

HOUSE BILL NO. 417

INTRODUCED BY HOLLENBAUGH, WARD

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3
4 A BILL FOR AN ACT ENTITLED: "~~AN ACT REVISING SCHOOL FINANCE LAWS; REVISING SCHOOL~~
5 FINANCE LAWS; REQUIRING THAT ROYALTIES FROM MINERAL PRODUCTION RIGHTS PURCHASED
6 THROUGH A LOAN FROM THE COAL SEVERANCE TAX PERMANENT FUND IN EXCESS OF THE AMOUNT
7 NECESSARY TO REPAY THE LOAN BE TRANSFERRED FROM THE GUARANTEE ACCOUNT TO THE
8 SCHOOL FACILITY IMPROVEMENT ACCOUNT; CREATING A SCHOOL FACILITY IMPROVEMENT ACCOUNT
9 AND PROVIDING FOR THE USE OF MONEY IN THAT ACCOUNT; CLARIFYING PROVISIONS RELATING TO
10 FINANCING SCHOOL DISTRICT CONSOLIDATION AND ANNEXATION; REVISING THE CALCULATION OF
11 AVERAGE NUMBER BELONGING; PROVIDING AN INFLATION ADJUSTMENT TO THE BASIC AND PER-ANB
12 ENTITLEMENTS; PROVIDING FULL-TIME ANB FUNDING TO PUBLIC SCHOOL DISTRICTS FOR STUDENTS
13 ENROLLED FULL-TIME IN A KINDERGARTEN PROGRAM OF AT LEAST 720 HOURS; REVISING THE BASIC
14 ENTITLEMENT FOR APPROVED AND ACCREDITED JUNIOR HIGH SCHOOLS, MIDDLE SCHOOLS, AND 7TH
15 AND 8TH GRADE PROGRAMS TO MAINTAIN CURRENT FUNDING AMOUNTS WITH FUNDING OF FULL-TIME
16 KINDERGARTEN; PROVIDING A MECHANISM FOR ADJUSTING THE PREVIOUS YEAR'S GENERAL FUND
17 BUDGET TO DETERMINE THE GENERAL FUND BUDGET LIMITATION FOR THE CURRENT YEAR;
18 INCREASING THE QUALITY EDUCATOR PAYMENT; ADDING LICENSED PSYCHOLOGISTS AND LICENSED
19 SOCIAL WORKERS TO THE LIST OF LICENSED PROFESSIONALS WHO ARE INCLUDED IN THE
20 CALCULATION OF THE QUALITY EDUCATOR PAYMENT; PROVIDING FOR A VOLUNTARY MENTAL HEALTH
21 SCREENING AND REFERRAL PROGRAM TO BE ADMINISTERED BY THE SUPERINTENDENT OF PUBLIC
22 INSTRUCTION; PROVIDING AN APPROPRIATION FOR STARTUP FUNDS FOR KINDERGARTEN PROVIDING
23 A DISTRIBUTION MECHANISM FOR STARTUP FUNDS FOR KINDERGARTEN; AMENDING SECTIONS
24 17-6-340, 20-1-301, 20-3-205, 20-3-312, 20-6-411, 20-6-414, 20-6-422, ~~AND~~ 20-6-704, ~~AND~~ 20-9-314, 20-7-117,
25 20-9-306, 20-9-308, 20-9-311, 20-9-313, 20-9-314, 20-9-327, 20-9-329, 20-9-330, ~~AND~~ 20-9-622, MCA; AND
26 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

27
28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

29
30 NEW SECTION. SECTION 1. SCHOOL FACILITY IMPROVEMENT ACCOUNT. THERE IS A SCHOOL FACILITY



1 IMPROVEMENT ACCOUNT IN THE STATE SPECIAL REVENUE FUND PROVIDED FOR IN 17-2-102. THE PURPOSE OF THE
 2 ACCOUNT IS TO PROVIDE MONEY TO SCHOOLS FOR:

3 (1) DEFERRED MAINTENANCE;

4 (2) IMPROVING ENERGY EFFICIENCY IN SCHOOL FACILITIES; AND

5 (3) CRITICAL INFRASTRUCTURE IN SCHOOL DISTRICTS WITH CHANGING STUDENT POPULATIONS.

6

7 **SECTION 2.** SECTION 17-6-340, MCA, IS AMENDED TO READ:

8 **"17-6-340. Purchase of permanent fund mineral estate.** The department of natural resources and
 9 conservation may purchase the mineral production rights held by the public school fund established in Article X,
 10 section 2, of the Montana constitution for fair market value. If the department of natural resources and
 11 conservation purchases mineral production rights, any royalty payments received by the board that are not used
 12 to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must
 13 be deposited in the guarantee account and transferred to the school facility improvement account provided for
 14 in ~~20-9-622~~ [section 1]."
 15

15

16 **SECTION 3.** SECTION 20-1-301, MCA, IS AMENDED TO READ:

17 **"20-1-301. School fiscal year.** (1) The school fiscal year begins on July 1 and ends on June 30. At least
 18 the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except
 19 that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient ~~or a minimum of 360~~
 20 ~~aggregate hours of pupil instruction must be conducted for a kindergarten program, as provided in 20-7-117.~~

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

22 (a) 360 hours for a half-time kindergarten program or 720 hours for a full-time kindergarten program, as
 23 provided in 20-7-117;

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

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

26 (3) For any elementary or high school district that fails to provide for at least the minimum aggregate
 27 hours, as listed in subsections (1) and (2), the superintendent of public instruction shall reduce the direct state
 28 aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction,
 29 for the aggregate hours missed."
 30

30

1 **SECTION 4. SECTION 20-3-205, MCA, IS AMENDED TO READ:**

2 **"20-3-205. Powers and duties.** (1) 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 (a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions
5 of 20-3-352, 20-3-353, and 20-3-354;

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

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

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

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

13 (f) keep a transcript of the district boundaries of the county;

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

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

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

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

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

25 (l) submit an annual financial report to the superintendent of public instruction in accordance with the
26 provisions of 20-9-211;

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

30 (n) act on any request to transfer average number belonging (ANB) in accordance with the provisions

1 of ~~20-9-313(3)~~ 20-9-313(1)(c);

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

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

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

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

11 (s) notify the superintendent of public instruction of a textbook dealer's activities when required under
12 the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

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

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

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

19 (w) keep a record of official acts, preserve all reports submitted to the superintendent under the
20 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable
21 to the administration of the office, and surrender all records, books, supplies, and equipment to the next
22 superintendent;

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

26 (i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

27 (ii) the total receipts that were realized in each fund maintained by the district;

28 (iii) the total expenditures that were made from each fund maintained by the district; and

29 (iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal
30 year; and

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

3 (2) (a) When a district in one county annexes a district in another county, the county superintendent of
4 the county where the annexing district is located shall perform the duties required by this section.

5 (b) When two or more districts in more than one county consolidate, the duties required by this section
6 must be performed by the county superintendent designated in the same manner as other county officials in
7 20-9-202."

8

9 **Section 5.** Section 20-3-312, MCA, is amended to read:

10 **"20-3-312. Trustees of district affected by boundary change.** The trustees of any district to which
11 the territory of another district is attached as a result of annexation, abandonment, territory transfer, or any other
12 method of changing district boundaries, except by the consolidation of elementary districts, continue to be the
13 trustees of the district with the same powers, duties, and responsibilities and subject to the same limitations
14 provided by law as if there had been no boundary change. In the case of elementary district consolidation, the
15 appointed trustees of the resulting elementary district shall assume their trustee positions under the authority of
16 20-6-423."

17

18 **Section 6.** Section 20-6-411, MCA, is amended to read:

19 **"20-6-411. Bonded indebtedness to remain with original territory except when assumed by**
20 **election.** Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded
21 indebtedness against ~~any a~~ district or territory affected by a change of boundaries ~~shall~~ must remain the
22 indebtedness of the original territory against which ~~such the~~ bonds were issued and ~~shall~~ must be paid by levies
23 on the original territory, except when elementary districts are consolidated with the mutual assumption of bonded
24 indebtedness or when ~~an elementary a~~ district is annexed with a joint assumption of the annexing district's
25 bonded indebtedness ~~with the annexing district~~. Any ~~moneys~~ money to the credit of the debt service fund of a
26 district when its boundaries are changed ~~shall~~ must be used to pay the existing bond principal and interest of the
27 original territory issuing ~~such the~~ bonds as it becomes due or for bond redemption under the bonding provisions
28 of this title."

29

30 **Section 7.** Section 20-6-414, MCA, is amended to read:

1 **"20-6-414. Cash disposition when districts consolidated.** Whenever two or more districts are
2 consolidated without the mutual assumption of bonded indebtedness, all cash and debts, other than cash credited
3 to the debt service fund and debts for bonded indebtedness, ~~shall~~ must be credited or debited to the same types
4 of funds of the consolidated district as the funds from which they were transferred by the county treasurer. In
5 addition, when two or more elementary districts are consolidated with the mutual assumption of bonded
6 indebtedness, the cash credited to the debt service fund and the bonded indebtedness also ~~shall~~ must be
7 transferred to a similar fund of the consolidated district."
8

9 **Section 8.** Section 20-6-422, MCA, is amended to read:

10 **"20-6-422. District annexation.** (1) As used in this section, the following definitions apply:

11 (a) "Annexing district" means the district to which another district is being attached through an annexation
12 procedure.

13 (b) "District to be annexed" means the district that is being attached to another district through an
14 annexation procedure.

15 (2) A district may be annexed to a contiguous district when one of the conditions of 20-6-421 is met in
16 accordance with the following procedure:

17 (a) An annexation proposition may be introduced in the district to be annexed by either of the two
18 following methods:

19 (i) the trustees may pass a resolution requesting the county superintendent of the county where the
20 district is located to order an election to consider an annexation proposition for their district; or

21 (ii) not less than 20% of the electors of the district who are qualified to vote under the provisions of
22 20-20-301 may petition the county superintendent of the county where the district is located requesting an
23 election to consider an annexation proposition for their district.

24 (b) The resolution or petition must state whether the annexation is to be made with or without the joint
25 assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing
26 district.

27 (3) Before ordering an election on the proposition, the county superintendent of the county where the
28 district to be annexed is located must first receive from the trustees of the annexing district a resolution giving the
29 county superintendent the authority to annex the district. The resolution must state whether the annexation is to
30 be made with or without the joint assumption of bonded indebtedness of the annexing district by the district to be

1 annexed and the annexing district. The resolution from the annexing district and the resolution or petition from
 2 the district to be annexed must agree on whether or not there will be joint assumption of bonded indebtedness.
 3 Without agreement, the annexation proposition may not be considered further.

4 (4) When the county superintendent of the county where the district to be annexed is located has
 5 received the resolution authorizing the annexation from the annexing district and the resolution or valid petition
 6 from the district to be annexed, the county superintendent shall, within 10 days and as provided by 20-20-201,
 7 order the trustees of the district to be annexed to call an annexation election.

8 (5) The district to be annexed shall call and conduct an election in the manner prescribed in this title for
 9 school elections and subject to subsections (6) and (7). Any elector qualified to vote under the provisions of
 10 20-20-301 may vote.

11 (6) (a) If the district to be annexed is to jointly assume the bonded indebtedness of the annexing district,
 12 the ballots must read, after stating the annexation proposition, "FOR annexation with assumption of bonded
 13 indebtedness" and "AGAINST annexation with assumption of bonded indebtedness".

14 (b) When the trustees in ~~each~~ the district conducting ~~an~~ the election canvass the vote under the
 15 provisions of 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

16 (c) The proposition is approved in the district if a majority of those voting approve the proposition.

17 (7) If the district to be annexed is not to jointly assume the bonded indebtedness of the annexing district,
 18 the ballots must read, after stating the annexation proposition, "FOR annexation without assumption of bonded
 19 indebtedness" and "AGAINST annexation without assumption of bonded indebtedness". The annexation
 20 proposition is approved by a district if a majority of those voting in a district approve the proposition.

21 (8) After the county superintendent of the county where the district to be annexed is located has received
 22 the election certification provided for in 20-20-416 from the trustees of the district conducting the annexation
 23 election and if the annexation proposition has been approved by the election, the county superintendent shall
 24 order the annexation of the territory of the district voting on the proposition to the district that has authorized the
 25 annexation to its territory effective July 1. The order must be issued within 10 days after the receipt of the election
 26 certificate. For annexation with joint assumption of bonded indebtedness, the order must specify that there will
 27 be joint assumption of the bonded indebtedness ~~between~~ of the annexing district by the owners of all taxable real
 28 and personal property in the ~~annexed~~ territory ~~and in the annexing~~ of the district to be annexed. The county
 29 superintendent of the county where the district to be annexed is located shall send a copy of the order to the
 30 board of county commissioners of each county involved in the annexation order and to the trustees of the districts

1 involved in the annexation order.

2 (9) If the annexation proposition is disapproved in the district to be annexed, the annexation proposition
3 fails and the county superintendent of the county where the district to be annexed is located shall notify each
4 district of the disapproval of the annexation proposition."
5

6 **Section 9.** Section 20-6-704, MCA, is amended to read:

7 **"20-6-704. Dissolution of K-12 school district.** (1) Except as provided in subsection (2), in order to
8 dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to
9 the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or
10 consolidating the K-12 district's elementary or high school program with a contiguous school district or districts
11 in an ensuing school fiscal year under the provisions of 20-6-422 or 20-6-423.

12 (2) If the trustees of the school district determine that the creation or continuation of the K-12 district has
13 resulted in or will result in the loss of federal funding for the elementary or high school programs and that it is in
14 the best interest of the district to dissolve into the original elementary district and high school district that existed
15 prior to the formation of the K-12 district, the trustees may dissolve the district under the following procedure:

16 (a) The trustees of the district shall pass a resolution requesting the county superintendent to order a
17 dissolution of the district.

18 (b) When the county superintendent receives the resolution from the district, the county superintendent
19 shall, within 10 days, order the dissolution of the K-12 district into the original elementary district and high school
20 district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county
21 superintendent shall send a copy of the order to the board of county commissioners, the trustees of the district,
22 and the superintendent of public instruction.

23 (3) If the entire territory of the dissolving K-12 district will be annexed to or consolidated with a contiguous
24 district or districts, the resolution or petition required in subsection (1) or (2) must contain a description of the
25 manner in which the real and personal property and funds of the district are to be apportioned in the dissolution
26 of the district and the subsequent annexation to or consolidation with one or more other districts. If a portion of
27 the dissolving K-12 district will not be annexed or consolidated with another district or districts, the resolution or
28 petition must contain a description of the manner in which the property, funds, and financial obligations, including
29 bonded indebtedness, of the K-12 district are to be apportioned to the district or districts whose territory is not
30 annexed to or consolidated with another district.

1 (4) After the county superintendent receives the certificate of election provided for in 20-20-416 from the
 2 trustees of the K-12 district and from each district included in a consolidation proposition, the county
 3 superintendent shall determine whether the dissolution and annexation or consolidation proposition or
 4 propositions have been approved. If the K-12 district has approved the dissolution proposition and each district
 5 involved in a consolidation has approved the consolidation proposition, the county superintendent shall, within
 6 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original
 7 elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30
 8 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county
 9 commissioners, the trustees of the district included in the dissolution order, and the superintendent of public
 10 instruction.

11 (5) Whenever a K-12 district is dissolved, the following provisions apply:

12 (a) The trustees of the elementary district whose territory is not annexed or consolidated upon dissolution
 13 of the K-12 district are responsible for the execution of remaining financial obligations of the K-12 district and for
 14 the apportionment between the elementary and high school programs of any obligations not identified in the
 15 resolution required under subsection (3).

16 (b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

17 (c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12 district
 18 during its last year of operations as a K-12 district will be prorated based on rules promulgated by the
 19 superintendent of public instruction."
 20

21 ~~Section 6. Section 20-9-311, MCA, is amended to read:~~

22 ~~"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- three-year averaging.~~

23 ~~(1) Average number belonging (ANB) must be computed for each budget unit as follows:~~

24 ~~(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were~~
 25 ~~enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on~~
 26 ~~February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and~~
 27 ~~divide the sum by two; and~~

28 ~~(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved~~
 29 ~~pupil-instruction-related days for the current school fiscal year and divide by 180.~~

30 ~~(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related~~

- 1 days may be included in the calculation.
- 2 ~~—— (3) When a school district has approval to operate less than the minimum aggregate hours under~~
3 ~~20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.~~
- 4 ~~—— (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an~~
5 ~~education program:~~
- 6 ~~—— (i) from 181 ~~180~~ to 359 aggregate hours of pupil instruction per school year is counted as~~
7 ~~one-quarter-time enrollment;~~
- 8 ~~—— (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time~~
9 ~~enrollment;~~
- 10 ~~—— (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time~~
11 ~~enrollment; and~~
- 12 ~~—— (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.~~
- 13 ~~—— (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per~~
14 ~~school year may not be included for purposes of ANB.~~
- 15 ~~—— (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on~~
16 ~~the hours necessary and appropriate to provide the course within a regular classroom schedule.~~
- 17 ~~—— (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,~~
18 ~~or district may not be counted as more than one full-time pupil for ANB purposes.~~
- 19 ~~—— (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in~~
20 ~~a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as~~
21 ~~one-half pupil for ANB purposes.~~
- 22 ~~—— (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,~~
23 ~~the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes~~
24 ~~attendance prior to the day of the enrollment count.~~
- 25 ~~—— (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB~~
26 ~~calculations.~~
- 27 ~~—— (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a~~
28 ~~district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the~~
29 ~~district, except that the ANB is calculated as a separate budget unit when:~~
- 30 ~~—— (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town~~

1 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
2 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must
3 receive a basic entitlement for the school calculated separately from the other schools of the district;
4 ~~——— (ii) a school of the district is located more than 20 miles from any other school of the district and
5 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
6 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
7 calculated separately from the other schools of the district;~~
8 ~~——— (iii) the superintendent of public instruction approves an application not to aggregate when conditions
9 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
10 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
11 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
12 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
13 other schools of the district; or~~
14 ~~——— (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
15 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
16 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
17 years as follows:~~
18 ~~——— (A) 75% of the basic entitlement for the fourth year;~~
19 ~~——— (B) 50% of the basic entitlement for the fifth year; and~~
20 ~~——— (C) 25% of the basic entitlement for the sixth year.~~
21 ~~——— (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
22 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
23 purposes;~~
24 ~~——— (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
25 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
26 school pupils for ANB purposes; or~~
27 ~~——— (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
28 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
29 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
30 program for the district.~~

1 ~~———— (9) The district shall provide the superintendent of public instruction with semiannual reports of school~~
2 ~~attendance, absence, and enrollment for regularly enrolled students, using a format determined by the~~
3 ~~superintendent.~~

4 ~~———— (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program~~
5 ~~provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes~~
6 ~~only if the pupil is offered access to the complete range of educational services for the basic education program~~
7 ~~required by the accreditation standards adopted by the board of public education.~~

8 ~~———— (b) Access to school programs and services for a student placed by the trustees in a private program~~
9 ~~for special education may be limited to the programs and services specified in an approved individual education~~
10 ~~plan supervised by the district.~~

11 ~~———— (c) Access to school programs and services for a student who is incarcerated in a facility, other than a~~
12 ~~youth detention center, may be limited to the programs and services provided by the district, at district expense,~~
13 ~~under an agreement with the incarcerating facility.~~

14 ~~———— (d) This subsection (10) may not be construed to require a school district to offer access to activities~~
15 ~~governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a~~
16 ~~pupil who is not otherwise eligible under the rules of the organization.~~

17 ~~———— (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this~~
18 ~~title and who is:~~

19 ~~———— (a) a resident of the district or a nonresident student admitted by trustees under a student attendance~~
20 ~~agreement and who is attending a school of the district;~~

21 ~~———— (b) unable to attend school due to because of a medical reason certified by a medical doctor and~~
22 ~~receiving individualized educational services supervised by the district, at district expense, at a home or facility~~
23 ~~that does not offer an educational program;~~

24 ~~———— (c) unable to attend school due to because of the student's incarceration in a facility, other than a youth~~
25 ~~detention center, and who is receiving individualized educational services supervised by the district, at district~~
26 ~~expense, at a home or facility that does not offer an educational program;~~

27 ~~———— (d) receiving special education and related services, other than day treatment, under a placement by the~~
28 ~~trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's~~
29 ~~expense under an approved individual education plan supervised by the district;~~

30 ~~———— (e) participating in the running start program at district expense under 20-9-706;~~

1 ~~_____ (f) receiving educational services, provided by the district, using appropriately licensed district staff at~~
 2 ~~a private residential program or private residential facility licensed by the department of public health and human~~
 3 ~~services;~~

4 ~~_____ (g) enrolled in an educational program or course provided at district expense using electronic or offsite~~
 5 ~~delivery methods, including but not limited to tutoring, distance learning programs, online programs, and~~
 6 ~~technology delivered technology-delivered learning programs, while attending a school of the district or any other~~
 7 ~~nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:~~

8 ~~_____ (i) meet the residency requirements for that district as provided in 1-1-215;~~

9 ~~_____ (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities~~
 10 ~~Education Act or under 29 U.S.C. 794; or~~

11 ~~_____ (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.~~

12 ~~_____ (h) a resident of the district attending a Montana job corps program under an interlocal agreement with~~
 13 ~~the district under 20-9-707.~~

14 ~~_____ (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the~~
 15 ~~district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated~~
 16 ~~using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever~~
 17 ~~generates the greatest maximum general fund budget.~~

18 ~~_____ (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund~~
 19 ~~budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and~~
 20 ~~high school programs pursuant to subsection (12)(a) and then combined.~~

21 ~~_____ (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:~~

22 ~~_____ (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the~~
 23 ~~previous 2 school fiscal years; and~~

24 ~~_____ (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec. 25(2),~~
 25 ~~Ch. 462, L. 2005.)~~

26 ~~_____ **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year**~~
 27 ~~**averaging.** (1) Average number belonging (ANB) must be computed as follows:~~

28 ~~_____ (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were~~
 29 ~~enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on~~
 30 ~~February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and~~

1 divide the sum by two; and

2 ~~——— (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved~~

3 ~~pupil-instruction-related days for the current school fiscal year and divide by 180.~~

4 ~~——— (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related~~

5 ~~days may be included in the calculation.~~

6 ~~——— (3) When a school district has approval to operate less than the minimum aggregate hours under~~

7 ~~20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.~~

8 ~~——— (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an~~

9 ~~education program:~~

10 ~~——— (i) from 181 180 to 359 aggregate hours of pupil instruction per school year is counted as~~

11 ~~one-quarter-time enrollment;~~

12 ~~——— (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time~~

13 ~~enrollment;~~

14 ~~——— (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time~~

15 ~~enrollment; and~~

16 ~~——— (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.~~

17 ~~——— (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per~~

18 ~~school year may not be included for purposes of ANB.~~

19 ~~——— (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on~~

20 ~~the hours necessary and appropriate to provide the course within a regular classroom schedule.~~

21 ~~——— (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,~~

22 ~~or district may not be counted as more than one full-time pupil for ANB purposes.~~

23 ~~——— (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in~~

24 ~~a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as~~

25 ~~one-half pupil for ANB purposes.~~

26 ~~——— (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,~~

27 ~~the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes~~

28 ~~attendance prior to the day of the enrollment count.~~

29 ~~——— (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB~~

30 ~~calculations.~~

1 ~~———(b) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a~~
2 ~~district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the~~
3 ~~district, except that when:~~

4 ~~———(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town~~
5 ~~located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,~~
6 ~~full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic~~
7 ~~entitlement for the school calculated separately from the other schools of the district;~~

8 ~~———(ii) a school of the district is located more than 20 miles from any other school of the district and~~
9 ~~incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school~~
10 ~~must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school~~
11 ~~calculated separately from the other schools of the district;~~

12 ~~———(iii) the superintendent of public instruction approves an application not to aggregate when conditions~~
13 ~~exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any~~
14 ~~other condition exists that would result in an unusual hardship to the pupils of the school if they were transported~~
15 ~~to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately~~
16 ~~for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the~~
17 ~~other schools of the district; or~~

18 ~~———(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and~~
19 ~~the basic entitlements of the component districts must be calculated separately for a period of 3 years following~~
20 ~~the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional~~
21 ~~years as follows:~~

22 ~~———(A) 75% of the basic entitlement for the fourth year;~~
23 ~~———(B) 50% of the basic entitlement for the fifth year; and~~
24 ~~———(C) 25% of the basic entitlement for the sixth year.~~

25 ~~———(b) a junior high school has been approved and accredited as a junior high school, all of the regularly~~
26 ~~enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB~~
27 ~~purposes;~~

28 ~~———(c) a middle school has been approved and accredited, all pupils below the 7th grade must be~~
29 ~~considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high~~
30 ~~school pupils for ANB purposes; or~~

1 ~~———(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time~~
2 ~~pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,~~
3 ~~nor will an average number belonging for the nonaccredited school be used in determining the BASE funding~~
4 ~~program for the district.~~

5 ~~———(9) The district shall provide the superintendent of public instruction with semiannual reports of school~~
6 ~~attendance, absence, and enrollment for regularly enrolled students, using a format determined by the~~
7 ~~superintendent.~~

8 ~~———(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program~~
9 ~~provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes~~
10 ~~only if the pupil is offered access to the complete range of educational services for the basic education program~~
11 ~~required by the accreditation standards adopted by the board of public education.~~

12 ~~———(b) Access to school programs and services for a student placed by the trustees in a private program~~
13 ~~for special education may be limited to the programs and services specified in an approved individual education~~
14 ~~plan supervised by the district.~~

15 ~~———(c) Access to school programs and services for a student who is incarcerated in a facility, other than a~~
16 ~~youth detention center, may be limited to the programs and services provided by the district, at district expense,~~
17 ~~under an agreement with the incarcerating facility.~~

18 ~~———(d) This subsection (10) may not be construed to require a school district to offer access to activities~~
19 ~~governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a~~
20 ~~pupil who is not otherwise eligible under the rules of the organization.~~

21 ~~———(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this~~
22 ~~title and who is:~~

23 ~~———(a) a resident of the district or a nonresident student admitted by trustees under a student attendance~~
24 ~~agreement and who is attending a school of the district;~~

25 ~~———(b) unable to attend school due to because of a medical reason certified by a medical doctor and~~
26 ~~receiving individualized educational services supervised by the district, at district expense, at a home or facility~~
27 ~~that does not offer an educational program;~~

28 ~~———(c) unable to attend school due to because of the student's incarceration in a facility, other than a youth~~
29 ~~detention center, and who is receiving individualized educational services supervised by the district, at district~~
30 ~~expense, at a home or facility that does not offer an educational program;~~

- 1 ~~———(d) receiving special education and related services, other than day treatment, under a placement by the~~
2 ~~trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's~~
3 ~~expense under an approved individual education plan supervised by the district;~~
- 4 ~~———(e) participating in the running start program at district expense under 20-9-706;~~
- 5 ~~———(f) receiving educational services, provided by the district, using appropriately licensed district staff at~~
6 ~~a private residential program or private residential facility licensed by the department of public health and human~~
7 ~~services;~~
- 8 ~~———(g) enrolled in an educational program or course provided at district expense using electronic or offsite~~
9 ~~delivery methods, including but not limited to tutoring, distance learning programs, online programs, and~~
10 ~~technology delivered technology delivered learning programs, while attending a school of the district or any other~~
11 ~~nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:~~
- 12 ~~———(i) meet the residency requirements for that district as provided in 1-1-215;~~
- 13 ~~———(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities~~
14 ~~Education Act or under 29 U.S.C. 794; or~~
- 15 ~~———(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.~~
- 16 ~~———(h) a resident of the district attending a Montana job corps program under an interlocal agreement with~~
17 ~~the district under 20-9-707.~~
- 18 ~~———(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the~~
19 ~~district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated~~
20 ~~using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever~~
21 ~~generates the greatest maximum general fund budget.~~
- 22 ~~———(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund~~
23 ~~budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and~~
24 ~~high school programs pursuant to subsection (12)(a) and then combined.~~
- 25 ~~———(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:~~
- 26 ~~———(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the~~
27 ~~previous 2 school fiscal years; and~~
- 28 ~~———(b) dividing the sum calculated under subsection (13)(a) by three."~~

30 **SECTION 10. SECTION 20-7-117, MCA, IS AMENDED TO READ:**

1 **"20-7-117. ~~Five-year-old schooling~~ Kindergarten and preschool programs.** (1) The trustees of an
 2 elementary district shall establish or make available a kindergarten program capable of accommodating, at a
 3 minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for
 4 which the program is to be conducted or who have been enrolled by special permission of the board of trustees.
 5 The kindergarten program must be an integral part of the elementary school and must be financed and governed
 6 accordingly, provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must
 7 have reached the age of 5 on or before September 10 of the school year covered by the calculation or have been
 8 enrolled by special permission of the board of trustees. A kindergarten program must meet the minimum
 9 aggregate hour requirements established in 20-1-301.

10 (2) The trustees of an elementary school district may establish and operate a free preschool program
 11 for children between the ages of 3 and 5 years. When preschool programs are established, they must be an
 12 integral part of the elementary school and must be governed accordingly. Financing of preschool programs may
 13 not be supported by money available from state equalization aid."
 14

15 **SECTION 11. SECTION 20-9-306, MCA, IS AMENDED TO READ:**

16 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
 17 definitions apply:

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

19 (2) "BASE aid" means:

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

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

25 (c) the total quality educator payment;

26 (d) the total at-risk student payment;

27 (e) the total Indian education for all payment; and

28 (f) the total American Indian achievement gap payment.

29 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic
 30 entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total

1 at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian
2 achievement gap payment, and 140% of the special education allowable cost payment.

3 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
4 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
5 20-9-369.

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

10 (6) "Basic entitlement" means:

11 (a) ~~\$230,199~~ for each high school district;

12 (i) \$236,552 for fiscal year 2008; and

13 (ii) \$243,649 for each succeeding fiscal year;

14 (b) ~~\$20,718~~ for each elementary school district or K-12 district elementary program without an approved
15 and accredited junior high school or middle school;

16 (i) \$21,290 for fiscal year 2008; and

17 (ii) \$21,929 for each succeeding fiscal year; and

18 (c) ~~the prorated entitlement~~ for each elementary school district or K-12 district elementary program with
19 an approved and accredited junior high school, 7th and 8th grade program, or middle school, ~~calculated as~~
20 ~~follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:~~

21 ~~(i) \$20,718 times the ratio of the ANB for the~~ kindergarten through grade 6 to the total ANB of
22 kindergarten through grade 8 elementary program:

23 (A) \$21,290 for fiscal year 2008; and

24 (B) \$21,929 for each succeeding fiscal year; plus

25 ~~(ii) \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade~~
26 8 for an approved and accredited junior high school, 7th and 8th grade program, or middle school:

27 (A) \$60,275 for fiscal year 2008; and

28 (B) \$62,083 for each succeeding fiscal year.

29 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
30 20-9-311.

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

3 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the
4 basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,
5 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement
6 gap payment, and the greater of:

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

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

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

13 (11) "Total American Indian achievement gap payment" means the payment resulting from multiplying
14 \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

15 (12) "Total at-risk student payment" means the payment resulting from the distribution of any funds
16 appropriated for the purposes of 20-9-328.

17 (13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times
18 the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

19 (14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations
20 and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

21 (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,704~~ \$5,861
22 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for the first ANB is decreased at the rate of 50
23 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800
24 receiving the same amount of entitlement as the 800th ANB;

25 (b) for an elementary school district or a K-12 district elementary program without an approved and
26 accredited junior high school or middle school, a maximum rate of ~~\$4,456~~ \$4,579 for fiscal year 2008 and \$4,716
27 for each succeeding fiscal year for the first ANB is decreased at the rate of 20 cents per ANB for each additional
28 ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of
29 entitlement as the 1,000th ANB; and

30 (c) for an elementary school district or a K-12 district elementary program with an approved and

1 accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

2 (i) a maximum rate of ~~\$4,456~~ \$4,579 for fiscal year 2008 and \$4,716 for each succeeding fiscal year for
3 the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional
4 ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the
5 1,000th ANB; and

6 (ii) a maximum rate of ~~\$5,704~~ \$5,861 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for
7 the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades
8 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the
9 800th ANB.

10 (15) "Total quality educator payment" means the payment resulting from multiplying ~~\$2,000~~ \$3,036 for
11 fiscal year 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators
12 as provided in 20-9-327."

13

14 **SECTION 12. SECTION 20-9-308, MCA, IS AMENDED TO READ:**

15 **"20-9-308. (Temporary) BASE budgets and maximum general fund budgets.** (1) The trustees of a
16 district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and,
17 except as provided in subsection (3), does not exceed the maximum general fund budget established for the
18 district.

19 (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for
20 the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a
21 proposition to the electors of the district, as provided in 20-9-353.

22 (3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(b), the trustees of a school district whose
23 previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt
24 a general fund budget up to the maximum general fund budget amount or the previous year's general fund
25 budget, whichever is greater. Except as provided in subsection (3)(b), a school district may adopt a budget under
26 the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan
27 to reach the maximum general fund budget by no later than the end of the 5-year period.

28 (ii) Except as provided in subsection (3)(b), the trustees of a district whose general fund budget was
29 above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and
30 whose general fund budget has continued to exceed the district's maximum general fund budget in each school

1 fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum
2 general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

3 (A) the adopted budget for the previous year; or

4 (B) the district's maximum general fund budget for the current year plus the over maximum budget
5 amount adopted for the previous year.

6 (b) ~~A school district that adopted a general fund budget over its maximum general fund budget under~~
7 ~~any provision of subsection (3)(a) at any time between fiscal year 2001 and fiscal year 2005 may, for fiscal year~~
8 ~~2006 and fiscal year 2007, adopt the greater of its maximum general fund budget or the highest actual budget~~
9 ~~adopted between fiscal year 2001 and fiscal year 2005. For the purpose of calculating the previous year's general~~
10 ~~fund budget in the initial year of implementation of a full-time kindergarten program established pursuant to~~
11 ~~20-7-117, the trustees may add to the district's adopted general fund budget for the previous year an amount~~
12 ~~equal to one-half of the kindergarten enrollment in the previous year times the sum of the maximum per-ANB rate~~
13 ~~for an elementary ANB and the Indian education for all payment for an ANB for the previous year.~~

14 (c) Except as provided in 20-9-353(8), the trustees of the district shall submit a proposition to raise any
15 general fund budget amount that is in excess of the maximum general fund budget for the district to the electors
16 who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

17 (4) The BASE budget for the district must be financed by the following sources of revenue:

18 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
19 district may be eligible, as provided in 20-9-366 through 20-9-369;

20 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

21 (c) a district levy for support of a school not approved as an isolated school under the provisions of
22 20-9-302;

23 (d) payments in support of special education programs under the provisions of 20-9-321;

24 (e) nonlevy revenue, as provided in 20-9-141; and

25 (f) a BASE budget levy on the taxable value of all property within the district.

26 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
27 property within the district or other revenue available to the district, as provided in 20-9-141. (Terminates June
28 30, 2007--sec. 3, Ch. 190, L. 2005; sec. 25(2), Ch. 462, L. 2005.)

29 **20-9-308. (Effective July 1, 2007) BASE budgets and maximum general fund budgets.** (1) The
30 trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for

1 the district and, except as provided in subsection (3), does not exceed the maximum general fund budget
2 established for the district.

3 (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for
4 the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a
5 proposition to the electors of the district, as provided in 20-9-353.

6 (3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous
7 year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a
8 general fund budget up to the maximum general fund budget amount or the previous year's general fund budget,
9 whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a
10 maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget
11 by no later than the end of the 5-year period. A school district whose adopted general fund budget for the
12 previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous
13 year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:

14 (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous
15 school fiscal year and the maximum general fund budget for the current school fiscal year;

16 (B) in the second year, 25% of the range between the district's adopted general fund budget for the
17 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

18 (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the
19 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

20 (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the
21 previous school fiscal year and the maximum general fund budget for the current school fiscal year; and

22 (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for
23 the previous school fiscal year and the maximum general fund budget for the current school fiscal year.

24 (ii) The trustees of a district whose general fund budget was above the maximum general fund budget
25 established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to
26 exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may
27 continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget
28 adopted for the current year may not exceed the lesser of:

29 (A) the adopted budget for the previous year; or

30 (B) the district's maximum general fund budget for the current year plus the over maximum budget

1 amount adopted for the previous year.

2 (b) For the purpose of calculating the previous year's general fund budget in the initial year of
 3 implementation of a full-time kindergarten program established pursuant to 20-7-117, the trustees may add to
 4 the district's adopted general fund budget for the previous year an amount equal to one-half of the kindergarten
 5 enrollment in the previous year times the sum of the maximum per-ANB rate for an elementary ANB and the
 6 Indian education for all payment for an ANB for the previous year.

7 ~~(b)~~(c) The trustees of the district shall submit a proposition to raise any general fund budget amount that
 8 is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301
 9 to vote on the proposition, as provided in 20-9-353.

10 (4) The BASE budget for the district must be financed by the following sources of revenue:

11 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
 12 district may be eligible, as provided in 20-9-366 through 20-9-369;

13 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

14 (c) a district levy for support of a school not approved as an isolated school under the provisions of
 15 20-9-302;

16 (d) payments in support of special education programs under the provisions of 20-9-321;

17 (e) nonlevy revenue, as provided in 20-9-141; and

18 (f) a BASE budget levy on the taxable value of all property within the district.

19 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
 20 property within the district or other revenue available to the district, as provided in 20-9-141."

21

22 **SECTION 13. SECTION 20-9-311, MCA, IS AMENDED TO READ:**

23 **"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- three-year averaging.**

24 (1) Average number belonging (ANB) must be computed for each budget unit as follows:

25 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
 26 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
 27 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
 28 divide the sum by two; and

29 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
 30 pupil-instruction-related days for the current school fiscal year and divide by 180.

1 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related
2 days may be included in the calculation.

3 (3) When a school district has approval to operate less than the minimum aggregate hours under
4 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

5 (4) (a) ~~Except as provided in subsection (5), for~~ For the purpose of calculating ANB, enrollment in an
6 education program:

7 (i) from ~~484~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as
8 one-quarter-time enrollment;

9 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
10 enrollment;

11 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
12 enrollment; and

13 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

14 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
15 school year may not be included for purposes of ANB.

16 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
17 the hours necessary and appropriate to provide the course within a regular classroom schedule.

18 (d) A pupil in ~~grades 4~~ kindergarten through grade 12 who is concurrently enrolled in more than one
19 public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

20 (5) ~~In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in~~
21 ~~a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as~~
22 ~~one-half pupil for ANB purposes. For a district that is transitioning from a half-time to a full-time kindergarten~~
23 ~~program, the superintendent of public instruction shall count kindergarten enrollment in the previous year as~~
24 ~~full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten~~
25 ~~in the current year. FOR THE PURPOSES OF CALCULATING THE 3-YEAR ANB, THE SUPERINTENDENT OF PUBLIC~~
26 ~~INSTRUCTION SHALL COUNT THE KINDERGARTEN ENROLLMENT AS ONE-HALF ENROLLMENT AND THEN ADD THE ADDITIONAL~~
27 ~~KINDERGARTEN ANB TO THE 3-YEAR AVERAGE ANB FOR DISTRICTS OFFERING FULL-TIME KINDERGARTEN. The~~
28 ~~superintendent of public instruction shall add the additional ANB to the ANB used to calculate the budget in~~
29 ~~subsection (12).~~

30 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,

1 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
2 attendance prior to the day of the enrollment count.

3 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
4 calculations.

5 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
6 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
7 district, except that the ANB is calculated as a separate budget unit when:

8 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
9 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
10 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must
11 receive a basic entitlement for the school calculated separately from the other schools of the district;

12 (ii) a school of the district is located more than 20 miles from any other school of the district and
13 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
14 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
15 calculated separately from the other schools of the district;

16 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
17 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
18 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
19 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
20 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
21 other schools of the district; or

22 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
23 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
24 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
25 years as follows:

26 (A) 75% of the basic entitlement for the fourth year;

27 (B) 50% of the basic entitlement for the fifth year; and

28 (C) 25% of the basic entitlement for the sixth year.

29 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
30 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB

1 purposes;

2 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
3 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
4 school pupils for ANB purposes; or

5 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
6 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
7 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
8 program for the district.

9 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
10 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
11 superintendent.

12 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
13 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
14 only if the pupil is offered access to the complete range of educational services for the basic education program
15 required by the accreditation standards adopted by the board of public education.

16 (b) Access to school programs and services for a student placed by the trustees in a private program
17 for special education may be limited to the programs and services specified in an approved individual education
18 plan supervised by the district.

19 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
20 youth detention center, may be limited to the programs and services provided by the district at district expense
21 under an agreement with the incarcerating facility.

22 (d) This subsection (10) may not be construed to require a school district to offer access to activities
23 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
24 pupil who is not otherwise eligible under the rules of the organization.

25 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this
26 title and who is:

27 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
28 agreement and who is attending a school of the district;

29 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
30 individualized educational services supervised by the district, at district expense, at a home or facility that does

1 not offer an educational program;

2 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
3 center, and who is receiving individualized educational services supervised by the district, at district expense, at
4 a home or facility that does not offer an educational program;

5 (d) receiving special education and related services, other than day treatment, under a placement by the
6 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
7 expense under an approved individual education plan supervised by the district;

8 (e) participating in the running start program at district expense under 20-9-706;

9 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
10 a private residential program or private residential facility licensed by the department of public health and human
11 services;

12 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
13 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
14 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
15 instructional setting with the approval of the trustees of the district. The pupil shall:

16 (i) meet the residency requirements for that district as provided in 1-1-215;

17 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
18 Education Act or under 29 U.S.C. 794; or

19 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

20 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
21 the district under 20-9-707.

22 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
23 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
24 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
25 generates the greatest maximum general fund budget.

26 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
27 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
28 high school programs pursuant to subsection (12)(a) and then combined.

29 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

30 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the

1 previous 2 school fiscal years; and

2 (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec. 25(2),
3 Ch. 462, L. 2005.)

4 **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year**
5 **averaging.** (1) Average number belonging (ANB) must be computed as follows:

6 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
7 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
8 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
9 divide the sum by two; and

10 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
11 pupil-instruction-related days for the current school fiscal year and divide by 180.

12 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related
13 days may be included in the calculation.

14 (3) When a school district has approval to operate less than the minimum aggregate hours under
15 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

16 (4) (a) ~~Except as provided in subsection (5), for~~ For the purpose of calculating ANB, enrollment in an
17 education program:

18 (i) from ~~484~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as
19 one-quarter-time enrollment;

20 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
21 enrollment;

22 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
23 enrollment; and

24 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

25 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
26 school year may not be included for purposes of ANB.

27 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
28 the hours necessary and appropriate to provide the course within a regular classroom schedule.

29 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,
30 or district may not be counted as more than one full-time pupil for ANB purposes.

1 (5) ~~In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in~~
2 ~~a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as~~
3 ~~one-half pupil for ANB purposes. For a district that is transitioning from a half-time to a full-time kindergarten~~
4 ~~program, the superintendent of public instruction shall count kindergarten enrollment in the previous year as~~
5 ~~full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten~~
6 ~~in the current year. FOR THE PURPOSES OF CALCULATING THE 3-YEAR ANB, THE SUPERINTENDENT OF PUBLIC~~
7 ~~INSTRUCTION SHALL COUNT THE KINDERGARTEN ENROLLMENT AS ONE-HALF ENROLLMENT AND THEN ADD THE ADDITIONAL~~
8 ~~KINDERGARTEN ANB TO THE 3-YEAR AVERAGE ANB FOR DISTRICTS OFFERING FULL-TIME KINDERGARTEN. The~~
9 ~~superintendent of public instruction shall add the additional ANB to the ANB used to calculate the budget in~~
10 ~~subsection (12):~~

11 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
12 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
13 attendance prior to the day of the enrollment count.

14 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
15 calculations.

16 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
17 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
18 district, except that when:

19 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
20 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
21 full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic
22 entitlement for the school calculated separately from the other schools of the district;

23 (ii) a school of the district is located more than 20 miles from any other school of the district and
24 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
25 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
26 calculated separately from the other schools of the district;

27 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
28 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
29 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
30 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately

1 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
2 other schools of the district; or

3 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
4 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
5 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
6 years as follows:

7 (A) 75% of the basic entitlement for the fourth year;

8 (B) 50% of the basic entitlement for the fifth year; and

9 (C) 25% of the basic entitlement for the sixth year.

10 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
11 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
12 purposes;

13 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
14 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
15 school pupils for ANB purposes; or

16 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
17 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
18 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
19 program for the district.

20 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
21 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
22 superintendent.

23 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
24 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
25 only if the pupil is offered access to the complete range of educational services for the basic education program
26 required by the accreditation standards adopted by the board of public education.

27 (b) Access to school programs and services for a student placed by the trustees in a private program
28 for special education may be limited to the programs and services specified in an approved individual education
29 plan supervised by the district.

30 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a

1 youth detention center, may be limited to the programs and services provided by the district at district expense
2 under an agreement with the incarcerating facility.

3 (d) This subsection (10) may not be construed to require a school district to offer access to activities
4 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
5 pupil who is not otherwise eligible under the rules of the organization.

6 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this
7 title and who is:

8 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
9 agreement and who is attending a school of the district;

10 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
11 individualized educational services supervised by the district, at district expense, at a home or facility that does
12 not offer an educational program;

13 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
14 center, and who is receiving individualized educational services supervised by the district, at district expense, at
15 a home or facility that does not offer an educational program;

16 (d) receiving special education and related services, other than day treatment, under a placement by the
17 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
18 expense under an approved individual education plan supervised by the district;

19 (e) participating in the running start program at district expense under 20-9-706;

20 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
21 a private residential program or private residential facility licensed by the department of public health and human
22 services;

23 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
24 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
25 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
26 instructional setting with the approval of the trustees of the district. The pupil shall:

27 (i) meet the residency requirements for that district as provided in 1-1-215;

28 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
29 Education Act or under 29 U.S.C. 794; or

30 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

1 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
2 the district under 20-9-707.

3 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
4 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
5 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
6 generates the greatest maximum general fund budget.

7 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
8 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
9 high school programs pursuant to subsection (12)(a) and then combined.

10 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

11 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
12 previous 2 school fiscal years; and

13 (b) dividing the sum calculated under subsection (13)(a) by three."
14

15 **SECTION 14. SECTION 20-9-313, MCA, IS AMENDED TO READ:**

16 **"20-9-313. Circumstances under which regular average number belonging may be increased. (1)**

17 The average number belonging of a school, calculated in accordance with the ANB formula prescribed in
18 20-9-311, may be increased when:

19 ~~(1)~~(a) the opening of a new elementary school or the reopening of an elementary school has been
20 approved in accordance with 20-6-502. The average number belonging for the school must be established by
21 the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

22 ~~(2)~~(b) the opening or reopening of a high school or a branch of the county high school has been
23 approved in accordance with 20-6-503, 20-6-504, or 20-6-505. The average number belonging for the high school
24 must be established by the county superintendent's estimate, after an investigation of the probable number of
25 pupils that will attend the high school.

26 ~~(3)~~(c) a district anticipates an increase in the average number belonging due to the closing of a private
27 or public school in the district or a neighboring district. The estimated increase in average number belonging must
28 be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the
29 superintendent of public instruction no later than the fourth Monday in June.

30 ~~(4)~~(d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase

1 in average number belonging must be based on estimates of increased enrollment approved by the
2 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

3 ~~(5)(e)~~ for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB
4 to be used for budget purposes is ~~the same as~~:

5 (i) one-half the number of 5-year-old children residing in the district as of September 10 of the preceding
6 school year, either as shown on the official school census or as determined by some other procedure approved
7 by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten program as
8 provided in 20-1-301; or

9 (ii) the number of 5-year-old children residing in the district as of September 10 of the preceding school
10 year, either as shown on the official school census or as determined by some other procedure approved by the
11 superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided
12 in 20-1-301; or

13 ~~(6)(f)~~ a high school district provides early graduation for a student who completes graduation
14 requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The increase
15 must be established by the trustees as though the student had attended to the end of the school fiscal year and
16 must be approved, disapproved, or adjusted by the superintendent of public instruction.

17 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time
18 kindergarten program."

19

20 **SECTION 15. SECTION 20-9-314, MCA, IS AMENDED TO READ:**

21 **"20-9-314. (Temporary) Procedures for determining eligibility and amount of increased average**
22 **number belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in
23 enrollment in the ensuing school fiscal year, as provided for in ~~20-9-313(4)~~ 20-9-313(1)(d), may increase its basic
24 entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following
25 provisions:

26 (1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized
27 during the ensuing school fiscal year, based on as much factual information as may be available to the district.

28 (2) No later than June 1, the district shall submit its application for an unusual enrollment increase by
29 elementary or high school level to the superintendent of public instruction. The application must include:

30 (a) the enrollment for the current school fiscal year;

1 (b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement
2 for the current school fiscal year;

3 (c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB
4 entitlement for the ensuing school fiscal year;

5 (d) the estimated enrollment, including the factual information on which the estimate is based, as
6 provided in subsection (1); and

7 (e) any other information or data that may be requested by the superintendent of public instruction.

8 (3) The superintendent of public instruction shall immediately review all the factors of the application and
9 shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing
10 ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public
11 instruction shall:

12 (a) determine the percentage by which the estimated enrollment exceeds the enrollment used for the
13 budgeted ANB; and

14 (b) approve an increase of the average number belonging used to establish the ensuing year's basic
15 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a)
16 is greater than 6%.

17 (4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday
18 in June.

19 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,
20 the increase of the average number belonging used to establish the basic entitlement and total per-ANB
21 entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for
22 the ensuing school fiscal year and 106% of the enrollment used to calculate the budgeted ANB. The amount
23 determined is the maximum allowable increase added to the average number belonging for the purpose of
24 establishing the ensuing year's basic entitlement and total per-ANB entitlement.

25 (6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end
26 of the ensuing school fiscal year.

27 (b) If the actual enrollment is less than the enrollment used to determine budgeted ANB, the
28 superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations,
29 as provided in subsection (5), using the actual enrollment in place of the estimated enrollment.

30 (c) All total per-ANB entitlements received by the district in excess of the revised entitlements are

1 overpayments subject to the refund provisions of 20-9-344(4). (Terminates June 30, 2007--sec. 25(2), Ch. 462,
2 L. 2005.)

3 **20-9-314. (Effective July 1, 2007) Procedures for determining eligibility and amount of increased**
4 **average number belonging due to unusual enrollment increase.** A district that anticipates an unusual
5 increase in enrollment in the ensuing school fiscal year, as provided for in ~~20-9-313(4)~~ 20-9-313(1)(d), may
6 increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with
7 the following provisions:

8 (1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized
9 during the ensuing school fiscal year, based on as much factual information as may be available to the district.

10 (2) No later than June 1, the district shall submit its application for an unusual enrollment increase by
11 elementary or high school level to the superintendent of public instruction. The application must include:

12 (a) the enrollment for the current school fiscal year;

13 (b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement
14 for the current school fiscal year;

15 (c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB
16 entitlement for the ensuing school fiscal year;

17 (d) the estimated enrollment, including the factual information on which the estimate is based, as
18 provided in subsection (1); and

19 (e) any other information or data that may be requested by the superintendent of public instruction.

20 (3) The superintendent of public instruction shall immediately review all the factors of the application and
21 shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing
22 ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public
23 instruction shall:

24 (a) determine the percentage increase by which the estimated enrollment increase exceeds the current
25 enrollment; and

26 (b) approve an increase of the average number belonging used to establish the ensuing year's basic
27 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a)
28 is at least 6%.

29 (4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday
30 in June.

1 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,
 2 the increase of the average number belonging used to establish the basic entitlement and total per-ANB
 3 entitlement for the ensuing ANB calculation period is the difference between the enrollment for the ensuing school
 4 fiscal year and 106% of the current enrollment. The amount determined is the maximum allowable increase
 5 added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and
 6 total per-ANB entitlement.

7 (6) Any entitlement increases resulting from provisions of this section must be reviewed at the end of
 8 the ensuing school fiscal year. If the actual enrollment is less than the average number belonging used for BASE
 9 funding program and entitlement calculations, the superintendent of public instruction shall revise the total
 10 per-ANB entitlement and basic entitlement calculations using the actual average number belonging. All total
 11 per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to
 12 the refund provisions of 20-9-344(4)."

13

14 **SECTION 16. SECTION 20-9-327, MCA, IS AMENDED TO READ:**

15 **"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

- 16 (i) public school districts, as defined in 20-6-101 and 20-6-701;
 17 (ii) special education cooperatives, as described in 20-7-451;
 18 (iii) the Montana school for the deaf and blind, as described in 20-8-101; and
 19 (iv) state youth correctional facilities, as defined in 41-5-103.

20 (b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may
 21 not be funded under the provisions of this section except by approval of the superintendent of public instruction.

22 (2) (a) The quality educator payment for special education cooperatives must be distributed directly to
 23 those entities by the superintendent of public instruction.

24 (b) The quality educator payment for the Montana school for the deaf and blind must be distributed to
 25 the Montana school for the deaf and blind.

26 (c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be
 27 distributed to those facilities by the department of corrections.

28 (3) The quality educator payment is ~~\$2,000 times~~ calculated as provided in 20-9-306, using the number
 29 of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes
 30 in the previous school year, each of whom:

1 (a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in
 2 subsection (1) in a position that requires an educator license in accordance with the administrative rules adopted
 3 by the board of public education; or

4 (b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302,
 5 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

6 (ii) is employed by an entity listed in subsection (1) to provide services to students."
 7

8 ~~SECTION 17. SECTION 20-9-329, MCA, IS AMENDED TO READ:~~

9 ~~"20-9-329. Indian education for all payment. (1) The state shall provide an Indian education for all~~
 10 ~~payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article~~
 11 ~~X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.~~

12 ~~(2) The Indian education for all payment is the greater of \$100 for each district or \$20.40 for each ANB,~~
 13 ~~calculated as provided in 20-9-311, for each fiscal year 20-9-306.~~

14 ~~(3) The district shall deposit the payment in the general fund of the district."~~
 15

16 SECTION 17. SECTION 20-9-329, MCA, IS AMENDED TO READ:

17 "20-9-329. Indian education for all payment. (1) The state shall provide an a total Indian education
 18 for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of
 19 Article X, section 1(2), of the Montana constitution, and to implement Title 20, chapter 1, part 5, and to develop
 20 curricula designed to integrate the distinct cultural heritage of Indians into the curricula, with particular emphasis
 21 on Montana Indians as required in 20-9-309.

22 (2) The total Indian education for all payment is the greater of \$100 for each district or \$20.40 for each
 23 ANB, calculated as provided in 20-9-311, for each fiscal year 20-9-306 and is a component of the BASE budget
 24 of the district.

25 (3) The district shall deposit the payment in the general fund of the district.

26 (4) It is the intent of this section that the total Indian education for all payment be used to implement the
 27 essential understandings regarding Montana Indians developed by the office of public instruction and relevant
 28 accreditation standards pertaining to Indian education for all."
 29

30 SECTION 18. SECTION 20-9-330, MCA, IS AMENDED TO READ:

1 **"20-9-330. American Indian achievement gap payment.** (1) The state shall provide an American
 2 Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose
 3 of closing the educational achievement gap that exists between American Indian students and non-Indian
 4 students.

5 (2) (a) The American Indian achievement gap payment is ~~\$200 for each~~ calculated as provided in
 6 20-9-306, using the number of American Indian ~~student~~ students enrolled in the district based on the count of
 7 regularly enrolled students on the first Monday in October of the prior school year as reported to the office of
 8 public instruction.

9 (b) A school district may not require a student to disclose the student's race.

10 (3) The district shall deposit the payment in the general fund of the district.

11 (4) On or before September 15, 2010, the office of public instruction shall report to the governor and the
 12 legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of American
 13 Indian students using fiscal year 2006 data as a baseline."
 14

15 **SECTION 19. SECTION 20-9-622, MCA, IS AMENDED TO READ:**

16 **"20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The
 17 guarantee account is intended to:

18 (a) stabilize the long-term growth of the permanent fund; and

19 (b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all
 20 distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3),
 21 the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts
 22 through school equalization aid as provided in 20-9-343.

23 (2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of
 24 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the
 25 guarantee account to the general fund an amount that represents the amount of interest income that would be
 26 earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid,
 27 all mineral royalties deposited in the guarantee account must be transferred to the school facility improvement
 28 account pursuant to 17-6-340.

29 (3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."
 30

1 NEW SECTION. SECTION 20. VOLUNTARY MENTAL HEALTH SCREENING AND REFERRAL PROGRAM. THERE
 2 IS A VOLUNTARY MENTAL HEALTH SCREENING AND REFERRAL PROGRAM. THE SUPERINTENDENT OF PUBLIC INSTRUCTION
 3 SHALL:

4 (1) DEVELOP, ADMINISTER, AND SUPERVISE A VOLUNTARY PROGRAM OF MENTAL HEALTH SCREENING AND
 5 REFERRAL FOR STUDENTS, INCLUDING VOLUNTARY TRAINING FOR SCHOOL ADMINISTRATORS AND LICENSED AND SUPPORT
 6 STAFF;

7 (2) ESTABLISH PROCEDURES TO ALLOW SCHOOLS TO VOLUNTEER TO PARTICIPATE IN A PROGRAM OF MENTAL
 8 HEALTH SCREENING AND REFERRAL FOR STUDENTS;

9 (3) ESTABLISH THE POSITION OF COORDINATOR OF VOLUNTEER SCHOOL-BASED MENTAL HEALTH SCREENING AND
 10 REFERRAL IN THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION;

11 (4) ESTABLISH PROCEDURES TO ASSIST A CHILD AND THE CHILD'S FAMILY IN VOLUNTEERING FOR AND OBTAINING
 12 NECESSARY SERVICES RELATING TO MENTAL HEALTH SCREENING AND REFERRAL AND THE TREATMENT OF SOCIAL,
 13 EMOTIONAL, AND MENTAL HEALTH ISSUES; AND

14 (5) ASSIST SCHOOL DISTRICTS WITH THE VOLUNTARY CONDUCT OF MENTAL HEALTH SCREENING AND REFERRAL
 15 FOR STUDENTS.

16
 17 ~~———— NEW SECTION. SECTION 21. APPROPRIATION FOR KINDERGARTEN STARTUP. THERE IS APPROPRIATED \$10~~
 18 ~~MILLION FROM THE GENERAL FUND TO THE OFFICE OF PUBLIC INSTRUCTION TO BE DISTRIBUTED BASED ON THE~~
 19 ~~KINDERGARTEN ENROLLMENT IN SCHOOL FISCAL YEAR 2007 TO ALL SCHOOL DISTRICTS WITH AN ELEMENTARY PROGRAM~~
 20 ~~FOR STARTUP COSTS FOR KINDERGARTEN. THE APPROPRIATION IS FOR THE 2009 BIENNIUM AND IS A ONE-TIME-ONLY~~
 21 ~~APPROPRIATION. THE SCHOOL DISTRICT SHALL DEPOSIT THE MONEY IN THE MISCELLANEOUS PROGRAMS FUND;~~

22
 23 NEW SECTION. SECTION 21. DISTRIBUTION OF FUNDS FOR KINDERGARTEN. MONEY APPROPRIATED TO THE
 24 OFFICE OF PUBLIC INSTRUCTION FOR STARTUP COSTS FOR KINDERGARTEN IN THE 2009 BIENNIUM MUST BE DISTRIBUTED
 25 BASED ON THE KINDERGARTEN ENROLLMENT IN SCHOOL FISCAL YEAR 2007 TO ALL SCHOOL DISTRICTS WITH AN
 26 ELEMENTARY PROGRAM. THE SCHOOL DISTRICT SHALL DEPOSIT THE MONEY IN THE MISCELLANEOUS PROGRAMS FUND.

27
 28 NEW SECTION. SECTION 22. DISTRIBUTION OF ONE-TIME-ONLY MONEY FOR INDIAN EDUCATION FOR ALL.
 29 MONEY APPROPRIATED FROM THE GENERAL FUND AS ONE-TIME-ONLY MONEY IN THE 2009 BIENNIUM TO THE OFFICE OF
 30 PUBLIC INSTRUCTION FOR INDIAN EDUCATION FOR ALL MUST BE ALLOCATED TO DISTRICTS ON A PER-ANB BASIS,

1 CALCULATED AS PROVIDED IN 20-9-311, WITH A MINIMUM OF \$1,000 FOR EACH DISTRICT. A DISTRICT RECEIVING FUNDS
 2 UNDER THIS SECTION SHALL DEPOSIT THE MONEY IN THE MISCELLANEOUS PROGRAMS FUND AND MAY NOT TRANSFER THE
 3 MONEY TO ANOTHER FUND.

4
 5 NEW SECTION. SECTION 23. CODIFICATION INSTRUCTION. (1) [SECTION 1] IS INTENDED TO BE CODIFIED AS
 6 AN INTEGRAL PART OF TITLE 20, CHAPTER 9, AND THE PROVISIONS OF TITLE 20, CHAPTER 9, APPLY TO [SECTION 1].

7 (2) [SECTION 20] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 20, CHAPTER 7, AND THE
 8 PROVISIONS OF TITLE 20, CHAPTER 7, APPLY TO [SECTION 20].

9
 10 COORDINATION SECTION. SECTION 24. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 363 AND [THIS
 11 ACT] ARE PASSED AND APPROVED AND IF EITHER CONTAINS A SECTION THAT AMENDS 20-9-308, THEN THE SECTIONS
 12 AMENDING 20-9-308 ARE VOID AND 20-9-308 MUST BE AMENDED AS FOLLOWS:

13 **"20-9-308. (Temporary) BASE budgets and maximum general fund budgets. (1) (a)** The trustees
 14 of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district
 15 and, except as provided in subsection (3), does not exceed the maximum general fund budget established for
 16 the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget
 17 or the previous year's general fund budget, whichever is greater.

18 (b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state
 19 funding for the payments in 20-9-327 through 20-9-330 to the district's previous year's general fund budget.

20 (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE
 21 budget for the district but does not exceed the maximum general fund budget for the district and to increase the
 22 over-BASE budget levy to support the general fund budget, the trustees shall submit a proposition to the electors
 23 of the district, as provided in 20-9-353.

24 (3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(b), the trustees of a school district whose
 25 previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt
 26 a general fund budget up to the maximum general fund budget amount or the previous year's general fund
 27 budget, whichever is greater. Except as provided in subsection (3)(b), a school district may adopt a budget under
 28 the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan
 29 to reach the maximum general fund budget by no later than the end of the 5-year period.

30 ———— (ii) Except as provided in subsection (3)(b), the trustees of a district whose general fund budget was

1 above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and
 2 whose general fund budget has continued to exceed the district's maximum general fund budget in each school
 3 fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum
 4 general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

5 ~~_____ (A) the adopted budget for the previous year; or~~

6 ~~_____ (B) the district's maximum general fund budget for the current year plus the over maximum budget~~
 7 ~~amount adopted for the previous year.~~

8 ~~_____ (b) A school district that adopted a general fund budget over its maximum general fund budget under~~
 9 ~~any provision of subsection (3)(a) at any time between fiscal year 2001 and fiscal year 2005 may, for fiscal year~~
 10 ~~2006 and fiscal year 2007, adopt the greater of its maximum general fund budget or the highest actual budget~~
 11 ~~adopted between fiscal year 2001 and fiscal year 2005. For the purpose of calculating the previous year's general~~
 12 ~~fund budget in the initial year of implementation of a full-time kindergarten program established pursuant to~~
 13 ~~20-7-117, the trustees may add to the district's adopted general fund budget for the previous year an amount~~
 14 ~~equal to one-half of the kindergarten enrollment in the previous year times the sum of the maximum per-ANB rate~~
 15 ~~for an elementary ANB and the Indian education for all payment for an ANB for the previous year.~~

16 ~~(c) Except as provided in 20-9-353(8), the trustees of the district shall submit a proposition to raise any~~
 17 ~~general fund budget amount that is in excess of the maximum general fund budget for the district to the electors~~
 18 ~~who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.~~

19 (4) The BASE budget for the district must be financed by the following sources of revenue:

20 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
 21 district may be eligible, as provided in 20-9-366 through 20-9-369;

22 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

23 (c) a district levy for support of a school not approved as an isolated school under the provisions of
 24 20-9-302;

25 (d) payments in support of special education programs under the provisions of 20-9-321;

26 (e) nonlevy revenue, as provided in 20-9-141; and

27 (f) a BASE budget levy on the taxable value of all property within the district.

28 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
 29 property within the district or other revenue available to the district, as provided in 20-9-141. (Terminates June
 30 30, 2007--sec. 3, Ch. 190, L. 2005; sec. 25(2), Ch. 462, L. 2005.)

1 **20-9-308. (Effective July 1, 2007) BASE budgets and maximum general fund budgets.** (1) (a) The
 2 trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for
 3 the district ~~and, except as provided in subsection (3), does not exceed the maximum general fund budget~~
 4 ~~established for the district.~~ The trustees of a district may adopt a general fund budget up to the maximum general
 5 fund budget or the previous year's general fund budget, whichever is greater.

6 (b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state
 7 funding for the payments in 20-9-327 through 20-9-330 to the district's previous year's general fund budget.

8 (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE
 9 budget for the district ~~but does not exceed the maximum general fund budget for the district~~ and to increase the
 10 over-BASE budget levy to support the general fund budget, the trustees shall submit a proposition to the electors
 11 of the district, as provided in 20-9-353.

12 (3) ~~(a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous~~
 13 ~~year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a~~
 14 ~~general fund budget up to the maximum general fund budget amount or the previous year's general fund budget,~~
 15 ~~whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a~~
 16 ~~maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget~~
 17 ~~by no later than the end of the 5-year period. A school district whose adopted general fund budget for the~~
 18 ~~previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous~~
 19 ~~year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

20 ~~——— (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous~~
 21 ~~school fiscal year and the maximum general fund budget for the current school fiscal year;~~

22 ~~——— (B) in the second year, 25% of the range between the district's adopted general fund budget for the~~
 23 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

24 ~~——— (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the~~
 25 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

26 ~~——— (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the~~
 27 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

28 ~~——— (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for~~
 29 ~~the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

30 ~~——— (ii) The trustees of a district whose general fund budget was above the maximum general fund budget~~

1 established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to
 2 exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may
 3 continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget
 4 adopted for the current year may not exceed the lesser of:
 5 _____ (A) the adopted budget for the previous year; or
 6 _____ (B) the district's maximum general fund budget for the current year plus the over maximum budget
 7 amount adopted for the previous year. For the purpose of calculating the previous year's general fund budget in
 8 the initial year of implementation of a full-time kindergarten program established pursuant to 20-7-117, the
 9 trustees may add to the district's adopted general fund budget for the previous year an amount equal to one-half
 10 of the kindergarten enrollment in the previous year times the sum of the maximum per-ANB rate for an elementary
 11 ANB and the Indian education for all payment for an ANB for the previous year.

12 ~~(b) The trustees of the district shall submit a proposition to raise any general fund budget amount that~~
 13 ~~is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301~~
 14 ~~to vote on the proposition, as provided in 20-9-353.~~

15 (4) The BASE budget for the district must be financed by the following sources of revenue:

16 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
 17 district may be eligible, as provided in 20-9-366 through 20-9-369;

18 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

19 (c) a district levy for support of a school not approved as an isolated school under the provisions of
 20 20-9-302;

21 (d) payments in support of special education programs under the provisions of 20-9-321;

22 (e) nonlevy revenue, as provided in 20-9-141; and

23 (f) a BASE budget levy on the taxable value of all property within the district.

24 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
 25 property within the district or other revenue available to the district, as provided in 20-9-141."

26
 27 **NEW SECTION. Section 25. Effective date -- applicability.** [This act] is effective July 1, 2007, and
 28 applies to school district budgets for school fiscal years beginning on or after July 1, 2007.

29 - END -