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SENATE BILL NO. 396

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INTRODUCED BY

Handwritten names: Miller, Crismare, Bob Brown, Blumenthal, Halden, HARRIS, Johnson, Sliter

A BILL FOR AN ACT ENTITLED: "AN ACT MERGING THE COMMUNITY COLLEGES INTO THE MONTANA UNIVERSITY SYSTEM; AMENDING SECTIONS 5-11-203, 17-7-102, 18-8-202, 19-3-403, 19-20-605, 20-1-101, 20-1-204, 20-3-205, 20-6-101, 20-7-702, 20-7-704, 20-7-705, 20-7-712, 20-9-101, 20-9-134, 20-9-402, 20-9-501, 20-20-101, 20-20-107, 20-20-201, 20-25-201, 20-25-301, 20-32-101, 20-32-102, 20-32-103, 39-29-101, 39-30-103, 50-40-107, 50-40-201, AND 61-3-462, MCA; REPEALING SECTIONS 20-15-101, 20-15-102, 20-15-103, 20-15-104, 20-15-105, 20-15-106, 20-15-107, 20-15-108, 20-15-109, 20-15-201, 20-15-202, 20-15-203, 20-15-204, 20-15-205, 20-15-206, 20-15-207, 20-15-208, 20-15-209, 20-15-210, 20-15-219, 20-15-220, 20-15-221, 20-15-222, 20-15-223, 20-15-224, 20-15-225, 20-15-226, 20-15-227, 20-15-228, 20-15-229, 20-15-231, 20-15-241, 20-15-301 20-15-304, 20-15-305, 20-15-308, 20-15-309, 20-15-310, 20-15-311, 20-15-312, 20-15-313, 20-15-314, 20-15-321, 20-15-323, 20-15-324, 20-15-325, 20-15-326, 20-15-401, 20-15-402, 20-15-403, AND 20-15-404, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE, AN APPLICABILITY PROVISION, AND A CONTINGENT VOIDNESS PROVISION."

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

NEW SECTION. Section 1. Definition -- mission statement.

(1) For the purposes of the Montana Code Annotated, "community college" means a 2-year institution with the primary mission to provide:

- (a) credit courses that are generally transferable or that may lead to an associate degree or certification; and
- (b) noncredit instruction for personal enrichment or community service.

(2) A community college shall operate in accordance with the mission statement approved from time to time by the applicable regional or national accrediting agency.

NEW SECTION. Section 2. Community college local advisory board.

(1) Subject to the approval of the board of regents, the president of a university system unit, as enumerated in 20-25-201, shall, after consultation with the appropriate campus executive officer, nominate a local advisory board for a



1 community college that is associated with the system unit.

2 (2) A local advisory board is composed of seven members. At least four members must be from
3 the county in which the community college has its primary campus, and the remainder may be from the
4 general area served by the community college. In the case of the community college at Kalispell, at least
5 one member must be from Lincoln County.

6 (3) Except as provided in subsection (5), each member of a local advisory board is appointed to
7 a staggered, 3-year term that begins on the first Monday in April of the year that the member is appointed.

8 (4) The board of regents shall provide the local advisory board with an opportunity to review:

9 (a) the budget for the community college prior to the adoption of a final budget; and

10 (b) the appointment of the executive officer of the community college.

11 (5) A trustee of a community college board of trustees as of June 30, 1996, is a member of the
12 local advisory board until the date on which the trustee's term ends.

13

14 **NEW SECTION. Section 3. Tax levy in former community college district and service region.** On
15 the second Monday in August, the board of county commissioners of a county that encompasses in whole
16 or in part a community college district or service region in existence on June 30, 1996, shall fix and levy
17 a tax of 1 1/2 mills on all real and personal property within the community college district or service region
18 to raise the amount appropriated by the legislature for the support and maintenance of community college
19 education within the former community college district or service region.

20

21 **NEW SECTION. Section 4. Tax levy for tuition reduction.** By request of the board of regents or
22 by its own resolution, the board of county commissioners of any county that encompasses in whole or in
23 part a community college district or service region in existence on June 30, 1996, may submit to the
24 electors of the county a levy that, if approved, may be used to reduce, on a prorated basis, the tuition and
25 fees of residents of the county for attendance at the university system unit's community college campus
26 located within the former community college district or service region. The total amount of tuition and fees
27 that is reduced may not exceed the aggregate amount raised by the levy.

28

29 **NEW SECTION. Section 5. Existing community college employees.** (1) A person who is employed
30 by a community college on June 30, 1996, becomes an employee of the board of regents on July 1, 1996,

1 unless the employee has been informed by the community college that the person's employment is
2 terminated on June 30, 1996.

3 (2) The change in employer may not result in a loss of accrued employee benefits or a break in
4 service for the purposes of benefit accrual.

5 (3) An employee who is eligible for the university system optional retirement system has 90 days
6 from [the effective date of this act] in which to elect to participate in the retirement system pursuant to
7 19-21-201.

8 (4) A collective bargaining unit of a community college in existence on June 30, 1996, continues
9 to exist beyond [the effective date of this act] until modified or terminated under provisions governing
10 public employee collective bargaining.

11

12 **NEW SECTION. Section 6. Transfer of community college property to board of regents.** (1) On
13 [the effective date of this act], the board of regents shall:

14 (a) assume ownership, control, and supervision of all real and personal property of a community
15 college in existence on June 30, 1996; and

16 (b) by a vote of the board of regents acting pursuant to 20-25-402, assume full responsibility for
17 any community college real property, bond, or other outstanding indebtedness.

18 (2) [Sections 1 through 6] may not be construed to modify or negate a trust or endowment created
19 for the benefit of a community college or its students.

20 (3) If the board of regents, at any time prior to June 30, 2026, ceases to provide community
21 college educational services within a former community college district or service region, the real and
22 personal property transferred pursuant to this section reverts to the county in which the property is located.

23

24 **Section 7.** Section 5-11-203, MCA, is amended to read:

25 **"5-11-203. Distribution of session laws -- inspection of journals.** (1) Immediately after the session
26 laws are published, the legislative council shall distribute them.

27 (2) The council shall make the house and senate journals available for inspection or copying by the
28 public as provided in Title 2, chapter 6, part 1. The council may publish the journals in an electronic format.

29 (3) The following entities may receive the number of copies of session laws listed at no cost:

30 (a) to the library of congress, eight copies;

- 1 (b) to the state library, two copies;
- 2 (c) to the state historical library, two copies;
- 3 (d) to the state law librarian, four copies for the use of the library and additional copies as may be
4 required for exchange with libraries and institutions maintained by other states and territories and public
5 libraries;
- 6 (e) to the library of each custodial institution, one copy;
- 7 (f) to each Montana member of congress, each United States district judge in Montana, each of
8 the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102(8),
9 one copy;
- 10 (g) to any agency, board, commission, or office of the state, other than a state officer, and to any
11 other subdivision of the state upon request and approval by the legislative council, one copy;
- 12 (h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house
13 of representatives from the session at which the laws were adopted, one copy;
- 14 (i) to ~~each of the community college districts of the state, as defined in 20-15-101,~~ and each unit
15 of the Montana university system, one copy;
- 16 (j) to each county clerk, one copy for the use of the county; and
- 17 (k) to each county attorney and to each clerk of a district court, one copy."

18

19 **Section 8.** Section 17-7-102, MCA, is amended to read:

20 **"17-7-102. Definitions.** As used in this chapter, the following definitions apply:

21 (1) "Additional services" means different services or more of the same services.

22 (2) "Agency" means ~~each~~ a state office, department, division, board, commission, council,
23 committee, institution, university system unit, or other entity or instrumentality of the executive branch,
24 office of the judicial branch, or office of the legislative branch of state government, except for purposes
25 of capital projects administered by the department of administration, for which institutions are treated as
26 one department and university system units as one system.

27 (3) "Approved long-range building program budget amendment" means approval by the budget
28 director of a request submitted through the architecture and engineering division of the department of
29 administration to transfer excess funds appropriated to a capital project within an agency to increase the
30 appropriation of another capital project within that agency or to obtain financing to expand a project with

1 funds that were not available for consideration by the legislature.

2 (4) "Approving authority" means:

3 (a) the governor or the governor's designated representative for executive branch agencies;

4 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
5 branch agencies;

6 (c) the speaker for the house of representatives;

7 (d) the president for the senate;

8 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

9 or

10 (f) the board of regents of higher education or its designated representative for the university
11 system.

12 (5) "Base budget" means that level of funding authorized by the previous legislature.

13 (6) "Budget amendment" means a legislative appropriation to increase spending authority for the
14 special revenue fund, proprietary funds, or unrestricted subfund, contingent on total compliance with all
15 budget amendment procedures.

16 (7) "Effectiveness measure" means a criterion for measuring the degree to which the objective
17 sought is attained.

18 (8) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and
19 unanticipated circumstance that has occurred subsequent to the time an agency's appropriation was made,
20 that was clearly not within the contemplation of the legislature and the governor, and that affects one or
21 more functions of a state agency and the agency's expenditure requirements for the performance of the
22 function or functions.

23 (9) "Necessary" means essential to the public welfare and of a nature that cannot wait until the
24 next legislative session for legislative consideration.

25 (10) "New proposals" means requests to provide new nonmandated services, to change program
26 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the
27 present law base, the distinction between new proposals and the adjustments to the base budget to
28 develop the present law base is to be determined by the existence of constitutional or statutory
29 requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those
30 requirements is considered a new proposal.

1 (11) "Present law base" means that additional level of funding needed under present law to
 2 maintain operations and services at the level authorized by the previous legislature, including but not limited
 3 to:

4 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or
 5 decreases;

6 (b) changes in funding requirements resulting from constitutional or statutory schedules or
 7 formulas;

8 (c) inflationary or deflationary adjustments; and

9 (d) elimination of nonrecurring appropriations.

10 (12) "Priority listing" means a ranking of proposed expenditures in order of importance.

11 (13) "Program" means a combination of resources and activities designed to achieve an objective
 12 or objectives.

13 (14) "Program size" means the magnitude of a program, such as the size of clientele served or the
 14 volume of service in relation to the population or area.

15 (15) "Program size indicator" means a measure to indicate the magnitude of a program.

16 (16) "Requesting agency" means the agency of state government that has requested a specific
 17 budget amendment.

18 (17) "University system ~~unit~~" means the board of regents of higher education, office of the
 19 commissioner of higher education, the university of Montana at Missoula with campuses at Missoula, Butte,
 20 Dillon, Helena, and Kalispell, Montana state university at Bozeman, Montana college of mineral science and
 21 technology at Butte, eastern Montana college at Billings, northern Montana college at Havre, western
 22 Montana college of the university of Montana at Dillon with campuses at Bozeman, Billings, Havre, Great
 23 Falls, Miles City, and Glendive, the agricultural experiment station with central offices at Bozeman, the
 24 forest and conservation experiment station with central offices at Missoula, the cooperative extension
 25 service with central offices at Bozeman, the bureau of mines and geology with central offices at Butte, or
 26 the fire services training school at Great Falls, the vocational technical centers at Billings, Butte, Great Falls,
 27 Helena, and Missoula, or the community colleges at Miles City, Glendive, and Kalispell."

28
 29 **Section 9.** Section 18-8-202, MCA, is amended to read:

30 **"18-8-202. Definitions.** Unless the context clearly indicates otherwise, the following definitions

1 apply to this part:

2 (1) "Agency" means a state agency as defined in subsection (7), local agency as defined in
3 subsection (4), or special district as defined in subsection (6).

4 (2) "Architectural, engineering, and land surveying" means services rendered by a person, other
5 than as an employee of an agency, contracting to perform activities within the scope of the general
6 definition of professional practice and licensed for the respective practice as an architect pursuant to Title
7 37, chapter 65, or an engineer or land surveyor pursuant to Title 37, chapter 67.

8 (3) "Licensed professional" or "licensed architect, professional engineer, professional land
9 surveyor" means a person providing professional services who is not an employee of the agency for which
10 the services are provided and who is exempt under 18-8-103.

11 (4) "Local agency" means a city, town, county, special district, municipal corporation, agency, port
12 district or authority, airport authority, political subdivision of any type, or any other entity or authority of
13 local government, in corporate form or otherwise.

14 (5) "Person" means an individual, organization, group, association, partnership, firm, joint venture,
15 or corporation.

16 (6) "Special district" means a unit of local government, other than a city, town, or county,
17 authorized by law to perform a single function or a limited number of functions, including but not limited
18 to water districts, irrigation districts, fire districts, school districts, ~~community college districts,~~ hospital
19 districts, sewer districts, and transportation districts.

20 (7) "State agency" means a department, agency, commission, bureau, office, or other entity or
21 authority of state government."

22

23 **Section 10.** Section 19-3-403, MCA, is amended to read:

24 **"19-3-403. Exclusions from membership.** The following persons may not become members of the
25 retirement system:

26 (1) inmates of state institutions;

27 (2) persons in state institutions principally for the purpose of training, but who receive
28 compensation;

29 (3) independent contractors, unless there is a written contract that specifies the creation of an
30 employer-employee relationship for purposes of retirement coverage under the retirement system;

1 (4) persons who are members of any other retirement or pension system supported wholly or in
 2 part by funds of the United States government, any state government, or political subdivision of the state
 3 and who are receiving credit in the other system for service. It is the purpose of this subsection to prevent
 4 a person from receiving credit for the same service in two retirement systems supported wholly or in part
 5 by public funds, except when the service qualifies, is applied for, and purchased pursuant to 19-3-503. A
 6 member of the retirement system who, because of employment by the state, is required to become a
 7 member of any other system described in this subsection is considered, solely for the purposes of making
 8 regular contributions, as permanently separated from service. Exclusion under this subsection is subject to
 9 the following exceptions:

10 (a) When an employer has entered into a collective bargaining agreement that includes provisions
 11 for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by
 12 the internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for
 13 membership in the retirement system.

14 (b) For the purpose of this subsection (4), persons receiving pensions, retirement allowances, or
 15 other payments from any source on account of employment other than as an employee are not considered,
 16 because of receipt, members of any other retirement or pension system.

17 (5) court commissioners, elected officials, or appointive members of any board or commission who
 18 serve the state or any contracting employer intermittently and who are paid on a per diem basis;

19 (6) full-time students employed at and attending the same public elementary school, high school,
 20 ~~vocational-technical center, or community college or any~~ unit of the state university system, except that
 21 a person excluded from membership as a student of a ~~public community college or~~ a unit of the state
 22 university system who later becomes a member by otherwise becoming an employee may affirmatively
 23 exercise the option of qualifying the service excluded by this subsection by applying to the board in writing
 24 after becoming a member and become eligible to receive credited service for the excluded service under
 25 the provisions of 19-3-505."

26
 27 **Section 11.** Section 19-20-605, MCA, is amended to read:

28 **"19-20-605. Pension accumulation fund -- employer's contribution.** The pension accumulation fund
 29 is the fund in which the reserves for payment of pensions and annuities must be accumulated and from
 30 which pensions, annuities, and benefits must be paid to or on account of beneficiaries credited with prior

1 service. Contributions to and payments from the pension accumulation fund must be made as follows:

2 (1) Each employer shall pay into the pension accumulation fund an amount equal to 7.47% of the
3 earned compensation of each member employed during the whole or part of the preceding payroll period.

4 (2) If the employer is a school district ~~or community college district~~, the trustees shall budget and
5 pay for the employer's contribution under the provisions of 20-9-501.

6 (3) If the employer is the superintendent of public instruction, a public institution of the state of
7 Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the
8 legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's
9 contribution.

10 (4) If the employer is a county, the county commissioners shall budget and pay for the employer's
11 contribution in the manner provided by law for the adoption of a county budget and for payments under
12 the budget.

13 (5) All interest and other earnings realized on the money of the retirement system ~~shall~~ must be
14 credited to the pension accumulation fund, and the amount required to allow regular interest on the annuity
15 savings fund ~~shall~~ must be transferred to that fund from the pension accumulation fund.

16 (6) All pensions, annuities, and benefits must be paid from the pension accumulation fund.

17 (7) The retirement board may, in its discretion, transfer from the pension accumulation fund an
18 amount necessary to cover expenses of administration."

19

20 **Section 12.** Section 20-1-101, MCA, is amended to read:

21 "**20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
22 following definitions apply:

23 (1) "Agricultural experiment station" means the agricultural experiment station established at
24 Montana state university.

25 (2) "Average number belonging" or "ANB" ~~shall mean~~ means the average number of regularly
26 enrolled, full-time pupils attending the public schools of a district.

27 (3) The "board of public education" is the board created by Article X, section 9, ~~subsection~~ (3),
28 of the 1972 Montana constitution and 2-15-1507.

29 (4) "Board of regents" means the board of regents of higher education created by Article X, section
30 9, ~~subsection~~ (2), of the 1972 Montana constitution and 2-15-1505.

1 (5) "Commissioner" means the commissioner of higher education created by Article X, section 9,
2 ~~subsection~~ (2), of the 1972 Montana constitution and 2-15-1506.

3 (6) "County superintendent" means the county government official who is the school officer of the
4 county.

5 (7) "District superintendent" means ~~any~~ a person who holds a valid class 3 Montana teacher
6 certificate with a superintendent's endorsement that has been issued by the superintendent of public
7 instruction under the provisions of this title and the policies adopted by the board of public education and
8 who has been employed by a district as a district superintendent.

9 (8) "K-12 vocational education" means vocational education in public school kindergarten through
10 grade 12.

11 (9) "Principal" means ~~any~~ a person who holds a valid class 3 Montana teacher certificate with an
12 applicable principal's endorsement that has been issued by the superintendent of public instruction under
13 the provisions of this title and the policies adopted by the board of public education and who has been
14 employed by a district as a principal. For the purposes of this title, any reference to a teacher ~~shall be~~ is
15 construed as including a principal, ~~as herein defined~~.

16 (10) "Pupil" means ~~any~~ a child who is 6 years of age or older on or before September 10 of the
17 year in which the child is to enroll or has been enrolled by special permission of the board of trustees under
18 20-5-101(3) but has not yet reached ~~his~~ the person's 19th birthday and who is enrolled in a school
19 established and maintained under the laws of the state of Montana at public expense. For purposes of
20 calculating the average number belonging (ANB) pursuant to 20-9-311, the definition of pupil includes a
21 person who has not yet reached ~~his~~ the person's 19th birthday by September 10 of the year and is enrolled
22 under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

23 (11) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
24 schools while under the supervision of a teacher.

25 (12) "Regents" means the board of regents of higher education.

26 (13) "School food services" means a service of providing food for the pupils of a district on a
27 nonprofit basis and ~~shall include~~ includes any food service financially assisted through funds or commodities
28 provided by the United States government.

29 (14) The "state board of education" is the board composed of the board of public education and
30 the board of regents as specified in Article X, section 9(1), of the 1972 Montana constitution.

- 1 (15) "State university" means the Montana state university, located at Bozeman.
- 2 (16) "Superintendent of public instruction" means that state government official designated as a
3 member of the executive branch by the constitution of Montana.
- 4 (17) "System" means the Montana university system.
- 5 (18) "Teacher" means any person, except a district superintendent, who holds a valid Montana
6 teacher certificate that has been issued by the superintendent of public instruction under the provisions of
7 this title and the policies adopted by the board of public education and who is employed by a district as
8 a member of its instructional, supervisory, or administrative staff. This definition of a teacher ~~shall also~~
9 ~~include any~~ also includes a person for whom an emergency authorization of employment of ~~such~~ the person
10 has been issued under the provisions of 20-4-111.
- 11 (19) "Textbook" means a book or manual used as a principal source of study material for a given
12 class or group of students.
- 13 (20) "Textbook dealer" means any party, company, corporation, or other organization selling,
14 offering to sell, or offering for adoption textbooks to districts in the state of Montana.
- 15 (21) "Trustees" means the governing board of a district.
- 16 (22) "University" means the university of Montana, located at Missoula.
- 17 (23) "Vocational education" means the instruction to prepare or improve the pupil for gainful
18 employment that does not require a baccalaureate or higher degree. This definition of vocational education
19 ~~shall include~~ includes guidance and prevocational, related, or technical instruction necessary to prepare the
20 pupil for further vocational education or for entry into employment.
- 21 (24) "Vocational-technical center" means an institution used principally for the provision of
22 vocational-technical education to persons who qualify as vocational-technical students. ~~These~~ The centers
23 are designated by the board of regents upon direction by the legislature. All other public or private
24 institutions or schools are ~~hereby~~ prohibited from using this title.
- 25 (25) "Vocational-technical education" means vocational-technical education of vocational-technical
26 students that is conducted by a ~~vocational-technical center, a unit of the Montana university system, or~~
27 ~~a community college as designated by the board of regents.~~

28
29 **Section 13.** Section 20-1-204, MCA, is amended to read:

30 **"20-1-204. County attorney's duties.** Upon request of the county superintendent or the trustees

1 of any school district ~~or community college district~~, the county attorney ~~shall be~~ is their legal adviser and
 2 shall prosecute and defend all suits to which ~~such~~ persons, in their capacity as public officials, may be a
 3 party; ~~however~~ However, the trustees of any school district ~~or community college district~~ may, in their
 4 discretion, employ any other attorney licensed in Montana to perform any legal services in connection with
 5 school ~~or community college~~ board business."

6
 7 **Section 14.** Section 20-3-205, MCA, is amended to read:

8 **"20-3-205. Powers and duties.** The county superintendent has general supervision of the schools
 9 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

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

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

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

17 (4) act on each tuition and transportation obligation submitted in accordance with the provisions
 18 of 20-5-323 and 20-5-324;

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

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

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

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

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

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

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

- 1 (12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and
2 budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating
3 school budgeting systems;
- 4 (13) submit an annual financial report to the superintendent of public instruction in accordance with
5 the provisions of 20-9-211;
- 6 (14) monthly, unless otherwise provided by law, order the county treasurer to apportion state
7 money, county school money, and any other school money subject to apportionment in accordance with
8 the provisions of 20-9-212, 20-9-334, 20-9-347, 20-10-145, or 20-10-146;
- 9 (15) act on any request to transfer average number belonging (ANB) in accordance with the
10 provisions of 20-9-313(3);
- 11 (16) calculate the estimated budgeted general fund sources of revenue in accordance with the
12 general fund revenue provisions of the general fund part of this title;
- 13 (17) compute the ~~revenues~~ revenue and the district and county levy requirements for each fund
14 included in each district's final budget and report the computations to the board of county commissioners
15 in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts
16 of this title;
- 17 (18) file and forward bus driver certifications, transportation contracts, and state transportation
18 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;
- 19 (19) for districts that do not employ a district superintendent or principal, recommend library book
20 and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;
- 21 (20) notify the superintendent of public instruction of a textbook dealer's activities when required
22 under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;
- 23 (21) act on district requests to allocate federal money for indigent children for school food services
24 in accordance with the provisions of 20-10-205;
- 25 (22) perform any other duty prescribed from time to time by this title, any other act of the
26 legislature, the policies of the board of public education, ~~the policies of the board of regents relating to~~
27 ~~community college districts~~, or the rules of the superintendent of public instruction;
- 28 (23) administer the oath of office to trustees without the receipt of pay for administering the oath;
- 29 (24) keep a record of official acts, preserve all reports submitted to the superintendent under the
30 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents

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

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

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

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

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

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

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

14

15 **Section 15.** Section 20-6-101, MCA, is amended to read:

16 **"20-6-101. Definition of elementary and high school districts.** (1) As used in this title, except as
17 defined in 20-9-402 for bonding purposes or unless the context clearly indicates otherwise, the term
18 "district" means the territory, regardless of county boundaries, organized under the provisions of this title
19 to provide public educational services under the jurisdiction of the trustees prescribed by this title. High
20 school districts may encompass all or parts of the territory of one or more elementary districts.

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

25 (b) A high school district is a district organized for the purpose of providing those public educational
26 services authorized by this title for all grades beyond grade 8, including postsecondary programs, except
27 those programs administered by ~~community college districts or the Montana~~ university system. A high
28 school district with an attached elementary district may provide the educational services for an elementary
29 district through the procedures established in 20-6-701 through 20-6-703.

30 (3) An elementary district is known as "District No., County" and a high school district,

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

7 (4) Unless the context clearly indicates otherwise, an elementary district operating a high school
 8 in a county that has not been divided into high school districts is considered a high school district under
 9 this title and the trustees of the elementary district are the trustees of the high school district. An
 10 elementary district operating a high school may not have the bonding authority of a high school district.
 11 However, the elementary district may exercise its bonding authority, in the manner provided by law, for
 12 high school purposes.

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

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

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

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

24

25 **Section 16.** Section 20-7-702, MCA, is amended to read:

26 **"20-7-702. Authorization to establish adult education program.** The trustees of ~~any a school~~ district
 27 or ~~community college district~~ the board of regents within counties containing all or part of a community
 28 college district or service region in existence on June 30, 1996, may establish and operate an adult
 29 education program at any time of the day when facilities and personnel are available. An adult education
 30 program may provide both basic and secondary general education, vocational education, American

1 citizenship education, including courses in the English language and American history and government, or
2 any other areas of instruction approved by the trustees or the board of regents."

3

4 **Section 17.** Section 20-7-704, MCA, is amended to read:

5 **"20-7-704. Adult education tuition and fees.** The trustees of a school district or ~~community college~~
6 ~~district~~ the board of regents for a community college ~~shall have~~ has the authority to charge tuition for
7 instruction and to charge fees for the use of equipment and materials. The amount of ~~such~~ tuition and fees
8 ~~shall~~ must be determined on a per-course basis or on the basis of the cost of the entire adult education
9 program. ~~All~~ For trustees of a school district, all proceeds from tuition and fees ~~shall~~ must be deposited in
10 the adult education fund."

11

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

13 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when
14 an adult education program is operated by a school district or by the board of regents for a community
15 college ~~district~~. The financial administration of the fund must comply with the budgeting, financing, and
16 expenditure provisions of the laws governing the schools or the board of regents.

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

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

28 (b) Within the counties described in 20-7-702, the board of regents may authorize the levy of a
29 tax of not more than 1 mill for the operation of an adult education program if the superintendent of public
30 instruction has approved the educational program to be supported by the levy.

1 (c) The trustees of a school district or the board of regents shall obtain the approval of the
 2 superintendent of public instruction before the fourth Monday of June ~~in order to include the expenditures~~
 3 ~~to be financed by the levy in the preliminary budget.~~ The superintendent of public instruction shall
 4 promulgate rules and forms for the approval.

5 (4) Whenever the trustees of a school district decide to offer an adult education program during
 6 the ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of
 7 the preliminary budget. ~~Any expenditures~~ Expenditures in support of the adult education program under the
 8 final adult education budget must be made in accordance with the financial administration provisions of this
 9 title for 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 of a school district
 12 or for a community college, the county superintendent shall report the levy requirement to the county
 13 commissioners on the fourth Monday of August and a levy on the district must be made by the county
 14 commissioners in accordance with 20-9-142."

15
 16 **Section 19.** Section 20-7-712, MCA, is amended to read:

17 **"20-7-712. Adult basic education fund and its distribution.** (1) To encourage adult basic education,
 18 the legislature may appropriate funds to the superintendent of public instruction for the support of adult
 19 basic education programs in any school or ~~community college district~~ for a community college of the
 20 university system that is located within a county, as provided in 20-7-702.

21 (2) The superintendent of public instruction shall direct the distribution of funds appropriated by
 22 the legislature for adult basic education. The trustees of ~~any~~ a school district or the board of regents may
 23 apply to the superintendent for funds for its adult basic education courses. The financial administration and
 24 accounting of adult basic education funds ~~shall~~ must be the same as that of adult education."

25
 26 **Section 20.** Section 20-9-101, MCA, is amended to read:

27 **"20-9-101. Application of budget system for districts.** The school budgeting procedure and
 28 provisions of this title apply to elementary and high school districts ~~and, whenever specified, to community~~
 29 ~~college districts~~ and to all funds requiring the adoption of a budget. ~~Each~~ A district shall separately propose
 30 and adopt a budget in accordance with the requirements of this title."

1 **Section 21.** Section 20-9-134, MCA, is amended to read:

2 "**20-9-134. Completion, filing, and -- delivery of final budgets.** After the final budget of the
3 elementary, or high school, ~~or community college~~ district has been adopted by the trustees, the county
4 superintendent shall complete all the remaining portions of the budget forms and shall:

5 (1) send the final budget information to the superintendent of public instruction, on the forms
6 provided by the superintendent, on or before September 1; and

7 ~~(2) in the case of the community college districts, send the final budget information to the board~~
8 ~~of regents, on the forms provided by the community college coordinator, on or before September 1; and~~

9 ~~(3) deliver a copy of the final budget for the district to the county treasurer on or before September~~
10 1."

11

12 **Section 22.** Section 20-9-402, MCA, is amended to read:

13 "**20-9-402. Definition of school district for bonding purposes.** For the purposes of inebting an
14 elementary district, or a high school district, ~~or a community college district~~ by the issuance of bonds under
15 the provisions of this title, the term "school district" ~~shall mean any~~ means an elementary district, or high
16 school district, ~~or community college district~~, except the following types of high schools recognized as high
17 school districts without a bonding authority in 20-6-101:

18 (1) high schools operated by an elementary district in a county that has not been divided into high
19 school districts; or

20 (2) county high schools located in a county that has not been divided into high school districts by
21 the county high school boundary commission."

22

23 **Section 23.** Section 20-9-501, MCA, is amended to read:

24 "**20-9-501. Retirement fund.** (1) The trustees of a district employing personnel who are members
25 of the teachers' retirement system or the public employees' retirement system or who are covered by
26 unemployment insurance or who are covered by any federal social security system requiring employer
27 contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's
28 contributions to the systems. The district's contribution for each employee who is a member of the
29 teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The
30 district's contribution for each employee who is a member of the public employees' retirement system must

1 be calculated in accordance with 19-3-316. The district's contributions for each employee covered by any
2 federal social security system must be paid in accordance with federal law and regulation. The district's
3 contribution for each employee who is covered by unemployment insurance must be paid in accordance
4 with Title 39, chapter 51, part 11.

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

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

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

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

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

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

19 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
20 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school
21 fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund
22 operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school
23 fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under
24 the final retirement fund budget; and

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

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

30 (4) The county superintendent shall:

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

4 (b) report each levy requirement to the county commissioners on the fourth Monday of August as
5 the respective county levy requirements for elementary district, and high school district, ~~and community~~
6 ~~college district~~ retirement funds.

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

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

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

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

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

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

25
26 **Section 24.** Section 20-20-101, MCA, is amended to read:

27 "**20-20-101. Definition.** As used in this title, unless the context clearly indicates otherwise, "school
28 election" means any election conducted by a school district or community college ~~district~~, as provided in
29 [section 4], for the purpose of electing trustees, for authorizing taxation, for authorizing the issuance of
30 bonds by an elementary district or a high school district, or for accepting or rejecting any proposition that

1 may be presented to the electorate for decision in accordance with the provisions of this title."

2

3 **Section 25.** Section 20-20-107, MCA, is amended to read:

4 "20-20-107. **Election expenses.** All expenses necessarily incurred in the matter of holding school
5 elections ~~shall~~ must be paid out of the school funds of the district, except when ~~such the~~ expenses are by
6 law to be shared by a community college ~~district~~ for which the district is conducting an election. The
7 trustees may pay the election judges of a school election at a rate not to exceed the prevailing federal
8 minimum wage per hour of service in connection with ~~such an~~ election."

9

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

11 "20-20-201. **Calling of school election.** (1) At least 40 days before any school election, the trustees
12 of any district shall call ~~such a~~ school election by resolution, stating the date and purpose of ~~such the~~
13 election, and shall conduct it in accordance with the procedures required by law, when:

14 (a) an election must be held on the regular school election day;

15 (b) in their discretion, the trustees order an election for a purpose authorized by law;

16 (c) the county superintendent orders an election in accordance with the law authorizing ~~such an~~
17 order;

18 (d) the board of public education orders an election in accordance with the law authorizing ~~such~~
19 an order;

20 (e) the county commissioners order an election in accordance with the law authorizing ~~such an~~
21 order;

22 (f) the board of ~~trustees of~~ regents for a county containing all or part of a community college
23 district or service region in existence as of June 30, 1996, orders an election in accordance with the law
24 authorizing ~~such an order~~ in which case the former community college district shall bear its share of the
25 cost of ~~such the election~~; or

26 (g) a school election is required by law under any other circumstances.

27 (2) The resolution calling any school election ~~shall~~ must be transmitted to the county election
28 administrator no later than 35 days before the election in order to enable ~~him~~ the election administrator to
29 close the registration and prepare the lists of registered electors as required by school election laws."

30

1 **Section 27.** Section 20-25-201, MCA, is amended to read:

2 **"20-25-201. Units constituting university system.** The ~~Montana~~ university system is composed of
3 the following units, ~~each designated by its legal name:~~

4 (1) ~~University~~ university of Montana, located at Missoula with campuses at Missoula, Butte, Dillon,
5 Helena, and Kalispell; and

6 (2) ~~Montana state university, located at Bozeman~~ with campuses at Bozeman, Billings, Havre, Great
7 Falls, Miles City, and Glendive;

8 (3) ~~Montana college of mineral science and technology, located at Butte.~~

9 (4) ~~Western Montana college of the university of Montana, located at Dillon;~~

10 (5) ~~Eastern Montana college, located at Billings; and~~

11 (6) ~~Northern Montana college, located at Havre."~~

12

13 **Section 28.** Section 20-25-301, MCA, is amended to read:

14 **"20-25-301. Regents' powers and duties.** The board of regents ~~of higher education~~ shall serve as
15 regents of the ~~Montana~~ university system, shall use and adopt this style in all its dealings with the
16 university system, and shall:

17 (1) have general control and supervision of the units of the ~~Montana~~ university system, which is
18 considered for all purposes one university;

19 (2) adopt rules, not inconsistent with the constitution and the laws of the state, for its own
20 government ~~which~~ that are proper and necessary for the execution of the powers and duties conferred upon
21 it by law;

22 (3) provide, subject to the laws of the state, rules for the government of the system;

23 (4) grant diplomas and degrees to the graduates of the system upon the recommendation of the
24 faculties and have discretion to confer honorary degrees upon persons other than graduates upon the
25 recommendation of the faculty of the institutions;

26 (5) keep a record of its proceedings;

27 (6) have, when not otherwise provided by law, control of all books, records, buildings, grounds,
28 and other property of the system;

29 (7) receive from the board of land commissioners, other boards, persons, or from the government
30 of the United States all funds, incomes, and other property the system may be entitled to and use and

- 1 appropriate the property for the specific purpose of the grant or donation;
- 2 (8) have general control of all receipts and disbursements of the system;
- 3 (9) appoint a president and faculty for each of the institutions of the system, appoint any other
4 necessary officers, agents, and employees, and fix their compensation;
- 5 (10) confer upon the executive board of each of the units of the system authority that may be
6 considered expedient relating to immediate control and management, other than authority relating to
7 financial matters or the selection of the teachers, employees, and faculty;
- 8 (11) confer, at the regents' discretion, upon the president and faculty of each of the units of the
9 system for the best interest of the unit authority relating to the immediate control and management, other
10 than financial, and the selection of teachers and employees;
- 11 (12) prevent unnecessary duplication of courses at the units of the system;
- 12 (13) appoint a certified professional geologist or registered mining engineer as the director of the
13 Montana state bureau of mines and geology, who is the state geologist, and appoint any other necessary
14 assistants and employees and fix their compensation.
- 15 (14) supervise and control the agricultural experiment station, along with any executive or
16 subordinate board or authority ~~which~~ that may be appointed by the governor with the advice and consent
17 of the regents;
- 18 (15) adopt a seal bearing on its face the words "Montana university system", which must be
19 affixed to all diplomas and all other papers, instruments, or documents which may require it;
- 20 (16) ~~assure~~ ensure an adequate level of security for data and information technology resources,
21 as defined in 2-15-102, within the ~~state~~ university system. In carrying out this responsibility, the board of
22 regents shall, at a minimum, address the responsibilities prescribed in 2-15-114.
- 23 (17) maintain a community college at Kalispell, Glendive, and Miles City."

24

25 **Section 29.** Section 20-32-101, MCA, is amended to read:

26 **"20-32-101. Purpose -- definition.** (1) The purpose of this part is to establish a Montana
27 educational telecommunications network.

28 (2) For the purposes of this part, "network" means the Montana educational telecommunications
29 network (METNET).

30 (3) The aims of the network are to provide:

1 (a) instructional and educational coursework and materials through telecommunications delivery
2 to students in kindergarten through 12th grade in the Montana public school system;

3 (b) instructional and educational coursework and materials through telecommunications delivery
4 to students enrolled in units of the ~~Montana university system, the vocational technical centers, and the~~
5 ~~community colleges;~~

6 (c) instructional and professional development or other appropriate inservice training for teachers
7 in the schools of the state; and

8 (d) telecommunications capabilities to agencies, subdivisions of state government, and public
9 libraries in order to improve their ability to perform their responsibilities and duties."

10
11 **Section 30.** Section 20-32-102, MCA, is amended to read:

12 **"20-32-102. Agency cooperation -- responsibilities.** (1) To meet the objectives of the network, the
13 following entities shall cooperate with one another:

14 (a) the department of administration, with its responsibilities for telecommunications for agencies
15 of state government;

16 (b) the superintendent of public instruction, with a supervisory role over the public system of
17 elementary and high schools; and

18 (c) the commissioner of higher education, with responsibilities to the ~~Montana university system,~~
19 ~~the vocational technical centers, and the community colleges.~~

20 (2) The responsibilities of the superintendent of public instruction to the network include but are
21 not limited to:

22 (a) general supervision of delivery of educational materials through telecommunications to
23 elementary and high school districts in the state;

24 (b) compilation, maintenance, and dissemination to participating school districts of information that
25 identifies the educational programming available from within and from outside the state;

26 (c) training of teachers and other school personnel in the use of telecommunications technologies
27 for instructional purposes;

28 (d) assistance to school districts in identifying and procuring the telecommunications technologies
29 needed to interface with the network;

30 (e) identification of production capability for telecommunication of educational materials;

1 (f) assistance to participating school districts with group purchases of instructional and educational
2 materials;

3 (g) coordination with the commissioner of higher education and the units of the Montana university
4 system to offer advanced placement courses, teacher inservice training, and other instruction through the
5 network;

6 (h) payment of the superintendent's share of the network costs to the department of
7 administration, as provided in 20-32-104;

8 (i) coordination with the department of administration to ensure compatibility of network
9 components, to minimize duplication of efforts on behalf of the network, and to maximize use of the
10 network by school districts; and

11 (j) determination of kinds of equipment, inservice, and district accounting necessary to implement
12 the provisions of this part for school districts.

13 (3) The responsibilities of the department of administration to the network include but are not
14 limited to:

15 (a) provision of technical support to the coordinating agencies referred to in subsection (1);

16 (b) development of standards of compatibility for the network;

17 (c) procurement and management of network equipment and facilities that have shared use by
18 multiple users or agencies;

19 (d) assistance with procurement, installation, maintenance, and operation of end-terminal
20 equipment and facilities of the network;

21 (e) minimizing any duplication of equipment and facilities within the network and in conjunction
22 with the department of administration's other networking capabilities;

23 (f) coordination of use of the network by state agencies, subdivisions of the state, and public
24 libraries in a manner that does not interfere with the delivery of the primary network function of providing
25 educational services to school districts and state units of higher education;

26 (g) studying the use of the network by Native American tribal colleges and other nonpublic
27 education institutions in the state, with the long-range goal of coordinating the use of the network with
28 those entities; and

29 (h) maintenance of cost and usage records and a billing system for user agencies for services
30 rendered that incur marginal costs for the network.

1 (4) The responsibilities of the commissioner of higher education to the network include but are not
2 limited to:

3 (a) coordination of the use of the network among the units of higher education and with the
4 superintendent of public instruction and the department of administration;

5 (b) assistance to the units of the Montana university system to provide college credit courses
6 through the network to students throughout the state;

7 (c) coordination with the superintendent of public instruction to develop advance placement
8 courses for high school students in Montana, teacher inservice training, and other services and instruction
9 through the network;

10 (d) assistance to the units of the ~~Montana university system, the vocational technical centers, and~~
11 ~~the community colleges~~ in defining their specific needs for interfacing with the network;

12 (e) assistance to participating units, centers, and colleges with group purchases of instructional
13 and educational materials; and

14 (f) determination of the kinds of equipment, inservice, and accounting necessary to implement the
15 provisions of this part for the units of the university system, ~~community colleges, and vocational technical~~
16 ~~centers.~~"

17
18 **Section 31.** Section 20-32-103, MCA, is amended to read:

19 "**20-32-103. Fee collection and disposition for operational costs.** As a condition of participation
20 in the network, the units of the ~~Montana~~ university system, ~~vocational technical centers, and community~~
21 ~~colleges~~ shall collect from appropriate discretionary funds in a manner approved by the board of regents
22 an amount not to exceed \$5 for each full-time equivalent student enrolled in the units, centers, or colleges.
23 The funds collected must be deposited with the commissioner of higher education by July 1 for the
24 purposes of 20-32-102(4). The commissioner of higher education shall pay the department of administration
25 the commissioner's share of the network costs."

26
27 **Section 32.** Section 39-29-101, MCA, is amended to read:

28 "**39-29-101. Definitions.** For the purposes of this chapter, the following definitions apply:

29 (1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except
30 for training, determining physical fitness, or service in the reserve or national guard.

1 (2) "Armed forces" means the United States:

2 (a) army, navy, air force, marine corps, and coast guard; and

3 (b) merchant marine for service recognized by the United States department of defense as active
4 military service for the purpose of laws administered by the department of veterans affairs.

5 (3) "Disabled veteran" means a person:

6 (a) whether or not the person is a veteran as defined in this section, who was separated under
7 honorable conditions from active duty in the armed forces and has established the present existence of a
8 service-connected disability or is receiving compensation, disability retirement benefits, or pension because
9 of a law administered by the department of veterans affairs or a military department; or

10 (b) who has received a purple heart medal.

11 (4) "Eligible relative" means:

12 (a) the unmarried surviving spouse of a veteran or disabled veteran;

13 (b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

14 (c) the mother of a veteran who died under honorable conditions while serving in the armed forces

15 if:

16 (i) the mother's spouse is totally and permanently disabled; or

17 (ii) the mother is the widow of the father of the veteran and has not remarried;

18 (d) the mother of a service-connected permanently and totally disabled veteran if:

19 (i) the mother's spouse is totally and permanently disabled; or

20 (ii) the mother is the widow of the father of the veteran and has not remarried.

21 (5) "Position" means a permanent, temporary, or seasonal position as defined in 2-18-101 for a
22 state position or a similar permanent, temporary, or seasonal position with a public employer other than the
23 state. The term does not include:

24 (a) a state or local elected office;

25 (b) appointment by an elected official to a body such as a board, commission, committee, or
26 council;

27 (c) appointment by an elected official to a public office if the appointment is provided for by law;

28 (d) a department head appointment by the governor or an executive department head appointment
29 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
30 government; or

- 1 (e) engagement as an independent contractor or employment by an independent contractor.
- 2 (6) "Public employer" means:
- 3 (a) a department, office, board, bureau, commission, agency, or other instrumentality of the
4 executive, legislative, or judicial branches of the government of this state;
- 5 (b) a unit of the Montana university system ~~or a vocational technical center;~~
- 6 (c) a school district ~~or community college;~~ and
- 7 (d) a county, city, or town.
- 8 (7) "Scored procedure" means a written test, structured oral interview, performance test, or other
9 selection procedure or a combination of these procedures that result in a numerical score to which
10 percentage points may be added.
- 11 (8) "Under honorable conditions" means a discharge or separation from active duty characterized
12 by the armed forces as under honorable conditions. The term includes honorable discharges and general
13 discharges but does not include dishonorable discharges or other administrative discharges characterized
14 as other than honorable.
- 15 (9) "Veteran" means a person who:
- 16 (a) was separated under honorable conditions from active duty in the armed forces after having
17 served more than 180 consecutive days, other than for training; or
- 18 (b) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C.
19 672(a), (d), or (g), 10 U.S.C. 673, or 10 U.S.C. 673b served on active duty during a period of war or in
20 a campaign or expedition for which a campaign badge is authorized and was discharged or released from
21 duty under honorable conditions."

22

23 **Section 33.** Section 39-30-103, MCA, is amended to read:

24 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

- 25 (1) "Eligible spouse" means the spouse of a handicapped person determined by the department of
26 social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ the employment
27 preference because of ~~his~~ the person's disability.
- 28 (2) "Handicapped person" means an individual certified by the department of social and
29 rehabilitation services to have a physical or mental impairment that substantially limits one or more major
30 life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability

1 to obtain, retain, or advance in employment.

2 (3) (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
3 ranks of the current employees of:

4 (i) a department, as defined in 2-15-102, for a position within the executive branch;

5 (ii) a legislative agency, such as the consumer counsel, environmental quality council, office of the
6 legislative auditor, legislative council, or office of the legislative fiscal analyst, for a position within the
7 legislative branch;

8 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
9 clerk, state law library, or similar office in a state district court for a position within the judicial branch;

10 (iv) a city or town for a municipal position, including a city or municipal court position; and

11 (v) a county for a county position, including a justice's court position.

12 (b) A personnel action limited to current employees of a specific public entity identified in
13 subsections ~~(a)(i) through (a)(v) of this subsection~~ (3)(a)(i) through (3)(a)(v), current employees in a
14 reduction-in-force pool who have been laid off from a specific public entity identified in subsections ~~(a)(i)~~
15 ~~through (a)(v) of this subsection~~ (3)(a)(i) through (3)(a)(v), or current participants in a federally authorized
16 employment program is not an initial hiring.

17 (4) (a) "Mental impairment" means:

18 (i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
19 any other neurologically handicapping condition closely related to mental retardation and requiring treatment
20 similar to that required by mentally retarded individuals; or

21 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
22 or volitional functions.

23 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
24 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
25 as a defense to any criminal charge.

26 (5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position
27 or a similar permanent or seasonal position with a public employer other than the state. However, the term
28 does not include:

29 (a) a temporary position as defined in 2-18-101 for a state position or similar temporary position
30 with a public employer other than the state;

- 1 (b) a state or local elected official;
- 2 (c) employment as an elected official's immediate secretary, legal advisor, court reporter, or
3 administrative, legislative, or other immediate or first-line aide;
- 4 (d) appointment by an elected official to a body such as a board, commission, committee, or
5 council;
- 6 (e) appointment by an elected official to a public office if the appointment is provided for by law;
- 7 (f) a department head appointment by the governor or an executive department head appointment
8 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
9 government; or
- 10 (g) engagement as an independent contractor or employment by an independent contractor.
- 11 (6) (a) "Public employer" means:
- 12 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
13 executive, judicial, or legislative branch of the government of the state of Montana; and
- 14 (ii) any county, city, or town.
- 15 (b) The term does not include a school district, ~~a vocational technical center or program, a~~
16 ~~community college,~~ the board of regents of higher education, a unit of the Montana university system, a
17 special purpose district, an authority, or any political subdivision of the state other than a county, city, or
18 town.
- 19 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
20 whom the public employer cannot make a reasonable determination that the qualifications held by one
21 person are significantly better suited for the position than the qualifications held by the other persons."

22

23 **Section 34.** Section 50-40-107, MCA, is amended to read:

24 **"50-40-107. Exemptions.** The following ~~shall be~~ are exempt from this part:

- 25 (1) restrooms;
- 26 (2) taverns or bars where meals are not served;
- 27 (3) vehicles or rooms seating six or fewer members of the public;
- 28 (4) school district buildings and facilities designated as tobacco-free by the board of trustees of
29 the school district;
- 30 (5) ~~community college buildings or facilities designated as tobacco free by the board of trustees~~

1 ~~of the community college district;~~

2 ~~(6) state government buildings declared smoke-free."~~

3

4 **Section 35.** Section 50-40-201, MCA, is amended to read:

5 **"50-40-201. Reservation of smoking and nonsmoking areas in work areas in local government**
6 **buildings.** In offices and work areas in buildings maintained by a political subdivision, except a school ~~or~~
7 ~~community college~~ facility designated as tobacco-free by the board of trustees of the school district ~~or~~
8 ~~community college district~~, in which seven or more employees of the political subdivision are employed,
9 the manager or person in charge of the work area shall arrange nonsmoking and smoking areas in a
10 convenient area."

11

12 **Section 36.** Section 61-3-462, MCA, is amended to read:

13 **"61-3-462. Definitions.** As used in 61-3-461 through 61-3-467, the following definitions apply:

14 (1) "Collegiate license plates" means license plates bearing the colors, numerals, letters, and
15 insignia provided in 61-3-463 and issued as provided in 61-3-464 through 61-3-466.

16 (2) "Institution" means:

17 (a) a unit of the Montana university system as designated in 20-25-201; or

18 (b) ~~a community college district as defined in 20-15-101; or~~

19 ~~(c)~~ a college or university located in Montana and accredited by a national or regional accrediting
20 association for institutions of higher learning to grant baccalaureate degrees."

21

22 **NEW SECTION. Section 37. Repealer.** Sections 20-15-101, 20-15-102, 20-15-103, 20-15-104,
23 20-15-105, 20-15-106, 20-15-107, 20-15-108, 20-15-109, 20-15-201, 20-15-202, 20-15-203,
24 20-15-204, 20-15-205, 20-15-206, 20-15-207, 20-15-208, 20-15-209, 20-15-210, 20-15-219,
25 20-15-220, 20-15-221, 20-15-222, 20-15-223, 20-15-224, 20-15-225, 20-15-226, 20-15-227,
26 20-15-228, 20-15-229, 20-15-231, 20-15-241, 20-15-301, 20-15-304, 20-15-305, 20-15-308,
27 20-15-309, 20-15-310, 20-15-311, 20-15-312, 20-15-313, 20-15-314, 20-15-321, 20-15-323,
28 20-15-324, 20-15-325, 20-15-326, 20-15-401, 20-15-402, 20-15-403, and 20-15-404, MCA, are
29 repealed.

30

1 **NEW SECTION. Section 38. Codification instruction.** [Sections 1 through 6] are intended to be
2 codified as an integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply to
3 [sections 1 through 6].

4

5 **NEW SECTION. Section 39. Effective date -- applicability.** (1) [This act] is effective July 1, 1996.
6 (2) [Sections 3 and 4] apply to the levies for community colleges for the school fiscal year beginning
7 July 1, 1996, and apply to property tax years beginning after December 31, 1995.

8

9 **NEW SECTION. Section 40. Contingent voidness.** If [this act] and House Bill No. 2 are both passed
10 and approved and if House Bill No. 2 does not include, for the community colleges that are merged into the
11 Montana university system by [this act], an appropriation of at least \$1,705,018 in state funding to
12 supplant the previous funding from a local mandatory levy authorized by 20-15-313, then [this act] is void.

13

-END-