

1 HOUSE BILL NO. 456

2 INTRODUCED BY R. KOOPMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF CHARTER SCHOOLS
5 AND CHARTER SCHOOL DISTRICTS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL
6 OPPORTUNITIES TO THE CHILDREN OF MONTANA; REQUIRING AN APPLICANT TO OBTAIN A SPONSOR
7 TO ESTABLISH A CHARTER SCHOOL OR CHARTER SCHOOL DISTRICT; REMOVING THE MORATORIUM
8 ON CREATING NEW SCHOOL DISTRICTS ONLY FOR THE PURPOSE OF CREATING CHARTER SCHOOL
9 DISTRICTS; AUTHORIZING BOARDS OF TRUSTEES FOR CHARTER SCHOOL DISTRICTS; PROHIBITING
10 THE CHARGING OF TUITION BY A CHARTER SCHOOL DISTRICT; PROVIDING FUNDING AT 95 PERCENT
11 OF THE PRO RATA SHARE OF THE TOTAL PER-ANB ENTITLEMENT WITHIN THE BASE BUDGET AND
12 THE MAXIMUM FUND BUDGET OF THE CHILD'S DISTRICT OF RESIDENCE; AMENDING SECTIONS
13 20-2-121, 20-5-321, 20-5-323, 20-5-324, 20-6-104, AND 20-9-306, MCA; AND PROVIDING AN EFFECTIVE
14 DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana Charter
19 Schools Act".

20
21 NEW SECTION. **Section 2. Legislative intent.** (1) Pursuant to Article X, section 1, of the Montana
22 constitution, it is the goal of the people of Montana to establish a system of education that will develop the full
23 educational potential of each person and to guarantee equality of educational opportunity to each person in the
24 state.

25 (2) Pursuant to Article X, section 1(2), of the Montana constitution, the state has recognized the distinct
26 and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation
27 of their cultural integrity.

28 (3) Pursuant to Article X, section 1(3), of the Montana constitution, the state shall accomplish the goals
29 of this section within a basic system of free quality public elementary and secondary schools.

30 (4) Because different children have different educational needs, the legislature finds that the most

1 practicable and possibly the only way of reconciling and accomplishing these constitutional requirements is to
2 increase family choice of schools and school accountability within the state's public school system.

3 (5) In authorizing charter schools and charter school districts, it is the intent of the legislature to
4 authorize parents, teachers, and community members to create new, innovative, and more flexible ways of
5 educating all children within the public school system that will result in improved pupil learning and increased
6 learning opportunities for pupils while requiring the measurement of learning outcomes and establishing new
7 forms of accountability for Montana's schools.

8
9 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 9], the following definitions
10 apply:

11 (1) "Applicant" means a governmental entity, a private organization, a private person, or a tribally
12 controlled community college or other tribally controlled entity located in Montana.

13 (2) "Board of trustees" or "board" means the board of trustees for a charter school district established
14 in [section 4].

15 (3) "Charter school" means a public school established within a charter school district or within an
16 existing school district.

17 (4) "Charter school district" means a public school district established under the provisions of [sections
18 1 through 9], including any preexisting elementary, high school, or K-12 district serving as an applicant for or as
19 an operator of a charter school.

20 (5) (a) "Sponsor" means:

21 (i) a school within an elementary or high school district, as defined in 20-6-101, or within a K-12 district,
22 as defined in 20-6-701;

23 (ii) an elementary or high school district, as defined in 20-6-101, or a K-12 district, as defined in
24 20-6-701;

25 (iii) a unit of the university system, as defined in 20-25-201;

26 (iv) a community college district, as defined in 20-15-101; or

27 (v) the governing body of a local government.

28 (b) The term does not include the board of public education or the office of public instruction.

29
30 **NEW SECTION. Section 4. Charter school district board of trustees -- powers and duties.** (1)

1 There is a board of trustees for each charter school district.

2 (2) The board consists of five members elected as provided in the district's charter. If an applicant for
3 or an operator of a charter school is an existing public school district, the board of trustees may be identical to
4 the board of trustees of the existing public school district.

5 (3) The board of trustees of a charter school district:

6 (a) shall exercise general supervision over the charter schools formed within the boundaries of the
7 charter school district;

8 (b) shall provide leadership and support for sponsors to increase the innovation in and the
9 effectiveness, accountability, and fiscal soundness of charter schools;

10 (c) shall develop an attendance agreement as required in [section 9];

11 (d) shall keep a record of its proceedings;

12 (e) shall sign a contract with a sponsor for the establishment of a charter school or a charter school
13 district;

14 (f) may contract, sue, and be sued;

15 (g) shall secure insurance for liability and property loss;

16 (h) may pledge, assign, or encumber the school's or district's assets to be used as collateral for loans
17 or extensions of credit; and

18 (i) may accept gifts, donations, or grants.

19 (4) The board shall adopt rules:

20 (a) governing the conduct of the board's business; and

21 (b) establishing the financial reporting procedures required of charter schools.

22 (5) The members of the board are not personally liable for:

23 (a) any acts or omissions of a charter school or a charter school district, including acts or omissions
24 relating to the:

25 (i) application submitted by a charter school district;

26 (ii) charter of a charter school district;

27 (iii) operation of a charter school or charter school district; or

28 (iv) performance of a charter school or charter school district; or

29 (b) the debts or financial obligations of a charter school district or persons who operate a charter school
30 district.

1 (6) A member of the board is prohibited from working for a sponsor or as an employee, agent, or
2 contractor of an entity with whom a charter school contracts, directly or indirectly, for professional services,
3 goods, or facilities. A member of the board who violates this prohibition is individually liable to the charter school
4 district for any damage caused by the violation.

5 (7) The board of trustees for a charter school district is allocated to the board of public education for
6 administrative purposes only as provided in 2-15-121. However, the board may hire its own personnel, and the
7 provisions of 2-15-121(2)(d) do not apply.

8

9 **NEW SECTION. Section 5. Charter school districts -- application -- duties of sponsors.** (1) An
10 applicant may apply to a sponsor to establish and maintain a charter school district. The application must include
11 but is not limited to the following:

12 (a) a description of the facility or facilities and the location or locations of the charter school or schools
13 proposed for the district;

14 (b) a mission statement for the district;

15 (c) a description of the organizational structure of the district and of any charter schools within the
16 district;

17 (d) a financial plan for the first 3 years of operation; and

18 (e) a description of the grade levels or ages of the students to be served.

19 (2) The sponsor shall either grant or deny the application within 90 days. If the application meets the
20 requirements of this section, the sponsor may approve the charter if the sponsor determines that the applicant
21 is sufficiently qualified to operate a charter school district. If the sponsor rejects the application, the sponsor shall
22 notify the applicant in writing within 10 days of the reasons for the rejection. Upon the request of the applicant,
23 the sponsor may provide technical assistance to improve the application. An applicant may submit a revised
24 application for reconsideration by the sponsor.

25 (3) A charter school district authorized to organize and operate pursuant to this section shall, before
26 entering into a contract or other agreement for professional or other services, goods, or facilities, establish a
27 board of trustees.

28 (4) A charter school may not be used as a method of providing education or generating revenue for
29 students under 5 years of age, older than 18 years of age, or beyond the secondary school level.

30 (5) The trustees of an elementary or high school district, as defined in 20-6-101, or a K-12 school

1 district, as defined in 20-6-701, may elect to convert one or more of the district's existing schools to a charter
2 school or schools under this section only if 60% of the total of the full-time teachers and specialists at the school
3 sign a petition requesting conversion. The conversion of a school must occur at the beginning of an academic
4 year.

5
6 **NEW SECTION. Section 6. Charter school -- requirements -- authority.** The charter for a charter
7 school or charter school district must contain:

8 (1) evidence that the charter school or charter school district complies with federal, state, and local
9 statutes and regulations relating to health, safety, civil rights, insurance, and the education of children with
10 disabilities;

11 (2) a statement that a charter school or charter school district is exempt from all provisions of Title 20,
12 except as specified in [sections 1 through 9], and from the provisions of Title 39, chapter 31;

13 (3) evidence that a charter school or charter school district is nonsectarian in its programs, admission
14 policies, employment practices, and all other operations;

15 (4) a description of a charter school's or charter school district's educational program, pupil performance
16 standards, and methods of assessment and of specific outcomes pupils are to achieve. A charter school or
17 charter school district may select assessment tools from the list developed by the board. A charter school or
18 charter school district shall provide a comprehensive program for any grade between kindergarten and grade
19 12, except that a charter school or charter school district may offer a curriculum with an emphasis on a specific
20 learning philosophy or style or a certain subject area, such as mathematics, science, fine arts, performance arts,
21 social science, or foreign language.

22 (5) the geographic boundaries of the proposed charter school district, which may include all or any
23 specified part of the state of Montana;

24 (6) the financial reporting requirements established by the board of public education;

25 (7) a provision for an annual audit of the financial and administrative operations of the charter school;

26 (8) a description of the board of trustees of the charter school district that is responsible for the policy
27 and operational decisions of the charter school district and the specific roles and duties of the board;

28 (9) a description of the personnel policies, personnel qualifications, and method of school governance;

29 (10) the minimum types and amounts of insurance coverage to be obtained by the charter school district;

30 and

1 (11) a provision guaranteeing the rights of the employees of the charter school district to organize for
2 collective bargaining pursuant to Title 39, chapter 31, part 2.

3
4 **NEW SECTION. Section 7. Admission requirements.** (1) A charter school or charter school district
5 shall enroll all eligible pupils who submit a timely application unless the number of applications exceeds the
6 capacity of a program, class, grade level, or building. A charter school or charter school district shall give
7 enrollment preference to pupils returning to a charter school in the charter school district in the second or any
8 subsequent year of its operation and to siblings of pupils already enrolled in the charter school.

9 (2) If capacity is insufficient to enroll all pupils who submit timely applications, the charter school or
10 charter school district shall select pupils through an equitable selection process, except that preference must
11 be given to siblings of a pupil selected through an equitable selection process.

12 (3) A charter school or charter school district may not limit admission based on ethnicity, national origin,
13 gender, income level, disability, proficiency in the English language, or athletic ability.

14 (4) A charter school or charter school district may limit admission to pupils within a given age group or
15 grade level.

16
17 **NEW SECTION. Section 8. Renewal of charter -- revocation of charter.** (1) A charter to establish
18 a charter school or charter school district is effective for 15 years from the first day of operation. At the
19 conclusion of the first 14 years of operation, the charter school or charter school district may apply for renewal.

20 (2) The sponsor may deny the request for renewal if, in its judgment, the charter school or a charter
21 school district has failed to complete the obligations of the charter or has failed to comply with the provisions of
22 [sections 1 through 9]. The sponsor shall give written notice to the board of trustees of the charter school of the
23 intent not to renew the charter.

24 (3) The sponsor shall review a charter school or charter school district at 5-year intervals and may
25 revoke a charter at any time if the charter school or charter school district breaches one or more of the provisions
26 of its charter. At least 90 days before the effective date of the proposed revocation, the sponsor shall give written
27 notice to the board of trustees of the charter school or charter school district of its intent to revoke the charter.
28 The notice must include a statement of reasons for the proposed revocation. The sponsor shall allow the charter
29 school or charter school district at least 90 days to correct the problems associated with the proposed revocation.
30 The final determination on revocation must be made at a public hearing called for that purpose.

1 (4) After renewal of the charter at the end of the initial 15-year period, the charter may be renewed for
2 successive periods of 15 years if the charter school or charter school district and the sponsor believe that the
3 school or the district is in compliance with its own charter and the provisions of [sections 1 through 9].

4
5 **NEW SECTION. Section 9. Attendance agreement -- funding.** (1) A charter school district may not
6 charge tuition. However, approval of an attendance agreement that allows a child to enroll in and attend a
7 charter school is mandatory.

8 (2) Whenever a parent or guardian of a child wishes to have the child attend a charter school within a
9 charter school district or outside the district, the parent or guardian shall notify the trustees of the child's district
10 of residence on an attendance agreement form supplied by the charter school and in accordance with
11 regulations adopted by the board of public education. Notification must be made within 10 days of the child's
12 enrollment in the charter school district. If space is available for the child to enroll in a charter school or charter
13 school district, the trustees of the district of residence shall approve the attendance agreement within 10 days
14 of the receipt of the agreement by the district of residence.

15 (3) A charter school or charter school district is entitled to 95% of the pro rata share of the total per-ANB
16 entitlement within the BASE budget and the maximum fund budget, as defined in 20-9-306, of the child's district
17 of residence.

18 (4) A charter school or charter school district may receive money from any source for capital needs. In
19 a report to the board, a charter school shall report the total amount of funds received from grants and other
20 outside sources.

21
22 **Section 10.** Section 20-2-121, MCA, is amended to read:

23 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

24 (1) effect an orderly and uniform system for teacher certification and specialist certification and for the
25 issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and
26 20-4-111;

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

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

30 (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction,

1 and operation of school buses in accordance with the provisions of 20-10-111;

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

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

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

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

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

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

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

16 (12) adopt rules for student assessment in the public schools; ~~and~~

17 (13) within 6 months of [the date of enactment of sections 1 through 9], adopt rules consistent with the
18 provisions of [sections 1 through 9] to facilitate and not impair the establishment and operation of charter schools
19 or charter school districts pursuant to [sections 1 through 9], including but not limited to rules:

20 (a) governing financial reporting requirements;

21 (b) securing equitable enforcement of charters; and

22 (c) applying for appeals from revocation of charters; and

23 ~~(13)~~(14) perform any other duty prescribed from time to time by this title or any other act of the
24 legislature."
25

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

27 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
28 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is
29 outside of the child's district of residence or in a public school district of a state or province that is adjacent to
30 the county of the child's residence is mandatory whenever:

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

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

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

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

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

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

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

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

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

28 (f) a child is enrolled in a charter school or charter school district established under the provisions of
29 [sections 1 through 9].

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

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

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

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

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

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

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

20

21 **Section 12.** Section 20-5-323, MCA, is amended to read:

22 **"20-5-323. Tuition and transportation rates -- exemption.** (1) Except as provided in subsections (2)
 23 through (5), whenever a child has approval to attend a school outside of the child's district of residence under
 24 the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not
 25 exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

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

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

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

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

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

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

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

13 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 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 for each student in the child's district of residence or 25 cents a 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 (7) The provisions of this section do not apply to a charter school district established under [sections
23 1 through 9]."

24

25 **Section 13.** Section 20-5-324, MCA, is amended to read:

26 **"20-5-324. Tuition report and payment provisions -- ~~exemption~~ exemptions.** (1) At the close of the
27 school term of each school fiscal year and before July 15, the trustees of a district shall report to the county
28 superintendent:

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

- 1 (1)(e);
- 2 (b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);
- 3 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
- 4 20-5-323, and the tuition cost for each reported child;
- 5 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident
- 6 students attending public schools out of state; and
- 7 (e) the names, schools of attendance, and amount of tuition to be paid by the district for resident
- 8 students attending day-treatment programs under approved individualized education programs at private,
- 9 nonsectarian schools.
- 10 (2) The county superintendent shall send, as soon as practicable, the reported information to the county
- 11 superintendent of the county in which a reported child resides.
- 12 (3) Before July 30, the county superintendent shall report the information in subsections (1)(d) and (1)(e)
- 13 to the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the district
- 14 would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference
- 15 between the actual amount paid and the amount calculated in this subsection.
- 16 (4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district
- 17 placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.
- 18 (5) (a) When a child has approval to attend a school outside the child's district of residence under the
- 19 provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has approval to attend a day-treatment
- 20 program under an approved individualized education program at a private, nonsectarian school located in or
- 21 outside of the child's district of residence, the district of residence shall finance the tuition amount from the district
- 22 tuition fund and any transportation amount from the transportation fund.
- 23 (b) When a child has approval to attend a school outside the child's district of residence under the
- 24 provisions of 20-5-321(1)(c), the parent or guardian of the child shall finance the tuition and transportation
- 25 amount.
- 26 (6) When a child has mandatory approval under the provisions of 20-5-321(1)(d) or (1)(e), the tuition
- 27 and transportation obligation for an elementary school child attending a school outside of the child's district of
- 28 residence must be financed by the basic county tax for elementary equalization, as provided in 20-9-331, for the
- 29 child's county of residence or for a high school child attending a school outside the district of residence by the
- 30 basic county tax for high school equalization, as provided in 20-9-333, for the child's county of residence.

1 (7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay at least
 2 one-half of any tuition and transportation obligation established under this section out of the money realized to
 3 date from the appropriate elementary or high school county equalization fund provided for in 20-9-335 or from
 4 the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by June
 5 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school
 6 district that is entitled to tuition and transportation. Except as provided in subsection (9), the county treasurer
 7 shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts
 8 must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation
 9 receipts to the transportation fund of a school district entitled to a transportation payment.

10 (8) The superintendent of public instruction shall reimburse the district of residence for the per-ANB
 11 entitlement determined in subsection (3).

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

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

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

24 (10) The provisions of this section do not apply to out-of-state placements made by a state agency
 25 pursuant to 20-7-422 or to a charter school district established under the provisions of [sections 1 through 9]."

26

27 **Section 14.** Section 20-6-104, MCA, is amended to read:

28 **"20-6-104. Moratorium on creation of new district -- ~~exception~~ exceptions.** (1) A school district may
 29 not initiate the creation of a new elementary district or a new high school district.

30 (2) This section does not apply to:

1 (a) a district that results from the procedure for the dissolution of a K-12 school district pursuant to
2 20-6-704; or

3 **(b) a charter school district established under the provisions of [sections 1 through 9].**"

4

5 **Section 15.** Section 20-9-306, MCA, is amended to read:

6 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
7 definitions apply:

8 (1) "BASE" means base amount for school equity.

9 (2) "BASE aid" means:

10 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the
11 general fund budget of a district; and

12 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,
13 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the
14 special education allowable cost payment.

15 (3) "BASE budget" means, except for a charter school or charter school district funded pursuant to
16 [section 9], the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of
17 the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

18 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
19 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
20 20-9-369.

21 (5) "BASE funding program" means the state program for the equitable distribution of the state's share
22 of the cost of Montana's basic system of public elementary schools and high schools, through county
23 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in
24 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

25 (6) "Basic entitlement" means:

26 (a) \$220,646 for each high school district;

27 (b) \$19,859 for each elementary school district or K-12 district elementary program without an approved
28 and accredited junior high school or middle school; and

29 (c) the prorated entitlement for each elementary school district or K-12 district elementary program with
30 an approved and accredited junior high school or middle school, calculated as follows:

1 (i) \$19,859 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten
2 through grade 8; plus

3 (ii) \$220,646 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade
4 8.

5 (7) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement
6 for the general fund budget of a district and funded with state and county equalization aid.

7 (8) "Maximum general fund budget" means a district's general fund budget amount calculated from the
8 basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

9 (a) 175% of special education allowable cost payments; or

10 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures
11 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a
12 maximum allowable ratio of 200%.

13 (9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
14 that is above the BASE budget and below the maximum general fund budget for a district.

15 (10) "Total per-ANB entitlement" means, except for a charter school or charter school district funded
16 pursuant to [section 9], the district entitlement resulting from the following calculations:

17 (a) for a high school district or a K-12 district high school program, a maximum rate of \$5,371 for the
18 first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800
19 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

20 (b) for an elementary school district or a K-12 district elementary program without an approved and
21 accredited junior high school or middle school, a maximum rate of \$4,031 for the first ANB is decreased at the
22 rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess
23 of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

24 (c) for an elementary school district or a K-12 district elementary program with an approved and
25 accredited junior high school or middle school, the sum of:

26 (i) a maximum rate of \$4,031 for the first ANB for kindergarten through grade 6 is decreased at the rate
27 of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving
28 the same amount of entitlement as the 1,000th ANB; and

29 (ii) a maximum rate of \$5,371 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents
30 per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800

1 receiving the same amount of entitlement as the 800th ANB."
2

3 NEW SECTION. **Section 16. Notification to tribal governments.** The secretary of state shall send
4 a copy of [this act] to each tribal government and each tribal college located on the seven Montana reservations
5 and to the Little Shell band of Chippewa.
6

7 NEW SECTION. **Section 17. Codification instruction.** (1) [Sections 1 through 3 and 5 through 9] are
8 intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through
9 3 and 5 through 9].

10 (2) [Section 4] is intended to be codified as an integral part of Title 2, chapter 15, part 15, and the
11 provisions of Title 2, chapter 15, part 15, apply to [section 4].
12

13 NEW SECTION. **Section 18. Effective date.** [This act] is effective July 1, 2005.
14

- END -