

1 SENATE BILL NO. 65

2 INTRODUCED BY A. ELLIS

3 BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE OUT-OF-DISTRICT TUITION LAWS;
6 ELIMINATING MANDATORY TUITION APPROVAL IF THE RESIDENT DISTRICT PROVIDES
7 TRANSPORTATION BUT IS NOT IN THE SAME COUNTY AS THE DISTRICT OF CHOICE; ALLOWING A
8 SCHOOL DISTRICT TO WAIVE TUITION FOR A SPECIFIC GROUP REQUIRED TO PAY TUITION WHILE
9 CHARGING TUITION TO OTHER GROUPS REQUIRED TO PAY; REQUIRING THE COUNTY
10 TRANSPORTATION COMMITTEE TO DETERMINE WHEN GEOGRAPHIC CONDITIONS MAKE IT
11 IMPRACTICAL FOR A CHILD TO ATTEND SCHOOL IN THE DISTRICT OF RESIDENCE; PLACING TUITION
12 PAYMENTS INTO THE OVER-BASE BUDGET OF A SCHOOL DISTRICT; ~~ELIMINATING THE DEDUCTION~~
13 ~~OF OUT-OF-COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT; FINANCING CERTAIN~~
14 ~~MANDATORY TUITION OBLIGATIONS FROM THE STATE GENERAL FUND; SETTING THE RATE OF~~
15 ~~TUITION BY STATUTE; ELIMINATING THE REQUIREMENT THAT THE STATE PAY TRANSPORTATION~~
16 ~~COSTS FOR STUDENTS FOR WHOM THE STATE PAYS TUITION; REMOVING COUNTY~~
17 ~~SUPERINTENDENTS FROM TUITION PAYMENT PROVISIONS; AMENDING SECTIONS 15-10-420,~~
18 ~~20-3-205, 20-5-320, 20-5-321, 20-5-323, 20-5-324, 20-9-141, 20-9-212, 20-9-333, 20-9-335, AND~~
19 ~~20-10-132, MCA; REPEALING SECTION 20-9-334, MCA; AND PROVIDING AN EFFECTIVE DATE DATES~~
20 ~~AND AN APPLICABILITY DATE DATES."~~

21

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

23

24 ~~Section 1.~~ Section 15-10-420, MCA, is amended to read:

25 ~~"15-10-420. Procedure for calculating levy. (1) A governmental entity that is authorized to impose~~
26 ~~mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the~~
27 ~~prior year, even if that levy is greater than the levy established by law. The maximum number of mills that~~
28 ~~a governmental entity may impose is established by calculating the number of mills required to generate~~
29 ~~the amount of property tax actually assessed in the governmental unit in the prior year based on the~~
30 ~~current year taxable value, less the value of newly taxable property.~~

1 ~~———(2) A governmental entity may apply the levy calculated pursuant to subsection (1) plus any~~
 2 ~~additional levies authorized by the voters to all property in the governmental unit, including newly taxable~~
 3 ~~property.~~

4 ~~———(3) For purposes of this section, newly taxable property includes:~~

5 ~~———(a) annexation of real property and improvements into a taxing unit;~~

6 ~~———(b) construction, expansion, or remodeling of improvements;~~

7 ~~———(c) transfer of property into a taxing unit;~~

8 ~~———(d) subdivision of real property;~~

9 ~~———(e) reclassification of property;~~

10 ~~———(f) transfer of property from tax-exempt to taxable status; and~~

11 ~~———(g) revaluations caused by expansion, addition, replacement, or remodeling of improvements.~~

12 ~~———(4) Subsection (1) does not apply to school district general fund levies and the school district levy~~
 13 ~~for tuition obligations established in 20-5-324(5) 20-5-324(4).~~

14 ~~———(5) For purposes of subsection (1), taxes imposed:~~

15 ~~———(a) include registration fees imposed on light vehicles under 61-3-561 and distributed under~~
 16 ~~61-3-509(2); and~~

17 ~~———(b) do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.~~

18 ~~———(6) In determining the maximum number of mills in subsection (1), the governmental entity shall~~
 19 ~~take into account any change from the prior year in the amount of statutory reimbursements for changes~~
 20 ~~in the property tax laws. The amount of motor vehicle disposition under 61-3-509(2), as that section read~~
 21 ~~on December 31, 2000, is an increased statutory reimbursement. It may increase the number of mills to~~
 22 ~~account for a decrease in reimbursements and shall decrease the number of mills to fully account for any~~
 23 ~~increase in reimbursements.~~

24 ~~———(7) The department shall calculate the number of mills to be imposed for purposes of 15-10-107,~~
 25 ~~20-9-331, 20-9-333, 20-9-360, 20-25-423, 20-25-439, and 53-2-813. However, the number of mills~~
 26 ~~calculated by the department may not exceed the mill levy limits established in those sections.~~

27 ~~———(8) The department may adopt rules to implement this section. The rules may include a method~~
 28 ~~for calculating the percentage of change in valuation for purposes of determining the elimination of~~
 29 ~~property, new improvements, or newly taxable property in a governmental unit."~~

30

1 ~~Section 2.~~ Section 20-3-205, MCA, is amended to read:

2 ~~"20-3-205. Powers and duties.~~ The county superintendent has general supervision of the schools
3 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

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

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

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

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

13 ~~(5)(4) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;~~

14 ~~(6)(5) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;~~

15 ~~(7)(6) keep a transcript and reconcile the district boundaries of the county in accordance with the~~
16 ~~provisions of 20-6-103;~~

17 ~~(8)(7) fulfill all responsibilities assigned under the provisions of this title regulating the organization,~~
18 ~~alteration, or abandonment of districts;~~

19 ~~(9)(8) act on any unification proposition and, if approved, establish additional trustee nominating~~
20 ~~districts in accordance with 20-6-312 and 20-6-313;~~

21 ~~(10)(9) estimate the average number belonging (ANB) of an opening school in accordance with the~~
22 ~~provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;~~

23 ~~(11)(10) process and, when required, act on school isolation applications in accordance with the~~
24 ~~provisions of 20-9-302;~~

25 ~~(12)(11) complete the budgets, compute the budgeted revenue and tax levies, file final budgets~~
26 ~~and budget amendments, and fulfill other responsibilities assigned under the provisions of this title~~
27 ~~regulating school budgeting systems;~~

28 ~~(13)(12) submit an annual financial report to the superintendent of public instruction in accordance~~
29 ~~with the provisions of 20-9-211;~~

30 ~~(14)(13) monthly, unless otherwise provided by law, order the county treasurer to apportion state~~

1 money, county school money, and any other school money subject to apportionment in accordance with
 2 the provisions of 20-9-212, 20-9-335, 20-9-347, 20-10-145, or 20-10-146;
 3 ~~————(15)(14) act on any request to transfer average number belonging (ANB) in accordance with the~~
 4 ~~provisions of 20-9-313(3);~~
 5 ~~————(16)(15) calculate the estimated budgeted general fund sources of revenue in accordance with the~~
 6 ~~general fund revenue provisions of the general fund part of this title;~~
 7 ~~————(17)(16) compute the revenue and, subject to 15-10-420, compute the district and county levy~~
 8 ~~requirements for each fund included in each district's final budget and report the computations to the board~~
 9 ~~of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and~~
 10 ~~other school funds parts of this title;~~
 11 ~~————(18)(17) file and forward bus driver certifications, transportation contracts, and state transportation~~
 12 ~~reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;~~
 13 ~~————(19)(18) for districts that do not employ a district superintendent or principal, recommend library~~
 14 ~~book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;~~
 15 ~~————(20)(19) notify the superintendent of public instruction of a textbook dealer's activities when~~
 16 ~~required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of~~
 17 ~~this title;~~
 18 ~~————(21)(20) act on district requests to allocate federal money for indigent children for school food~~
 19 ~~services in accordance with the provisions of 20-10-205;~~
 20 ~~————(22)(21) perform any other duty prescribed from time to time by this title, any other act of the~~
 21 ~~legislature, the policies of the board of public education, the policies of the board of regents relating to~~
 22 ~~community college districts, or the rules of the superintendent of public instruction;~~
 23 ~~————(23)(22) administer the oath of office to trustees without the receipt of pay for administering the~~
 24 ~~oath;~~
 25 ~~————(24)(23) keep a record of official acts, preserve all reports submitted to the superintendent under~~
 26 ~~the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents~~
 27 ~~applicable to the administration of the office, and surrender all records, books, supplies, and equipment~~
 28 ~~to the next superintendent;~~
 29 ~~————(25)(24) within 90 days after the close of the school fiscal year, publish an annual report in the~~
 30 ~~county newspaper stating the following financial information for the school fiscal year just ended for each~~

1 ~~district of the county:~~

2 ~~—— (a) the total of the cash balances of all funds maintained by the district at the beginning of the~~
3 ~~year;~~

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

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

6 ~~—— (d) the total of the cash balances of all funds maintained by the district at the end of the school~~
7 ~~fiscal year; and~~

8 ~~—— (26)(25) hold meetings for the members of the trustees from time to time at which matters for the~~
9 ~~good of the districts must be discussed."~~

10

11 **Section 1.** Section 20-5-320, MCA, is amended to read:

12 **"20-5-320. Attendance with discretionary approval.** (1) A child may be enrolled in and attend a
13 school in a Montana school district that is outside of the child's district of residence or a public school in
14 a district of another state or province that is adjacent to the county of the child's residence, subject to
15 discretionary approval by the trustees of the resident district and the district of choice. If the trustees grant
16 discretionary approval of the child's attendance in a school of the district, the parent or guardian may be
17 charged tuition and may be charged for transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10

11 **Section 2.** Section 20-5-321, MCA, is amended to read:

12 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An
13 out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana
14 school district that is outside of the child's district of residence or in a public school district of a state or
15 province that is adjacent to the county of the child's residence is mandatory whenever:

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

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

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

21 (b) (i) the child resides in a location where, due to road or geographic conditions between the
22 child's home and the school that the child would attend within the district of residence, it is impractical
23 to attend the school nearest the child's in the district of residence, as determined by the county
24 transportation committee. The county transportation committee shall base its decision BASED on the
25 following criteria:

26 (A) THE length of time for transportation THAT IS IN EXCESS OF THE 1-HOUR LIMIT FOR EACH BUS TRIP FOR
27 AN ELEMENTARY CHILD AS AUTHORIZED UNDER 20-10-121;

28 (B) WHETHER distance traveled IS GREATER THAN 40 MILES ONE WAY FROM THE CHILD'S HOME TO SCHOOL
29 ON A DIRT ROAD OR GREATER THAN A TOTAL OF 60 MILES ONE WAY FROM THE CHILD'S HOME TO SCHOOL IN THE DISTRICT
30 OF RESIDENCE OVER THE SHORTEST PASSABLE ROUTE; and OR

1 (C) ~~safety of the roads~~ WHETHER THE CONDITION OF THE ROAD OR EXISTENCE OF A GEOGRAPHIC BARRIER,
 2 SUCH AS A RIVER OR MOUNTAIN PASS, CAUSES A HAZARD THAT PROHIBITS SAFE TRAVEL BETWEEN THE HOME AND
 3 SCHOOL.

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

9 (c) the child is a member of a family that is required to send another child outside of the
 10 elementary district to attend high school and the child of elementary age may more conveniently attend
 11 an elementary school where the high school is located, provided that the child resides more than 3 miles
 12 from an elementary school in the resident district or that the parent is required to move to the elementary
 13 district where the high school is located to enroll another child in high school; A CHILD ENROLLED IN AN
 14 ELEMENTARY SCHOOL PURSUANT TO THIS SUBSECTION (1)(C) MAY CONTINUE TO ATTEND THE ELEMENTARY SCHOOL AFTER
 15 THE OTHER CHILD HAS LEFT THE HIGH SCHOOL.

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

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

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

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

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

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

3 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
 4 the district of choice shall approve the out-of-district attendance agreement and notify the county
 5 superintendent of schools of the county of the child's residence of the approval of the agreement within
 6 10 days. ~~The county superintendent trustees of the district of choice~~ COUNTY SUPERINTENDENT shall approve
 7 the agreement for payment under 20-5-324(5) ~~send a copy of any agreement approved under the~~
 8 ~~provisions of subsection (1)(b), (1)(d), or (1)(e) to the superintendent of public instruction~~ APPROVE THE
 9 AGREEMENT FOR PAYMENT UNDER 20-5-324(5).

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

14

15 **Section 3.** Section 20-5-323, MCA, is amended to read:

16 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections ~~(3)~~ (2) through
 17 (5), whenever a child has approval to attend a school outside of the child's district of residence under the
 18 provisions of 20-5-320 or 20-5-321, ~~the basis of the rate of tuition is a flat rate for each of the 15~~
 19 ~~district-size groupings determined by rule by the superintendent of public instruction by March 15 of each~~
 20 ~~year, using statewide district expenditure and revenue data for the general fund, debt service fund, and~~
 21 ~~retirement fund to determine the average district contribution~~ charged for a Montana resident student may
 22 not exceed 20% of the total per-ANB entitlement defined MAXIMUM RATE ESTABLISHED in 20-9-306 for the
 23 year of attendance.

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

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

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

1 (b) for a Montana resident student, ~~the average district state's share 80% of the total~~ MAXIMUM
 2 per-ANB foundation payment amount ~~entitlement, as defined in~~ RATE ESTABLISHED IN 20-9-306(10)(a)(10),
 3 received in the year for which the tuition charges are calculated must be subtracted from the per-student
 4 program costs for a Montana resident student; AND

5 (C) THE MAXIMUM TUITION RATE PAID TO A DISTRICT UNDER THIS SECTION MAY NOT EXCEED \$2,500 PER ANB.

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

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

12 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to
 13 20-5-314;

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

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

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

18 (6) The amount, if any, charged for transportation may not exceed the lesser of the average
 19 transportation cost per student in the child's district of residence or 21.25 cents per mile. The average
 20 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by
 21 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

22

23 **Section 4.** Section 20-5-324, MCA, is amended to read:

24 **"20-5-324. Tuition report and payment provisions -- exemption.** (1) At the close of the school
 25 term of each school fiscal year ~~and before July 15~~ AND BEFORE JULY 15, the trustees of a district shall report
 26 to the ~~county~~ COUNTY superintendent ~~of public instruction~~:

27 (a) the name and district of residence of each child who is attending a school of the district under
 28 ~~an approved~~ a mandatory out-of-district attendance agreement approved under the provisions of
 29 20-5-321(1)(b), (1)(d), or (1)(e);

30 (b) the number of days of enrollment for each child reported under the provisions of subsection

1 (1)(a);

2 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
3 20-5-323, and the tuition cost for each reported child; and

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

6 (2) ~~The county superintendent shall send, as soon as practicable, the reported information to the~~
7 ~~county superintendent of the county in which a reported child resides.~~ THE COUNTY SUPERINTENDENT SHALL
8 SEND, AS SOON AS PRACTICABLE, THE REPORTED INFORMATION TO THE COUNTY SUPERINTENDENT OF THE COUNTY IN
9 WHICH A REPORTED CHILD RESIDES.

10 (3) ~~Before July 30, the county superintendent shall report Using~~

11 (3) BEFORE JULY 30, THE COUNTY SUPERINTENDENT SHALL REPORT the information in subsection (1)(d);
12 ~~to~~ TO the superintendent of public instruction, ~~who, WHO~~ shall determine the total per-ANB entitlement for
13 which the district would be eligible if the student were enrolled in the resident district. The reimbursement
14 amount is the difference between the actual amount paid and the amount calculated in this subsection.

15 (4) ~~(3)(4)~~ Notwithstanding the requirements of subsection (5) ~~(4)~~ (5)(A), tuition payment provisions
16 for out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter
17 7, part 4.

18 (5) ~~(4)(5)~~ (A) ~~Except as provided in subsection (6) (5)(B) or (6), when~~ WHEN a child has approval
19 to attend a school outside the child's district of residence under the provisions of 20-5-320 or
20 20-5-321(1)(A) OR (1)(B), the district of residence shall finance the tuition amount from the district tuition
21 fund and any transportation amount from the transportation fund.

22 (B) WHEN A CHILD HAS APPROVAL TO ATTEND A SCHOOL OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE UNDER
23 THE PROVISIONS OF 20-5-321(1)(C), THE PARENT OR GUARDIAN OF THE CHILD SHALL FINANCE THE TUITION AND
24 TRANSPORTATION AMOUNT.

25 (6) ~~(5)(6)~~ When a child has mandatory approval under the provisions of 20-5-321(1)(b), (1)(d), or
26 (1)(e), the tuition and transportation AND TRANSPORTATION obligation for an elementary school child
27 attending a school outside of the child's county of residence FOR AN ELEMENTARY SCHOOL CHILD ATTENDING A
28 SCHOOL OUTSIDE OF THE CHILD'S COUNTY DISTRICT OF RESIDENCE must be financed by the ~~basic county tax for~~
29 elementary equalization, as provided in 20-9-331, for the child's county of residence or for a high school
30 child attending a school outside the county of residence by the ~~basic county tax for high school~~

1 ~~equalization, as provided in 20-9-333, for the child's county of residence state from a general fund~~
 2 ~~appropriation to the superintendent of public instruction~~ BASIC COUNTY TAX FOR ELEMENTARY EQUALIZATION,
 3 ~~AS PROVIDED IN 20-9-331, FOR THE CHILD'S COUNTY OF RESIDENCE OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL~~
 4 ~~OUTSIDE THE COUNTY DISTRICT OF RESIDENCE BY THE BASIC COUNTY TAX FOR HIGH SCHOOL EQUALIZATION, AS PROVIDED~~
 5 ~~IN 20-9-333, FOR THE CHILD'S COUNTY OF RESIDENCE.~~

6 ~~(7)(6)(7)~~ By December 31 of the school fiscal year, the county superintendent or the trustees shall
 7 pay at least one-half of any tuition and transportation obligation established under this section out of the
 8 money realized to date from the appropriate elementary or high school county equalization fund provided
 9 for in 20-9-335 or from the district tuition or transportation fund. The remaining tuition and transportation
 10 obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county
 11 treasurer in each county with a school district that is entitled to tuition and transportation. BY DECEMBER
 12 31 OF THE SCHOOL FISCAL YEAR, THE COUNTY SUPERINTENDENT OR THE TRUSTEES SHALL PAY AT LEAST ONE-HALF OF
 13 ANY TUITION AND TRANSPORTATION OBLIGATION ESTABLISHED UNDER THIS SECTION OUT OF THE MONEY REALIZED TO DATE
 14 FROM THE APPROPRIATE ELEMENTARY OR HIGH SCHOOL COUNTY EQUALIZATION FUND PROVIDED FOR IN 20-9-335 OR
 15 FROM THE DISTRICT TUITION OR TRANSPORTATION FUND. THE REMAINING TUITION AND TRANSPORTATION OBLIGATION
 16 MUST BE PAID BY JUNE 15 OF THE SCHOOL FISCAL YEAR. THE PAYMENTS MUST BE MADE TO THE COUNTY TREASURER
 17 IN EACH COUNTY WITH A SCHOOL DISTRICT THAT IS ENTITLED TO TUITION AND TRANSPORTATION. Except as provided
 18 in subsection ~~(9)(8)(9)~~, the county treasurer shall credit tuition receipts to the general fund of a school
 19 district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions
 20 of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school
 21 district entitled to a transportation payment.

22 ~~(8)(7)(8)~~ The superintendent of public instruction shall reimburse the district of residence for the
 23 per-ANB entitlement determined in subsection ~~(3)(2)(3)~~.

24 ~~(9)(8)(9)~~ (a) Any tuition receipts received under the provisions of 20-5-323(3) for the current
 25 school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district
 26 miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to
 27 support the costs of the program for which the tuition was received.

28 (b) Any tuition receipts received for the current school fiscal year for a pupil who is a child with
 29 a disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the
 30 district miscellaneous programs fund and must be used for that year in the manner provided for in

1 20-9-507 to support the costs of the program for which the tuition was received.

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

6 (c) ANY OTHER TUITION RECEIPTS RECEIVED FOR THE CURRENT SCHOOL FISCAL YEAR THAT EXCEED THE TUITION
 7 RECEIPTS OF THE PRIOR YEAR MAY BE DEPOSITED IN THE DISTRICT MISCELLANEOUS PROGRAMS FUND AND MAY BE USED
 8 FOR THAT YEAR IN THE MANNER PROVIDED FOR IN THAT FUND. FOR THE ENSUING SCHOOL FISCAL YEAR, THE RECEIPTS
 9 MUST BE CREDITED TO THE DISTRICT GENERAL FUND BUDGET.

10 ~~(10)(9)(10)~~ The provisions of this section do not apply to out-of-state placements made by a state
 11 agency pursuant to 20-7-422."

12

13 **Section 5.** Section 20-9-141, MCA, is amended to read:

14 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
 15 county superintendent shall compute the levy requirement for each district's general fund on the basis of
 16 the following procedure:

17 (a) Determine the funding required for the district's final general fund budget less the sum of direct
 18 state aid and the special education allowable cost payment for the district by totaling:

19 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as
 20 provided in 20-9-303; and

21 (ii) any general fund budget amount adopted by the trustees of the district under the provisions
 22 of 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the
 23 maximum general fund budget.

24 (b) Determine the money available for the reduction of the property tax on the district for the
 25 general fund by totaling:

26 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

27 (ii) 98% of actual amounts received in fiscal year 1999 for light vehicle taxes under 61-3-504;

28 (iii) amounts received in the last fiscal year for which revenue reporting was required for each of
 29 the following:

30 (A) revenue from taxes and fees imposed under 23-2-517, 23-2-803, 61-3-521, 61-3-527,

1 61-3-529, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204;

2 (B) interest earned by the investment of general fund cash in accordance with the provisions of
3 20-9-213(4); and

4 (C) any other revenue received during the school fiscal year that may be used to finance the
5 general fund, excluding any guaranteed tax base aid;

6 ~~(iv) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-321 through~~
7 ~~20-5-323, except the amount of tuition received for a pupil who is a child with a disability in excess of~~
8 ~~the amount received for a pupil without disabilities, as calculated under 20-5-323(2);~~

9 ~~(v)(iv)~~ anticipated oil and natural gas production taxes;

10 ~~(v)(v)~~ pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703
11 and property tax reimbursements under 15-1-111, 15-1-112, and section 167, Chapter 584, Laws of
12 1999; and

13 ~~(vi)(vi)~~ anticipated revenue from corporation license taxes collected from financial institutions under
14 the provisions of 15-31-702.

15 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the
16 property tax required to finance the general fund that has been determined in subsection (1)(b) from any
17 general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to
18 determine the general fund BASE budget levy requirement.

19 (d) ~~Subtract~~ Determine the sum of any amount remaining after the determination in subsection
20 (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320
21 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in
22 excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

23 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement
24 to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional
25 financing as provided in 20-9-353 to determine any additional general fund levy requirements.

26 (2) The county superintendent shall calculate the number of mills to be levied on the taxable
27 property in the district to finance the general fund levy requirement for any amount that does not exceed
28 the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum
29 of:

30 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as

1 certified by the superintendent of public instruction; and

2 (b) the current total taxable valuation of the district, as certified by the department of revenue
3 under 15-10-202, divided by 1,000.

4 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be
5 reported to the county commissioners on the fourth Monday of August by the county superintendent as
6 the general fund net levy requirement for the district, and a levy must be set by the county commissioners
7 in accordance with 20-9-142.

8 (4) For each school district, the department of revenue shall calculate and report to the county
9 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
10 proceeds under 15-23-703 and property tax reimbursements under 15-1-111, 15-1-112, and section 167,
11 Chapter 584, Laws of 1999."

12

13 **Section 6.** Section 20-9-212, MCA, is amended to read:

14 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

15 (1) receive and hold all school money subject to apportionment and keep a separate accounting
16 of its apportionment to the several districts that are entitled to a portion of the money according to the
17 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
18 separate accounting must be maintained for each county fund supported by a countywide levy for a
19 specific, authorized purpose, including:

20 (a) the basic county tax for elementary equalization;

21 (b) the basic county tax for high school equalization;

22 (c) the county tax in support of the transportation schedules;

23 (d) the county tax in support of the elementary and high school district retirement obligations; and

24 (e) any other county tax for schools, including the community colleges, that may be authorized
25 by law and levied by the county commissioners.

26 (2) whenever requested, notify the county superintendent and the superintendent of public
27 instruction of the amount of county school money on deposit in each of the funds enumerated in
28 subsection (1) and the amount of any other school money subject to apportionment and apportion the
29 county and other school money to the districts in accordance with the apportionment ordered by the
30 county superintendent or the superintendent of public instruction;

- 1 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;
- 2 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
3 school money;
- 4 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
5 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
6 school taxes must be credited to the same fund and district for which the original taxes were levied.
- 7 (6) send all revenue received for a joint district, part of which is situated in the county, to the
8 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
9 every 3 months after that date until the end of the school fiscal year;
- 10 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
11 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;
- 12 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
13 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of
14 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.
- 15 (9) when directed by the trustees of a district, invest the money of the district within 3 working
16 days of the direction;
- 17 (10) each month give to the trustees of each district an itemized report for each fund maintained
18 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types
19 of revenue received, and the cash balance;
- 20 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
21 program within a unit of the university system when levied by the board of county commissioners under
22 the provisions of 20-25-439;
- 23 (12) invest the money received from the basic county taxes for elementary and high school
24 equalization, the county levy in support of the elementary and high school district retirement obligations,
25 and the county levy in support of the transportation schedules within 3 working days of receipt. The
26 money must be invested until the working day before it is required to be distributed to school districts
27 within the county or remitted to the state. Permissible investments are specified in 20-9-213(4). All
28 investment income must be deposited, and credited proportionately, in the funds established to account
29 for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).
- 30 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of

1 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333,
 2 including all interest earned ~~and excluding any amount required for high school out-of-county tuition under~~
 3 ~~the provisions of 20-9-334~~ AND EXCLUDING ANY AMOUNT REQUIRED FOR TUITION PAID UNDER THE PROVISIONS OF
 4 20-5-324(6) OR (7), in repayment of the state advance for county equalization prescribed in 20-9-347. Any
 5 funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

6

7 ~~Section 9.~~ Section 20-9-333, MCA, is amended to read:

8 ~~"20-9-333. Basic county tax for high school equalization and other revenue for county equalization~~
 9 ~~of high school BASE funding program.~~ (1) Subject to 15-10-420, the county commissioners of each county
 10 shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property
 11 within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521,
 12 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204, for the purposes
 13 of high school equalization and state BASE funding program support. The revenue collected from this levy
 14 must be apportioned to the support of the BASE funding programs of high school districts in the county
 15 and to the state general fund in the following manner:

16 ~~(a) In order to determine the amount of revenue raised by this levy that is retained by the county,~~
 17 ~~the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the~~
 18 ~~county's high school tuition obligation and the total of the BASE funding programs of all high school~~
 19 ~~districts of the county.~~

20 ~~(b) If the basic levy and other revenue prescribed by this section produce more revenue than is~~
 21 ~~required to repay a state advance for county equalization, the county treasurer shall remit the surplus~~
 22 ~~funds to the state treasurer for deposit to the state general fund immediately upon occurrence of a surplus~~
 23 ~~balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year~~
 24 ~~for which the levy has been set.~~

25 ~~(2) The revenue realized from the county's portion of the levy prescribed in this section and the~~
 26 ~~revenue from the following sources must be used for the equalization of the high school BASE funding~~
 27 ~~program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue~~
 28 ~~by the county treasurer in accordance with 20-9-212(1):~~

29 ~~(a) any money remaining at the end of the immediately preceding school fiscal year in the county~~
 30 ~~treasurer's accounts for the various sources of revenue established in this section;~~

1 ~~—— (b) any federal or state money distributed to the county as payment in lieu of property taxation,~~
 2 ~~including federal forest reserve funds allocated under the provisions of 17-3-213;~~
 3 ~~—— (c) gross proceeds taxes from coal under 15-23-703;~~
 4 ~~—— (d) oil and natural gas production taxes; and~~
 5 ~~—— (e) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803,~~
 6 ~~61-3-521, 61-3-529, 61-3-537, 61-3-570, and 67-3-204."~~

7

8 **Section 7.** Section 20-9-335, MCA, is amended to read:

9 **"20-9-335. Formula for apportionment of county equalization money.** (1) The superintendent of
 10 public instruction shall calculate the apportionment of revenue available in the elementary and high school
 11 county equalization funds in accordance with the following procedure:

12 (a) determine the percentage that the county equalization money available for the support of the
 13 elementary direct state aid of the districts in the county is of the total elementary direct state aid of all
 14 districts in the county;

15 (b) multiply the elementary direct state aid amount of each district by the percentage determined
 16 in subsection (1)(a) to determine the portion of the county equalization money available to each school
 17 district.

18 (2) The procedure in subsection (1) must also be applied for the high school direct state aid ~~after~~
 19 ~~the deduction of the county's obligation for high school out-of-county tuition~~ AFTER THE DEDUCTION OF THE
 20 COUNTY'S OBLIGATION FOR TUITION PAID UNDER THE PROVISIONS OF 20-5-324(6) AND (7).

21 (3) Territory situated within a county may not be excluded from the calculations of the county
 22 equalization money under this section solely because the territory lies within the boundaries of a joint
 23 district. Cash balances to the credit of any district at the end of a school fiscal year may not be considered
 24 in the apportionment procedure prescribed in this section.

25 (4) The county equalization money reported under these procedures is the first source of revenue
 26 for financing the elementary and high school direct state aid payments."

27

28 **Section 8.** Section 20-10-132, MCA, is amended to read:

29 **"20-10-132. Duties of county transportation committee.** (1) It is the duty of the county
 30 transportation committee to:

1 (a) establish the transportation service areas within the county, without regard to district boundary
2 lines, for each district that operates a school bus transportation program;

3 (b) except as provided in subsection (2), approve, disapprove, or adjust the school bus routes
4 submitted by the trustees of each district in conformity with the transportation service areas established
5 in subsection (1)(a);

6 (c) approve, disapprove, or adjust applications, approved by the trustees, for increased
7 reimbursements for individual transportation because of isolated conditions of the eligible transportee's
8 residence; ~~and~~

9 (d) conduct hearings to establish the facts of transportation controversies that have been appealed
10 from the decision of the trustees and act on the appeals on the basis of the facts established at the
11 hearing; and

12 (e) determine if geographic conditions make it impractical for a child to attend school in the district
13 of residence, in accordance with 20-5-321(1)(b).

14 (2) In an emergency situation, a temporary bus route change may be approved by the county
15 superintendent. A bus route change approved by the county superintendent must be confirmed by the
16 county transportation committee within 30 days in order to be continued for a period longer than 30 days.

17 (3) When the county transportation committee reviews a request for a new bus route or a change
18 to an existing route, the committee shall consider the following:

19 (a) a map of the existing and proposed bus route;

20 (b) a description of turnarounds;

21 (c) conditions affecting safety;

22 (d) the total mileage and change in mileage of the affected bus route;

23 (e) the approximate total cost;

24 (f) reasons for the proposed bus route change;

25 (g) the number of children to be served;

26 (h) a copy of the official minutes of the meeting at which the school trustees approved the new
27 bus route or route change; and

28 (i) any other information that the county transportation committee considers relevant.

29 (4) When an application for increased reimbursement for individual transportation is presented to
30 the county transportation committee, it must include a signed individual transportation contract and a copy

1 of the official minutes of the meeting at which the trustees acted upon the request for increased
2 reimbursement.

3 (5) After a factfinding hearing and decision on a transportation controversy, the trustees or a
4 patron of the district may appeal the decision to the superintendent of public instruction who shall issue
5 a decision on the basis of the facts established at the county transportation committee hearing."

6

7 NEW SECTION. Section 9. Repealer. Section 20-9-334, MCA, is repealed.

8

9 NEW SECTION. Section 10. Effective date DATES. ~~This (1) EXCEPT AS PROVIDED IN SUBSECTION (2),~~
10 ~~[THIS act]~~ is effective July 1, 2001.

11 (2) [SECTION 5] IS EFFECTIVE JULY 1, 2002.

12

13 NEW SECTION. Section 11. Applicability. ~~This (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS act]~~
14 applies to tuition paid FOR STUDENTS WHO ENROLL OUT OF DISTRICT in the school fiscal year beginning on or
15 after July 1, 2001.

16 (2) [SECTION 5] IS APPLICABLE TO BUDGETS FOR THE SCHOOL FISCAL YEAR BEGINNING ON OR AFTER JULY 1,
17 2002.

18

- END -