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INTRODUCED BY

SB BILL NO. 165

Christians Dept Two

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4

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO GRANT EDUCATION PAYMENTS FOR YOUTH IN LICENSED YOUTH DETENTION FACILITIES FROM AN ACCOUNT FUNDED BY TUITION PAYMENTS FROM COUNTIES; CLARIFYING THE COUNTY SUPERINTENDENT'S RESPONSIBILITY FOR TUITION PAYMENTS FOR YOUTH PLACED IN YOUTH DETENTION FACILITIES; PROVIDING A GRANT AND REIMBURSEMENT PROCESS; AMENDING SECTION 20-5-321, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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NEW SECTION. Section 1. State grant program -- purpose. (1) There is a state program to provide education funding for youths who are placed in a youth detention facility, as defined in 41-5-103, for 10 days or more.

16

(2) The purpose of this program is to provide funding on a regular basis for youth who are placed in youth detention facilities as the facilities incur the costs to educate these youth. Because tuition payments are not immediately available for the youth detention facility where the youth is receiving education services, the superintendent of public instruction is directed to maintain an account from which the education services can be funded on a regular basis and to which tuition payments from each county superintendent can be made at regular intervals.

22

(3) The youth in youth detention facilities are entitled to receive education services, and it is the responsibility of the county of the youth's residence to provide the means for those services, even when a youth is placed in a youth detention facility that is in a different county. It is in the best interest of the state and the youth to provide continuity with the education that the youth had been receiving or to provide access to education to encourage a youth to participate in appropriate activities and as a means for future self-sufficiency.

28

29

NEW SECTION. Section 2. State, county, and youth detention facility responsibilities. (1) Each county of residence is responsible to pay the cost of educating a youth who is placed in a youth detention

30

1 facility, as defined in 41-5-103, for 10 days or more.

2 (2) When a youth is placed, for any reason, in a youth detention facility, and it appears that the
3 youth will be detained or has been detained for 10 days or more, the youth detention facility shall determine
4 the youth's district of residence on the basis of the provisions of 1-1-215 and shall make application to the
5 county superintendent for the district of residence for an out-of-district attendance agreement. Approval
6 of the agreement is mandatory as provided in 20-5-321(1)(d).

7 (3) The county superintendent of the resident district shall forward a copy of the out-of-district
8 attendance agreement with a tuition rate calculation, as provided in 20-5-323(2) or (3), to the youth
9 detention facility making the application and to the superintendent of public instruction.

10 (4) The youth detention facility shall forward a statement of the total number of youth who are in
11 the youth detention facility who have out-of-district attendance agreements in place, the appropriate tuition
12 calculation for each youth, and the total number of days of instruction for each youth to the superintendent
13 of public instruction.

14 (5) The superintendent of public instruction shall grant an education payment to the youth
15 detention facility on a monthly basis in an amount determined by the total number of youth who are in the
16 youth detention facility who have an out-of-district attendance agreement, the tuition calculation for each
17 youth, and the total number of days of instruction for each youth.

18 (6) The superintendent of public instruction shall maintain a state special revenue account for the
19 purposes of granting education payments and receiving tuition payments from the county superintendents.

20 (7) The county of residence is responsible for including the out-of-district attendance agreement
21 in its tuition report pursuant to 20-5-324. The county superintendent of the county of residence shall make
22 the tuition payments that are owed under 20-5-324 for the education of a youth in a youth detention
23 facility to the superintendent of public instruction to be placed in the special revenue account for education
24 payments to youth detention facilities.

25
26 **NEW SECTION. Section 3. Education for youth in youth detention facility.** (1) When a youth is
27 placed in a youth detention facility, as defined in 41-5-103, for any reason and has been in detention for
28 10 days, the youth detention facility shall provide education services.

29 (2) The youth detention facility shall provide education services to the youth according to the
30 youth's needs. Tuition payments may be used for, but are not limited to being used for, the following

1 purposes:

2 (a) contracting for services with an accredited education program;

3 (b) contracting for services with a person who is certified and qualified to provide appropriate
4 education services; or

5 (c) providing for courses towards a general education degree.

6 (3) To qualify for an education grant, a youth detention facility must provide a description of an
7 education plan to the superintendent of public instruction on an annual basis. The education plan must
8 include a description of the types of education services that are available, including any combination of the
9 following:

10 (a) an accredited program, as provided in 20-7-102;

11 (b) a contract with a person certified under Title 20, chapter 4, part 1; or

12 (c) an adult basic education program.

13

14 **NEW SECTION. Section 4. Special revenue account.** There is an account in the state special
15 revenue fund. Money in the account is allocated to the superintendent of public instruction to administer
16 the provisions of [sections 1 through 4].

17

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

19 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
20 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that
21 is outside of the child's district of residence or in a public school district of a state or province that is
22 adjacent to the county of the child's residence is mandatory whenever:

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

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

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

28 (b) the child resides in a location where, ~~due to~~ because of road or geographic conditions, it is
29 impractical to attend the school nearest the child's residence;

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

1 district to attend high school and the child of elementary age may more conveniently attend an elementary
2 school where the high school is located, provided that the child resides more than 3 miles from an
3 elementary school in the resident district or that the parent is required to move to the elementary district
4 where the high school is located to enroll another child in high school;

5 (d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected
6 child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in
7 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
8 health and human services or is placed in a youth detention facility, as defined in 41-5-103, and, as a result
9 of the placement, is required to attend school outside of the child's district of residence; or

10 (e) the child is required to attend school outside of the district of residence as the result of a
11 placement by a state agency or parent in a group home licensed by the state or an order of a court of
12 competent jurisdiction.

13 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have
14 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
15 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
16 the child will attend.

17 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for
18 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

19 (c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver
20 must be applied equally to all students.

21 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
22 the district of choice shall approve the out-of-district attendance agreement and notify the county
23 superintendent of schools of the county of the child's residence of the approval of the agreement within
24 10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).

25 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district
26 where the school to be attended is located may disapprove an out-of-district attendance agreement
27 whenever they find that, ~~due to~~ because of insufficient room and overcrowding, the accreditation of the
28 school would be adversely affected by the acceptance of the child."

29

30 **Section 6.** Section 20-7-424, MCA, is amended to read:

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0165, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for the superintendent of public instruction to grant education payments for youth in licensed youth detention facilities from an account funded by tuition payments from counties; clarifying the county superintendent's responsibility for tuition payments for youth placed in youth detention facilities; providing a grant and reimbursement process.

ASSUMPTIONS:

1. Only three Montana facilities have authority to hold youth for more than 96 hours. These facilities are in Billings, Great Falls, and Kalispell. In 1995, these facilities reported the following placements:

Billings: 375 kids, average stay=9.5 days
Great Falls: 235 kids, average stay=9.7 days
Kalispell: 457 kids, average stay=9.5 days
2. In the past, the Billings facility had a contract with the Billings Public Schools to provide educational services at the youth detention center. At present, none of these facilities have contracts with public school districts to provide educational services.
3. Three percent of youth detained will spend in excess of 10 days in the facility. These youth will stay an average of 50 days in excess of the 10 minimum.
4. Using FY96 school district expenditure data, the average daily tuition rate calculated in accordance with 20-5-323 (4) was \$32.26. It is projected that the average daily tuition rate based on FY97 expenditure data will increase by 2.45% to \$33.05.
5. Youth detention centers will charge \$33.05/day for the educational costs associated with students who are placed in youth detention centers for more than 10 days. The resulting annual cost to school districts (and therefore the state general fund as described in #6g) will be [1067kids X 3% X 50days X \$33.05 = \$52,880]
6. The process for funding the educational services will be as follows:
 - a) The youth detention center determines the youth's district of residence.
 - b) The youth detention center makes application to the county superintendent for an out-of-district attendance agreement.
 - c) The county superintendent calculates a daily tuition rate based on the educational costs of the district of residence in the previous school year.
 - d) The youth detention center sends a monthly billing statement to OPI.
 - e) OPI reimburses the youth detention center in the following month.
 - f) At the end of the school year, the county of residence calculates its tuition obligations for the school year that just ended.
 - g) The county superintendent reimburses OPI in the ensuing school year by deducting the tuition payment from the county equalization account (before the county equalization monies are remitted to the state.)
7. Under current law, there is a one-year lag between the receipt of educational services and the payment for those services. The reason that OPI is included in this process is to ensure prompt payment to the youth detention center by assisting with the cash flow requirements of the process.

Dave Lewis 1-22-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chris Christiaens 1/22/97
CHRIS CHRISTIAENS, PRIMARY SPONSOR DATE

ASSUMPTIONS (continued):

8. To operate a state special revenue account as a revolving account, OPI will need an appropriation to transfer funds to the youth detention center and a loan from the state general fund upon which OPI can draw to keep the account solvent.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
OPI-Pmts to Detention Facilities	52,880	52,880
<u>Funding:</u>		
Youth detention special revenue (02)	52,880	52,880
<u>Revenues:</u>		
General Fund (01)		(52,880)
Youth detention special revenue (02)		52,880
<u>Net Impact (revenue minus expenditure):</u>		
General Fund (01)		(52,880)
Youth detention Special Revenue (02)	(52,880)	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

School districts would have to provide the educational services at the detention facilities. Because of uncertainty regarding when detained youth will be held in excess of 10 days and become eligible for reimbursement the district may incur costs which would not be reimbursed.

TECHNICAL NOTES:

1. In Section 2 of SB 165, the county superintendent is required to calculate a tuition rate, as provided in 20-5-323(2) or (3). It would be more appropriate amend 20-5-323(4) to direct the county superintendent to calculate a daily rate for youth placed in a detention center and to reference this calculation in Section 2.
2. The intent of this bill could be accomplished by having the youth detention centers bill the county of residence directly and instructing the county superintendent to deduct, from the county equalization account in the current year, the costs of educating youth in youth detention centers. The process would be more efficient as OPI would be removed as the "middle man" in this process. An even simpler method would be to provide a state general fund appropriation against which the youth detention centers could file claims for reimbursement for educational services provided. Since under this act as written the state general fund bears the cost payments to detention centers direct payment from the general fund would result in the same cost.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

No.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

None.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)

No, the revenue allocated to the state special revenue fund created by SB 165 will arrive one year after the expenditures are incurred. It is likely that OPI will need to draw upon a general fund loan to make the education grants to youth detention centers.

- d) Does the need for this state special revenue provision still exist? Yes No (Explain)

No, this same proposal could be accomplished with a general fund appropriation against which the youth detention centers could file claims for reimbursement.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No, OPI will still need an appropriation to fund these educational services

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

There is a need to provide educational services to youth who are placed in youth detention centers. There is not a need for a dedicated revenue source to pay for these services. These services could be paid through a state general fund appropriation where the daily reimbursement rate were tied to the average daily tuition rate.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

There are no established mechanisms for auditing the amounts that county superintendents deduct for tuition payments from the county equalization account. Under SB 165, there are more parties handling the revenue and expenditure transactions than need to be involved.

APPROVED BY COM ON EDUCATION
AND CULTURAL RESOURCES

SENATE BILL NO. 165

INTRODUCED BY CHRISTIAENS, SOFT, TUSS

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING FOR~~ REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ~~GRANT~~ MAKE EDUCATION PAYMENTS FOR YOUTH IN LICENSED YOUTH DETENTION FACILITIES ~~FROM AN ACCOUNT FUNDED BY TUITION PAYMENTS FROM COUNTIES; CLARIFYING THE COUNTY SUPERINTENDENT'S RESPONSIBILITY FOR TUITION PAYMENTS FOR YOUTH PLACED IN YOUTH DETENTION FACILITIES; PROVIDING A GRANT AND REIMBURSEMENT PROCESS; AMENDING SECTION 20-5-321, MCA; AND PROVIDING AN EFFECTIVE DATE.~~"

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

NEW SECTION. Section 1. State grant EDUCATION FUNDING program -- purpose. (1) There is a state program to provide education funding for ~~youths~~ YOUTH who are placed in a youth detention facility, as defined in 41-5-103, for 10 days or more.

(2) The purpose of this program is to provide funding on a regular basis for youth who are placed in youth detention facilities as the facilities incur the costs to educate these youth. Because tuition payments are not immediately available for the youth detention facility where the youth is receiving education services, the superintendent of public instruction is directed to ~~maintain an account from which~~ PAY YOUTH DETENTION FACILITIES FOR the education services ~~can be funded~~ on a regular MONTHLY basis ~~and to which tuition payments from each county superintendent can be made at regular intervals.~~

(3) The youth in youth detention facilities are entitled to receive education services, and it is the responsibility of the ~~county of the youth's residence~~ STATE to provide the means for those services, ~~even when a youth is placed in a youth detention facility that is in a different county.~~ It is in the best interest of the state and the youth to provide continuity with the education that the youth had been receiving or to provide access to education to encourage a youth to participate in appropriate activities and as a means for future self-sufficiency.

NEW SECTION. Section 2. State, county, and youth detention facility responsibilities. (1) ~~Each county of residence~~ THE STATE is responsible to pay the cost of educating a youth who is placed in a

1 youth detention facility, as defined in 41-5-103, for 10 days or more.

2 (2) When a youth is placed, for any reason, in a youth detention facility, ~~and it appears that the~~
3 ~~youth will be detained or has been~~ AND IS detained for 10 days or more, the youth detention facility shall
4 ~~determine the youth's district of residence on the basis of the provisions of 1-1-215 and shall make~~
5 ~~application to the county superintendent for the district of residence for an out-of-district attendance~~
6 ~~agreement. Approval of the agreement is mandatory as provided in 20-5-321(1)(d).~~

7 ~~(3) The county superintendent of the resident district shall forward a copy of the out-of-district~~
8 ~~attendance agreement with a tuition rate calculation, as provided in 20-5-323(2) or (3), to the youth~~
9 ~~detention facility making the application and to the superintendent of public instruction.~~

10 ~~(4) The youth detention facility shall forward a statement of the total number of youth who are in~~
11 ~~the youth detention facility who have out-of-district attendance agreements in place, the appropriate tuition~~
12 ~~calculation for each youth, and the total number of days of instruction for each youth to the superintendent~~
13 ~~of public instruction.~~

14 ~~(5) The superintendent of public instruction shall grant an education payment to the youth~~
15 ~~detention facility on a monthly basis in an amount determined by the total number of youth who are in the~~
16 ~~youth detention facility who have an out-of-district attendance agreement, the tuition calculation for each~~
17 ~~youth, and the total number of days of instruction for each youth.~~

18 ~~(6) The superintendent of public instruction shall maintain a state special revenue account for the~~
19 ~~purposes of granting education payments and receiving tuition payments from the county superintendents.~~

20 ~~(7) The county of residence is responsible for including the out-of-district attendance agreement~~
21 ~~in its tuition report pursuant to 20-5-324. The county superintendent of the county of residence shall make~~
22 ~~the tuition payments that are owed under 20-5-324 for the education of a youth in a youth detention~~
23 ~~facility to the superintendent of public instruction to be placed in the special revenue account for education~~
24 ~~payments to youth detention facilities~~ BILL THE OFFICE OF PUBLIC INSTRUCTION FOR EACH DAY THAT
25 THE YOUTH IS DETAINED AFTER THE FIRST 10 DAYS. THE OFFICE OF PUBLIC INSTRUCTION SHALL
26 PAY THE YOUTH DETENTION FACILITY AN AMOUNT BASED ON A DAILY RATE FOR EACH YOUTH THAT
27 DOES NOT EXCEED THE AVERAGE DAILY AMOUNT EXPENDED BY HIGH SCHOOLS IN MONTANA TO
28 PROVIDE EDUCATION COSTS.

29 (3) AS USED IN THIS SECTION, "AVERAGE DAILY AMOUNT" IS DETERMINED BY:

30 (A) TOTALING THE EXPENDITURES IN ALL BUDGETED SCHOOL FUNDS FOR ALL HIGH SCHOOL

1 DISTRICTS IN THE STATE;

2 (B) DIVIDING THE EXPENDITURES IN SUBSECTION (3)(A) BY THE TOTAL HIGH SCHOOL
3 ENROLLMENT; AND

4 (C) DIVIDING THE AMOUNT IN SUBSECTION (3)(B) BY 180 DAYS.

5
6 NEW SECTION. Section 3. Education for youth in youth detention facility. (1) When a youth is
7 placed in a youth detention facility, as defined in 41-5-103, for any reason and has been in detention for
8 10 days, the youth detention facility shall provide education services.

9 (2) The youth detention facility shall provide education services to the youth according to the
10 youth's needs. ~~Tuition~~ EDUCATION payments may be used for, ~~but are not limited to being used for,~~ the
11 ~~following purposes:~~

12 (a) contracting for EDUCATION services ~~with an~~ PROVIDED BY A PUBLICLY FUNDED, accredited
13 ~~education program~~ SCHOOL; AND

14 (b) ~~contracting for services with a person who is certified and qualified to provide appropriate~~
15 ~~education services; or~~

16 (c) ~~providing for courses,~~ PROVIDED BY A PUBLICLY FUNDED, ACCREDITED SCHOOL, towards
17 a general education degree.

18 (3) To qualify for ~~an~~ education ~~grant~~ FUNDING, a youth detention facility must provide a
19 description of an education plan to the superintendent of public instruction on an annual basis. The
20 education plan must include a description of the types of education services that are available, ~~including~~
21 ~~any combination of the following:~~

22 (a) ~~an accredited program, as provided in 20-7-102;~~

23 (b) ~~a contract with a person certified under Title 20, chapter 4, part 1; or~~

24 (c) ~~an adult basic education program.~~

25 (4) THE REQUIREMENT IN SUBSECTION (1) TO PROVIDE EDUCATION SERVICES AFTER A YOUTH
26 HAS BEEN IN THE FACILITY FOR 10 DAYS DOES NOT PROHIBIT THE FACILITY FROM PROVIDING
27 EDUCATION SERVICES DURING THE FIRST 10 DAYS.

28
29 NEW SECTION. Section 4. Special revenue account. ~~There is an account in the state special~~
30 ~~revenue fund. Money in the account is allocated to the superintendent of public instruction to administer~~

1 ~~the provisions of [sections 1 through 4].~~

2
3 ~~Section 5. Section 20-5-321, MCA, is amended to read:~~

4 ~~"20-5-321. Attendance with mandatory approval—tuition and transportation. (1) An out-of-district~~
5 ~~attendance agreement that allows a child to enroll in and attend a school in a Montana school district that~~
6 ~~is outside of the child's district of residence or in a public school district of a state or province that is~~
7 ~~adjacent to the county of the child's residence is mandatory whenever:~~

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

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

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

13 ~~(b) the child resides in a location where, due to because of road or geographic conditions, it is~~
14 ~~impractical to attend the school nearest the child's residence;~~

15 ~~(c) the child is a member of a family that is required to send another child outside of the elementary~~
16 ~~district to attend high school and the child of elementary age may more conveniently attend an elementary~~
17 ~~school where the high school is located, provided that the child resides more than 3 miles from an~~
18 ~~elementary school in the resident district or that the parent is required to move to the elementary district~~
19 ~~where the high school is located to enroll another child in high school;~~

20 ~~(d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected~~
21 ~~child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in~~
22 ~~41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public~~
23 ~~health and human services or is placed in a youth detention facility, as defined in 41-5-103, and, as a result~~
24 ~~of the placement, is required to attend school outside of the child's district of residence; or~~

25 ~~(e) the child is required to attend school outside of the district of residence as the result of a~~
26 ~~placement by a state agency or parent in a group home licensed by the state or an order of a court of~~
27 ~~competent jurisdiction.~~

28 ~~(2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have~~
29 ~~a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall~~
30 ~~complete an out-of-district attendance agreement in consultation with an appropriate official of the district~~

1 the child will attend.

2 ~~(b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for~~
3 ~~tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.~~

4 ~~(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver~~
5 ~~must be applied equally to all students.~~

6 ~~(3) Except as provided in subsection (4), the trustees of the resident district and the trustees of~~
7 ~~the district of choice shall approve the out-of-district attendance agreement and notify the county~~
8 ~~superintendent of schools of the county of the child's residence of the approval of the agreement within~~
9 ~~10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).~~

10 ~~(4) Unless the child is a child with disabilities who resides in the district, the trustees of the district~~
11 ~~where the school to be attended is located may disapprove an out-of-district attendance agreement~~
12 ~~whenever they find that, due to because of insufficient room and overcrowding, the accreditation of the~~
13 ~~school would be adversely affected by the acceptance of the child."~~

14

15 ~~**Section 6.** Section 20-7-424, MCA, is amended to read:~~

16 ~~"20-7-424. **No tuition when attending state institution.** (1) Whenever a child is attending a~~
17 ~~state-funded institution in Montana, the resident district or county is not required to pay tuition to the state~~
18 ~~institution for the child, but whenever at the recommendation of institution officials the child attends~~
19 ~~classes conducted by a school within a local district, the district or county where the parents or guardian~~
20 ~~of the child maintains legal residence shall pay tuition to the district operating the school in accordance with~~
21 ~~the provisions of 20-5-321 or 20-7-421, whichever section applies to the circumstances of the child.~~
22 ~~Transportation payments must be made for students enrolled in any school district classes or receiving~~
23 ~~training, including summer sessions, at the state institution. The schedule of transportation payments must~~
24 ~~be approved in accordance with existing transportation payment schedules and must be approved by the~~
25 ~~county transportation committee and the superintendent of public instruction.~~

26 ~~(2) For the purposes of this section, the term "state-funded institution" does not include a licensed~~
27 ~~youth detention facility, as defined in 41-5-103."~~

28

29 ~~**NEW SECTION.** Section 4. Codification instruction. [Sections 1 through 4 3] are intended to be~~
30 ~~codified as an integral part of Title 20, chapter 5, part 3, and the provisions of Title 20, chapter 5, part 3,~~

1 apply to [sections 1 through 4 3].

2

3 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 1997.

4

-END-

1 SENATE BILL NO. 165

2 INTRODUCED BY CHRISTIAENS, SOFT, TUSS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING FOR~~ REQUIRING THE SUPERINTENDENT OF PUBLIC
5 INSTRUCTION TO ~~GRANT~~ MAKE EDUCATION PAYMENTS FOR YOUTH IN LICENSED YOUTH DETENTION
6 FACILITIES ~~FROM AN ACCOUNT FUNDED BY TUITION PAYMENTS FROM COUNTIES; CLARIFYING THE~~
7 ~~COUNTY SUPERINTENDENT'S RESPONSIBILITY FOR TUITION PAYMENTS FOR YOUTH PLACED IN YOUTH~~
8 ~~DETENTION FACILITIES; PROVIDING A GRANT AND REIMBURSEMENT PROCESS; AMENDING SECTION~~
9 ~~20-5-321, MCA; AND PROVIDING AN EFFECTIVE DATE."~~

10

11 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.**

SENATE BILL NO. 165

INTRODUCED BY CHRISTIAENS, SOFT, TUSS

A BILL FOR AN ACT ENTITLED: "~~AN ACT PROVIDING FOR~~ REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ~~GRANT~~ MAKE EDUCATION PAYMENTS FOR YOUTH IN LICENSED YOUTH DETENTION FACILITIES ~~FROM AN ACCOUNT FUNDED BY TUITION PAYMENTS FROM COUNTIES; CLARIFYING THE COUNTY SUPERINTENDENT'S RESPONSIBILITY FOR TUITION PAYMENTS FOR YOUTH PLACED IN YOUTH DETENTION FACILITIES; PROVIDING A GRANT AND REIMBURSEMENT PROCESS; AMENDING SECTION 20-5-321, MCA; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A~~ TERMINATION DATE."

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

NEW SECTION. Section 1. State grant EDUCATION FUNDING program -- purpose. (1) There is a state program to provide education funding for ~~youths~~ YOUTH who are placed in a youth detention facility, as defined in 41-5-103, for 10 days or more.

(2) The purpose of this program is to provide funding on a regular basis for youth who are placed in youth detention facilities as the facilities incur the costs to educate these youth. Because tuition payments are not immediately available for the youth detention facility where the youth is receiving education services, the superintendent of public instruction is directed to ~~maintain an account from which~~ PAY YOUTH DETENTION FACILITIES FOR the education services ~~can be funded~~ on a regular MONTHLY basis ~~and to which tuition payments from each county superintendent can be made at regular intervals.~~

(3) The youth in youth detention facilities are entitled to receive education services, and it is the responsibility of the ~~county of the youth's residence~~ STATE to provide the means for those services, ~~even when a youth is placed in a youth detention facility that is in a different county.~~ It is in the best interest of the state and the youth to provide continuity with the education that the youth had been receiving or to provide access to education to encourage a youth to participate in appropriate activities and as a means for future self-sufficiency.

NEW SECTION. Section 2. State, county, and youth detention facility responsibilities. (1) ~~Each~~

1 ~~county of residence~~ THE STATE is responsible to pay the cost of educating a youth who is placed in a
2 youth detention facility, as defined in 41-5-103, for 10 days or more.

3 (2) When a youth is placed, for any reason, in a youth detention facility, ~~and it appears that the~~
4 ~~youth will be detained or has been~~ AND IS detained for 10 days or more, the youth detention facility shall
5 ~~determine the youth's district of residence on the basis of the provisions of 1-1-215 and shall make~~
6 ~~application to the county superintendent for the district of residence for an out-of-district attendance~~
7 ~~agreement. Approval of the agreement is mandatory as provided in 20-5-321(1)(d).~~

8 ~~(3) The county superintendent of the resident district shall forward a copy of the out-of-district~~
9 ~~attendance agreement with a tuition rate calculation, as provided in 20-5-323(2) or (3), to the youth~~
10 ~~detention facility making the application and to the superintendent of public instruction.~~

11 ~~(4) The youth detention facility shall forward a statement of the total number of youth who are in~~
12 ~~the youth detention facility who have out-of-district attendance agreements in place, the appropriate tuition~~
13 ~~calculation for each youth, and the total number of days of instruction for each youth to the superintendent~~
14 ~~of public instruction.~~

15 ~~(5) The superintendent of public instruction shall grant an education payment to the youth~~
16 ~~detention facility on a monthly basis in an amount determined by the total number of youth who are in the~~
17 ~~youth detention facility who have an out-of-district attendance agreement, the tuition calculation for each~~
18 ~~youth, and the total number of days of instruction for each youth.~~

19 ~~(6) The superintendent of public instruction shall maintain a state special revenue account for the~~
20 ~~purposes of granting education payments and receiving tuition payments from the county superintendents.~~

21 ~~(7) The county of residence is responsible for including the out-of-district attendance agreement~~
22 ~~in its tuition report pursuant to 20-5-324. The county superintendent of the county of residence shall make~~
23 ~~the tuition payments that are owed under 20-5-324 for the education of a youth in a youth detention~~
24 ~~facility to the superintendent of public instruction to be placed in the special revenue account for education~~
25 ~~payments to youth detention facilities~~ BILL THE OFFICE OF PUBLIC INSTRUCTION FOR EACH DAY THAT
26 THE YOUTH IS DETAINED AFTER THE FIRST 10 DAYS. THE OFFICE OF PUBLIC INSTRUCTION SHALL
27 PAY THE YOUTH DETENTION FACILITY AN AMOUNT BASED ON A DAILY RATE FOR EACH YOUTH THAT
28 DOES NOT EXCEED THE AVERAGE DAILY AMOUNT EXPENDED BY HIGH SCHOOLS IN MONTANA TO
29 PROVIDE EDUCATION COSTS.

30 (3) AS USED IN THIS SECTION, "AVERAGE DAILY AMOUNT" IS DETERMINED BY:

1 (A) TOTALING THE EXPENDITURES IN ALL BUDGETED SCHOOL FUNDS FOR ALL HIGH SCHOOL
 2 DISTRICTS IN THE STATE;

3 (B) DIVIDING THE EXPENDITURES IN SUBSECTION (3)(A) BY THE TOTAL HIGH SCHOOL
 4 ENROLLMENT; AND

5 (C) DIVIDING THE AMOUNT IN SUBSECTION (3)(B) BY 180 DAYS.

6
 7 **NEW SECTION. Section 3. Education for youth in youth detention facility.** (1) When a youth is
 8 placed in a youth detention facility, as defined in 41-5-103, for any reason and has been in detention for
 9 10 days, the youth detention facility shall provide education services.

10 (2) The youth detention facility shall provide education services to the youth according to the
 11 youth's needs. ~~Tuition~~ **EDUCATION** payments may be used for, ~~but are not limited to being used for, the~~
 12 ~~following purposes:~~

13 (a) contracting for **EDUCATION** services ~~with an~~ **PROVIDED BY A PUBLICLY FUNDED,** accredited
 14 ~~education program~~ **SCHOOL; AND**

15 (b) ~~contracting for services with a person who is certified and qualified to provide appropriate~~
 16 ~~education services; or~~

17 ~~(c)~~ providing for courses, **PROVIDED BY A PUBLICLY FUNDED, ACCREDITED SCHOOL,** towards
 18 a general education degree.

19 (3) To qualify for ~~an~~ education ~~grant~~ **FUNDING,** a youth detention facility must provide a
 20 description of an education plan to the superintendent of public instruction on an annual basis. The
 21 education plan must include a description of the types of education services that are available, ~~including~~
 22 ~~any combination of the following:~~

23 ~~(a) an accredited program, as provided in 20-7-102;~~

24 ~~(b) a contract with a person certified under Title 20, chapter 4, part 1; or~~

25 ~~(c) an adult basic education program.~~

26 **(4) THE REQUIREMENT IN SUBSECTION (1) TO PROVIDE EDUCATION SERVICES AFTER A YOUTH**
 27 **HAS BEEN IN THE FACILITY FOR 10 DAYS DOES NOT PROHIBIT THE FACILITY FROM PROVIDING**
 28 **EDUCATION SERVICES DURING THE FIRST 10 DAYS.**

29
 30 ~~**NEW SECTION. Section 4. Special revenue account.** There is an account in the state special~~

1 ~~revenue fund. Money in the account is allocated to the superintendent of public instruction to administer~~
 2 ~~the provisions of [sections 1 through 4].~~

3
 4 ~~Section 5. Section 20-5-321, MCA, is amended to read:~~

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

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

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

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

14 ~~(b) the child resides in a location where, due to because of road or geographic conditions, it is~~
 15 ~~impractical to attend the school nearest the child's residence;~~

16 ~~(c) the child is a member of a family that is required to send another child outside of the elementary~~
 17 ~~district to attend high school and the child of elementary age may more conveniently attend an elementary~~
 18 ~~school where the high school is located, provided that the child resides more than 3 miles from an~~
 19 ~~elementary school in the resident district or that the parent is required to move to the elementary district~~
 20 ~~where the high school is located to enroll another child in high school;~~

21 ~~(d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected~~
 22 ~~child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in~~
 23 ~~41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public~~
 24 ~~health and human services or is placed in a youth detention facility, as defined in 41-5-103, and, as a result~~
 25 ~~of the placement, is required to attend school outside of the child's district of residence; or~~

26 ~~(e) the child is required to attend school outside of the district of residence as the result of a~~
 27 ~~placement by a state agency or parent in a group home licensed by the state or an order of a court of~~
 28 ~~competent jurisdiction.~~

29 ~~(2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have~~
 30 ~~a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall~~

1 ~~complete an out of district attendance agreement in consultation with an appropriate official of the district~~
 2 ~~the child will attend.~~

3 ~~(b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for~~
 4 ~~tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.~~

5 ~~(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver~~
 6 ~~must be applied equally to all students.~~

7 ~~(3) Except as provided in subsection (4), the trustees of the resident district and the trustees of~~
 8 ~~the district of choice shall approve the out of district attendance agreement and notify the county~~
 9 ~~superintendent of schools of the county of the child's residence of the approval of the agreement within~~
 10 ~~10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).~~

11 ~~(4) Unless the child is a child with disabilities who resides in the district, the trustees of the district~~
 12 ~~where the school to be attended is located may disapprove an out of district attendance agreement~~
 13 ~~whenever they find that, due to because of insufficient room and overcrowding, the accreditation of the~~
 14 ~~school would be adversely affected by the acceptance of the child."~~

15
 16 ~~Section 6. Section 20-7-424, MCA, is amended to read:~~

17 ~~"20-7-424. No tuition when attending state institution. (1) Whenever a child is attending a~~
 18 ~~state funded institution in Montana, the resident district or county is not required to pay tuition to the state~~
 19 ~~institution for the child, but whenever at the recommendation of institution officials the child attends~~
 20 ~~classes conducted by a school within a local district, the district or county where the parents or guardian~~
 21 ~~of the child maintains legal residence shall pay tuition to the district operating the school in accordance with~~
 22 ~~the provisions of 20-5-321 or 20-7-421, whichever section applies to the circumstances of the child.~~
 23 ~~Transportation payments must be made for students enrolled in any school district classes or receiving~~
 24 ~~training, including summer sessions, at the state institution. The schedule of transportation payments must~~
 25 ~~be approved in accordance with existing transportation payment schedules and must be approved by the~~
 26 ~~county transportation committee and the superintendent of public instruction.~~

27 ~~(2) For the purposes of this section, the term "state funded institution" does not include a licensed~~
 28 ~~youth detention facility, as defined in 41-5-103."~~

29
 30 ~~NEW SECTION. SECTION 4. APPROPRIATION. (1) THERE IS APPROPRIATED FROM THE~~

1 GENERAL FUND TO THE OFFICE OF PUBLIC INSTRUCTION FOR THE BIENNIUM BEGINNING JULY 1, 1997,
2 \$105,760 FOR THE EDUCATION PAYMENTS REQUIRED IN [SECTION 2].

3 (2) ANY AMOUNT REMAINING FROM THE APPROPRIATION AT THE END OF THE BIENNIUM
4 REVERTS TO THE GENERAL FUND.

5
6 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4 3] are intended to be
7 codified as an integral part of Title 20, chapter 5, part 3, and the provisions of Title 20, chapter 5, part 3,
8 apply to [sections 1 through 4 3].

9
10 NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 1997.

11
12 NEW SECTION. SECTION 7. TERMINATION. [THIS ACT] TERMINATES JUNE 30, 1999.

13 -END-