

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(5) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

(6) *A trust or estate excluding benefits under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than \$3,600, in which case the trust or estate may combine benefits to exclude up to a total of \$3,600 from net income.*"

**Section 3. Extension of authority.** Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

**Section 4. Applicability.** This act applies to taxable years beginning after December 31, 1986.

**Section 5. Effective date.** This act is effective on passage and approval.

Approved May 15, 1987.

## CHAPTER NO. 658

[HB 39]

AN ACT TRANSFERRING GOVERNANCE OF THE POSTSECONDARY VOCATIONAL-TECHNICAL CENTERS TO THE BOARD OF REGENTS OF HIGHER EDUCATION; RENAMING POSTSECONDARY VOCATIONAL-TECHNICAL CENTERS AS VOCATIONAL-TECHNICAL CENTERS; ALLOWING FOR A VOTE FOR AN ADDITIONAL LEVY TO SUPPORT A CENTER; REQUESTING THE BOARD OF REGENTS TO REPORT TO THE 51ST LEGISLATURE ON POSSIBLE REORGANIZATION OF POSTSECONDARY VOCATIONAL-TECHNICAL EDUCATION; APPROPRIATING MONEY FROM THE LOCAL IMPACT AND EDUCATION TRUST FUND ACCOUNT TO THE BOARD OF REGENTS TO HELP FUND THE VOCATIONAL-TECHNICAL CENTERS; AMENDING SECTIONS 19-4-302, 20-1-101, 20-3-103, 20-3-106, 20-6-501, 20-7-301, 20-7-302.1, 20-7-303, 20-7-311, 20-7-312, 20-7-314, 20-7-322, 20-7-324, 20-7-325, 20-7-327, 20-7-332, 20-7-333, 20-9-403, 20-9-513, 39-71-118, AND 90-6-211, MCA; REPEALING SECTIONS 20-7-304, 20-7-313, 20-7-323, 20-7-326, AND 20-7-331, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Powers and duties of board of regents.** The board of regents has general administrative and supervisory control over vocational-technical center education and shall:

- (1) establish and when necessary amend a plan for the orderly development of vocational-technical center education that is consistent with federal and state law, controlled to prevent unnecessary duplication, and funded to ensure necessary growth and quality education;
- (2) adopt standards for courses and programs;
- (3) implement a review process for establishing and deleting programs and courses that recognizes the present and future needs of employers and provides qualified graduates for positions for which there is or may in the near future be a demand;
- (4) establish student entrance and graduation requirements;
- (5) appoint a director, to serve at the pleasure of the board, for each vocational-technical center and establish minimum qualifications for faculty, directors, administrative staff, and other personnel;
- (6) appoint a deputy commissioner of vocational-technical center education, to serve at the pleasure of the board;
- (7) establish student tuition and prescribe the bases and limitations for charging of fees, taking into account funding available from all other sources and the provisions of 20-7-332(3);
- (8) determine the amount to be paid for the lease of buildings;
- (9) adopt budget requests for the vocational-technical center education system;
- (10) establish a procedure by which students can receive part of their education and training through programs, courses, and on-the-job training offered by the private sector and not available at the centers;
- (11) establish a procedure by which qualified persons in the private sector can participate in the training and teaching of students in the centers' classrooms when such persons have training, knowledge, and skills not available through the centers' faculty;
- (12) provide means by which the centers' faculty can obtain advanced education and training in new areas and either be reimbursed for their expenses or raised to a higher salary level, or both;
- (13) establish for the various centers uniform policies for recordkeeping; financial transactions; accounting; maintenance; recruiting, guidance, and placement of students; examinations; personnel relations; and other matters as determined by the board;
- (14) negotiate with the bargaining representative for personnel of each center or the personnel of the center system in a manner consistent with state and federal law;
- (15) work with other institutions of higher education to implement the transfer of course credits between those institutions and the vocational-technical centers; and
- (16) adopt rules and procedures to implement this section and to carry out any other powers and duties of the board.

**Section 2. Sole state agency for federal vocational education requirements.** (1) The board of regents is the sole state agency for purposes of the 1984 federal Carl D. Perkins Vocational Education Act, as may be amended, which requires a state participating in programs under that act to designate a state board or agency as the sole state agency responsible for administration or supervision of the administration of those programs.

(2) The board of regents shall contract with the superintendent of public instruction for the administration and supervision of K-12 vocational education programs, services, and activities allowed by the 1984 federal Carl D. Perkins Vocational Education Act, as may be amended, and in concert with the state plan for vocational education required by the federal act. The board of regents may contract with other agencies for the administration and supervision of other vocational education programs, services, and activities that receive funding allowed by the 1984 federal Carl D. Perkins Vocational Education Act, as may be amended.

**Section 3. Local advisory boards.** The board of trustees of a school district in which a vocational-technical center is located shall appoint a local advisory board, composed of at least five residents of the county where the center is located, to act in an advisory capacity to the center and the board of regents.

**Section 4. Duties of the deputy commissioner of vocational-technical center education.** The deputy commissioner of vocational-technical center education shall, under the rules and policies of the board of regents:

(1) be the chief administrative officer for the board of regents for the administration of its vocational-technical center rules and policies;

(2) employ, within the limits of any legislative appropriation and with the confirmation of the board of regents, the staff necessary for the state supervision and administration of the board's vocational-technical center rules and policies;

(3) provide supervisory and consultative assistance to centers;

(4) report the status of vocational-technical center education in Montana when requested by the board of regents; and

(5) perform any other duties assigned by the board of regents.

**Section 5. Existing center employees.** (1) The rights of persons employed by a vocational-technical center under a collective bargaining agreement in effect during the period from July 1, 1987, to July 1, 1989, may not be impaired, and they may, at any time prior to July 1, 1989, exercise any right they have under a collective bargaining agreement to transfer to another position within the school district.

(2) A person employed by a center under a school district on June 30, 1989, becomes an employee of the board of regents on July 1, 1989.

(3) Following [the effective date of this section], the employees of any center or the board of regents may apply to the board of personnel appeals for determination of the appropriate bargaining unit or units for the purposes of collective bargaining for a contract or contracts to be negotiated with the board of regents prior to July 1, 1989.

(4) If a person is employed by a center in any capacity on July 1, 1989, and has accumulated sick, vacation, or other leave and years of service with a school district, such leave and years of service shall be transferred fully regardless of the length of employment with the district in which the center is located.

Section 6. Section 19-4-302, MCA, is amended to read:

**"19-4-302. Active membership.** (1) Unless otherwise provided by this chapter, the following persons must be active members of the retirement system, with the exception that those persons who became eligible for membership on September 1, 1937, or on September 1, 1939, and who elected not to become members under the provisions of the law at that time are not required to be members:

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

(b) any person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system or a vocational-technical center;

(c) any person employed in an instructional services capacity by the office of the superintendent of public instruction, 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;

(d) any person who has elected not to become a member of the retirement system and is reentering service in a capacity prescribed by (a), (b), or (c) of this subsection (1);

(e) any person who has elected not to become a member of the retirement system, who has been continuously employed in a capacity prescribed by (a), (b), or (c) of this subsection (1) since the time of such election, and who may thereafter elect to become a member of the retirement system.

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

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

(b) have the compensation for his creditable service totally paid by an employer as defined herein.

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

Section 7. 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.

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

(3) "The board of public education" is the board created by Article X, section 9, subsection (3), of the 1972 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 1972 Montana constitution and 2-15-1505.

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

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

(7) "District superintendent" means any 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) "*K-12 vocational education*" means vocational education in public school kindergarten through grade 12.

(9) "Principal" means any 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 shall be construed as including a principal, as herein defined.

(10) "Pupil" means any 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 his 19th birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense.

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

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

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

(14) "The state board of education" is 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 1972 Montana constitution.

(15) "State university" means the Montana state university, located at Bozeman.

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

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

(18) "Teacher" means any 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 shall also include any person for whom an emergency authorization of employment of such person has been issued under the provisions of 20-4-111.

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

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

(21) "Trustees" means the governing board of a district.

(22) "University" means the university of Montana, located at Missoula.

(23) "Vocational education" means the instruction to prepare or improve the pupil for gainful employment that does not require a baccalaureate or higher degree. This definition of vocational education shall include guidance and prevocational, related, or technical instruction necessary to prepare the pupil for further vocational education or for entry into employment.

(24) "*Vocational-technical center*" means an institution used principally for the provision of vocational-technical education to persons who qualify as vocational-technical students. These centers are designated by the board of regents upon direction by the legislature. All other public or private institutions or schools are hereby prohibited from using this title.

(25) "*Vocational-technical education*" means vocational-technical education of vocational-technical students that is conducted by a vocational-technical center, a unit of the Montana university system, or a community college as designated by the board of regents."

Section 8. 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 principal or in the case of vacancy in his office, shall perform all the duties of office until such disability be removed or vacancy be filled. Such deputy shall subscribe, take, and file the oath of office provided by law for other state officers before entering upon the performance of his duties.

(2) The superintendent of public instruction shall have the power to employ, organize, and administer a staff of personnel to assist him in the administration of the duties and services of the office. In organizing his staff, the superintendent of public instruction shall 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 for the state supervision and administration of K-12 vocational 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 of special education for the mentally retarded or physically handicapped and who has not less than 2 years' experience in special education."

Section 9. Section 20-3-106, MCA, is amended to read:

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

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

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

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

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

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

(6) 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;

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

(8) 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;

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

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

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

(12) 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(5) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(13) 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;

(14) distribute state equalization aid in support of the foundation program in accordance with the provisions of 20-9-342, 20-9-346, and 20-9-347;

(15) distribute state impact aid in accordance with the provisions of 20-9-304;

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

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

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

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

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

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

(22) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with such standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(23) 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;

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

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

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

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

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

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

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

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

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

Section 10. Section 20-6-501, MCA, is amended to read:

**"20-6-501. Definition of various schools.** As used in this title, unless the context clearly indicates otherwise, the term "school" means an institution for the teaching of children that is established and maintained under the laws of the state of Montana at public expense. The trustees of any district shall designate the grade assignments for the schools of the district, but for the purposes of this title each school shall be known as:

(1) an elementary school when it comprises the work of any combination of kindergarten, other preschool programs, or the first eight grades or their equivalents. A middle school is a school comprising the work of grades 4 through 8 or any combination thereof that has been accredited as a middle school under the provisions of 20-7-102. When an accredited junior high school or an accredited 6-year high school is operated by the district, grades 7 and 8 or their equivalents shall not be considered as elementary grades.

(2) a high school when it comprises the work of one or more grades of schoolwork or their equivalents intermediate between the elementary schools and the institutions of higher education of the state of Montana. Types of high schools shall be designated as follows:

(a) a junior high school is a school comprising the work of grades 7 through 9 or their equivalents that has been accredited as a junior high school under the provisions of 20-7-102;

(b) a senior high school is a school which comprises the work of grades 10 through 12 or their equivalents and which is operated in conjunction with a junior high school;

(c) a 6-year high school is a school comprising the work of grades 7 through 12 or their equivalents that has been accredited as a 6-year high school under the provisions of 20-7-102;

(d) a 4-year high school is a school comprising the work of grades 9 through 12 or their equivalents;

(e) a county high school is a 4-year high school operated as an agency of county government and established under the provisions of the acts of March 3, 1899, March 14, 1901, and any subsequent amendments thereto."

Section 11. Section 20-7-301, MCA, is amended to read:

**"20-7-301. Duties of the superintendent of public instruction.** The superintendent of public instruction shall be the governing agent and executive officer of the state of Montana for *K-12* vocational education. The superintendent of public instruction shall adopt and administer policies to effect the orderly development of a system of *K-12* vocational education that is adaptable to changing needs, controlled to prevent unnecessary duplication, coordinated with federal guidelines and requirements for vocational education, and funded to ensure growth and quality programming. In order to accomplish the orderly development of a system of *K-12* vocational education, the superintendent of public instruction policies shall include:

- (1) a state plan for such development;
- (2) standards for *K-12* vocational education courses and programs;
- (3) a review process for the establishment and deletion of programs;
- (4) instructor qualifications for *K-12* vocational education courses and programs;
- (5) criteria for approval of *K-12* vocational education courses and programs;
- (6) a basis for apportionment of all moneys appropriated by the legislature for *K-12* vocational education in accordance with the intent of the legislature as reflected in the terms of the appropriation;
- (7) a basis for apportionment of all moneys received by the state of Montana for *K-12* vocational education from the federal government in accordance with the acts of congress;
- (8) a system of evaluation of *K-12* vocational education which allows for consideration of the current and projected manpower needs and job opportunities; *and*
- (9) any other policy not inconsistent with public law and which is necessary for the proper operation of a system of *K-12* vocational education."

Section 12. Section 20-7-302.1, MCA, is amended to read:

**"20-7-302.1. State director of K-12 vocational education — duties.** There is a state director of *K-12* vocational education appointed by the superintendent of public instruction. He must:

- (1) administer the *K-12* vocational education policies adopted by the superintendent of public instruction;
- (2) prepare curriculum guides for superintendent of public instruction adoption;
- (3) employ, with the confirmation of the superintendent of public instruction, the professional staff necessary for the state supervision and administration of *K-12* vocational education;
- (4) report the status of *K-12* vocational education in the state of Montana when requested by the superintendent of public instruction;

- (5) keep all *K-12* vocational education records in his office;
- (6) provide *K-12* vocational education supervisory and consultative assistance to districts;
- (7) prepare any necessary reports for the superintendent of public instruction or the legislature; *and*
- (8) perform any other duty assigned by the superintendent of public instruction."

Section 13. Section 20-7-303, MCA, is amended to read:

**"20-7-303. Authorization to establish and maintain vocational education courses and programs.** The trustees of an *elementary or high school* district may establish and maintain a vocational education course or program that complies with the *K-12* vocational education standards adopted by the superintendent of public instruction. In order for a course or program to be eligible for state or federal financing, it shall be approved by the superintendent of public instruction *for compliance with K-12 vocational education standards.*"

Section 14. Section 20-7-311, MCA, is amended to read:

**"20-7-311. Vocational-technical center designation.** (1) *Vocational-technical* centers shall be designated by the *board of regents* upon direction of the legislature.

(2) The *board of regents* shall recognize the postsecondary vocational-technical centers *designated prior to [the effective date of this act]* in school district number 1 of Silver Bow County, high school district number 1 of Lewis and Clark County, high school district "A" of Cascade County, Missoula County high school, and high school district number 2 of Yellowstone County."

Section 15. Section 20-7-312, MCA, is amended to read:

**"20-7-312. Local administration of vocational-technical center.** (1) Subject to the requirements of the laws of the state of Montana and the policies *and rules* of the *board of regents*, the *director of a vocational-technical center* has *administrative and supervisory control of the center* and shall:

- (a) employ personnel for the vocational-technical center according to the policies and *rules* of the *board of regents*;
- (b) develop and submit a *recommended budget* for the vocational-technical center;
- (c) collect student tuition and fees;
- (d) recommend to the *board of regents*:
  - (i) proposals regarding vocational-technical center programs, budgets, student services, and public service activities; and
  - (ii) campus development and program plans for individual vocational-technical center buildings;

- (e) manage buildings at the vocational-technical center;
- (f) receive and administer gifts and bequests to the vocational-technical center according to a written plan submitted to the board of regents; and
- (g) perform any other duties not inconsistent with law and required by the board of regents.

(2) The director of a vocational-technical center may not enter into any contract that in any way creates a debt or obligation upon the state for the improvement or construction of vocational-technical center buildings."

Section 16. Section 20-7-314, MCA, is amended to read:

**"20-7-314. Lease or purchase of property for vocational-technical center purposes.** (1) The state of Montana, acting through the board of regents, may lease, for a term not to exceed 40 years, any building or lands for a vocational-technical center.

(2) *The state of Montana, acting through the board of regents and on demand of a school district, shall lease or purchase the equity or interest of the school district in any building, land, or other property at a vocational-technical center on terms agreed to between the board of regents and the school district. A purchase may be by lump-sum payment, time payments, the assumption of bonded indebtedness, or any other mutually agreeable method. Money received by a school district from the lease or sale under this subsection (2) of the school district's equity or interest in a building, land, or other property must be credited to the debt service fund, building fund, general fund, or any combination of these funds, at the discretion of the trustees of the school district.*"

Section 17. Section 20-7-322, MCA, is amended to read:

**"20-7-322. State treasurer custodian of vocational education money.** (1) The treasurer of the state of Montana is hereby designated as the custodian of all federal and state money designated, appropriated, or apportioned for vocational education. All money received from any federal or state source for the establishment, operation, or furtherance of vocational education in the state shall be deposited with the state treasurer. At the direction of the superintendent of public instruction, he shall disburse all money received for K-12 vocational education. At the direction of the board of regents, he shall disburse all money received for vocational-technical education and for vocational education other than K-12 vocational education.

(2) The state treasurer is the treasurer for all vocational-technical centers, and all money received by vocational-technical centers from any source shall be deposited in the state treasury pursuant to 17-6-105, unless the source of the money specifies deposit somewhere other than in the state treasury."

Section 18. Section 20-7-324, MCA, is amended to read:

**"20-7-324. Sources of financing for vocational-technical center budgets — distribution of funds.** (1) The total of the budgets approved

by the *board of regents* shall constitute the total maximum approved state-wide vocational-technical center system budget which shall be financed as follows:

(a) The primary source of financing is to be those funds specifically designated by legislative enactment or referendum by the people for financing vocational-technical education in Montana.

(b) The board of county commissioners of each county in which a designated vocational-technical center is located shall levy a tax in each calendar year of 1 ½ mills on the dollar of all taxable property, real and personal, within the county *to raise the amount appropriated by the legislature for the support and maintenance of the vocational-technical center system. The tax is to be effective for property tax years beginning on or after January 1, 1987. It is the intent of this subsection (1)(b) that the county commissioners shall levy this tax for fiscal year 1988 operation of the vocational-technical system and thereafter.*

(c) Designated vocational-technical centers shall be eligible to receive such funds from the federal government as the *board of regents* may provide pursuant to applicable acts of congress.

(2) The *board of regents* shall direct the distribution of the funds specified in *subsection (1)* on the basis of the budgets approved by the *board of regents*. The funds earned by the mill levy specified in *subsection (1)(b)* shall be credited to the vocational-technical center account in the unrestricted subfund of the current fund in the state treasury."

Section 19. Section 20-7-325, MCA, is amended to read:

**"20-7-325. Vocational-technical center funding — nongeneral fund money expended first — reversion of general fund money.** (1) *The board of regents* shall request the establishment of the appropriate accounts *for the vocational-technical center system* in the state treasury. These accounts shall be established in the appropriate state treasury funds as determined by the department of administration. All money prescribed and received under the provisions of 20-7-324 shall be credited to these accounts. The expenditure of the money deposited in the state treasury shall be made in accordance with procedures established by the department of administration. Such expenditures shall be made under the budget and for the programs approved by the *board of regents* under the financial administration provisions of this title.

(2) A vocational-technical center shall apply expenditures against nongeneral fund money wherever possible before using state general fund appropriations. All state general fund money appropriated or disbursed to a vocational-technical center which are unexpended at fiscal year end shall revert to the state general fund."

Section 20. Section 20-7-327, MCA, is amended to read:

**"20-7-327. Source of financing for vocational-technical center facility maintenance.** The source of funds for maintenance, remodeling, and renovation of vocational-technical center facilities may be either *federal funds* or state funds specifically appropriated by the legislature and approved by the *board of regents*, or any combination of these funds."

Section 21. Section 20-7-332, MCA, is amended to read:

**"20-7-332. Tuition rates.** (1) Tuition may be charged to any resident or nonresident of the state of Montana by the *director* of any vocational-technical center at rates to be determined by the *board of regents and the provisions of subsection (3)*. The *board of regents* shall prescribe permissible uses for any tuition authorized.

(2) For the purposes of this section the eligibility of a student for resident status shall be determined in the same manner as that prescribed for use by the Montana university system, except that those provisions referring to "high school graduates" or "graduation from high school" shall be considered to refer to a person who has attended school or who was in attendance at a school.

(3) *If an additional levy for a center is approved under [section 27], the board of regents may charge an additional tuition amount not to exceed \$40 a quarter to a student at the center who is a resident of Montana but who is not a property taxpayer of the county or an owner of a vehicle registered within the county where the center is located."*

Section 22. Section 20-7-333, MCA, is amended to read:

**"20-7-333. Student fees and disposition of collected fees.** (1) Fees for the use of equipment and material used in instruction may be charged by the *director* of the vocational-technical center. The *board of regents* shall prescribe the *bases* and limitations for the charging of such fees.

(2) Fees collected by the vocational-technical center shall be deposited with the state treasurer in the fund designated by the *board of regents* for the receipt of such fees. The expenditure of the fees shall not be subject to budget limitations and shall be in addition to the program budgets approved by the *board of regents*."

Section 23. Section 20-9-403, MCA, is amended to read:

**"20-9-403. Bond issues for certain purposes.** (1) The trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, and/or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of said buildings for school purposes;

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

(e) funding a judgment against the district.

(2) Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent that the 9th grade of the high school is served thereby."

Section 24. Section 20-9-513, MCA, is amended to read:

**"20-9-513. Vocational-technical center and adult basic education programs account established.** There is within the state special revenue fund a vocational-technical center and adult basic education account. Money is paid into the account under 90-6-211. The state treasurer shall draw warrants payable from this account upon order of the superintendent of public instruction *or the board of regents up to the amount provided for each under 90-6-211 by the biennium budget passed by the legislature.*"

Section 25. Section 39-71-118, MCA, is amended to read:

**"39-71-118. Employee, worker, and workman defined.** (1) The terms "employee", "workman", or "worker" mean:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay. Casual employees as defined by 39-71-116(3) are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) a recipient of general relief who is performing work for a county of this state under the provisions of 53-3-303 through 53-3-305 and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs as outlined above while they are on the premises of a public school or community college.

(d) students enrolled and in attendance in programs of vocational-technical education at designated vocational-technical centers; or

(e) an airman or other person employed as a volunteer under 67-2-105.

(2) If the employer is a partnership or sole proprietorship, such employer may elect to include as an employee within the provisions of this

chapter any member of such partnership or the owner of the sole proprietorship devoting full time to the partnership or proprietorship business. In the event of such election, the employer must serve upon the employer's insurer written notice naming the partners or sole proprietor to be covered, and no partner or sole proprietor shall be deemed an employee within this chapter until such notice has been given. For premium ratemaking and for the determination of weekly wage for weekly compensation benefits, the insurance carrier shall assume a salary or wage of such electing employee to be not less than \$900 a month and not more than 1 ½ times the average weekly wage as defined in this chapter."

Section 26. Section 90-6-211, MCA, is amended to read:

**"90-6-211. Disposition of interest from unexpended balance.** The unexpended balance in the local impact and education trust fund account shall be invested as provided by statute by the board of investments. Of the income from such investments each year 10% shall be paid into the state special revenue fund for use by the superintendent of public instruction for purposes of adult basic education programs in the state and *for use by the board of regents for vocational-technical center education programs in the state, as provided in the biennium budget passed by the legislature.* Within the account under 20-9-513, the revenue is shared between the vocational-technical centers and the adult basic education programs *as provided in the biennium budget passed by the legislature.* Of the remaining 90% of the income from such investments, three-fourths shall be annually paid into the state special revenue fund for state equalization aid to public schools of the state and one-fourth each year shall be paid to the board of regents of higher education for use by the institutions of higher learning in the state, subject to the budgeting authority of the legislature. Except as provided in 90-6-205(5), the principal of the local impact and education trust fund shall be dedicated to education and forever remain inviolate and sacred to this purpose as provided in sections 3 and 10 of Article X of the Montana constitution."

Section 27. **Additional levy by school district — procedure.** (1) For school fiscal years 1988 and 1989, the trustees of a school district that operated a vocational-technical center prior to July 1, 1987, may propose to the board of regents that a budget for salaries, benefits, operations, and equipment be adopted for the center in excess of the amount appropriated by the legislature.

(2) If the board of regents approves of a budget for a center in excess of the appropriated amount, the trustees of the district that operated the center shall submit to the qualified electors of the district, pursuant to 20-20-301 and in the manner prescribed by 20-9-353, a proposition for an additional levy for the additional funding. When the proposition is presented to the electorate, the proposition must be presented as a separate issue on the ballot.

(3) If a proposition for an additional levy for a vocational-technical center is approved by the electorate, the board of regents shall request the establishment of an individual account for the center in the state treasury as determined by the department of administration. The funds in each center account are appropriated for approved expenditures for the center.

After July 1, 1989, any unexpended funding in a center account must be returned to the school district that requested the additional funding.

(4) For school fiscal year 1988, if the trustees of a school district that operated a vocational-technical center prior to July 1, 1987, have adopted a budget in excess of that appropriated by the legislature and have submitted the proposition for an additional levy to the qualified electors of the district and if the electors have approved the proposition as provided for in former 20-7-326, the trustees need not submit the proposition to the electors at an additional election following approval of the budget by the board of regents as provided for in subsection (2).

**Section 28. Vocational-technical center equipment.** The equipment of a vocational-technical center designated prior to [the effective date of this act] may not be transferred from the center for 2 years without consent of the school district board of trustees that operated the center prior to [the effective date of this act].

**Section 29. Report by board of regents.** The board of regents shall report to the 51st legislature on the following concerns:

(1) a plan for reorganization of the delivery system for all postsecondary vocational-technical education in Montana;

(2) a long-term plan for achieving high quality vocational-technical programs at the vocational-technical centers through the possibility of program specialization at each center;

(3) the feasibility and appropriateness of closure of one or more of the vocational-technical facilities;

(4) a plan for elimination of programs that serve few students;

(5) a plan for consolidation of administrative functions of the individual centers which could result in cost savings and more efficient operations; and

(6) the feasibility of consolidating postsecondary vocational-technical facilities and staff with nearby units of the university system.

**Section 30. Appropriation.** There is appropriated \$1,454,690 from the local impact and education trust fund account funded by 15-35-108(3)(b) to the board of regents for the fiscal biennium ending June 30, 1989, to be used to operate the vocational-technical centers.

**Section 31. Repealer.** Sections 20-7-304, 20-7-313, 20-7-323, 20-7-326, and 20-7-331, MCA, are repealed.

**Section 32. Extension of authority.** Any existing authority of the superintendent of public instruction to make rules on the subject of the provisions of this act is extended to the provisions of this act.

**Section 33. Codification instructions.** (1) Sections 1 through 5 and 27 are intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to sections 1 through 5 and 27.

(2) Sections 20-7-311, 20-7-312, 20-7-314, 20-7-322, 20-7-324, 20-7-325, 20-7-327, 20-7-332, and 20-7-333 are intended to be renumbered and codified as an integral part of a new chapter in Title 20 on the governance of vocational-technical centers.

**Section 34. Code commissioner name change.** In all sections of the Montana Code Annotated not contained in this act and in all provisions passed by the 50th legislature wherein reference is made to a postsecondary vocational-technical center, the code commissioner shall change the reference to vocational-technical center.

**Section 35. Effective date.** This act is effective July 1, 1987.

Approved May 15, 1987.

## CHAPTER NO. 659

[SB 64]

AN ACT PROVIDING FOR A 5-YEAR CORPORATION LICENSE TAX EXEMPTION FOR RESEARCH AND DEVELOPMENT FIRMS; CLASSIFYING ALL PROPERTY OWNED AND USED BY A RESEARCH AND DEVELOPMENT FIRM AS CLASS FIVE PROPERTY; AMENDING SECTIONS 15-1-101, 15-6-135, 15-31-101, 15-31-401, AND 15-31-403, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Research and development firms exempt from taxation — application.** (1) A research and development firm organized to engage in business in the state of Montana for the first time is not subject to any of the taxes imposed by this chapter on net income earned from research and development activities during its first 5 taxable years of activity in Montana. For purposes of [this act], "taxable year" means a research and development firm's taxable year for federal income tax purposes.

(2) (a) To be considered a research and development firm, the chief executive officer of the firm or his agent shall file with the department of revenue an application for treatment as a research and development firm.

(b) The application must be made on a form to be provided by the department. The form must include, at a minimum:

(i) the name and address of each officer of the research and development firm;

(ii) the name of the research and development firm as required for the purpose of incorporation in 35-1-202;

(iii) the address of its initial registered office required for the purpose of incorporation as required in 35-1-202;