

SENATE BILL NO. 369
INTRODUCED BY B. STORY

A BILL FOR AN ACT ENTITLED: "AN ACT TO INTEGRATE THE MANAGEMENT AND OVERSIGHT OF PUBLIC ELEMENTARY AND SECONDARY SCHOOLS BY CLARIFYING THE RELATIONSHIPS BETWEEN THE BOARD OF PUBLIC EDUCATION, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE OFFICE OF PUBLIC INSTRUCTION, AND THE LOCAL SCHOOL BOARDS OF TRUSTEES; TRANSFERRING STATUTORY DUTIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE OFFICE OF PUBLIC INSTRUCTION TO THE BOARD OF PUBLIC EDUCATION OR ITS DESIGNEE; CLARIFYING THE COMPOSITION OF THE BOARD OF PUBLIC EDUCATION; PROVIDING THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION IS THE EXECUTIVE SECRETARY OF THE BOARD OF PUBLIC EDUCATION; REQUIRING THE BOARD OF PUBLIC EDUCATION AND THE LOCAL SCHOOL BOARDS OF TRUSTEES TO CONSULT ON POLICY CHANGES IN THE AREAS OF SPECIAL EDUCATION, GIFTED AND TALENTED CHILDREN, ADOPTION OF ACCREDITATION STANDARDS, AND TEACHER CERTIFICATION; AMENDING SECTIONS 2-7-503, 2-7-513, 2-7-514, 2-7-515, 2-15-105, 2-15-112, 2-15-122, 2-15-225, 2-15-238, 2-15-1021, 2-15-1507, 2-17-513, 2-17-516, 5-5-224, 5-17-202, 7-2-2727, 7-4-2904, 7-31-202, 7-32-303, 13-15-502, 13-22-103, 13-22-104, 13-22-106, 17-7-301, 18-6-101, 18-7-302, 19-20-101, 19-20-302, 19-20-605, 20-1-101, 20-1-201, 20-1-213, 20-1-301, 20-1-303, 20-1-408, 20-1-502, 20-2-111, 20-2-115, 20-2-121, 20-2-122, 20-2-403, 20-2-501, 20-2-502, 20-2-505, 20-3-103, 20-3-104, 20-3-105, 20-3-107, 20-3-201, 20-3-205, 20-3-209, 20-3-210, 20-3-323, 20-3-324, 20-3-337, 20-3-362, 20-4-102, 20-4-106, 20-4-109, 20-4-110, 20-4-111, 20-4-112, 20-4-113, 20-4-122, 20-4-123, 20-4-134, 20-4-402, 20-5-314, 20-5-320, 20-5-321, 20-5-322, 20-5-323, 20-5-324, 20-6-213, 20-6-215, 20-6-320, 20-6-502, 20-6-503, 20-6-504, 20-6-505, 20-6-507, 20-6-622, 20-6-701, 20-6-704, 20-7-101, 20-7-102, 20-7-113, 20-7-114, 20-7-131, 20-7-201, 20-7-205, 20-7-301, 20-7-303, 20-7-305, 20-7-306, 20-7-308, 20-7-328, 20-7-329, 20-7-330, 20-7-401, 20-7-402, 20-7-403, 20-7-404, 20-7-412, 20-7-414, 20-7-419, 20-7-420, 20-7-424, 20-7-431, 20-7-435, 20-7-441, 20-7-442, 20-7-454, 20-7-457, 20-7-461, 20-7-463, 20-7-501, 20-7-502, 20-7-503, 20-7-506, 20-7-604, 20-7-605, 20-7-606, 20-7-712, 20-7-903, 20-7-904, 20-8-113, 20-9-102, 20-9-103, 20-9-121, 20-9-134, 20-9-141, 20-9-151, 20-9-162, 20-9-163, 20-9-165, 20-9-166, 20-9-201, 20-9-202, 20-9-203, 20-9-211, 20-9-212, 20-9-213, 20-9-220, 20-9-235, 20-9-302, 20-9-303, 20-9-311, 20-9-313, 20-9-314, 20-9-321, 20-9-335, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-351, 20-9-369, 20-9-371, 20-9-375, 20-9-422, 20-9-466, 20-9-501, 20-9-504, 20-9-506, 20-9-507, 20-9-534, 20-9-542, 20-9-603, 20-9-703, 20-9-704, 20-9-705, 20-9-805, 20-10-101, 20-10-103, 20-10-104, 20-10-105, 20-10-106, 20-10-111, 20-10-121, 20-10-124, 20-10-126,

20-10-128, 20-10-132, 20-10-141, 20-10-142, 20-10-143, 20-10-145, 20-10-146, 20-10-201, 20-10-202, 20-10-203, 20-10-204, 20-10-206, 20-10-208, 20-15-305, 20-20-102, 20-20-104, 20-20-108, 20-32-102, 20-32-104, 22-1-101, 32-3-106, 37-8-405, 37-8-415, 37-31-304, 37-31-305, 39-10-104, 39-10-105, 39-10-106, 41-2-115, 41-5-1523, 44-2-503, 44-2-506, 50-1-202, 52-2-202, 52-2-303, 52-2-731, 53-2-1203, 53-20-213, 61-2-103, 61-5-105, 61-5-106, 61-5-110, AND 90-14-105, MCA; AND REPEALING SECTIONS 20-3-106 AND 20-10-112, MCA."

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

Section 1. Section 2-7-503, MCA, is amended to read:

"2-7-503. Financial reports and audits of local government entities. (1) The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed within 6 months of the end of the reporting period. The local government entity shall submit the financial report to the department for review.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The ~~superintendent of public instruction~~ board of public education or its designee shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of \$200,000 shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the ~~superintendent of public instruction~~ board of public education or its designee, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance

audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the department of revenue and must be deposited in the enterprise fund to the credit of the department."

Section 2. Section 2-7-513, MCA, is amended to read:

"2-7-513. Content of audit report and financial report. (1) The audit reports must comply with the reporting requirements of government auditing standards issued by the U.S. comptroller general and federal regulations adopted by department rule.

(2) The department shall prescribe general methods and details of accounting for the financial report for local government entities other than schools. The financial report must be submitted in a form required by the department. The ~~superintendent of public instruction~~ board of public education or its designee shall prescribe the general methods and details of accounting for financial reports for schools."

Section 3. Section 2-7-514, MCA, is amended to read:

"2-7-514. Filing of audit report and financial report. (1) Completed audit reports must be filed with the department. Completed financial reports must be filed with the department as provided in 2-7-503(1). The ~~state superintendent of public instruction~~ board of public education or its designee shall file with the department a list of school districts subject to audit under 2-7-503(3). The list must be filed with the department within 6 months after the close of the fiscal year.

(2) At the time that the financial report is filed or, in the case of a school district, when the audit report is filed with the department, the local government entity shall pay to the department a filing fee. The department shall charge a filing fee to any local government entity required to have an audit under 2-7-503, which fee must be based upon the costs incurred by the department in the administration of this part. Notwithstanding the

provisions of 20-9-343, the filing fees for school districts required by this section must be paid by the ~~office of public instruction~~ board of public education. The department shall adopt the fee schedule by rule based upon the local government entities' revenue amounts.

(3) Copies of the completed audit and financial reports must be made available by the department and the local government entity for public inspection during regular office hours."

Section 4. Section 2-7-515, MCA, is amended to read:

"2-7-515. Actions by governing bodies. (1) Upon receipt of the audit report, the governing bodies of each audited local government entity shall review the contents and within 30 days shall notify the department in writing as to what action they plan to take on any deficiencies or recommendations contained in the audit report. If no deficiencies or recommendations appear in the audit report, notification is not required.

(2) Notification to the department ~~shall~~ must include a statement by the governing bodies that noted deficiencies or recommendations for improvement have been acted upon by adoption as recommended, adoption with modification, or rejection.

(3) The local government entity shall adopt measures to correct the report findings and submit a copy of the corrective action plan to the department and, if the local government entity is a school district, shall also send a copy to the ~~superintendent of public instruction~~ board of public education. The department shall notify the entity of the acceptance of the corrective measures. If the department and the local government entity fail to agree, a conference between the parties must be held. Failure to resolve findings or implement corrective measures shall result in the withholding of financial assistance in accordance with rules adopted by the department pending resolution or compliance.

(4) In cases where a violation of law or nonperformance of duty is found on the part of an officer, employee, or board, the officer, employee, or board must be proceeded against by the attorney general or county, city, or town attorney as provided by law. If a written request to do so is received from the department, the county, city, or town attorney shall report the proceedings instituted or to be instituted, relating to the violations of law and nonperformance of duty, to the department within 30 days after receiving the request. If the county, city, or town attorney fails or refuses to prosecute the case, the department may refer the case to the attorney general to prosecute the case at the expense of the local government entity."

Section 5. Section 2-15-105, MCA, is amended to read:

"2-15-105. Attorney general, state auditor, ~~superintendent of public instruction,~~ and secretary of

state -- powers as department heads. The attorney general, state auditor, ~~superintendent of public instruction,~~ and secretary of state have, in addition to any other power vested by the Montana constitution or by law, the same powers accorded the heads of departments by this part. ~~No duties~~ Duties relating to the governor or requirements for permission from or approval by the governor in this part do not apply to ~~such~~ these elected officials in the exercise of ~~such~~ a power unless a statute specifically requires the elected official to perform ~~such~~ the duty or to obtain ~~such~~ permission or approval."

Section 6. Section 2-15-112, MCA, is amended to read:

"2-15-112. Duties and powers of department heads. (1) Except as otherwise provided by law, each department head shall:

(a) supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by this chapter or other law;

(b) establish the policy to be followed by the department and employees;

(c) compile and submit reports and budgets for the department as required by law or requested by the governor;

(d) provide the governor with any information that the governor requests at any time on the operation of the department;

(e) represent the department in communications with the governor;

(f) (i) prescribe rules, consistent with law and rules established by the governor, for the:

(A) administration of the department;

(B) conduct of the employees;

(C) distribution and performance of business; and

(D) custody, use, and preservation of the records, documents, and property pertaining to department business.

(ii) The lieutenant governor, secretary of state, attorney general, and auditor, ~~and superintendent of public instruction~~ may prescribe their own rules for their departments or offices, and the governor may not prescribe rules for them.

(iii) The rules described in this subsection (1)(f) are limited to statements concerning only the internal management of the agency and not affecting private rights or procedures available to the public. This section does not authorize the adoption of any rule as rules are defined in the Montana Administrative Procedure Act.

(g) subject to the approval of the governor, establish the internal organizational structure of the

department and allocate the functions of the department to units to promote the economic and efficient administration and operation of the department. The internal structure of the department must be established in accordance with 2-15-104(2).

(h) subject to law, establish and make appointments to necessary subordinate positions and abolish unnecessary positions;

(i) maintain a central office in Helena for the department and maintain other facilities throughout the state as may be required for the effective and efficient operation of the department.

(2) Except as otherwise provided by law, each department head may:

(a) subject to law, transfer employees between positions, remove persons appointed to positions, and change the duties, titles, and compensation of employees within the department;

(b) delegate any of the functions vested in the department head to subordinate employees;

(c) apply for, accept, administer, and expend funds, grants, gifts, and loans from the federal government or any other source in administering the department's functions;

(d) enter into agreements with federal, state, and local agencies necessary to carry out the department's functions; and

(e) eliminate positions within the department. If the salary for an eliminated position is not redistributed as provided for under 2-18-1107, the office of budget and program planning shall increase the department's appropriation in the second year of the biennium by an amount equal to one-half of the savings resulting from the elimination of a position. The increased appropriation in the second year of the biennium may be expended at the discretion of the department head, provided that the expenditure is consistent with the goals and objectives of the department. The remaining one-half must revert to the original funding source. This subsection (2)(e) does not apply to an agency allocated to a department in either year of the 2 years of the biennium for administrative purposes, as provided in 2-15-121."

Section 7. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that such official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, and the secretary of state, ~~and the superintendent of public instruction~~ may create advisory councils, which shall serve at their pleasure, without the approval of the governor. They ~~must~~ shall file a record of each council created by them in the office of the governor and the office of the secretary of state in accordance with subsection (9) ~~of this section~~.

(2) Each advisory council created under this section ~~shall~~ must be known as the "... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the governor; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity as defined in 2-15-102.

(5) Unless ~~he~~ the individual is a full-time salaried officer or employee of this state or of any political subdivision of this state, each member is entitled to be paid in an amount to be determined by the department head, not to exceed \$25 for each day in which ~~he~~ the individual is actually and necessarily engaged in the performance of council duties, and ~~he~~ is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year each advisory council shall elect a ~~chairman~~ presiding officer and ~~such~~ other officers as it considers necessary.

(7) Unless otherwise specified by the creating authority, each advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the ~~chairman~~ presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c) ~~of this section~~, an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor ~~must~~ shall file in ~~his~~ the governor's office and in the office of the secretary of state a record of the council created showing the council's:

- (a) name, in accordance with subsection (2) ~~of this section~~;
- (b) composition;
- (c) names and addresses of the appointed members;
- (d) purpose; and
- (e) term of existence, in accordance with subsection (10) ~~of this section~~.

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the governor or by the board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, or the secretary of state, ~~or the superintendent of public instruction~~ for those advisory councils created in the manner set forth in subsection (1)(c) ~~of this section~~. If the existence of an advisory council is extended, ~~they~~ the creating entity shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary."

Section 8. Section 2-15-225, MCA, is amended to read:

"2-15-225. Interagency coordinating council for state prevention programs. (1) There is an interagency coordinating council for state prevention programs consisting of the following members:

- (a) the attorney general provided for in 2-15-501;
- (b) the director of the department of public health and human services provided for in 2-15-2201;
- (c) ~~the superintendent of public instruction provided for in 2-15-701~~ a designee of the board of public education provided for in 2-15-1507;
- (d) the presiding officer of the Montana children's trust fund board;
- (e) two persons appointed by the governor who have experiences related to the private or nonprofit provision of prevention programs and services;
- (f) the administrator of the board of crime control provided for in 2-15-2006;
- (g) the commissioner of labor and industry provided for in 2-15-1701;
- (h) the director of the department of corrections provided for in 2-15-2301;
- (i) the state coordinator of Indian affairs provided for in 2-15-217;
- (j) the adjutant general of the department of military affairs provided for in 2-15-1202;
- (k) the director of the department of transportation provided for in 2-15-2501;

- (l) the commissioner of higher education provided for in 2-15-1506; and
 - (m) the designated representative of a state agency desiring to participate who is accepted as a member by a majority of the current coordinating council members.
- (2) The coordinating council shall perform the following duties:
- (a) develop, through interagency planning efforts, a comprehensive and coordinated prevention program delivery system that will strengthen the healthy development, well-being, and safety of children, families, individuals, and communities;
 - (b) develop appropriate interagency prevention programs and services that address the problems of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children and families;
 - (c) study various financing options for prevention programs and services;
 - (d) ensure that a balanced and comprehensive range of prevention services is available to children and families with specific or multiagency needs;
 - (e) assist in development of cooperative partnerships among state agencies and community-based public and private providers of prevention programs;
 - (f) prepare and present to the legislature and to the appropriate standing and interim legislative committees a unified budget for state prevention programs, which must be published in the governor's executive budget; and
 - (g) develop, maintain, and implement benchmarks for state prevention programs. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an outcome reflecting the desired state of affairs.
- (3) The coordinating council shall cooperate with and report to any standing or interim legislative committee that is assigned to study the policies and funding for prevention programs or other state programs and policies related to children and families.
- (4) The coordinating council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.
- (5) The coordinating council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.
- (6) Staffing and other resources may be provided to the coordinating council only from state and nonstate

resources donated to the council and from direct appropriations by each legislature."

Section 9. Section 2-15-238, MCA, is amended to read:

"2-15-238. Honorees -- nominations -- selection -- certificate of proclamation -- speakers' bureau.

(1) County commissioners may annually solicit nominations of persons who exemplify aspects of Montana's common culture from local groups in their county, including but not limited to senior citizens' groups, community centers, county historical societies, local art agencies, labor and trade organizations, schools, and other local groups.

(2) When a solicitation of nominations is completed, the county commissioners shall compile a list of nominees from their county and present the list to the governor. The governor shall select the honorees.

(3) Each honoree shall receive:

(a) a certificate signed by the governor proclaiming the honoree to be a "Treasure State Living Cultural Treasure"; and

(b) an invitation to be included in the speakers' bureau.

(4) The speakers' bureau is a registry, maintained by the governor's office, of the treasure state living cultural treasures honorees and the skills and areas for which each honoree is recognized and can be called upon as a resource for the school-age population and all other residents of the state. The registry may include a fee schedule that delineates the speaker's fee, reimbursement for travel costs and per diem, and any other necessary expenses, if any, to be paid to the speaker by the organizations and schools that arrange for the speaker's services.

(5) The governor's office shall send on an annual basis a copy of the registry to the ~~superintendent of public instruction~~ board of public education or its designee, who shall send a copy to each school district of the state.

(6) The ~~superintendent of public instruction~~ board of public education or its designee shall inform and encourage the school districts to use the registry to choose speakers in various areas of Montana's common culture as resources in furthering the knowledge of the school-age population in the state on the unique western culture of Montana.

(7) The registry is to be made available for a reasonable charge to any person in the state upon request.

(8) The Indian tribal governments are invited to participate in the treasure state living cultural treasures program and to submit nominees to the governor as provided in subsection (2). For the purposes of this subsection, "Indian tribal government" means an Indian tribe, nation, or other organized group or community

located within the existing boundaries of Montana."

Section 10. Section 2-15-1021, MCA, is amended to read:

"2-15-1021. Information technology board -- membership -- qualifications -- vacancies -- compensation. (1) There is an information technology board. The board consists of 19 members who are appointed as follows:

- (a) the director of the department of administration, who serves as presiding officer of the board;
- (b) the chief information officer provided for in 2-17-511;
- (c) the director of the office of budget and program planning;
- (d) six members who are directors of state agencies and who are appointed by the governor;
- (e) two members representing local government, appointed by the governor;
- (f) one member representing the public service commission, appointed by the public service commission;
- (g) one member representing the private sector, appointed by the governor;
- (h) one member of the house of representatives, appointed by the speaker of the house of representatives;
- (i) one member of the senate, appointed by the president of the senate;
- (j) one member representing the legislative branch, appointed by the legislative branch computer system planning council;
- (k) one member representing the judicial branch, appointed by the chief justice of the supreme court;
- (l) one member representing the university system, appointed by the board of regents; and
- (m) one member representing K-12 education, appointed by the ~~superintendent of public instruction~~ board of public education.

(2) Appointments must be made without regard to political affiliation and must be made solely for the wise management of the information technology resources used by the state.

(3) A vacancy occurring on the board must be filled by the appointing authority in the same manner as the original appointment.

(4) The board shall function in an advisory capacity as defined in 2-15-102.

(5) Members of the board must be reimbursed and compensated in the same manner as members of quasi-judicial boards under 2-15-124(7), except that legislative members are reimbursed and compensated as provided in 5-2-302."

Section 11. Section 2-15-1507, MCA, is amended to read:

"2-15-1507. Board of public education. (1) The board of public education created in Article X, section 9, subsection (3), of the Montana constitution consists of seven members appointed by the governor and confirmed by the senate as follows:

(a) one member who is a school administrator;

(b) one member who is a certified public school classroom teacher or specialist;

(c) one member who is a public school board trustee;

(d) three members of the public who are not representatives of any of the groups described in subsections (1)(a) through (1)(c); and

(e) one member representing any of the groups described in subsections (1)(a) through (1)(c)..

(2) The governor, superintendent of public instruction, ~~and~~ commissioner of higher education, and a public school student appointed by the governor to a 2-year term are ex officio nonvoting members of the board of public education.

(3) The superintendent of public instruction is the executive secretary of the board of public education."

Section 12. Section 2-17-513, MCA, is amended to read:

"2-17-513. Duties of board. The board shall:

(1) provide a forum to:

(a) guide state agencies, the legislative branch, the judicial branch, and local governments in the development and deployment of intergovernmental information technology resources;

(b) share information among state agencies, local governments, and federal agencies regarding the development of information technology resources;

(2) advise the department in the development of cooperative contracts for the purchase of information technology resources;

(3) review and advise the department on:

(a) statewide information technology standards and policies;

(b) the state strategic information technology plan;

(c) major information technology budget requests;

(d) rates and other charges for services established by the department as provided in 2-17-512(1)(t);

(e) requests for exceptions as provided for in 2-17-515;

(f) notification of proposed exemptions by the university system and ~~office of public instruction~~ board of

public education as provided for in 2-17-516;

(g) action taken by the department as provided in 2-17-514(1) for any activity that is not in compliance with this part;

(h) transfer of information technology funds, resources, and employees as provided for in 2-17-531; and

(i) the implementation of major information technology projects and advise the respective governing authority of any issue of concern to the board relating to implementation of the project;

(4) study state government's present and future information technology needs and advise the department on the use of emerging technology in state government; and

(5) request information and reports that it considers necessary from any entity using or having access to the statewide telecommunications network or central computer center."

Section 13. Section 2-17-516, MCA, is amended to read:

"2-17-516. Exemptions -- university system -- ~~office of public instruction~~ board of public education -- national guard. (1) Unless the proposed activities would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the ~~office of public instruction~~ board of public education is exempt from 2-17-512(1)(k) and (1)(l).

(2) Unless the proposed activities would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the university system is exempt from:

(a) the enforcement provisions of 2-17-512(1)(d) and (1)(e) and 2-17-514;

(b) the approval provisions of 2-17-512(1)(f), 2-17-523, and 2-17-527;

(c) the budget approval provisions of 2-17-512(1)(g);

(d) the provisions of 2-17-512(1)(k) and (1)(l); and

(e) the transfer provisions of 2-17-531.

(3) The department, upon notification of proposed activities by the university system or the ~~office of public instruction~~ board of public education, shall determine if the central computer center or the statewide telecommunications network would be detrimentally affected by the proposed activity.

(4) For purposes of this section, a proposed activity affects the operation of the central computer center or the statewide telecommunications network if it detrimentally affects the processing workload, reliability, cost of providing service, or support service requirements of the central computer center or the statewide telecommunications network.

(5) When reviewing proposed activities of the university system, the department shall consider and make

reasonable allowances for the unique educational needs and characteristics and the welfare of the university system as determined by the board of regents.

(6) When reviewing proposed activities of the ~~office of public instruction~~ board of public education, the department shall consider and make reasonable allowances for the unique educational needs and characteristics of the ~~office of public instruction~~ board of public education to communicate and share data with school districts.

(7) Section 2-17-512(1)(u) may not be construed to prohibit the university system from accepting federal funds or gifts, grants, or donations related to information technology or telecommunications.

(8) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."

Section 14. Section 5-5-224, MCA, is amended to read:

"5-5-224. Education and local government interim committee. (1) The education and local government interim committee shall act as a liaison with local governments. The education and local government interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

- (a) state board of education;
- (b) board of public education; and
- (c) board of regents of higher education; ~~and~~
- ~~— (d) office of public instruction.~~

(2) The committee shall:

- (a) provide information to the board of regents in the following areas:
 - (i) annual budget allocations;
 - (ii) annual goal statement development;
 - (iii) long-range planning;
 - (iv) outcome assessment programs; and
 - (v) any other area that the committee considers to have significant educational or fiscal policy impact;
- (b) periodically review the success or failure of the university system in meeting its annual goals and long-range plans;
- (c) periodically review the results of outcome assessment programs;
- (d) develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;

- (e) study and report to the legislature on the advisability of adjustments to the mechanisms used to determine funding for the university system, including criteria for determining appropriate levels of funding;
- (f) act as a liaison between both the legislative and executive branches and the board of regents;
- (g) encourage cooperation between the legislative and executive branches and the board of regents;
- (h) promote and strengthen local government through recognition of the principle that strong communities, with effective, democratic governmental institutions, are one of the best assurances of a strong Montana;
- (i) bring together representatives of state and local government for consideration of common problems;
- (j) provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
- (k) identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
- (l) promote concise, consistent, and uniform regulation for local government;
- (m) coordinate and simplify laws, rules, and administrative practices in order to achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
- (n) review state mandates to local governments that are subject to 1-2-112 and 1-2-114 through 1-2-116;
- (o) make recommendations to the legislature, executive branch agencies, and local governing bodies concerning:
 - (i) changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;
 - (ii) changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;
 - (iii) methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and
 - (iv) training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government; and
- (p) conduct interim studies as assigned."

Section 15. Section 5-17-202, MCA, is amended to read:

"5-17-202. Capitol restoration commission -- composition -- allocation. (1) There is a capitol restoration commission consisting of:

(a) the governor, lieutenant governor, secretary of state, attorney general, ~~superintendent of public instruction~~ a designee of the board of public education, and state auditor, who are ex officio members of the commission. Each ex officio member may appoint up to two members from the public sector or private sector who shall serve for 4 years.

(b) the director of the Montana historical society and the state architect, who shall serve on the commission and assist the commission with technical support.

(2) The governor is the presiding officer, and in the governor's absence, the secretary of state shall preside. The director of the department of administration is the secretary of the commission. In the absence of either the presiding officer or the secretary, an officer pro tempore may be elected from the ex officio members.

(3) (a) The meetings of the commission are held at the call of the presiding officer.

(b) If an ex officio member is unable to attend a meeting of the commission, the member may designate another individual to attend.

(4) The commission is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121."

Section 16. Section 7-2-2727, MCA, is amended to read:

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

(2) All funds of all school districts and of all other special districts of an abandoned and abolished county ~~shall~~ must be transferred to and paid over to the county treasurer of the county to which the territory of ~~such the~~ school district is attached and becomes a part and ~~shall~~ must be accounted for by ~~said the~~ county treasurer as

the funds of ~~such the~~ districts. If a joint school district is created, the ~~state superintendent of public instruction board of public education or its designee~~ shall designate the county treasurer to whom ~~such the~~ funds are to be transferred and paid over. All taxes levied for all school funds and funds of other special districts of ~~such~~ abandoned and abolished county remaining unpaid at the time ~~said the~~ county ceased to exist, and all other money ~~which that~~ would have accrued to ~~such the~~ funds if ~~said the~~ county had not been abandoned and abolished, when received by ~~such the~~ county treasurer, ~~shall must~~ be deposited to the credit of the proper school or special district funds."

Section 17. Section 7-4-2904, MCA, is amended to read:

"7-4-2904. Qualifications for office of county coroner. (1) In addition to the qualifications set forth in 7-4-2201, to be eligible for the office of coroner, at the time of election or appointment to office a person must be a high school graduate or holder of an equivalency of completion of secondary education as provided by the ~~superintendent of public instruction~~ board of public education under 20-7-131 or of an equivalency issued by another state or jurisdiction.

(2) Each coroner, before entering the duties of ~~his~~ office, ~~must shall~~:

(a) take and file with the county clerk the constitutional oath of office; and

(b) certify to the county clerk ~~that~~:

(i) ~~he has satisfactorily completed~~ the satisfactory completion of the basic coroner course of study provided in 7-4-2905 or ~~that he has completed completion of~~ the equivalent educational requirements approved by the attorney general; or

(ii) ~~he intends the intent~~ to take the basic coroner course at the next offering of the course if the coroner has been appointed or was elected by other than a local government general election and, from the date of appointment or election and assumption of ~~his~~ duties as coroner, ~~no a~~ basic coroner course was not offered. A coroner forfeits ~~his~~ office for failure to take and satisfactorily complete the next offering of the basic coroner course."

Section 18. Section 7-31-202, MCA, is amended to read:

"7-31-202. Qualifications for public safety communications officers. To be appointed a public safety communications officer, a person:

(1) must be a citizen of the United States;

(2) must be at least 18 years of age;

- (3) must be fingerprinted and a search must be made of local, state, and national fingerprint files to disclose any criminal record;
- (4) may not have been convicted of a crime for which ~~he~~ the person could have been imprisoned in a federal or state penitentiary;
- (5) must be of good moral character, as determined by a thorough background investigation;
- (6) must be a high school graduate or have passed the general education development test and have been issued an equivalency certificate by the ~~superintendent of public instruction~~ board of public education or by an appropriate issuing agency of another state or of the federal government; and
- (7) shall meet any additional qualifications established by the board."

Section 19. Section 7-32-303, MCA, is amended to read:

"7-32-303. Peace officer employment, education, and certification standards -- suspension or revocation -- penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) ~~No~~ A sheriff of a county, mayor of a city, board, commission, or other person authorized by law to appoint peace officers in this state ~~shall~~ may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the board of crime control:

- (a) be a citizen of the United States;
- (b) be at least 18 years of age;
- (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;
- (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;
- (e) be of good moral character, as determined by a thorough background investigation;
- (f) be a high school graduate or have passed the general education development test and have been issued an equivalency certificate by the ~~superintendent of public instruction~~ board of public education or by an appropriate issuing agency of another state or of the federal government;
- (g) be examined by a licensed physician, who is not the applicant's personal physician, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely

affect performance by the applicant of the duties of a peace officer;

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

(i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice ~~thereof~~ of the action must be given to the board of crime control by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the board of crime control. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the board of crime control and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer under the provisions of subsection (5)(b) or a peace officer who has completed a basic peace officer's course in another state and whose last date of employment as a peace officer was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully passing a basic equivalency test administered by the Montana law enforcement academy and successfully completing a legal training course conducted by the academy. If the peace officer fails the basic equivalency test, the peace officer shall complete the basic course within 120 days of the date of the test.

(6) The board of crime control may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the board may consider in granting

or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic course or the legal training course, and an unreasonable shortage of personnel within the department. The board may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must, upon application to the board of crime control, be issued a basic certificate by the board, certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the board of crime control to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail, ~~or~~ by a fine not to exceed \$500, or both."

Section 20. Section 13-15-502, MCA, is amended to read:

"13-15-502. Composition and meeting of board of state canvassers. Within 20 days after the election, or sooner if the returns are all received, the state auditor, ~~superintendent of public instruction~~ a designee of the board of public education, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary of state shall serve as secretary of the board, keep minutes of the meeting of the board, and file them in the official records of ~~his~~ the office."

Section 21. Section 13-22-103, MCA, is amended to read:

"13-22-103. Youth voting program established -- program coordination -- school participation.

(1) There is a youth voting program for minors to provide young Montanans direct experience in the voting process.

(2) The secretary of state, in consultation with ~~the superintendent of public instruction~~ a designee of the board of public education, shall solicit county election administrators and schools throughout the state to participate in the youth voting program. The secretary of state and the ~~superintendent of public instruction~~ designee of the board of public education shall confer with the participating county election administrators and county superintendents of schools and, from among interested schools, shall facilitate the participation of as many schools in the program as available funds and other circumstances allow. A designated school may, at any time,

decline to participate by notifying the secretary of state in writing."

Section 22. Section 13-22-104, MCA, is amended to read:

"13-22-104. Program development. (1) The secretary of state and ~~the superintendent of public instruction~~ a designee of the board of public education shall compile a program and establish a process whereby:

(a) students are instructed on the electoral process, the importance of voting, and how to mark and cast a ballot;

(b) students are educated about current issues in a manner appropriate for each grade level involved;

(c) students cast facsimile or mock ballots at a location designated as a youth voting location or while accompanying an eligible voter to a polling place during regular elections; and

(d) ballots cast by students at elections are counted and the results are made available to all participating schools.

(2) The program must be presented to participating schools in a nonpartisan, nonbiased, and informative manner."

Section 23. Section 13-22-106, MCA, is amended to read:

"13-22-106. Polling place procedures. (1) The secretary of state and ~~the superintendent of public instruction~~ a designee of the board of public education shall work with participating schools or county election officials, as necessary, to provide that:

(a) facsimile or mock ballots are distributed to locations designated as youth voting locations;

(b) participating students accompanied by an eligible voter are allowed to cast ballots in the youth election at regular polling places; and

(c) student ballots are counted and the results are announced to the participating schools.

(2) The provisions of this section must be carried out in a manner that will not interfere with the normal voting process or established polling place procedures."

Section 24. Section 17-7-301, MCA, is amended to read:

"17-7-301. Authorization to expend during first year of biennium from appropriation for second year -- proposed supplemental appropriation defined -- limit on second-year expenditures. (1) An agency may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general

appropriations act to make first-year expenditures may be granted spending authorization by the approving authority upon submission and approval of a proposed supplemental appropriation to the approving authority. The proposal submitted to the approving authority must include a plan for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the approving authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the agency during the year for which the appropriation was made, the approving authority shall, after careful study and examination of the request and upon review of the recommendation for executive branch proposals by the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

(2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

(a) due to an unforeseen and unanticipated emergency for fire suppression;

(b) requested by the ~~superintendent of public instruction~~ board of public education, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid, transportation aid, or equalization aid to elementary and secondary schools for the current biennium; or

(c) requested by the attorney general and:

(i) is to pay the costs associated with litigation in which the department of justice is required to provide representation to the state of Montana; or

(ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

(3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving authority shall require the agency to implement the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

(4) The agency may expend the amount authorized by the approving authority only for the purposes specified in the authorization.

(5) The approving authority shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the approving authority and shall request that any necessary supplemental appropriation bills be passed.

(6) As used in this part, "proposed supplemental appropriation" means an application for authorization

to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium.

(7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly referred to as a "supplemental appropriation".

(b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan."

Section 25. Section 18-6-101, MCA, is amended to read:

"18-6-101. Power to sell state property -- proceeds credited to general fund. (1) The department has exclusive power, subject to the approval of the governor, to sell or otherwise dispose of or to authorize the sale or other disposition of all materials and supplies, service equipment, or other personal property of any kind owned by the state but not needed or used by any state institution or by any department of state government. Upon request, the department shall authorize a state department or entity to donate property to a school district for classroom use pursuant to procedures implemented by the ~~office of public instruction~~ board of public education to ensure adequate notice of the availability of surplus state property and equal access and fair distribution of the property to school districts.

(2) Unless otherwise provided by law, the department shall credit the general fund with all money received.

(3) Whenever the personal property was accounted for in an enterprise or internal service fund or designated subfund account, the proceeds of the sale must be credited to the appropriate enterprise or internal service fund or designated subfund account."

Section 26. Section 18-7-302, MCA, is amended to read:

"18-7-302. Definitions. As used in this part, the following definitions apply:

(1) ~~The term "agency" as used herein~~ "Agency" includes each state office, department, board,

commission, council, committee, unit of the university system, or other entity or instrumentality of the executive branch, office of the legislative branch, or office of the judicial branch of state government.

(2) ~~The term "committee"~~ "Committee" means the publishing policy committee created in 2-15-1017.

(3) ~~The term "department" as used herein~~ "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(4) ~~The term "public document"~~ "Public document" includes any publication of a state agency meant for dissemination to the public; but does not include educational materials published by a unit of the university system or the ~~superintendent of public instruction~~ board of public education, reports of the legislative auditor, travel promotion materials, standard forms, bid specifications, opinions of the attorney general, opinions of the supreme court, session laws, the Administrative Rules of Montana, Montana Code Annotated, regular periodical publications sold to the general public solely through subscription and newsstand sale, or a publication specifically exempted by the publishing policy committee when inclusion of that publication under this part is not considered in the best interests of the state."

Section 27. Section 19-20-101, MCA, is amended to read:

"19-20-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings fund, together with interest. Regular interest must be computed and allowed to provide a benefit at the time of retirement.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Average final compensation" means the average of a member's earned compensation during the 3 consecutive years of full-time service or as provided under 19-20-805 that yield the highest average and on which contributions have been made as required by 19-20-602. If amounts defined in subsection (6)(b) have been converted by an employer to earned compensation for all members and have been continuously reported as earned compensation in a like amount for at least the 5 fiscal years preceding the member's retirement, the amounts may be included in the calculation of average final compensation. If amounts defined in subsection (6)(b) have been reported as earned compensation for less than 5 fiscal years or if the member has been given the option to have amounts reported as earned compensation, any amounts reported in the 3-year period that

constitute average final compensation must be included in average final compensation as provided under 19-20-716(1)(b).

(4) "Beneficiary" means one or more persons formally designated by a member, retiree, or benefit recipient to receive a retirement allowance or payment upon the death of the member, retiree, or benefit recipient.

(5) "Creditable service" is that service defined by 19-20-401.

(6) (a) "Earned compensation" means, except as limited by 19-20-715, remuneration, exclusive of maintenance, allowance, and expenses, paid for services by a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted from the member's compensation.

(b) Earned compensation does not mean:

(i) direct employer premium payments on behalf of members for health or dependent care expense accounts or any employer contribution for health, medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar payment for any form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits; or

(iv) any noncash benefit provided by an employer to or on behalf of an employee.

(c) Unless included pursuant to 19-20-716, earned compensation does not include termination pay.

(d) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or like amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(e) Earned compensation does not include:

(i) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code;

(ii) payment for sick, annual, or other types of leave that is allowed to a member and that is accrued in excess of that normally allowed; or

(iii) incentive or bonus payments paid to a member that are not part of a series of annual payments.

(7) "Employer" means the state of Montana, the trustees of a district, or any other agency or subdivision of the state that employs a person who is designated a member of the retirement system.

(8) "Full-time service" means service that is full-time and that extends over a normal academic year of at least 9 months. With respect to those members employed by the ~~office of the superintendent of public instruction~~ board of public education, any other state agency or institution, or the office of a county superintendent, full-time service means service that is full-time and that totals at least 9 months in any year.

(9) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a governmental plan, as the code provided on July 1, 1999.

(10) "Member" means a person who has an individual account in the annuity savings fund. An active member is a person included under the provisions of 19-20-302. An inactive member is a person included under the provisions of 19-20-303.

(11) "Normal retirement age" means an age no earlier than the age at which the member is eligible to retire:

(a) by virtue of age, length of service, or both;

(b) without disability; and

(c) with the right to receive immediate retirement benefits without actuarial or similar reduction in the benefits because of retirement before a specified age.

(12) "Part-time service" means service that is less than full-time or that totals less than 180 days in a normal academic year. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(13) "Prior service" means employment of the same nature as service but rendered before September 1, 1937.

(14) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(15) "Retired member" means a person who has terminated employment that qualified the person for membership under 19-20-302 and who has received at least one monthly retirement benefit paid pursuant to this chapter.

(16) "Retirement allowance" means a monthly payment due to a person who has qualified for service or disability retirement or due to a beneficiary as provided in 19-20-1001.

(17) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

(18) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

(19) "Service" means the performance of instructional duties or related activities that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(20) "Termination" or "terminate" means that the member has severed the employment relationship with the member's employer and that all, if any, payments due upon termination of employment, including but not limited to accrued sick and annual leave balances, have been paid to the member.

(21) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment and on which employee and employer contributions have been paid as required by 19-20-716.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code.

(22) "Vested" means that a member has been credited with at least 5 full years of membership service upon which contributions have been made, as required by 19-20-602 and 19-20-605, and who has a right to a future retirement benefit.

(23) "Written application" or "written election" means a written instrument, required by statute or the rules of the board, properly signed, and filed with the board, that contains all the required information, including documentation that the board considers necessary."

Section 28. Section 19-20-302, MCA, is amended to read:

"19-20-302. Active membership. (1) Unless otherwise provided by this chapter, the following persons must be active members of the retirement system:

(a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

(b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system and who has not elected or is not required to participate in the optional retirement program under Title 19, chapter 21;

(c) a person employed as a speech-language pathologist, school nurse, or school psychologist or in a

teaching or instructional services capacity by the ~~office of the superintendent of public instruction~~ board of public education, the office of a county superintendent, a special education cooperative, a public institution of the state of Montana, the Montana state school for the deaf and blind, or a school district; and

(d) a person who is an administrative officer ~~or a member of the instructional staff~~ of the board of public education; ~~and~~

~~— (e) the superintendent of public instruction or a person employed in an instructional services capacity by the office of public instruction.~~

(2) A person elected to the office of county superintendent of schools after July 1, 1995, is not eligible for optional membership in the public employees' retirement system under the provisions of 19-3-412 and may, within 30 days of taking office, elect to become an active member of the teachers' retirement system. The retirement system membership of an elected county superintendent of schools as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of county superintendent of schools.

(3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:

(a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for the person's creditable service totally paid by an employer.

(4) (a) A substitute teacher or a part-time teacher's aide:

(i) shall file an irrevocable written election determining whether to become an active member of the retirement system on the first day of employment; or

(ii) is required to become an active member of the retirement system after completing 210 hours of employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership under subsection (4)(a)(i).

(b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute teacher is required to remain a member as long as the teacher is available for employment in that capacity.

(c) A person employed as a substitute teacher on July 1, 1999, who has not elected to become a member by that date shall file an irrevocable written election as required by subsection (4)(a)(i) on the first day of employment as a substitute in the next school year after July 1, 1999.

(d) A person employed as a part-time teacher's aide on July 1, 2001, who is not a member of the retirement system shall file an irrevocable written election as required by subsection (4)(a)(i) on the first day of employment as a part-time teacher's aide after July 1, 2001.

(e) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the first day of employment of the option to elect membership under subsection (4)(a)(i).

(f) If a substitute teacher or part-time teacher's aide declines to elect membership during the election period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership and the employer shall retain the statement.

(5) A school district clerk or business official may not become a member of the teachers' retirement system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to remain an active member of the system while employed in that capacity, and any postretirement earnings from employment as a school district clerk or school business official are subject to the limit on earnings provided in 19-20-804.

(6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must be treated alike.

(7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours a day assisting a certified teacher in a classroom."

Section 29. Section 19-20-605, MCA, is amended to read:

"19-20-605. Pension accumulation fund -- employer's contribution. The pension accumulation fund is the fund in which the reserves for payment of retirement allowances and benefits must be accumulated and from which retirement allowances and benefits must be paid to retirees or their beneficiaries. Contributions to and payments from the pension accumulation fund must be made as follows:

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

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

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

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

budget.

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

(6) The retirement board may transfer from the pension accumulation fund to the expense fund an amount necessary to cover expenses of administration."

Section 30. Section 20-1-101, MCA, is amended to read:

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

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

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

(3) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

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

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

(6) "Consultation with local school district boards of trustees", as used in 20-4-102, 20-4-106, 20-7-101, 20-7-402, and 20-7-903, means:

(a) establishing working groups involving local school district boards of trustees to identify policy issues to be addressed by the board of public education;

(b) establishing working groups involving local school district boards of trustees to develop solutions to the policy issues identified in subsection (6)(a);

(c) distributing draft policies to trustees for review and comment; and

(d) requesting participation by local school district boards of trustees in public hearings.

~~(6)~~(7) "County superintendent" means the county government official who is the school officer of the county.

~~(7)~~(8) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate

with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

~~(8)~~(9) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the ~~office of public instruction~~ board of public education and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

~~(9)~~(10) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

~~(10)~~(11) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but has not yet reached 19 years of age and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

~~(11)~~(12) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

~~(12)~~(13) "Regents" means the board of regents of higher education.

~~(13)~~(14) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

~~(14)~~(15) "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

~~(15)~~(16) "State university" means Montana state university-Bozeman.

~~(16)~~(17) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(17)~~(18) "System" means the Montana university system.

~~(18)~~(19) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(19)~~(20) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(20)~~(21) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(24)~~(22) "Trustees" means the governing board of a district.

~~(22)~~(23) "University" means the university of Montana-Missoula.

~~(23)~~(24) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

Section 31. Section 20-1-201, MCA, is amended to read:

"20-1-201. School officers not to act as agents. The ~~superintendent of public instruction~~ board of public education or members of ~~his~~ the board's staff, a county superintendent or members of ~~his~~ a county superintendent's staff, a trustee, or a district employee ~~shall~~ may not act as an agent or solicitor in the sale or supply of goods or services to a district. ~~No such~~ A person shall may not assist or receive a reward from an agent or solicitor of goods or services for a district. Any ~~such~~ person violating this section ~~shall be deemed~~ is guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than \$50 or more than \$200 and shall be liable to removal from ~~his~~ the person's position. The penalties provided by this section ~~shall~~ may not be applicable if the charge and conviction are made under the provisions of 20-7-608."

Section 32. Section 20-1-213, MCA, is amended to read:

"20-1-213. Transfer of school records. (1) Subject to the provisions of the Family Educational Rights

and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a policy that a certified copy of the permanent file, as defined by the board of public education, and the file containing special education records of a student will be forwarded by mail or electronically to a local educational agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt of a written or electronic request.

(2) If records cannot be forwarded within 5 days, the local educational agency or accredited school shall notify the requestor in writing or electronically providing the reasons why the local educational agency or accredited school is unable to comply within the 5-day timeframe and the local educational agency or accredited school shall provide the date by which the requested records will be transferred.

(3) A local educational agency or accredited school may not refuse to transfer files because a student owes fines or fees.

(4) The files that are forwarded must include education records in the permanent file, special education records, and any disciplinary actions taken against the student that are educationally related.

(5) A local educational agency or accredited school may release student information to the juvenile justice system to assist the system's ability to effectively serve, prior to adjudication, the student whose records are released under provisions of 20 U.S.C. 1232g(B)(1)(E) of the Family Educational Rights and Privacy Act of 1974, as amended. The official to whom the records are disclosed shall certify in writing to the sending official that the information will not, except as provided by law, be disclosed to any other party without prior written consent of the parent of the student.

(6) The ~~superintendent of public instruction~~ board of public education or its designee is encouraged to contact other states or provinces and may enter into reciprocal records transfer agreements with the superintendent of public instruction or a department of education of any state or province. The ~~superintendent of public instruction~~ board of public education or its designee shall supply a copy of any reciprocal records transfer agreement that is executed to the county superintendent of each county that may be affected by the agreement.

(7) Upon request, the local educational agency or accredited school shall transfer by mail or electronically a copy of the permanent file to a nonpublic school or facility.

(8) As used in this section, "local educational agency" means a public school district or a state-funded school."

Section 33. Section 20-1-301, MCA, is amended to read:

"20-1-301. School fiscal year. (1) The school fiscal year begins on July 1 and ends on June 30. At least 180 school days of pupil instruction and the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except that 175 days and 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient or a minimum of 90 days and 360 aggregate hours of pupil instruction must be conducted for a kindergarten program, as provided in 20-7-117.

(2) The minimum aggregate hours required by grade are:

(a) 720 hours for grades 1 through 3; and

(b) 1,080 hours for grades 4 through 12.

(3) To calculate the number of equivalent school days of pupil instruction when providing less than the minimum number of hours of instruction provided in subsections (1) and (2), a school district shall:

(a) determine the aggregate hours of pupil instruction by grade level;

(b) divide the aggregate hours of pupil instruction for each grade level by the minimum hours a day for that grade level provided in 20-1-302; and

(c) round the result down to the nearest whole number.

(4) For any elementary or high school district that fails to provide for at least 180 school days of pupil instruction and the minimum aggregate hours, as defined in subsections (1) and (2), the ~~superintendent of public instruction~~ board of public education or its designee shall reduce the direct state aid for the district for that school year by 1/90th for each school day less than 180 school days as calculated in subsection (3) or by 1/90th for each calendar day less than the minimum school days required by subsection (1), whichever is greater."

Section 34. Section 20-1-303, MCA, is amended to read:

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

Section 35. Section 20-1-408, MCA, is amended to read:

"20-1-408. School safety patrols. (1) The trustees of any district or the administration of any private school may organize and supervise school safety patrols for a school under their authority. The purpose of school

safety patrols is to influence and encourage other pupils of the school to refrain from crossing public highways at points other than regular crossings and to direct pupils as to when and where to cross highways.

(2) The school safety patrol ~~shall~~ must be formed from the children of the school who are 9 years of age or more or, if there are none, the children who are of the highest grade of ~~such~~ the school. Before any child may serve on the school safety patrol, the parent or guardian of ~~such~~ the child shall give written consent for ~~his~~ the child to serve on the school safety patrol.

(3) ~~No liability attaches~~ Liability does not attach to a member of the school safety patrol or parent or guardian by virtue of the organization, maintenance, or operation of ~~such a~~ school safety patrol because of injury sustained by any pupil.

(4) Identification and operation of school safety patrols ~~shall~~ must be uniform throughout the state, and the method of identification and signals to be used ~~shall~~ must be as prescribed by the ~~superintendent of public instruction~~ board of public education in cooperation with the Montana department of justice.

(5) Any municipality, city, or town of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing ~~such~~ training out of any funds available for ~~such~~ that purpose."

Section 36. Section 20-1-502, MCA, is amended to read:

"20-1-502. American Indian studies -- definitions. As used in this part, the following definitions apply:

(1) "American Indian studies" means instruction pertaining to the history, traditions, customs, values, beliefs, ethics, and contemporary affairs of American Indians, particularly Indian tribal groups in Montana.

(2) "Instruction" means:

(a) a formal course of study or class, developed with the advice and assistance of Indian people, that is offered separately or that is integrated into existing accreditation standards by a unit of the university system or by an accredited tribal community college located in Montana, including a teacher education program within the university system or a tribal community college located in Montana, or by the board of trustees of a school district;

(b) inservice training developed by the ~~superintendent of public instruction~~ board of public education or its designee in cooperation with educators of Indian descent and made available to school districts;

(c) inservice training provided by a local board of trustees of a school district, which is developed and conducted in cooperation with tribal education departments, tribal community colleges, or other recognized Indian education resource specialists; or

(d) inservice training developed by professional education organizations or associations in cooperation with educators of Indian descent and made available to all certified and classified personnel."

Section 37. Section 20-2-111, MCA, is amended to read:

"20-2-111. Officers of boards -- quorum. (1) The board of public education and the board of regents may each select a ~~chairman~~ presiding officer from among their appointed members.

(2) The ~~executive secretary~~ superintendent of public instruction shall serve as secretary to the board of public education, and the commissioner of higher education serves as secretary to the board of regents.

(3) A majority of the appointed members of each board constitutes a quorum for the transaction of business.

~~(4) The executive secretary shall serve as a liaison between the board of public education and the superintendent of public instruction and shall carry out other such duties as assigned by the board of public education."~~

Section 38. Section 20-2-115, MCA, is amended to read:

"20-2-115. Rules with substantial financial impact -- fiscal note -- effect without funding. (1) When developing rules, policies, and standards under 20-2-121(6), (7), (9), and (11), the board of public education shall determine the financial impact of the rule, policy, or standard on school districts.

(2) The ~~superintendent of public instruction~~ board of public education or its designee shall prepare a fiscal note ~~for submission to the board~~, using criteria and assumptions developed by the board. The fiscal note must be prepared within 30 days of a request unless the board ~~agrees to~~ designates a longer time. The board may also accept other testimony and exhibits on the financial impact to school districts before proceeding to rulemaking.

(3) If the financial impact of the proposed rule, policy, or standard is found by the board to be substantial, the board may not implement the rule until July 1 following the next regular legislative session and shall request the next legislature to fund implementation of the proposed rule, policy, or standard through the BASE funding program. A substantial financial impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

(4) A proposed rule, policy, or standard not found by the board to have a substantial financial impact on school districts or funded by the legislature may be implemented at any time."

Section 39. Section 20-2-121, MCA, is amended to read:

"20-2-121. Board of public education -- powers and duties. The board of public education or, when determined appropriate, a designee of the board shall:

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

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

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

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

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

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

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

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

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

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

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

(12) adopt rules for student assessment in the public schools, including providing schools with information and technical assistance for compliance with the student assessment rules and collecting and summarizing the results of the student assessment for the legislature; ~~and~~

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

(14) call an annual meeting of the county superintendents when considered advisable;

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

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

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

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

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

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

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

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

(23) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county superintendents to report to the board in accordance with the provisions of 20-3-209;

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

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

(26) provide for the uniform and equal provision of transportation by performing the duties prescribed by Title 20, chapter 10;

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

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

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

(30) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of

20-1-303;

(31) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

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

(33) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(34) as the governing agent and executive body of the state of Montana for K-12 career and vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

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

(36) administer the school food services program in accordance with the provisions of 20-10-201 through 20-10-203;

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

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

(39) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties all school district student assessment data for required tests;

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

~~(43)~~(41) perform any other duty prescribed from time to time by this title or any other act of the legislature."

Section 40. Section 20-2-122, MCA, is amended to read:

"20-2-122. Executive secretary to board of public education -- staff. The board of public education may:

(1) ~~appoint an executive secretary and employ other persons~~ hire employees within legislatively authorized appropriations;

(2) prescribe the ~~term, duties, and compensation~~ of its executive secretary;

(3) provide office space for its staff to carry out its duties."

Section 41. Section 20-2-403, MCA, is amended to read:

"20-2-403. Duties. The commission shall:

- (1) administer state plans under Title I of the federal Higher Education Facilities Act of 1963, Public Law 88-204, as amended by Public Law 89-329;
- (2) administer state plans under Title VI of the federal Higher Education Act of 1965, Public Law 89-329;
- (3) administer state plans under Title I of the federal Higher Education Act of 1965; and
- (4) administer other state plans under federal funding and grant programs which may be assigned by the governor or the legislature except those pertaining to ~~the duties of the superintendent of public instruction and the board of public education.~~"

Section 42. Section 20-2-501, MCA, is amended to read:

"20-2-501. Compact for Education approved. The Compact for Education established by the education commission of the states is enacted into law and entered into with all other jurisdictions legally joining in the compact, in the form substantially as follows:

THE COMPACT FOR EDUCATION

ARTICLE I

PURPOSE AND POLICY

- (1) It is the purpose of this compact to:
 - (a) establish and maintain close cooperation and understanding among executive, legislative, professional educational, and lay leadership on a nationwide basis at the state and local levels;
 - (b) provide a forum for the discussion, development, crystallization, and recommendation of public policy alternatives in the field of education;
 - (c) provide a clearinghouse of information on matters relating to education problems and how they are being met in different places throughout the nation; and
 - (d) facilitate the improvement of state and local education systems.
- (2) It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement, and administration of education systems and institutions.
- (3) The states that have entered into this compact recognize that each of them has an interest in the

quality and quantity of education furnished in each of the other states, as well as in the excellence of its own education systems and institutions.

ARTICLE II

STATE DEFINED

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III

THE COMMISSION

(1) The education commission of the states (commission) is hereby established. The commission consists of seven members representing each state that has entered into the compact. One of the state members must be the governor, two must be members of the legislature selected by its respective houses and serving in a manner as the legislature may determine, one must be ~~the state superintendent of public instruction~~ a designee of the state board of public education, and three must be appointed by and serve at the pleasure of the governor. The guiding principle for the composition of the membership on the commission from each party state must be that the members representing the state shall, by virtue of their training, experience, knowledge, or affiliations, reflect broadly the interests of the state government, higher education, the state education system, local education, and public and nonpublic educational leadership. In addition to the members of the commission representing the party states, there may be no more than 10 nonvoting commissioners selected by the steering committee for terms of 1 year. The commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

(2) The members of the commission are entitled to one vote each on the commission. Any action of the commission is not binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor of the action. Any action of the commission must be taken only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to any directions and limitations as may be contained in the bylaws, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV, and

adoption of the annual report pursuant to Article III(10).

(3) The commission must have a seal.

(4) The commission shall elect annually, from among its members, a presiding officer, who must be a governor; a vice presiding officer; and a treasurer. The commission shall appoint an executive director. The executive director shall serve at the pleasure of the commission and, together with the treasurer and other personnel as the commission may consider appropriate, must be bonded in an amount determined by the commission. The executive director shall serve as secretary.

(5) The executive director, subject to the approval of the steering committee, shall appoint, remove, or discharge any personnel as may be necessary for the performance of the functions of the commission. The executive director shall fix the duties and compensation of the personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

(6) The commission may borrow, accept, or contract for the services of personnel.

(7) The commission may accept for any of its purposes and functions under this compact any donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation and may receive, utilize, and dispose of any gifts and grants. Any donation or grant accepted by the commission pursuant to this section or services borrowed pursuant to subsection (6) of this article must be reported in the annual report of the commission. The report must include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed and the identity of the donor or lender.

(8) The commission may establish and maintain any facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest in property.

(9) The commission shall adopt bylaws for the conduct of its business and may amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy of its bylaws and any amendments with the appropriate agency or officer in each state that has entered into this compact.

(10) The commission annually shall make and provide to the governor and legislature of each state that has entered into the compact a report covering the activities of the commission for the preceding year. The commission may make any additional reports as it considers desirable.

ARTICLE IV

POWERS

In addition to any authority conferred on the commission by other provisions of the compact, the commission may:

(1) collect, correlate, analyze, and interpret information and data concerning educational needs and resources;

(2) encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public education systems;

(3) develop proposals for adequate financing of education as a whole and at each of its many levels;

(4) conduct or participate in research in any instance where it finds that the research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional organizations for higher education, and other agencies and institutions, both public and private;

(5) formulate suggested policies and plans for the improvement of public education as a whole, or for any segment of public education, and make recommendations with respect to public education available to the appropriate governmental units, agencies, and public officers; and

(6) do other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to the compact.

ARTICLE V

COOPERATION WITH FEDERAL GOVERNMENT

(1) If the laws of the United States specifically provide, or if administrative provision is made within the federal government, the United States may be represented on the commission by not more than 10 representatives. A representative of the United States must be appointed and serve in the manner as may be provided by federal law and may be drawn from any one or more branches of the federal government. A representative of the United States may not have a vote on the commission.

(2) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states and may confer with any federal agencies or officers concerning any matter of mutual interest.

ARTICLE VI

COMMITTEES

(1) To assist in the conduct of its business when the full commission is not meeting, the commission shall elect a steering committee that, subject to the provisions of this compact and consistent with the policies of the commission, is constituted and functions as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee must consist of governors, one-fourth must consist of legislators, and the remainder must consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but may not vote. The voting members of the steering committee shall serve a term of 2 years. The presiding officer, vice presiding officer, and treasurer of the commission must be members of the steering committee and, notwithstanding anything in this section to the contrary, shall serve during their continuance in these offices. Vacancies on the steering committee do not affect its authority to act, but the commission at its next regular meeting following the occurrence of any vacancy shall fill it for the unexpired term. A person may not serve more than two terms as a member of the steering committee, provided that service for a partial term of 1 year or less may not be counted toward the limitation.

(2) The commission may establish advisory and technical committees composed of state, local, or federal officers and private persons to advise it with respect to any one or more of its functions. An advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the states that have entered into this compact.

(3) The commission may establish any additional committees as its bylaws may provide.

ARTICLE VII

FINANCE

(1) The commission shall advise the governor or designated officer of each state that has entered into this compact of its budget and estimated expenditures for any period as may be required by the laws of that state. Each of the commission's budgets of estimated expenditures must contain specific recommendations of the amount to be appropriated by each of the states.

(2) The total amount of appropriation requests under any budget must be apportioned among the states. In making the apportionment, the commission shall devise and employ a formula that takes equitable account of the population and per capita levels of income of the states.

(3) The commission may not pledge the credit of any state. The commission may meet any of its obligations in whole or in part with money available to it pursuant to Article III of this compact, provided that the commission takes specific action setting aside the money before incurring an obligation to be met in whole or in part in that manner. Except when the commission makes use of money available to it pursuant to Article III, the commission may not incur any obligation before receiving an allotment of money from the states that is adequate to meet the obligation.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the procedures for audit and accounting established by its bylaws. However, all receipts and disbursements of money handled by the commission must be audited yearly by a qualified public accountant. The report of the audit must be included in and become part of the annual report of the commission.

(5) The accounts of the commission must be open at any reasonable time for inspection by officers of the states that have entered into this compact and by any other persons authorized by the commission.

(6) The provisions in this compact may not prohibit compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII

ELIGIBLE PARTIES--ENTRY INTO AND WITHDRAWAL

(1) This compact has as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. With respect to any jurisdiction not having a governor, the term "governor", as used in this compact, means the closest equivalent officer of the jurisdiction.

(2) Any state or other eligible jurisdiction may enter into this compact and it becomes binding when it is adopted by that state or jurisdiction, except that in order to enter into initial effect, adoption by at least 10 eligible jurisdictions is required.

(3) Any state may withdraw from this compact by enacting a statute repealing the compact, but withdrawal may not take effect until 1 year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other states that have entered into this compact. Withdrawal does not affect any liability already incurred by or chargeable to a state before its withdrawal.

ARTICLE IX

AMENDMENTS TO THE COMPACT

This compact may be amended by a vote of two-thirds of the members of the commission present and voting when ratified by the legislatures of two-thirds of the states that have entered into this compact.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact must be liberally construed so as to accomplish its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be unconstitutional, or the application of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact may not be affected. If this compact is held to be contrary to the constitution of any state participating in the compact, the compact remains in effect as to the state affected as to all severable matters."

Section 43. Section 20-2-502, MCA, is amended to read:

"20-2-502. Appointment of commissioners to the education commission of the states. (1) The seven members of the education commission of the states representing Montana are:

- (a) the governor;
- (b) one senator appointed by the committee on committees;
- (c) one representative appointed by the speaker of the house;
- (d) ~~the superintendent of public instruction~~ a designee of the board of public education; and
- (e) three persons appointed by the governor, including:
 - (i) one educator engaged in the field of higher education; and
 - (ii) two educators engaged in the field of K-12 education.

(2) The term of each commissioner appointed by the board of public education and the legislature is 4 years, and legislators shall serve until the expiration of their appointments, even though their legislative terms may have ended. The commissioners appointed by the governor shall serve at the pleasure of the governor."

Section 44. Section 20-2-505, MCA, is amended to read:

"20-2-505. Limitation on power -- adoption of rules. (1) The provisions of this part may not be

construed to bind or obligate the state of Montana to enact any new legislation or to amend any current laws pertaining to the administration and financing of education in Montana.

(2) The ~~superintendent of public instruction~~ board of public education may adopt rules that incorporate by reference the bylaws and any amendments to the bylaws provided for in Article III(9) of 20-2-501."

Section 45. Section 20-3-103, MCA, is amended to read:

"20-3-103. Deputy superintendent -- staff. (1) The state superintendent of public instruction shall appoint a deputy who, in the absence of the superintendent or in the case of vacancy in that office, shall perform all the duties of office until the disability is removed or the vacancy is filled. The deputy shall subscribe, take, and file the oath of office provided by law for other state officers before entering upon the performance of the deputy's duties.

~~(2) The superintendent of public instruction has the power to employ, organize, and administer a staff of personnel to assist in the administration of the duties and services of the office. In organizing the staff, the superintendent of public instruction may employ:~~

- ~~—— (a) a supervisor of physical education who is a graduate of an accredited institution of higher education with a master's degree in physical education;~~
- ~~—— (b) a professional staff consisting of individuals prepared in agriculture education, business and marketing education, family and consumer sciences education, and industrial technology education; and~~
- ~~—— (c) a special education supervisor who is a graduate of an accredited institution of higher education with a master's degree in a field related to special education for persons with disabilities and who has not less than 2 years' experience in special education."~~

Section 46. Section 20-3-104, MCA, is amended to read:

"20-3-104. Discretionary staff. ~~In addition to the positions of employment listed in 20-3-103, the superintendent of public instruction~~ The board of public education may employ:

- (1) one or more ~~assistant superintendents~~ staff members, one of whom may be designated as ~~assistant superintendent~~ staff member for K-12 career and vocational/technical education;
- (2) a high school supervisor who is the holder of a class 3 teacher certificate with a district superintendent endorsement;
- (3) an elementary supervisor who is the holder of a valid teacher certificate;
- (4) a competent person to develop economy and efficiency in school transportation and to otherwise

supervise the transportation program;

(5) a music supervisor who is a graduate of an accredited institution of higher education in music education and who has not less than 5 years of teaching experience;

(6) an educational media supervisor who is a graduate of an accredited institution of higher education and who has experience in the field of educational media;

(7) a supervisor of physical education who is a graduate of an accredited institution of higher education with a master's degree in physical education;

(8) a professional staff consisting of individuals prepared in agriculture education, business and marketing education, family and consumer sciences education, and industrial technology education;

(9) a special education supervisor who is a graduate of an accredited institution of higher education with a master's degree in a field related to special education for persons with disabilities and who has at least 2 years of experience in special education; and

~~(7)~~(10) any other supervisors or assistants that may be required to carry out the duties of the ~~office~~ board."

Section 47. Section 20-3-105, MCA, is amended to read:

"20-3-105. Administrative powers and duties. In administering the affairs of ~~his~~ the office, the superintendent of public instruction shall ~~have the power and it shall be his duty to:~~

(1) keep a record of ~~his~~ official acts and all documents applicable to the administration of the office, preserve all official reports submitted ~~to him~~ for the period required by law, and surrender them to ~~his~~ the successor at the expiration of ~~his~~ the superintendent's term;

~~(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value which come into his possession and surrender them to his successor at the expiration of his term;~~

~~— (3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;~~

~~(4)~~(2) provide and keep an official seal of the superintendent of public instruction by which ~~his~~ official acts shall must be authenticated;

~~(5)~~(3) if ~~he deems~~ necessary, cause the printing of a complete and updated volume of the school laws of the state, which shall must be offered and sold at cost of the printing and shipping to any school official or other person;

~~(6)~~(4) whenever a replacement volume is not printed under the provisions of subsection ~~(5)~~ (3), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It ~~shall~~ The supplement must be offered and sold at cost of the printing and shipping to any school official or other person.

~~(7)~~(5) if ~~deemed~~ necessary, publish a biennial report of the superintendent of public instruction;

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

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

~~(10)~~(6) as far as ~~he shall find it~~ considered practicable, address public assemblies on subjects pertaining to education in Montana; and

~~(11)~~(7) faithfully work in all practical and possible ways for the welfare of the public schools of the state."

Section 48. Section 20-3-107, MCA, is amended to read:

"20-3-107. Controversy appeal. (1) The ~~superintendent of public instruction~~ board of public education or its designee shall decide matters of controversy when they are appealed from:

(a) a decision of a county superintendent rendered under the provisions of 20-3-210, except for a decision of a county superintendent or an arbitrator in a teacher termination case; or

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

(2) The ~~superintendent of public instruction~~ board of public education or its designee shall make a decision on the basis of the transcript of the fact-finding hearing conducted by the county superintendent or county transportation committee and documents presented at the hearing. The ~~superintendent of public instruction~~ board or its designee may require, if considered necessary, affidavits, verified statements, or sworn testimony as to the facts in issue. The decision of the ~~superintendent of public instruction~~ board is final, subject to the proper legal remedies in the state courts. The proceedings must be commenced no later than 60 days after the date of the decision of the ~~superintendent of public instruction~~ board.

(3) In order to establish a uniform method of hearing and determining matters of controversy arising under this title, the ~~superintendent of public instruction~~ board of public education or its designee shall prescribe and enforce rules of practice and regulations for the conduct of hearings and the determination of appeals by all school officials of the state.

(4) Whenever in a contested case the ~~superintendent of public instruction~~ designee of the board of public

education is disqualified from rendering a final decision, the ~~superintendent of public instruction~~ board shall appoint a hearings examiner as provided in 2-4-611 and the decision of the hearings examiner constitutes the ~~superintendent's board's~~ final order except as provided in this subsection. The final order is subject to all the provisions of Title 2, chapter 4, relating to final agency decisions or orders, including judicial review under Title 2, chapter 4, part 7."

Section 49. Section 20-3-201, MCA, is amended to read:

"20-3-201. Election and qualifications -- part-time office allowed. (1) A county superintendent must be elected in each county of the state unless a county manager form of government has been organized in the county. The county superintendent must be elected at the general election preceding the expiration of the term of office of the incumbent.

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

- (a) is a qualified elector;
- (b) holds a valid, current class 1 professional certificate, class 2 standard certificate, or class 3 administrative and supervisory certificate issued by the superintendent of public instruction; and
- (c) has at least 3 years of successful teaching experience.

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

- (i) another county superintendent, with the approval of the governing body of that county;
- (ii) a former county superintendent; or
- (iii) a person who:
 - (A) is a qualified elector;
 - (B) holds a valid administrative certificate as provided in 20-4-106(1)(c);
 - (C) takes the oath of office in 20-1-202;
 - (D) is bonded in the manner provided for county officers in Title 2, chapter 9, part 7; and
 - (E) attends instructional training in the duties of a county superintendent as offered by the ~~superintendent of public instruction~~ board of public education.

(b) Whenever a governing body contracts with a person for performance of the duties required of a

county superintendent under the provisions of subsection (3)(a)(iii), the contract must be for at least the duration of 1 school fiscal year.

(c) ~~The superintendent of public instruction~~ board of public education shall prescribe a contract form to be used.

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

Section 50. Section 20-3-205, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(12) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the ~~superintendent of public instruction~~ board of public education in accordance with the provisions of 20-9-211;

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

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

(16) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title;

(17) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(19) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(20) notify the ~~superintendent of public instruction~~ board of public education or its designee of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

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

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of official acts, preserve all reports submitted to the superintendent under the

provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to the next superintendent;

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

- (a) the total of the cash balances of all funds maintained by the district at the beginning of the year;
- (b) the total receipts that were realized in each fund maintained by the district;
- (c) the total expenditures that were made from each fund maintained by the district; and
- (d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

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

Section 51. Section 20-3-209, MCA, is amended to read:

"20-3-209. Annual report. The county superintendent of each county shall submit an annual report to the ~~superintendent of public instruction~~ board of public instruction not later than the second Monday in September. The report must be completed on the forms supplied by the ~~superintendent of public instruction~~ board of public education and must include:

- (1) the final budget information for each district of the county, as prescribed by 20-9-134(1);
- (2) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees' annual report to the county superintendent under the provisions of 20-9-213(6); and
- (3) any other information that may be requested by the ~~superintendent of public instruction~~ board of public education that is within the ~~superintendent's~~ board's authority prescribed by this title."

Section 52. Section 20-3-210, MCA, is amended to read:

"20-3-210. Controversy appeals and hearings. (1) Except for disputes arising under the terms of a collective bargaining agreement or as provided under 20-3-211 or 20-4-208, the county superintendent shall hear and decide all matters of controversy arising in the county as a result of decisions of the trustees of a district in the county. Only a county superintendent who possesses the qualifications of 20-3-201(2) may hear controversies related to teacher termination. Except as provided in subsection (2), exhaustion of administrative remedies under

this chapter is required prior to filing an action in district court concerning a decision of the trustees. When appeals are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the district court of the county in which the teacher was employed. The proceedings must be commenced not later than 60 days after the date of the decision of the county superintendent. The county superintendent shall hear and decide all controversies arising under:

- (a) 20-5-320 and 20-5-321 relating to the approval of out-of-district attendance agreements; or
- (b) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

(2) Exhaustion of administrative remedies is not a prerequisite to filing an action in district court concerning a decision of the trustees of a district in the following instances:

- (a) a state agency has been granted primary jurisdiction over the matter;
- (b) the matter is governed by a specific statute; or
- (c) the board of trustees has acted without jurisdiction or in excess of its jurisdiction.

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

(4) Except for teacher termination cases, the decision of the county superintendent may be appealed to the ~~superintendent of public instruction~~ board of public education, and if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the ~~superintendent of public instruction~~ board of public education. In teacher termination cases, an appeal may be filed with the district court of the county in which the teacher was employed no later than 60 days after the date of the decision of the county superintendent. If an appeal is filed, the county superintendent shall provide a transcript of the hearing and any other documents entered as testimony at the hearing to the district court.

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

Section 53. Section 20-3-323, MCA, is amended to read:

"20-3-323. District policy and record of acts. (1) The trustees of each district shall prescribe and enforce policies for the government of the district. In order to provide a comprehensive system of governing the district, the trustees shall:

(a) adopt the policies required by this title; and

(b) adopt policies to implement or administer the requirements of the general law, this title, and the policies or rules of the board of public education, ~~and the rules of the superintendent of public instruction.~~

(2) The trustees shall keep a full and permanent record of all adopted policies and all other acts of the trustees. Minutes of each regular and special board meeting ~~shall~~ must include wording of motions, voting records of each trustee present, and all other pertinent information, including a detailed statement of all expenditures of money with the name of any person or business to whom payment is made and showing the service rendered or goods furnished. A written copy of the minutes ~~shall~~ must be made available within 5 working days following the approval of the minutes by the board at a cost of no more than 15 cents a page to be paid by those who request ~~such~~ a copy. One free copy of the minutes ~~shall~~ must be provided to the local press within 5 working days following the approval of the minutes by the board. The board shall approve the minutes of each special and regular meeting no later than 1 month following the meeting if it meets on a regular monthly basis. If a board does not regularly meet on a monthly basis, it shall approve the minutes of each special and regular meeting at the next regular or special meeting. The approval of the minutes of a prior meeting ~~shall~~ may not occur more than 40 days after the meeting, except that ~~no~~ a board ~~shall~~ may not be required to meet to approve the minutes of a meeting at which ~~no~~ substantive business was not conducted."

Section 54. Section 20-3-324, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

(10) subject to 15-10-420, establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

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

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

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative agreement fund, and other funds as authorized by the ~~state superintendent of public instruction~~ board of public education in accordance with the provisions of the other school funds parts of this title;

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

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

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

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

provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title;

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

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

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

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

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

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

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

(25) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

(26) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution; and

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

Section 55. Section 20-3-337, MCA, is amended to read:

"20-3-337. Plan for creating single-member trustee districts -- petition election. (1) Except as

provided in subsection (8), the board of trustees of a school district may establish a procedure for studying the appropriateness of creating single-member trustee districts within the school district.

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

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

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

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

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

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

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

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

(a) a map indicating the circulation of the newspaper in which the notice required in subsection (3) was published;

(b) the published notice of the public hearing;

(c) a map of the proposed single-member trustee district plan; and

(d) a summary of any public comments to the board regarding the proposed plan.

(5) After receiving comments from the secretary of state and the ~~superintendent of public instruction~~ board of public education, the board of trustees may amend, revise, approve, or disapprove the proposed plan.

If the plan is adopted by the board, it shall:

(a) inform the county superintendent of schools of its adoption;

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

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

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

(7) A change in the boundaries of a trustee district may not be made within 3 months preceding a regular school election day as provided in 20-3-304.

(8) If the board receives a petition signed by 10% or more of the qualified electors of the school district, the board shall submit the request to create a single-member trustee district to the electors who are qualified under 20-20-301 to vote upon the request. The petition submitted to the board must:

(a) conform to the requirements of subsections (2)(a) and (2)(b);

(b) be forwarded to the secretary of state and the ~~superintendent of public instruction~~ board of public education for review and comment;

(c) include a map of the proposed single-member trustee district, identifying the boundaries of each new single-member trustee district and the implementation date of the district;

(d) be forwarded to the county clerk and recorder, designating the boundary lines and limits of each single-member trustee district; and

(e) include a plan for election and terms of trustees of the single-member district, who must be residents of the proposed district, and provide for the terms of successors to the board of trustees in a single-member trustee district approved by the electors.

(9) If the petition meets the requirements of subsection (8), the board shall call an election on the question of whether to create a single-member trustee district. The election must be held at the next school election scheduled pursuant to 20-20-105 and must be conducted in the manner prescribed by this title for school elections. The published notice must include a map and a description of the boundaries of the proposed district.

(10) If a majority of the votes cast at the election approve the creation of a single-member trustee district, the election administrator shall, within 10 days of receipt of the official canvass of the result, certify that the district is formed.

(11) When a trustee position becomes vacant in a single-member district, the position must be filled in accordance with the provisions of 20-3-309, except that the position must be filled by a person who resides within the single-member district."

Section 56. Section 20-3-362, MCA, is amended to read:

"20-3-362. Powers of joint board of trustees. (1) When a joint board of trustees is formed as provided by 20-3-361, it ~~shall have the power to~~ may:

- (a) jointly employ a district superintendent under the provisions of 20-4-401;
 - (b) jointly employ teachers and specialists under the provisions of 20-4-201;
 - (c) open a junior high school under the provisions of 20-6-505 if the trustees of a county high school and the trustees of an elementary district have formed a joint board of trustees;
 - (d) prescribe and administer joint administrative policy;
 - (e) jointly provide any program or service authorized under 20-3-324, including any joint provision of special education services as provided in 20-7-457; and
 - (f) prorate all items of joint expense among the school districts, provided that a controversy over any decision by the joint board to prorate joint costs may, within 30 days, be appealed by the trustees of any district to the ~~superintendent of public instruction~~ board of public education or its designee for a final decision as to what constitutes a fair and just proration of the cost.
- (2) The joint board of trustees ~~shall~~ may not ~~have the power to~~ transact business that is not specifically related to the joint administration of the districts."

Section 57. Section 20-4-102, MCA, is amended to read:

"20-4-102. Board of public education policies. To effect an orderly and uniform system of teacher and specialist certification, the board of public education shall, in consultation with local school district boards of trustees and upon the recommendation of the superintendent of public instruction and in accordance with the provisions of this title, prescribe and adopt policies for the issuance of teacher or specialist certificates. ~~Such~~ The policies ~~shall~~ must provide for:

- (1) reasonable training and experience requirements for teacher, specialist, supervisor, and administrative certificates and endorsements ~~thereon~~ as provided by the certification classification in 20-4-106;
- (2) the renewal of teacher or specialist certificates based on the same conditions prescribed for the initial issuance of certificates;
- (3) the conduct of hearings on teacher or specialist certification revocation, suspension, or denial;
- (4) the issuance of emergency authorization to a district to employ a person who is not the holder of a valid teacher certificate as an instructor of pupils; and
- (5) any other policy, not inconsistent with the law, which is necessary for the proper operation of a system of teacher and specialist certification."

Section 58. Section 20-4-106, MCA, is amended to read:

"20-4-106. Classifications of teacher and specialist certificates. (1) The superintendent of public instruction shall issue teacher certificates and, after consultation with local school district boards of trustees, the board of public education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates:

(a) The class 1 professional certificate may be issued to an otherwise qualified applicant who has completed a teacher education program ~~which~~ that includes a bachelor's degree and a minimum of 1 year of study beyond ~~such~~ that degree in a unit of the Montana university system or an equivalent institution. The professional certificate may be endorsed for elementary instruction, secondary instruction, or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher certification endorsement.

(b) The class 2 standard certificate may be issued to an otherwise qualified applicant who has completed a 4-year teacher education program and who has been awarded a bachelor's degree by a unit of the Montana university system or an equivalent institution. The standard certificate may be endorsed for elementary instruction, secondary instruction, or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher certification endorsement.

(c) The class 3 administrative and supervisory certificate may be issued to an otherwise qualified applicant who is eligible for a teacher certificate endorsed for teaching in the school or schools in which ~~he~~ the applicant would be an administrator or ~~he~~ would supervise. The applicant ~~also~~ shall possess the training and experience required by the policies of the board of public education for an endorsement as superintendent, principal, or supervisor.

(d) The class 4 vocational, recreational, or adult education certificate may be issued to an otherwise qualified applicant who has the qualifications of training and experience required by the United States office of education or the qualifications required by the special needs of the several vocational, recreational, or adult education fields and who can qualify under the policy of the board of public education for the issuance of this classification of teacher certification.

(e) The class 5 provisional certificate may be issued to an otherwise qualified applicant who can provide satisfactory evidence of ~~his~~ intent to qualify in the future for a class 1 or a class 2 certificate and who has completed a 4-year college program or its equivalent and holds a bachelor's degree from a unit of the Montana university system or its equivalent. The provisional certificate may be endorsed for elementary instruction, secondary instruction, or both, and for special subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher or specialist certification

endorsement.

(2) The superintendent of public instruction shall issue specialist certificates, and the board of public education shall adopt specialist certification policies in consultation with local school district boards of trustees. The specialist certificate may be issued to an otherwise qualified applicant who has the training, experience, and license required under the standards of the board of public education for the certification of a profession other than the teaching profession.

(3) For purposes of evaluating the qualifications of applicants for either teacher or specialist certificates, a year means the instructional period consisting of three quarters or two semesters or other terms which are recognized as an academic year by any unit of the Montana university system or equivalent institution."

Section 59. Section 20-4-109, MCA, is amended to read:

"20-4-109. Fees for teacher and specialist certificates. (1) A person applying for the issuance or renewal of a teacher or specialist certificate shall pay a fee not to exceed \$6 for each school fiscal year that the certificate is valid. In addition to this fee, a person who has never held any class of Montana teacher or specialist certificate or for whom an emergency authorization of employment has never been issued shall pay a filing fee of \$6. The fees must be paid to the ~~superintendent of public instruction, who shall deposit the fees~~ board of public education or its designee and must be deposited with the state treasurer to the credit of the state special revenue fund account, created in subsection (2), to be used in the following manner:

- (a) \$4 for expenses of the certification standards and practices advisory council created in 2-15-1522;
- (b) \$2 to the board of public education to be used by the certification standards and practices advisory council for research in accordance with the duties of the council provided for in 20-4-133.

(2) There is an account in the state special revenue fund. Money from fees for teacher or specialist certificates required in subsection (1) must be deposited in the account."

Section 60. Section 20-4-110, MCA, is amended to read:

"20-4-110. Letter of reprimand, suspension, revocation, and denial of certificate. (1) The board of public education or its designee may issue a letter of reprimand or may suspend or revoke the teacher, administrator, or specialist certificate of any person for the following reasons:

- (a) making any statement of material fact in applying for a certificate that the applicant knows to be false;
- (b) any reason that would have required or authorized the denial of the teacher, administrator, or specialist certificate to the person if it had been known at the time the certificate was issued;

- (c) incompetency;
- (d) gross neglect of duty;
- (e) conviction of, entry of a guilty verdict, a plea of guilty, or a plea of no contest to a criminal offense involving moral turpitude in this state or any other state or country;
- (f) immoral conduct related to the teaching profession;
- (g) substantial and material nonperformance of the employment contract between the teacher, administrator, or specialist and the trustees of a school or school district without good cause or the written consent of the trustees; or
- (h) denial, revocation, suspension, or surrender of a teacher, administrator, or specialist certificate in another state for any reason constituting grounds for similar action in this state.

(2) The board of public education or its designee may initiate proceedings under this section if a request for the suspension or revocation of the teacher, administrator, or specialist certificate of any person is made to ~~it~~ the board by:

- ~~(a) the trustees of a district as to a teacher, administrator, or specialist employed by that school or school district within the 12 months immediately preceding receipt of the request by the board of public education; or~~
- ~~(b) the superintendent of public instruction.~~

(3) (a) If the employment relationship between a school district and a teacher, administrator, or specialist is terminated or not renewed or if a teacher, administrator, or specialist resigns to prevent termination or nonrenewal because the trustees have reason to believe that the teacher, administrator, or specialist engaged in conduct described in subsection (1)(e) or (1)(f), the trustees shall make a written report to the ~~superintendent of public instruction~~ board of public education or its designee describing the circumstances of the termination, nonrenewal, or resignation.

(b) The ~~superintendent~~ board of public education or its designee shall review the report and any supporting evidence included in the report and may conduct further investigation. If the ~~superintendent~~ board of public education or its designee is satisfied that sufficient grounds exist, the ~~superintendent~~ the board of public education or its designee may ~~request~~ take action ~~by the board of public education~~ under as provided in subsection (1). The request must be brought within 1 year after discovery of the events that gave rise to the report.

(c) The trustees and the ~~superintendent~~ board of public education shall ensure the confidentiality of the report.

(d) The trustees and the ~~superintendent~~ board of public education or its designee and their agents and

employees are immune from suit for actions taken in good faith under this section with respect to the report.

(4) The board of public education shall give a 30-day written notification to any person when the board intends to consider a letter of reprimand or the suspension or revocation of a certificate. Service of the notice must be accomplished by sending the notification by registered mail to the last address that the person has provided to the school district or the ~~superintendent of public instruction~~ board of public education.

(5) The board of public education or its designee shall conduct an investigation of the reasons for the suspension or revocation charge and then, if the investigation warrants further action, conduct a hearing in the manner provided by board policies. At the hearing, the board shall afford the person an opportunity for defense against the charge.

(6) After a hearing, the board of public education may place a written reprimand in the person's certification file or may suspend or revoke the person's teacher, administrator, or specialist certificate, except that in the case of a first violation under subsection (1)(g), the maximum penalty is a 2-year suspension of the person's certificate. The board may, upon a request by a school district, inform the school district that a person's certification file includes a letter of reprimand, but the board may not provide a copy of the letter without first determining that the public's right to know outweighs the person's right to privacy.

(7) Whenever the superintendent of public instruction denies the issuance or the renewal of a teacher, administrator, or specialist certificate, the applicant may appeal the denial to the board of public education for reconsideration. The board shall hear the appeal of the denial in the same manner provided in this section for suspension or revocation and in accordance with the policies of the board. The decision of the board is final."

Section 61. Section 20-4-111, MCA, is amended to read:

"20-4-111. Emergency authorization of employment. (1) A district may request from the ~~superintendent of public instruction~~ board of public education or its designee an emergency authorization of employment for a person who is not the holder of a valid teacher or specialist certificate as an instructor of pupils when the district cannot secure the services of a person holding a valid certificate. The person must have previously held a valid teacher or specialist certificate or shall meet the standards of preparation prescribed by the policies of the board of public education for and during an emergency. Emergency authorization of employment must indicate:

- (a) the district to which the authorization is issued;
- (b) the person whom the district is authorized to employ;
- (c) the endorsement for elementary or secondary instruction and the specific subject fields for which

authorization to employ the person is given; and

(d) the school fiscal year for which the emergency authorization of employment is given.

(2) Emergency authorization of employment of a person is valid for the school fiscal year identified on the authorization and may be renewed in accordance with the board of public education policies. A fee not to exceed \$6 and, if no teacher or specialist certificate or emergency authorization of employment has ever been issued for the person, a filing fee of \$6 must be paid for the issuance of an emergency authorization of employment. The ~~superintendent of public instruction~~ board shall deposit the fees with the state treasurer to the credit of the general fund.

(3) Emergency authorization of employment of a person may be revoked for good cause in accordance with the provisions of 20-4-110."

Section 62. Section 20-4-112, MCA, is amended to read:

"20-4-112. Access to materials -- ~~superintendent of public instruction~~ board of public education.

The ~~superintendent of public instruction~~ board of public education or its designee has access to all material considered by or available to the school or school district that may be relevant to an allegation that a teacher, administrator, or specialist has engaged in conduct described in 20-4-110(1)(e) or (1)(f) or that may lead to the discovery of relevant evidence."

Section 63. Section 20-4-113, MCA, is amended to read:

"20-4-113. Access to criminal justice information. (1) Either the trustees of a school district or the ~~superintendent of public instruction~~ board of public education or its designee may apply to a district court pursuant to 44-5-302 to review confidential criminal justice information that is relevant to the investigation of grounds for suspension or revocation of a teacher, administrator, or specialist certificate under 20-4-110.

(2) The district court shall provide the trustees or the ~~superintendent of public instruction~~ board of public education or its designee access to any confidential criminal justice information that is relevant to an investigation into possible grounds for suspension or revocation of a teacher, administrator, or specialist certificate. The court shall issue a protective order to protect the confidentiality of the information released."

Section 64. Section 20-4-122, MCA, is amended to read:

"20-4-122. Designated official for purposes of interstate agreement. The designated state official for this state is the ~~state superintendent of public instruction~~ board of public education or its designee. The ~~state~~

~~superintendent of public instruction~~ board or its designee shall enter into contracts pursuant to Article III of the agreement ~~only after approval of the specific text thereof by the board of public education~~ authorized in 20-4-121."

Section 65. Section 20-4-123, MCA, is amended to read:

"20-4-123. Preservation and publication of contracts made pursuant to interstate agreement. True copies of all contracts made on behalf of this state pursuant to the agreement ~~shall~~ authorized in 20-4-121 must be kept on file in ~~by the office of the state superintendent of public instruction~~ board of public education. The ~~state superintendent of public instruction~~ board shall publish all ~~such~~ contracts in convenient form."

Section 66. Section 20-4-134, MCA, is amended to read:

"20-4-134. Professional stipends for teachers certified by national board for professional teaching standards. (1) Pursuant to subsection (4), a one-time stipend of \$3,000 must be provided to each teacher who obtains certification from the national board for professional teaching standards if the teacher is:

(a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered by national board certification assessment;

(b) certified to teach in Montana under the provisions of 20-4-103; and

(c) a full-time employee of:

(i) a Montana public school district, as defined in 20-6-101;

(ii) an education cooperative, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; or

(iv) a state youth correctional facility, as defined in 41-5-103.

(2) A teacher is eligible for the stipend in the school year beginning July 1 after the teacher obtains certification from the national board for professional teaching standards.

(3) By March 1, the ~~superintendent of public instruction~~ board of public education or its designee shall distribute stipend payments to each eligible teacher.

(4) The obligation for funding the professional stipend is an obligation of the state. This section may not be construed to require a school district to provide a stipend to a qualifying teacher without a payment from the state to the district. If the funding for professional stipends is less than the total amount for which Montana teachers qualify, the ~~superintendent of public instruction~~ board of public education shall prorate the funding to the districts in a manner that provides the same amount of stipend to each qualifying teacher."

Section 67. Section 20-4-402, MCA, is amended to read:

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

- (1) have general supervision of all schools of the district and the personnel employed by the district;
- (2) implement and administer the policies of the trustees of the district;
- (3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of 20-7-111;
- (4) select all textbooks and submit the selections to the trustees for their approval in accordance with the provisions of 20-7-602;
- (5) select all reference and library books and submit the selections to the trustees for their approval in accordance with provisions of 20-7-204;
- (6) have general supervision of all pupils of the district, enforce the compulsory attendance provisions of this title, and have the authority to suspend for good cause a pupil of the district;
- (7) report the pupil attendance, absence, and enrollment of the district and other pupil information required by the report form prescribed by the ~~superintendent of public instruction~~ board of public education to the county superintendent; or county superintendents when reporting for a joint district; and
- (8) perform other duties in connection with the district as the trustees may prescribe."

Section 68. Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal attendance agreement with adjoining state or province. (1) The ~~superintendent of public instruction~~ board of public education or its designee may execute a reciprocal attendance agreement with the superintendent of public instruction or a department of education of any state or province adjoining Montana to allow a child who is a Montana resident to attend school in the adjoining state or province and a child of the adjoining state or province to attend school in Montana. In negotiating a reciprocal attendance agreement, the tuition rates prescribed by 20-5-323 are waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The ~~superintendent of public instruction~~ board or its designee shall supply a copy of any reciprocal attendance agreement that is executed to the county superintendent of each county that may be affected by the agreement.

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

school in Montana."

Section 69. Section 20-5-320, MCA, is amended to read:

"20-5-320. Attendance with discretionary approval. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence or a public school in a district of another state or province that is adjacent to the county of the child's residence, subject to discretionary approval by the trustees of the resident district and the district of choice. If the trustees grant discretionary approval of the child's attendance in a school of the district, the parent or guardian may be charged tuition and may be charged for transportation.

(2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the ~~superintendent of public instruction~~ board of public education or its designee.

(b) The attendance agreement must set forth the financial obligations, if any, for tuition and for costs incurred for transporting the child under Title 20, chapter 10.

(c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity and may charge tuition for all students whose tuition is required to be paid by another type of entity. However, any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

(ii) As used in this subsection (2)(c), "entity" means a parent or guardian or the trustees of the district of residence.

(3) An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both the district of residence and the district of choice approve the agreement.

(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named

in the agreement for the designated school year.

(7) The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement.

(8) This section does not preclude the trustees of a district from approving an attendance agreement for educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

(9) (a) A provision of this title may not be construed to deny a parent or guardian the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent or guardian has agreed to pay the tuition as prescribed by 20-5-323. However, under this subsection (9), the tuition rate must be reduced by the amount that the parent or guardian of the child paid in district property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian" includes an individual shareholder of a domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

Section 70. Section 20-5-321, MCA, is amended to read:

"20-5-321. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is

outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and the resident district does not provide transportation; or

(b) (i) the child resides in a location where, due to geographic conditions between the child's home and the school that the child would attend within the district of residence, it is impractical to attend school in the district of residence, as determined by the county transportation committee based on the following criteria:

(A) the length of time that is in excess of the 1-hour limit for each bus trip for an elementary child as authorized under 20-10-121;

(B) whether distance traveled is greater than 40 miles one way from the child's home to school on a dirt road or greater than a total of 60 miles one way from the child's home to school in the district of residence over the shortest passable route; or

(C) whether the condition of the road or existence of a geographic barrier, such as a river or mountain pass, causes a hazard that prohibits safe travel between the home and school.

(ii) The decision of the county transportation committee is subject to appeal to the ~~superintendent of public instruction~~ board of public education, as provided in 20-3-107, but the decision must be considered as final for the purpose of the payment of tuition under 20-5-324(6) until a decision is issued by the ~~superintendent of public instruction~~ board of public education or its designee. The ~~superintendent of public instruction~~ board or its designee may review and rule upon a decision of the county transportation committee without an appeal being filed.

(c) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school. A child enrolled in an elementary school pursuant to this subsection (1)(c) may continue to attend the elementary school after the other child has left the high school.

(d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, as defined in 41-5-103; or

(e) the child is required to attend school outside of the district of residence as the result of a placement in foster care or a group home licensed by the state.

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

attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an out-of-district attendance agreement in consultation with an appropriate official of the district that the child will attend.

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

(c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity and may charge tuition for all students whose tuition is required to be paid by another type of entity. However, any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

(ii) As used in this subsection (2)(c), "entity" means a parent, guardian, the trustees of the district of residence, or a state agency.

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

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

Section 71. Section 20-5-322, MCA, is amended to read:

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

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

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

(4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the

district of residence shall approve or disapprove the agreement under the provisions of this part and forward the completed agreement to the county superintendent of schools of the county of residence, the trustees of the district of choice, and the parent or guardian.

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

Section 72. Section 20-5-323, MCA, is amended to read:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the ~~superintendent of public instruction~~ board of public education for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306(10), received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 25 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Section 73. Section 20-5-324, MCA, is amended to read:

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

(a) the name and district of residence of each child who is attending a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(b), (1)(d), or (1)(e);

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

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

(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident students attending public schools out of state.

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

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

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

(5) (a) When a child has approval to attend a school outside the child's district of residence under the provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b), the district of residence shall finance the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

(b) When a child has approval to attend a school outside the child's district of residence under the

provisions of 20-5-321(1)(c), the parent or guardian of the child shall finance the tuition and transportation amount.

(6) When a child has mandatory approval under the provisions of 20-5-321(1)(d) or (1)(e), the tuition and transportation obligation for an elementary school child attending a school outside of the child's district of residence must be financed by the basic county tax for elementary equalization, as provided in 20-9-331, for the child's county of residence or for a high school child attending a school outside the district of residence by the basic county tax for high school equalization, as provided in 20-9-333, for the child's county of residence.

(7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay at least one-half of any tuition and transportation obligation established under this section out of the money realized to date from the appropriate elementary or high school county equalization fund provided for in 20-9-335 or from the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school district that is entitled to tuition and transportation. Except as provided in subsection (9), the county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a transportation payment.

(8) ~~The superintendent of public instruction~~ board of public education or its designee shall reimburse the district of residence for the per-ANB entitlement determined in subsection (3).

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

(b) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the district miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

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

(10) The provisions of this section do not apply to out-of-state placements made by a state agency

pursuant to 20-7-422."

Section 74. Section 20-6-213, MCA, is amended to read:

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

- (a) the territory to be transferred is contiguous to the district to which it is to be attached;
- (b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the district from which it is to be detached;
- (c) the transfer of the territory will not reduce the taxable value of the district to less than \$100,000 unless the remaining territory of the district will contain not less than 50,000 acres of nontaxable Indian land;
- (d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing; and
- (e) the territory proposed to be transferred to another elementary district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

- (a) provide a legal description of the territory that is requested to be transferred and a description of the elementary district to which it is to be transferred;
- (b) state the reasons why the transfer is requested;
- (c) state the number of elementary school-age children residing in the territory; and
- (d) be accompanied by a \$100 nonrefundable filing fee.

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

- (a) file the petition;
- (b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and
- (c) give notice of the place, date, and time of the hearing. The notices must be posted in the districts affected by the petition for the transfer of territory in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

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

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

(6) The decision of the county superintendent is final 30 days after its date unless it is appealed to the district court by a resident, taxpayer, or representative of either elementary district affected by the petitioned territory transfer.

(7) Whenever a petition to transfer territory from one elementary district to another elementary district creates a joint elementary district or affects the boundary of an existing joint elementary district, the petition to transfer territory must be presented to the county superintendent of the county where the territory is located. The county superintendent shall notify any other county superintendents of counties with elementary districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly. If the number of county superintendents involved is an even number, the county superintendents shall jointly appoint an additional county superintendent from an unaffected county to join them in conducting the hearing required in subsection (4) and issuing the decision required in subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

(8) A petition seeking to transfer elementary territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as high school territory in accordance with 20-6-320. In the case of a proposed transfer out of or into a K-12 district, an elementary petition that is not accompanied by the high school petition is invalid for the purpose of subsection (3)."

Section 75. Section 20-6-215, MCA, is amended to read:

"20-6-215. Review of boundaries by county superintendent. A county superintendent of schools shall, at least once every 3 years, review the existing elementary school district boundaries in the county. This review and any recommended boundary changes ~~shall~~ must be presented by the superintendent at a hearing conducted under 20-6-213. If the superintendent orders a boundary change after the hearing, ~~he~~ the superintendent shall forward copies of ~~his~~ the review and the testimony at the hearing to the board of county

commissioners and the ~~state superintendent of public instruction~~ board of public education."

Section 76. Section 20-6-320, MCA, is amended to read:

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

- (a) the territory to be transferred is contiguous to the high school district to which it is to be attached;
- (b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the high school district from which it is to be detached;
- (c) the transfer of the territory will not reduce the taxable value of the district to less than \$300,000 unless the remaining territory of the high school district contains not less than 50,000 acres of nontaxable Indian land;
- (d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing; and
- (e) the territory proposed to be transferred to another high school district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

- (a) provide a legal description of the territory that is requested to be transferred and a description of the high school district to which it is to be transferred;
- (b) state the reasons why the transfer is requested;
- (c) state the number of high-school-age children residing in the territory; and
- (d) be accompanied by a \$100 nonrefundable filing fee.

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

- (a) file the petition;
- (b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and
- (c) give notice of the place, date, and time of the hearing. The notices must be posted in the high school districts affected by the petition for the territory transfer in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

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

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

(6) The decision of the county superintendent is final 30 days after its date unless it is appealed to the district court by a resident, taxpayer, or representative of either high school district affected by the petitioned territory transfer.

(7) If a petition to transfer territory from one high school district to another high school district would create a joint high school district or affect the boundary of any existing joint high school district, the petition must be presented to the county superintendent of the county where the territory proposed for transfer is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly. If the number of county superintendents is an even number, the county superintendents shall jointly appoint a county superintendent from an unaffected county to join them in conducting the hearing required by subsection (4) and in issuing the decision required by subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

(8) A petition seeking to transfer high school territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as elementary territory in accordance with 20-6-213. In the case of a proposed transfer out of or into a K-12 district, a high school petition that is not accompanied by an elementary petition is invalid for the purpose of subsection (3)."

Section 77. Section 20-6-502, MCA, is amended to read:

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

(1) The parents of at least two pupils who would attend the opened or reopened school petition the trustees of the district to open or reopen a school. The petition must identify the school, state the reasons for

requesting the opening or reopening, and give the names of the children who would attend the school.

(2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy of their approval resolution to the county superintendent. The county superintendent shall review the petition to determine if the average number belonging (ANB) of the school would be two or more. If the trustees plan to open or reopen the school during the current school fiscal year, the trustees shall include the proposed opening date in the approval resolution and shall request that the process outlined in this section be expedited.

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

(4) (a) If the board approves a school opening or reopening, the county superintendent shall send a copy of the approval, along with the petition, the trustees' approval, and the county superintendent's estimate of the probable ANB, to the ~~superintendent of public instruction~~ board of public education. Except under the circumstances described in subsection (4)(b), the trustees shall apply to the ~~superintendent of public instruction~~ board of public education for approval to open or reopen the school by June 1 prior to the beginning of the school year in which they intend to open or reopen the elementary school. The ~~superintendent of public instruction~~ board of public education or its designee shall approve or disapprove the requested opening or reopening of the elementary school by the fourth Monday of June. If the opening or reopening is approved, the ~~superintendent of public instruction~~ board of public education or its designee shall approve or adjust the ANB estimate of the county superintendent for the school and the ANB amount must be used for budgeting and BASE funding program purposes during the ensuing school fiscal year. An ANB amount may not be approved for the ensuing school fiscal year for an opening or reopening school when the request for the school has not been received by the ~~superintendent of public instruction~~ board of public education by June 1.

(b) (i) If the opening or reopening is approved and the trustees want to open or reopen the school during the current school fiscal year, the trustees shall submit a budget request to the ~~superintendent of public instruction~~ board of public education for that portion of the fiscal year in which the school will be in operation prior to the ensuing school fiscal year. The ~~superintendent of public instruction~~ board of public education or its designee shall approve or adjust the budget request and shall fund the budget for the portion of the school year in which the school will be in operation.

(ii) Before a school may open or reopen during the current school fiscal year, the school must be

classified as an isolated school in accordance with the provisions of 20-9-302, except that the dates in that section for the submission and approval of the application for classification do not apply and the application must be made at the same time that the application for opening or reopening the school is made."

Section 78. Section 20-6-503, MCA, is amended to read:

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

- (a) their reasons why the high school should be opened or reopened;
- (b) the probable enrollment of ~~such the~~ high school;
- (c) the distance and road conditions of the route to neighboring high schools;
- (d) the taxable value of the district;
- (e) the building and equipment facilities available for such high school;
- (f) the planned course of instruction for ~~such the~~ high school;
- (g) the planned methods of complying with high school standards of accreditation; and
- (h) any other information that may be required by the ~~superintendent of public instruction~~ board of public education.

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

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

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

Section 79. Section 20-6-504, MCA, is amended to read:

"20-6-504. Opening of a junior high school. (1) The trustees of any elementary district and the trustees of the high school district in which ~~such the~~ elementary district is located may open a junior high school when ~~such the~~ opening has been approved by the ~~superintendent of public instruction, except that~~ board of public education or its designee. However, when the high school district operates a county high school, the opening of a junior high school ~~shall~~ must be approved under the provisions of 20-6-505.

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

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

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

Section 80. Section 20-6-505, MCA, is amended to read:

"20-6-505. Opening a junior high school when high school district operates a county high school.

(1) Whenever the trustees of an elementary district and a high school district operating a county high school have formed a joint board of trustees under the provisions of 20-3-361, ~~such the~~ joint board of trustees may open a junior high school under the provisions of this section.

(2) When the joint board of trustees resolves to open a junior high school, they shall order an election under the provisions of 20-20-201 to submit a proposition to the electors of the district to approve or disapprove the trustees' resolution to open a junior high school. The joint board of trustees shall call and conduct the election in the manner prescribed in this title for school elections and equally share the cost of the election. Any elector

qualified to vote under the provisions of 20-20-301 may vote on the proposition. If a majority of the electors voting at the election approve the proposition, the trustees shall apply to the ~~superintendent of public instruction~~ board of public education for approval to open a junior high school. If a majority of the electors voting at the election disapprove the proposition, a junior high school ~~shall~~ may not be opened by the joint board of trustees.

(3) The application to the ~~superintendent of public instruction~~ board of public education for the approval to open a junior high school ~~shall~~ must be submitted by June 1 following the election approving the opening of the junior high school. The application ~~shall~~ must contain ~~such the~~ information ~~as that~~ is required under 20-6-503 for an application to open a high school.

(4) The ~~superintendent of public instruction~~ board of public education or its designee shall investigate the application for the opening of a junior high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the joint board of trustees may open the junior high school.

(5) At any time the trustees of the elementary district and the trustees of the high school district shall cease to form a joint board of trustees under the provisions of 20-3-361, the junior high school ~~shall~~ must be closed and the districts shall assume the provision of an educational program for the junior high school pupils of their respective districts."

Section 81. Section 20-6-507, MCA, is amended to read:

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

Section 82. Section 20-6-622, MCA, is amended to read:

"20-6-622. Review and approval of school building plans and specifications. (1) A school building, either publicly or privately owned or operated, in which students are housed or instructed may not be built, enlarged, or remodeled until the plans and specifications for construction have been submitted to and approved

by the department of labor and industry or a municipality or county with a building code adopted as provided in 50-60-301.

(2) The plans and specifications required in subsection (1) must show in detail the proposed construction of the building and must illustrate and indicate conformity with the applicable building code.

(3) As a service to districts, the ~~superintendent of public instruction~~ board of public education or its designee may review the plans and specifications required in subsection (1) to assist the districts in designing facilities for optimum utilization."

Section 83. Section 20-6-701, MCA, is amended to read:

"20-6-701. K-12 school districts required -- definition -- procedure for creation -- exception. (1) Except as provided in subsection (4), each elementary district with the same district boundaries as a high school district shall attach to the high school district for the purpose of establishing a K-12 school district.

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

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

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

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

(4) This section does not apply to a school district receiving federal impact aid funding, as provided in 20 U.S.C. 7701, et seq., if creation or continuation of a K-12 district has resulted in or will result in the loss of federal impact aid funding."

Section 84. Section 20-6-704, MCA, is amended to read:

"20-6-704. Dissolution of K-12 school district. (1) Except as provided in subsection (2), in order to dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or consolidating the K-12 district's elementary or high school program with an adjacent school district or districts in an ensuing school fiscal year under the provisions of 20-6-203 through 20-6-208 or 20-6-315 through 20-6-319.

(2) If the trustees of the school district determine that the creation or continuation of the K-12 district has resulted in or will result in the loss of federal funding for the elementary or high school programs and that it is in the best interest of the district to dissolve into the original elementary district and high school district that existed prior to the formation of the K-12 district, the trustees may dissolve the district under the following procedure:

(a) The trustees of the district shall pass a resolution requesting the county superintendent to order a dissolution of the district.

(b) When the county superintendent receives the resolution from the district, the county superintendent shall, within 10 days, order the dissolution of the K-12 district into the original elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county superintendent shall send a copy of the order to the board of county commissioners, the trustees of the district, and the ~~superintendent of public instruction~~ board of public education.

(3) If the entire territory of the dissolving K-12 district will be annexed or consolidated with an adjacent district or districts, the resolution or petition required in subsection (1) or (2) must contain a description of the manner in which the real and personal property and funds of the district are to be apportioned in the dissolution of the district and the subsequent annexation or consolidation with one or more other districts. If a portion of the dissolving K-12 district will not be annexed or consolidated with another district or districts, the resolution or petition must contain a description of the manner in which the property, funds, and financial obligations, including bonded indebtedness, of the K-12 district are to be apportioned to the district or districts whose territory is not consolidated or annexed to another district.

(4) After the county superintendent receives the certificate of election provided for in 20-20-416 from the trustees of the K-12 district and from each district included in a consolidation proposition, the county superintendent shall determine whether the dissolution and annexation or consolidation proposition or propositions have been approved. If the K-12 district has approved the dissolution proposition and each district involved in a consolidation has approved the consolidation proposition, the county superintendent shall, within 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original

elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county commissioners, the trustees of the district included in the dissolution order, and the ~~superintendent of public instruction~~ board of public education.

(5) Whenever a K-12 district is dissolved, the following provisions apply:

(a) The trustees of the elementary district whose territory is not annexed or consolidated upon dissolution of the K-12 district are responsible for the execution of remaining financial obligations of the K-12 district and for the apportionment between the elementary and high school programs of any obligations not identified in the resolution required under subsection (3).

(b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

(c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12 district during its last year of operations as a K-12 district will be prorated based on rules promulgated by the ~~superintendent of public instruction~~ board of public education."

Section 85. Section 20-7-101, MCA, is amended to read:

"20-7-101. Standards of accreditation. (1) Standards of accreditation for all schools ~~shall~~ must be adopted by the board of public education upon the recommendations of the superintendent of public instruction and after consultation with local school district boards of trustees.

(2) Standards for the retention of school records must be as provided in 20-1-212."

Section 86. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the ~~superintendent of public instruction~~ board of public education to determine compliance with the standards of accreditation. The accreditation status of every school must then be established by the board of public education ~~upon the recommendation of the superintendent of public instruction~~. Notification of the accreditation status for the applicable school year or years must be given to each district by the ~~superintendent of public instruction~~ board of public education or its designee.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education

accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306(10)(c)(i)."

Section 87. Section 20-7-113, MCA, is amended to read:

"20-7-113. Maintenance of curriculum guide file and publishing curriculum guides by superintendent of public instruction. ~~The superintendent of public instruction~~ board of public education or its designee shall collect and maintain a file of curriculum guides to be made available to districts for the use of schools in planning courses of instruction. ~~He~~ The board or its designee may prepare, publish, and distribute curriculum guides for the use of schools in planning courses of instruction. ~~He may~~ and may solicit the assistance of educators and other qualified persons in the preparation of curriculum guides."

Section 88. Section 20-7-114, MCA, is amended to read:

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

Section 89. Section 20-7-131, MCA, is amended to read:

"20-7-131. Equivalency of completion of secondary education. ~~The superintendent of public instruction~~ board of public education shall issue, ~~in accordance with the policies of the board of public education,~~ appropriate documentation certifying that an eligible applicant has satisfied requirements for equivalency of completion of secondary education. Equivalency of completion of secondary education must include satisfactory completion of a testing program or an external diploma program approved by the board of public education."

Section 90. Section 20-7-201, MCA, is amended to read:

"20-7-201. State visual, aural, and other educational media library. A library of visual, aural, and other educational media ~~shall~~ must be established and maintained by the ~~superintendent of public instruction~~ board of public education. The media ~~shall~~ must be selected by the ~~superintendent of public instruction~~ board of public education or its designee on the basis of their usefulness as teaching aids and resources for schools and

other educational groups within the state and ~~shall~~ must be made available to ~~such~~ schools and groups on a rental fee basis. The rental fees for the use of the materials in the library ~~shall~~ must be set by the ~~superintendent of public instruction~~ board of public education and ~~shall~~ must be deposited in the audiovisual and media library account in the state special revenue fund. The ~~superintendent of public instruction~~ board of public education may use these funds, as well as any other funds ~~advanced by a legislative appropriation~~ appropriated to the audiovisual and media library account, for the operation, maintenance, enlargement, and other related costs of the library."

Section 91. Section 20-7-205, MCA, is amended to read:

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

Section 92. Section 20-7-301, MCA, is amended to read:

"20-7-301. Duties of ~~superintendent of public instruction~~ board of public education. The ~~superintendent of public instruction~~ board of public education is the governing agent and executive ~~officer~~ body of the state of Montana for K-12 career and vocational/technical education. The ~~superintendent of public instruction~~ board shall adopt and administer policies to effect the orderly development of a system of K-12 career and vocational/technical education that is adaptable to changing needs, controlled to prevent unnecessary duplication, coordinated with federal guidelines and requirements for K-12 career and vocational/technical education, and funded to ensure growth and quality programming. In order to accomplish the orderly development of a system of K-12 career and vocational/technical education, the policies adopted by the ~~superintendent of public instruction~~ board of public education must include:

- (1) a state plan for development of the system;
- (2) standards for K-12 career and vocational/technical education courses and programs;
- (3) a review process for the establishment and deletion of programs;
- (4) instructor qualifications for K-12 career and vocational/technical education courses and programs;
- (5) criteria for approval of K-12 career and vocational/technical education courses and programs;
- (6) a basis for apportionment of all money appropriated by the legislature for K-12 career and vocational/technical education in accordance with the intent of the legislature as reflected in the terms of the appropriation;

- (7) a basis for apportionment of all money received by the state of Montana for K-12 career and vocational/technical education from the federal government in accordance with the acts of congress;
- (8) a system of evaluation of K-12 career and vocational/technical education that allows for consideration of the current and projected workforce needs and job opportunities; and
- (9) any other policy that is consistent with public law and that is necessary for the proper operation of a system of K-12 career and vocational/technical education."

Section 93. Section 20-7-303, MCA, is amended to read:

"20-7-303. Authorization to establish and maintain K-12 career and vocational/technical education courses and programs. The trustees of an elementary or high school district may establish and maintain a K-12 career and vocational/technical education course or program that complies with the K-12 career and vocational/technical education standards adopted by the ~~superintendent of public instruction~~ board of public education. In order for a course or program to be eligible for state or federal funding, it must be approved by the ~~superintendent of public instruction~~ board of public education for compliance with K-12 career and vocational/technical education standards."

Section 94. Section 20-7-305, MCA, is amended to read:

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

(2) A high school district providing secondary K-12 career and vocational/technical education programs shall apply to the ~~superintendent of public instruction~~ board of public education for funds available under ~~this section and 20-7-306~~ and this section. The ~~superintendent of public instruction~~ board of public education shall by rule prescribe the method for distribution, the form of the application, budget procedures, and accounting rules for the funds. The ~~superintendent of public instruction~~ board of public education may prescribe other requirements for the receipt of funding consistent with Title 20, chapter 7, part 3.

(3) A secondary K-12 career and vocational/technical education program in a high school district may not be funded until that program has been offered by the school district for 1 school year.

(4) As used in ~~this section and 20-7-306~~ and this section, the term "school district" means a district

organized for the purpose of providing educational services for grades 9 through 12, but the term does not include postsecondary vocational education centers."

Section 95. Section 20-7-306, MCA, is amended to read:

"20-7-306. Distribution of secondary K-12 career and vocational/technical education funds. (1)

The ~~superintendent of public instruction~~ board of public education or its designee shall categorize secondary K-12 career and vocational/technical education programs according to the relative additional costs of those programs based on weighted factors, including but not limited to:

- (a) K-12 career and vocational/technical education enrollment;
- (b) approved career and technical student organizations;
- (c) field supervision of students beyond the school year for K-12 career and vocational/technical education; and
- (d) district expenditures related to the K-12 career and vocational/technical education programs.

(2) The ~~superintendent of public instruction~~ board of public education or its designee shall adjust the weighted factors outlined in subsection (1) as necessary to ensure that the allocations do not exceed the amount appropriated.

(3) Except for other expenditures outlined in subsection (1)(d), funding must be based upon the calculation for secondary K-12 career and vocational/technical education programs of the high school district in the year preceding the year for which funding is requested. Funding for the expenditures referred to in subsection (1)(d) must be based on the calculation for the secondary K-12 career and vocational/technical education programs of the high school district for the 2 years preceding the year for which funding is requested. The funding must be computed for each separate secondary K-12 career and vocational/technical education program.

(4) For secondary career and vocational/technical education programs, the total funding must be distributed to eligible programs based on the four factors listed in subsections (1)(a) through (1)(d).

(5) The ~~superintendent of public instruction~~ board of public education shall annually distribute the funds allocated in this section by November 1. The money received by the high school district must be deposited into the subfund of the miscellaneous programs fund established by 20-9-507 and may be expended only for approved secondary K-12 career and vocational/technical education programs. The expenditure of the money must be reported in the annual trustees' report as required by 20-9-213."

Section 96. Section 20-7-308, MCA, is amended to read:

"20-7-308. State director of K-12 career and vocational/technical education -- duties. There is a state director of K-12 career and vocational/technical education appointed by the ~~superintendent of public instruction~~ board of public education. The director shall:

(1) administer the K-12 career and vocational/technical education policies adopted by the ~~superintendent of public instruction~~ board of public education;

(2) prepare curriculum guides for adoption by the ~~superintendent of public instruction~~ board of public education;

(3) employ, with the confirmation of the ~~superintendent of public instruction~~ board of public education, professional staff consisting of individuals prepared in agriculture education, business and marketing education, family and consumer sciences education, and industrial technology education;

(4) report the status of K-12 career and vocational/technical education in the state of Montana when requested by the ~~superintendent of public instruction~~ board of public education;

(5) keep all K-12 career and vocational/technical education records in the director's office;

(6) provide K-12 career and vocational/technical education supervisory and consultative assistance to districts;

(7) prepare any necessary reports for the ~~superintendent of public instruction~~ board of public education or the legislature; and

(8) perform any other duty assigned by the ~~superintendent of public instruction~~ board of public education."

Section 97. Section 20-7-328, MCA, is amended to read:

"20-7-328. Legislative intent. (1) It is the intent of the legislature that the administration of the programs authorized by the Carl D. Perkins Vocational and Applied Technology Education Act provide a seamless system of services to those people seeking to improve their vocational and technical skills.

(2) It is the intent of the legislature that the ~~superintendent of public instruction~~ board of public education and the commissioner work cooperatively in providing that system of vocational and technical services at both the secondary and postsecondary levels.

(3) It is the intent of the legislature that the development of the state plan for vocational and technical education be a cooperative effort of the ~~superintendent of public instruction~~ board of public education and the commissioner in consultation with teachers, students, and institutions or agencies that provide the services and activities."

Section 98. Section 20-7-329, MCA, is amended to read:

"20-7-329. Eligible agency for federal vocational education requirements. (1) The board of regents is the eligible agency for purposes of the 1984 federal Carl D. Perkins Vocational and Applied Technology Education Act, as amended, which requires a state participating in programs under that act to designate a state board as the eligible agency responsible for administration or supervision of those programs.

(2) The board of regents shall contract with the ~~superintendent of public instruction~~ board of public education for the administration and supervision of K-12 career and vocational/technical education programs, services, and activities allowed by the 1984 federal Carl D. Perkins Vocational and Applied Technology Education Act, as amended, and in concert with the state plan for vocational and technical education required by the act. The board of regents may contract with other agencies for the administration and supervision of vocational-technical education programs, services, and activities that receive funding allowed by the 1984 federal Carl D. Perkins Vocational and Applied Technology Education Act, as amended."

Section 99. Section 20-7-330, MCA, is amended to read:

"20-7-330. Creation of state plan committee -- meetings -- report. (1) The ~~superintendent of public instruction~~ board of public education and the commissioner shall each appoint three people from their respective advisory boards to serve on a committee to review and update the 5-year state plan for vocational and technical education as required by 20 U.S.C. 2323. Two members appointed from each advisory board must be educators, and the remaining member appointed from each advisory board must be a representative of a business or community interest.

(2) At least four times a year, the board of regents shall meet with the ~~superintendent of public instruction~~ board of public education or its designee, teachers, students, labor organizations, businesses, and institutions or agencies involved in vocational and technical education to:

- (a) discuss the state plan;
- (b) identify any issues or concerns with the administration of the Carl D. Perkins Vocational and Applied Technology Education Act in Montana;
- (c) identify the needs of vocational-technical students and programs in Montana and determine the best way to meet those needs; and
- (d) if necessary, make changes in the administration and operation of the Carl D. Perkins Vocational and Applied Technology Education Act in Montana.

(3) The board of regents shall report the results of the meetings required in subsection (2) to the

legislature in accordance with the provisions of 5-11-210."

Section 100. Section 20-7-401, MCA, is amended to read:

"20-7-401. Definitions. In this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

(2) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by a child with a disability;

(c) selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing an assistive technology device;

(d) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) training or technical assistance for a child with a disability or, if appropriate, training or technical assistance for that child's family; and

(f) training or technical assistance for professionals, including individuals providing education or rehabilitation services, for employers, or for other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of a child with a disability.

(3) (a) "Autism" means a developmental disability that significantly affects verbal and nonverbal communication and social interaction, that is generally evident before 3 years of age, and that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environment change or to change in daily routines, and unusual responses to sensory experiences.

(b) The term does not apply if a child's educational performance is adversely affected primarily because the child has a serious emotional disturbance.

(4) "Child with a disability" means a child evaluated in accordance with the regulations of the Individuals

With Disabilities Education Act as having cognitive delay; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments; deaf-blindness; multiple disabilities; or specific learning disabilities and who because of those impairments needs special education and related services. A child who is 5 years of age or younger may be identified as a child with a disability without the specific disability being specified.

(5) "Cognitive delay" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

(6) "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication problems and other developmental and educational problems that the problems cannot be accommodated in special education programs solely for children with deafness or for children with blindness.

(7) "Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, in a manner that adversely affects the child's educational performance.

(8) (a) "Emotional disturbance" means a condition exhibiting one or more of the following characteristics to a marked degree and over a long period of time that adversely affects educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes schizophrenia.

(b) The term does not include social maladjustment, unless it is determined that the child is emotionally disturbed.

(9) "Free appropriate public education" means special education and related services that:

- (a) are provided at public expense under public supervision and direction and without charge;
- (b) meet the accreditation standards of the board of public education, the special education requirements of the ~~superintendent of public instruction~~ board of public education, and the requirements of the Individuals With Disabilities Education Act;
- (c) include preschool, elementary school, and high school education in Montana; and
- (d) are provided in conformity with an individualized education program that meets the requirements of

the Individuals With Disabilities Education Act.

(10) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included within the definition of deafness.

(11) "Orthopedic impairment" means a severe orthopedic disability that adversely affects a child's educational performance. The term includes but is not limited to impairment caused by congenital anomaly (e.g., clubfoot or absence of some member), impairments caused by disease (e.g., poliomyelitis or bone tuberculosis), and impairments from other causes (e.g., fractures or burns that cause contractures, amputation, or cerebral palsy).

(12) "Other health impairment" means limited strength, vitality, or alertness because of chronic or acute health problems, such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, that adversely affects a child's educational performance.

(13) "Related services" means transportation and any developmental, corrective, and other supportive services that are required to assist a child with a disability to benefit from special education and includes speech-language pathology, audiology, occupational therapy, physical therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training.

(14) "Special education" means specially designed instruction, given at no cost to the parents or guardians, to meet the unique needs of a child with a disability, including but not limited to instruction conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.

(15) (a) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes but is not limited to such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(b) The term does not include children who have learning problems that are primarily the result of visual, hearing, or motor disabilities; cognitive delay; or environmental, cultural, or economic disadvantages.

(16) "Speech-language impairment" means a communication disorder, such as stuttering, impaired articulation, or a language or voice impairment, that adversely affects a child's interpersonal relationships or educational performance.

(17) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the child.

(18) (a) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance.

(b) The term does not apply to brain injuries that are congenital or degenerative or to brain injuries that are induced by birth trauma.

(19) "Visual impairment" means an impairment that, after correction, adversely affects a child's educational performance. The term includes both partial blindness and blindness."

Section 101. Section 20-7-402, MCA, is amended to read:

"20-7-402. Special education to comply with board policies. (†) The conduct of special education programs ~~shall~~ must comply with the policies recommended by the superintendent of public instruction and adopted by the board of public education after consultation with local school district boards of trustees. These policies ~~shall assure~~ must ensure and include but are not limited to:

- (a)(1) placement of a child with a disability in the least restrictive alternative setting;
 - (b)(2) due process for a child with a disability, including the appointment of a surrogate parent if necessary;
 - (c)(3) use of child study teams to identify a child with a disability and use of instructional teams to plan individual education programs;
 - (d)(4) comprehensive evaluation for each child with a disability; and
 - (e)(5) other policies needed to ~~assure~~ ensure a free and appropriate public education.
- (2) ~~The superintendent of public instruction shall promulgate rules to administer the policies of the board of public education."~~

Section 102. Section 20-7-403, MCA, is amended to read:

"20-7-403. Duties of ~~superintendent of public instruction~~ board of public education or its designee. The ~~superintendent of public instruction~~ board of public education or its designee shall supervise and coordinate the conduct of special education in the state by:

- (1) ~~recommending to the board of public education adoption of those~~ adopting policies necessary to establish a planned and coordinated program of special education in the state;

~~(2)~~ administering the policies adopted by the board of public education;

~~(3)~~ certifying special education teachers on the basis of the special qualifications for the teachers as prescribed by the board of public education;

~~(4)~~(2) establishing procedures to be used by school district personnel in identifying a child with a disability;

~~(5)~~(3) recommending to districts the type of special education class or program needed to serve the child with a disability of the districts and preparing appropriate guides for developing individualized education programs;

~~(6)~~(4) seeking for local districts appropriate interdisciplinary assistance from public and private agencies in diagnosing the special education needs of children, in planning programs, and in admitting and discharging children from those programs;

~~(7)~~(5) assisting local school districts, institutions, and other agencies in developing full-service programs for a child with a disability;

~~(8)~~(6) approving, as they are proposed and annually after approval, those special education classes or programs that comply with the laws of the state of Montana; and policies and rules of the board of public education, ~~and the regulations of the superintendent of public instruction;~~

~~(9)~~(7) providing technical assistance to district superintendents, principals, teachers, and trustees;

~~(10)~~(8) conducting conferences, offering advice, and otherwise cooperating with parents and other interested persons;

~~(11)~~(9) ensuring appropriate training and instructional material for persons appointed as surrogate parents that outlines their duties toward the child, limitations on what they may do for the child, duties in relation to the child's records, sources of assistance available to the surrogate parent, and the need to seek competent legal assistance in implementing hearing or appeal procedures;

~~(12)~~(10) ensuring that the requirements of the Individuals With Disabilities Education Act are met and that each educational program for a child with a disability administered within the state, including each program administered by any other agency, is under the general supervision of the ~~superintendent of public instruction,~~ board of public education or its designee and meets the education standards of the board of public education, ~~and meets the requirements of the superintendent of public instruction;~~ reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education or for providing or paying for some or all of the costs of a free appropriate public education to a child with a disability within the state;

~~(13)~~(11) contracting for the delivery of audiological services to those children allowed by Montana law in accordance with policies of the board of public education; and

~~(14)~~(12) except for those children who qualify for residential services under the Montana public mental health program pursuant to Title 53, chapter 6, contracting with a public school district or a private residential facility for the provision of a free appropriate public education for a child placed in an in-state residential facility or children's psychiatric hospital."

Section 103. Section 20-7-404, MCA, is amended to read:

"20-7-404. Cooperation of state agencies. The department of public health and human services and the state school for the deaf and blind shall cooperate with the ~~superintendent of public instruction~~ board of public education in assisting school districts in discovering children in need of special education. This section may not be construed to interfere with the purpose and function of these state agencies."

Section 104. Section 20-7-412, MCA, is amended to read:

"20-7-412. Establishment of individual district special education program. (1) The trustees of a district, upon obtaining the approval of the ~~superintendent of public instruction~~ board of public education, shall establish and maintain a special education program whenever, in the judgment of the trustees and the ~~superintendent of public instruction~~ board of public education:

(a) there are sufficient numbers of children with disabilities in the district to justify the establishment of a program; or

(b) an individual child requires special education services such as home or hospital tutoring, school-to-home telephone communication, or other individual programs.

(2) Programs may be established for persons with disabilities between the ages of 0 and 21 when the ~~superintendent of public instruction~~ board of public education and the trustees have determined that the programs will:

(a) assist a person ~~to achieve~~ in achieving levels of competence that will enable ~~him~~ the person to participate in the regular instruction of the district when ~~he~~ the person could not participate without special education;

(b) permit the conservation or early acquisition of skills that will provide the person with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages that will materially benefit the person.

(3) Approval and operation of programs established pursuant to subsection (2) do not obligate the state or a school district to offer regular educational programs to a similar age group unless specifically provided by law.

(4) When an agency that has responsibility for a person with disabilities over 21 but not more than 25, inclusive, cannot provide appropriate services to that person, the agency may contract with the local school district to provide the services."

Section 105. Section 20-7-414, MCA, is amended to read:

"20-7-414. Determination of children in need and type of special education needed -- approval of classes and programs by superintendent. (1) The determination of the children requiring special education and the type of special education needed by these children is the responsibility of the school district, and the determination must be made in compliance with the procedures established in the rules of the ~~superintendent of public instruction~~ board of public education. The school district shall make available a free appropriate public education to all children who are eligible under the Individuals With Disabilities Education Act and who reside in the school district.

(2) Whenever the trustees of a district intend to establish a special education class or program, they shall apply for approval and funding of the class or program by the ~~superintendent of public instruction~~ board of public education. The ~~superintendent of public instruction~~ board of public education or its designee shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana; and the special education policies adopted by the board of public education; ~~and the rules of the superintendent of public instruction~~. A special education class may not be operated by the trustees without the approval of the ~~superintendent of public instruction~~ board of public education or its designee. Each special education class or program must be approved annually to be funded as part of the allowable cost payment for special education."

Section 106. Section 20-7-419, MCA, is amended to read:

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

- (1) the calculation of tuition under 20-7-420;
- (2) the calculation and distribution of funds under 20-7-435; and
- (3) the determination of responsibilities of children's psychiatric hospitals, residential treatment facilities,

and public schools."

Section 107. Section 20-7-420, MCA, is amended to read:

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

(2) The county of residence is financially responsible for tuition and transportation as established under 20-5-323 and 20-5-324 for a child with a disability, as defined in 20-7-401, who attends school outside the district and county of residence because the student has been placed by a state agency in a foster care or group home licensed by the state. The county of residence is not financially responsible for tuition and transportation for a child who is placed by a state agency in an out-of-state public school or an out-of-state private residential facility.

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

(4) A state agency that makes a placement of a child with a disability is responsible for the financial costs of room and board and the treatment of the child. The state agency that makes an out-of-state placement of a child with a disability is responsible for the education fees required to provide a free appropriate public education that complies with the requirements of Title 20, chapter 7, part 4."

Section 108. Section 20-7-424, MCA, is amended to read:

"20-7-424. No tuition when attending state institution. Whenever a child is attending a state-funded institution in Montana, the resident district or county is not required to pay tuition to the state institution for the child, but whenever at the recommendation of institution officials the child attends classes conducted by a school

within a local district, the district or county where the parents or guardian of the child maintains legal residence shall pay tuition to the district operating the school in accordance with the provisions of 20-5-321 or 20-7-421, whichever section applies to the circumstances of the child. Transportation payments must be made for students enrolled in any school district classes or receiving training, including summer sessions, at the state institution. The schedule of transportation payments must be approved in accordance with existing transportation payment schedules and must be approved by the county transportation committee and the ~~superintendent of public instruction~~ board of public education."

Section 109. Section 20-7-431, MCA, is amended to read:

"20-7-431. Allowable cost schedule for special programs -- superintendent to make rules -- annual accounting. (1) For the purpose of determining the allowable cost payment amount for special education as defined in 20-9-321, the following allowable costs and reports must be reviewed by the ~~superintendent of public instruction~~ board of public education or its designee for the purposes of determining the amount of the allowable cost payment for special education payments and a district's special education expenditures:

- (a) instruction: salaries, benefits, supplies, textbooks, and other expenses, including:
 - (i) the cost of salaries and benefits of special program teachers, regular program teachers, and teacher aides, corresponding to the working time that each person devotes to the special program;
 - (ii) the total cost of teaching supplies and textbooks for special programs;
 - (iii) the purchase, rental, repair, and maintenance of instructional equipment required to implement a student's individualized education program;
 - (iv) activities associated with teacher assistance teams that provide prereferral intervention;
 - (v) the cost of contracted services, including fees paid for professional advice and consultation regarding special students or the special program, and the delivery of special education services by public or private agencies;
 - (vi) transportation costs for special education instructional personnel who travel on an itinerant basis from school to school or district to district or to in-state child study team meetings or in-state individualized education program meetings;
- (b) related services, including:
 - (i) the cost of salaries and benefits of professional supportive personnel, corresponding to the working time that each person devotes to the special program. Professional supportive personnel may include special education supervisors, speech-language pathologists, audiologists, counselors, social workers, psychologists,

psychometrists, physicians, nurses, and physical and occupational therapists.

(ii) the cost of salaries and benefits of clerical personnel who assist professional personnel in supportive services, corresponding to the working time that each person devotes to the special program;

(iii) the cost of supplies for special programs;

(iv) activities associated with teacher assistance teams that provide prereferral interventions;

(v) the cost of contracted services, including fees paid for professional advice and consultation regarding special students or the special program, and the delivery of special education services by public or private agencies;

(vi) transportation costs for special education-related services personnel who travel on an itinerant basis from school to school or district to district or to in-state child study team meetings or in-state individualized education program meetings;

(vii) equipment purchase, rental, repair, and maintenance required to implement a student's individualized education program;

(viii) the additional cost of special education cooperatives or joint boards, including operation and maintenance, travel, recruitment, and administration.

(2) The ~~superintendent of public instruction~~ board of public education shall adopt rules ~~in accordance with the policies of the board of public education~~ for keeping necessary records for supportive and administrative personnel and any personnel shared between special and regular programs.

(3) An annual accounting of all expenditures of school district general fund money for special education must be made by the district trustees on forms furnished by the ~~superintendent of public instruction~~ board of public education. The ~~superintendent of public instruction~~ board shall ~~make~~ adopt rules for the accounting.

(4) Allowable costs prescribed in this section (4) do not include the costs of the teachers' retirement system, the public employees' retirement system, or the federal social security system or the costs for unemployment compensation insurance.

(5) Notwithstanding other provisions of the law, the ~~superintendent of public instruction~~ board of public education may not approve an allowable cost payment amount for special education that exceeds legislative appropriations. However, any unexpended balance from the first year of a biennial appropriation may be spent in the second year of the biennium in addition to the second year appropriation."

Section 110. Section 20-7-435, MCA, is amended to read:

"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and

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

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

(3) Whenever the ~~superintendent of public instruction~~ board of public education or its designee contracts with an in-state children's psychiatric hospital or residential treatment facility for provision of an educational program for an eligible child in the children's psychiatric hospital or residential treatment facility, the ~~superintendent of public instruction~~ board of public education or its designee shall:

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

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

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

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

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

(5) If a children's psychiatric hospital or residential treatment facility fails to provide an education in accordance with 20-5-109 or a free appropriate public education under the provisions of this part for an eligible child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a contract under the provisions of subsection (2), the ~~superintendent of public instruction~~ board of public education or its designee

shall negotiate with the school district in which the children's psychiatric hospital or residential treatment facility is located for the supervision and implementation of an appropriate educational program that is consistent with accreditation standards provided for in 20-7-111 and with the provisions of 20-7-402 for children attending the children's psychiatric hospital or residential treatment facility. The amount negotiated with the school district must include all education and related services costs that may be negotiated under the provisions of subsection (3) and all education and related services costs necessary to fulfill the requirements of providing the child with an education.

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

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

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

Section 111. Section 20-7-441, MCA, is amended to read:

"20-7-441. Special education child eligibility for transportation. With the approval of the ~~superintendent of public instruction~~ board of public education or its designee, any special education child ~~shall~~ must be eligible for transportation, which ~~shall~~ must be provided by the resident district, when ~~he~~ the child is enrolled:

- (1) in a special education class or program operated by the district of ~~such~~ the child's residence;
- (2) in a special education class or program operated by a Montana district other than the child's resident district;
- (3) under an approved tuition agreement in a special education class or program operated outside of the state of Montana; or
- (4) under an approved tuition agreement in a private institution."

Section 112. Section 20-7-442, MCA, is amended to read:

"20-7-442. State transportation reimbursement for special education children. Districts providing children with transportation to a special education class or program and complying with the special education transportation regulations promulgated by the ~~superintendent of public instruction~~ board of public education ~~shall~~ must be eligible for a transportation reimbursement. The reimbursement ~~shall~~ must be calculated from a schedule

established by the ~~superintendent of public instruction~~ board of public education with the state providing 50% of the reimbursement."

Section 113. Section 20-7-454, MCA, is amended to read:

"20-7-454. Final approval and filing of full service education cooperative contract. Within 10 days after approval by the attorney general and prior to commencement of its performance, a full service education cooperative contract made pursuant to 20-7-451 through 20-7-456 must be:

- (1) submitted to the ~~superintendent of public instruction~~ board of public education, ~~who~~ which has final approval authority ~~pursuant to the policies of the board of public education;~~
- (2) filed with the county clerk and recorder of the county or counties in which the school districts involved are located; and
- (3) filed with the secretary of state."

Section 114. Section 20-7-457, MCA, is amended to read:

"20-7-457. Funding provisions for special education purposes of cooperatives or joint boards.

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

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

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

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

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

(6) Before July 1, 1994, the ~~superintendent of public instruction~~ board of public education, after

consulting with regional representatives, shall define boundaries for cooperatives established for special education programs that incorporate the territory of all public school districts.

(7) Restructuring of cooperatives established for providing special education services must:

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

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

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

Section 115. Section 20-7-461, MCA, is amended to read:

"20-7-461. Appointment and termination of appointment of surrogate parent. (1) A school district or institution that provides education to a child with a disability shall adopt procedures to assign an individual to act as a surrogate parent for a child with a disability whenever the parents or guardian cannot be identified or, after reasonable efforts, the location of the parents cannot be discovered or if the child is a ward of the state. The determination of need for a surrogate parent must be made within 10 days of the date on which the school district or its designee or the governing authority of an institution or its designee learns of the presence of the child in the district. If the child is in need of a surrogate parent, the trustees of a school district or their designee or the governing authority of an institution or its designee shall nominate a surrogate for the child within 30 days of that determination.

(2) The person nominated as a surrogate parent must be an adult who is not an employee of a state or local educational agency. The surrogate parent may not have a vested interest that will conflict with the person's representation and protection of the child. The surrogate, whenever practicable, must be knowledgeable about the educational system, special education requirements, and the legal rights of the child in relation to the educational system. Whenever practicable, the surrogate parent must be familiar with the cultural or language background of the child.

(3) The nomination for appointment of a surrogate parent, along with all necessary supporting documents, must be submitted to the youth court for official appointment of the surrogate parent by the court. The trustees of a school district or their designee or the governing authority of an institution or its designee shall take all reasonable action to ensure that the youth court appoints or denies the appointment of a person nominated as a surrogate parent within 45 days of the court's receipt of all necessary supporting documents. If the youth court denies an appointment, the trustees of a district or their designee or the governing authority of an institution

or its designee shall nominate another person to be appointed as the surrogate parent.

(4) The ~~superintendent of public instruction~~ board of public education shall adopt rules for a procedure to terminate the appointment of a surrogate parent when:

- (a) a child's parents are identified;
- (b) the location of the parents is discovered;
- (c) the child is no longer a ward of the state; or
- (d) the surrogate parent wishes to discontinue the appointment."

Section 116. Section 20-7-463, MCA, is amended to read:

"20-7-463. Surrogate parent -- immunity from liability -- reimbursement. (1) A person appointed as a surrogate parent is exempt from liability for any act or omission performed by him in his the person's capacity as a surrogate parent except an act or omission ~~which that~~ is found to have been committed in a grossly negligent or malicious manner.

(2) A surrogate parent has the same protection and immunity in professional communications as a teacher.

(3) A surrogate parent must be reimbursed by the school district for all reasonable and necessary expenses incurred in the pursuit of his the person's duties, as prescribed by rules adopted by the ~~superintendent of public instruction~~ board of public education."

Section 117. Section 20-7-501, MCA, is amended to read:

"20-7-501. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Teacher of traffic education" means an instructor approved by the ~~superintendent of public instruction~~ board of public education to teach traffic education.

(2) "Traffic education" means instruction in motor vehicle, bicycle, pedestrian, and school bus traffic laws or motorcycle laws, in the acceptance of personal responsibility on the public highways, in the causes and consequences of traffic accidents, and in the skills necessary for the safe operation of bicycles and motor vehicles or motorcycles. The instruction must be designed to improve public awareness of motor vehicle, pedestrian, and school bus safety with regard to protecting school-age children.

(3) "Traffic education account" means the state treasury account in the state special revenue fund for the deposit and disbursement of state traffic education revenue.

(4) "Traffic education course" means a course of traffic education that has been approved by the ~~superintendent of public instruction~~ board of public education."

Section 118. Section 20-7-502, MCA, is amended to read:

"20-7-502. Duties of ~~superintendent of public instruction~~ board of public education. The ~~superintendent of public instruction~~ board of public education or its designee shall:

- (1) develop, administer, and supervise a program of instruction in traffic education;
- (2) establish basic course requirements in instruction for traffic education;
- (3) establish the qualifications for a teacher of traffic education;
- (4) approve teachers of traffic education when the teachers are qualified;
- (5) establish criteria for traffic education course approval based on the basic course requirements, teacher of traffic education qualifications, and the requirements of law;
- (6) approve traffic education courses when the courses meet the criteria for approval;
- (7) promulgate a policy for the distribution of the traffic education money to approved traffic education courses and annually order the distribution of the proceeds of the traffic education account in the manner required by law;
- (8) assist districts with the conduct of traffic education; and
- (9) periodically conduct onsite driver education program reviews."

Section 119. Section 20-7-503, MCA, is amended to read:

"20-7-503. District establishment of traffic education program. The trustees of any district operating a junior high school or high school may establish and maintain a traffic education course. The traffic education course ~~shall~~ must be:

- (1) for students who are 15 years old or older or will have reached their 15th birthday within 6 months of the course completion;
- (2) taught by a teacher of traffic education;
- (3) conducted in accordance with the basic course requirements established by the ~~superintendent of public instruction~~ board of public education; and
- (4) taught during regular school hours, after regular school hours, on Saturdays, or as a summer school course, at the option of the trustees."

Section 120. Section 20-7-506, MCA, is amended to read:

"20-7-506. Annual allocation and distribution of traffic education account proceeds. (1) Subject to the provisions of subsection (2), the ~~superintendent of public instruction~~ board of public education shall annually order the distribution of all money in the traffic education account to the districts conducting approved traffic education courses. The distribution of the traffic education money must be based on the distribution policy promulgated by the ~~superintendent of public instruction~~ board of public education, provided that the reimbursements to districts must be based upon the number of pupils who, in a given school fiscal year, complete an approved traffic education course, including both the classroom instruction and behind-the-wheel driving.

(2) Before the funds in the traffic education account are disbursed, there must be appropriated to the ~~superintendent of public instruction~~ board of public education funds to administer the statewide traffic education program for eligible, young, novice drivers. The administration may include:

- (a) supervision and assessment of approved traffic education courses;
- (b) preparation for teachers of traffic education;
- (c) development, printing, and distribution of essential instructional materials for traffic education; and
- (d) any other activities considered necessary by the ~~superintendent of public instruction~~ board of public education, provided that the money is available only to support traffic education for young, novice drivers."

Section 121. Section 20-7-604, MCA, is amended to read:

"20-7-604. Licensing textbook dealers. (1) Textbook dealers ~~shall~~ must be licensed to sell textbooks by the ~~superintendent of public instruction~~ board of public education. To obtain a license, a textbook dealer shall first file with the ~~superintendent of public instruction~~ his board of public education a written agreement to:

(a) guarantee that textbooks ~~shall~~ will be supplied to any district at the listed, uniform sales prices in effect for schools, except that ~~such~~ prices may be reduced in accordance with this section;

(b) guarantee that at no time ~~shall~~ may any textbook sale price in Montana be a larger amount than the sale price to schools anywhere else in the United States under similar conditions of transportation and marketing; and

(c) reduce automatically the listed, uniform sales price to schools whenever reductions of these prices are made anywhere in the United States.

(2) Textbook dealers filing the written agreement with the ~~superintendent of public instruction~~ board of public education shall also file a surety bond with the secretary of state. The surety bond ~~shall~~ must run to the state of Montana and must be conditioned on the faithful performance of all duties imposed upon textbook dealers

for the purpose of regulating the supply of textbooks to districts. The amount of the surety bond ~~shall~~ must be set by the ~~superintendent of public instruction~~ board of public education and ~~shall~~ may be not less than \$2,000 ~~but not~~ or more than \$10,000. The bond ~~shall~~ must be approved by the attorney general. It ~~shall be~~ is the responsibility of the textbook dealer to maintain the surety bond on a current basis.

(3) When the textbook dealer has complied with the written agreement and surety bond requirements for licensing, the ~~superintendent of public instruction~~ board of public education or its designee shall issue a license to the textbook dealer."

Section 122. Section 20-7-605, MCA, is amended to read:

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

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

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

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

(2) Upon receipt of ~~such~~ notification from the district or county superintendent, the ~~superintendent of public instruction~~ board of public education or its designee shall notify the appropriate licensed textbook dealer of the complaint. If the ~~superintendent of public instruction~~ board of public education or its designee finds that the licensed textbook dealer has violated any provision of this section and the dealer fails to rectify the error within 30 days of the notification of the finding of a violation, the dealer shall forfeit the dealer's surety bond. The attorney general, upon written request of the ~~superintendent of public instruction~~ board of public education or its designee, shall proceed to collect by legal action the full amount of the surety bond. Any amount recovered must be paid into the state general fund."

Section 123. Section 20-7-606, MCA, is amended to read:

"20-7-606. Doing business without textbook dealer's license -- penalty. Any textbook dealer who ~~shall sell or offer~~ sells or offers for sale or adoption a textbook to any district or county superintendent without first obtaining a textbook license from the ~~superintendent of public instruction~~ board of public education is

guilty of a misdemeanor. Upon conviction, ~~of such misdemeanor, he the dealer~~ shall be fined not less than \$500 or more than \$2,000."

Section 124. Section 20-7-712, MCA, is amended to read:

"20-7-712. Adult basic education fund and its distribution. (1) To encourage adult basic education, the legislature may appropriate funds to the ~~superintendent of public instruction~~ board of public education for the support of adult basic education programs in any school, community college district, or accredited tribal college located in Montana.

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

Section 125. Section 20-7-903, MCA, is amended to read:

"20-7-903. Programs to serve gifted and talented children -- compliance with board policy -- funding. (1) The conduct of programs to serve gifted and talented children must comply with the policies recommended by the superintendent of public instruction and adopted by the board of public education after consultation with local school district boards of trustees.

(2) Proposals approved by the ~~superintendent of public instruction in accordance with policies of the~~ board of public education must be funded by money appropriated to the ~~superintendent~~ board for that purpose.

(3) A school district shall match funds provided by the ~~superintendent~~ board of public education for a gifted and talented children's program with equal funds from other sources. "In kind" contributions may not be used to constitute such a match. Funds must be administered by the school district as provided in 20-9-507.

(4) The ~~superintendent of public instruction~~ board of public education may deduct reasonable costs of administration from the funds appropriated for the purposes of this part."

Section 126. Section 20-7-904, MCA, is amended to read:

"20-7-904. Review and recommendations of proposals. (1) The policies of the board of public education must ~~assure~~ ensure that program proposals submitted by school districts to the ~~superintendent of public instruction~~ board contain:

(a) evidence that identification procedures are comprehensive and appropriate;

(b) a program description including stated needs and measurable objectives designed to meet those needs;

(c) evidence that the activities are appropriate and will serve to achieve the program objectives; and

(d) a method to evaluate the effectiveness of the program.

(2) School districts may request assistance from the staff of the ~~superintendent~~ board of public education in formulating program proposals.

(3) The ~~superintendent of public instruction~~ board of public education shall supervise and coordinate or assign a designee to supervise and coordinate the programs for gifted and talented children by:

(a) ~~recommending to the board of public education the adoption of~~ adopting those policies necessary to establish a planned and coordinated program; and

(b) establishing a procedure for review and approval of program proposals."

Section 127. Section 20-8-113, MCA, is amended to read:

"20-8-113. Duties of superintendent of school for the deaf and blind. The superintendent of the Montana school for the deaf and blind shall:

(1) administer the programs and functions of the school within the guidelines of statutes and under policies prescribed by the board of public education;

(2) prepare and submit reports, summaries, and other information requested by the board of public education;

(3) establish and pursue professional and technical contacts that will contribute information and guidance toward effective and efficient operation of the school;

(4) maintain effective liaison between the school, the ~~superintendent of public instruction~~ board of public education, local school districts, and other public and private agencies that have an interest in or influence upon the school;

(5) pursue a program of information for parents, professionals, and the general public."

Section 128. Section 20-9-102, MCA, is amended to read:

"20-9-102. General supervision of school budgeting system. The ~~superintendent of public instruction~~ board of public education has general supervision over the school budgeting procedure and provisions, as they relate to elementary and high school districts, prescribed by law and shall establish ~~such rules as that~~ such rules as that are necessary to secure compliance with the school budgeting laws."

Section 129. Section 20-9-103, MCA, is amended to read:

"20-9-103. School budget form. (1) The format of the school budget form ~~shall~~ must be prescribed by the ~~superintendent of public instruction~~ board of public education and ~~shall~~ must provide for proper school budgeting procedures in accordance with the budgeting requirements of this title and generally accepted accounting principles. The ~~superintendent of public instruction shall cause~~ board of public education shall ensure ~~that~~ a sufficient number of the budget forms ~~to be printed~~ are printed for use by all districts for each school fiscal year.

(2) Each district shall use the budget forms prescribed by the ~~superintendent of public instruction~~ board of public education, except that a district may in addition, with the approval of the ~~superintendent of public instruction~~ board of public education, use a more detailed form."

Section 130. Section 20-9-121, MCA, is amended to read:

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

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

(3) On or before July 10, the county treasurer shall deliver the statements of district and county fund cash balances and the bond information for each district to the county superintendent, who shall forward the information to each district."

Section 131. Section 20-9-134, MCA, is amended to read:

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

(1) send the final budget information to the ~~superintendent of public instruction~~ board of public education, on the forms provided by the ~~superintendent~~ board, on or before the second Monday in September; and

(2) in the case of the community college districts, send the final budget information to the board of regents, on the forms provided by the community college coordinator, on or before September 1."

Section 132. Section 20-9-141, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

(v) school district block grants distributed under section 244, Chapter 574, Laws of 2001.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general

fund BASE budget levy requirement.

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

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

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the ~~superintendent of public instruction~~ board of public education or its designee; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

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

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 133. Section 20-9-151, MCA, is amended to read:

"20-9-151. Budgeting procedure for joint districts. (1) The trustees of a joint district shall adopt a budget according to the school budgeting laws and send a copy of the budget to the county superintendent of each county in which a part of the joint district is located. After approval by the trustees of the joint district the final budgets of joint districts must be filed in the office of the county superintendent of each county in which a part of a joint district is located.

(2) The county superintendents receiving the budget of a joint district shall jointly compute the estimated budget revenue and determine the number of mills that need to be levied in the joint district for each fund for

which a levy is to be made. The ~~superintendent of public instruction~~ board of public education or its designee shall establish a communication procedure to facilitate the joint estimation of revenue and determination of the tax levies.

(3) After determining, in accordance with law and subject to 15-10-420, the number of mills that need to be levied for each fund included on the final budget of the joint district, a joint statement of the required mill levies must be prepared and signed by the county superintendents involved in the computation. A copy of the statement must be delivered to the board of county commissioners of each county in which a part of the joint district is located not later than the Friday immediately preceding the second Monday in August."

Section 134. Section 20-9-162, MCA, is amended to read:

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

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

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

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

(3) The trustees shall submit a budget amendment for an enrollment increase to the ~~superintendent of public instruction~~ board of public education or its designee for approval in the manner provided in 20-9-163."

Section 135. Section 20-9-163, MCA, is amended to read:

"20-9-163. Resolution for budget amendment -- petition to superintendent of public instruction board of public education. (1) Whenever the trustees of a district decide that a budget amendment is necessary because of an enrollment increase, they may petition the ~~superintendent of public instruction~~ board of public education to adopt a resolution for the budget amendment. The petition must be signed by a majority of the

trustees.

(2) The petition must state the facts constituting the need for the budget amendment, the estimated amount of money required to fund the budget amendment, the funds affected by the budget amendment, the anticipated source of financing for the budget amendment, and the current year enrollment.

(3) The ~~superintendent of public instruction~~ board of public education shall promptly approve or disapprove the petition requesting approval to adopt a resolution for a budget amendment because of increased enrollment. The ~~superintendent of public instruction~~ board of public education or its designee shall adjust the district's maximum general fund budget based on the approved enrollment increase. Upon approval, a district may not adopt a budget amendment if the amount will cause the district to exceed the district's adjusted maximum general fund budget. If the petition is approved, the trustees may adopt a resolution for a budget amendment and take all other steps required for the adoption of a budget amendment. Approval of a petition by the ~~superintendent of public instruction~~ board of public education authorizes the board of trustees to initiate a budget amendment by resolution and does not relieve the trustees of the necessity of complying with the requirements of the school budgeting laws. Approval of the petition may not be construed as approval of any subsequent application for increased state aid on account of the budget amendment."

Section 136. Section 20-9-165, MCA, is amended to read:

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

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

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

(b) divide the amount determined in subsection (2)(a) by the number of pupils originally enrolled in the district during the immediately preceding school fiscal year. The resulting cost per pupil is the maximum

permissible per-pupil expenditure in the budget amendment.

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

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

(3) For other types of budget amendments, the budget amendment is limited to the expenditures considered by the trustees to be reasonable and necessary to finance the conditions of the budget amendment and the final budget amendment must include the details of the proposed expenditures.

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

(5) After the trustees have adopted the budget amendment by a majority vote of the trustees, it must be signed by the presiding officer of the trustees and the clerk of the district and copies must be sent to the county superintendent and the ~~superintendent of public instruction~~ board of public education."

Section 137. Section 20-9-166, MCA, is amended to read:

"20-9-166. State financial aid for budget amendments. Whenever a final budget amendment has been adopted for the general fund to finance the cost of an amendment resulting from increased enrollment, the trustees may apply to the ~~superintendent of public instruction~~ board of public education for an increased payment from the state for direct state aid. Whenever a final budget amendment has been adopted for the transportation fund, the trustees may apply to the ~~superintendent of public instruction~~ board for an increased payment for state transportation reimbursement. The ~~superintendent of public instruction~~ board of public education shall adopt rules for the application. The ~~superintendent of public instruction~~ board of public education shall approve or disapprove each application for increased state aid made in accordance with 20-9-314 and this section. When the ~~superintendent of public instruction~~ board of public education approves an application, the ~~superintendent of public instruction~~ board shall determine the additional amount of direct state aid or the state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment or additional pupil transportation obligations. The ~~superintendent of public instruction~~ board of public education shall notify the applicant district of the ~~superintendent's~~ board's approval or disapproval and, in the event of approval,

the amount of additional state aid that will be made available for the general fund or the transportation fund. The ~~superintendent of public instruction~~ board of public education or its designee shall disburse the state aid to the eligible district at the time the next regular state aid payment is made."

Section 138. Section 20-9-201, MCA, is amended to read:

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

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

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

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The ~~superintendent of public instruction~~ board of public education has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The ~~superintendent of public instruction~~ board shall adopt rules necessary to secure compliance with the law.

(3) (a) Except as provided in subsection (3)(b) or as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to any fund considered appropriate by the trustees if the fund does not have a cash or fund balance deficit.

(b) If the trustees of a district determine that its tuition fund is inactive and will no longer be used, the trustees shall close the fund by transferring any cash and account balances to the district's miscellaneous programs fund if the tuition fund does not have a cash or fund balance deficit."

Section 139. Section 20-9-202, MCA, is amended to read:

"20-9-202. County officials for financial administration when joint district. (1) When all of the schools of the joint district are located in one county, the school financial administration duties assigned to county officials ~~shall~~ must be performed by those officials of the county ~~wherein~~ in which the schools of the district are located. When the schools of a joint district are located in more than one county, the ~~superintendent of public instruction~~ board of public education shall designate the county officials to perform ~~such the~~ duties for the joint district.

(2) The designated county treasurer ~~shall be~~ is the custodian of all joint district ~~moneys~~ money and shall perform all other duties of the county treasurer for the joint district. The ~~superintendent of public instruction~~ board of public education or its designee shall disburse all ~~moneys~~ money for a joint district to ~~such the~~ county treasurer."

Section 140. Section 20-9-203, MCA, is amended to read:

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

Section 141. Section 20-9-211, MCA, is amended to read:

"20-9-211. Annual financial report of county superintendent. No later than the second Monday in September of each school fiscal year, the county superintendent shall report to the ~~superintendent of public instruction~~ board of public education the financial activity during the preceding school fiscal year of each district of the county in accordance with the reporting requirements prescribed by the ~~superintendent of public instruction~~ board of public education. The reports must be prepared on forms provided by the ~~superintendent of public instruction~~ board."

Section 142. Section 20-9-212, MCA, is amended to read:

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

(1) must receive and shall hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts that are entitled to a portion of the money according to the apportionments ordered by the county superintendent or by the ~~superintendent of public instruction~~ board of

public education. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

- (a) the basic county tax for elementary equalization;
- (b) the basic county tax for high school equalization;
- (c) the county tax in support of the transportation schedules;
- (d) the county tax in support of the elementary and high school district retirement obligations; and
- (e) any other county tax for schools, including the community colleges, that may be authorized by law

and levied by the county commissioners.

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

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

(4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district school money;

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

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

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

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

(9) when directed by the trustees of a district, shall invest the money of the district within 3 working days of the direction;

(10) each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue

received, and the cash balance;

(11) shall remit promptly to the department of revenue receipts for the county tax for a vocational-technical program within a unit of the university system when levied by the board of county commissioners under the provisions of 20-25-439;

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

(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned and excluding any amount required for tuition paid under the provisions of 20-5-324(6) or (7), in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

Section 143. Section 20-9-213, MCA, is amended to read:

"20-9-213. Duties of trustees. The trustees of each district ~~have the authority to~~ may transact all fiscal business and execute all contracts in the name of the district. A person other than the trustees acting as a governing board may not expend money of the district. In conducting the fiscal business of the district, the trustees shall:

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

(2) authorize all expenditures of district money and cause warrants or checks, as applicable, to be issued for the payment of lawful obligations;

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

(4) invest any money of the district, whenever in the judgment of the trustees the investment would be

advantageous to the district, either by directing the county treasurer to invest any money of the district or by directly investing the money of the district in eligible securities, as identified in 7-6-202, in savings or time deposits in a state or national bank, building or loan association, savings and loan association, or credit union insured by the FDIC or NCUA located in the state, or in a repurchase agreement that meets the criteria provided for in 7-6-213. All interest collected on the deposits or investments must be credited to the fund from which the money was withdrawn, except that interest earned on account of the investment of money realized from the sale of bonds must be credited to the debt service fund or the building fund, at the discretion of the board of trustees. The placement of the investment by the county treasurer is not subject to ratable distribution laws and must be done in accordance with the directive from the board of trustees. A district may invest money under the state unified investment program established in Title 17, chapter 6, or in a unified investment program with the county treasurer, with other school districts, or with any other political subdivision if the unified investment program is limited to investments that meet the requirements of this subsection (4), including those investments authorized by the board of investments under Title 17, chapter 6. A school district that enters into a unified investment program with another school district or political subdivision other than the state shall do so under the auspices of and by complying with the provisions governing interlocal cooperative agreements authorized under Title 7, chapter 11, and educational cooperative agreements authorized under Title 20, chapter 9, part 7. A school district either shall contract for investment services with any company complying with the provisions of Title 30, chapter 10, or shall contract with the state board of investments for investment services.

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

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

(7) whenever requested, report any other fiscal activities to the county superintendent, ~~superintendent of public instruction~~, or board of public education;

(8) cause the accounting records of the district to be audited as required by 2-7-503; and

(9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the district."

Section 144. Section 20-9-220, MCA, is amended to read:

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

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

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

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

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

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

Section 145. Section 20-9-235, MCA, is amended to read:

"20-9-235. Authorization for school district investment account. (1) The trustees of a school district may establish investment accounts and may temporarily transfer into the accounts all or a portion of any of its budgeted or nonbudgeted funds. The trustees shall establish a separate account for each fund from which transfers are made.

(2) Money transferred into investment accounts established under this section may be expended from a subsidiary checking account under the conditions specified in subsection (3)(b).

(3) The district may either:

(a) establish and use the accounts as nonspending accounts to ensure that district funds remain in an interest-bearing status until money is reverted to the budgeted or nonbudgeted fund of original deposit as necessary for use by the county treasurer to pay claims against the district. The district shall ensure that sufficient money is reverted to the district's budgeted and nonbudgeted funds maintained by the county treasurer in sufficient time to pay all claims presented against the applicable funds of the district. The county treasurer shall accept all money that is reverted upon tendered transfer of the district.

(b) establish a subsidiary checking account for expenditures from the investment accounts. The district may write checks on or provide electronic payments from the account if:

(i) the payments made from the accounts representing budgeted funds are in compliance with the budget adopted by the trustees;

(ii) the accounts are subject to the audit of district finances completed for compliance with 2-7-503 and 20-9-503; and

(iii) the district complies with all accounting system requirements required by the ~~superintendent of public instruction~~ board of public education.

(4) (a) A district that chooses to establish a school district investment account described in this section shall enter into a written agreement with the county treasurer. The agreement must:

(i) establish specific procedures and reporting dates to comply with the requirements of subsection (3);

(ii) be binding upon the district and the county treasurer for a period of not less than 5 years;

(iii) be signed by the presiding officer of the board of trustees and the county treasurer; and

(iv) except as provided in subsection (4)(b), coincide with fiscal years beginning on July 1 and ending on June 30.

(b) An agreement that establishes a school district investment account for fiscal year 2002 must be entered into no later than October 1, 2001.

(c) The district and the county treasurer may renew an agreement, including terms and conditions on which they agree, provided that the terms and conditions comply with the provisions of this section.

(5) Except for electronic transfers of BASE aid and state advances for county equalization sent directly to a participating district's investment account under 20-9-346(3), the county treasurer shall, as required by law, continue to collect money and report to the districts that elect to establish a school district investment account.

(6) The trustees shall implement an accounting system for the investment account pursuant to rules adopted by the ~~superintendent of public instruction~~ board of public education. The rules for the accounting system must include but are not limited to:

(a) providing for the internal control of deposits into and transfers between a district's investment accounts and budgeted and nonbudgeted funds of the district;

(b) requiring that the principal and interest earned on the principal is allocated to the budgeted or nonbudgeted fund from which the deposit was originally made; and

(c) ensuring that other proper accounting principles are followed.

(7) All interest earned on the district's general fund deposits must be allocated for district property tax reduction as required by 20-9-141.

(8) In making deposits to investment accounts under this section, a district shall comply with the requirements of Title 17, chapter 6, part 1, with respect to deposits in excess of the amount insured by the federal deposit insurance corporation or the national credit union administration, as applicable.

(9) A district establishing investment accounts under the section shall pay the automated clearinghouse system charges for all automated clearinghouse transfers made by the ~~office of public instruction~~ board of public education to the district's accounts."

Section 146. Section 20-9-302, MCA, is amended to read:

"20-9-302. School isolation. (1) Except as provided in 20-6-502(4)(b), the trustees of any district operating an elementary school of less than 10 ANB or a high school of less than 25 ANB for 2 consecutive years shall apply to have the school classified as an isolated school. The application must be submitted by the trustees to the county superintendent by May 1 of the second consecutive year that enrollment falls below the amount specified in this subsection. The application must include:

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

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

(c) any other information prescribed by the ~~superintendent of public instruction~~ board of public education.

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

(3) When an application is approved, the county superintendent shall submit the application to the ~~superintendent of public instruction~~ board of public education before June 1. The ~~superintendent of public instruction~~ board shall approve or disapprove the application for isolated classification by the fourth Monday of June on the basis of the information supplied by the application or objective information the ~~superintendent of public instruction~~ board of public education may collect on the ~~superintendent's~~ its own initiative. An elementary or high school may not be considered an isolated school until the approval of the ~~superintendent of public instruction~~ board of public education has been received."

Section 147. Section 20-9-303, MCA, is amended to read:

"20-9-303. Nonisolated school BASE budget funding -- special education funds. (1) An elementary school that has an ANB of nine or fewer pupils for 2 consecutive years and that is not approved as an isolated school under the provisions of 20-9-302 may budget and spend the BASE budget amount, but the county and state shall provide one-half of the direct state aid, and the district shall finance the remaining one-half of the direct state aid by a tax levied on the property of the district. When a school of nine or fewer pupils is approved as isolated under the provisions of 20-9-302, the county and state shall participate in the financing of the total amount of the direct state aid.

(2) Funds provided to support the special education program may be expended only for special education purposes as approved by the ~~superintendent of public instruction~~ board of public education in accordance with the special education budgeting provisions of this title. Expenditures for special education must be accounted for separately from and in addition to the balance of the school district general fund budgeting requirements provided in 20-9-307 and 20-9-308. The amount of the special education allowable cost payments that is not matched with district funds, as required in 20-9-321, will reduce by a like amount the district's ensuing year's allowable cost payment for special education."

Section 148. Section 20-9-311, MCA, is amended to read:

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

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

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

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

(3) When a school district has approval to operate less than 180 school days under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

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

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at

a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

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

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

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

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

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

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

(iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317, or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

- (A) 75% of the basic entitlement for the fourth year;
- (B) 50% of the basic entitlement for the fifth year; and
- (C) 25% of the basic entitlement for the sixth year.

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

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

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

(9) The district shall provide the ~~superintendent of public instruction~~ board of public education with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the ~~superintendent~~ board."

Section 149. Section 20-9-313, MCA, is amended to read:

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

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

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

(3) a district anticipates an increase in the average number belonging due to the closing of a private or public school in the district or a neighboring district. The estimated increase in average number belonging must

be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the ~~superintendent of public instruction~~ board of public education no later than the fourth Monday in June.

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

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

(6) a high school district provides early graduation for a student who completes graduation requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The increase must be established by the trustees as though the student had attended to the end of the school fiscal year and must be approved, disapproved, or adjusted by the ~~superintendent of public instruction~~ board of public education."

Section 150. Section 20-9-314, MCA, is amended to read:

"20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an unusual enrollment increase by elementary or high school level to the ~~superintendent of public instruction~~ board of public education. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the estimated enrollment, including the factual information on which the estimate is based, as

provided in subsection (1); and

(e) any other information or data that may be requested by the ~~superintendent of public instruction~~ board of public education.

(3) The ~~superintendent of public instruction~~ board of public education or its designee shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment, the ~~superintendent of public instruction~~ board of public education or its designee shall:

(a) determine the percentage increase by which the estimated enrollment increase exceeds the current enrollment; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least 6%.

(4) The ~~superintendent of public instruction~~ board of public education shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the ~~superintendent of public instruction~~ board of public education, the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is the difference between the enrollment for the ensuing school fiscal year and 106% of the current enrollment. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement.

(6) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year. If the actual enrollment is less than the average number belonging used for BASE funding program and entitlement calculations, the ~~superintendent of public instruction~~ board of public education shall revise the total per-ANB entitlement and basic entitlement calculations using the actual average number belonging. All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4)."

Section 151. Section 20-9-321, MCA, is amended to read:

"20-9-321. Allowable cost payment for special education. (1) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the ~~superintendent of public instruction~~ board of public education or its designee shall determine the total special education payment

to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

- (a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;
- (b) a per-ANB amount for the special education instructional block grant;
- (c) a per-ANB amount for the special education-related services block grant;
- (d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate

for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the ~~superintendent of public instruction~~ board of public education to administer the provisions of this section.

(2) (a) The total special education allocation must be distributed according to the following formula:

- (i) 52.5% through instructional block grants;
- (ii) 17.5% through related services block grants;
- (iii) 25% to reimbursement of local districts; and
- (iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection (2)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection (2)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection (2)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection (4), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection (2)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the ~~office of public instruction~~ board of public education. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection (2)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the ~~superintendent of public instruction~~ board of public education.

(3) The ~~superintendent of public instruction~~ board of public education shall adopt rules necessary to implement this section.

(4) A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(5) The ~~superintendent of public instruction~~ board of public education or its designee shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(6) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the ~~superintendent of public instruction~~ board of public education for an advance on the reimbursement for the year in which the actual costs will be incurred."

Section 152. Section 20-9-335, MCA, is amended to read:

"20-9-335. Formula for apportionment of county equalization money. (1) The ~~superintendent of public instruction~~ board of public education or its designee shall calculate the apportionment of revenue available in the elementary and high school county equalization funds in accordance with the following procedure:

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

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

(2) The procedure in subsection (1) must also be applied for the high school direct state aid after the deduction of the county's obligation for tuition paid under the provisions of 20-5-324(6) and (7).

(3) Territory situated within a county may not be excluded from the calculations of the county equalization money under this section solely because the territory lies within the boundaries of a joint district. Cash balances to the credit of any district at the end of a school fiscal year may not be considered in the apportionment

procedure prescribed in this section.

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

Section 153. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for guaranteed tax base aid, BASE aid, state reimbursement for school facilities, and grants for school technology purchases; and

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

(2) The ~~superintendent of public instruction~~ board of public education may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

(3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

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

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.

(4) Beginning July 1, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) (i) subject to subsection (4)(a)(ii), interest and income money described in 20-9-341 and 20-9-342; and

(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

Section 154. Section 20-9-344, MCA, is amended to read:

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

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

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

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

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

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

(b) maintain accredited status.

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

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

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

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

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

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

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

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid.

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

Section 155. Section 20-9-346, MCA, is amended to read:

"20-9-346. Duties of superintendent of public instruction board of public education for state and county equalization aid distribution. The ~~superintendent of public instruction~~ board of public education or its designee shall administer the distribution of the state and county equalization aid by:

(1) establishing the annual entitlement of each district and county to state and county equalization aid, based on the data reported in the retirement, general fund, and debt service fund budgets for each district that have been adopted for the current school fiscal year and verified by the ~~superintendent of public instruction~~ board of public education or its designee;

(2) for the purposes of state advances and reimbursements for school facilities, limiting the distribution to no more than the amount appropriated for the school fiscal year to the districts that are eligible under the provisions of 20-9-366 through 20-9-371 by:

(a) determining the debt service payment obligation in each district for debt service on bonds that were sold as provided in 20-9-370(3) that qualify for a state advance or reimbursement for school facilities under the provisions of 20-9-366 through 20-9-369 and 20-9-370;

(b) based on the limitation of state equalization aid appropriated for debt service purposes, determining the state advance for school facilities and the proportionate share of state reimbursement for school facilities that each eligible district must receive for the school fiscal year; and

(c) distributing that amount by May 31 of each school fiscal year to each eligible district for reducing the property tax for the debt service fund for the ensuing school fiscal year;

(3) distributing by electronic transfer the BASE aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county for county equalization or to the county treasurer of the county where the district is located or to the investment account identified by the applicable district for BASE aid, ~~in accordance with the distribution ordered by the board of public education~~;

(4) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for BASE aid of the districts of the state; and

~~(5) reporting to the board of public education the estimated amount that will be available for state equalization aid; and~~

~~(6)~~(5) reporting to the office of budget and program planning, as provided in 17-7-111:

- (a) the figures and data available concerning distributions of state and county equalization aid during the preceding 2 school fiscal years;
- (b) the amount of state equalization aid then available;
- (c) the apportionment made of the available money but not yet distributed;
- (d) the latest estimate of accruals of money available for state equalization aid; and
- (e) the amount of state advances and repayment for county equalization."

Section 156. Section 20-9-347, MCA, is amended to read:

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

- (a) supply the county treasurer and the county superintendent with a monthly report of the payment of BASE aid in support of the BASE funding program of each district of the county;
- (b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that is no less than the amount anticipated to be raised for the elementary and high school county equalization funds as provided in 20-9-331 and 20-9-333; and
- (c) adopt rules to implement the provisions of subsection (1)(b).

(2) (a) The ~~superintendent of public instruction~~ board of public education or its designee is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(8).

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

- (3) The ~~superintendent of public instruction~~ board of public education shall:
 - (a) distribute special education allowable cost payments to districts; and
 - (b) supply the county treasurer and the county superintendent of schools with a report of payments for special education allowable costs to districts of the county."

Section 157. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in BASE aid. If the money available for BASE aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the guaranteed tax base aid required under 20-9-366 through 20-9-369 and BASE aid support determined under 20-9-347, the ~~superintendent of public instruction~~ board of public education shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high school districts for the current biennium."

Section 158. Section 20-9-369, MCA, is amended to read:

"20-9-369. Duties of ~~superintendent of public instruction~~ board of public education and department of revenue. (1) The ~~superintendent of public instruction~~ board of public education or its designee shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final statewide and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid and state advance and reimbursement for school facilities available to counties and districts for the ensuing school fiscal year;

(c) requiring each county and district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(d) keeping a record of the complete data concerning appropriations available for guaranteed tax base aid and the entitlements for the aid of the counties and districts that qualify;

(e) distributing the guaranteed tax base aid entitlement to each qualified county or district from the appropriations for that purpose.

(2) The ~~superintendent~~ board of public education shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the ~~superintendent of public instruction~~ board of public

education by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305.

(4) The ~~superintendent of public instruction~~ board of public education or its designee shall calculate the district and statewide guaranteed tax base ratios by applying the prior year's direct state aid payment."

Section 159. Section 20-9-371, MCA, is amended to read:

"20-9-371. Calculation and uses of school facility entitlement amount. (1) The state reimbursement for school facilities for a district is the percentage determined in 20-9-346(2)(b) times (1-(district mill value per ANB/statewide mill value per ANB)) times the lesser of the total school facility entitlement calculated under the provisions of 20-9-370 or the district's current year debt service obligations on bonds that qualify under the provisions of 20-9-370(3).

(2) The state advance for school facilities for a district is determined as follows:

(a) Calculate the percentage of the district's debt service payment that will be advanced by the state using the district ANB, the district mill value and the statewide mill value for the current year, and the percentage used to determine the proportionate share of state reimbursement for school facilities in the prior year.

(b) Multiply the percentage determined in subsection (2)(a) by the lesser of the total school facility entitlement calculated under the provisions of 20-9-370 or the district's current year debt service obligation for bonds to which the state advance applies.

(3) Within the available appropriation, the ~~superintendent of public instruction~~ board of public education shall first distribute to eligible districts the state advance for school facilities. From the remaining appropriation, the ~~superintendent~~ board shall distribute to eligible districts the state reimbursement for school facilities.

(4) The trustees of a district may apply the state reimbursement for school facilities to reduce the levy requirement in the ensuing school fiscal year for all outstanding bonded indebtedness on bonds sold in the debt service fund of the district after July 1, 1991. The trustees may apply the state advance for school facilities to reduce the levy requirement in the current school fiscal year for debt service payments on bonds to which the state advance for school facilities applies."

Section 160. Section 20-9-375, MCA, is amended to read:

"20-9-375. Aid for technology acquisition and depreciation, textbooks, library materials, and building maintenance. (1) The ~~superintendent of public instruction~~ board of public education shall allocate the

amount appropriated for technology acquisition and depreciation, textbooks, library materials, and building maintenance to each district based on the per-ANB of the district.

(2) The district may deposit the funds received under this section in the miscellaneous programs fund authorized in 20-9-507 or the technology acquisition and depreciation fund authorized in 20-9-533. Any portion of the funds deposited in the miscellaneous programs fund must be restricted for textbooks, library materials, and building maintenance. Any portion of the funds deposited in the technology acquisition and depreciation fund must be used consistent with the requirements of 20-9-533."

Section 161. Section 20-9-422, MCA, is amended to read:

"20-9-422. Additional requirements for trustees' resolution calling bond election. (1) In addition to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees' resolution calling a school district bond election must:

(a) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

(b) fix the maximum number of years in which the proposed bonds would be paid;

(c) in the case of initiation by a petition, state the essential facts about the petition and its presentation; and

(d) state the amount of the state advance for school facilities estimated, pursuant to subsection (2), to be received by the district in the first school fiscal year in which a debt service payment would be due on the proposed bonds.

(2) Prior to the adoption of the resolution calling for a school bond election, the trustees of a district may request from the ~~superintendent of public instruction~~ board of public education a statement of the estimated amount of state advance for school facilities that the district will receive for debt service payments on the proposed bonds in the first school fiscal year in which a debt service payment is due. The district shall provide the ~~superintendent~~ board of public education with an estimate of the debt service payment due in the first school fiscal year. The ~~superintendent~~ board of public education shall estimate the state advance for the bond issue pursuant to 20-9-371(2)."

Section 162. Section 20-9-466, MCA, is amended to read:

"20-9-466. School district bonds -- state loan -- qualifications for state loan. (1) The department of administration shall make a loan from the coal severance tax school bond contingency loan fund, established

in 17-5-703, to a school district in an amount equal to the principal and interest payment on qualifying bonds when due in accordance with the provisions contained in the bonds. In order to receive a loan, the school district must:

(a) have issued bonds between January 21, 1992, and January 1, 1993, pursuant to 20-9-421 through 20-9-464;

(b) be prevented from making principal and interest payments on the bonds because the debt service levy for the bonds:

(i) has been declared invalid or unenforceable under Article II, section 4, or Article X, section 1, of the Montana constitution by a final court order; or

(ii) is prevented by an injunction;

(c) have exhausted the debt service reserve for the bonds; and

(d) have complied with all the requirements for the bonds contained in 20-9-467 and this section.

(2) To qualify for the state loan described in subsection (1), a school district, before issuing its bonds, must have:

(a) received voter approval for bonds pursuant to 20-9-421;

(b) following voter approval, received a certificate of eligibility from the board of public education stating that ~~after consultation with the superintendent of public instruction~~, the board has determined that a minimum of 75% of the principal amount of the proposed bonds will be used to:

(i) restore, rebuild, or replace a destroyed or severely damaged school building;

(ii) correct one or more building deficiencies that affect the health and safety of school children;

(iii) correct one or more deficiencies that prevent the school district from meeting current accreditation standards; or

(iv) address any combination of circumstances described under subsections (2)(b)(i) through (2)(b)(iii);

and

(c) received a final certificate of allocation from the department of administration pursuant to subsection (5).

(3) The board of public education shall:

(a) maintain a record of the total principal amount of bonds for which certification has been issued; and

(b) immediately furnish to the department a copy of each certificate issued.

(4) Upon receipt of a copy of the certificate from the board of public education, the department shall temporarily allocate loan authority to the school district equal to the principal amount of bonds indicated in the board's certificate. The principal amount of bonds for which final certification is issued may be less than the

principal amount of bonds approved by the voters pursuant to subsection (2)(a).

(5) To obtain a final certificate of allocation, a school district shall provide the department, on a form provided by the department, the following information:

- (a) the tentative date of sale of the school district's bonds;
- (b) the principal amount of the bonds to be issued;
- (c) the name and addresses of bond counsel and the financial advisor; and
- (d) other information as requested by the department.

(6) Upon issuance of the bonds, a school district shall forward to the department a copy of the district's bond resolution, the final opinion of bond counsel on the bonds, and a schedule of principal and interest payments on the bonds to maturity. The bond resolution must include a covenant agreeing to:

(a) defend any lawsuit challenging the school district's authority to sell and issue the bonds and to levy a tax for payment of the principal of and interest on the bonds;

(b) provide to the department before August 1 of each year a report of the school district's outstanding principal balance as of the preceding June 30 on the bonds secured by state loans;

(c) refund the bonds on any normal call date if, during the term of the bonds, the school district can refund its bonds without the state loan security and without increasing its total debt service costs on the bonds; and

(d) enter into a contract with the department establishing a schedule to repay the state if the state loans the school district money to make payments on district bonds. Notwithstanding other provisions of law, the loan must be repaid by the school district at a rate equivalent to the average yield of the pooled investment fund established in 17-6-203(3), commonly known as the short-term investment pool, for the period of the loan. The loan must be repaid in full within 10 years from the date the first loan is issued to a school district. Repayment must be paid from the sources designated for repayment of the bonds or from any other revenue and assets of the school district, including state equalization funds currently distributed or which may be distributed to the district. Loan repayments received by the department must be deposited in the coal severance tax school bond contingency loan fund.

(7) The department shall maintain a record of the total principal amount of bonds secured by state loans.

(8) A school district issuing bonds subject to 20-9-467 and this section may apply to the attorney general for a determination as to whether its bonds are affected by a court order declaring that the bonds of another district are invalid or unenforceable.

(9) A school district whose authority to levy a property tax to pay principal of and interest on bonds has

been challenged shall, upon notification of the challenge, immediately notify the attorney general and the department."

Section 163. Section 20-9-501, MCA, is amended to read:

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

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

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

- (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:
 - (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;
 - (ii) oil and natural gas production taxes;
 - (iii) coal gross proceeds taxes under 15-23-703;
 - (iv) countywide school retirement block grants distributed under section 245, Chapter 574, Laws of 2001;
 - (v) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund

budget.

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

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

(4) The county superintendent shall:

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

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

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

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

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

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

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

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

(9) The levy for a community college district may be applied only to property within the district."

Section 164. Section 20-9-504, MCA, is amended to read:

"20-9-504. Extracurricular fund for pupil functions. (1) The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular money of a pupil organization of the school must be deposited and expended by check from a bank account maintained for the extracurricular fund.

(2) An accounting system for the extracurricular fund recommended by the ~~superintendent of public instruction~~ board of public education or its designee must be implemented by the trustees. The accounting system must provide for:

- (a) the internal control of the cash receipts and expenditures of the money; and
- (b) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function."

Section 165. Section 20-9-506, MCA, is amended to read:

"20-9-506. Budgeting and net levy requirement for nonoperating fund. (1) The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions of this title. ~~Such~~ The nonoperating budget ~~shall~~ must contain the nonoperating fund and, when appropriate, a debt service fund. The nonoperating budget form ~~shall~~ must be promulgated and distributed by the ~~superintendent of public instruction~~ board of public education or its designee under the provisions of 20-9-103.

(2) After the adoption of a final budget for the nonoperating fund, the county superintendent shall compute the net levy requirement for such fund by subtracting from the amount authorized by such budget the sum of:

- (a) the end-of-the-year cash balance of the nonoperating fund or, if it is the first year of nonoperation, the cash balance determined under the transfer provisions of 20-9-505;
- (b) the estimated state and county transportation reimbursements; and
- (c) any other ~~moneys~~ money that may become available during the ensuing school fiscal year.

(3) The county superintendent shall report the net nonoperating fund levy requirement and any net debt service fund levy requirement determined under the provisions of 20-9-439 to the county commissioners on the

fourth Monday of August, and ~~such~~ the levies shall ~~must~~ be made on the taxable property in the district by the county commissioners in accordance with 20-9-142."

Section 166. Section 20-9-507, MCA, is amended to read:

"20-9-507. Miscellaneous programs fund. (1) The trustees of a district receiving money from local, state, federal, or other sources provided in 20-5-324, other than money under the provisions of impact aid, as provided in 20 U.S.C. 7701, et seq., or federal money designated for deposit in a specific fund of the district, shall establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of miscellaneous program fund expenditures already realized by the district, indirect cost recoveries, the transfer of a fund balance from a tuition fund closed under 20-9-201, or a grant of money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the money is a reimbursement, the transfer of a tuition fund balance, or a local government severance tax payment, the money may be expended at the discretion of the trustees for school purposes. When the money is a grant, the money must be expended according to the conditions of the program approval by the ~~superintendent of public instruction~~ board of public education or any other approval agent. Within the miscellaneous programs fund, the trustees shall maintain a separate accounting for each local, state, or federal grant project, funds transferred from a closed tuition fund, and the indirect cost recoveries.

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

Section 167. Section 20-9-534, MCA, is amended to read:

"20-9-534. School technology purchases. By September 1, the ~~superintendent of public instruction~~ board of public education or its designee shall allocate the annual amount for grants for school technology purchases to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in 20-9-343 for the purposes of 20-9-533 in the prior fiscal year. The grants for school technology purchases are statutorily appropriated, as provided in 17-7-502."

Section 168. Section 20-9-542, MCA, is amended to read:

"20-9-542. School flexibility account -- distribution of funds. (1) There is a school flexibility account in the state special revenue fund. The ~~superintendent of public instruction~~ board of public education or its

designee shall allocate the money in the account, including any interest earned on money allocated to the account, to each school district. Each school district's total allocation is the sum of the district K-12 public school funding amount, the district large K-12 public school funding amount, and the district student funding amount.

(2) In addition to funds allocated or appropriated to the school flexibility account, all money saved by the state if the actual statewide ANB in a given fiscal year is less than the statewide ANB projected by the legislature during the preceding legislative session must be deposited in the school flexibility account."

Section 169. Section 20-9-603, MCA, is amended to read:

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

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

(3) All expenditures of ~~moneys~~ money from federal sources under this section ~~shall~~ must be made under the supervision and in the discretion of the ~~superintendent of public instruction~~ board of public education. Any balance in the account in which ~~such moneys are~~ the money is maintained ~~shall~~ may not lapse at any time but ~~shall~~ must be continuously available to the ~~superintendent of public instruction~~ board of public education for expenditures consistent with this title and acts of the federal government."

Section 170. Section 20-9-703, MCA, is amended to read:

"20-9-703. District as prime agency. (1) When the prime agency is a district, it is authorized and required to establish a nonbudgeted interlocal cooperative fund for the purpose of the financial administration of the interlocal cooperative agreement. All ~~revenues~~ revenue received, including federal, state, or other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies, ~~shall~~ must be deposited in ~~such~~ the fund. All financial support of the agreement contributed by a district designated as the prime agency may be transferred to the interlocal cooperative fund from any fund maintained by ~~such~~ the district by resolution of the trustees. Any ~~such~~ transfer to the interlocal cooperative fund ~~shall~~ must be used to finance those expenditures under the agreement ~~which~~ that are comparable to those that are permitted by law to be made out of the fund from which the transfer was made and ~~which~~ that are within the final budget for the fund from which the transfer was made. ~~No~~ A transfer ~~shall~~ may not be made from the miscellaneous federal programs fund without the express approval of the ~~superintendent of public instruction~~ board of public education or its designee.

(2) All expenditures in support of the interlocal cooperative agreement ~~shall~~ must be made from the interlocal cooperative fund established by the district which is the prime agency, except that expenditures in support of ~~such~~ the agreement may be made from the miscellaneous federal programs fund when the express approval of the ~~superintendent of public instruction~~ board of public education or its designee is given."

Section 171. Section 20-9-704, MCA, is amended to read:

"20-9-704. District as cooperating agency. (1) When a district is the cooperating agency, it shall transfer its financial support under the interlocal cooperative contract to the prime agency by district warrant.

(2) The financial support may be provided from (2) any fund maintained by the district. Any ~~such~~ fund utilized for the financial support of an interlocal cooperative agreement ~~shall~~ must finance only those expenditures of ~~such~~ the agreement that are comparable to those permitted under the statutory provisions creating ~~such~~ the fund, and ~~such~~ the financial support must be within the currently adopted budget for ~~such~~ the fund. ~~No financial~~ Financial support ~~shall~~ may not be financed from the miscellaneous federal programs fund without the express approval of the ~~superintendent of public instruction~~ board of public education or its designee."

Section 172. Section 20-9-705, MCA, is amended to read:

"20-9-705. Joint interstate school agreements. (1) The trustees of any district adjacent to another state may enter into a contract with a school district in ~~such~~ an adjoining state to provide for the joint erection,

operation, and maintenance of school facilities for both districts upon ~~such~~ terms and conditions as may be mutually agreed to by ~~such the~~ districts and ~~as that~~ are in accord with this section. Any ~~such~~ contract proposed for adoption by the trustees ~~shall~~ must be in the form and contain only terms that may be prescribed by the ~~superintendent of public instruction~~ board of public education, and any ~~such~~ contract ~~shall~~ must be approved by the ~~superintendent of public instruction~~ board before it is considered by the electors of the district.

(2) Before any contract negotiated under the provisions of this section ~~shall be is~~ executed, the trustees shall call an election under the provisions of 20-20-201 and submit to the qualified electors of the district the proposition that ~~such the~~ contract be approved and that the trustees execute ~~such the~~ contract. ~~No An~~ agreement ~~shall be is not~~ valid until it has been approved at an election. The electors at the election ~~shall~~ must be qualified to vote under the provisions of 20-20-301, and the election ~~shall~~ must be conducted under the school election provisions of this title. The ballot for the election ~~shall~~ must be substantially in the following form:

PROPOSITION

SCHOOL DISTRICT NO., COUNTY

Shall the trustees of this district be authorized and directed to execute the proposed contract with school district number of County, state of, for the purpose of (insert the purpose of ~~such the~~ contract)?

FOR execution of contract.

AGAINST execution of contract.

(3) The trustees of any district executing a contract under this section ~~shall have the power and authority to~~ may levy taxes and issue bonds for the purpose of erecting and maintaining the facilities authorized by this section. Furthermore, the facilities erected or maintained under this section may be located in either Montana or the adjoining state."

Section 173. Section 20-9-805, MCA, is amended to read:

"20-9-805. Rate of reduction in annual apportionment entitlement. (1) For each school day short of the minimum number of school days required by law that a school district fails to conduct by reason of one or more unforeseen emergencies as defined in 20-9-802, the ~~superintendent of public instruction~~ board of public education or its designee shall reduce the equalization apportionment and entitlement of the district for that school year by 1/180th.

(2) Kindergarten and grade 1 through 12 programs ~~shall~~ must be considered separately for the purpose

of computing compliance with minimum school day requirements and any loss of apportionment."

Section 174. Section 20-10-101, MCA, is amended to read:

"20-10-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Bus route" means a route approved by the board of trustees of a school district and by the county transportation committee.

(2) "Eligible transportee" means a public school pupil who:

(a) is 5 years of age or older and has not reached the age of 21 on or before September 10 of the current school year or who is a preschool child with a disability between the ages of 3 and 6;

(b) is a resident of the state of Montana;

(c) regardless of district and county boundaries:

(i) resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; or

(ii) has transportation identified as a related service in an individualized education program as developed and implemented in accordance with the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.; and

(d) is considered to reside with a parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

(3) "Passenger seating position" means, as defined in 49 CFR 571.222, the space on a school bus allocated for one passenger.

(4) (a) "School bus" means, except as provided in subsection (4)(b), any motor vehicle that:

(i) complies with the bus standards established by the board of public education as verified by the department of justice's semiannual inspection of school buses ~~and the superintendent of public instruction~~; and

(ii) is owned by a district or other public agency and operated for the transportation of pupils to or from school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to or from school.

(b) A school bus does not include a vehicle that is:

(i) privately owned and not operated for compensation under this title;

(ii) privately owned and operated for reimbursement under 20-10-142;

(iii) either district-owned or privately owned, designed to carry not more than nine passengers, and used

to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other emergency situations; or

(iv) an over-the-road passenger coach used only to transport pupils to activity events.

(5) "Transportation" means:

(a) a district's conveyance of a pupil by a school bus between the pupil's legal residence or an officially designated bus stop and the school designated by the trustees for the pupil's attendance; or

(b) "individual transportation" by which a district is relieved of actually conveying a pupil. Individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

(6) "Transportation service area" means the geographic area of responsibility for school bus transportation for each district that operates a school bus transportation program.

(7) "Weighted ridership" means the sum of the passenger points assigned to the eligible transportees who are transported on a bus route."

Section 175. Section 20-10-103, MCA, is amended to read:

"20-10-103. School bus driver qualifications. A driver of a school bus is qualified to drive a school bus if the driver:

(1) is not less than 18 years of age;

(2) is of good moral character;

(3) is the holder of a commercial driver's license;

(4) has filed with the district a satisfactory medical examination report, on a form approved by the United States department of transportation, signed by any physician licensed in the United States or, if acceptable to an insurance carrier, any licensed physician;

(5) has completed a basic first aid course and holds a valid basic first aid certificate from an authorized instructor. The issuance of the certificate is governed by rules established by the ~~superintendent of public instruction~~ board of public education, provided that the rules may suspend this requirement for a reasonable period of time if there has been an inadequate opportunity for securing the basic first aid course and certificate.

(6) has complied with any other qualifications established by the board of public education; and

(7) has filed with the county superintendent a certificate from the trustees of the district for which the school bus is to be driven, certifying compliance with the driver qualifications enumerated in this section."

Section 176. Section 20-10-104, MCA, is amended to read:

"20-10-104. Penalty for violating law or rules. (1) Every district, its trustees and employees, and every person under a transportation contract with a district is subject to the policies prescribed by the board of public education ~~and the rules prescribed by the superintendent of public instruction~~. When a district knowingly violates a transportation law or board of public education transportation policy, the district shall forfeit any reimbursement otherwise payable under 20-10-145 and 20-10-146 for any bus miles actually traveled during that fiscal year in violation of the law or policies.

(2) A district knowingly violates a transportation law or board of public education policy when it operates a bus route in a manner that does not comply with state law or board policy related to student safety. As provided in 20-10-141(1), a district that operates a bus route not approved by its county transportation committee may not receive transportation reimbursement on that route, but if the route is operated in compliance with transportation law, the operation of the routes is not a violation that will result in the forfeiture of all transportation aid to the district.

(3) The county superintendent shall suspend all reimbursements payable to the district under 20-10-145 and 20-10-146 for all miles being traveled, including both miles being traveled in compliance with the transportation laws or policies and miles being traveled in violation of the transportation laws or policies, until the district corrects the violation. When the district corrects the violation, the county superintendent shall pay all reimbursements otherwise payable under 20-10-145 and 20-10-146, including amounts suspended during the violation, but the amount forfeited under subsection (1) may not be paid to the district.

(4) When a person operating a bus under contract with a district knowingly fails to comply with the transportation law or the board of public education transportation policies, the district may not pay the person for any bus miles traveled during the contract year in violation of law or policies. Upon discovering a violation, the trustees of the district shall give written notice to the person that unless the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees of a district shall order the operation of a bus operated under contract suspended when the bus is being operated in violation of transportation law or policies and the trustees find that the violation jeopardizes the safety of pupils."

Section 177. Section 20-10-105, MCA, is amended to read:

"20-10-105. Determination of residence. When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the ~~superintendent of public instruction~~ board of public education, the residence must be established on the basis of the general state

residence law as provided in 1-1-215. Whenever a county is determined to be responsible for paying tuition for any pupil in accordance with 20-5-321 through 20-5-323, the residence of the pupil for tuition purposes is the residence of the pupil for transportation purposes."

Section 178. Section 20-10-106, MCA, is amended to read:

"20-10-106. Determination of mileage distances. When the mileage distance ~~that~~ for which transportation services are to be provided is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the ~~superintendent of public instruction~~ board of public education, the mileage ~~shall~~ must be established on the following basis:

- (1) The distance in mileage ~~shall~~ must be measured by a vehicle equipped with an accurate odometer.
- (2) A representative of the applicable district and a parent or guardian of the child to be transported ~~shall~~ must be present when the distance is measured.
- (3) The measurement ~~shall~~ must begin 6 yards from the family home and end 6 yards from the entrance of the school grounds closest to the route.
- (4) The route traversed for the measurement ~~shall~~ must be the route designated by the trustees, except that the route ~~shall~~ must be reasonably passable during the entire school fiscal year by the vehicle that provides the child's transportation. In determining reasonable passage, a route may not be disqualified because it is impassable during temporary, extreme weather conditions such as rains, snow, or floods."

Section 179. Section 20-10-111, MCA, is amended to read:

"20-10-111. Duties of board of public education. (1) The board of public education, with the advice of the Montana department of justice ~~and the superintendent of public instruction~~, shall adopt and enforce policies, not inconsistent with the motor vehicle laws, to provide uniform standards and regulations for the design, construction, and operation of school buses in the state of Montana. The policies must:

- (a) prescribe minimum standards for the design, construction, and operation of school buses consistent with:
 - (i) the recommendations adopted by the national conference on school transportation; and
 - (ii) the federal motor vehicle safety standards;
- (b) prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with:
 - (i) current specifications approved by the society of automobile engineers;

(ii) motor vehicle laws; and

(iii) the requirement that all school buses have an alternately flashing prewarning lighting system of four amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of four red signal lamps to be used while stopped in accordance with 61-9-402;

(c) establish other driver qualifications considered necessary in addition to the qualifications required in 20-10-103;

(d) prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee that shall allow for the establishment of service areas without regard to the district boundary lines within the county;

(e) prescribe other criteria for the determination of the residence of a pupil that may be considered necessary in addition to the criteria established in 20-10-105; and

(f) prescribe standards for the measurement of the child seating capacity of school buses, to be known as the rated capacity.

(2) The board of public education shall prescribe other policies necessary for the proper administration and operation of individual transportation programs that are consistent with the transportation provisions of this title."

Section 180. Section 20-10-121, MCA, is amended to read:

"20-10-121. Duty of trustees to provide transportation -- types of transportation -- bus riding time limitation. (1) The trustees of any district may furnish transportation to an eligible transportee who attends a school of the district or has been granted permission to attend a school outside of the district. Whenever the trustees of a district provide transportation for any eligible transportee, the trustees ~~must~~ shall provide all eligible transportees of the district with transportation. The trustees shall furnish transportation when directed to do so by the county transportation committee and ~~such the~~ the direction is upheld by the ~~superintendent of public instruction~~ board of public education.

(2) The tendering of a contract to the parent or guardian ~~whereby~~ under which the district would pay the parent or guardian for individually transporting the pupil or pupils ~~shall fulfill~~ fulfills the district's obligation to furnish transportation for an eligible transportee. The parent or guardian of an eligible transportee may, ~~at his discretion,~~ provide transportation or arrange for transportation for ~~his~~ the child at ~~his~~ the parent's or guardian's own expense to any district willing to accept ~~his~~ the child.

(3) The type of transportation provided by a district may be:

- (a) by a school bus; or
- (b) by ~~such~~ individual transportation, such as:
 - (i) paying the parent or guardian for individually transporting the pupil;
 - (ii) paying board and room reimbursements;
 - (iii) providing supervised correspondence study; or
 - (iv) providing supervised home study.

(4) When the parent or guardian of an elementary pupil consents to a trip of over 1 hour, the trustees may require ~~such~~ the eligible transportee to ride a school bus for more than 1 hour per trip."

Section 181. Section 20-10-124, MCA, is amended to read:

"20-10-124. Private party contract for transportation -- individual transportation contract. (1) When the trustees contract with any private party to provide transportation to eligible transportees, the private party shall comply with the regulations of the board of public education for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The trustees may require added safeguards by supplementing the board of public education policies in the contract with additional requirements for bus specifications, age of drivers, liability insurance, operating speed, or any other contractual condition considered necessary by the trustees.

(2) Any school bus transportation by a private party or individual transportation that is furnished by a district must be under contract, and district, county, or state money may not be paid for transportation services to any person or firm who does not hold a legal contract with the district. Transportation contracts for the ensuing year must be completed by the fourth Monday of June, except when an eligible transportee establishes residence in the district after the fourth Monday of June and a contingency amount is included in the regular transportation budget or an emergency transportation budget is adopted.

(3) Transportation contracts between a district and a private party for the provision of school bus transportation must:

- (a) be completed in triplicate, with one copy for the county superintendent, one copy for the private party, and one copy for the district;
 - (b) conform to the transportation law; and policies of the board of public education, ~~and rules of the superintendent of public instruction~~; and
 - (c) be signed by the presiding officer of the trustees and the private party.
- (4) A transportation contract between a parent or guardian of an eligible transportee and a district for

the provision of individual transportation is subject to the following requirements:

(a) it must be completed in quadruplicate, with one copy for the parent or guardian, one copy for the district, one copy for the county superintendent, and one copy for the ~~superintendent of public instruction~~ board of public education;

(b) it must be completed on forms promulgated by the ~~superintendent of public instruction~~ board of public education;

(c) the parent or guardian shall sign an affidavit attesting to the place of residence of the child or children; and

(d) it must be signed by the presiding officer of the trustees and the parent or guardian of the eligible transportees."

Section 182. Section 20-10-126, MCA, is amended to read:

"20-10-126. Establishment of transportation service areas. (1) The territory of a transportation service area is the territory of a school district unless the county transportation committee approves alternative boundaries after determining that the adjustments will improve pupil safety, transportation efficiency, or the cost-effectiveness of the pupil transportation system of the county.

(2) A district may not extend a bus route to transport pupils from outside its transportation service area unless the district has a written agreement with the district that the county transportation committee has assigned to transport the pupils.

(3) When the trustees of two or more districts enter into a written agreement to authorize transportation services among transportation service areas, a copy of the agreement must be submitted to the county superintendent and approved by the county transportation committee. Upon approval by the committee, the transportation agreements are valid for the current school year.

(4) The trustees of any district who object to a particular bus route or transportation service area to which the district has been assigned may request a transfer to another bus route or transportation service area. The county transportation committee may transfer the territory of the district to an adjacent transportation service area or approved bus route with the consent of the district providing transportation in the adjacent transportation service area.

(5) The trustees of any district who object to a bus route operated by another district may bring that route to the attention of the county transportation committee. If the committee agrees that the district is operating a portion of its route as an unapproved route outside of its district boundaries, the committee shall file with the

district a written warning concerning the unapproved route, and if the district, in spite of the warning, continues to operate the route, the committee may withdraw its approval of the entire route.

(6) If the qualified electors of the district object to the decision of the county transportation committee and the adjacent district is willing to provide school bus service, 20% of the qualified electors, as prescribed in 20-20-301, may petition the trustees to conduct an election on the proposition that the territory of the district be transferred for pupil transportation purposes to the adjacent transportation service area. If a satisfactory petition is presented to the trustees, the trustees shall call an election on the proposition in accordance with 20-20-201 for the next ensuing regular school election day. The election must be conducted in accordance with the school election laws. If a majority of those voting at the election approve the transfer, the transfer is effective on July 1 of the ensuing school fiscal year.

(7) Unless a transfer of territory from one transportation service area or approved bus route to another area or bus route is approved by the ~~superintendent of public instruction~~ board of public education or its designee and the county transportation committee, the state transportation reimbursement is limited to the reimbursement amount for pupil transportation to the nearest operating public elementary school or public high school, whichever is appropriate for the affected pupils."

Section 183. Section 20-10-128, MCA, is amended to read:

"20-10-128. Passenger count required for high school programs. (1) Each school district shall conduct a passenger count of the eligible transportees in the high school program who ride a school bus on the morning bus route for 5 consecutive school days beginning on the first school day on or after November 14. Eligible transportees who ride at least once in the 5-day period must be included in the count. The passenger count must be used to determine the weighted ridership of the bus route for reimbursement purposes.

(2) The district shall send the passenger count to the ~~superintendent of public instruction~~ board of public education, on forms provided by the ~~superintendent~~ board, on or before December 10. The district shall provide a copy of the passenger count to the county superintendent."

Section 184. Section 20-10-132, MCA, is amended to read:

"20-10-132. Duties of county transportation committee. (1) It is the duty of the county transportation committee to:

(a) establish the transportation service areas within the county, without regard to district boundary lines, for each district that operates a school bus transportation program;

(b) except as provided in subsection (2), approve, disapprove, or adjust the school bus routes submitted by the trustees of each district in conformity with the transportation service areas established in subsection (1)(a);

(c) approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation because of isolated conditions of the eligible transportee's residence;

(d) conduct hearings to establish the facts of transportation controversies that have been appealed from the decision of the trustees and act on the appeals on the basis of the facts established at the hearing; and

(e) determine if geographic conditions make it impractical for a child to attend school in the district of residence, in accordance with 20-5-321(1)(b).

(2) In an emergency situation, a temporary bus route change may be approved by the county superintendent. A bus route change approved by the county superintendent must be confirmed by the county transportation committee within 30 days in order to be continued for a period longer than 30 days.

(3) When the county transportation committee reviews a request for a new bus route or a change to an existing route, the committee shall consider the following:

(a) a map of the existing and proposed bus route;

(b) a description of turnarounds;

(c) conditions affecting safety;

(d) the total mileage and change in mileage of the affected bus route;

(e) the approximate total cost;

(f) reasons for the proposed bus route change;

(g) the number of children to be served;

(h) a copy of the official minutes of the meeting at which the school trustees approved the new bus route or route change; and

(i) any other information that the county transportation committee considers relevant.

(4) When an application for increased reimbursement for individual transportation is presented to the county transportation committee, it must include a signed individual transportation contract and a copy of the official minutes of the meeting at which the trustees acted upon the request for increased reimbursement.

(5) After a factfinding hearing and decision on a transportation controversy, the trustees or a patron of the district may appeal the decision to the ~~superintendent of public instruction who~~ board of public education, which shall issue a decision on the basis of the facts established at the county transportation committee hearing."

Section 185. Section 20-10-141, MCA, is amended to read:

"20-10-141. Schedule of maximum reimbursement by mileage rates. (1) The following mileage rates for school transportation constitute the maximum reimbursement to districts for school transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates may not limit the amount that a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal year. All bus miles traveled on bus routes approved by the county transportation committee are reimbursable. Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus miles within its own district or approved service area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the ~~superintendent of public instruction~~ board of public education or its designee.

(2) The rate per bus mile traveled must be determined in accordance with the following schedule when the weighted ridership assigned to a bus route is not less than one-half of the rated capacity of the school bus:

(a) 85 cents per bus mile for a school bus with a rated capacity of not more than 45 passenger seating positions; and

(b) when the rated capacity is more than 45 passenger seating positions, an additional 2.13 cents per bus mile for each additional passenger seating position in the rated capacity in excess of 45 must be added to a base rate of 85 cents per bus mile.

(3) Reimbursement for nonbus mileage provided for in subsection (1) may not exceed 50% of the maximum reimbursement rate determined under subsection (2).

(4) When the weighted ridership assigned to a bus route is less than one-half of the rated capacity of the school bus, the rate per bus mile traveled must be computed as follows:

(a) determine the weighted ridership assigned to the bus route;

(b) multiply the number determined in subsection (4)(a) by two; and

(c) use the adjusted rated capacity determined in subsection (4)(b) as the rated capacity of the bus to determine the rate per bus mile traveled from the rate schedule in subsection (2).

(5) The rated capacity is the number of passenger seating positions of a school bus as determined under the policy adopted by the board of public education. If modification of a school bus to accommodate pupils with disabilities reduces the rated capacity of the bus, the reimbursement to a district for pupil transportation is based on the rated capacity of the bus prior to modification.

(6) The number of pupils riding the school bus may not exceed the passenger seating positions of the bus."

Section 186. Section 20-10-142, MCA, is amended to read:

"20-10-142. Schedule of maximum reimbursement for individual transportation. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by 25 cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than 25

cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by 25 cents, provided that:

(a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the ~~superintendent of public instruction~~ board of public education or its designee after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the ~~superintendent of public instruction~~ board of public education, the trustees shall pay the increased rate because of isolation. The increased rate is 1 1/2 times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed \$9.25 for each day of attendance for the first eligible transportee and \$6 for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is \$9.25 for one eligible transportee and \$6 for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised

correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 187. Section 20-10-143, MCA, is amended to read:

"20-10-143. Budgeting for transportation and transmittal of transportation contracts. (1) The trustees of a district furnishing transportation to pupils who are residents of the district shall provide a transportation fund budget that is adequate to finance the district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget must include:

(a) an adequate amount to finance the maintenance and operation of school buses owned and operated by the district;

(b) the annual contracted amount for the maintenance and operation of school buses by a private party;

(c) the annual contracted amount for individual transportation, including any increased amount because of isolation, which may not exceed the schedule amounts prescribed in 20-10-142;

(d) any amount necessary for the purchase, rental, or insurance of school buses; and

(e) any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district, as determined by the trustees.

(2) The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill an obligation to provide transportation in accordance with this title for:

(a) pupils not residing in the district at the time of the adoption of the final budget and who subsequently became residents of the district during the school fiscal year;

(b) pupils who have become eligible transportees since the adoption of the final budget because their legal residence has been changed; or

(c) other unforeseen increases in bus route mileage or obligations for payment of additional contracts for individual transportation for an eligible transportee for which state and county reimbursement is authorized under 20-10-141 and 20-10-142. The budgeted contingency amount may not exceed 10% of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for all transportation services authorized by the schedules and provided by the district unless 10% of the transportation schedule amount is less than \$100, in which case \$100 is the maximum limitation for the budgeted contingency amount.

(3) A budget amendment to the transportation fund budget may be adopted subject to the provisions of 20-9-161 through 20-9-166.

(4) The trustees shall report the transportation fund budget on the regular budget form prescribed by the ~~superintendent of public instruction~~ board of public education in accordance with 20-9-103, and the adoption of the transportation fund budget must be completed in accordance with the school budgeting laws. When the adopted final budget is sent to the county superintendent, the trustees shall also send copies of all completed transportation contracts for school bus transportation to the county superintendent. The contracts must substantiate all contracted school bus transportation services incorporated in the final budget."

Section 188. Section 20-10-145, MCA, is amended to read:

"20-10-145. State transportation reimbursement. (1) A district providing school bus transportation or individual transportation in accordance with this title; and board of public education transportation policy; ~~and superintendent of public instruction transportation rules~~ must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement is one-half of the reimbursement amounts established in 20-10-141 and 20-10-142 or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the ~~superintendent of public instruction~~ board of public education. The claims for state transportation reimbursements must be routed by the district to the county superintendent, who after reviewing the claims shall send them to the ~~superintendent of public instruction~~ board of public education. The ~~superintendent of public instruction~~ board or its designee shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining compliance with this title; and board of public education transportation policy; ~~and the transportation rules of the superintendent of public instruction~~. After making any necessary adjustments to the claims, the ~~superintendent of public instruction~~ board of public education or its designee shall order a disbursement from the state money appropriated by the legislature of the state of Montana for the state transportation reimbursement. The payment of all the district's claims within one county must be made to the county treasurer of the county, and the county superintendent shall apportion the payment in accordance with the apportionment order supplied by the ~~superintendent of public instruction~~ board of public education or its designee.

(3) After adopting a budget amendment for the transportation fund in accordance with 20-9-161 through 20-9-166, the district shall send to the ~~superintendent of public instruction~~ board of public education a copy of each new or amended individual transportation contract and each new or amended bus route form to which the budget amendment applies. State reimbursement for the additional obligations must be paid as provided in subsection (1)."

Section 189. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title; and board of public education transportation policy; ~~and the transportation rules of the superintendent of public instruction~~ must be the same as the state transportation reimbursement payment, except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) anticipated local government severance tax payments for calendar year 1995 production;

- (iv) coal gross proceeds taxes under 15-23-703;
 - (v) countywide school transportation block grants distributed under section 246, Chapter 574, Laws of 2001;
 - (vi) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;
 - (vii) federal forest reserve funds allocated under the provisions of 17-3-213; and
 - (viii) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and
- (c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the fourth Monday of August by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

Section 190. Section 20-10-201, MCA, is amended to read:

"20-10-201. Acceptance, expenditure, and administration of federal school food services money.

(1) The ~~superintendent of public instruction~~ board of public education is authorized to accept and direct the disbursement of funds appropriated by act of congress and apportioned to the state for use in financing school food services. This authorization applies to federal funds available for school food services under the National School Lunch Act (Public Law 396, 79th congress, chapter 281, 2nd session), Child Nutrition Act of 1966 (Public Law 642, 89th Congress), any amendments to these public laws, and any other public laws enacted to provide assistance for school food services.

(2) The ~~superintendent of public instruction~~ board of public education shall deposit all federal funds for school food services with the state treasurer who shall credit the funds to the federal special revenue fund. Any disbursement of the federal school food services funds must be directed by the ~~superintendent of public instruction~~ board of public education or its designee.

(3) The ~~superintendent of public instruction~~ board of public education or its designee may:

(a) enter into agreements and cooperate with any federal agency, district, or other agency or person, prescribe regulations, employ personnel, and take any other action that the ~~superintendent of public instruction board~~ may consider necessary to:

- (i) provide for the establishment, operation, and expansion of school food services; and
- (ii) disburse federal and state funds according to the requirements of federal and state law;
- (b) give technical advice and assistance to any district establishing or operating school food services and assist in the training of personnel for the services;
- (c) accept any gift for use in providing school food services;
- (d) conduct studies of methods of improving and expanding school food services and appraise the nutritive benefits of school food services.

~~(4) The superintendent of public instruction shall report annually to the board of public education on the financial, administrative, and operational phases of school food services."~~

Section 191. Section 20-10-202, MCA, is amended to read:

"20-10-202. Records, reports, and reviews. (1) The ~~superintendent of public instruction~~ board of public education shall ~~prescribe regulations~~ adopt rules for keeping the financial and commodity records and making reports on school food services operated by a district. The financial records must be available for inspection and audit by federal and state officials authorized by law or contract to perform audits and be preserved for the period of time, not to exceed 5 years, that the ~~superintendent of public instruction board~~ may prescribe.

(2) The ~~superintendent of public instruction~~ board of public education shall conduct or cause to be conducted the inspections and administrative reviews of the financial records and the operation of school food services."

Section 192. Section 20-10-203, MCA, is amended to read:

"20-10-203. School food commodities. The ~~superintendent of public instruction~~ board of public education or its designee is authorized to accept food commodities from the federal government and to distribute the food commodities to any district or nonpublic school that contracts for such distribution. The ~~superintendent of public instruction board or its designee~~ may use for the shipping, handling, and other related costs of distributing the food commodities any funds ~~advanced by legislative appropriation~~ appropriated for the commodity state special revenue account. ~~Such~~ The distribution costs ~~shall~~ must be reimbursed by the participating districts and nonpublic schools. Those reimbursements ~~shall~~ must be returned to the fund from which payments for the

distribution costs were made."

Section 193. Section 20-10-204, MCA, is amended to read:

"20-10-204. Duties of trustees. (1) The trustees of any district offering school food services may:

(a) enter into contracts with the ~~superintendent of public instruction~~ board of public education for the purpose of obtaining funds, supplies and equipment, food commodities, and facilities necessary for the establishment, operation, and maintenance of the school food services;

(b) sell food to the pupils and adults participating in the school food services in accordance with the policies of the ~~superintendent of public instruction~~ board of public education;

(c) accept any gift for use of the school food services;

(d) allocate federal funds received in lieu of property taxation to the school food services fund in accordance with the provisions of 20-10-205; and

(e) adopt ~~such~~ policies for the operation of school food services ~~as that~~ that are consistent with the ~~regulations~~ policies of the ~~superintendent of public instruction~~ board of public education and with the laws of Montana.

(2) When the trustees of any district offer school food services, they shall establish a school food services fund for the deposit of proceeds from the sale of food, gifts, and other ~~moneys~~ money specified in this section and for the expenditure of ~~such moneys~~ money in support of the school food services."

Section 194. Section 20-10-206, MCA, is amended to read:

"20-10-206. Pupils in state institutional schools included. The provisions of 20-10-201 through 20-10-205 ~~shall~~ apply to pupils in state institutional schools meeting the requirements established by the ~~superintendent of public instruction~~ board of public education and the applicable federal laws and regulations."

Section 195. Section 20-10-208, MCA, is amended to read:

"20-10-208. (Temporary) School breakfast program. (1) It is the goal of the state of Montana to make available to all students a breakfast at the beginning of each school day.

(2) A school district that wishes to participate in the school breakfast program may apply to the ~~superintendent of public instruction~~ board of public education for startup funds to establish the program. If there is more than one school in the district, the trustees shall select the schools to be included in the program. The participating schools shall:

- (a) make the breakfast program available to all students within the school;
- (b) serve breakfasts that meet the federal nutrition standards provided in 7 CFR 220.8; and
- (c) provide free and reduced-price breakfasts to children determined eligible under 7 CFR 245.3.

(Terminates June 30, 2003--sec. 4, Ch. 437, L. 2001.)"

Section 196. Section 20-15-305, MCA, is amended to read:

"20-15-305. Adult education tax levy. A community college is considered a district for the purposes of adult education and under the provisions for adult education may, subject to 15-10-420, levy a tax for the support of its adult education program when the ~~superintendent of public instruction~~ board of public education approves the program."

Section 197. Section 20-20-102, MCA, is amended to read:

"20-20-102. Precedence of school election provisions. Except as otherwise provided in this title, school elections ~~shall~~ must be conducted and canvassed and the results ~~shall~~ must be returned in the same manner as provided for general elections in Title 13. ~~Should~~ If there be is a conflict between the requirements of Title 13 and the provisions of this title regulating school elections, the provisions of this title ~~shall~~ govern. The ~~superintendent of public instruction~~ board of public education may ~~make~~ adopt any necessary rules to clarify Title 13 provisions for use in school elections."

Section 198. Section 20-20-104, MCA, is amended to read:

"20-20-104. Forms. The forms necessary for school district elections ~~shall~~ must be the same as those prescribed by law or the secretary of state. The ~~superintendent of public instruction~~ board of public education or its designee may issue prescribed forms for school elections with any necessary revisions of prescribed or statutory forms."

Section 199. Section 20-20-108, MCA, is amended to read:

"20-20-108. Rescheduling of school election canceled due to declaration of state of emergency or disaster. If the governor declares a state of emergency or disaster under Title 10, chapter 3, a school election may be canceled by the county superintendent of schools or, in the absence of the county superintendent, by the ~~state superintendent of public instruction~~ board of public education or its designee. As soon as convenient after the declaration of a state of emergency or disaster is terminated, the trustees of the district shall set a new date

for the election. Notice of ~~such~~ the election ~~shall~~ must be published for 7 consecutive days in a newspaper of general circulation in the district and posted for 7 days at district polling places. Whenever the best interests of the district would be served, the trustees may give additional notice of the election through appropriate radio and television stations that serve the people of the district."

Section 200. Section 20-32-102, MCA, is amended to read:

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

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

(b) the ~~superintendent of public instruction~~ board of public education or its designee, with a supervisory role over the public system of elementary and high schools; and

(c) the commissioner of higher education, with responsibilities to the Montana university system and the community colleges.

(2) The responsibilities of the ~~superintendent of public instruction~~ board of public education or its designee to the network include but are not limited to:

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

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

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

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

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

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

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

(h) payment of the ~~superintendent's~~ board's share of the network costs to the department of

administration, as provided in 20-32-104;

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

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

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

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

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

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

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

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

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

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

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

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

(a) coordination of the use of the network among the units of higher education and with the ~~superintendent of public instruction~~ board of public education or its designee and the department of administration;

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

(c) coordination with the ~~superintendent of public instruction~~ board of public education or its designee to develop advance placement courses for high school students in Montana, teacher inservice training, and other

services and instruction through the network;

(d) assistance to the units of the Montana university system and the community colleges in defining their specific needs for interfacing with the network;

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

(f) determination of the kinds of equipment, inservice, and accounting necessary to implement the provisions of this part for the university system and community colleges."

Section 201. Section 20-32-104, MCA, is amended to read:

"20-32-104. Apportionment of costs. ~~The superintendent of public instruction~~ board of public education and the commissioner of higher education shall share on a prorated basis according to the related student counts any costs incurred by the department of administration for the purposes of 20-32-102(3)."

Section 202. Section 22-1-101, MCA, is amended to read:

"22-1-101. State library commission established. (1) There is a state library commission.

(2) This commission is composed of the following members:

(a) ~~the state superintendent of public instruction~~ a member of the board of public education or ~~his~~ its designee;

(b) five persons appointed by the governor, who shall serve staggered terms of 3 years; and

(c) a librarian appointed by the commissioner of higher education from one of the six units of the Montana university system, who shall serve a term of 3 years.

(3) The commission shall annually elect a ~~chairman~~ presiding officer from its membership.

(4) The members of ~~said the~~ the commission ~~shall~~ must be compensated and receive travel expenses as provided for in 2-15-124."

Section 203. Section 32-3-106, MCA, is amended to read:

"32-3-106. Instruction in schools. With the consent and under the direction of the ~~state superintendent of public instruction~~ board of public education, the organization, management, and extension of credit unions as set forth in this chapter may be taught in the public schools of this state."

Section 204. Section 37-8-405, MCA, is amended to read:

"37-8-405. Professional nursing -- qualifications of applicants for license. An applicant for a license to practice as a registered professional nurse shall submit to the department written evidence, verified by oath, that the applicant:

- (1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the ~~office of the superintendent of public instruction~~ board of public education;
- (2) has completed the basic professional curriculum in an approved school of nursing and holds a diploma ~~therefrom~~ from the school; and
- (3) meets other qualification requirements the board prescribes."

Section 205. Section 37-8-415, MCA, is amended to read:

"37-8-415. Licensed practical nursing -- qualifications of applicants. An applicant for a license to practice as a licensed practical nurse shall submit to the board written evidence, verified by oath, that the applicant:

- (1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the ~~office of the superintendent of public instruction~~ board of public education;
- (2) is a graduate of an approved practical nursing education program that is authorized to prepare persons for licensure as practical nurses; and
- (3) meets other qualification requirements the board prescribes in its rules."

Section 206. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a person may practice manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology. Before a person may practice esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be less than 18 years of age, must be of good moral character, and must possess a high school diploma or the equivalent of a high school diploma recognized by the ~~superintendent of public instruction~~ board of public education. A person may apply to the board of cosmetology for an exception to the educational requirement of a high school diploma or the equivalent of a high school diploma. The board of cosmetology shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a registered

cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board of cosmetology.

(b) A person qualified under subsection (2)(a) shall file with the department a written application to take the examination and shall deposit with the department the required examination fee and pass an examination as to fitness to practice cosmetology.

(3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of a high school diploma recognized by the ~~superintendent of public instruction~~ board of public education, or a certificate of completion from a vocational-technical program; and must have completed a course of study prescribed by the board in a registered school of cosmetology or a registered school of manicuring. A person may apply to the board of cosmetology for an exception to the educational requirement of a high school diploma, the equivalent of a high school diploma, or a vocational-technical program certificate of completion. The board of cosmetology shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (3)(a) shall file with the department a written application to take the examination and deposit with the department the required examination fee.

(4) (a) To be eligible to take the examination to practice esthetics, an applicant:

(i) may not be under 18 years of age;

(ii) must be of good moral character;

(iii) must possess a high school diploma, the equivalent of a high school diploma recognized by the ~~superintendent of public instruction~~ board of public education, or a certificate of completion from a vocational-technical program; and

(iv) must have completed a course of study prescribed by the board of cosmetology and consisting of not less than 650 hours of training and instruction in a registered school of cosmetology or a registered school of esthetics. A person may apply to the board of cosmetology for an exception to the educational requirement of a high school diploma, the equivalent of a high school diploma, or a vocational-technical program certificate of completion. The board of cosmetology shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (4)(a) shall:

(i) file with the department a written application to take the examination;

(ii) deposit with the department the required examination fee; and

(iii) pass an examination as to fitness to practice esthetics."

Section 207. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics, or to teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

(2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the ~~superintendent of public instruction~~ board of public education; and

(b) (i) have a license to practice cosmetology issued by the department and have received a diploma from a registered school of cosmetology approved by the board of cosmetology, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach manicuring.

(4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the ~~superintendent of public instruction~~ board of public education; and

(b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.

(6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the ~~superintendent of public instruction~~ board of public education; and

(b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory completion of 650

hours of student teacher training; or

(ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination."

Section 208. Section 39-10-104, MCA, is amended to read:

"39-10-104. (Temporary) Program administration. (1) The department of labor and industry shall administer the natural resource workers' education program and shall adopt rules to implement the requirements of this part, including but not limited to:

(a) procedures regarding the application process for eligible individuals to obtain tuition and notification of the ~~office of public instruction~~ board of public education, the board of regents, community colleges, tribal colleges, and the state job service of all criteria, procedures, and timelines;

(b) procedures for disbursement of tuition scholarships and for developing a formula for proration of scholarships from the natural resource workers' tuition scholarship account established in 39-10-106 to the ~~office of public instruction~~ board of public education, community colleges, tribal colleges, or the board of regents to pay for tuition scholarships awarded to eligible individuals; and

(c) procedures to limit the training available to each eligible individual to a maximum of 2 years.

(2) Before the registration period each semester, the department of labor and industry shall:

(a) submit to the ~~office of public instruction~~ board of public education, community colleges, tribal colleges, and the board of regents the names of those who have applied for the program and have met the eligibility requirements prescribed in 39-10-105; and

(b) transmit from the natural resource workers' tuition scholarship account to the ~~office of public instruction~~ board of public education, community colleges, tribal colleges, or the board of regents the total amount necessary for payment of all tuition scholarships. The ~~office of public instruction~~ board of public education or the board of regents shall transmit the payment for each scholarship to the financial officer of the school district or the unit of the university system in which the eligible student is enrolled.

(c) enter into a contract or state-tribal cooperative agreement, pursuant to Title 18, chapter 11, with tribal governments to provide the department with information required under this section for participation in the program.

(3) Within 30 days after the end of registration each semester, the school district, community college, tribal college, or unit of the university system shall certify to the ~~superintendent of public instruction~~ board of public education, the board of regents, or the department, as applicable, the eligibility status of each individual who

receives a tuition scholarship. After the end of the drop and add period, the school district, community college, tribal college, or unit of the university system is not required to reevaluate or revise an individual's eligibility status, but shall make a refund to the department of labor and industry if a student who receives a scholarship terminates enrollment for any reason during an academic term.

(4) A school district, community college, tribal college, or unit of the university system that receives a tuition scholarship payment shall prepare and submit to the department of labor and industry by March 1 of each year a report that includes an audit of the district's, college's, or unit's administration of the tuition scholarships and a complete accounting of the tuition funds.

(5) If a tuition scholarship recipient transfers from one school district, community college, tribal college, or unit of the university system to another and continues to meet eligibility requirements, the tuition scholarship must be transferred with the recipient.

(6) A tuition scholarship recipient may apply the tuition scholarship to any training, certificate, or degree program offered at a community college, tribal college, or unit of the university system.

(7) By June 30 of each even-numbered year, the department of labor and industry shall report the following to the legislative finance committee:

- (a) the number of persons participating in the program;
- (b) the training, certificate, or degree program in which each participant is enrolled or that each participant has completed and the location of the program;
- (c) the number of job placements and the average salary received; and
- (d) the agency costs associated with administering the program. (Terminates June 30, 2007--sec. 10, Ch. 586, L. 2001.)"

Section 209. Section 39-10-105, MCA, is amended to read:

"39-10-105. (Temporary) Eligibility requirements. (1) To be eligible to receive a tuition scholarship through the natural resource workers' education program, an individual seeking a general educational development equivalency diploma through a program approved for funding by the ~~superintendent of public instruction~~ board of public education or enrolled in a training, certificate, or degree program offered at a community college or tribal college located in Montana or a unit of the Montana university system, as identified in 20-25-201, must:

- (a) be classified as a Montana resident for in-state tuition at the time of application;
- (b) have proof of employment through pay stubs, W-2 records, or records of the department of labor and

industry that the individual was employed as a full-time, permanent employee for a minimum of 3 years in succession in a natural resource industry located in Montana; and

(c) have been unemployed in a natural resource industry due to a closure or a permanent reduction in force occurring on or after January 1, 1998, by an employer in a natural resource industry located in Montana. A worker who has been affected only by a temporary or seasonal layoff is not eligible for a tuition scholarship.

(2) An individual who meets the requirements of subsection (1) and who is seeking a general educational development equivalency diploma shall enroll in a program that has been approved for funding by the ~~office of public instruction~~ board of public education.

(3) An individual who meets the requirements of subsection (1) and who is seeking a scholarship for a training or certificate program shall enroll in a program that has been approved by a community college, tribal college, or unit of the university system.

(4) A freshman student who meets the requirements of subsection (1) and has been admitted, enrolled, or classified as an undergraduate student in a matriculated status is eligible to receive a retroactive scholarship to be paid at the end of the freshman year if the student earns a cumulative grade point average of at least 2.0 at the end of the school term in which the student attempted 30 semester hours.

(5) To be eligible to receive a scholarship, a sophomore student seeking an associate or baccalaureate degree at a postsecondary institution must meet the requirements of subsection (1) and:

(a) must have attempted a minimum of 30 semester hours at a postsecondary school;

(b) must have earned a cumulative grade point average of at least 2.0 at the end of the school term in which the student attempted 30 semester hours;

(c) must have maintained satisfactory academic progress in a course of study pursuant to the standards and practices used for federal Title IV programs by the postsecondary institution in which the student is enrolled; and

(d) must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status.

(6) To be eligible to receive a scholarship, a junior student seeking a baccalaureate degree at a postsecondary institution must meet the requirements of subsection (1) and:

(a) must have earned a cumulative grade point average of at least 2.0 at the end of the school term in which the student attempted 60 semester hours;

(b) must have maintained satisfactory academic progress in a course of study pursuant to standards and practices used for federal Title IV programs by the postsecondary institution in which the student is enrolled; and

(c) must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status.

(7) To be eligible to receive a scholarship, a senior student seeking a baccalaureate degree at a postsecondary institution must meet the requirements of subsection (1) and:

(a) must have earned a cumulative grade point average of at least 2.0 at the end of the school term in which the student attempted 90 semester hours;

(b) must have maintained satisfactory academic progress in a course of study pursuant to the standards and practices used for federal Title IV programs by the postsecondary institution in which the student is enrolled; and

(c) must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status.

(8) If a student fails to maintain a cumulative grade point average of at least 2.0 at the end of the school term in which the student attempted 30 semester hours, the scholarship is terminated.

(9) An otherwise eligible student who regains a cumulative grade point average of at least 2.0 at the end of a school term in which the student attempted 60 semester hours may requalify for a scholarship.

(10) A student is ineligible to receive a scholarship if the student:

(a) if a male, failed to meet the federal Title IV selective service system registration requirements;

(b) is in default on a federal Title IV or state of Montana educational loan or owes a refund on a federal Title IV or state of Montana student financial aid program;

(c) has been convicted for committing certain felony offenses involving marijuana, controlled substances, or dangerous drugs; or

(d) is incarcerated. Upon release, the student may begin receiving scholarship payments if the student meets all other eligibility requirements. If approved by the board of regents, credits earned during incarceration may be counted toward eligibility. (Terminates June 30, 2007--sec. 10, Ch. 586, L. 2001.)"

Section 210. Section 39-10-106, MCA, is amended to read:

"39-10-106. (Temporary) Natural resource workers' tuition scholarship account -- proration of tuition scholarships. (1) There is a natural resource workers' tuition scholarship account in the state special revenue fund provided for in 17-2-102.

(2) Money received by the department of labor and industry from private donations or grants must be deposited into the account and expended to fund tuition scholarships and to pay costs associated with

administering the program prior to expenditure of money allocated and deposited in the account from the resource indemnity and ground water assessment taxes pursuant to subsection (3).

(3) Money allocated from the resource indemnity and ground water assessment taxes under 15-38-106 must be deposited into the account to the credit of the department of labor and industry to fund tuition scholarships awarded pursuant to this part. The department shall transfer funds to the adult education account in the ~~office of public instruction~~ board of public education, to the appropriate fund in a community college or tribal college located in Montana, or to the appropriate tuition fund in the appropriate unit of the university system.

(4) Money on deposit in the account may not revert to the general fund at the close of any fiscal year. After the initial allocation of money from 15-38-106 in the first year following July 1, 2001, the amount of money allocated under 15-38-106 at the beginning of each succeeding fiscal year may be only the amount necessary to restore the balance of the scholarship to \$150,000, including any private donations or grants.

(5) If funds appropriated are not adequate to provide the maximum allowable tuition scholarships to each eligible individual, the tuition scholarships must be prorated for all eligible individuals, using a percentage reduction adopted by the department of labor and industry. (Terminates June 30, 2007--sec. 10, Ch. 586, L. 2001.)"

Section 211. Section 41-2-115, MCA, is amended to read:

"41-2-115. Working hours. (1) Unless otherwise exempt or as provided in subsection (2), a minor who is 14 or 15 years of age:

(a) may not be employed before 7 a.m. or after 7 p.m., except that the minor may be employed until 9 p.m. during periods outside the school year (June 1 through Labor Day, depending on local standards); or

(b) may not be employed more than:

(i) 3 hours on a school day;

(ii) 18 hours in a school week;

(iii) 8 hours on a nonschool day; or

(iv) 40 hours in a week in a nonschool week.

(2) A minor who is 14 or 15 years of age and who is enrolled in and employed pursuant to a school-supervised and school-administered work experience or career exploration program approved by the department or the ~~office of public instruction~~ board of public education may be employed up to 23 hours in 1 week when the program is in session, any portion of which may be during school hours."

Section 212. Section 41-5-1523, MCA, is amended to read:

"41-5-1523. Commitment to department -- supervision. (1) A youth placed in a state youth correctional facility or other facility or program operated by the department or who signs a parole agreement under 52-5-126 must be supervised by the department.

(2) A youth who is placed in any private, out-of-home, residential placement by the youth court or the youth court's juvenile probation officer must be supervised by the probation officer of the youth court having jurisdiction over the youth under 41-5-205, whether or not the youth is committed to the department for purposes of funding a private, out-of-home, residential placement. Supervision by the youth probation officer includes but is not limited to:

(a) submitting information and documentation necessary for the person, committee, or team that is making the placement recommendation to determine an appropriate placement for the youth;

(b) securing approval for payment of special education costs from the youth's school district of residence or the ~~office of public instruction~~ board of public education, as required in Title 20, chapter 7, part 4;

(c) submitting an application to a facility in which the youth may be placed; and

(d) case management of the youth while in a private, out-of-home, residential placement and upon release until discharged by the department."

Section 213. Section 44-2-503, MCA, is amended to read:

"44-2-503. Missing children information program. (1) The department of justice shall establish a missing children information program to create a central repository to aid in the location of missing children in Montana.

(2) The missing children information program shall:

(a) establish a system of intrastate communication of information relating to any child determined to be missing by the parent, guardian, or legal custodian of the child or by a law enforcement authority;

(b) provide a centralized file for the exchange of information on missing children within the state, including information obtained under the provisions of 44-2-401;

(c) interface with the national crime information center computer system for exchange of information on children suspected of interstate travel; and

(d) provide the ~~superintendent of public instruction~~ board of public education or its designee each month with a list of missing Montana school children for the purposes of 44-2-506."

Section 214. Section 44-2-506, MCA, is amended to read:

"44-2-506. List of missing Montana school children. (1) ~~The superintendent of public instruction board of public education or its designee~~ shall assist the missing children information program provided for in 44-2-503 in identifying and locating missing children who are enrolled in Montana public school districts in kindergarten through grade 12 by:

(a) collecting each month a list of missing Montana school children as provided by the missing children information program provided for in 44-2-503;

(b) distributing the list of missing school children on a monthly basis, unless the list has no change from the previous month's information, to all school districts admitting children to kindergarten through grade 12;

(c) designing the list to include pertinent available information for identification of the missing school child, including if possible a recent photograph of the child; and

(d) notifying the appropriate law enforcement agency and the missing children information program as soon as any additional information is obtained or contact is made with respect to a missing school child.

(2) Each school district in Montana shall:

(a) distribute to each school building within the district the list of missing school children provided for in subsection (1); and

(b) notify the appropriate law enforcement agency at the earliest known contact with any child whose name appears on the list of missing school children."

Section 215. Section 50-1-202, MCA, is amended to read:

"50-1-202. General powers and duties. The department shall:

(1) study conditions affecting the citizens of the state by making use of birth, death, and sickness records;

(2) make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;

(3) at the request of the governor, administer any federal health program for which responsibilities are delegated to states;

(4) inspect and work in conjunction with custodial institutions and Montana university system units periodically as necessary and at other times on request of the governor;

(5) after each inspection made under subsection (4), submit a written report on sanitary conditions to the governor and to the director of the department of corrections or the commissioner of higher education and

include recommendations for improvement in conditions if necessary;

(6) advise state agencies on location, drainage, water supply, disposal of excreta, heating, plumbing, sewer systems, and ventilation of public buildings;

(7) develop and administer activities for the protection and improvement of dental health and supervise dentists employed by the state, local boards of health, or schools;

(8) develop, adopt, and administer rules setting standards for participation in and operation of programs to protect the health of mothers and children, which rules may include programs for nutrition, family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public Health Service Act and Title V of the federal Social Security Act;

(9) conduct health education programs;

(10) provide consultation to school and local community health nurses in the performance of their duties;

(11) consult with the ~~superintendent of public instruction~~ board of public education or its designee on health measures for schools;

(12) develop, adopt, and administer rules setting standards for a program to provide services to children with disabilities, including standards for:

(a) diagnosis;

(b) medical, surgical, and corrective treatment;

(c) aftercare and related services; and

(d) eligibility;

(13) provide consultation to local boards of health;

(14) bring actions in court for the enforcement of the health laws and defend actions brought against the board or department;

(15) accept and expend federal funds available for public health services;

(16) have the power to use personnel of local departments of health to assist in the administration of laws relating to public health;

(17) adopt rules imposing fees for the tests and services performed by the department's laboratory. Fees should reflect the actual costs of the tests or services provided. The department may not establish fees exceeding the costs incurred in performing tests and services. All fees must be deposited in the state special revenue fund for the use of the department in performing tests and services.

(18) adopt and enforce rules regarding the definition of communicable diseases and the reporting and control of communicable diseases;

(19) adopt and enforce rules regarding the transportation of dead human bodies;

(20) adopt and enforce rules and standards concerning the issuance of licenses to laboratories that conduct analysis of public water supply systems; and

(21) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116, including regulation of premises, equipment, and methods of operation, solely oriented to the protection of public health and the prevention of communicable disease."

Section 216. Section 52-2-202, MCA, is amended to read:

"52-2-202. Definitions. For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Children with multiagency service needs" means children under 18 years of age who have a need for services that are available from more than one state agency.

(2) "Services" means publicly funded social services for children, including public education, child protective services, mental health services, child health care, and related services.

(3) "State agency" means:

(a) the department of corrections provided for in 2-15-2301;

(b) the board of crime control provided for in 2-15-2006;

(c) the department of public health and human services provided for in 2-15-2201; and

(d) the ~~superintendent of public instruction provided for in 2-15-701~~ board of public education provided for in 2-15-1507."

Section 217. Section 52-2-303, MCA, is amended to read:

"52-2-303. Multiagency service placement plan committee -- membership -- administration. (1)

There is a multiagency service placement plan committee.

(2) The committee is composed of the following members:

(a) an appointee of the director of the department of public health and human services;

(b) an appointee of the ~~superintendent of public instruction~~ board of public education; and

(c) an appointee of the director of the department of corrections.

(3) The committee is attached to the department of public health and human services for administrative purposes only as provided in 2-15-121.

(4) Except as provided in this section, the committee must be administered in accordance with 2-15-122."

Section 218. Section 52-2-731, MCA, is amended to read:

"52-2-731. Standards for day care. In developing standards, the department shall seek the advice and assistance of the ~~superintendent of public instruction~~ board of public education, representatives of day-care facilities, specialists in child care, and representatives of parent groups who use the services of day-care facilities.

The standards may pertain to:

(1) character, suitability, and qualifications of an applicant and other persons directly responsible for the care of children;

(2) the number of individuals or staff required for adequate supervision and care of children in day-care facilities;

(3) child-care programs and practices necessary to ensure the health, safety, safety in transportation, development, and well-being of children;

(4) adequate and appropriate admission policies;

(5) adequacy of physical facilities and equipment;

(6) general financial ability and competence of an applicant to provide necessary care for children and maintain prescribed standards;

(7) the ages and numbers of children that may be cared for in a day-care facility."

Section 219. Section 53-2-1203, MCA, is amended to read:

"53-2-1203. State workforce investment board -- membership -- duties. (1) There is a state workforce investment board.

(2) The state board consists of:

(a) the governor or a person designated by the governor to act on behalf of the governor;

(b) two members of the house of representatives, each from a different political party, and two members of the senate, each from a different political party, appointed by the presiding officer of each respective chamber; and

(c) individuals appointed by the governor, including:

(i) representatives of businesses located in Montana who:

(A) are owners of businesses, chief executive or operating officers, and other business executives or employers with optimum policymaking or hiring authority, including business members of local boards; and

(B) represent businesses with employment opportunities that reflect the employment opportunities in Montana;

- (ii) chief elected officials of local government;
- (iii) representatives of labor organizations;
- (iv) representatives of individuals and organizations who have experience with respect to youth activities;
- (v) representatives of individuals and organizations who have experience and expertise in the delivery of workforce investment activities;
- (vi) representatives of the state agencies who are responsible for the programs and activities that are carried out by the one-stop centers, including but not limited to:
 - (A) the department of commerce;
 - (B) the department of labor and industry;
 - (C) the department of public health and human services;
 - (D) the office of the commissioner of higher education; and
 - (E) the ~~office of public instruction~~ board of public education; and
 - (vii) other representatives that the governor may designate.
- (3) The selection and appointment of members of the state board must follow the nominating provisions of section 111 of the Act (29 U.S.C. 2821).
- (4) The governor shall appoint enough individuals described in subsection (2)(c)(i) so that those persons compose a majority of the membership of the state board.
- (5) The governor shall consider the special needs of Montana's hard-to-serve Indian population and the state's relationship with tribal governments when making appointments to the state board.
- (6) The state board shall perform the functions described in section 111 of the Act (29 U.S.C. 2821)."

Section 220. Section 53-20-213, MCA, is amended to read:

"53-20-213. Departments to cooperate. The department of public health and human services and the ~~office of superintendent of public instruction~~ board of public education shall cooperate on all aspects of each agency's respective programs for persons with developmental disabilities."

Section 221. Section 61-2-103, MCA, is amended to read:

"61-2-103. Duties. (1) The governor is responsible for the administration of the highway traffic safety program. The governor may contract and do all other things necessary to secure the full benefits available to this state under the Federal Highway Safety Act of 1966 and, in so doing, may cooperate with federal and state agencies, private and public organizations, and individuals to effectuate the purposes of that enactment and all

amendments to it. The governor may appoint an administrator of the highway traffic safety program to carry out the governor's responsibilities under this part. For purposes of participation in the Federal Highway Safety Act of 1966, the governor shall designate the ~~superintendent of public instruction~~ board of public education as the state agency responsible for all aspects of federally assisted driver education and safety programs in the public schools, including the approval of the programs, certification of teachers, and the acceptance, allocation, and expenditure of funds for driver education in accordance with applicable federal laws and regulations. Nothing in this part interferes with the provisions of Title 20, chapter 7, part 5, or 20-9-603.

(2) The department shall:

(a) advise and assist the governor in all matters of highway safety and establish comprehensive training programs, including establishment and regulation of driver training schools, certification of the schools and instructors, and establishment of adult training and retraining programs;

(b) develop and procure practice driving facilities, simulators, and other teaching aids for school and driver training use; and

(c) establish a continuing and adequate research program designed to determine the causes of accidents and effect a program of prevention.

(3) The department of justice shall:

(a) establish a uniform system of driver licensing, including mental and physical standards; and

(b) prescribe and establish safety regulations for motor vehicles and operators."

Section 222. Section 61-5-105, MCA, is amended to read:

"61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person:

(1) who is under 16 years of age unless:

(a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the ~~superintendent of public instruction~~ board of public education; or

(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

(2) whose license or driving privilege is currently suspended or revoked in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;

(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations; or

(8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway."

Section 223. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary licenses. (1) The department may issue an instruction permit to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination as provided in 61-5-110. An instruction permit entitles the permittee, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permittee, to drive a motor vehicle upon the public highways for a period of 6 months from the date the fees required in 61-5-111 are paid.

(2) The department may issue a traffic education learner license to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the ~~superintendent of public instruction~~ board of public education. A traffic education learner license entitles the licensee to operate a motor vehicle only when accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific times or areas.

(3) (a) An instructor of a traffic education program approved by the department and by the ~~superintendent of public instruction~~ board of public education may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503.

(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:

- (i) a motor vehicle when an approved instructor is seated beside the permittee; or
- (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit as provided in 61-5-120."

Section 224. Section 61-5-110, MCA, is amended to read:

"61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs. (1) Prior to examining an applicant for a driver's license, the department shall conduct a check of the applicant's driving record by querying the national driver register, established under 49 U.S.C. 30302, or the commercial driver's license information system, established under 49 U.S.C. 31309.

(2) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle, quadricycle, or motorcycle. The knowledge test or road test, or both, may be waived by the department upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program, as provided in subsection (3).

(3) The department is authorized to certify as a cooperative driver testing program any state-approved high school traffic education course offered by or in cooperation with a school district that employs an approved instructor who has current endorsement from the ~~superintendent of public instruction~~ board of public education as a teacher of traffic education or any motorcycle safety training course approved by the board of regents and that employs an approved instructor of motorcycle safety training and who agrees to:

(a) administer standardized knowledge and road tests required by the department to students participating in the district's high school traffic education courses or motorcycle safety training courses approved by the board of regents;

(b) certify the test results to the department; and

(c) comply with regulations of the department, the ~~superintendent of public instruction~~ board of public education, and the board of regents.

(4) (a) Except as otherwise provided by law, a resident who has a valid driver's license issued by another jurisdiction may surrender that license for a Montana license of the same class, type, and endorsement upon payment of the required fees and successful completion of a vision examination. In addition, a resident surrendering a commercial driver's license issued by another jurisdiction shall successfully complete any examination required by federal regulations before being issued a commercial driver's license by the department.

(b) The department may require an applicant who surrenders a valid driver's license issued by another jurisdiction to submit to a knowledge and skills test if:

(i) the applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the surrendered license does not include readily discernible adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

(c) When a license from another jurisdiction is surrendered, the department shall notify the issuing agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain the license from another jurisdiction for identification or other nondriving purposes, the department shall place a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return the marked license to the applicant."

Section 225. Section 90-14-105, MCA, is amended to read:

"90-14-105. Duties and powers of state agencies. (1) The following state agencies are responsible for developing and implementing community service opportunities consistent with the mission and functions of each agency:

(a) ~~The office of public instruction~~ board of public education implements volunteer projects in elementary and secondary public, private, and home schools in Montana, including activities sponsored by schools or community-based agencies, to involve school-age youth, including dropouts and out-of-school youth, in service to the community, as well as for programs that involve adult volunteers in the schools. A school district is expected to be the first agency that informs students about the many opportunities to participate in broader community service under this part through federal service learning grants and any other revenue received for purposes consistent with this part.

(b) The Montana university system assists institutions of higher education in Montana, explores new ways to integrate service into the curriculum, supports model community service programs on campus, develops teacher and volunteer training programs, and involves students in community service. The community service may complement a student's course of study through the federal higher education innovative projects grants and any other revenue received for purposes consistent with this part.

(c) The departments of environmental quality, natural resources and conservation, transportation, and fish, wildlife, and parks are the agencies for community and volunteer projects in conservation and natural resource settings that are designed to support and enhance state parks, wildlife, watchable wildlife, productivity of state lands, streams and lakes, county and city parks, tribal parks, scenic beauty and access, trails and signs, visitor information centers and rest areas, fairgrounds, and any other projects related to conservation or the environment that involve teenagers, young adults, or special community service members, such as adults or senior citizens who provide special skills for a project. Other projects may include bicycle paths and pedestrian trails, landscaping and scenic enhancements, historical and cultural preservation, roadside and stream restoration and enhancement, erosion control, disability enhancement, and experimental and research projects.

(d) The department of military affairs may support community and volunteer projects that are designed to involve the national guard in leadership or support roles for service through the provision of organizational and leadership skills, equipment, volunteer crewleaders, and other support, as well as the command and coordination of activities that may be mobilized for emergency projects, such as fire suppression or search and rescue.

(e) The governor may designate other agencies, after consultation with the director and the commission, for community service projects that focus on improving the quality of life for all Montanans, particularly low-income persons, senior citizens, homebound persons, disabled persons, or institutionalized persons, through preparing

and delivering meals, assisting with shopping or other tasks, repairing and painting or otherwise modifying homes of qualifying persons, providing transportation to and from health care and other appointments, providing respite care, cataloging library books, assisting rural health care providers, providing recreational aides, arranging for tutoring and literacy training, restoring historical photographs, and offering other human service support and community services.

(2) Each agency designated by the governor shall ensure that service opportunities that result in a public value are developed for everyone, regardless of race, creed, national origin, or geographical location, by providing leadership through its own network and by forming partnerships with other public or private, nonprofit entities.

(3) Each agency involved in community service shall coordinate and integrate its plans with and through the office of community service.

(4) Projects developed or approved under this part and funded by an agency must be limited to service projects that provide community service, conservation service, educational service, or other public service and that provide documented public value or benefit.

(5) The state agencies engaged in community service may:

(a) designate an agency volunteer coordinator to implement its responsibilities under this part;

(b) develop and approve work experience and volunteer projects that meet the requirements of this part;

(c) execute contracts or cooperative agreements that contain the terms and conditions necessary and desirable for the employment of volunteer crewleaders and other volunteers in approved work experience projects with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

(d) execute contracts or cooperative agreements with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations for the purpose of administering the requirements of this part;

(e) under the supervision of the office of community service, apply for and accept grants or contributions of services, funds, or lands from any public or private donors, including appropriations;

(f) develop procedures for participants to achieve incentive vouchers, education, credit toward education, skill training, scholarships, housing benefits, or other benefits upon completion of their term of service;

(g) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment necessary to complete work experience or volunteer projects;

(h) authorize use of volunteers for emergency projects, including but not limited to natural disasters, fire prevention and suppression, and rescue of lost or injured persons, and provide adequate training to volunteers prior to participation in an emergency project; and

(i) adopt rules and guidelines necessary to implement the provisions of this part and to effectively

administer the program."

NEW SECTION. **Section 226. Repealer.** Sections 20-3-106 and 20-10-112, MCA, are repealed.

- END -

