

SENATE BILL NO. 232

INTRODUCED BY

Paula Jean, Kitzberger, Daniel Hoff

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE LOCAL CONTROL PROVIDED TO SCHOOL TRUSTEES UNDER ARTICLE X, SECTION 8, OF THE MONTANA CONSTITUTION BY REVISING CERTAIN DUTIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC EDUCATION; REMOVING FROM THE SUPERINTENDENT OF PUBLIC INSTRUCTION THE AUTHORITY TO ADJUST THE AVERAGE NUMBER BELONGING, TO APPROVE OR DISAPPROVE AN ADULT EDUCATION PROGRAM FOR WHICH A DISTRICT PROPOSES A LEVY, OR TO APPROVE OR DISAPPROVE SCHOOL ON SATURDAYS OR ON PUPIL-INSTRUCTION-RELATED DAYS; AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO ADOPT POLICES FOR SPECIAL EDUCATION TO MEET MINIMUM FEDERAL STANDARDS AND ADVISE TRUSTEES; REMOVING THE AUTHORITY OF THE BOARD OF PUBLIC EDUCATION TO ORDER THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO WITHHOLD BASE AID FROM A DISTRICT FOR FAILURE TO COMPLY WITH BOARD RULES OR FAILURE TO MAINTAIN ACCREDITED STATUS; PROHIBITING THE SUPERINTENDENT OF PUBLIC INSTRUCTION FROM WITHHOLDING FEDERAL MONEY OR WITHHOLDING MONEY FROM VOCATIONAL EDUCATION, FOR FAILURE TO COMPLY WITH STATE ACCREDITATION STANDARDS; AMENDING SECTIONS 20-1-303, 20-1-304, 20-2-121, 20-3-106, 20-7-303, 20-7-420, 20-7-422, 20-7-435, 20-7-705, 20-9-344, AND 20-9-603, MCA; REPEALING SECTION 20-7-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-1-303, MCA, is amended to read:

"20-1-303. Conduct of school on Saturday or Sunday prohibited -- exception. Except as provided in this section, pupil instruction ~~shall~~ may not be conducted on Saturday or Sunday. In emergencies, pupil instruction may be conducted on a Saturday when it is ~~approved by the superintendent of public instruction~~ in accordance with the policies adopted by the board of public education."

Section 2. Section 20-1-304, MCA, is amended to read:

"20-1-304. Pupil-instruction-related day. A pupil-instruction-related day is a day of teacher activities

1 devoted to improving the quality of instruction. The activities may include but are not limited to inservice
 2 training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum
 3 of 7 pupil-instruction-related days may be conducted during a school year, with a minimum of 3 of the days
 4 for instructional and professional development meetings or other appropriate inservice training, provided
 5 that the days are ~~approved by the superintendent of public instruction~~ in accordance with the policy
 6 adopted by the board of public education. The days may not be included as a part of the required minimum
 7 of 180 days of pupil instruction."

8

9 **Section 3.** Section 20-2-121, MCA, is amended to read:

10 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

11 (1) effect an orderly and uniform system for teacher certification and specialist certification and
 12 for the issuance of an emergency authorization of employment by adopting the policies prescribed by
 13 20-4-102 and 20-4-111;

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

16 (3) administer and order the distribution of BASE aid in accordance with the provisions of
 17 20-9-344;

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

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

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

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

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

29 (9) adopt policies for the conduct of special education ~~in accordance with the provisions of~~
 30 20-7-402 to meet minimum federal standards or to advise local boards of trustees regarding the

1 establishment of a special education policy;

2 (10) adopt rules for issuance of documents certifying equivalency of completion of secondary
3 education in accordance with 20-7-131;

4 (11) adopt policies for the conduct of programs for gifted and talented children in accordance with
5 the provisions of 20-7-903 and 20-7-904;

6 (12) adopt rules for student assessment in the public schools; and

7 (13) perform any other duty prescribed from time to time by this title or any other act of the
8 legislature."

9

10 **Section 4.** Section 20-3-106, MCA, is amended to read:

11 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
12 has the general supervision of the public schools and districts of the state and shall perform the following
13 duties or acts in implementing and enforcing the provisions of this title:

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

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

17 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
18 20-5-314;

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

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

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

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

25 (8) generally supervise the school budgeting procedures prescribed by law in accordance with the
26 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of
27 20-9-103 and 20-9-506;

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

30 (10) approve or disapprove the adoption of a district's budget amendment resolution under the

- 1 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a
2 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 3 (11) generally supervise the school financial administration provisions as prescribed by
4 20-9-201(2);
- 5 (12) prescribe and furnish the annual report forms to enable the districts to report to the county
6 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the
7 county superintendents to report to the superintendent of public instruction in accordance with the
8 provisions of 20-3-209;
- 9 (13) approve, or disapprove, ~~or adjust~~ an increase of the average number belonging (ANB) in
10 accordance with the provisions of 20-9-313 and 20-9-314;
- 11 (14) distribute BASE aid and special education allowable cost payments in support of the BASE
12 funding program, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347,
13 and 20-9-366 through 20-9-369;
- 14 (15) provide for the uniform and equal provision of transportation by performing the duties
15 prescribed by the provisions of 20-10-112;
- 16 ~~(16) approve or disapprove an adult education program for which a district proposes to levy a tax~~
17 ~~in accordance with the provisions of 20-7-705;~~
- 18 ~~(17)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of
19 20-9-603;
- 20 ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement
21 in accordance with the provisions of 20-9-703 and 20-9-704;
- 22 ~~(19)~~(18) prescribe the form and contents of and approve or disapprove interstate contracts in
23 accordance with the provisions of 20-9-705;
- 24 ~~(20) approve or disapprove the conduct of school on a Saturday or on pupil instruction related days~~
25 ~~in accordance with the provisions of 20-1-303 and 20-1-304;~~
- 26 ~~(21)~~(19) recommend standards of accreditation for all schools to the board of public education and
27 evaluate compliance with the standards and recommend accreditation status of ~~every~~ each school to the
28 board of public education in accordance with the provisions of 20-7-101 and 20-7-102;
- 29 ~~(22)~~(20) collect and maintain a file of curriculum guides and assist schools with instructional
30 programs in accordance with the provisions of 20-7-113 and 20-7-114;

1 ~~(23)~~(21) establish and maintain a library of visual, aural, and other educational media in accordance
 2 with the provisions of 20-7-201;

3 ~~(24)~~(22) license textbook dealers and initiate prosecution of textbook dealers violating the law in
 4 accordance with the provisions of the textbooks part of this title;

5 ~~(25)~~(23) as the governing agent and executive officer of the state of Montana for K-12 vocational
 6 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

7 ~~(26)~~(24) supervise and coordinate the conduct of special education in the state in accordance with
 8 the provisions of 20-7-403;

9 ~~(27)~~(25) administer the traffic education program in accordance with the provisions of 20-7-502;

10 ~~(28)~~(26) administer the school food services program in accordance with the provisions of
 11 20-10-201, 20-10-202, and 20-10-203;

12 ~~(29)~~(27) review school building plans and specifications in accordance with the provisions of
 13 20-6-622;

14 ~~(30)~~(28) prescribe the method of identification and signals to be used by school safety patrols in
 15 accordance with the provisions of 20-1-408;

16 ~~(31)~~(29) provide schools with information and technical assistance for compliance with the student
 17 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment
 18 for the board of public education and the legislature;

19 ~~(32)~~(30) administer the distribution of guaranteed tax base aid in accordance with 20-9-366
 20 through 20-9-369; and

21 ~~(33)~~(31) perform any other duty prescribed from time to time by this title, any other act of the
 22 legislature, or the policies of the board of public education."

23

24 **Section 5.** Section 20-7-303, MCA, is amended to read:

25 **"20-7-303. Authorization to establish and maintain vocational education courses and programs.**

26 The trustees of an elementary or high school district may establish and maintain a vocational education
 27 course or program that complies with the K-12 vocational education standards adopted by the
 28 superintendent of public instruction. In order for a course or program to be eligible for state or federal
 29 financing, it ~~shall~~ must be approved by the superintendent of public instruction for compliance with K-12
 30 vocational education standards. The superintendent of public instruction may not withhold state or federal

1 funds for failure of a district to comply with state accreditation standards."

2

3 **Section 6.** Section 20-7-420, MCA, is amended to read:

4 **"20-7-420. Residency requirements -- financial responsibility for special education.** (1) In
5 accordance with the provisions of 1-1-215, a child's district of residence for special education purposes
6 is the residence of the child's parents or of the child's guardian if the parents are deceased, unless
7 otherwise determined by the court. This applies to a child living at home, in an institution, or under foster
8 care. If the parent has left the state, the parent's last known district of residence is the child's district of
9 residence.

10 (2) The county of residence is financially responsible for tuition and transportation as established
11 under 20-5-323 for a child with disabilities, as defined in 20-7-401, including a child who has been placed
12 by a state agency in a foster care or group home licensed by the state. The county of residence is not
13 financially responsible for tuition and transportation for a child with disabilities who is placed by a state
14 agency in an out-of-state public school or an out-of-state private residential facility.

15 (3) If an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state
16 residential treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational
17 services are provided by a public school district under the provisions of 20-7-411 or 20-7-435, the
18 superintendent of public instruction shall reimburse the district providing the services for the negotiated
19 amount, as established pursuant to 20-7-435(5), that represents the district's costs of providing education
20 and related services. Payments must be made from funds appropriated for this purpose. If the negotiated
21 amount exceeds the daily membership rate under 20-7-435(3) and any per-ANB amount of direct state aid,
22 the superintendent of public instruction shall pay the remaining balance from the state equalization aid
23 account. However, the amount spent from the state equalization aid account for this purpose may not
24 exceed \$500,000 during any biennium.

25 (4) Under the provisions of 20-7-422(3), the superintendent of public instruction shall provide funds
26 for the education fees required to provide a free appropriate public education for a child with disabilities
27 who is in need of special education and related services and is placed by a state agency in an out-of-state
28 private residential facility or out-of-state public school, ~~provided that, in determining the special education~~
29 ~~services needed for the child with disabilities, the district of residence has complied with the rules~~
30 ~~promulgated under 20-7-402.~~

1 (5) A state agency that makes a placement of a child with disabilities is responsible for the financial
2 costs of room and board and the treatment of the child."
3

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

5 **"20-7-422. Out-of-state placement of children with disabilities -- payment of costs.** (1) In
6 accordance with a placement made by persons determining an individualized education program for a child
7 with disabilities, the trustees of a district may arrange for the attendance of the child in a special education
8 program offered outside of the state of Montana.

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

13 (3) Whenever a child with disabilities who is in need of special education and related services is
14 adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child as defined
15 in 41-3-102 or a youth in need of supervision or delinquent youth as defined in 41-5-103 and is placed by
16 a state agency in an out-of-state private residential facility, the superintendent of public instruction shall
17 negotiate with:

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

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

22 (4) Payments for a child with disabilities as negotiated in subsection (3) must be paid by the
23 superintendent of public instruction from the state special education appropriation."
24

25 **Section 8.** Section 20-7-435, MCA, is amended to read:

26 **"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and in-state**
27 **residential treatment programs for eligible children with emotional disturbances.** (1) It is the intent of the
28 legislature that eligible children in in-state children's psychiatric hospitals and residential treatment facilities
29 be provided with an appropriate educational opportunity in a cost-effective manner, including the provision
30 of a free appropriate public education for eligible children with disabilities that is consistent with state

1 standards for the provision of special education and related services. General education programs for eligible
2 children without disabilities must be provided in accordance with the requirements for a nonpublic school
3 under the provisions of 20-5-109.

4 (2) The superintendent of public instruction may contract with an in-state children's psychiatric
5 hospital or residential treatment facility for provision of an educational program for an eligible child in the
6 hospital or treatment facility.

7 (3) Whenever the superintendent of public instruction contracts with an in-state children's
8 psychiatric hospital or residential treatment facility for provision of an educational program for an eligible
9 child in the children's psychiatric hospital or residential treatment facility, the superintendent of public
10 instruction shall:

11 (a) ensure the provision of a free appropriate public education and an education that is consistent
12 with the requirements for a nonpublic school in 20-5-109 for children attending the hospital or residential
13 treatment facility;

14 (b) negotiate the approval of allowable costs under the provisions of 20-7-431 for allowable costs
15 for providing special education, including the costs of retirement benefits, federal social security system
16 contributions, and unemployment compensation insurance;

17 (c) from appropriations provided for this purpose, fund any approved allowable costs under this
18 section, with the exception of services for which reimbursement is made under any provision of state or
19 federal law or an insurance policy;

20 (d) provide funding for allowable costs according to a proration based on average daily
21 membership.

22 (4) A supplemental education fee or tuition may not be charged for an eligible Montana child who
23 receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital
24 or residential treatment facility.

25 (5) If a children's psychiatric hospital or residential treatment facility fails to provide an education
26 in accordance with 20-5-109 or a free appropriate public education under the provisions of this part for an
27 eligible child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a
28 contract under the provisions of subsection (2), the superintendent of public instruction shall negotiate with
29 the school district in which the children's psychiatric hospital or residential treatment facility is located for
30 the supervision and implementation of an appropriate educational program that is consistent with

1 accreditation standards provided for in 20-7-111 ~~and with the provisions of 20-7-402 for children attending~~
2 ~~the children's psychiatric hospital or residential treatment facility.~~ The amount negotiated with the school
3 district must include all education and related services costs that may be negotiated under the provisions
4 of subsection (3) and all education and related services costs necessary to fulfill the requirements of
5 providing the child with an education.

6 (6) Funds provided to a district under this section, including funds received under the provisions
7 of 20-7-420:

8 (a) must be deposited in the miscellaneous programs fund of the district that provides the education
9 program for an eligible child, regardless of the age or grade placement of the child who is served under a
10 negotiated contract; and

11 (b) are not subject to the budget limitations in 20-9-308."
12

13 **Section 9.** Section 20-7-705, MCA, is amended to read:

14 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when
15 an adult education program is operated by a district or community college district. The financial
16 administration of the fund must comply with the budgeting, financing, and expenditure provisions of the
17 laws governing the schools.

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

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

1 ~~approval.~~

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

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

12

13 **Section 10.** Section 20-9-344, MCA, is amended to read:

14 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
15 education shall administer and distribute the BASE aid and state advances for county equalization in the
16 manner and with the powers and duties provided by law. To this end, the board of public education shall:

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

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

21 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of
22 each district's annual entitlement to the aid as established by the superintendent of public instruction. In
23 ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE
24 aid distribution to any district on account of any difference that may occur during the school fiscal year
25 between budgeted and actual receipts from any other source of school revenue.

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

28 ~~(a) submit reports or budgets as required by law or rules adopted by the board of public education;~~

29 ~~or~~

30 ~~(b) maintain accredited status.~~

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

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

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

9 (a) from August to October of the school fiscal year, 10% of the direct state aid to each district;

10 (b) from December to April of the school fiscal year, 10% of the direct state aid to each district;

11 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each
12 district or county that has submitted a final budget to the superintendent of public instruction in accordance
13 with the provisions of 20-9-134;

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

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

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

21
22 **Section 11.** Section 20-9-603, MCA, is amended to read:

23 **"20-9-603. Acceptance and expenditure of federal ~~moneys~~ money for state.** (1) The governor and
24 the superintendent of public instruction are authorized on behalf of the state of Montana to request and
25 accept ~~such moneys as are~~ money that is now or will be made available under any act of congress of the
26 United States or otherwise for purposes of public school building construction or for any other purposes
27 of public schools and public education ~~as that are~~ permitted under the laws of the state of Montana and
28 ~~as that are~~ authorized by the grants from the federal government. ~~Such moneys shall~~ The money must be
29 deposited by the governor and superintendent of public instruction in the state treasury and ~~are~~ must be
30 appropriated ~~and made available to the superintendent of public instruction pursuant to this section.~~ All

1 ~~such moneys shall~~ The money must be expended for the purpose of public school building construction or
 2 for any other purposes of public schools and public education as permitted under the laws of the state of
 3 Montana and as authorized by the grants from the federal government.

4 (2) The governor and superintendent of public instruction are further authorized on behalf of the
 5 state of Montana to accept ~~moneys~~ money provided from federal sources for the express purpose of
 6 distribution to nonpublic education. ~~Such moneys shall~~ The money must be deposited by the governor and
 7 superintendent of public instruction in the state treasury and ~~are~~ must be appropriated ~~and made available~~
 8 ~~to the superintendent of public instruction pursuant to this section.~~ All such moneys shall The money must
 9 be distributed in the manner provided by the laws of the state of Montana and as authorized or expressed
 10 by grants from the federal government.

11 (3) ~~All~~ Except as provided in subsection (4), all expenditures of ~~moneys~~ money from federal sources
 12 under this section ~~shall~~ must be made under the supervision ~~and in the discretion~~ of the superintendent of
 13 public instruction. Any balance in the account in which ~~such moneys are~~ the money is maintained ~~shall~~ may
 14 not lapse at any time but ~~shall~~ must be continuously available to the superintendent of public instruction
 15 for expenditures consistent with this title and acts of the federal government.

16 (4) The superintendent of public instruction may not withhold money for failure to comply with
 17 state accreditation standards."

18

19 NEW SECTION. Section 12. Repealer. Section 20-7-402, MCA, is repealed.

20

21 NEW SECTION. Section 13. Effective date. [This act] is effective on passage and approval.

22

-END-

1 SENATE BILL NO. 232

2 INTRODUCED BY TOEWS, ELLIS, KITZENBERG, HERTEL, MOHL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE LOCAL CONTROL PROVIDED TO SCHOOL
5 TRUSTEES UNDER ARTICLE X, SECTION 8, OF THE MONTANA CONSTITUTION BY REVISING CERTAIN
6 DUTIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC EDUCATION;
7 REMOVING FROM THE SUPERINTENDENT OF PUBLIC INSTRUCTION THE AUTHORITY TO ADJUST THE
8 AVERAGE NUMBER BELONGING, TO APPROVE OR DISAPPROVE AN ADULT EDUCATION PROGRAM FOR
9 WHICH A DISTRICT PROPOSES A LEVY, OR TO APPROVE OR DISAPPROVE SCHOOL ON SATURDAYS
10 OR ON PUPIL-INSTRUCTION-RELATED DAYS; AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO
11 ADOPT POLICES FOR SPECIAL EDUCATION TO MEET MINIMUM FEDERAL STANDARDS AND ADVISE
12 TRUSTEES; REMOVING THE AUTHORITY OF THE BOARD OF PUBLIC EDUCATION TO ORDER THE
13 SUPERINTENDENT OF PUBLIC INSTRUCTION TO WITHHOLD BASE AID FROM A DISTRICT FOR FAILURE
14 TO COMPLY WITH BOARD RULES OR FAILURE TO MAINTAIN ACCREDITED STATUS; PROHIBITING THE
15 SUPERINTENDENT OF PUBLIC INSTRUCTION FROM WITHHOLDING FEDERAL MONEY OR WITHHOLDING
16 MONEY FROM VOCATIONAL EDUCATION, FOR FAILURE TO COMPLY WITH STATE ACCREDITATION
17 STANDARDS; AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-303, 20-1-304, 20-1-308, 20-2-121,
18 20-3-106, 20-7-303, 20-7-420, 20-7-422, 20-7-435, 20-7-705, 20-9-311, 20-9-344, AND 20-9-603,
19 MCA; REPEALING SECTION 20-7-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:22
23 SECTION 1. SECTION 20-1-301, MCA, IS AMENDED TO READ:

24 "20-1-301. **School fiscal year.** The school fiscal year shall begin on July 1 and end on June 30.
25 At least 180 school days of pupil instruction ~~shall~~ must be conducted during each school fiscal year, except
26 that 175 days of pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, ~~or~~
27 ~~unless a variance for kindergarten has been granted under 20-1-302 or unless~~ a district is granted a
28 variance under the provisions of chapter 9, part 8, of this title. For any elementary or high school district
29 that fails to provide for at least 180 school days of pupil instruction, the superintendent of public instruction
30 shall reduce the county equalization as defined in 20-9-334 and the state equalization as defined in

1 20-9-343 for the district for that school year by 1/90th for each school day less than 180 school days."

2

3 **SECTION 2. SECTION 20-1-302, MCA, IS AMENDED TO READ:**

4 "20-1-302. **School day and week.** Subject to 20-1-308, a school day of pupil instruction ~~shall~~ must
5 be ~~at least an average of 2 hours for kindergartens and all other preschool programs, unless a variance has~~
6 ~~been granted by the superintendent of public instruction in accordance with the policies of the board of~~
7 ~~public education,~~ at least an average of 4 hours for grades 1 through 3, and at least an average of 6 hours
8 for grades 4 through 12. The number of hours in any one school day for grades 4 through 12 may be
9 reduced by 1 hour if the total number of hours in the school week is not less than 30 hours. The number
10 of hours in a school week may be reduced, in an emergency, with the approval of the board of public
11 education."

12

13 **Section 3.** Section 20-1-303, MCA, is amended to read:

14 "20-1-303. **Conduct of school on Saturday or Sunday prohibited -- exception.** Except as provided
15 in this section, pupil instruction ~~shall~~ may not be conducted on Saturday or Sunday. In emergencies, pupil
16 instruction may be conducted on a Saturday when it is ~~approved by the superintendent of public instruction~~
17 in accordance with the policies adopted by the board of public education."

18

19 **Section 4.** Section 20-1-304, MCA, is amended to read:

20 "20-1-304. **Pupil-instruction-related day.** A pupil-instruction-related day is a day of teacher activities
21 devoted to improving the quality of instruction. The activities may include but are not limited to inservice
22 training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum
23 of 7 pupil-instruction-related days may be conducted during a school year, with a minimum of 3 of the days
24 for instructional and professional development meetings or other appropriate inservice training, provided
25 that the days are ~~approved by the superintendent of public instruction~~ in accordance with the policy
26 adopted by the board of public education. The days may not be included as a part of the required minimum
27 of 180 days of pupil instruction."

28

29 **SECTION 5. SECTION 20-1-308, MCA, IS AMENDED TO READ:**

30 "20-1-308. **Religious instruction released time program.** (1) The trustees of an elementary or high

1 school district may provide for a religious instruction released time program under which a pupil may be
 2 released from regular school attendance for a period not to exceed 2 hours per week for the purpose of
 3 receiving religious instruction upon written request, renewed at least annually, of the pupil's parent or
 4 guardian.

5 (2) No religious instruction released time program may be established or administered in such a way
 6 that public school property is utilized for the purpose of religious instruction.

7 (3) No public ~~moneys~~ money may be used, directly or indirectly, for such religious instruction.

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

11

12 **Section 6.** Section 20-2-121, MCA, is amended to read:

13 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

14 (1) effect an orderly and uniform system for teacher certification and specialist certification and
 15 for the issuance of an emergency authorization of employment by adopting the policies prescribed by
 16 20-4-102 and 20-4-111;

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

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

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

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

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

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

30 (8) approve or disapprove educational media selected by the superintendent of public instruction

1 for the educational media library in accordance with the provisions of 20-7-201;

2 (9) adopt policies for the conduct of special education ~~in accordance with the provisions of~~
 3 ~~20-7-402 to meet minimum federal standards or~~ AND to advise local boards of trustees regarding the
 4 establishment of a special education policy;

5 (10) adopt rules for issuance of documents certifying equivalency of completion of secondary
 6 education in accordance with 20-7-131;

7 (11) adopt policies for the conduct of programs for gifted and talented children in accordance with
 8 the provisions of 20-7-903 and 20-7-904;

9 (12) adopt rules for student assessment in the public schools; and

10 (13) perform any other duty prescribed from time to time by this title or any other act of the
 11 legislature."

12

13 **Section 7.** Section 20-3-106, MCA, is amended to read:

14 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
 15 has the general supervision of the public schools and districts of the state and shall perform the following
 16 duties or acts in implementing and enforcing the provisions of this title:

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

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

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

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

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

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

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

28 (8) generally supervise the school budgeting procedures prescribed by law in accordance with the
 29 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of
 30 20-9-103 and 20-9-506;

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

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

6 (11) generally supervise the school financial administration provisions as prescribed by
7 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 to report to the superintendent of public instruction in accordance with the
11 provisions of 20-3-209;

12 (13) approve, or 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)~~(16) request, accept, deposit, and expend federal money in accordance with the provisions of
22 20-9-603;

23 ~~(18)~~(17) authorize the use of federal money for the support of an interlocal cooperative agreement
24 in accordance with the provisions of 20-9-703 and 20-9-704;

25 ~~(19)~~(18) 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)~~(19) 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~~ each school to the

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

2 ~~(22)~~(20) collect and maintain a file of curriculum guides and assist schools with instructional

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

4 ~~(23)~~(21) establish and maintain a library of visual, aural, and other educational media in accordance

5 with the provisions of 20-7-201;

6 ~~(24)~~(22) 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)~~(23) 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)~~(24) supervise and coordinate the conduct of special education in the state in accordance with

11 the provisions of 20-7-403;

12 ~~(27)~~(25) administer the traffic education program in accordance with the provisions of 20-7-502;

13 ~~(28)~~(26) administer the school food services program in accordance with the provisions of

14 20-10-201, 20-10-202, and 20-10-203;

15 ~~(29)~~(27) review school building plans and specifications in accordance with the provisions of

16 20-6-622;

17 ~~(30)~~(28) prescribe the method of identification and signals to be used by school safety patrols in

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

19 ~~(31)~~(29) provide schools with information and technical assistance for compliance with the student

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

21 for the board of public education and the legislature;

22 (30) WITHHOLD STATE AND FEDERAL SPECIAL EDUCATION MONEY FOR FAILURE TO COMPLY

23 WITH MINIMUM FEDERAL STANDARDS FOR SPECIAL EDUCATION;

24 ~~(32)~~(30)(31) administer the distribution of guaranteed tax base aid in accordance with 20-9-366

25 through 20-9-369; and

26 ~~(33)~~(31)(32) perform any other duty prescribed from time to time by this title, any other act of the

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

28

29 **Section 8.** Section 20-7-303, MCA, is amended to read:30 **"20-7-303. Authorization to establish and maintain vocational education courses and programs.**

1 The trustees of an elementary or high school district may establish and maintain a vocational education
2 course or program that complies with the K-12 vocational education standards adopted by the
3 superintendent of public instruction. In order for a course or program to be eligible for state or federal
4 financing, it ~~shall~~ must be approved by the superintendent of public instruction for compliance with K-12
5 vocational education standards. The superintendent of public instruction may not withhold state or federal
6 funds for failure of a district to comply with state accreditation standards."

7

8 **Section 9.** Section 20-7-420, MCA, is amended to read:

9 **"20-7-420. Residency requirements -- financial responsibility for special education.** (1) In
10 accordance with the provisions of 1-1-215, a child's district of residence for special education purposes
11 is the residence of the child's parents or of the child's guardian if the parents are deceased, unless
12 otherwise determined by the court. This applies to a child living at home, in an institution, or under foster
13 care. If the parent has left the state, the parent's last known district of residence is the child's district of
14 residence.

15 (2) The county of residence is financially responsible for tuition and transportation as established
16 under 20-5-323 for a child with disabilities, as defined in 20-7-401, including a child who has been placed
17 by a state agency in a foster care or group home licensed by the state. The county of residence is not
18 financially responsible for tuition and transportation for a child with disabilities who is placed by a state
19 agency in an out-of-state public school or an out-of-state private residential facility.

20 (3) If an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state
21 residential treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational
22 services are provided by a public school district under the provisions of 20-7-411 or 20-7-435, the
23 superintendent of public instruction shall reimburse the district providing the services for the negotiated
24 amount, as established pursuant to 20-7-435(5), that represents the district's costs of providing education
25 and related services. Payments must be made from funds appropriated for this purpose. If the negotiated
26 amount exceeds the daily membership rate under 20-7-435(3) and any per-ANB amount of direct state aid,
27 the superintendent of public instruction shall pay the remaining balance from the state equalization aid
28 account. However, the amount spent from the state equalization aid account for this purpose may not
29 exceed \$500,000 during any biennium.

30 (4) Under the provisions of 20-7-422(3), the superintendent of public instruction shall provide funds

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

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

9 **Section 10.** Section 20-7-422, MCA, is amended to read:

10 **"20-7-422. Out-of-state placement of children with disabilities -- payment of costs.** (1) In
 11 accordance with a placement made by persons determining an individualized education program for a child
 12 with disabilities, the trustees of a district may arrange for the attendance of the child in a special education
 13 program offered outside of the state of Montana.

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

18 (3) Whenever a child with disabilities who is in need of special education and related services is
 19 adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child as defined
 20 in 41-3-102 or a youth in need of supervision or delinquent youth as defined in 41-5-103 and is placed by
 21 a state agency in an out-of-state private residential facility, the superintendent of public instruction shall
 22 negotiate with:

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

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

27 (4) Payments for a child with disabilities as negotiated in subsection (3) must be paid by the
 28 superintendent of public instruction from the state special education appropriation."
 29

30 **Section 11.** Section 20-7-435, MCA, is amended to read:

1 **"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and in-state**
2 **residential treatment programs for eligible children with emotional disturbances.** (1) It is the intent of the
3 legislature that eligible children in in-state children's psychiatric hospitals and residential treatment facilities
4 be provided with an appropriate educational opportunity in a cost-effective manner, including the provision
5 of a free appropriate public education for eligible children with disabilities that is consistent with state
6 standards for the provision of special education and related services. General education programs for eligible
7 children without disabilities must be provided in accordance with the requirements for a nonpublic school
8 under the provisions of 20-5-109.

9 (2) The superintendent of public instruction may contract with an in-state children's psychiatric
10 hospital or residential treatment facility for provision of an educational program for an eligible child in the
11 hospital or treatment facility.

12 (3) Whenever the superintendent of public instruction contracts with an in-state children's
13 psychiatric hospital or residential treatment facility for provision of an educational program for an eligible
14 child in the children's psychiatric hospital or residential treatment facility, the superintendent of public
15 instruction shall:

16 (a) ensure the provision of a free appropriate public education and an education that is consistent
17 with the requirements for a nonpublic school in 20-5-109 for children attending the hospital or residential
18 treatment facility;

19 (b) negotiate the approval of allowable costs under the provisions of 20-7-431 for allowable costs
20 for providing special education, including the costs of retirement benefits, federal social security system
21 contributions, and unemployment compensation insurance;

22 (c) from appropriations provided for this purpose, fund any approved allowable costs under this
23 section, with the exception of services for which reimbursement is made under any provision of state or
24 federal law or an insurance policy;

25 (d) provide funding for allowable costs according to a proration based on average daily
26 membership.

27 (4) A supplemental education fee or tuition may not be charged for an eligible Montana child who
28 receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital
29 or residential treatment facility.

30 (5) If a children's psychiatric hospital or residential treatment facility fails to provide an education

1 in accordance with 20-5-109 or a free appropriate public education under the provisions of this part for an
2 eligible child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a
3 contract under the provisions of subsection (2), the superintendent of public instruction shall negotiate with
4 the school district in which the children's psychiatric hospital or residential treatment facility is located for
5 the supervision and implementation of an appropriate educational program that is consistent with
6 accreditation standards provided for in 20-7-111 ~~and with the provisions of 20-7-402 for children attending~~
7 ~~the children's psychiatric hospital or residential treatment facility.~~ The amount negotiated with the school
8 district must include all education and related services costs that may be negotiated under the provisions
9 of subsection (3) and all education and related services costs necessary to fulfill the requirements of
10 providing the child with an education.

11 (6) Funds provided to a district under this section, including funds received under the provisions
12 of 20-7-420:

13 (a) must be deposited in the miscellaneous programs fund of the district that provides the education
14 program for an eligible child, regardless of the age or grade placement of the child who is served under a
15 negotiated contract; and

16 (b) are not subject to the budget limitations in 20-9-308."
17

18 **Section 12.** Section 20-7-705, MCA, is amended to read:

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

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

28 (3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district,
29 except that trustees of a county high school district that is not unified with an elementary district may
30 authorize a levy of not more than 2 mills on the district and a K-12 school district formed under the

1 provisions of 20-6-701 may authorize a levy of not more than 3 mills on the district, for the operation of
 2 an adult education program ~~when the superintendent of public instruction has approved the educational~~
 3 ~~program to be supported by the levy. The trustees shall obtain the approval of the superintendent of public~~
 4 ~~instruction before the fourth Monday of June in order to include the expenditures to be financed by the levy~~
 5 ~~in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for the~~
 6 ~~approval.~~

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

12 (5) When a tax levy for an adult education program ~~that has been approved by the superintendent~~
 13 ~~of public instruction~~ is included as a revenue item on the final adult education budget, the county
 14 superintendent shall report the levy requirement to the county commissioners on the fourth Monday of
 15 August and a levy on the district must be made by the county commissioners in accordance with
 16 20-9-142."

17
 18 **SECTION 13. SECTION 20-9-311, MCA, IS AMENDED TO READ:**

19 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)
 20 must be computed as follows:

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

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

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

30 (3) When a school district has approval to operate less than 180 school days under 20-9-804, the

1 total ANB must be calculated in accordance with the provisions of 20-9-805.

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

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

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

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

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

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

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

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

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

2 (b) a junior high school has been approved ~~and accredited~~ by the board of public education as a
3 junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered
4 as high school district pupils for ANB purposes; or

5 (c) a middle school has been approved ~~and accredited~~ by the board of public education, all pupils
6 below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th
7 grade pupils must be considered high school pupils for ANB purposes; ~~or~~

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

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

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

18

19 **Section 14.** Section 20-9-344, MCA, is amended to read:

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

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

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

27 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of
28 each district's annual entitlement to the aid as established by the superintendent of public instruction. In
29 ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE
30 aid distribution to any district on account of any difference that may occur during the school fiscal year

1 between budgeted and actual receipts from any other source of school revenue.

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

4 ~~(a) submit reports or budgets as required by law or rules adopted by the board of public education;~~
5 ~~or~~

6 ~~(b) maintain accredited status.~~

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

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

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

15 (a) from August to October of the school fiscal year, 10% of the direct state aid to each district;

16 (b) from December to April of the school fiscal year, 10% of the direct state aid to each district;

17 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each
18 district or county that has submitted a final budget to the superintendent of public instruction in accordance
19 with the provisions of 20-9-134;

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

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

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

27

28 **Section 15.** Section 20-9-603, MCA, is amended to read:

29 **"20-9-603. Acceptance and expenditure of federal ~~moneys~~ money for state.** (1) The governor and
30 the superintendent of public instruction are authorized on behalf of the state of Montana to request and

1 accept ~~such moneys as are~~ money that is now or will be made available under any act of congress of the
 2 United States or otherwise for purposes of public school building construction or for any other purposes
 3 of public schools and public education ~~as that are~~ permitted under the laws of the state of Montana and
 4 ~~as that are~~ authorized by the grants from the federal government. ~~Such moneys shall~~ The money must be
 5 deposited by the governor and superintendent of public instruction in the state treasury and ~~are~~ must be
 6 appropriated ~~and made available to the superintendent of public instruction~~ pursuant to this section. All
 7 ~~such moneys shall~~ The money must be expended for the purpose of public school building construction or
 8 for any other purposes of public schools and public education as permitted under the laws of the state of
 9 Montana and as authorized by the grants from the federal government.

10 (2) The governor and superintendent of public instruction are further authorized on behalf of the
 11 state of Montana to accept ~~moneys~~ money provided from federal sources for the express purpose of
 12 distribution to nonpublic education. ~~Such moneys shall~~ The money must be deposited by the governor and
 13 superintendent of public instruction in the state treasury and ~~are~~ must be appropriated ~~and made available~~
 14 ~~to the superintendent of public instruction~~ pursuant to this section. All ~~such moneys shall~~ The money must
 15 be distributed in the manner provided by the laws of the state of Montana and as authorized or expressed
 16 by grants from the federal government.

17 (3) ~~All~~ Except as provided in subsection (4), all expenditures of ~~moneys~~ money from federal sources
 18 under this section ~~shall~~ must be made under the supervision ~~and in the discretion~~ of the superintendent of
 19 public instruction. Any balance in the account in which ~~such moneys are~~ the money is maintained ~~shall~~ may
 20 not lapse at any time but ~~shall~~ must be continuously available to the superintendent of public instruction
 21 for expenditures consistent with this title and acts of the federal government.

22 (4) The superintendent of public instruction may not withhold money for failure to comply with
 23 state accreditation standards BUT SHALL WITHHOLD STATE AND FEDERAL SPECIAL EDUCATION MONEY
 24 FOR FAILURE TO COMPLY WITH THE MINIMUM FEDERAL STANDARDS FOR SPECIAL EDUCATION."

25

26 NEW SECTION. Section 16. Repealer. Section 20-7-402, MCA, is repealed.

27

28 NEW SECTION. Section 17. Effective date. [This act] is effective on passage and approval.

29

-END-

1 SENATE BILL NO. 232

2 INTRODUCED BY TOEWS, ELLIS, KITZENBERG, HERTEL, MOHL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE LOCAL CONTROL PROVIDED TO SCHOOL
5 TRUSTEES UNDER ARTICLE X, SECTION 8, OF THE MONTANA CONSTITUTION BY REVISING CERTAIN
6 DUTIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC EDUCATION;
7 REMOVING FROM THE SUPERINTENDENT OF PUBLIC INSTRUCTION THE AUTHORITY TO ADJUST THE
8 AVERAGE NUMBER BELONGING, TO APPROVE OR DISAPPROVE AN ADULT EDUCATION PROGRAM FOR
9 WHICH A DISTRICT PROPOSES A LEVY, OR TO APPROVE OR DISAPPROVE SCHOOL ON SATURDAYS
10 OR ON PUPIL-INSTRUCTION-RELATED DAYS; AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO
11 ADOPT POLICES FOR SPECIAL EDUCATION TO MEET MINIMUM FEDERAL STANDARDS AND ADVISE
12 TRUSTEES; REMOVING THE AUTHORITY OF THE BOARD OF PUBLIC EDUCATION TO ORDER THE
13 SUPERINTENDENT OF PUBLIC INSTRUCTION TO WITHHOLD BASE AID FROM A DISTRICT FOR FAILURE
14 TO COMPLY WITH BOARD RULES OR FAILURE TO MAINTAIN ACCREDITED STATUS; PROHIBITING THE
15 SUPERINTENDENT OF PUBLIC INSTRUCTION FROM WITHHOLDING FEDERAL MONEY OR WITHHOLDING
16 MONEY FROM VOCATIONAL EDUCATION, FOR FAILURE TO COMPLY WITH STATE ACCREDITATION
17 STANDARDS; AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-303, 20-1-304, 20-1-308, 20-2-121,
18 20-3-106, 20-7-303, 20-7-420, 20-7-422, 20-7-435, 20-7-705, 20-9-311, 20-9-344, AND 20-9-603,
19 MCA; REPEALING SECTION 20-7-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.