate issued by the superintendent of public instruction; and

(c) has at least 3 years of successful teaching experience.

(3) (a) When the office of county superintendent of schools is consolidated with another county office within the county, the officeholder must have the qualifications listed in subsection (2) or shall, with the approval of the governing body, contract for the full performance of the duties required of a county superintendent in 20-3-207 and 20-3-210 with:

(ii) another county superintendent, with the approval of the governing body of that county;

(ii) a former county superintendent; or

(iii) a person who:

~~(A) is a qualified elector;~~

(B) holds a valid administrative certificate as provided in 204.106(1)(c);

(C) takes the oath of office in 2012;

(D) is bonded in the manner provided for county officers in Title 2, chapter 9, part 7; and

(E) attends instructional training in the duties of a county superintendent as offered by the superintendent of public instruction.

(b) Whenever a governing body contracts with a person for performance of the duties required of a county superintendent under the provisions of subsection (3)(a)(iii), the contract must be for at least the duration of 1 school fiscal year.

(e) The superintendent of public instruction shall prescribe a contract form to be used.

(4)(3) The board of county commissioners may establish the office of county superintendent as part-time office under the provisions of 20-3-213, and adjust the salary established in 7-4-2503 to make it commensurate with the reduction in hours. A part-time county superintendent shall perform all duties of the office that are required by law."

Section 12. Section 20-3-202, MCA, is amended to read:

"20-3-202. **Term, oath, and vacancy.** (1) The county superintendent shall hold office for a term



1 of 4 years. ~~He~~ The superintendent shall assume office on the first Monday of January following ~~his~~ election
2 and shall hold the office until ~~his~~ a successor has been elected and qualified.

3 (2) Any person elected as the county superintendent shall take the oath or affirmation of office and
4 shall give an official bond, as required by law.

5 (3) If the office of county superintendent becomes vacant, the board of county commissioners ~~shall~~
6 may appoint a replacement to fill the vacancy. ~~Such~~ The replacement shall serve until the next regular
7 general election, when a person ~~shall~~ must be elected to serve the remainder of the initial term, if there ~~be~~
8 is any remaining term."

9

10 **Section 13.** Section 20-3-204, MCA, is amended to read:

11 "20-3-204. **Office hours.** (1) Except for a part-time county superintendent provided for under
12 20-3-201(4), the county superintendent of schools shall keep the office of the county superintendent open
13 from 8 a.m. until 5 p.m. every each day when the county superintendent is not engaged in the supervision
14 of schools except on holidays and on Saturdays, provided that when the county superintendent has a
15 deputy or clerk, the office must be kept open from 8 a.m. until 5 p.m. every each day except holidays and
16 except Saturdays. The office must be kept open at all times as business may require.

17 (2) This section does not apply to counties operating under the county manager plan."

18

19 **Section 14.** Section 20-3-307, MCA, is amended to read:

20 "20-3-307. **Qualification and oath.** (1) ~~Any~~ A person who receives a certificate of election as a
21 trustee under the provisions of 20-20-416 ~~shall~~ may not assume the trustee position until ~~he~~ the person
22 has qualified. ~~Such~~ A person ~~shall~~ qualify qualifies by completing and filing an oath of office with the
23 ~~county superintendent~~ school district clerk not more than 15 days after the receipt of the certificate of
24 election. After a person has qualified for a trustee position, ~~he~~ the person shall hold ~~such~~ the position for
25 the term of the position and until ~~his~~ a successor has been elected or appointed and has been qualified.

26 (2) If the elected person does not qualify in accordance with this requirement, a person ~~shall~~ must
27 be appointed in the manner provided by 20-3-309 and shall serve until the next regular election."

28

29 **Section 15.** Section 20-3-309, MCA, is amended to read:

30 "20-3-309. **Filling vacated trustee position -- appointee qualification and term of office.** (1)

1 Whenever a trustee position becomes vacant in any district, the remaining members of the trustees shall
2 declare ~~such~~ the position vacant and they shall appoint, in writing within 60 days, a competent person as
3 a successor. The trustees shall notify the appointee ~~and the county superintendent~~ of ~~such the~~
4 appointment. If the trustees do not make the appointment within ~~such the~~ 60-day period, the board of
5 county superintendent commissioners shall appoint, in writing, a competent person as a successor and
6 notify ~~such person of his appointment~~ the appointee.

7 (2) ~~Any~~ A person who has been appointed to a trustee position shall qualify by completing and
8 filing an oath of office with the ~~county superintendent~~ school district clerk within 15 days after receiving
9 notice of ~~his~~ the appointment. Failure to file the oath of office ~~shall constitute~~ constitutes a continuation
10 of the trustee position vacancy, which ~~shall~~ must be filled under the provisions of this section.

11 (3) ~~Any~~ A person assuming a trustee position under the provisions of this section shall serve until
12 the next regular school election and ~~his~~ a successor has qualified."

13
14 **Section 16.** Section 20-3-311, MCA, is amended to read:

15 **"20-3-311. Trustee travel reimbursement and compensation of secretary for joint board.** The
16 members of the trustees of any district ~~shall~~ may not receive compensation for their services as trustees,
17 except that the secretary of the trustees of a high school district operating a county high school or the
18 secretary of a joint board of trustees may be compensated for ~~his~~ services as the secretary. ~~The members~~
19 A member of the trustees who ~~reside~~ resides over 3 miles from the trustees' meeting place ~~shall~~ must be
20 reimbursed, at the rate ~~as~~ provided in 2-18-503, for every mile necessarily traveled between ~~their~~ the
21 member's residence and the meeting place and return in attending the regular and special meetings of the
22 trustees, ~~and all trustees shall be similarly reimbursed for meetings called by the county superintendent.~~
23 The travel reimbursement may be accumulated during the school fiscal year and paid at the end of the fiscal
24 year, at the discretion of each trustee."

25
26 **Section 17.** Section 20-3-324, MCA, is amended to read:

27 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district
28 shall:

29 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the
30 district superintendent, the county high school principal, or other principal as the board considers

1 necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine,
2 in accordance with the provisions of Title 20, chapter 4;

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

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

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

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

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

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

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

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

20 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating
21 reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions
22 of the general fund part of this title;

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

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

27 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement
28 fund, building reserve fund, adult education fund, nonoperating fund, school food services fund,
29 miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund,
30 impact aid fund, and interlocal cooperative agreement fund in accordance with the provisions of the other

1 school funds parts of this title;

2 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises

3 in accordance with the provisions of the miscellaneous financial parts of this title;

4 (15) hold in trust, acquire, and dispose of the real and personal property of the district in

5 accordance with the provisions of the school sites and facilities part of this title;

6 (16) operate the schools of the district in accordance with the provisions of the school calendar part

7 of this title;

8 (17) establish and maintain the instructional services of the schools of the district in accordance

9 with the provisions of the instructional services, textbooks, vocational education, and special education

10 parts of this title;

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

12 of the school food services parts of this title;

13 (19) make reports ~~from time to time as that the county superintendent~~, superintendent of public

14 instruction, and board of public education may require;

15 (20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary

16 conditions of the school or the general health conditions of each pupil and, upon request, make available

17 to any parent or guardian any medical reports or health records maintained by the district pertaining to the

18 child;

19 (21) for each member of the trustees, visit each school of the district not less than once each

20 school fiscal year to examine its management, conditions, and needs, except trustees from a first-class

21 school district may share the responsibility for visiting each school in the district;

22 (22) procure and display outside daily in suitable weather on school days at each school of the

23 district an American flag that measures not less than 4 feet by 6 feet;

24 (23) provide that an American flag that measures approximately 12 inches by 18 inches be

25 prominently displayed in each classroom in each school of the district, except in a classroom in which the

26 flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

27 (24) adopt and administer a district policy on assessment for placement of any child who enrolls

28 in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

29 (25) register the teacher or specialist certificates or emergency authorization of employment of any

30 person employed in the district as a teacher, specialist, principal, or district superintendent in accordance

1 with the provisions of 20-4-202;

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

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

5 (28) appeal matters of controversy to the board of public education in accordance with the provisions of [section 1]; and

7 ~~(25)~~ (29) perform any other duty and enforce any other requirements for the government of the schools that are prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

10

11 **Section 18.** Section 20-3-337, MCA, is amended to read:

12 **"20-3-337. Plan for creating single-member trustee districts.** (1) The board of trustees of a school district may establish a procedure for studying the appropriateness of creating single-member trustee districts within the school district.

15 (2) If the board considers a single-member district plan, the plan must establish single-member districts that:

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

18 (b) provide equitable voting rights for the minorities residing within the school district by ensuring that the access of minorities to the political process is not diluted in contravention of the Voting Rights Act 20 Amendments of 1982, Public Law 97-205.

21 (3) If the board determines that it is in the best interest of the electors of the school district, it shall:

23 (a) propose creation of a single-member trustee district plan;

24 (b) schedule and hold a public hearing on the proposed plan; and

25 (c) publish in a newspaper of general circulation in the district a notice of the public hearing, including a map of the proposed single-member trustee district plan, and the reasons why the board believes that the plan satisfies the criteria set forth in subsection (2).

28 (4) After the public hearing is held, the board shall forward a copy of the proposed single-member trustee district plan to the secretary of state and the superintendent of public instruction for review and comment. The copy of the proposed plan must be accompanied by:

- (a) a map indicating the circulation of the newspaper in which the notice required in subsection (3) was published;
- (b) the published notice of the public hearing;
- (c) a map of the proposed single-member trustee district plan; and
- (d) a summary of any public comments to the board regarding the proposed plan.

(5) After receiving comments from the secretary of state and the superintendent of public instruction, the board of trustees may amend, revise, approve, or disapprove the proposed plan. If the plan is adopted by the board, it shall:

(a) inform the county superintendent of schools clerk and recorder and the election administrator of its adoption;

(b) publish notice of the adoption in a newspaper of general circulation within the district, including identification of the boundaries of each new single-member trustee district and the implementation date of the plan; and

(c) file with the county clerk and recorder a certificate designating the boundary lines and limits of each single-member trustee district.

(6) All successors to the board of trustees must be elected in accordance with the adopted single-member trustee district plan.

(7) ~~No~~ A change in the boundaries of a trustee district may not be made within 3 months preceding a regular school election day as provided in 20-3-304."

Section 19. Section 20-3-352, MCA, is amended to read:

"20-3-352. Request and determination of number of high school district additional trustee positions

-- **nonvoting trustee.** (1) As provided in 20-3-351(1)(b), a high school district, except a high school district operating a county high school, may have additional trustee positions when the trustees of a majority of the elementary districts with territory located in the high school district, but without equitable representation on the high school district trustees under the provision of 20-3-351(1)(a), request the establishment of additional trustee positions under the provisions of subsection (2) or when the electors approve an alternative method of electing members of the board of trustees under the provisions of subsection (3).

(2) A request for additional trustee positions must be made to the board of county superintendent

1 commissioners by a resolution of the trustees of each elementary district. When a resolution has been
2 received from a majority of the elementary districts without representation on the high school district
3 trustees, the board of county superintendent commissioners shall determine the number of additional
4 trustee positions for the affected high school district in accordance with the following procedure:

5 (a) The taxable valuation of the elementary district that has its trustees placed on the high school
6 trustees must be divided by the number of positions on the trustees of the elementary district to determine
7 the taxable valuation per trustee position.

8 (b) The taxable valuation used for the calculation in subsection (2)(a) must be subtracted from the
9 taxable valuation of the high school district to determine the taxable valuation of the territory of the high
10 school district without representation on the high school district trustees.

11 (c) The taxable valuation determined in subsection (2)(b) must be divided by the taxable valuation
12 per trustee position calculated in subsection (2)(a). The resulting quotient must be rounded off to the
13 nearest whole number, except that when the quotient is less than 0.5, at least one nonvoting trustee
14 position must be established for the territory without representation on the high school district board of
15 trustees under the provision of 20-3-351(1)(a).

16 (d) Except for a nonvoting trustee position, the number determined in subsection (2)(c) must be
17 the number of additional trustee positions, except that the number of additional trustee positions may not
18 exceed four in a first- or second-class high school district or two in a third-class high school district except
19 when two-thirds or more of the high school enrollment of the high school district and two-thirds or more
20 of the taxable valuation of the high school district are located outside of the elementary district that has
21 its trustees placed on the high school district trustees. When this situation exists, three additional trustees
22 must be elected from the elementary school districts in which the high school is not located and one
23 additional trustee must be elected at large in the high school district.

24 (3) (a) If more than half of the electors of the high school district reside outside the territory of the
25 elementary school district in which the high school district buildings are located, at least 10% of the
26 electors of the high school district who are qualified to vote under the provisions of 20-20-301 may petition
27 the board of county superintendent commissioners, requesting an election to consider a proposition on the
28 question of establishing the following alternative method of electing the members of the high school district
29 board of trustees:

30 (i) one trustee to be elected from each elementary school district with territory included in the high

1 school district; and

2 (ii) two or three trustees to be elected at large in the high school district, whichever number results
3 in an odd number of members on the board of trustees.

4 (b) (i) When the board of county superintendent commissioners receives a valid petition, ~~the county~~
5 ~~superintendent~~ it shall order the trustees of the high school district to conduct an election on the next
6 regular school election day on the proposition allowed under the provisions of subsection (3)(a).

7 (ii) If the electors of the district approve a proposition to establish the alternative method of electing
8 the high school board of trustees, the board of county superintendent commissioners shall order that the
9 members of the board of trustees be elected according to subsection (3)(a) at the next regular school
10 election.

11 (c) Whenever the trustees are elected at one regular election under subsection (3)(b), the members
12 who are elected shall draw by lot to determine their terms of office. The terms of office by trustee position
13 must be divided as equally as practicable among 1-, 2-, and 3-year terms.

14 (d) A petition to call an election for the purposes of subsection (3) may not be submitted to the
15 board of county superintendent commissioners more than one time in each 5-year period."

16

17 **Section 20.** Section 20-3-353, MCA, is amended to read:

18 **"20-3-353. Establishment and purpose of trustee nominating districts.** (1) After the board of county
19 ~~superintendent has~~ commissioners has determined the number of additional trustee positions, ~~he~~ it shall
20 establish trustee nominating districts in that portion of the high school district without representation on
21 the high school trustees. There ~~shall~~ must be one trustee nominating district for each additional trustee
22 position, except the additional trustee-at-large. Unless it is impossible, the trustee nominating district
23 boundaries ~~shall~~ must be coterminous with elementary district boundaries.

24 (2) The purpose of the trustee nominating district ~~shall be~~ is to establish a representative district
25 for the nomination and election of a resident of ~~such~~ the district to be an additional member of the trustees
26 of a high school district. The electors qualified to vote in the high school district under the provisions of
27 20-20-301 and who reside in the trustee nominating district ~~shall be~~ are the only electors who may vote
28 for the additional trustee representing ~~such~~ the district. ~~They~~ The electors are also ~~shall be~~ permitted to vote
29 for a trustee position at large, if there is one, but for no other high school trustee position.

30 (3) Any additional trustee position established under the provisions of this section ~~shall~~ must be

1 filled in a manner prescribed under the provisions of 20-3-309. Each additional trustee position filled by
2 appointment under this section ~~shall be~~ is subject to election at the next regular school election."

3

4 **Section 21.** Section 20-3-354, MCA, is amended to read:

5 **"20-3-354. Redetermination of additional trustee positions and subsequent adjustments.** Whenever
6 there is a revision of the taxable valuation of the high school district or the elementary districts within it
7 or there is a reclassification of the elementary district ~~which~~ that has its trustees placed on the high school
8 district board of trustees, the board of county superintendent commissioners shall redetermine the number
9 of additional trustee positions for the high school district in accordance with 20-3-352. If there is a change
10 in the allowable number of additional trustee positions, the board of county superintendent commissioners
11 shall reestablish the trustee nominating districts in accordance with 20-3-353. If the number of additional
12 trustee positions is less than the previous number of positions, the county superintendent board of county
13 commissioners shall designate which present additional positions are to terminate upon ~~his~~ its order
14 reestablishing the trustee nominating districts. If the number of additional trustee positions is more than the
15 previous number of positions, ~~such~~ the additional trustee positions ~~shall~~ must be filled in the manner
16 prescribed under the provisions of 20-3-309. Each additional trustee position filled by appointment under
17 this section ~~shall be~~ is subject to election at the next regular school election."

18

19 **Section 22.** Section 20-3-356, MCA, is amended to read:

20 **"20-3-356. Membership of elected trustees of high school district operating county high school**
21 **and nomination of candidates.** (1) The trustees of a high school district operating a county high school ~~shall~~
22 ~~be~~ is composed of the following:

23 (a) four trustee positions filled by members residing in the elementary district where the county
24 high school building is located; and

25 (b) three trustee positions filled by members one of whom resides in each of the three trustee
26 nominating districts in the territory of the high school district outside of the elementary district where the
27 county high school building is located. The board of county superintendent commissioners shall establish
28 the nominating districts, and, unless it is impossible, ~~such~~ those districts ~~shall~~ must have coterminous
29 boundaries with elementary district boundaries.

30 (2) The provisions of 20-3-305 shall govern the nomination of candidates for the trustee election

1 prescribed in this section."

2

3 **Section 23.** Section 20-4-202, MCA, is amended to read:

4 **"20-4-202. Teacher and specialist certification registration.** (1) ~~Any~~ A person employed as a
5 teacher, specialist, principal, or district superintendent shall register ~~his~~ a certificate or ~~the~~ district shall
6 register ~~its~~ its emergency authorization of employment for a teacher with the county superintendent of the
7 county wherein he is employed in order with the school district clerk to validate ~~his~~ the person's
8 employment status and permit payment under ~~his~~ the employment contract. If a teacher or specialist does
9 not register ~~his~~ a certificate with the county superintendent school district clerk within 60 calendar days
10 after ~~he begins to perform his services, he work begins, the teacher or specialist shall~~ may not be eligible
11 to receive any further compensation under ~~his~~ the contract of employment until ~~he has registered his~~
12 registration of the certificate. ~~After the schools of a district have been open for 60 calendar days in the~~
13 current school fiscal year, the county superintendent shall notify each district of the county of each teacher
14 or specialist who has registered his current valid certificate, and the district shall not pay any teacher who
15 has not registered his certificate until the county superintendent does notify the district of such registration.

16 (2) A teacher or specialist employed by a joint district shall register ~~his~~ the person's certificate with
17 the county superintendent school district clerk of the county in which ~~he~~ the teacher or specialist is
18 working. A teacher or specialist employed by a special education cooperative shall register ~~his~~ the person's
19 certificate with the county superintendent school district clerk of the county district in which the special
20 education cooperative is based."

21

22 **Section 24.** Section 20-4-204, MCA, is amended to read:

23 **"20-4-204. Termination of tenure teacher services.** (1) (a) The following persons may make a
24 recommendation in writing to the trustees of the district for termination of the services of a tenure teacher:

25 (i) a district superintendent;
26 (ii) in a district without a district superintendent, a principal;
27 (iii) in a district without a district superintendent or a principal, ~~the county superintendent or a~~
28 trustee of the district.

29 (b) The recommendation must state clearly and explicitly the specific reason or reasons leading to
30 the recommendation for termination.

6 (a) the statement of the reason or reasons that led to the recommendation for termination; and
7 (b) a printed copy of this section for the teacher's information.

11 (4) The trustees shall:

12 (a) conduct the hearing on the recommendation at a regularly scheduled or special meeting of the
13 board of trustees and in accordance with 2-3-203; and

14 (b) resolve at the conclusion of the hearing to terminate the teacher or to reject the
15 recommendation for termination.

16 (5) The tenure teacher may appeal a decision to terminate to the county superintendent who may
17 appoint a qualified attorney at law as legal advisor who shall assist the superintendent in preparing findings
18 of fact and conclusions of law.

(6) Subsequently, either the teacher or the trustees may appeal to the superintendent of public instruction board of public education under the provision for the appeal of controversies in this title provided in section 1."

23 **Section 25.** Section 20-4-206, MCA, is amended to read:

24 **"20-4-206. Notification of nontenure teacher reelection -- acceptance -- termination and statement**
25 **of reason.** (1) The trustees shall provide written notice by May 1 to all nontenure teachers who have been
26 reelected. A nontenure teacher who does not receive written notice of reelection or termination is
27 automatically reelected for the ensuing school fiscal year.

28 (2) A nontenure teacher who receives notification of his reelection for the ensuing school fiscal
29 year shall provide the trustees with his written acceptance of the conditions of reelection within 20 days
30 after the receipt of the notice of reelection. Failure to so notify the trustees within 20 days may be



1 considered nonacceptance of the tendered position.

2 (3) When the trustees notify a nontenure teacher of termination, the teacher may within 10 days
3 after receipt of the notice make written request of the trustees for a statement in writing of the reasons
4 for termination of employment. Within 10 days after receipt of the request, the trustees shall furnish to the
5 teacher a true statement of reasons for termination.

6 (4) If a nontenure teacher believes that the reasons provided by the trustees are not true, the
7 teacher may request in writing, within 10 days of receipt of the statement of reasons, that the county
8 superintendent board of public education hold a hearing in accordance with ~~20-3-210 [section 1]~~ to
9 determine whether the reasons are true. ~~A hearing must be scheduled within 10 days and held within 45~~
10 ~~days after receipt of the request, except that the period may be extended upon agreement between the~~
11 ~~trustees and the teacher.~~ The burden of proof that the reasons are not true rests with the teacher, and the
12 showing must be demonstrated by clear and convincing evidence.

13 (5) If, after a hearing, the county superintendent board of public education determines that the
14 reasons are not true, ~~the county superintendent~~ it shall order the trustees to offer the teacher a contract
15 for the ensuing school fiscal year.

16 (6) The provisions of this section do not apply to cases in which a nontenure teacher is terminated
17 when the financial condition of the school district requires a reduction in the number of teachers employed
18 and the reason for the termination is to reduce the number of teachers employed."

19

20 **Section 26.** Section 20-4-207, MCA, is amended to read:

21 **"20-4-207. Dismissal of teacher under contract.** (1) The trustees of any district may dismiss a
22 teacher before the expiration of ~~his~~ the teacher's employment contract for immorality, unfitness,
23 incompetence, or violation of the adopted policies of ~~such~~ the trustees.

24 (2) (a) The following persons may recommend the dismissal of a teacher for cause under
25 subsection (1):

26 (i) a district superintendent;

27 (ii) in a district without a district superintendent, a principal; or

28 (iii) in a district without a district superintendent or a principal, ~~the county superintendent~~ or a
29 trustee of the district.

30 (b) A person listed in subsection (2)(a) who recommends dismissal of a teacher shall give notice

1 of the recommendation in writing to each trustee of the district and to the teacher.

2 (c) The notice must state the specific instances of behavior or acts that led to the recommendation
3 for dismissal.

4 (3) (a) Whenever the trustees of ~~any~~ a district receive a recommendation for dismissal, the trustees
5 shall notify the teacher of ~~his~~ the right to a hearing before the trustees, either by certified letter or by
6 personal notification for which a signed receipt must be returned. The teacher may in writing waive the
7 right to a hearing. Unless the teacher waives the right to a hearing, the teacher and trustees shall agree on
8 a hearing date not less than 5 days or more than 20 days from the notice of intent to recommend dismissal.

9 (b) The trustees shall conduct a hearing on the recommendation and resolve at the conclusion of
10 the hearing to dismiss the teacher or to reject the recommendation for dismissal.

11 (4) ~~With the exception of a county superintendent, a person who recommends dismissal pursuant~~
12 ~~to subsection (2) The trustees~~ may suspend the teacher from active performance of duty with pay pending
13 the hearing date if the teacher's behavior or acts that led to the recommendation for dismissal are contrary
14 to the welfare of the students or the effective operation of the school district.

15 (5) Any teacher who has been dismissed may in writing within 10 days appeal ~~such~~ the dismissal
16 to the ~~county superintendent~~ board of public education pursuant to [section 1]. ~~Following such appeal, a~~
17 ~~hearing must be scheduled within 10 days and held within 30 days after the appeal, except that the period~~
18 ~~may be extended upon agreement between the teacher and the trustees. If the county superintendent board~~
19 ~~of public education~~, after a hearing, determines that the dismissal by the trustees was made without good
20 cause, ~~he~~ it shall order the trustees to reinstate ~~such~~ the teacher and to compensate ~~such~~ the teacher at
21 ~~his~~ the contract amount for the time lost during the pending of the appeal."

22

23 **Section 27.** Section 20-4-208, MCA, is amended to read:

24 **"20-4-208. Transfer from administrative position.** (1) A tenure teacher serving in an administrative
25 position may be assigned to a teaching position with a reduction in salary when the economic conditions
26 of the district require a reduction of administrative staff. The salary for the new position must be the same
27 as the salary that the teacher would have received if the teacher had been continuously employed in the
28 new position rather than in the administrative position.

29 (2) If a board policy or a collective bargaining agreement provides seniority rights for teachers, a
30 district that assigns a tenure teacher serving in an administrative position to a teaching position shall

1 recognize for teacher seniority purposes the tenure teacher's time of service in the administrative position.

2 (3) As used in this section, the term:

3 (a) "administrative position" means a position that the trustees of a district designate as
4 administrative or supervisory in nature, not including the position of district superintendent; and

5 (b) "reduction of administrative staff" is limited to reductions necessary because of declining
6 enrollment or financial exigency.

7 (4) When a tenure teacher serving in an administrative position is to be transferred under this
8 section, the teacher must be notified prior to May 1 by certified letter or by personal notification for which
9 a signed receipt must be obtained. The notification must include:

10 (a) a statement of the reason or reasons for the reduction of administrative staff; and

11 (b) a printed copy of this section for the teacher's information.

12 (5) A tenure teacher who receives notice under subsection (4) may request in writing, within 10
13 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not
14 less than 10 days or more than 20 days from receipt of the request unless both parties agree to an
15 extension. If a hearing is requested, the trustees shall:

16 (a) conduct the hearing to determine whether the reason or reasons for the transfer were in
17 compliance with the provisions of subsection (1); and

18 (b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the
19 teacher to the administrative position.

20 (6) ~~A tenure teacher may appeal a decision under this section to the county superintendent as
21 provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason
22 or reasons for the transfer were in compliance with the provisions of subsection (1).~~

23 (7) ~~The teacher or the trustees may appeal the determination of the county superintendent board
24 of trustees to the superintendent of public instruction board of public education as provided in 20-3-107
25 [section 1].~~

26 (8)(7) A tenure teacher who is transferred to a teaching position under this section must be offered
27 the next comparable administrative position for which ~~he~~ the teacher is endorsed that becomes available
28 in the district."

29

30 Section 28. Section 20-4-301, MCA, is amended to read:

1 "20-4-301. **Duties of teacher -- nonpayment for failure to comply.** (1) Any A teacher under contract
2 with a district shall:

3 (a) conform to and enforce the laws, board of public education policies, and the policies of the
4 trustees of the district;

5 (b) utilize use the course of instruction prescribed by the trustees;

6 (c) keep, in a neat and businesslike manner, a teacher's register in the form and on the blanks
7 prescribed by the superintendent of public instruction;

8 (d) within 10 days after the conclusion of each school semester, prepare a report in the manner
9 and on the forms prescribed by the superintendent of public instruction, which must include the pupil
10 attendance and absence data from ~~his~~ the teacher's register that is necessary to calculate ANB. The report
11 must be submitted to:

12 (i) the district superintendent, if there is one; or

13 (ii) the principal of the school, if there is one and there is no district superintendent; or

14 (iii) ~~the county superintendent or all county superintendents when the teacher is reporting for a joint~~
15 ~~district, if there is no district superintendent or principal~~ a person under contract with the district to provide
16 administrative services;

17 (e) exercise ~~due~~ diligence in the care of school grounds and buildings, furniture, equipment, books,
18 and supplies; and

19 (f) provide moral and civic instruction by:

20 (i) endeavoring to impress the pupils with the principles of morality, truth, justice, and patriotism;
21 (ii) teaching the pupils to avoid idleness, profanity, and falsehood;
22 (iii) instructing the pupils in the principles of free government and training them to comprehend the
23 rights, responsibilities, and dignity of American citizenship.

24 (2) The trustees are authorized to withhold the salary warrant of any teacher who does not comply
25 with the provisions of subsection (1)(a) or (1)(b) until the teacher does comply with the provisions.

26 (3) The trustees may not pay any teacher ~~his~~ the teacher's last month's salary until ~~he~~ the teacher
27 has provided a complete and accurate semester report to the required person, as determined by the person
28 and as required in subsection (1)(d) of this section."

29

30 **Section 29.** Section 20-4-302, MCA, is amended to read:

1 **"20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty --**

2 **defense.** (1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly
3 conduct in school, on the way to or from school, or during intermission or recess.

4 (2) For the purposes of this section, "corporal punishment" means knowingly and purposely
5 inflicting physical pain on a pupil as a disciplinary measure.

6 (3) A person who is employed or engaged by a school district may not inflict or cause to be
7 inflicted corporal punishment on a pupil.

8 (4) (a) A person who is employed or engaged by a school district may use physical restraint,
9 defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

10 (i) quell a disturbance;

11 (ii) provide self-protection;

12 (iii) protect the pupil or others from physical injury;

13 (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within
14 control of the pupil;

15 (v) maintain the orderly conduct of a pupil, including but not limited to relocating a pupil in a
16 waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

17 (vi) protect property from serious harm.

18 (b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does
19 not constitute corporal punishment as long as the restraint is reasonable and necessary.

20 (5) A teacher in a district employing neither a district superintendent nor a principal at the school
21 ~~where in which~~ the teacher is assigned has the authority to suspend a pupil for good cause. When either
22 a district superintendent or a school principal is employed, only the superintendent or principal has the
23 authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify
24 the trustees ~~and the county superintendent~~ immediately of the action.

25 (6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district
26 superintendent, the principal, ~~or the trustees, or the county superintendent~~, whichever is applicable.

27 (7) If a person who is employed or engaged by a school district uses corporal punishment or more
28 physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon
29 conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or
30 more than \$500.

1 (8) A person named as a defendant in an action brought under this section may assert as an
2 affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied
3 by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary
4 must be determined by the trier of fact."

5

6 Section 30. Section 20-4-402, MCA, is amended to read:

7 "20-4-402. Duties of district superintendent or county high school principal. The district
8 superintendent or county high school principal is the executive officer of the trustees and, subject to the
9 direction and control of the trustees, he shall:

10 (1) have has general supervision of all schools of the district and the personnel employed by the
11 district:

12 (2) shall implement and administer the policies of the trustees of the district;

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

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

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

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

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

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

28

29 **Section 31.** Section 20-5-104, MCA, is amended to read:

30 "20-5-104. **Attendance officer.** In order to enforce the compulsory attendance provisions of this



1 title, each district shall must have at least one person serving as an attendance officer, according to the
2 following requirements:

3 (1) All districts of the first and, second, and third class shall employ and or appoint one or more
4 attendance officers;

5 ~~districts of the third class may employ and appoint an attendance officer or may appoint a~~
6 ~~constable or other peace officer as an attendance officer, or~~

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

9

10 **Section 32.** Section 20-5-109, MCA, is amended to read:

11 **"20-5-109. Nonpublic school requirements for compulsory enrollment exemption.** To qualify its
12 students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school shall:

13 (1) maintain records on pupil attendance and disease immunization and make the records available
14 on request to the county superintendent of schools on request county clerk and recorder of the county in
15 which the home school is located;

16 (2) provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301
17 and 20-1-302;

18 (3) be housed in a building that complies with applicable local health and safety regulations;

19 (4) provide an organized course of study that includes instruction in the subjects required of public
20 schools as a basic instructional program pursuant to 20-7-111; and

21 (5) in the case of home schools, notify the county superintendent of schools, of the county county
22 clerk and recorder of the county in which the home school is located, in each school fiscal year of the
23 student's attendance at the home school."

24

25 **Section 33.** Section 20-5-314, MCA, is amended to read:

26 **"20-5-314. Reciprocal attendance agreement with adjoining state or province.** (1) The
27 superintendent of public instruction may execute a reciprocal attendance agreement with the superintendent
28 of public instruction or a department of education of any state or province adjoining Montana to allow a
29 child who is a Montana resident to attend school in the adjoining state or province and a child of the
30 adjoining state or province to attend school in Montana. In negotiating a reciprocal attendance agreement,

1 the tuition rates prescribed by 20-5-323 are waived and the reciprocal tuition rate may be negotiated as
2 a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a
3 copy of any reciprocal attendance agreement that is executed to the ~~county superintendent board of~~
4 trustees of each county that may be affected by the agreement.

5 (2) An out-of-district attendance agreement approved under the provisions of 20-5-320 and
6 20-5-321 must be completed for a child's attendance at a school outside the state or for an out-of-state
7 child to attend a school in Montana."

8

9 **Section 34.** Section 20-5-316, MCA, is amended to read:

10 "20-5-316. **Out-of-state tuition.** (1) The county ~~superintendent of schools~~ treasurer of the county
11 of the district of residence shall make payments from the county basic tax for elementary schools for
12 children who are placed in facilities outside the state of Montana pursuant to 20-5-321 but not under the
13 provisions of Title 20, chapter 7, part 4.

14 (2) The county ~~superintendent of schools~~ treasurer of the county of residence shall make payments
15 from the county basic special tax for high schools as provided in 20-9-334 for children who are placed in
16 facilities outside the state of Montana as a result of a court order or placement by a state agency. This
17 provision does not apply to children with disabilities that are defined under the provisions of Title 20,
18 chapter 7, part 4."

19

20 **Section 35.** Section 20-5-321, MCA, is amended to read:

21 "20-5-321. **Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
22 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that
23 is outside of the child's district of residence or in a public school district of a state or province that is
24 adjacent to the county of the child's residence is mandatory whenever:

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

27 (i) the resident district does not provide transportation; or

28 (ii) the district of residence provides transportation and is not within the same county as the child's
29 school district of choice;

30 (b) the child resides in a location where, due to road or geographic conditions, it is impractical to

1 attend the school nearest the child's residence;

2 (c) the child is a member of a family that is required to send another child outside of the elementary

3 district to attend high school and the child of elementary age may more conveniently attend an elementary

4 school where the high school is located, provided that the child resides more than 3 miles from an

5 elementary school in the resident district or that the parent is required to move to the elementary district

6 where the high school is located to enroll another child in high school;

7 (d) the child has been adjudicated by a court of competent jurisdiction to be an abused, neglected,

8 or dependent child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as

9 defined in 41-5-103, and has been placed in a licensed youth care facility that is approved by the

10 department of family services and, as a result of the placement, is required to attend school outside of the

11 child's district of residence; or

12 (e) the child is required to attend school outside of the district of residence as the result of a

13 placement by a state agency or parent in a group home licensed by the state or an order of a court of

14 competent jurisdiction.

15 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have

16 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall

17 complete an out-of-district attendance agreement in consultation with an appropriate official of the district

18 the child will attend.

19 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for

20 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

21 (c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver

22 must be applied equally to all students.

23 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of

24 the district of choice shall approve the out-of-district attendance agreement ~~and notify the county~~

25 ~~superintendent of schools of the county of the child's residence of the approval of the agreement within~~

26 ~~10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).~~

27 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district

28 where the school to be attended is located may disapprove an out-of-district attendance agreement

29 whenever they find that, due to insufficient room and overcrowding, the accreditation of the school would

30 be adversely affected by the acceptance of the child."

1 **Section 36.** Section 20-5-322, MCA, is amended to read:

2 **"20-5-322. Residency determination -- notification -- appeal for attendance agreement.** (1) In
3 considering an out-of-district attendance agreement, the trustees shall determine the child's district of
4 residence on the basis of the provisions of 1-1-215.

5 (2) Within 10 days of the initial application for an agreement, the trustees of the district of choice
6 shall notify the parent or guardian of the child and the trustees of the district of residence involved in the
7 out-of-district attendance agreement of the anticipated date for approval or disapproval of the agreement.

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

11 (4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of
12 the district of residence shall approve or disapprove the agreement under the provisions of this part and
13 forward the completed agreement to ~~the county superintendent of schools of the county of residence~~, the
14 trustees of the district of choice, and the parent or guardian.

15 (5) If an out-of-district attendance agreement is disapproved or no action is taken, the parent may
16 appeal the disapproval or lack of action to the ~~county superintendent and, subsequently, to the~~ ~~superintendent of public instruction~~ board of public education under the provisions for the appeal of
17 controversies in this title."

19

20 **Section 37.** Section 20-5-324, MCA, is amended to read:

21 **"20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each
22 school fiscal year and before July 15, the trustees of a district shall report to the ~~county superintendent~~
23 treasurer:

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

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

28 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
29 20-5-323, and the tuition cost for each reported child; and

30 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident

1 students attending public schools out of state.

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

4 (3) Before July 30, the ~~county superintendent district~~ shall report the information in subsection
5 (1)(d) to the superintendent of public instruction, who shall determine the total ~~foundation per-student~~
6 ~~entitlement~~ amount for which the district would be eligible if the student were enrolled in the resident
7 district. The reimbursement amount is the difference between the actual amount paid and the amount
8 calculated in this subsection.

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

12 (5) Except as provided in subsection (6), when a child has approval to attend a school outside the
13 child's district of residence under the provisions of 20-5-320 or 20-5-321, the district of residence shall
14 finance the tuition amount from the district tuition fund and any transportation amount from the
15 transportation fund.

16 (6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and
17 transportation obligation for an elementary school child attending a school outside of the child's county of
18 residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for
19 the child's county of residence or for a high school child attending a school outside the county of residence
20 by the county basic tax for high school districts, as provided in 20-9-333, for the child's county of
21 residence.

22 (7) By December 31 of the school fiscal year, the county ~~superintendent treasurer~~ or the trustees
23 shall pay at least one-half of any tuition and transportation obligation established under this section out of
24 the money realized to date from the appropriate basic county tax account provided for in 20-9-334 or from
25 the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid
26 by June 15 of the school fiscal year. The payments must be made to the county treasurer in each county
27 with a school district that is entitled to tuition and transportation. Except as provided in subsection (9), the
28 county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition
29 payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county
30 treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a

1 transportation payment.

2 (8) The superintendent of public instruction shall reimburse the district of residence from the state
3 equalization account for the ~~foundation~~ amount determined in subsection (3).

4 (9) (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or
5 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be
6 deposited in the district miscellaneous programs fund and must be used for that year in the manner
7 provided for in 20-9-507 to support the costs of the program for which the tuition was received.

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

12

13 **Section 38.** Section 20-6-103, MCA, is amended to read:

14 **"20-6-103. Permanent record of district boundaries.** (1) The board of county commissioners shall
15 maintain a permanent record ~~which that~~ plainly and definitely describes the boundaries of each district
16 within the county. ~~The county superintendent shall keep a transcript of the record in his office and shall~~
17 ~~be responsible for keeping the record current.~~

18 (2) If ~~the county superintendent determines a board of trustees determines~~ that the boundaries of
19 any elementary district or high school district are in conflict or are incorrectly described, ~~he the trustees~~
20 shall ~~recommend boundary changes change, harmonize, and describe them accurately, and he shall make~~
21 ~~a report request of such that the recommended~~ boundary adjustments ~~to be made by~~ the board of county
22 commissioners. When the board of county commissioners approves a district boundary report submitted
23 by the ~~county superintendent trustees~~, ~~such the boundaries shall be are~~ the legal boundaries and description
24 of the district within the county. ~~Whenever district boundaries are clarified under this section, the county~~
25 ~~superintendent shall supply the trustees of the district with the legal descriptions of the boundaries of their~~
26 ~~district.~~"

27

28 **Section 39.** Section 20-6-201, MCA, is amended to read:

29 **"20-6-201. Elementary district classification.** (1) Each elementary district shall have a classification
30 of:

6 (4) Each district, individually, shall call and conduct an election in the manner prescribed in this title
7 for school elections. In addition:

11 (b) if the districts to be consolidated are not to mutually assume the bonded indebtedness of each
12 district involved in the consolidation, the consolidation election must also ~~shall~~ follow the procedures
13 prescribed in 20-6-207.

14 (5) After the ~~county superintendent~~ board of county commissioners has received the election
15 certification under the provisions of 20-20-416 from the trustees of each district included in a consolidation
16 proposition, ~~he~~ the board of county commissioners shall determine ~~if~~ whether the consolidation proposition
17 has been approved in each district. If each district has approved the consolidation proposition, ~~he~~ the board
18 of county commissioners shall, within 10 days after the receipt of the last election certificate, order the
19 consolidation of ~~such~~ the districts. If it ~~be~~ is for consolidation with the mutual assumption of bonded
20 indebtedness of each elementary district by all districts included in the consolidation order, ~~such~~ the order
21 ~~shall~~ must specify that all the taxable real and personal property of the consolidated district ~~shall~~ must
22 assume the bonded indebtedness of each district. In addition, ~~such~~ order ~~shall~~ the order must specify the
23 number of the consolidated elementary district and ~~shall~~ must contain the ~~county superintendent's~~
24 appointment of the trustees for the consolidated district who shall serve until ~~a~~ successor ~~is~~ successors are
25 elected at the next succeeding regular school election and qualified. The ~~superintendent~~ board of county
26 commissioners shall send a copy of ~~such~~ the order to ~~the board of county commissioners and to the~~
27 trustees of each district incorporated in the consolidation order.

28 (6) If any district included in the consolidation proposition disapproves the consolidation
29 proposition, the consolidation of all districts ~~shall fail~~ fails and the ~~county superintendent~~ board of county
30 ~~commissioners~~ shall notify each district of the disapproval of the consolidation proposition."

1 **Section 41.** Section 20-6-205, MCA, is amended to read:

2 **"20-6-205. Elementary district annexation.** An elementary district may be annexed to another
3 elementary district located in the same county when one of the conditions of 20-6-204 is met in accordance
4 with the following procedure:

5 (1) At the time the annexation proposition is first considered, the districts involved shall jointly
6 determine whether the annexation shall is to be made with or without the joint assumption of the bonded
7 indebtedness of the annexing district by the district to be annexed and the annexing district.

8 (2) An annexation proposition may be introduced in the district to be annexed by either of the two
9 following methods:

10 (a) the trustees may pass a resolution requesting the ~~county superintendent~~ board of county
11 commissioners to order an election to consider an annexation proposition for their district; or

12 (b) not less than 20% of the electors of the district who are qualified to vote under the provisions
13 of 20-20-301 may petition the ~~county superintendent~~ board of county commissioners requesting an election
14 to consider an annexation proposition for their district.

15 (3) Before ordering an election on the proposition, the ~~county superintendent~~ shall board of county
16 commissioners must first receive from the trustees of the annexing district a resolution giving ~~him~~ the board
17 the authority to annex such the district.

18 (4) When the ~~county superintendent~~ has board of county commissioners has received authorization
19 from the annexing district, ~~he~~ the board shall, within 10 days after the receipt of the resolution or a valid
20 petition from the district to be annexed and as provided by 20-20-201, order the trustees of the district to
21 be annexed to call an annexation election.

22 (5) The district shall call and conduct an election in the manner prescribed in this title for school
23 elections. In addition:

24 (a) if the district to be annexed is to jointly assume with the annexing district the bonded
25 indebtedness of the annexing district, the annexation election shall must also follow the procedures
26 prescribed in 20-6-206; or

27 (b) if the district to be annexed is not to jointly assume with the annexing district the bonded
28 indebtedness of the annexing district, the annexation election shall must also follow the procedures
29 prescribed in 20-6-207.

30 (6) After the ~~county superintendent~~ has board of county commissioners has received the election

1 certificate from the trustees of the district conducting the annexation election under the provisions of
2 20-20-416 and if the annexation proposition has been approved by ~~such~~ the election, ~~the~~ the board shall
3 order the annexation of the territory of the elementary district voting on ~~such~~ the proposition to the
4 elementary district that has authorized the annexation to its territory. ~~Such~~ The order ~~shall~~ must be issued
5 within 10 days after the receipt of the election certificate and, if it ~~be~~ is for annexation with the assumption
6 of bonded indebtedness, ~~shall~~ must specify that all of the taxable real and personal property of the annexed
7 territory ~~shall~~ must jointly assume with the annexing district the existing bonded indebtedness of the
8 annexing district. The ~~county superintendent~~ board shall send a copy of the order to ~~the board of county~~
9 ~~commissioners and to~~ the trustees of the districts involved in the annexation order.

10 (7) If the annexation proposition is disapproved in the district to be annexed, it ~~shall fail~~ fails, and
11 the ~~county superintendent~~ board of county commissioners shall notify each district of the disapproval of
12 the annexation proposition."

13

14 **Section 42.** Section 20-6-208, MCA, is amended to read:

15 **"20-6-208. District consolidation of two or more counties to organize joint elementary district.** Any
16 two or more elementary districts located in more than one county and whose territory is contiguous may
17 consolidate to organize a joint elementary district. When a joint district consolidation proposition is to be
18 introduced and considered in two or more districts, the consolidation procedure for elementary district
19 consolidation without the assumption of bonded indebtedness prescribed in 20-6-203 and 20-6-207 ~~shall~~
20 must be used, except that each district shall submit its resolution or petition and its election certificate to
21 the ~~county superintendent~~ board of county commissioners of its resident county, and the several ~~county~~
22 ~~superintendents~~ boards of county commissioners shall jointly perform the duties prescribed for the ~~county~~
23 ~~superintendent~~ board of county commissioners in 20-6-203."

24

25 **Section 43.** Section 20-6-209, MCA, is amended to read:

26 **"20-6-209. Elementary district abandonment.** (1) The ~~county superintendent~~ board of trustees shall
27 declare an elementary district to be abandoned and order the attachment of the territory of ~~such~~ the district
28 to a contiguous district, as determined by the board of county commissioners, of the county when:

29 (a) a school has not been operated by a district for at least 180 days under the provisions of
30 20-1-301 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the

1 ~~county superintendent~~ or the superintendent of public instruction under the provisions of 20-9-804; or
2 (b) there is an insufficient number of residents who are qualified electors of the district that can
3 and will serve as the trustees and clerk of the district so that a legal board of trustees can be organized.
4 (2) ~~The county superintendent shall notify the elementary district that has not operated~~ Failure to
5 operate a school for 2 consecutive years before the first day of the third year that ~~the~~ or failure to operate
6 a school for 180 days or a lesser number of days than approved by ~~the county superintendent~~ or the
7 superintendent of public instruction, as provided under the provisions of 20-9-804, during the ensuing
8 school fiscal year ~~shall constitute~~ constitutes grounds for abandonment of ~~such~~ the district at the
9 conclusion of the succeeding school fiscal year. ~~Failure by the county superintendent to provide such~~
10 ~~notification shall not constitute a waiver of the abandonment requirement prescribed in subsection (1)(a)~~
11 ~~above.~~

12 (3) ~~Any~~ An abandonment under subsection (1)(a) ~~shall become~~ becomes effective on July 1. ~~Any~~
13 An abandonment of an elementary district under subsection (1)(b) ~~shall become~~ becomes effective
14 immediately on the date of the abandonment order."

15

16 **Section 44.** Section 20-6-210, MCA, is amended to read:

17 **"20-6-210. Joint elementary district abandonment.** (1) ~~Any~~ A joint elementary district ~~shall~~ must
18 be abandoned for the reasons prescribed in 20-6-209 or when the taxable value of the taxable property of
19 the portion of the joint district that is located within any one of the counties is of so little value that the
20 continued inclusion of ~~such~~ the portion in the joint district is not justified. The boards of trustees designated
21 by 20-9-151 for school budgeting purposes ~~shall be~~ are responsible for ordering the abandonment of the
22 joint district and shall immediately send a copy of ~~such~~ the order to the ~~county superintendent~~ board of
23 county commissioners of each county with territory in the joint district.

24 (2) After the issuance or receipt of the abandonment order, each ~~county superintendent~~ board of
25 county commissioners shall attach the territory within ~~his~~ its county to a contiguous elementary district
26 within ~~his~~ its county; except when the district is abandoned because of the lack of taxable property in one
27 county's territory of the district and a school is operated in another county's territory of the district, which
28 territory has a taxable value of \$75,000 or more, the ~~county superintendent~~ board of county commissioners
29 of the county where ~~such~~ the territory is located ~~shall~~ may not attach it to another district. ~~Such~~ The
30 territory ~~shall~~ must continue to operate as an elementary district within the county.

(3) Any abandonment of a joint elementary district shall become effective on the date of the abandonment order, except that district abandonments under the provisions of 20-6-209(1)(a) shall become effective on July 1."

5 **Section 45.** Section 20-6-211, MCA, is amended to read:

6 **"20-6-211. Joint elementary district dissolution.** (1) Any joint elementary district may be dissolved.
7 A proposition to dissolve a joint elementary district ~~shall~~ must be introduced by a petition signed by a
8 majority of the electors, qualified under the provisions of 20-20-301, who reside in the territory of the joint
9 district that is located within one county. ~~Such~~ The petition ~~shall~~ must be addressed and presented to the
10 county superintendent board of county commissioners of the county of residence of the petitioners.

23 (3) After the receipt of the election certificates, the ~~county superintendents~~ boards of county
24 commissioners shall jointly determine the result of ~~such the~~ the election on the following basis:

25 (a) if a majority of all the joint district electors voting at each election conducted in the joint district
26 are in favor of the dissolution of the joint district, the dissolution of the joint elementary district ~~shall~~ must
27 be approved;

28 (b) if two-thirds of the electors voting at one of the elections conducted in a county's portion of
29 the joint district vote in favor of the joint district dissolution, the dissolution of that portion of ~~such~~ the joint
30 district may be approved if all the ~~county superintendents~~ boards of county commissioners involved in such



1 the dissolution proposition agree that such the dissolution will not place an undue hardship on any other
2 county's portion of the joint district and there is no good and sufficient reason why such the dissolution
3 should not be made; or

4 (c) if the conditions of either subsection (3)(a) or (3)(b) cannot be satisfied, the dissolution of the
5 joint district ~~shall~~ must be disapproved.

6 (4) The ~~county superintendents~~ boards of county commissioners shall jointly order the joint
7 elementary district dissolution if the proposition is approved and, whether it has been approved or
8 disapproved, shall jointly notify the joint district of the result. The dissolution of a joint district ~~shall become~~
9 becomes effective on the first day of the ensuing school fiscal year.

10 (5) When the dissolution of a joint elementary district has been approved and ordered under
11 subsection (3)(a) ~~above~~, the ~~county superintendent~~ board of county commissioners of each county shall
12 individually order the attachment of the territory of the dissolved joint elementary district within ~~his~~ each
13 county to a contiguous elementary district within ~~his~~ its county, except when a school is operated in ~~such~~
14 that territory, in which case the territory ~~shall~~ must operate as a separate elementary district of the county.

15 (6) When the dissolution of a joint elementary district has been approved and ordered under the
16 provisions of subsection (3)(b) ~~above~~, the ~~county superintendent~~ board of county commissioners of the
17 county where the dissolved portion of the joint elementary district is located shall attach ~~such the~~ territory
18 to a contiguous elementary district within ~~his~~ its county.

19 (7) In the event that a dissolution proposition is disapproved, ~~no~~ a subsequent joint elementary
20 district dissolution election ~~shall~~ may not be held within 3 years ~~thereafter~~ after disapproval."

21

22 **Section 46.** Section 20-6-213, MCA, is amended to read:

23 "**20-6-213. Transfer of territory from one elementary district to another.** (1) A majority of the
24 registered electors of an elementary district who reside in territory that is a part of an elementary district
25 may petition the ~~county superintendent~~ board of county commissioners to transfer the territory in which
26 they reside to another elementary district if:

27 (a) the territory to be transferred is contiguous to the district to which it is to be attached;
28 (b) the territory to be transferred is not located within 3 miles, over the shortest practical route,
29 of an operating school of the district from which it is to be detached;
30 (c) the transfer of the territory will not reduce the taxable value of the district to less than

1 \$100,000, unless the remaining territory of the district will contain not less than 50,000 acres of
2 nontaxable Indian land;

3 (d) the board of trustees of the school district that would receive the territory has approved in
4 writing the transfer; and

5 (e) the territory proposed to be transferred to another elementary district has not been included in
6 a petition filed under this section in the previous 3 years.

7 (2) The petition must be addressed to the ~~county superintendent~~ board of county commissioners
8 and must:

9 (a) provide a legal description of the territory that is requested to be transferred and a description
10 of the elementary district to which it is to be transferred;

11 (b) state the reasons why the transfer is requested;

12 (c) state the number of elementary school-age children residing in the territory; and

13 (d) be accompanied by a \$50 nonrefundable filing fee.

14 (3) A petition that meets the criteria specified in subsection (1) and that contains all of the
15 information required by subsection (2) is considered a valid petition. On receipt of a valid petition for a
16 territory transfer, the ~~county superintendent~~ board of county commissioners shall:

17 (a) file the petition;

18 (b) set a hearing place, date, and time for consideration of the petition that is not more than 40
19 days after receipt of the petition; and

20 (c) give notice of the place, date, and time of the hearing. The notices must be posted in the
21 districts affected by the petition for the transfer of territory in the manner prescribed in this title for school
22 elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered
23 to the board of trustees of the school district from which the territory is to be transferred.

24 (4) The ~~county superintendent~~ board of county commissioners shall conduct the hearing as
25 scheduled in accordance with the ~~rules of~~ procedure adopted by the ~~superintendent of public instruction~~
26 board of public education, pursuant to ~~20-3-107(3)~~ [section 1], and any resident, taxpayer, or
27 representative of the affected districts must, upon request, be heard.

28 (5) Within 30 days after the hearing, the ~~county superintendent~~ board of county commissioners
29 shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact,
30 conclusions of law, and an order. The ~~county superintendent~~ board shall grant or deny the requested

1 transfer of territory. The decision must be based on the effects that the transfer would have on those
2 residing in the territory proposed for transfer as well as those residing in the remaining territory of the
3 elementary district.

4 (6) The decision of the ~~county superintendent~~ board of county commissioners is final 30 days after
5 its date unless it is appealed to the board of ~~county commissioners~~ public education, pursuant to [section
6 11, by a resident, taxpayer, or representative of the elementary districts affected by the territory transfer.

7 (7) The decision of the board of ~~county commissioners~~ public education, after a hearing on the
8 matter and consideration of the record from the ~~county superintendent's~~ board of county commissioners'
9 hearing, is final 30 days after its date unless prior to that time, it has been contested through the filing of
10 a valid petition to submit the question to a vote of the people in the elementary district from which the land
11 is to be transferred. In order for a petition to be valid, the petition must be signed by 20% of the electors
12 of the elementary district who are qualified to vote in elections for that district under 20-20-301. When a
13 valid petition is submitted under this subsection, the question of whether the territory must be transferred
14 to another district must be put before the voters at the next regular school election in the affected
15 elementary district. The results of the vote must be the final decision on the petition for transfer of territory.

16 (8) Whenever a petition to transfer territory from one elementary district to another elementary
17 district creates a joint elementary district or affects the boundary of an existing joint elementary district,
18 the petition to transfer territory must be presented to the ~~county superintendent~~ board of county
19 commissioners of the county where the territory is located. The ~~county superintendent~~ board of county
20 commissioners shall notify any other ~~county superintendents~~ boards of county commissioners of counties
21 with elementary districts affected by the petition, and the duties prescribed in this section for ~~the county~~
22 ~~superintendent~~ and the board of county commissioners must be performed jointly by the county officials."

23
24 **Section 47.** Section 20-6-214, MCA, is amended to read:

25 **"20-6-214. Boundary adjustments in elementary school districts.** The trustees of an elementary
26 school district may, by resolution, request a change in the boundaries between their district and an adjacent
27 district. The resolution ~~shall~~ must be addressed to the ~~county superintendent of schools who~~ board of
28 county commissioners, which, upon receiving ~~such~~ a resolution, shall proceed as set forth in 20-6-213."

29

30 **Section 48.** Section 20-6-215, MCA, is amended to read:

1 "20-6-215. **Review of boundaries by ~~county superintendent~~ school district trustees.** A ~~county~~
2 ~~superintendent of schools~~ The trustees of a school district shall, at least once every 3 years, review the
3 existing elementary school district ~~boundaries in the county~~ boundary. This review and any recommended
4 boundary changes ~~shall~~ must be presented by the ~~superintendent~~ board of trustees at a hearing conducted
5 by the board of county commissioners under 20-6-213. If the ~~superintendent~~ board of county
6 commissioners orders a boundary change after the hearing, ~~he~~ it shall forward copies of ~~his~~ its review and
7 the testimony at the hearing to ~~the board of county commissioners~~ and the state superintendent of public
8 instruction."

9

10 **Section 49.** Section 20-6-217, MCA, is amended to read:

11 **"20-6-217. Procedure for creation of new elementary district.** (1) The petition requesting the
12 creation of a new elementary district out of the territory of an elementary district or districts ~~shall~~ must be
13 addressed to the ~~county superintendent~~ board of county commissioners and ~~shall~~ must:

14 (a) describe the territory that is requested to be incorporated in the new district and the taxable
15 value of ~~such~~ the territory as shown by the ~~last completed~~ last-completed assessment roll;

16 (b) state the reasons why the creation of a new district is requested, in accordance with the
17 provisions of 20-6-216(5); and

18 (c) be signed by the parents or guardians of not less than 10 children between the ages of 6 and
19 16 years who reside in the territory that would be included in the new district and who reside more than
20 3 miles over the shortest practical route from an operating school.

21 (2) When a ~~county superintendent~~ receives board of county commissioners receives a valid petition
22 requesting the creation of a new district, ~~he~~ it shall:

23 (a) file ~~such~~ the petition;

24 (b) set a hearing place, date, and time for consideration of ~~such~~ the petition that is not more than
25 40 days after the receipt of the petition; and

26 (c) give notice of the place, date, and time of the hearing. The notices ~~shall~~ must be posted in the
27 districts affected by the request in the manner prescribed in this title for school elections, with at least one
28 ~~such~~ notice posted in the territory to be included in the new district.

29 (3) The ~~county superintendent~~ board of county commissioners shall conduct the hearing as
30 scheduled unless before or at the time of the hearing, ~~he~~ the board receives a protest petition signed by



1 a majority of the electors of the proposed new district who are qualified to vote under the provisions of
2 20-20-301. A valid protest petition ~~shall~~ conclusively ~~deny~~ denies the creation of a new district. If a hearing
3 is conducted, any resident or taxpayer of the affected districts ~~shall~~ must be heard. If the ~~county~~
4 ~~superintendent considers~~ board considers it advisable and in the best interests of the residents of the
5 proposed new district and the residents of the remaining district, ~~he~~ it shall grant the petitioned request and
6 order the creation of a new elementary district with its boundaries coinciding with the boundaries defined
7 in the petition. Otherwise, ~~he~~ it shall, by order, deny the request. In the order creating the new district, the
8 ~~county superintendent~~ board shall establish the effective date for ~~its~~ the district's creation and the
9 procedures for effecting an orderly transition.

10 (4) Either of the ~~county superintendent's~~ board of county commissioners' orders may be appealed
11 to the board of ~~county commissioners~~ within 30 days after the date of such order. Such appeal shall be in
12 ~~writing, signed by not less than three resident taxpayers, and shall state sufficient facts to show the~~
13 ~~appellants' right to appeal the order. The board of county commissioners shall call a hearing of such appeal~~
14 ~~for the first regular meeting of the commission that will allow notice of the hearing to be given in~~
15 ~~accordance with the requirements for notice of school elections. After considering the material presented~~
16 ~~at the county superintendent's hearing and such other material as is presented at its hearing, the board of~~
17 ~~county commissioners shall render a decision on the creation of such new elementary district. Such decision~~
18 ~~shall be final of public education pursuant to [section 1].~~

19 (5) When a new elementary district is created, the ~~county superintendent~~ board of county
20 commissioners shall appoint the trustees of the new district, giving preference in ~~his~~ its selections to any
21 trustees who were trustees of an old district and who reside in the new district. Any trustee position
22 vacancies that may occur in the other districts ~~shall~~ must be filled in the manner provided for filling trustee
23 position vacancies for ~~such~~ the district. ~~Any~~ A trustee appointed under the provisions of this section shall
24 serve until a successor is elected at the next regular school election and qualified.

25 (6) The order of the ~~county superintendent~~ or, if ~~his~~ order is appealed, the decision of the board
26 of county commissioners creating a new district under this section ~~shall be~~ is null and void, and the new
27 district ~~shall cease~~ ceases to exist, if ~~such~~ the district does not open and operate a school within 2 years
28 after the date of ~~such~~ the order or decision. If the new district does not satisfy this requirement, the
29 territory ~~shall~~ must be reincorporated in the district or districts in which it was located before the creation
30 of ~~such~~ the new district and the trustees ~~shall thereafter be~~ are without capacity to act.

(7) If a petition has been filed under the provisions of this section and denied by the ~~county~~
~~superintendent~~ board of county commissioners, ~~no~~ a new petition may not be filed until 1 year after the
final decision on the original petition."

5 Section 50. Section 30.6.301, MCA, is amended to read:

6 "20-6-301. **High school district classification.** The classification of a high school district ~~shall be~~
7 is the same as the classification of the elementary district under (20-6-201) where in which district the high
8 school building is located. Whenever the classification of ~~such the~~ elementary district is changed, the
9 classification of a high school district ~~shall~~ must be changed accordingly and the ~~county superintendent~~
10 board of county commissioners shall adjust the number of additional high school district trustee positions
11 in accordance with the method prescribed in 20-3-354 for the determination of the number of additional
12 trustee positions required for a high school district. An increased number of trustee positions ~~shall~~ must
13 be filled by the appointment of the ~~county superintendent~~ board, and ~~such the~~ positions ~~shall be~~ are subject
14 to election at the next regular trustee election. When the number of positions is decreased, the next
15 additional high school trustee positions that become vacant under any circumstances ~~shall~~ may not be filled
16 until the number of trustee positions has been reduced to the number required by law."

18 **Section 51.** Section 20-6-303, MCA, is amended to read:

19 **"20-6-303. Establishment of high school districts in a county.** The trustees of a high school district
20 located in a county ~~which that~~ has not been divided into high school districts or become a high school
21 district by county high school unification may request the division of the county into a high school district
22 or districts. The request ~~shall~~ must be sent to the ~~county superintendent~~ board of county commissioners."

24 **Section 52.** Section 20-6-304, MCA, is amended to read:

25 "20-6-304. High school boundary commission -- procedure for division of county into high school
26 districts. (1) Each county of the state of Montana ~~shall~~ must have a high school boundary commission
27 consisting of the board of county commissioners ~~and the county superintendent~~. Whenever a county
28 ~~superintendent~~ the board receives a resolution from the trustees of any high school district requesting the
29 commission to divide the county into high school districts, ~~he~~ the board shall immediately notify the high
30 school boundary commission. ~~Such~~ The commission shall set a time, date, and place for a public hearing

1 on the request. The hearing ~~shall~~ must be set for a date within 60 days after the receipt of the request, and
2 any interested person may appear and be heard on ~~such~~ the request. The ~~county superintendent board~~ shall
3 send a written notice of the public hearing on a requested division to the trustees of each elementary
4 district of the county ~~which that~~ has territory that would be affected by the change. The ~~county~~
5 ~~superintendent board~~ shall also give notice of ~~such~~ the public hearing in accordance with the requirement
6 for school election notices prescribed by school election provisions of this title. The certificate of the ~~county~~
7 ~~superintendent board~~ filed with the high school boundary commission reciting that ~~such~~ the notice
8 requirements have been satisfied ~~shall be~~ is conclusive.

9 (2) In considering a request to divide the county into high school districts, the high school boundary
10 commission shall give primary consideration to the convenience of the high school pupils of the territory
11 under consideration. ~~Such~~ The commission also shall consider the grouping of elementary districts to be
12 encompassed by a high school district or districts and shall group contiguous elementary districts within
13 a high school district unless obstacles of travel, such as mountains, rivers, impractical routes of travel, or
14 distance, make ~~such~~ the grouping impractical. After the hearing, the high school boundary commission shall
15 order the division of the county into high school districts whenever requested under the provisions of
16 20-6-303. The commission's discretion ~~shall extend~~ extends only to the establishing of boundaries for the
17 newly created high school district or districts."

18

19 **Section 53.** Section 20-6-307, MCA, is amended to read:

20 **"20-6-307. High school district abandonment.** Within 6 months after a high school district fails to
21 operate an accredited high school within its boundaries for a period of 1 year, the ~~county superintendent~~
22 ~~board of county commissioners~~ shall order the high school district abandoned. At least 20 days before
23 issuing an abandonment order, the ~~county superintendent board~~ shall notify the trustees of the high school
24 district of the impending abandonment. When the order is issued, the ~~county superintendent board~~ shall
25 also order the attachment of the territory of each elementary district of the abandoned high school district
26 to another high school district or districts of the county."

27

28 **Section 54.** Section 20-6-309, MCA, is amended to read:

29 **"20-6-309. Procedure for organization of joint high school district.** The high school district
30 boundary changes permitted under 20-6-308 ~~shall~~ must be made according to the following procedure:

1 (1) A majority of the electors of a joint elementary district who are qualified to vote under the
2 provisions of 20-20-301 and who reside in a county where the elementary school is not located may
3 petition the ~~county superintendent~~ board of county commissioners of their resident county to transfer the
4 territory of the joint elementary district where they reside to establish a joint high school district. ~~Such~~ The
5 petition also ~~shall~~ must state the reasons for requesting ~~such~~ a boundary change and the number of high
6 school pupils residing in the territory.

7 (2) When the ~~county superintendent~~ board of county commissioners receives a valid petition
8 requesting the establishment of a joint high school district, ~~he~~ the board shall set a time, date, and place
9 for a public hearing on the request, which date is not more than 40 days after the receipt of the petition.
10 ~~He~~ The board shall give notice of ~~such~~ the hearing in accordance with the election requirements for school
11 election notices prescribed by school election provisions of this title. The ~~county superintendent~~ board shall
12 also notify the ~~county superintendent~~ board of the county where the high school is located and the trustees
13 of the high school district.

14 (3) The ~~county superintendent~~ board of county commissioners shall hear the request to change the
15 high school district boundaries at the place, time, and date set for the hearing, and any interested person
16 may appear and be heard on the request. If the ~~county superintendent~~ deems board considers it advisable
17 and in the best interests of the residents of the territory to be transferred, ~~he~~ the board shall grant the
18 petitioned request and order the change of high school boundaries to establish a joint high school district.
19 Otherwise, ~~he~~ the board shall, by order, deny the request.

20 (4) If the ~~county superintendent~~ board of county commissioners orders the establishment of a joint
21 high school district, ~~he~~ it shall immediately send the order to the ~~county superintendent~~ board of county
22 commissioners of the county where the high school is located. If the ~~county superintendent~~ board of such
23 that county approves the order, ~~he~~ then that board shall send ~~such~~ the order to the trustees of the high
24 school district. If the trustees approve the order, the boundary change ~~shall become~~ becomes effective.
25 Without the approval of ~~such~~ county superintendent the board of county commissioners and trustees, the
26 boundary change ~~shall fail~~ fails.

27 (5) At any time within 30 days after the date of the ~~county superintendent's~~ board of county
28 commissioners' order to grant or deny the request to establish a joint high school district pursuant to
29 subsection (3), an appeal may be made to the board of county commissioners of the county in which the
30 petition originated. The board of county commissioners of the originating county shall conduct a hearing

1 for the appeal, and ~~their~~ its decision ~~shall be~~ is final, subject to the approvals required by subsection (4)."

2

3 **Section 55.** Section 20-6-312, MCA, is amended to read:

4 **"20-6-312. County high school unification.** (1) ~~Any~~ A county high school may be unified with the
5 elementary district where the county high school building is located to establish a unified school system
6 under a unified board of trustees. If the county has not been divided into high school districts, a high school
7 district with boundaries coterminous with the county boundaries ~~shall~~ must be created, except that ~~such~~
8 ~~the~~ high school district ~~shall~~ may not include the territory of any existing joint high school district located
9 in the county. The territory of an existing joint high school district ~~shall~~ must remain a part of ~~such~~ the joint
10 high school district. The creation of high school districts under this provision ~~shall~~ must be in lieu of the
11 high school district division provisions of 20-6-303.

12 (2) A proposition to unify a county high school with the elementary district where the county high
13 school building is located ~~shall~~ must be introduced whenever:

14 (a) the trustees of the county high school and the trustees of the elementary district individually
15 pass resolutions requesting the ~~county superintendent~~ board of county commissioners to order an election
16 to consider a unification proposition; or

17 (b) not less than 20% of the electors of the county or, if the county has been divided into high
18 school districts, the electors of the high school district where the county high school is located, and who
19 are qualified to vote under the provisions of 20-20-301, petition the ~~county superintendent~~ board of county
20 commissioners to order an election to consider a unification proposition.

21 (3) When the ~~county superintendent has~~ board of county commissioners has received the trustees'
22 resolutions or a valid petition, ~~he~~ the board shall, within 10 days after the receipt of the last resolution or
23 petition and under the provisions of 20-20-201, order the county high school to call an election to consider
24 a unification proposition. The trustees of the county high school shall call and conduct an election in the
25 manner prescribed in this title for school elections. An elector who may vote on the unification proposition
26 ~~shall~~ must be qualified to vote under the provisions of 20-20-301. The ballot for a county high school
27 unification proposition ~~shall~~ must be substantially in the following form:

28 "OFFICIAL BALLOT COUNTY HIGH SCHOOL UNIFICATION ELECTION

29 Shall County High School be unified with District No., County to establish a unified
30 school system under a unified board of trustees?

1 FOR the unification of the county high school.

2 AGAINST the unification of the county high school."

3 (4) When the ~~county superintendent~~ board of county commissioners receives the election certificate
4 from the trustees of the county high school, ~~he~~ it shall issue an order declaring the unification of the county
5 high school with the elementary district identified on the ballot as of the next succeeding July 1, if a
6 majority of those electors voting at ~~such~~ the election have voted for the unification proposition.

7 (5) If a majority of those electors voting at the election have voted against the unification
8 proposition, ~~he~~ the board of county commissioners shall order the disapproval of the unification
9 proposition."

10

11 **Section 56.** Section 20-6-313, MCA, is amended to read:

12 **"20-6-313. Transactions after approved county high school unification.** (1) Whenever a county high
13 school is unified with the elementary district where the county high school building is located, the following
14 transactions ~~shall~~ must be completed on or before the July 1 when the unification becomes effective:

15 (a) The high school boundary commission, without the approval of the superintendent of public
16 instruction, shall order the creation of a high school district if the county has not already been divided into
17 high school districts.

18 (b) The county high school trustees, who ~~shall~~ will not have the capacity to govern the high school
19 district upon unification, shall surrender all minutes, documents, and other records of the county high
20 school to the trustees of the high school district.

21 (c) The ~~county superintendent~~ board of county commissioners shall order the establishment of
22 additional high school trustee nominating areas in the manner prescribed in 20-3-352 and 20-3-353, if
23 requested to do so by a majority of the outlying elementary districts located in the high school district.
24 When the ~~county superintendent~~ board establishes ~~such~~ the areas, ~~he~~ it shall appoint additional high school
25 district trustees from each area who shall hold office until a successor is elected at the next regular school
26 election and qualified.

27 (d) The county treasurer, after allowing for any outstanding or registered warrants, shall transfer
28 all end-of-the-year fund cash balances of the county high school to similar funds established for the high
29 school district. All previous years' taxes levied and collected for the county high school ~~shall~~ must be
30 credited to the appropriate fund of the high school district.

5 (2) All county high school bonds outstanding at the time of unification ~~shall~~ must remain the
6 obligation of the county or that portion of the county against which the bonds were originally issued. The
7 high school district ~~shall be~~ is responsible for the maintenance of the debt service fund for ~~such~~ the bonds.
8 It ~~shall be~~ is the duty of the board of county commissioners and the trustees of the high school district to
9 perform the duties prescribed in the school budgeting and bond redemption provisions of this title for the
10 redemption and interest payments of the county high school bonds in the same manner and by the same
11 means as though the county high school had not been unified."

12

13 **Section 57.** Section 20-6-315, MCA, is amended to read:

14 **"20-6-315. District consolidation.** Any two or more high school districts in one county may
15 consolidate to organize a high school district. The consolidation must be conducted under the following
16 procedure:

17 (1) At the time that the consolidation proposition is first considered, the districts involved shall
18 jointly determine whether the consolidation is to be made with or without the mutual assumption of the
19 bonded indebtedness of each district by all districts included in the consolidation proposition.

20 (2) A consolidation proposition may be introduced, individually, in each of the districts by either
21 of the following methods:

22 (a) the trustees may pass a resolution requesting the ~~county superintendent~~ board of county
23 commissioners to order an election to consider a consolidation proposition involving their district; or

24 (b) not less than 20% of the electors of a high school district who are qualified to vote under the
25 provisions of 20-20-301 may petition the ~~county superintendent~~ board of county commissioners, requesting
26 an election to consider a consolidation proposition involving their district.

27 (3) When the ~~county superintendent~~ board of county commissioners receives a resolution or a valid
28 petition from each of the districts included in the consolidation proposition, ~~he~~ it shall, within 10 days after
29 the receipt of the last resolution or petition and as provided by 20-20-201, order the trustees of each high
30 school district included in the consolidation proposition to call a consolidation election.



(4) (a) Each district, individually, shall call and conduct an election in the manner prescribed in this title for school elections.

3 (b) In addition:

4 (i) if the districts to be consolidated are to mutually assume the bonded indebtedness of each
5 district involved in the consolidation, the consolidation election must also follow the procedures prescribed
6 in 20-6-318; or

7 (ii) if the districts to be consolidated are not to mutually assume the bonded indebtedness of each
8 district involved in the consolidation, the consolidation election must also follow the procedures prescribed
9 in 20-6-207.

10 (5) After the ~~county superintendent~~ board of county commissioners receives the election certificate
11 provided for in 20-20-416 from the trustees of each district included in a consolidation proposition, ~~he~~ it
12 shall determine if the consolidation proposition has been approved in each district. If each district has
13 approved the consolidation proposition, ~~he~~ the board shall, within 10 days after the receipt of the election
14 certificate, order the consolidation of ~~such~~ the districts. If the order is for consolidation with the mutual
15 assumption of bonded indebtedness of each high school district by all districts included in the consolidation
16 order, the order ~~shall~~ must specify that all taxable real and personal property of the consolidated district
17 ~~shall~~ must assume the bonded indebtedness of each district. In addition, the order ~~shall~~ must specify the
18 number of the consolidated high school district. The ~~superintendent~~ board shall send a copy of the order
19 to ~~the board of county commissioners and to~~ the trustees of each district incorporated in the consolidation
20 order.

21 (6) If any district included in the consolidation proposition disapproves the consolidation
22 proposition, the consolidation of all districts fails and the ~~county superintendent board of county~~
23 commissioners shall notify each district of the disapproval of the consolidation proposition."

24

25 **Section 58.** Section 20-6-317, MCA, is amended to read:

26 **"20-6-317. High school district annexation procedure.** A high school district may be annexed to
27 another high school district located in the same county when one of the conditions of 20-6-316 is met in
28 accordance with the following procedure:

29 (1) At the time that the annexation proposition is first considered, the districts involved shall jointly
30 determine whether the annexation is to be made with or without the joint assumption of the bonded



1 indebtedness of the annexing district by the district to be annexed and the annexing district.

2 (2) An annexation proposition may be introduced in the district to be annexed by either of the
3 following methods:

4 (a) the trustees may pass a resolution requesting the ~~county superintendent board of county~~
5 commissioners to order an election to consider an annexation proposition for their district; or

6 (b) not less than 20% of the electors of the district who are qualified to vote under the provisions
7 of 20-20-301 may petition the ~~county superintendent board of county~~ commissioners requesting an election
8 to consider an annexation proposition for their district.

9 (3) Before ordering an election on the proposition, the ~~county superintendent board of county~~
10 commissioners must receive from the trustees of the annexing district a resolution giving ~~him~~ it the
11 authority to annex ~~such~~ the district.

12 (4) When the ~~county superintendent board of county~~ commissioners receives authorization from
13 the annexing district, ~~he~~ it shall, within 10 days after the receipt of the resolution or a valid petition from
14 the district to be annexed and as provided by 20-20-201, order the trustees of the district to be annexed
15 to call an annexation election.

16 (5) (a) The district shall call and conduct an election in the manner prescribed in this title for school
17 elections.

18 (b) In addition:

19 (i) if the district to be annexed is to jointly assume with the annexing district the bonded
20 indebtedness of the annexing district, the annexation election must also follow the procedures prescribed
21 in 20-6-318; or

22 (ii) if the district to be annexed is not to jointly assume with the annexing district the bonded
23 indebtedness of the annexing district, the annexation election must also follow the procedures prescribed
24 in 20-6-319.

25 (6) After the ~~county superintendent board of county~~ commissioners receives the election certificate
26 provided for in 20-20-416 from the trustees of the district conducting the annexation election and if the
27 annexation proposition has been approved by ~~such~~ the election, ~~he~~ the board shall order the annexation
28 of the territory of the high school district voting on ~~such~~ the proposition to the high school district that has
29 authorized the annexation to its territory. The order must be issued within 10 days after the receipt of the
30 election certificate and, if it is for annexation with the assumption of bonded indebtedness, must specify

1 that all of the taxable real and personal property of the annexed territory ~~shall~~ must jointly assume with the
2 annexing district the existing bonded indebtedness of the annexing district. The ~~county superintendent~~
3 board shall send a copy of the order to ~~the board of county commissioners and to~~ the trustees of the
4 districts involved in the annexation order.

5 (7) If the annexation proposition is disapproved in the district to be annexed, it fails and the ~~county~~
6 superintendent board of county commissioners shall notify each district of the disapproval of the annexation
7 proposition."

8

9 **Section 59.** Section 20-6-320, MCA, is amended to read:

10 **"20-6-320. Transfer of territory from one high school district to another.** (1) A majority of
11 registered electors of a high school district who reside in territory that is a part of a high school district may
12 petition the ~~county superintendent~~ board of county commissioners to transfer the territory in which they
13 reside to another high school district if:

14 (a) the territory to be transferred is contiguous to the high school district to which it is to be
15 attached;

16 (b) the territory to be transferred is not located within 3 miles, over the shortest practical route,
17 of an operating school of the high school district from which it is to be detached;

18 (c) the transfer of the territory will not reduce the taxable value of the district to less than
19 \$300,000₄ unless the remaining territory of the high school district contains not less than 50,000 acres of
20 nontaxable Indian land;

21 (d) the board of trustees of the school district that would receive the territory has approved in
22 writing the transfer; and

23 (e) the territory proposed to be transferred to another high school district has not been included
24 in a petition filed under this section in the previous 3 years.

25 (2) The petition must be addressed to the ~~county superintendent~~ board of county commissioners
26 and must:

27 (a) provide a legal description of the territory that is requested to be transferred and a description
28 of the high school district to which it is to be transferred;

29 (b) state the reasons why the transfer is requested;

30 (c) state the number of ~~high school age~~ high school age children residing in the territory; and

(d) be accompanied by a \$50 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all of the information required by subsection (2) is a valid petition. On receipt of a valid petition for a territory transfer, the ~~county superintendent board of county commissioners~~ shall:

(a) ~~present the petition to the board of county commissioners for certification that the criteria set forth in subsection (1) have been met. The board shall, within 10 days of receiving the petition, return it to the county superintendent with certification, signed by a majority of the board, certify that the criteria have been met or with a notation, signed by a majority of the board of county commissioners, certify that the criteria have not been met. The board's certification is binding on the county superintendent unless the county superintendent believes that the certification is in error. A dispute between the board and the county superintendent on this issue must be decided by the superintendent of public instruction and the decision of the superintendent of public instruction on the matter is final.~~

(b) file the petition as certified by the board of county commissioners.

(4) If the petition is certified or adjusted on appeal to the superintendent of public instruction to meet the criteria specified in subsection (1), the county superintendent shall:

(a) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

(b) give notice of the place, date, and time of the hearing. The notices must be posted in the high school districts affected by the petition for the territory transfer in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred.

(5) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of either affected high school district must be heard.

(6) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the high school district.

{7} The decision of the ~~county superintendent~~ board of county commissioners is final 30 days after its date unless it is appealed, pursuant to ~~20-3-107 [section 1]~~, to the ~~superintendent of public instruction~~

1 board of public education by a resident, taxpayer, or representative of either high school district affected
2 by the petitioned territory transfer. The decision of the ~~superintendent of public instruction~~ board of public
3 education, after consideration of the record from the ~~county superintendent's~~ board of county
4 commissioners' hearing, is final 30 days after its date. The final order of the ~~superintendent of public~~
5 instruction board of public education is subject to judicial review pursuant to the Montana Administrative
6 Procedure Act, Title 2, chapter 4.

7 ~~(8)~~ (5) If a petition to transfer territory from one high school district to another high school district
8 would create a joint high school district or affect the boundary of any existing joint high school district, the
9 petition must be presented to the ~~county superintendent~~ board of county commissioners of the county
10 where the territory proposed for transfer is located. The ~~county superintendent~~ board of county
11 commissioners shall notify any other ~~county superintendents~~ boards of county commissioners of counties
12 with districts affected by the petition, and the duties prescribed in this section for the ~~county~~
13 superintendent board of county commissioners must be performed jointly by ~~such~~ the county officials."

14

15 **Section 60.** Section 20-6-321, MCA, is amended to read:

16 **"20-6-321. High school district consolidation of districts in two or more counties.** Any two or more
17 high school districts located in two or more counties and whose territory is contiguous may consolidate to
18 organize a joint high school district. Whenever a joint district consolidation is considered by two or more
19 districts, the procedure for consolidation without the assumption of bonded indebtedness prescribed in
20 20-6-315 and 20-6-319 must be used, except that each district shall submit its resolution or petition and
21 its election certificate to the ~~county superintendent~~ board of county commissioners of its resident county
22 and the several ~~county superintendents~~ boards shall jointly perform the duties prescribed ~~for the county~~
23 superintendent in 20-6-315."

24

25 **Section 61.** Section 20-6-325, MCA, is amended to read:

26 **"20-6-325. Procedure for creation of new high school district out of existing districts -- limitation**
27 **for creation.** (1) To create a new high school district, a petition requesting the creation of a new high school
28 district out of the territory of an existing high school district or districts must be addressed to the ~~county~~
29 superintendent board of county commissioners and must:

30 (a) describe the territory that is requested to be incorporated in the new district and the taxable

1 value of ~~such~~ the territory as shown by the ~~last completed~~ last-completed assessment roll;
2 (b) state the reasons why the creation of a new district is requested; and
3 (c) be signed by the parents or guardians of not less than 50 children who are at least 14 years
4 old but less than 18 years old and who reside in the territory that would be included in the new district and
5 who reside more than 20 miles over the shortest practical route from an operating high school.

6 (2) When a ~~county superintendent~~ receives board of county commissioners receives a valid petition
7 requesting the creation of a new district, ~~he~~ it shall:

8 (a) file ~~such~~ the petition;
9 (b) set a hearing place, date, and time for consideration of the petition that is not more than 40
10 days after the receipt of the petition; and

11 (c) give notice of the place, date, and time of the hearing. Notices must be posted in the high
12 school districts affected by the request in the manner prescribed in 20-20-204 for school elections, with
13 at least one ~~such~~ notice posted in the territory to be included in the new district.

14 (3) The ~~county superintendent~~ board of county commissioners shall conduct the hearing as
15 scheduled unless before or at the time of the hearing, ~~he~~ the board receives a protest petition signed by
16 a majority of the electors of the proposed new district who are qualified to vote under the provisions of
17 20-20-301. A valid protest petition conclusively denies the creation of a new district. If a hearing is
18 conducted, any resident or taxpayer of the affected districts must be heard. If the ~~county superintendent~~
19 board considers it advisable and in the best interests of the residents of the proposed new district, ~~he~~ it
20 shall grant the petitioned request and order the creation of a new district with its boundaries coinciding with
21 the boundaries defined in the petition. Otherwise, ~~he~~ it shall, by order, deny the request. In the order
22 creating the new district, the effective date for its creation must be the following July 1.

23 (4) The ~~county superintendent's~~ board of county commissioners' order may be appealed to the
24 ~~superintendent of public instruction~~ ~~within 30 days after the date of such order~~. An appeal must be in
25 writing and be signed by not less than 10 residents of the proposed new district. The ~~superintendent of~~
26 ~~public instruction~~ shall:

27 (a) call a hearing on the appeal not less than 20 days or more than 30 days from receipt of the
28 appeal;

29 (b) provide notice of the hearing in the manner prescribed in subsection (2)(e);
30 (c) consider the material presented at the ~~county superintendent's~~ hearing and pertinent other

1 material; and

2 ~~(d) render a decision on the creation of such new high school district. The decision is final board~~
3 of public education pursuant to [section 1].

4 (5) When a new high school district is created, the trustees of the elementary district in which the
5 high school buildings are located are the trustees of the new district. A trustee appointed under the
6 provisions of this section shall serve until a successor is elected at the next regular school election and is
7 qualified.

8 (6) If the district does not open and operate a school within 2 years after the effective date of the
9 creation of the new district, the order of the ~~county superintendent board of county commissioners~~ or, if
10 ~~his~~ its order is appealed, the decision of the ~~superintendent of public instruction board of public education~~
11 creating a new district under this section is void and the new district ceases to exist. If the new district
12 does not satisfy this requirement, the territory must be reincorporated in the district or districts in which
13 it was located before the creation of the new district and the trustees are without capacity to act.

14 (7) If a petition has been filed under the provisions of this section and denied by the ~~county~~
15 ~~superintendent board of county commissioners~~, ~~no~~ a new petition may not be filed until 1 year after the
16 final decision on the original petition.

17 (8) For the purposes of this section, the taxable value of the taxable property of the territory
18 proposed to be included in the new district must be at least \$1 million, unless 50,000 acres or more of ~~such~~
19 ~~the~~ proposed new district are nontaxable Indian land, and the taxable value of the taxable property of each
20 existing district from which territory would be detached must be at least \$2 million after the territory is
21 detached."

22

23 **Section 62.** Section 20-6-413, MCA, is amended to read:

24 **"20-6-413. Cash disposition when district ceases to exist -- special levy for tuition debt.** Whenever
25 a district ~~shall cease~~ ceases to exist in any manner prescribed in this title, except when districts are
26 consolidated, the cash on hand to the credit of the funds of the district and the debts of ~~such~~ the district
27 ~~shall~~ must be allocated in the following manner:

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

1 (2) If any cash remains to the credit of the district after paying its debts, the cash ~~shall~~ must be
2 transferred by the county treasurer to the credit of the district or districts assuming its territory. When the
3 territory is assumed by more than one district, the remaining cash ~~shall~~ must be prorated between the
4 districts on the basis of the number of children attending school and residing within the territory assumed
5 by each district as determined by the ~~county superintendent~~ board of county commissioners.

6 (3) If any tuition debt remains as an obligation of the district, the tuition debt ~~shall be~~ is the
7 obligation of the taxable property of the discontinued district, except when the tuition debt has been
8 assumed by the consolidated or annexing district. The tuition debt ~~shall~~ must be financed by a mill levy on
9 the property of the discontinued district and paid from these proceeds by the county ~~superintendent~~
10 treasurer.

11 (4) If any debts, other than bonded indebtedness and tuition, remain as an obligation of the district
12 after the cash has been ~~utilized~~ used under the provisions of subsection (1) ~~above~~, the debts ~~shall~~ must be
13 assigned in the same manner prescribed for the transfer of cash under subsection (2) ~~above~~."

14

15 **Section 63.** Section 20-6-415, MCA, is amended to read:

16 **"20-6-415. Cash disposition when new elementary district created.** Whenever a new district is
17 created under the provisions of 20-6-217, the end-of-the-year cash balance in each fund of each district
18 having territory that has been placed in the new district, except the debt service fund, ~~shall~~ must be
19 apportioned by the county ~~superintendent~~ treasurer on the basis of the proportion that the number of school
20 children residing in the new district is of the total number of school children residing in the old district
21 before the creation of the new district. After the new district has operated a school for 1 month, the ~~county~~
22 ~~superintendent~~ ~~shall order the county treasurer to~~ shall transfer the cash to which the new district is entitled
23 to the credit of the fund of the new district ~~which~~ that corresponds with the fund from which it was
24 transferred. The new district ~~shall~~ may not assume any debts of the old district other than existing bonded
25 indebtedness ~~which~~ that remains an obligation against the taxable property of the territory included in the
26 new district."

27

28 **Section 64.** Section 20-6-418, MCA, is amended to read:

29 **"20-6-418. Surrender of records when district ceases to exist.** Within 10 days after any district
30 ceases to exist, the trustees shall surrender all minutes, documents, and other records of the district to the

1 trustees of the district assuming its territory or, if more than one district assumes its territory, to the board
2 of county superintendent commissioners."

3

4 **Section 65.** Section 20-6-502, MCA, is amended to read:

5 **"20-6-502. Opening or reopening of elementary school.** The trustees of any a elementary district
6 may open or reopen an elementary school of the district when such the opening or reopening has been
7 approved in accordance with the following procedure:

8 (1) The parents of at least three pupils who would attend the opened or reopened school petition
9 the trustees of the district to open or reopen a school during the ensuing school fiscal year. Such The
10 petition shall must identify the school, state the reasons for requesting the opening or reopening, and give
11 the names of the children who would attend such the school.

12 (2) If the trustees approve the opening or reopening of a school, they shall send the petition with
13 a copy of their approval resolution to the county superintendent board of county commissioners (budget
14 board). The county superintendent budget board shall review the petition to determine if the average
15 number belonging (ANB) of such the school would be five or more.

16 (3) The county superintendent shall present the petition, trustees' approval, and his findings on
17 the probable ANB to the board of county commissioners (budget board) for their consideration. The budget
18 board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate
19 for such the school is less than five ANB. In all other cases, the budget board may approve or disapprove
20 the requested opening or reopening of the elementary school.

21 (4) If the budget board approves a school opening or reopening, the county superintendent board
22 shall send a copy of such the approval, along with the petition, trustees' approval, and his its estimate of
23 the probable ANB, to the superintendent of public instruction. The superintendent of public instruction shall
24 approve or disapprove the requested opening or reopening of the elementary school. If the opening or
25 reopening is approved, the superintendent of public instruction shall approve or adjust the ANB estimate
26 of the county superintendent board for such the school, and such the ANB amount shall must be used for
27 budgeting and BASE funding program purposes during the ensuing school fiscal year. No An ANB amount
28 shall may not be approved for the ensuing school fiscal year for an opening or reopening school when the
29 request for such the school has not been received by the superintendent of public instruction before the
30 fourth Monday of June."

1 **Section 66.** Section 20-6-503, MCA, is amended to read:

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

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

11 (b) the probable enrollment of such the high school;

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

13 (d) the taxable value of the district;

14 (e) the building and equipment facilities available for such the high school;

15 (f) the planned course of instruction for such the high school;

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

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

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

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

26 (4) Nothing ~~herein~~ contained shall in this section may be construed so as to preclude the trustees
27 of a high school district from establishing more than one high school in the district."

29 **Section 67.** Section 20-6-504, MCA, is amended to read:

30 **"20-6-504. Opening of a junior high school.** (1) The trustees of any an elementary district and the

1 trustees of the high school district in which such the elementary district is located may open a junior high
2 school when such the opening has been approved by the superintendent of public instruction; except that
3 when the high school district operates a county high school, the opening of a junior high school ~~shall~~ must
4 be approved under the provisions of 20-6-505.

5 (2) When the trustees of such the districts resolve to open a junior high school, they shall jointly
6 apply to the superintendent of public instruction for approval to open such the school by June 1 before the
7 school fiscal year in which they intend to open the junior high school. The application ~~shall~~ must contain
8 such the information as that is required under 20-6-503 for an application to open a high school.

9 (3) The superintendent of public instruction shall investigate the application for the opening of a
10 junior high school and shall approve or disapprove the opening of the junior high school before the fourth
11 Monday of June preceding the first year of intended operation. If the opening is approved, the trustees of
12 the elementary district and the high school district may jointly open such the school.

13 (4) Whenever the opening of a junior high school is approved for the ensuing school fiscal year,
14 the county superintendent board of county commissioners shall estimate the average number belonging
15 (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the
16 county superintendent shall board must be used for budgeting and BASE funding program purposes during
17 the ensuing school fiscal year."

18

19 **Section 68.** Section 20-6-506, MCA, is amended to read:

20 **"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district
21 and high school district operating a county high school. (1) Whenever the opening of a junior high school
22 is approved for the ensuing school fiscal year under 20-6-505, the county superintendent board of county
23 commissioners shall estimate the average number belonging (ANB) after investigating the probable
24 enrollment for the junior high school. The ANB determined by the county superintendent board and the ANB
25 actually realized in subsequent school fiscal years must be applied to prorate the BASE funding program
26 amount between the elementary and high school districts. Each district shall adopt its general fund budget
27 on the basis of the prorated amount and shall finance its proportionate share of the cost of operating the
28 junior high school.**

29 (2) The cost of operating the junior high school must be prorated between the elementary district
30 and the high school district on the basis of the ratio that the number of pupils of their district is to the total

1 enrollment of the junior high school."

2

3 **Section 69.** Section 20-6-507, MCA, is amended to read:

4 **"20-6-507. Opening of a middle school.** The trustees of ~~any~~ an elementary district may open a
5 middle school when ~~such~~ the opening has been approved by the superintendent of public instruction. The
6 state superintendent shall investigate an application for the opening of a middle school and shall approve
7 or disapprove the opening before the fourth Monday in June preceding the first year of intended operation.
8 When a middle school opening is approved, the ~~county superintendent board of county commissioners~~ shall
9 estimate the ANB after investigating the probable enrollment for the middle school. The ANB ~~so~~ estimated
10 ~~shall~~ must be used for budgeting and BASE funding program purposes during the ensuing school fiscal
11 year."

12

13 **Section 70.** Section 20-6-701, MCA, is amended to read:

14 **"20-6-701. K-12 school districts required -- definition -- procedure for creation -- exception.** (1)
15 Except as provided in subsection (4), ~~by the school fiscal year beginning July 1, 1995~~, each elementary
16 district with the same district boundaries as a high school district shall attach to the high school district for
17 the purpose of establishing a K-12 school district.

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

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

25 (a) The trustees of each district shall pass a resolution requesting the ~~county superintendent board~~
26 of county commissioners to order an attachment involving their districts.

27 (b) When the ~~county superintendent board of county commissioners~~ receives a resolution from
28 each of the districts, the ~~county superintendent board~~ shall, within 10 days after receipt of the last
29 resolution, order the attachment of the elementary district to the high school district to take effect on July
30 1 of the ensuing school fiscal year. Within 30 days of the order, the ~~county superintendent board~~ shall send

1 a copy of the order to ~~the board of county commissioners~~, the trustees of the districts included in the
2 attachment order, and the superintendent of public instruction.

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

5

6 **Section 71.** Section 20-7-114, MCA, is amended to read:

7 **"20-7-114. Instructional assistance by superintendent of public instruction.** The superintendent of
8 public instruction shall, at the request of the district ~~or county superintendent~~, assist the schools with the
9 planning, implementation, operation, and evaluation of instruction through inservice training and individual
10 consultation."

11

12 **Section 72.** Section 20-7-116, MCA, is amended to read:

13 **"20-7-116. Supervised correspondence study.** The trustees of ~~any~~ a district may provide
14 supervised correspondence study for a pupil when it is impossible for ~~him~~ the pupil to attend a school ~~due~~
15 to because of the isolation of ~~his~~ the pupil's residence or ~~his~~ the pupil's mental or physical incapacity.
16 Supervision of the correspondence course ~~shall~~ must be provided by the district superintendent ~~or~~ the
17 ~~county superintendent if there is no district superintendent or a certified principal.~~"

18

19 **Section 73.** Section 20-7-204, MCA, is amended to read:

20 **"20-7-204. School library book selection.** School library books ~~shall~~ must be selected by the district
21 superintendent or a principal if there is no district superintendent, subject to the approval of the trustees.
22 In districts not employing a superintendent or principal, the trustees shall select approve the school library
23 books ~~on the basis of recommendations of the county superintendent.~~"

24

25 **Section 74.** Section 20-7-205, MCA, is amended to read:

26 **"20-7-205. Reporting school library information.** The trustees shall report school library information
27 requested by the superintendent of public instruction, ~~by the board of public education, or when there is~~
28 ~~no district superintendent or principal, by the county superintendent.~~"

29

30 **Section 75.** Section 20-7-602, MCA, is amended to read:

1 **"20-7-602. Textbook selection and adoption.** Textbooks ~~shall~~ must be selected by the district
2 superintendent or by the school principal if there is no district superintendent. ~~Such~~ The selections ~~shall~~ be
3 are subject to the approval of the trustees. In districts not employing a district superintendent or principal,
4 the trustees shall ~~select~~ approve and adopt the textbooks ~~on the basis of recommendations of the county~~
5 ~~superintendent.~~"

6

7 **Section 76.** Section 20-7-605, MCA, is amended to read:

8 **"20-7-605. Notification and processing of complaint against a licensed textbook dealer.** (1) A
9 district ~~or county superintendent~~ shall notify the superintendent of public instruction whenever it is
10 ascertained that a licensed textbook dealer is:

11 (a) offering to sell textbooks at a higher price than the listed uniform sales price filed with the
12 superintendent of public instruction;

13 (b) offering to sell textbooks at a higher shipping point price than the shipping point price of the
14 same textbooks distributed elsewhere in the United States; or

15 (c) in any other way performing contrary to the laws regulating the offering of textbooks for sale
16 or adoption to districts.

17 (2) Upon receipt of ~~such~~ the notification from the district ~~or county superintendent~~, the
18 superintendent of public instruction shall notify the appropriate licensed textbook dealer of the complaint.
19 If the superintendent of public instruction finds that the licensed textbook dealer has violated any provision
20 of this section and the dealer fails to rectify ~~his~~ the error within 30 days of the notification of the finding
21 of a violation, ~~he shall forfeit his~~ the dealer forfeits the dealer's surety bond. The attorney general, upon
22 written request of the superintendent of public instruction, shall proceed to collect by legal action the full
23 amount of the surety bond. Any amount ~~so~~ recovered ~~shall~~ must be paid into the state public school
24 equalization aid account."

25

26 **Section 77.** Section 20-7-606, MCA, is amended to read:

27 **"20-7-606. Doing business without textbook dealer's license -- penalty.** ~~Any~~ A textbook dealer who
28 ~~shall sell~~ sells or ~~offer~~ offers for sale or adoption a textbook to any district ~~or county superintendent~~ without
29 first obtaining a textbook license from the superintendent of public instruction ~~shall be~~ is guilty of a
30 misdemeanor. Upon conviction of ~~such~~ the misdemeanor, ~~he~~ the dealer shall be fined not less than \$500

1 or more than \$2,000."

2

3 **Section 78.** Section 20-7-608, MCA, is amended to read:

4 "20-7-608. **Offer or acceptance of emoluments or other inducements -- penalty.** (1) ~~No~~ A textbook
5 dealer or ~~his~~ the dealer's agent ~~shall~~ may not offer any emolument or other inducement to any trustee or
6 school employee to influence the selection, adoption, or purchase of textbooks.

7 (2) ~~No~~ A trustee, ~~county superintendent~~, or school employee ~~shall~~ may not accept any emolument
8 or other inducement from a textbook dealer or agent of ~~such a~~ such a dealer for the use of ~~his~~ the trustee's or
9 employee's influence in the selection, adoption, or purchase of textbooks.

10 (3) The violation of any provisions of this section ~~shall constitute~~ constitutes a misdemeanor. In
11 addition, any trustee, ~~county superintendent~~, or school employee convicted of ~~such a~~ such a misdemeanor ~~shall~~
12 must be removed from ~~his~~ the person's position.

13 (4) Nothing in this section ~~shall~~ may be construed to prevent the supplying of a necessary number
14 of sample textbooks for the purpose of examination by school officials or school employees."

15

16 **Section 79.** Section 20-7-705, MCA, is amended to read:

17 "20-7-705. **Adult education fund.** (1) A separate adult education fund must be established when
18 an adult education program is operated by a district or community college district. The financial
19 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the
20 laws governing the schools.

21 (2) Whenever the trustees of a district establish an adult education program under the provisions
22 of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult
23 education fund is the depository for all district money received by the district in support of the adult
24 education program. Federal and state adult education program money must be deposited in the
25 miscellaneous programs fund.

26 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,
27 except that trustees of a county high school district that is not unified with an elementary district may
28 authorize a levy of not more than 2 mills on the district and a K-12 school district formed under the
29 provisions of 20-6-701 may authorize a levy of not more than 3 mills on the district, for the operation of
30 an adult education program when the superintendent of public instruction has approved the educational

1 program to be supported by the levy. The trustees shall obtain the approval of the superintendent of public
2 instruction before the fourth Monday of June in order to include the expenditures to be financed by the levy
3 in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for the
4 approval.

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

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

15

16 **Section 80.** Section 20-9-113, MCA, is amended to read:

17 **"20-9-113. Preparation and adoption of preliminary budget by trustees.** (1) The trustees of a
18 district shall meet at their regular place of meeting at any time from February 1 through the fourth Monday
19 in June, at the discretion of the board, to adopt a preliminary budget for the next ensuing school fiscal year.
20 This budget meeting may be continued from day to day but may not exceed 5 days in total. ~~Any A~~ taxpayer
21 in the district may attend the meeting and be heard in regard to the preliminary budget or any item or
22 amount proposed to be included in the budget. The preliminary budget must include all funds that require
23 the adoption of a budget and that the trustees wish to ~~utilize~~ use during the ensuing year.

24 (2) The proposed expenditures adopted as the preliminary budget must be entered on the
25 appropriate portion of the budget form. The amount of the preliminary general fund budget for a district
26 may not exceed the maximum general fund budget for the district, except in the manner permitted by the
27 laws of Montana. If any appropriation item of the preliminary budget provides for the payment of wages
28 or salaries to more than one person, the district shall attach to the preliminary budget a separate listing of
29 each position of employment with the budgeted amount of compensation for each position.

30 (3) After the adoption of the preliminary budget by the trustees, the presiding officer of the trustees

1 and the clerk of the school district shall sign the budget form, and it ~~shall constitute~~ is the preliminary
2 budget for the district. The trustees shall ~~send both~~ make available to the public copies of the adopted
3 preliminary budget, with all appendages and any other information required by law, ~~to the county~~
4 ~~superintendent~~ on or before the fifth day after the fourth Monday of June.

5 (4) At least 2 weeks before the first meeting day on adoption of a preliminary budget for the
6 ensuing school fiscal year, as required by this section, the trustees of a district shall publish a notice of the
7 meeting at least one time in a newspaper of general circulation in the district. The notice must state that
8 any taxpayer in the district may attend the meeting and be heard on the preliminary budget."

9

10 **Section 81.** Section 20-9-121, MCA, is amended to read:

11 **"20-9-121. County treasurer's statement of cash balances and bond information.** (1) By July ~~10~~
12 20, the county treasurer shall prepare a statement for each district, showing the amount of cash on hand
13 for each fund maintained by the district and the amount of the outstanding obligations against each fund
14 at the close of the ~~last completed~~ last completed school fiscal year. The county treasurer shall also include
15 on each district's statement the details on the obligation for bond retirement and interest for the school
16 fiscal year just beginning. The format of the statement on fund cash balances and bond information ~~shall~~
17 must be prescribed by the superintendent of public instruction.

18 (2) By July ~~10~~ 20, the county treasurer shall prepare a statement for each county school fund
19 supported by countywide levies, showing the amount of cash on hand at the beginning of the school fiscal
20 year, the receipts and apportionments, and the amount of cash on hand at the end of the school fiscal year,
21 for each county school fund maintained during the immediately preceding school fiscal year. The format
22 of this statement ~~shall~~ must be prescribed by the superintendent of public instruction.

23 (3) On or before July ~~10~~ 20, the county treasurer shall deliver the statements of district ~~and county~~
24 ~~fund cash~~ balances and the bond information ~~for~~ to each district ~~to the county superintendent who shall~~
25 ~~attach such.~~ The district shall attach the statements to the applicable district's preliminary budget."

26

27 **Section 82.** Section 20-9-122, MCA, is amended to read:

28 **"20-9-122. Statement of district, city, and town valuations.** (1) By the second Monday of July,
29 the department of revenue shall deliver to ~~the county superintendent and to each~~ school district clerk, city
30 clerk of, and town clerk a statement showing separately for each district and each city or town in the

1 county the total assessed value and the total taxable value of all property in the districts, cities, or towns,
2 as these valuations appear in the property tax record.

3 (2) In the case of a joint school district, the department of revenue shall, at the time of delivering
4 the statement to the ~~county superintendent~~ school district clerk, send a statement of the assessed value
5 and taxable value of the portion of the joint school district situated in the appropriate county ~~to the county~~
6 ~~superintendents and to the board of~~ county commissioners of each county in which a part of the joint
7 school district is situated."

8

9 **Section 83.** Section 20-9-123, MCA, is amended to read:

10 **"20-9-123. County superintendent's School district clerk estimates of revenue and supply of other**
11 **financial and statistical information.** Before the fourth Monday of July, the ~~county superintendent~~ school
12 district clerk shall prepare estimates of the revenue available to finance each fund included on each district's
13 preliminary budget. The preliminary budget revenue estimates ~~shall~~ must be entered by the ~~county~~
14 ~~superintendent~~ school district clerk in the appropriate portion of the form. The ~~county superintendent~~ school
15 district clerk shall also enter any other financial and statistical information ~~which~~ that is necessary for the
16 completion of the budget form and ~~which~~ that is available prior to the fourth Monday of July."

17

18 **Section 84.** Section 20-9-131, MCA, is amended to read:

19 **"20-9-131. Final budget meeting.** (1) On the second Monday in August, at the time and place
20 noticed pursuant to 20-9-115, the trustees of each district shall meet to consider the preliminary budget
21 submitted to or prepared by the ~~county superintendent~~ school district clerk, including all information and
22 any attachments required by law.

23 (2) The trustees may continue the meeting from day to day but shall adopt the final budget for the
24 district and determine the amounts to be raised by tax levies for the district not later than the fourth
25 Monday in August and before the fixing of the tax levies for each district. Any taxpayer in the district may
26 attend any portion of the trustees' meeting and be heard on the budget of the district or on any item or
27 amount contained in the budget."

28

29 **Section 85.** Section 20-9-134, MCA, is amended to read:

30 **"20-9-134. Completion, filing, and delivery of final budgets.** After the final budget of the

1 elementary, high school, or community college district has been adopted by the trustees, the ~~county~~
2 ~~superintendent~~ school district clerk shall complete all the remaining portions of the budget forms and shall:
3 (1) send the final budget information to the superintendent of public instruction, on the forms
4 provided by the superintendent, on or before September 1;
5 (2) in the case of the community college districts, send the final budget information to the board
6 of regents, on the forms provided by the community college coordinator, on or before September 1; and
7 (3) deliver a copy of the final budget for the district to the county treasurer on or before September
8 1."

9

10 **Section 86.** Section 20-9-141, MCA, is amended to read:

11 "20-9-141. Computation of general fund net levy requirement by ~~county~~ ~~superintendent~~ school
12 district clerk. (1) The ~~county~~ ~~superintendent~~ school district clerk shall compute the levy requirement for
13 each district's general fund on the basis of the following procedure:

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

16 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as
17 provided in 20-9-303; and

18 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of
19 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the
20 maximum general fund budget.

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

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

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

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

27 (B) revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2),
28 61-3-521, 61-3-537, and 67-3-204;

29 (C) net proceeds taxes for new production, production from horizontally completed wells, and
30 incremental production, as defined in 15-23-601;

(D) interest earned by the investment of general fund cash in accordance with the provisions of
13(4);

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

(F) any other revenue received during the school fiscal year that may be used to finance the general excluding any guaranteed tax base aid; and

(iii) (A) pursuant to subsection (4), anticipated revenue from local government severance taxes as set in 15-36-112; and

(B) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703.

(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 fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to fine the general fund BASE budget levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional financing requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, by additional financing, as provided in 20-9-353, to determine any additional general fund levy amounts.

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

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

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

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be sent to the board of county commissioners on the fourth Monday of August by the county superintendent school district clerk as the general fund net levy requirement for the district, and a levy must be sent by the county commissioners board in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent school district clerk the amount of revenue anticipated for the ensuing fiscal year from local

1 government severance taxes, as provided in 15-36-112, and from revenue from coal gross proceeds under
2 15-23-703."

3

4 **Section 87.** Section 20-9-142, MCA, is amended to read:

5 **"20-9-142. Fixing and levying taxes by board of county commissioners.** On the fourth Monday in
6 August, the ~~county superintendent~~ school district clerk shall place before the board of county
7 commissioners the final adopted budget of the district. It is the duty of the board of ~~county commissioners~~
8 to fix and levy on all of the taxable value of all ~~the~~ real and personal property within the district all district
9 and county taxation required to finance, within the limitations provided by law, the final budget."

10

11 **Section 88.** Section 20-9-151, MCA, is amended to read:

12 **"20-9-151. Budgeting procedure for joint districts.** (1) The trustees of a joint district shall adopt
13 a budget according to the school budgeting laws ~~and send a copy of such budget to the county~~
14 ~~superintendent of each county in which a part of the joint district is located.~~ After approval by the trustees
15 of the joint district, the final budgets of joint districts ~~shall~~ must be filed in the office of the county
16 ~~superintendent treasurer and of the board of county commissioners~~ of each county in which a part of a joint
17 district is located.

18 ~~(2) The county superintendents receiving the budget of a joint district shall jointly school district~~
19 ~~clerk shall~~ compute the estimated budget ~~revenues~~ revenue and determine the number of mills ~~which~~ that
20 need to be levied in the joint district for each fund for which a levy is to be made. The superintendent of
21 public instruction shall establish a communication procedure to facilitate the joint estimation of revenues
22 and determination of the tax levies.

23 (3) After determining, in accordance with law, the number of mills ~~which~~ that need to be levied
24 for each fund included on the final budget of the joint district, a joint statement of the required mill levies
25 ~~shall~~ must be prepared and signed by the ~~county superintendents~~ school district clerks involved in the
26 computation. A copy of the statement ~~shall~~ must be delivered to the board of county commissioners and
27 the treasurer of each county in which a part of the joint district is located not later than the Friday
28 immediately preceding the second Monday in August."

29

30 **Section 89.** Section 20-9-152, MCA, is amended to read:

1 **"20-9-152. Fixing and levying taxes for joint districts.** (1) At the time of fixing levies for county
2 and school purposes on the second Monday in August, the board of county commissioners of each county
3 in which a part of a joint district is located shall fix and levy taxes on that portion of the joint district
4 located in ~~such~~ the board's county at the number of mills for each ~~such~~ levy recommended by the joint
5 statement of the ~~county~~ superintendents school district clerks.

6 (2) The board of county commissioners shall include in the amounts to be raised by the county
7 levies for schools all the amounts required for the final budget of each part of a joint district located in the
8 county, in accordance with the recommendations of the ~~county~~ superintendent school district clerk."

9

10 **Section 90.** Section 20-9-162, MCA, is amended to read:

11 **"20-9-162. Authorization for budget amendment adoption.** (1) (a) Notwithstanding the provisions
12 of subsections (2) and (3), a budget amendment may be adopted at any time of the school fiscal year,
13 except that a budget amendment required by an enrollment increase, as provided in 20-9-161(1), may not
14 be adopted until after October 1.

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

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

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

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

27

28 **Section 91.** Section 20-9-164, MCA, is amended to read:

29 **"20-9-164. Notice of budget amendment resolution.** A copy of the budget amendment resolution
30 must be published one time in a newspaper that will give notice to the largest number of people of the

1 district as determined by the trustees, and a copy of the resolution must be posted at each schoolhouse
2 of the district. A copy of the budget amendment resolution must also be delivered to the county
3 superintendent treasurer and to the county clerk as the clerk of the board of county commissioners of the
4 county. The publication, posting, and delivery of the resolution must be done not less than 1 week before
5 the day specified in the resolution for the consideration and adoption of a budget amendment."

6

7 **Section 92.** Section 20-9-165, MCA, is amended to read:

8 **"20-9-165. Budget amendment limitation, preparation, and adoption procedures.** (1) The meeting
9 of the trustees to consider and adopt a budget amendment must be open to the public, and any taxpayer
10 in the district has the right to appear and be heard. If at the meeting a majority of the trustees present find
11 that there is sufficient need for a budget amendment, the trustees may make and adopt a preliminary
12 budget amendment, setting forth fully the facts constituting the need for the budget amendment. In
13 adopting the preliminary budget amendment, the trustees may budget for any fund that was included on
14 the final budget of the district for the current school fiscal year. The budget must be itemized to show the
15 amount appropriated for each item.

16 (2) When the budget amendment is the result of increased enrollment, the maximum amount of
17 the budget amendment for all funds must be determined in the following manner:

18 (a) Determine the total amount in the final budget for the current school fiscal year of all funds
19 affected by the enrollment increase, less any amounts appropriated as capital outlay and any amount
20 appropriated for addition to the operating reserve.

21 (b) Divide the amount determined in subsection (2)(a) by the number of pupils originally enrolled
22 in the district during the immediately preceding school fiscal year. The resulting cost per pupil is the
23 maximum permissible per-pupil expenditure in the budget amendment.

24 (c) Determine the enrollment increase of the current school fiscal year by subtracting the number
25 of pupils originally enrolled during the immediately preceding school fiscal year from the number of pupils
26 enrolled for the current school year. The result is the enrollment increase for the current school fiscal year.

27 (d) Multiply the cost per pupil determined in subsection (2)(b) by the enrollment increase
28 determined in subsection (2)(c). The result is the maximum limitation on a budget amendment for
29 amendments resulting from increased enrollment.

30 (3) For other types of budget amendments, the budget amendment is limited to the expenditures

1 considered by the trustees to be reasonable and necessary to finance the conditions of the budget
2 amendment and the preliminary budget amendment must include the details of the proposed expenditures.

3 (4) Whenever the trustees adopt a preliminary budget amendment for the transportation fund, the
4 trustees shall attach to the budget amendment a copy of each transportation contract that is connected
5 with the budget amendment and that has been prepared and executed in accordance with the school
6 transportation contract laws.

7 (5) After the trustees have adopted the budget amendment by a majority vote of the trustees, it
8 must be signed by the chairman presiding officer of the trustees and the clerk of the school district and
9 copies must be sent to ~~the county superintendent~~, the county treasurer, and the superintendent of public
10 instruction."

11

12 **Section 93.** Section 20-9-203, MCA, is amended to read:

13 **"20-9-203. Examination of district accounting records.** The accounting records of all first-, second-,
14 and third-class school districts must be audited in accordance with 2-7-503. The trustees of the district
15 shall file a copy of the completed audit report with the department of commerce, and the superintendent
16 of public instruction, ~~and the county superintendent.~~"

17

18 **Section 94.** Section 20-9-206, MCA, is amended to read:

19 **"20-9-206. Entering appropriations on accounting records of county treasurer.** (1) When the county
20 treasurer receives the final budgets of the districts ~~from the county superintendent, he~~ the treasurer shall
21 open a fund for each budgeted fund included on the final budget of each district by entering the amount
22 appropriated for the fund on ~~his~~ the treasurer's accounting record.

23 (2) Whenever the county treasurer receives a final budget amendment for a district ~~from the county~~
24 ~~superintendent, he~~ the treasurer shall increase the amount of the regularly adopted final budget by the
25 amount of the final budget amendment."

26

27 **Section 95.** Section 20-9-211, MCA, is amended to read:

28 **"20-9-211. Annual financial report of ~~county superintendent~~ district trustees.** No later than the
29 second Monday in September of each school fiscal year, the ~~county superintendent~~ district trustees shall
30 report to the superintendent of public instruction the financial activity during the preceding school fiscal

1 year of each district of the county in accordance with the reporting requirements prescribed by the
2 superintendent of public instruction. The reports must be prepared on forms provided by the superintendent
3 of public instruction."

4

5 **Section 96.** Section 20-9-212, MCA, is amended to read:

6 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

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

12 (a) the basic county tax in support of the elementary BASE aid;
13 (b) the basic special tax for high schools in support of the high school BASE aid;
14 (c) the county tax in support of the transportation schedules;
15 (d) the county tax in support of the elementary and high school district retirement obligations; and
16 (e) any other county tax for schools, including the community colleges, which may be authorized
17 by law and levied by the county commissioners.

18 (2) whenever requested, notify ~~the county superintendent and~~ the superintendent of public
19 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
20 (1) and the amount of any other school money subject to apportionment and apportion the county and other
21 school money to the districts in accordance with the apportionment ordered by ~~the county superintendent~~
22 ~~or~~ the superintendent of public instruction;

23 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;
24 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
25 school money and properly endorsed by their holders;

26 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
27 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
28 school taxes must be credited to the same fund and district for which the original taxes were levied.

29 (6) send all revenue received for a joint district, part of which is situated in the county, to the
30 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and

1 every 3 months after that date until the end of the school fiscal year;

2 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
3 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

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

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

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

12 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
13 ~~center~~ program within a unit of the university system when levied by the board of county commissioners
14 under the provisions of 20-16-202;

15 (12) invest the money received from the basic county tax, the basic special tax, the county levy
16 in support of the elementary and high school district retirement obligations, and the county levy in support
17 of the transportation schedules within 3 working days of receipt. The money must be invested until the
18 working day before it is required to be distributed to school districts within the county or remitted to the
19 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
20 credited proportionately, in the funds established to account for the taxes received for the purposes
21 specified in subsections (1)(a) through (1)(d).

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

27

28 **Section 97.** Section 20-9-213, MCA, is amended to read:

29 **"20-9-213. Duties of trustees.** The trustees of ~~each~~ a district ~~have the sole power and authority~~
30 are authorized to transact all fiscal business and execute all contracts in the name of the district. A person

1 other than the trustees acting as a governing board may not expend money of the district. In conducting
2 the fiscal business of the district, the trustees shall:

3 (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school
4 money for each fund maintained by the district in accordance with generally accepted accounting principles
5 and the rules prescribed by the superintendent of public instruction. The record of the accounting must be
6 open to public inspection at any meeting of the trustees.

7 (2) authorize all expenditures of district money and cause warrants to be issued for the payment
8 of lawful obligations;

9 (3) issue warrants on any budgeted fund in anticipation of budgeted revenue, except that the
10 expenditures may not exceed the amount budgeted for the fund;

11 (4) invest any money of the district, whenever in the judgment of the trustees the investment
12 would be advantageous to the district, by directing the county treasurer to invest any money of the district
13 in direct obligations of the United States government; in savings or time deposits in a state or national bank,
14 building or loan association, savings and loan association, or credit union insured by the FDIC or NCUA
15 located in the state; or in a repurchase agreement, as authorized in 7-6-213. All interest collected on the
16 deposits or investments must be credited to the fund from which the money was withdrawn, except that
17 interest earned on account of the investment of money realized from the sale of bonds must be credited
18 to the debt service fund or the building fund, at the discretion of the board of trustees. The placement of
19 the investment by the county treasurer is not subject to ratable distribution laws and must be done in
20 accordance with the directive from the board of trustees. A district may invest money under the state
21 unified investment program established in Title 17, chapter 6.

22 (5) cause the district to record each transaction in the appropriate account before the accounts are
23 closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money
24 and property for which the district is accountable;

25 (6) report annually to the ~~county~~ superintendent of public instruction, not later than ~~August 15~~
26 ~~September 1~~, the financial activities of each fund maintained by the district during the last completed school
27 fiscal year, on the forms prescribed and furnished by the superintendent of public instruction. ~~Annual fiscal~~
28 ~~reports for joint school districts must be submitted not later than September 1 to the county superintendent~~
29 ~~of each county in which part of the joint district is situated.~~

30 (7) whenever requested, report any other fiscal activities to the ~~county~~ superintendent,



1 superintendent of public instruction, or board of public education;
2 (8) cause the accounting records of the district to be audited as required by 2-7-503; and
3 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the
4 district."

5

6 **Section 98.** Section 20-9-302, MCA, is amended to read:

7 **"20-9-302. School isolation.** (1) The trustees of ~~any~~ a district operating an elementary school of
8 less than 10 ANB or a high school of less than 25 ANB for 2 consecutive years shall apply to have the
9 school classified as an isolated school. ~~The application shall be submitted by the trustees to the county~~
10 ~~superintendent by May 1 of the second consecutive year that enrollment falls below the amount specified~~
11 ~~in this subsection. Such~~ The application shall ~~must~~ include:

12 (a) the name of each pupil who will attend the school during the ensuing school fiscal year with
13 the distance the pupil resides from the nearest county road or highway;

14 (b) a description of conditions affecting transportation, such as poor roads, mountains, rivers, or
15 other obstacles to travel, the distance the school is from the nearest open school having room and facilities
16 for the pupils of ~~such~~ the school, or any other condition that would result in an unusual hardship to the
17 pupils of the school if they were transported to another school; and

18 (c) any other information prescribed by the superintendent of public instruction.

19 ~~(2) The county superintendent shall submit the applications to the board of county commissioners~~
20 ~~(budget board) for their consideration on or before May 15. The budget board shall approve or disapprove~~
21 ~~the application on the basis of the criteria established by the superintendent of public instruction. The~~
22 ~~budget board also may approve an application because of the existence of other conditions which would~~
23 ~~result in an unusual hardship to the pupils of such school if they were transported to another school.~~

24 ~~(3)~~(2) When an application is approved by the trustees, the county superintendent ~~they~~ shall submit
25 ~~such~~ the application to the superintendent of public instruction before June 1. The superintendent of public
26 instruction shall approve or disapprove ~~such~~ the application for isolated classification by the fourth Monday
27 of June on the basis of the information supplied by the application, or objective information the
28 superintendent of public instruction may collect, ~~on his own initiative or other information as appropriate.~~
29 ~~No~~ An elementary or high school ~~shall~~ may not be considered an isolated school until the approval of the
30 superintendent of public instruction has been received."

1 **Section 99.** Section 20-9-313, MCA, is amended to read:

2 **"20-9-313. Circumstances under which the regular average number belonging may be increased.**

3 The average number belonging of a school, calculated in accordance with the ANB formula prescribed in
4 20-9-311, may be increased when:

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

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

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

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

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

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

30

1 **Section 100.** Section 20-9-332, MCA, is amended to read:

2 **"20-9-332. Fines and penalties proceeds for elementary county equalization.** All fines and penalties
3 collected under the provisions of this title, except those collected by a justice's court, ~~shall~~ must be paid
4 into the county elementary equalization fund as provided by 20-9-331(2)(c). In order to implement this
5 section and any other provision of law requiring the deposit of fines in the elementary county equalization
6 fund, a report ~~shall~~ must be made to the county ~~superintendent~~ treasurer of the county, at the close of each
7 term, by the clerk of each district court, reporting all fines imposed and collected during the term and
8 indicating the type of violation and the date of collection."

9

10 **Section 101.** Section 20-9-334, MCA, is amended to read:

11 **"20-9-334. Apportionment of county equalization moneys — Deduction for high school**
12 **out-of-county tuition obligations.** (1) ~~The county superintendent shall calculate the apportionment of~~
13 ~~revenues deposited in the basic county tax account and the revenues deposited in the basic special tax for~~
14 ~~high schools account to the several districts of the county. The apportionments shall be known as "county~~
15 ~~equalization moneys".~~

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

20

21 **Section 102.** Section 20-9-344, MCA, is amended to read:

22 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
23 education shall administer and distribute the BASE aid and state advances for county equalization in the
24 manner and with the powers and duties provided by law. To this end, the board of public education shall:

25 (a) adopt policies for regulating the distribution of BASE aid and state advances for county
26 equalization in accordance with the provisions of law;

27 (b) have the power to require reports from the ~~county superintendents~~, budget boards, county
28 treasurers, and trustees as it considers necessary; and

29 (c) order the superintendent of public instruction to distribute the BASE aid on the basis of each
30 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering

1 the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid
2 distribution to any district on account of any difference that may occur during the school fiscal year
3 between budgeted and actual receipts from any other source of school revenue.

4 (2) The board of public education may order the superintendent of public instruction to withhold
5 distribution of BASE aid from a district when the district fails to:

6 (a) submit reports or budgets as required by law or rules adopted by the board of public education;
7 or
8 (b) maintain accredited status.

9 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE
10 aid or county equalization money, the district is entitled to a contested case hearing before the board of
11 public education, as provided under the Montana Administrative Procedure Act.

12 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall
13 return the overpayment to the state upon the request of the superintendent of public instruction in the
14 manner prescribed by the superintendent of public instruction.

15 (5) Except as provided in 20-9-347(3), the BASE aid payment must be distributed according to the
16 following schedule:

17 (a) from August to October of the school fiscal year, 10% of the direct state aid to each district;
18 (b) from December to April of the school fiscal year, 10% of the direct state aid to each district;
19 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each
20 district or county that has submitted a final budget to the superintendent of public instruction in accordance
21 with the provisions of 20-9-134;

22 (d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each
23 district or county; and

24 (e) in June of the school fiscal year, one-half of the remaining payment to each district of direct
25 state aid and on the following July 15, the remaining payment to each district of direct state aid for the
26 school fiscal year ending on the preceding June 30.

27 (6) The distribution provided for in subsection (5) must occur by the last working day of each
28 month."

29

30 **Section 103.** Section 20-9-347, MCA, is amended to read:

1 **"20-9-347. Distribution of BASE aid and special education allowable cost payments in support of**

2 **BASE funding program -- exceptions.** (1) The superintendent of public instruction shall:

3 (a) supply the county treasurer ~~and the county superintendent~~ with a monthly report of the

4 payment of BASE aid in support of the BASE funding program of each district of the county;

5 (b) in the manner described in 20-9-344, provide for a state advance to each county in an amount

6 that is no less than the amount anticipated to be raised for the basic county tax fund as provided in

7 20-9-331 and for the basic special tax fund as provided in 20-9-333;

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

9 (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in

10 20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register

11 warrants under the provisions of 20-9-212(8).

12 (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the

13 superintendent of public instruction, in the manner required by the office, that the payment schedule

14 prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment

15 of the district's warrants. The county treasurer shall confirm the anticipated deficit. This section may not

16 be construed to authorize the superintendent of public instruction to exceed a district's annual payment for

17 BASE aid.

18 (3) The superintendent of public instruction shall:

19 (a) distribute special education allowable cost payments to districts; and

20 (b) supply the county treasurer ~~and the county superintendent of public instruction~~ with a report

21 of payments for special education allowable costs to districts of the county."

23 **Section 104.** Section 20-9-353, MCA, is amended to read:

24 **"20-9-353. Additional financing for general fund -- election for authorization to impose.** (1) Except

25 as limited by 20-9-308, the trustees of a district may propose to adopt a general fund budget in excess of

26 the maximum general fund budget amount for the district.

27 (2) Except as provided in 20-9-308(4)(b), when the trustees of a district determine that an

28 additional amount of financing is required for the general fund budget that is in excess of the maximum

29 general fund budget amount, the trustees shall submit the proposition to finance the excess amount of

30 general fund financing to the electors who are qualified under 20-20-301 to vote upon the proposition. The

1 special election must be called and conducted in the manner prescribed by this title for school elections.
2 The ballot for the election must state the amount of money to be financed, the approximate number of mills
3 required to raise all or a portion of the money, and the purpose for which the money will be expended. The
4 ballot must be in the following format:

5 PROPOSITION

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

9 FOR budget authority and any levy.

10 AGAINST budget authority and any levy.

11 (3) If the election on any additional financing for the general fund is approved by a majority vote
12 of the electors voting at the election, the proposition carries and the trustees may use any portion or all of
13 the authorized amount in adopting the preliminary general fund budget. The trustees shall certify any
14 additional levy amount authorized by the special election on the budget form that is submitted ~~to the county~~
15 ~~superintendent~~, and the county commissioners shall levy the authorized number of mills on the taxable
16 value of all taxable property within the district, as prescribed in 20-9-141, to raise the amount of the
17 additional levy.

18 (4) Authorization to levy an additional tax under the provisions of this section is effective for only
19 1 school fiscal year and must be authorized by a special election conducted before August 1 of the school
20 fiscal year for which it is effective.

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

25 **Section 105.** Section 20-9-369, MCA, is amended to read:

26 **"20-9-369. Duties of superintendent of public instruction and department of revenue.** (1) The
27 superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

28 (a) providing each school district ~~and county superintendent~~, by March 1 of each year, with the
29 preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final
30 statewide and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid

1 available for the ensuing school fiscal year;

2 (b) providing each school district ~~and county superintendent~~, by March 1 of each year, with the
3 preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final
4 statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid
5 available to counties and districts for the ensuing school fiscal year;

6 (c) requiring each county and district that qualifies and applies for guaranteed tax base aid to report
7 to the county superintendent all budget and accounting information required to administer the guaranteed
8 tax base aid;

9 (d) keeping a record of the complete data concerning appropriations available for guaranteed tax
10 base aid and the entitlements for the aid of the counties and districts that qualify;

11 (e) distributing the guaranteed tax base aid entitlement to each qualified county or district from the
12 appropriations for that purpose.

13 (2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

14 (3) The department of revenue shall provide the superintendent of public instruction by December
15 1 of each year a final determination of the taxable value of property within each school district and county
16 of the state reported to the department of revenue based on information delivered to the county clerk and
17 recorder as required in 15-10-305.

18 (4) For the purposes of implementing 20-9-366 through 20-9-368 and this section ~~for the school~~
19 ~~fiscal year beginning July 1, 1993, the superintendent of public instruction shall estimate the direct state~~
20 ~~aid for a district for the school fiscal year beginning July 1, 1993, in order to calculate the district and~~
21 ~~statewide guaranteed tax base ratios for that school fiscal year. For succeeding school fiscal years, the~~
22 ~~superintendent of public instruction shall calculate the district and statewide guaranteed tax base ratios by~~
23 ~~applying the prior year's direct state aid payment."~~

24

25 **Section 106.** Section 20-9-438, MCA, is amended to read:

26 **"20-9-438. Preparation of debt service fund budget -- operating reserve.** (1) The trustees of each
27 school district having outstanding bonds shall include in the debt service fund of the preliminary budget
28 adopted in accordance with 20-9-113 an amount of money that is necessary to pay the interest and the
29 principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds,
30 according to the terms and conditions of the bonds and the redemption plans of the trustees.

13 (4) The county superintendent shall compare the preliminary budgeted amount for the debt service
14 fund with the bond retirement and interest requirement and the special improvement district assessments
15 for the school fiscal year just beginning as reported by the county treasurer in his statement supplied under
16 the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county
17 treasurer is more than the preliminary budget amount, the county superintendent shall increase the
18 budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount
19 confirmed or revised by the county superintendent is the final budget expenditure amount for the debt
20 service fund of the school district."

21

22 **Section 107.** Section 20-9-439, MCA, is amended to read:

23 **"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The**
24 ~~county superintendent~~ school district clerk shall compute the levy requirement for ~~each~~ the school district's
25 debt service fund on the basis of the following procedure:

26 (a) Determine the total money available in the debt service fund for the reduction of the property
27 tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

30 (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the

1 provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

2 (iii) any state reimbursement for school facilities distributed to a qualified district under the
3 provisions of 20-9-346, 20-9-370, and 20-9-371; and

4 (iv) any other money, including money from federal sources, anticipated by the trustees to be
5 available in the debt service fund during the ensuing school fiscal year from such sources as legally
6 authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax
7 base aid.

8 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a),
9 from the final budget for the debt service fund as established in 20-9-438.

10 (2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported
11 to the county commissioners on the fourth Monday of August ~~by the county superintendent~~ as the net debt
12 service fund levy requirement for the district, and a levy must be made by the county commissioners in
13 accordance with 20-9-142.

14 (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue
15 or series of bonds of a school district sufficient to raise the money necessary for payment of interest and
16 principal becoming due during the next ensuing school fiscal year, in any amounts established under the
17 provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may
18 apply to the district court of the county in which the school district is located for a writ of mandate to
19 compel the board of county commissioners of the county to make a sufficient levy for such bond payment
20 purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board
21 of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to
22 raise the amount required to be raised as established in the manner provided in this section, the court shall
23 determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board
24 of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to
25 fix and make a levy against all taxable property in the school district that is sufficient to raise the amount
26 of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school
27 fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the
28 members of the board of county commissioners and may not be a charge against the school district or the
29 county."

30

1 **Section 108.** Section 20-9-501, MCA, is amended to read:

2 **"20-9-501. Retirement fund.** (1) The trustees of a district employing personnel who are members
3 of the teachers' retirement system or the public employees' retirement system or who are covered by
4 unemployment insurance or who are covered by any federal social security system requiring employer
5 contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's
6 contributions to the systems. The district's contribution for each employee who is a member of the
7 teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The
8 district's contribution for each employee who is a member of the public employees' retirement system must
9 be calculated in accordance with 19-3-316. The district's contributions for each employee covered by any
10 federal social security system must be paid in accordance with federal law and regulation. The district's
11 contribution for each employee who is covered by unemployment insurance must be paid in accordance
12 with Title 39, chapter 51, part 11.

13 (2) The trustees of a district required to make a contribution to a system referred to in subsection
14 (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's
15 contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer
16 contributions to the systems in accordance with the financial administration provisions of this title.

17 (3) When the final retirement fund budget has been adopted, the board of county superintendent
18 commissioners shall establish the levy requirement by:

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

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

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

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

27 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
28 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school
29 fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund
30 operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school

1 fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under
2 the final retirement fund budget; and

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

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

8 (4) The board of county superintendent commissioners shall:

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

12 (b) report each levy requirement to the county commissioners treasurer on the fourth Monday of
13 August as the respective county levy requirements for elementary district, high school district, and
14 community college district retirement funds.

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

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

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

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

5 **Section 109.** Section 20-9-503, MCA, is amended to read:

6 "20-9-503. Budgeting, tax levy, and use of the building reserve fund. (1) Whenever an annual
7 building reserve authorization to budget is available to a district, the trustees shall include such the
8 authorized amount in the building reserve fund of the preliminary budget. The county superintendent school
9 district clerk shall report such the amount as the building reserve fund levy requirement to the county
10 commissioners on the fourth Monday of August, and a levy on the district shall must be made by the
11 county commissioners in accordance with 20-9-142.

12 (2) The trustees of any district maintaining a building reserve fund ~~shall have the authority to~~
13 ~~expend money from such~~ may spend money from the fund for the purpose or purposes for which it was
14 authorized without ~~such~~ the specific expenditures being included in the final budget when, in their
15 discretion, there is a sufficient amount of money to commence the authorized projects. ~~Such~~ The
16 expenditures ~~shall do~~ not invalidate the district's authority to continue the annual imposition of the building
17 reserve taxation authorized by the electors of the district.

18 (3) Whenever there is money credited to the building reserve fund for which there is no immediate
19 need, the trustees may invest ~~such~~ the money in accordance with 20-9-213(4). The interest earned from
20 the investment ~~shall~~ must be credited to the building reserve fund or the debt service fund, at the discretion
21 of the trustees, and expended for any purpose authorized by law for ~~such~~ the fund."

23 **Section 110. Section 20-9-506, MCA, is amended to read:**

24 **"20-9-506. Budgeting and net levy requirement for nonoperating fund.** (1) The trustees of any a
25 district ~~which~~ that does not operate a school or will not operate a school during the ensuing school fiscal
26 year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions
27 of this title. Such A nonoperating budget ~~shall~~ must contain the nonoperating fund and, when appropriate,
28 a debt service fund. The nonoperating budget form ~~shall~~ must be promulgated and distributed by the
29 superintendent of public instruction under the provisions of 20-9-103.

30 (2) After the adoption of a final budget for the nonoperating fund, the county superintendent school

1 district clerk shall compute the net levy requirement for such the fund by subtracting from the amount
2 authorized by such the budget the sum of:

3 (a) the end-of-the-year cash balance of the nonoperating fund or, if it is the first year of
4 nonoperation, the cash balance determined under the transfer provisions of 20-9-505;
5 (b) the estimated state and county transportation reimbursements; and
6 (c) any other ~~moneys~~ money that may become available during the ensuing school fiscal year.

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

11

12 **Section 111.** Section 20-9-804, MCA, is amended to read:

13 **"20-9-804. Determination of eligibility.** If ~~the county superintendent or, in a county with no county~~
14 superintendent, the superintendent of public instruction determines that a reasonable effort has been made
15 to make up all school days lost by reason of one or more unforeseen emergencies but fewer than the
16 minimum number of school days required by law have been conducted, the school district will must
17 nevertheless be credited with full annual equalization apportionment according to the rate established in
18 20-9-805."

19

20 **Section 112.** Section 20-10-103, MCA, is amended to read:

21 **"20-10-103. School bus driver qualifications.** Any driver of a school bus is qualified to drive a
22 school bus if the driver:

23 (1) is ~~not less than~~ 18 years of age or older;
24 (2) is of good moral character;
25 (3) is the holder of a commercial driver's license;
26 (4) has filed with the district a satisfactory medical examination report, on a form approved by the
27 United States department of transportation or by the superintendent of public instruction, signed by any
28 physician licensed in the United States or, if acceptable to an insurance carrier, any licensed physician;
29 (5) has completed a basic first aid course and holds a valid basic first aid certificate from an
30 authorized instructor. The issuance of the certificate is governed by rules established by the superintendent

1 of public instruction, ~~provided that~~ but the rules may suspend this requirement for a reasonable period of
2 time if there has been an inadequate opportunity for securing the basic first aid course and certificate.

3 (6) has complied with any other qualifications established by the board of public education; and
4 (7) has filed with the ~~county superintendent~~ school district clerk a certificate from the trustees of
5 the district for which the school bus is to be driven, certifying compliance with the driver qualifications
6 enumerated in this section."

7

8 **Section 113.** Section 20-10-104, MCA, is amended to read:

9 **"20-10-104. Penalty for violating law or rules.** (1) ~~Every~~ Each district, ~~and~~ its trustees and
10 employees, and ~~every~~ each person under a transportation contract with a district ~~shall be~~ is subject to the
11 policies prescribed by the board of public education and the rules prescribed by the superintendent of public
12 instruction. When a district knowingly violates a transportation law or board of public education
13 transportation policy, ~~such~~ the district shall forfeit any reimbursement otherwise payable under 20-10-145
14 and 20-10-146 for bus miles actually traveled during that fiscal year in violation of ~~such~~ the law or policies.
15 The county ~~superintendent~~ treasurer shall suspend all ~~such~~ reimbursements payable to the district until the
16 district corrects the violation. When the district corrects the violation, the county ~~superintendent~~ treasurer
17 shall resume paying reimbursements to the district, but the amount forfeited may not be paid to the district.

18 (2) When a person operating a bus under contract with a district knowingly fails to comply with
19 the transportation law or the board of public education transportation policies, the district may not pay ~~him~~
20 the person for any bus miles traveled during the contract year in violation of ~~such~~ the law or policies. Upon
21 discovering ~~such~~ a violation, the trustees of the district shall give written notice to the person that unless
22 the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees
23 of a district shall order the operation of a bus operated under contract suspended when the bus is being
24 operated in violation of transportation law or policies and the trustees find that ~~such~~ the violation
25 jeopardizes the safety of pupils."

26

27 **Section 114.** Section 20-10-112, MCA, is amended to read:

28 **"20-10-112. Duties of the superintendent of public instruction.** In order to have a uniform and
29 equal provision of transportation by all districts in the state of Montana, the superintendent of public
30 instruction shall:

(1) prescribe rules and forms for the implementation and administration of the transportation policies adopted by the board of public education;

(2) prescribe rules for the approval of school bus routing by the county transportation committee;

(3) prescribe the format of the contract for individual transportation and supply each county superintendent school district clerk with a sufficient number of such contracts;

(4) prescribe rules for the approval of individual transportation contracts, including the increases of the schedule rates due to isolation under the policy of the board of public education, and provide a degree-of-isolation chart to school district trustees to serve as a guide;

(5) approve, disapprove, or adjust all school bus routing submitted by the county ~~superintendent~~
treasurer;

(6) approve, disapprove, or adjust all individual transportation contracts submitted by the ~~county superintendent trustees; and~~

(7) prescribe rules for the consideration of controversies appealed to him and rule on such controversies; and

{8} disburse the state transportation reimbursement in accordance with the provisions of law and the transportation policies of the board of public education."

Section 115. Section 20-10-124, MCA, is amended to read:

"20-10-124. Private party contract for transportation -- individual transportation contract. (1) When the trustees contract with any private party to provide transportation to eligible transportees, the private party shall comply ~~in every respect~~ with the regulations of the board of public education for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The trustees may, in contracting with private parties, require added safeguards by supplementing the board of public education policies in the contract with additional requirements for bus specifications, age of drivers, liability insurance, operating speed, or any other contractual condition ~~deemed~~ considered necessary by the trustees.

(2) Any school bus transportation by a private party or individual transportation that is furnished by a district ~~shall~~ must be under contract, and ~~no~~ district, county, or state money ~~shall~~ may not be paid for such transportation services to any person or firm who does not hold a legal contract with the district. Transportation contracts for the ensuing year ~~shall~~ must be completed by the fourth Monday of June, except when an eligible transportation establishes residence in the district after the fourth Monday of June.

1 and a contingency amount is included in the regular transportation budget or an emergency transportation
2 budget is adopted.

3 (3) Transportation contracts between a district and a private party for the provision of school bus
4 transportation ~~shall~~ must be subject to the following requirements:

5 (a) the contract ~~shall~~ must be completed in ~~quadruplicate triplicate~~ and, upon completion, ~~one copy~~
6 ~~shall be for the county superintendent~~, one copy is for the private party, one copy is for the superintendent
7 of public instruction, and one copy ~~shall~~ must be retained by the district;

8 (b) the contract terms ~~shall~~ must require conformance to the transportation law, policies of the
9 board of public education, and rules of the superintendent of public instruction; and

10 (c) the contract ~~shall~~ must be signed by the ~~chairman presiding officer~~ of the trustees and the
11 private party.

12 (4) A transportation contract between a parent or guardian of an eligible transportee and a district
13 for the provision of individual transportation ~~shall be~~ is subject to the following requirements:

14 (a) it ~~shall~~ must be completed in ~~quadruplicate triplicate~~ and, upon approval, one copy ~~shall be~~ is
15 for the parent or guardian, ~~one copy for the district, one copy for the county superintendent~~, and one copy
16 is for the superintendent of public instruction, and one copy must be retained by the district;

17 (b) it ~~shall~~ must be completed on forms promulgated by the superintendent of public instruction;

18 (c) the parent or guardian shall sign an affidavit attesting to the place of residence of ~~his~~ the
19 parent's or guardian's child or children; and

20 (d) it ~~shall~~ must be signed by the ~~chairman presiding officer~~ of the trustees and the parent or
21 guardian of the eligible transportees."

22

23 **Section 116.** Section 20-10-131, MCA, is amended to read:

24 **"20-10-131. County transportation committee membership.** (1) To coordinate the orderly provision
25 of a uniform transportation program within a county under the transportation law, board of public education
26 transportation policies, and the transportation rules of the superintendent of public instruction, there ~~shall~~
27 must be a county transportation committee created in each county ~~of the state of Montana~~. The
28 membership of the county transportation committee ~~shall be~~ must include:

29 (a) the county ~~superintendent treasurer~~;

30 (b) the ~~chairman presiding officer~~ of the board of county commissioners or a member of ~~such the~~

1 board designated by the ~~chairman presiding officer~~;

2 (c) a trustee or district employee designated by the trustees of each high school district of the

3 county;

4 (d) one representative from each high school district of the county who is a trustee of an

5 elementary district encompassed within the high school district and who has been selected at a meeting

6 of the trustees of ~~such~~ the elementary districts; and

7 (e) a representative of a district of another county when the transportation services of ~~such a~~ that

8 district are affected by the actions of the transportation committee, but ~~such a~~ that representative shall

9 ~~have~~ has a voice only in matters affecting transportation within ~~such~~ that district or by ~~such~~ that district.

10 (2) The county transportation committee ~~shall~~ must have at least five members, and if this

11 minimum membership cannot be realized in the manner prescribed in subsections (1)(a) through (1)(d)

12 ~~above~~, the county ~~superintendent~~ treasurer shall appoint a sufficient number of members to satisfy the

13 minimum membership requirement.

14 (3) The county ~~superintendent~~ treasurer ~~shall be~~ is the ~~chairman presiding officer~~ of the county

15 transportation committee, and a quorum ~~shall consist~~ consists of a majority of the membership. The county

16 transportation committee shall meet on the call of the ~~chairman presiding officer~~ or any three members of

17 ~~such~~ the committee."

18

19 **Section 117.** Section 20-10-132, MCA, is amended to read:

20 **"20-10-132. Duties of the county transportation committee.** (1) ~~It shall be~~ is the duty of the county

21 transportation committee to:

22 (a) establish the transportation service areas within the county, without regard to district boundary

23 lines, ~~which~~ that will define the geographic area of responsibility for school bus transportation for each

24 district that operates a school bus transportation program;

25 (b) approve, disapprove, or adjust the school bus routing submitted by the trustees of each district

26 in conformity with the transportation service areas established in subsection (1)(a);

27 (c) approve, disapprove, or adjust applications, approved by the trustees, for increased

28 reimbursements for individual transportation due to isolated conditions of the eligible transportee's

29 residence; and

30 (d) conduct hearings to establish the facts of transportation controversies ~~which~~ that have been

1 appealed from the decision of the trustees and act on ~~such~~ appeals on the basis of the facts established
2 at ~~such the~~ hearing.

3 (2) After a fact-finding hearing and decision on a transportation controversy, the trustees or a
4 patron of the district may appeal ~~such the~~ decision to the ~~superintendent of public instruction who shall~~
5 ~~render a decision on the basis of the facts established at the county transportation committee hearing board~~
6 ~~of public education pursuant to [section 1].~~

7 (3) The trustees of any district ~~which that~~ objects to a particular school bus route or transportation
8 service area to which it has been assigned may request a transfer to another school bus route or
9 transportation service area. The county transportation committee may transfer the territory of ~~such the~~
10 district to an adjacent district's transportation service area or approved school bus route with the consent
11 of ~~such the~~ adjacent district. When the qualified electors of the district object to the decision of the county
12 transportation committee and the adjacent district is willing to provide school bus service, 20% of the
13 qualified electors, as prescribed in 20-20-301, may petition the trustees to conduct an election on the
14 proposition that the territory of ~~such the~~ district be transferred for school bus transportation purposes to
15 ~~such the~~ consenting, adjacent district. When a satisfactory petition is presented to the trustees, the trustees
16 shall call an election in accordance with 20-20-201 for the next ensuing regular school election day. ~~Such~~
17 ~~The~~ election ~~shall~~ must be conducted in accordance with the school election laws. If a majority of those
18 voting at ~~such the~~ election approve the transfer, it ~~shall become~~ is effective on July 1 of the ensuing school
19 fiscal year.

20 (4) Unless a transfer of a district from one transportation service area or approved school bus route
21 to another ~~such~~ area or route is approved by the county transportation committee and the superintendent
22 of public instruction, the state transportation reimbursement ~~shall be~~ is limited to the reimbursement amount
23 for school bus transportation to the nearest operating public elementary school or public high school,
24 whichever is appropriate for the affected pupils."

25

26 **Section 118.** Section 20-10-143, MCA, is amended to read:

27 **"20-10-143. Budgeting for transportation and transmittal of transportation contracts.** (1) The
28 trustees of a district furnishing transportation to pupils who are residents of the district shall provide a
29 transportation fund budget that is adequate to finance the district's transportation contractual obligations
30 and any other transportation expenditures necessary for the conduct of its transportation program. The

1 transportation fund budget must include:

2 (a) an adequate amount to finance the maintenance and operation of ~~district owned and operated~~

3 school buses owned and operated by the district;

4 (b) the annual contracted amount for the maintenance and operation of school buses by a private

5 party;

6 (c) the annual contracted amount for individual transportation, including any increased amount

7 because of isolation, which may not exceed the schedule amounts prescribed in 20-10-142;

8 (d) any amount necessary for the purchase, rental, or insurance of school buses; and

9 (e) any other amount necessary to finance the administration, operation, or maintenance of the

10 transportation program of the district, as determined by the trustees.

11 (2) The trustees may include a contingency amount in the transportation fund budget for the

12 purpose of enabling the district to fulfill an obligation to provide transportation in accordance with this title

13 for:

14 (a) pupils not residing in the district at the time of the adoption of the preliminary budget and who

15 subsequently became residents of the district during the school fiscal year; or

16 (b) pupils who have become eligible transportees since the adoption of the preliminary budget

17 because their legal residence has been changed. The budgeted contingency amount may not exceed 10%

18 of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for

19 all transportation services authorized by the schedules and provided by the district unless 10% of the

20 transportation schedule amount is less than \$100, in which case \$100 is the maximum limitation for the

21 budgeted contingency amount.

22 (3) A budget amendment to the transportation fund budget may be adopted subject to the

23 provisions of 20-9-161 through 20-9-166.

24 (4) The transportation fund budgeted expenditures appropriated by the trustees must be reported

25 on the regular budget form prescribed by the superintendent of public instruction in accordance with

26 20-9-103, and the adoption of the transportation fund budget must be completed in accordance with the

27 school budgeting laws. When the adopted preliminary budget is ~~sent to the county superintendent~~

28 complete, the trustees shall ~~also~~ send copies of all completed transportation contracts for school bus

29 transportation and individual transportation to the ~~county superintendent~~ board of county commissioners.

30 The contracts must substantiate all contracted transportation services incorporated in the preliminary

1 budget, and after the county superintendent has utilized the contracts for that purpose but before the fourth
2 Monday of July, he shall send all transportation contracts received to the superintendent of public
3 instruction. When the county superintendent determines a deviation between the preliminary transportation
4 fund budget amount for contracted transportation services and the contracted amount for the services, he
5 shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees
6 to change the preliminary budgeted amount to compensate for the deviation."

7

8 **Section 119.** Section 20-10-144, MCA, is amended to read:

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

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

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

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

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

25 (d) the amount budgeted on the preliminary budget for the contingency amount permitted in
26 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100,
27 whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation
28 amount and used in this determination of the schedule amount; plus

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

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

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

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

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

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

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

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

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

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

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

27 (e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517,
28 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

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

30 (g) anticipated net proceeds taxes for new production, production from horizontally completed

1 wells, and incremental production, as defined in 15-23-601, and local government severance taxes on any
2 other production occurring after December 31, 1988;

3 (h) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320
4 through 20-5-324;

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

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

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

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

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

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

22

23 **Section 120.** Section 20-10-145, MCA, is amended to read:

24 **"20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation
25 or individual transportation in accordance with this title, board of public education transportation policy,
26 and superintendent of public instruction transportation rules must receive a state reimbursement of its
27 transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and
28 20-10-142. The state transportation reimbursement is one-half of the reimbursement amounts established
29 in 20-10-141 and 20-10-142 or one-half of the district's transportation fund budget, whichever is smaller,
30 and must be computed on the basis of the number of days the transportation services were actually

1 rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation
2 reimbursement, an amount claimed by a district may not be considered for reimbursement unless the
3 amount has been paid in the regular manner provided for the payment of other financial obligations of the
4 district.

5 (2) Requests for the state transportation reimbursement must be made to the superintendent of
6 public instruction by each district semiannually during the school fiscal year on the claim forms and
7 procedure promulgated by the superintendent of public instruction. ~~The claims for state transportation~~
8 ~~reimbursements must be routed by the district to the county superintendent, who after reviewing the claims~~
9 ~~shall send them to the superintendent of public instruction.~~ The superintendent of public instruction shall
10 establish the validity and accuracy of the claims for the state transportation reimbursements by determining
11 compliance with this title, board of public education transportation policy, and the transportation rules of
12 the superintendent of public instruction. After making any necessary adjustments to the claims, the
13 superintendent of public instruction shall order a disbursement from the state money appropriated by the
14 legislature of the state of Montana for the state transportation reimbursement. The payment of all the
15 district's claims within one county must be made to the county treasurer of the county, and the county
16 ~~superintendent treasurer~~ shall apportion the payment in accordance with the apportionment order supplied
17 by the superintendent of public instruction."

18

19 **Section 121.** Section 20-10-146, MCA, is amended to read:

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

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

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

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

5 (a) totaling the net requirement for all districts of the county, including reimbursements to a special
6 education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory
7 attendance agreement provisions of 20-5-321;

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

16 (iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the
17 county transportation fund;

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

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

21 (c) subtracting the money available as determined in subsection (2)(b) to reduce the levy
22 requirement from the county transportation net levy requirement.

23 (3) The net levy requirement determined in subsection (2)(c) must be reported to the county
24 commissioners on the fourth Monday of August by the county ~~superintendent~~ treasurer, and a levy must
25 be set by the county commissioners in accordance with 20-9-142.

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

1 **Section 122.** Section 20-10-147, MCA, is amended to read:

2 **"20-10-147. Bus depreciation reserve.** (1) The trustees of a district owning a bus or a two-way
3 radio used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to
4 and from school functions or activities may establish a bus depreciation reserve fund to be used for the
5 conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio.

6 (2) Whenever a bus depreciation reserve fund is established, the trustees may include in the
7 district's budget, in accordance with the school budgeting provisions of this title, an amount each year that
8 does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over
9 time, exceed 150% of the original cost of a bus or two-way radio. The annual revenue requirement for each
10 district's bus depreciation reserve fund, determined within the limitations of this section, must be reported
11 by the county superintendent treasurer to the county commissioners on the fourth Monday of August as
12 the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county
13 commissioners in accordance with 20-9-142.

14 (3) Any An expenditure of bus depreciation reserve fund money must be within the limitations of
15 the district's final bus depreciation reserve fund budget and the school financial administration provisions
16 of this title and may be made only to convert, remodel, or rebuild buses or to replace the buses or radios
17 for which the bus depreciation reserve fund was created.

18 (4) Whenever the trustees of a district maintaining a bus depreciation reserve fund consider it to
19 be in the best interest of the district to transfer any portion or all of the bus depreciation reserve fund
20 balance to any other fund maintained by the district, the trustees shall submit the proposition to the electors
21 of the district. The electors qualified to vote at the election shall qualify under 20-20-301, and the election
22 must be called and conducted in the manner prescribed by this title for school elections. If a majority of
23 those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund,
24 the transfer is approved and the trustees shall immediately order the county treasurer to make the approved
25 transfer."

26
27 **Section 123.** Section 20-10-205, MCA, is amended to read:

28 **"20-10-205. Allocation of federal funds to school food services fund for federally connected,
29 indigent pupils.** The trustees of any school district receiving federal reimbursement in lieu of taxes may
30 request the allocation of a portion of such the federal funds to the school food services fund to provide free

1 meals for federally connected, indigent pupils when the pupils are declared eligible. In granting the request,
2 the county ~~superintendent~~ treasurer shall comply with the following procedures:

3 (1) The indigency must be certified by the county department of welfare, assisted by a committee
4 of three composed of the county ~~superintendent~~ treasurer, a representative of the county health
5 department, and an authorized representative of the district.

6 (2) A certified, detailed claim for the amount of the federal reimbursement in lieu of taxes that is
7 to be allocated to the school food services fund ~~shall~~ must be filed by the district with the county
8 ~~superintendent~~ treasurer. The county ~~superintendent~~ treasurer shall confirm or adjust the amount of the
9 claim by:

10 (a) determining that the pupils included on the claim have been declared indigent under subsection
11 (1);
12 (b) determining the number of meals provided the indigent pupils by the school food services;
13 (c) determining the price per meal charged the nonindigent pupil; and
14 (d) multiplying the number of meals provided to indigent pupils by the price per meal.

15 (3) After the county ~~superintendent's~~ treasurer's confirmation or adjustment of the claim, ~~he~~ the
16 treasurer shall notify the district ~~and the county treasurer~~ of the approved amounts for allocation to the
17 school food services fund. The district shall deposit the approved amount in the school food services fund
18 on receipt of the succeeding federal payment in lieu of taxes."

19

20 **Section 124.** Section 20-15-325, MCA, is amended to read:

21 **"20-15-325. Emergency budget limitation, preparation, and adoption procedures.** (1) The meeting
22 of the trustees of a community college district to consider and adopt an emergency budget must be open
23 to the public, and any taxpayer in the district has the right to appear and be heard. If at the meeting a
24 majority of the trustees present find that an emergency exists, the trustees may make and adopt a
25 preliminary emergency budget, on the regular budget form, setting forth fully the facts constituting the
26 emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund that was
27 included on the final budget of the district for the current fiscal year. The budget must be itemized to show
28 the amount appropriated for each item as required on the budget form.

29 (2) When the emergency is the result of increased enrollment, the maximum amount of the
30 emergency budget for all funds must be determined by budget amendment.

4 (4) After a majority of the trustees have voted to adopt the emergency budget, it must be signed
5 by the ~~chairman~~ presiding officer of the trustees and the clerk of the school district and copies must be sent
6 to ~~the county superintendent~~, the county treasurer, and the board of regents."

7

8 **Section 125.** Section 20-20-108, MCA, is amended to read:

9 "20-20-108. Rescheduling of school election canceled due to declaration of state of emergency
10 or disaster. If the governor declares a state of emergency or disaster under Title 10, chapter 3, a school
11 election may be canceled by ~~the county superintendent of schools or, in the absence of the county~~
12 superintendent, by the state superintendent of public instruction. As soon as convenient after the
13 declaration of a state of emergency or disaster is terminated, the trustees of the district shall set a new date
14 for the election. Notice of ~~such~~ the election ~~shall~~ must be published for 7 consecutive days in a newspaper
15 of general circulation in the district and posted for 7 days at district polling places. Whenever the best
16 interests of the district would be served, the trustees may give additional notice of the election through
17 appropriate radio and television stations that serve the people of the district."

18

19 Section 126. Section 20-20-201, MCA, is amended to read:

20 **"20-20-201. Calling of school election.** (1) At least 40 days before any school election, the trustees
21 of any district shall call ~~such~~ the school election by resolution, stating the date and purpose of ~~such~~ the
22 election, and shall conduct it in accordance with the procedures required by law, when:

(a) an election must be held on the regular school election day;

(b) in their discretion, the trustees order an election for a purpose authorized by law;

(c) the county superintendent orders an election in accordance with the law authorizing such an order;

27 {d} the board of public education orders an election in accordance with the law authorizing such
28 an order;

29 ~~for(d)~~ the county commissioners order an election in accordance with the law authorizing such an
30 order;



1 ~~ff~~e the board of trustees of a community college district orders an election in accordance with
2 the law authorizing ~~such~~ an order (in which case the community college district shall bear its share of the
3 cost of ~~such~~ the election); or

4 ~~ff~~f a school election is required by law under any other circumstances.

5 (2) The resolution calling any school election ~~shall~~ must be transmitted to the county election
6 administrator no later than 35 days before the election in order to enable ~~him~~ the administrator to close the
7 registration and prepare the lists of registered electors as required by school election laws."

8

9 **Section 127.** Section 20-20-416, MCA, is amended to read:

10 **"20-20-416. Certificate of election.** After the canvass of the total votes cast, the trustees shall
11 issue a certificate of election. In the case of a trustee election, the certificate ~~shall~~ must be issued to the
12 elected trustee and the ~~county superintendent~~ school district clerk ~~designating~~ and must designate the term
13 of the trustee position to which ~~he~~ the trustee has been elected. In the case of an election on a
14 proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate
15 ~~shall~~ must be issued to the official or public body ~~which~~ that ordered the election within 15 days after the
16 election. When the election has been ordered by resolution of the trustees, the canvassed results ~~shall~~
17 must be published immediately in a newspaper that will give notice to the largest number of people of the
18 district."

19

20 **Section 128.** Section 52-2-211, MCA, is amended to read:

21 **"52-2-211. County interdisciplinary child information team.** (1) The following persons and
22 agencies operating within a county may by written agreement form a county interdisciplinary child
23 information team:

24 (a) the youth court;

25 (b) the county attorney;

26 (c) the department of family services;

27 ~~(d) the county superintendent of schools;~~

28 ~~ff~~d the sheriff;

29 ~~ff~~e the chief of any police force; and

30 ~~ff~~f the superintendents of public school districts.



(2) The persons and agencies signing a written agreement under subsection (1) may by majority

2 vote allow the following persons to sign the written agreement and join the information team:

3 (a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental
4 health care;

5 (b) entities operating private elementary and secondary schools;

6 (c) attorneys; and

7 (d) a person or entity that has or may have a legitimate interest in one or more children that the
8 information team will serve.

(3) The members of the information team or their designees may form one or more auxiliary teams

10 for the purpose of providing service to a single child, a group of children, or children with a particular type
11 of problem or for any other purpose. Auxiliary teams are subject to the written agreement.

12 (4) The purpose of the team and written agreement is to facilitate the exchange and sharing of
13 information that one or more team members may be able to use in serving a child in the course of their
14 professions and occupations, including but not limited to abused, neglected, dependent, and delinquent
15 children and youth in need of supervision. Information regarding a child that a team member supplies to
16 other team members or that is disseminated to a team member under 41-3-205, 41-5-602, or 41-5-603
17 may not be disseminated beyond the team.

18 (5) The terms of the written agreement must provide for the rules under which the team will
19 operate, the method by which information will be shared, distributed, and managed, and any other matters
20 necessary to the purpose and functions of the team."

21

22 **NEW SECTION.** **Section 129. Repealer.** Sections 7-4-3005, 20-3-107, 20-3-205, 20-3-206,
23 20-3-207, 20-3-208, 20-3-209, 20-3-210, 20-3-211, 20-3-212, 20-9-114, 20-9-211, and 20-9-348, MCA,
24 are repealed.

25

26 **NEW SECTION.** **Section 130. Codification instruction.** [Section 1] is intended to be codified as
27 an integral part of Title 20, chapter 2, part 1, and the provisions of Title 20, chapter 2, part 1, apply to
28 [section 1].

29

30 NEW SECTION. Section 131. Effective date -- applicability. [This act] is effective January 1,



1 2001, and applies to each county upon the beginning of the next term of office of each county
2 superintendent of schools after January 1, 2001.

3

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0221, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act implementing a recommendation of the governor's task force to renew Montana government by eliminating the duties of a county superintendent of schools; transferring duties of a county superintendent to the board of public education, county treasurer, board of county commissioners, school district, school district clerk, or county clerk and recorder; establishing a case controversy procedure

ASSUMPTIONS:

1. The effective date of House Bill 221 is July 1, 2001.
2. This bill will have no impact on state or local costs for education in the 1997 biennium.
3. The average salary and benefits of county superintendents will be \$27,000 in FY95 resulting in total salaries and benefits of \$1,080,000 for the 40 current county superintendents of schools.

FISCAL IMPACT:

Expenditures: Because of the effective date HB221 will have no fiscal impact in the 1997 biennium. Counties are estimated to currently spend \$1.08 million annually on salaries and benefits of county superintendents.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: With the elimination of the office of county superintendent of schools duties are either reassigned or eliminated by this bill. Most reassignment of functions occurs at the county level where duties currently performed by the superintendent of schools are reassigned to other county offices. Since some duties are eliminated, some are reassigned to the state, and the county will have increased flexibility to establish the pay levels of employees who may be needed to assume functions currently handled by the superintendent of schools it can reasonably be assumed that county costs will be reduced.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: When this becomes effective in FY02 the Board of Public Education anticipates annual increased costs relating to controversy appeals and hearings of approximately \$100,000 per year.

TECHNICAL NOTES:

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

J. BOHLINGER, PRIMARY SPONSOR DATE

Fiscal Note for HB0221, as introduced

HB 221

1 HOUSE BILL NO. 221

2 INTRODUCED BY BOHLINGER

3 BY REQUEST OF THE GOVERNOR

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING A RECOMMENDATION OF THE GOVERNOR'S
6 TASK FORCE TO RENEW MONTANA GOVERNMENT BY ELIMINATING THE DUTIES OF REQUIREMENT
7 THAT A COUNTY SUPERINTENDENT OF SCHOOLS HOLD A VALID TEACHING CERTIFICATE AND HAVE
8 AT LEAST 3 YEARS' TEACHING EXPERIENCE; TRANSFERRING DUTIES OF A COUNTY SUPERINTENDENT
9 TO THE BOARD OF PUBLIC EDUCATION, COUNTY TREASURER, BOARD OF COUNTY COMMISSIONERS,
10 SCHOOL DISTRICT, SCHOOL DISTRICT CLERK, OR COUNTY CLERK AND RECORDER; ESTABLISHING A
11 CASE CONTROVERSY PROCEDURE; ELIMINATING THE REQUIREMENT THAT THE COUNTY
12 COMMISSIONERS CONTRACT WITH A PERSON WITH CERTAIN QUALIFICATIONS IN ORDER TO EXECUTE
13 DUTIES WITH REGARD TO SCHOOL SUPERVISION AND SCHOOL CONTROVERSIES; AMENDING
14 SECTIONS 7-2-2253, 7-2-2727, 7-6-2801, 17-3-213, 20-1-204, 20-1-208, 20-2-121, 20-3-105, 20-3-106,
15 20-3-201, 20-3-202, 20-3-204, 20-3-307, 20-3-309, 20-3-311, 20-3-324, 20-3-337, 20-3-352, 20-3-353,
16 20-3-354, 20-3-356, 20-4-202, 20-4-204, 20-4-206, 20-4-207, 20-4-208, 20-4-301, 20-4-302, 20-4-402,
17 20-5-104, 20-5-109, 20-5-314, 20-5-316, 20-5-321, 20-5-322, 20-5-324, 20-6-103, 20-6-201, 20-6-203,
18 20-6-205, 20-6-208, 20-6-209, 20-6-210, 20-6-211, 20-6-213, 20-6-214, 20-6-215, 20-6-217, 20-6-301,
19 20-6-303, 20-6-304, 20-6-307, 20-6-309, 20-6-312, 20-6-313, 20-6-315, 20-6-317, 20-6-320, 20-6-321,
20 20-6-325, 20-6-413, 20-6-415, 20-6-418, 20-6-502, 20-6-503, 20-6-504, 20-6-506, 20-6-507, 20-6-701,
21 20-7-114, 20-7-116, 20-7-204, 20-7-205, 20-7-602, 20-7-605, 20-7-606, 20-7-608, 20-7-705, 20-9-113,
22 20-9-121, 20-9-122, 20-9-123, 20-9-131, 20-9-134, 20-9-141, 20-9-142, 20-9-151, 20-9-152, 20-9-162,
23 20-9-164, 20-9-165, 20-9-203, 20-9-206, 20-9-211, 20-9-212, 20-9-213, 20-9-302, 20-9-313, 20-9-332,
24 20-9-334, 20-9-344, 20-9-347, 20-9-353, 20-9-369, 20-9-438, 20-9-439, 20-9-501, 20-9-503, 20-9-506,
25 20-9-804, 20-10-103, 20-10-104, 20-10-112, 20-10-124, 20-10-131, 20-10-132, 20-10-143, 20-10-144,
26 20-10-145, 20-10-146, 20-10-147, 20-10-205, 20-15-325, 20-20-108, 20-20-201, 20-20-416, AND
27 52-2-211, MCA; REPEALING SECTIONS 7-4-3005, 20-3-107, 20-3-205, 20-3-206, 20-3-207, 20-3-208,
28 20-3-209, 20-3-210, 20-3-211, 20-3-212, 20-9-114, AND 20-9-348, MCA; AND PROVIDING A DELAYED
29 AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

30

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

2 (Refer to Introduced Bill)

3 Strike everything after the enacting clause and insert:

5 **Section 1.** Section 20-3-201, MCA, is amended to read:

6 **"20-3-201. Election and qualifications -- part-time office allowed.** (1) A county superintendent
7 must be elected in each county of the state unless a county manager form of government has been
8 organized in the county. The county superintendent must be elected at the general election preceding the
9 expiration of the term of office of the incumbent.

10 ~~(2) Upon verification by the county clerk and recorder, a person is qualified to file for and assume
11 the office of county superintendent who:~~

12 ~~(a) is a qualified elector;~~

13 ~~(b) holds a valid, current class 1 professional certificate, class 2 standard certificate, or class 3
14 administrative and supervisory certificate issued by the superintendent of public instruction; and~~

15 ~~(c) has at least 3 years of successful teaching experience.~~

16 ~~(3) (a)(2) (a) When the office of county superintendent of schools is consolidated with another one
17 or more county office offices within the county, the officeholder must have the qualifications listed in
18 subsection (2) or shall, with the approval of the governing body, may contract for the full performance of
19 the duties required of a county superintendent in 20-3-207 and 20-3-210 with:~~

20 (i) another county superintendent, with the approval of the governing body of that county;

21 (ii) a former county superintendent; or

22 (iii) a person who:

23 (A) is a qualified elector;

24 (B) holds a valid administrative certificate as provided in 20-4-106(1)(c);

25 (C) takes the oath of office in 20-1-202;

26 (D) is bonded in the manner provided for county officers in Title 2, chapter 9, part 7; and

27 (E) attends instructional training in the duties of a county superintendent as offered by the
28 superintendent of public instruction.

29 (b) Whenever a governing body contracts with a person for performance of the duties required of
30 a county superintendent under the provisions of subsection ~~(3)(a)(iii) (2)(a)(iii)~~, the contract must be for at

1 least the duration of 1 school fiscal year.

2 (c) The superintendent of public instruction shall prescribe a contract form to be used.

3 44(3) The board of county commissioners may establish the office of county superintendent as
4 a part-time office under the provisions of 20-3-213, and adjust the salary established in 7-4-2503 to make
5 it commensurate with the reduction in hours. A part-time county superintendent shall perform all duties of
6 that office that are required by law."

7

8 **Section 2.** Section 20-3-204, MCA, is amended to read:

9 **"20-3-204. Office hours.** (1) Except for a part-time county superintendent provided for under
10 20-3-20144, the county superintendent of schools shall keep the office of the county superintendent open
11 from 8 a.m. until 5 p.m. every day when the county superintendent is not engaged in the supervision of
12 schools except on holidays and on Saturdays, provided that when the county superintendent has a deputy
13 or clerk, the office must be kept open from 8 a.m. until 5 p.m. every day except holidays and except
14 Saturdays. The office must be kept open at all times as business may require.

15 (2) This section does not apply to counties operating under the county manager plan."

16

17 **NEW SECTION. Section 3. Effective date -- applicability.** [This act] is effective on passage and
18 approval and applies to each county upon the beginning of the next term of office after [the effective date
19 of this act].

20

-END-

HOUSE BILL NO. 221

INTRODUCED BY BOHLINGER

BY REQUEST OF THE GOVERNOR

5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING A RECOMMENDATION OF THE GOVERNOR'S
6 TASK FORCE TO RENEW MONTANA GOVERNMENT BY ELIMINATING THE DUTIES OF REQUIREMENT
7 THAT A COUNTY SUPERINTENDENT OF SCHOOLS HOLD A VALID TEACHING CERTIFICATE AND HAVE
8 AT LEAST 3 YEARS' TEACHING EXPERIENCE; TRANSFERRING DUTIES OF A COUNTY SUPERINTENDENT
9 TO THE BOARD OF PUBLIC EDUCATION, COUNTY TREASURER, BOARD OF COUNTY COMMISSIONERS,
10 SCHOOL DISTRICT, SCHOOL DISTRICT CLERK, OR COUNTY CLERK AND RECORDER; ESTABLISHING A
11 CASE CONTROVERSY PROCEDURE; ELIMINATING THE REQUIREMENT THAT THE COUNTY
12 COMMISSIONERS CONTRACT WITH A PERSON WITH CERTAIN QUALIFICATIONS IN ORDER TO EXECUTE
13 DUTIES WITH REGARD TO SCHOOL SUPERVISION AND SCHOOL CONTROVERSIES; AMENDING
14 SECTIONS 7-2-2253, 7-2-2727, 7-6-2801, 17-3-213, 20-1-204, 20-1-208, 20-2-121, 20-3-105, 20-3-106,
15 20-3-201, 20-3-202, 20-3-204, 20-3-307, 20-3-309, 20-3-311, 20-3-324, 20-3-337, 20-3-352, 20-3-353,
16 20-3-354, 20-3-356, 20-4-202, 20-4-204, 20-4-206, 20-4-207, 20-4-208, 20-4-301, 20-4-302, 20-4-402,
17 20-5-104, 20-5-109, 20-5-314, 20-5-316, 20-5-321, 20-5-322, 20-5-324, 20-6-103, 20-6-201, 20-6-203,
18 20-6-205, 20-6-208, 20-6-209, 20-6-210, 20-6-211, 20-6-213, 20-6-214, 20-6-215, 20-6-217, 20-6-301,
19 20-6-303, 20-6-304, 20-6-307, 20-6-309, 20-6-312, 20-6-313, 20-6-315, 20-6-317, 20-6-320, 20-6-321,
20 20-6-325, 20-6-413, 20-6-415, 20-6-418, 20-6-502, 20-6-503, 20-6-504, 20-6-506, 20-6-507, 20-6-701,
21 20-7-114, 20-7-116, 20-7-204, 20-7-205, 20-7-602, 20-7-605, 20-7-606, 20-7-608, 20-7-705, 20-9-113,
22 20-9-121, 20-9-122, 20-9-123, 20-9-131, 20-9-134, 20-9-141, 20-9-142, 20-9-151, 20-9-152, 20-9-162,
23 20-9-164, 20-9-165, 20-9-203, 20-9-206, 20-9-211, 20-9-212, 20-9-213, 20-9-302, 20-9-313, 20-9-332,
24 20-9-334, 20-9-344, 20-9-347, 20-9-353, 20-9-369, 20-9-438, 20-9-439, 20-9-501, 20-9-503, 20-9-506,
25 20-9-804, 20-10-103, 20-10-104, 20-10-112, 20-10-124, 20-10-131, 20-10-132, 20-10-143, 20-10-144,
26 20-10-145, 20-10-146, 20-10-147, 20-10-205, 20-15-325, 20-20-108, 20-20-201, 20-20-416, AND
27 62-2-211, MCA; REPEALING SECTIONS 7-4-3005, 20-3-107, 20-3-205, 20-3-206, 20-3-207, 20-3-208,
28 20-3-209, 20-3-210, 20-3-211, 20-3-212, 20-9-114, AND 20-9-348, MCA; AND PROVIDING A DELAYED
29 AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

2 (Refer to Introduced Bill)

3 Strike everything after the enacting clause and insert:

4

5 **Section 1.** Section 20-3-201, MCA, is amended to read:

6 **"20-3-201. Election and qualifications -- part-time office allowed.** (1) A county superintendent
7 must be elected in each county of the state unless a county manager form of government has been
8 organized in the county. The county superintendent must be elected at the general election preceding the
9 expiration of the term of office of the incumbent.

10 ~~(2) Upon verification by the county clerk and recorder, a person is qualified to file for and assume
11 the office of county superintendent who:~~

12 ~~(a) is a qualified elector;~~

13 ~~(b) holds a valid, current class 1 professional certificate, class 2 standard certificate, or class 3
14 administrative and supervisory certificate issued by the superintendent of public instruction; and
15 (c) has at least 3 years of successful teaching experience.~~

16 ~~(3) (a)(2) (a) When the office of county superintendent of schools is consolidated with another one
17 or more county office offices within the county, the officeholder must have the qualifications listed in
18 subsection (2) or shall, with the approval of the governing body, may contract for the full performance of
19 the duties required of a county superintendent in 20-3-207 and 20-3-210 with:~~

20 (i) another county superintendent, with the approval of the governing body of that county;

21 (ii) a former county superintendent; or

22 (iii) a person who:

23 (A) is a qualified elector;

24 (B) holds a valid administrative certificate as provided in 20-4-106(1)(c);

25 (C) takes the oath of office in 20-1-202;

26 (D) is bonded in the manner provided for county officers in Title 2, chapter 9, part 7; and

27 (E) attends instructional training in the duties of a county superintendent as offered by the
28 superintendent of public instruction.

29 (b) Whenever a governing body contracts with a person for performance of the duties required of
30 a county superintendent under the provisions of subsection ~~(3)(a)(iii)~~ (2)(a)(iii), the contract must be for at

1 least the duration of 1 school fiscal year.

2 (c) The superintendent of public instruction shall prescribe a contract form to be used.

3 ~~(4)(3)~~ The board of county commissioners may establish the office of county superintendent as
4 a part-time office under the provisions of 20-3-213, and adjust the salary established in 7-4-2503 to make
5 it commensurate with the reduction in hours. A part-time county superintendent shall perform all duties of
6 that office that are required by law."

7

8 **Section 2.** Section 20-3-204, MCA, is amended to read:

9 **"20-3-204. Office hours.** (1) Except for a part-time county superintendent provided for under
10 20-3-201~~(4)~~, the county superintendent of schools shall keep the office of the county superintendent open
11 from 8 a.m. until 5 p.m. every day when the county superintendent is not engaged in the supervision of
12 schools except on holidays and on Saturdays, provided that when the county superintendent has a deputy
13 or clerk, the office must be kept open from 8 a.m. until 5 p.m. every day except holidays and except
14 Saturdays. The office must be kept open at all times as business may require.

15 (2) This section does not apply to counties operating under the county manager plan."

16

17 **NEW SECTION.** **Section 3. Effective date -- applicability.** [This act] is effective on passage and
18 approval and applies to each county upon the beginning of the next term of office after [the effective date
19 of this act].

20

-END-