SENATE EDUCATION
EXHIBIT NO. 2
DATE 3-18-11
BILL NO. SB403

SENATE BILL NO. 403

INTRODUCED BY L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING K-12 SCHOOL FUNDING; REVISING THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES TO FUND SCHOOLS; CREATING THE PATHWAY TO ~~IMPROVEMENT~~ **EXCELLENCE** PROGRAM TO STIMULATE EDUCATIONAL EXCELLENCE IN SCHOOLS; AMENDING THE STRUCTURE OF ESTIMATING AND ALLOCATING OIL AND NATURAL GAS PRODUCTION TAXES FOR SCHOOLS; PROVIDING FOR A TEMPORARY LIMIT ON MILL INCREASES IN SCHOOL DISTRICTS RECEIVING OIL AND NATURAL GAS PRODUCTION TAXES; CREATING AN OIL AND NATURAL GAS IMPACT SCHOOLS ACCOUNT; LIMITING A SCHOOL'S ENDING FUND BALANCE LIMIT; LIMITING A SCHOOL DISTRICT'S FUND BALANCE REAPPROPRIATED TO 15% OF THE MAXIMUM GENERAL FUND BUDGET; **ALLOWING A SCHOOL DISTRICT A ONE-TIME TRANSFER OF GENERAL FUND MONEY UNDER CERTAIN CONDITIONS;** REQUIRING A BUDGET AMENDMENT FOR UNFORESEEN PURPOSES TO BE SUBJECT TO INTERIM LOCAL GOVERNMENT COMMITTEE REVIEW; PROVIDING INFLATIONARY INCREASE TO THE BASIC ENTITLEMENT, PER-ANB ENTITLEMENT, AND THE QUALITY EDUCATOR PAYMENT; AMENDING THE REQUIREMENT THAT SCHOOL DISTRICT TRUSTEES PROPOSE A LEVY TO THE DISTRICT ELECTORS FOR EXCEEDING THE BASE BUDGET AND INCREASING THE OVER-BASE BUDGET; AMENDING BONDING PROVISIONS TO ALLOW FOR THE ISSUANCE AND NEGOTIATION OF OIL AND NATURAL GAS REVENUE BONDS FOR SCHOOL PURPOSES; PROVIDING FOR SECURITY FOR OIL AND NATURAL GAS PRODUCTION BONDS; ELIMINATING THE REQUIREMENT THAT THE GUARANTEE ACCOUNT IS STATUTORILY APPROPRIATED; LIMITING SCHOOL DISTRICT BLOCK GRANTS TO 15% OF A SCHOOL DISTRICT'S GENERAL FUND BUDGET; ELIMINATING THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT AND TRANSFERRING THE FUNDS TO THE GUARANTEE ACCOUNT; ~~ALLOWING A ONE-TIME TRANSFER OF EXCESS SCHOOL DISTRICT OIL AND NATURAL GAS FUNDS TO ANY SCHOOL DISTRICT FUND; PROVIDING RULEMAKING AUTHORITY;~~ AMENDING SECTIONS 15-36-331, 15-36-332, 17-5-117, 17-6-340, 17-7-502, 20-1-101, 20-7-102, 20-9-104, 20-9-141, 20-9-161, 20-9-306, 20-9-308, 20-9-331, 20-9-333, 20-9-342, 20-9-343, 20-9-353, 20-9-403, 20-9-406, 20-9-408, 20-9-422, 20-9-423, 20-9-426, 20-9-427, 20-9-430, 20-9-437, 20-9-440, 20-9-534, 20-9-620, 20-9-622, 20-9-630, 77-1-218, 77-4-208, 90-6-802, AND 90-6-803, MCA; REPEALING SECTION 20-9-516, MCA; AND

PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

WHEREAS, the Legislature supports stimulation of the continued pursuit of educational excellence in Montana's public schools through data-driven decisionmaking; and

WHEREAS, the Legislature supports a process whereby public schools work collaboratively with communities to create a culture of efficient and effective actionable data use to ensure the availability of role-based data access while protecting privacy and building the capacity of stakeholders to use data in an ongoing effort to improve student achievement across Montana; and

WHEREAS, the Pathway to ~~Improvement~~ **EXCELLENCE** Program is implemented to recognize that Montana's system of K-12 public schools is among the best in the nation, where students continue to outperform students across the nation in virtually all measures of academic achievement, including average scores on the ACT and SAT and the national assessment of educational progress; and

WHEREAS, Montana K-12 schools educate children living in poverty and are successful in narrowing the achievement gap based on poverty better than most other states; and

WHEREAS, the achievement and efficiency of Montana's public schools is well-recognized, including that Montana was named by Congressional Quarterly Press as one of the top eight states in the "smartest state" award, with a ranking of third in 2002-2003 and a ranking of eighth in 2010-2011; and

WHEREAS, the American Legislative Exchange Council has consistently ranked Montana in its top 10 states for K-12 public education performance, based on the overall scores for low-income children and their gains or losses on the national assessment of educational progress in 4th and 8th grade reading and math exams over a several-year period; and

WHEREAS, Montana K-12 public education should remain focused on continuous improvement and increased academic achievement for public school students; and

WHEREAS, the Montana Legislature facilitates the focus on continuous improvement by providing funding designed to help improve the academic achievement of students in Montana's public schools through funding accountability, transparency, and the tools necessary to identify and reward successful efforts while supporting improvement.

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

NEW SECTION.Section 1. Montana pathway to ~~Improvement~~ EXCELLENCE program -- purpose. (1) [Sections 1 through 5] may be known as the pathway to ~~Improvement~~ **EXCELLENCE** program.

(2) The purpose of the pathway to ~~Improvement~~ **EXCELLENCE** program is to promote educational excellence in Montana's public schools through data-driven decisionmaking.

(3) It is the intent of the program that Montana K-12 public education remain focused on continuous improvement and increased academic achievement for students in public schools through funding assistance from the legislature.

NEW SECTION. **Section 2. Transparency and public availability of public school performance data.** (1) Each school district shall develop, implement, evaluate, and periodically revise a 5-year comprehensive education plan, as defined by the board of public education, to ensure continuous education improvement for all students and all schools in the school district. Each school district's comprehensive education plan must include, at a minimum, the following elements:

(a) a school district level education profile;

(b) district educational goals;

(c) a description of planned progress toward implementing all content, performance, and program area standards;

(d) a description of strategies for assessing student progress for meeting all content and performance standards;

(e) a professional development plan;

(f) state criterion-referenced testing results; and

(g) for high schools, school participation rates and results for the ACT and the scholastic achievement test, advanced placement, international baccalaureate, dual credit, and industry certification courses.

(2) Each year of the 5-year cycle, school districts and schools shall develop and implement an annual action plan that systematically moves those districts and schools toward accomplishing the 5-year plan. The plan must include specific goals for the ensuing year that include measurable objectives, identified strategies to meet the objectives, any needed professional development to support those strategies, and a summary of the resources required.

(3) Each school district shall prepare an annual effectiveness report outlining current status and progress over the preceding school fiscal year and shall compare the school's and school district's results to statewide average data provided by the superintendent of public instruction.

(4) **By June 30, 2012, each** ~~Each~~ school district shall make its school and district profiles publicly

available. If a school has a website, a link to the profile must be included.

(5) The superintendent of public instruction shall compute and make available statewide averages of academic performance, including, at a minimum, statewide average scores by subject matter and grade level on any statewide student assessment required by rule of the board of public education.

NEW SECTION.**Section 3. Rulemaking authority of board of public education.** (1) The board of public education shall adopt rules to integrate expanded performance measures in its accreditation standards as data collection and assessment systems become more established, accurate, and reliable.

(2) The rules adopted by the board must address:

(a) measures of student performance by grade-proficiency or advanced-performance level;

(b) measures of student growth ~~showing a minimum of 1 year's academic growth in an academic year~~;

(c) measures of student performance of the lowest performing students in each ~~grade level~~ **SCHOOL**;

(d) graduation rates;

(e) measures of career and college readiness; and

(f) measures of acceleration rates of college-level academic work completed during high school.

(3) NOTHING IN THIS SECTION PRECLUDES THE BOARD OF PUBLIC EDUCATION FROM ADOPTING OTHER MEASURES OF STUDENT PERFORMANCE NOT LISTED ABOVE.

NEW SECTION.**Section 4. Determination of flexibility in use of pathway to ~~Improvement~~ EXCELLENCE payment.** (1) The pathway to ~~Improvement~~ **EXCELLENCE** payment, calculated as provided in 20-9-306, must be used by each school district to reward successful schools and staff and to provide resources that may be used, in compliance with collective bargaining agreements or district policy **WHERE NO COLLECTIVE BARGAINING AGREEMENT APPLIES**, to provide bonuses and other incentives as well as opportunities to staff and support to schools and students that are struggling.

(2) A school district's flexibility to apply the pathway to ~~Improvement~~ **EXCELLENCE** payment must be determined according to the performance of each school in a school district applying the results in reading and math on the Montana comprehensive assessment system, based on the chart in this subsection. The percent of a school's students at the proficient or advanced level in reading and math must be averaged together to determine the extent of flexibility in the use of funds generated by the pathway to ~~Improvement~~ **EXCELLENCE** payment according to the following table:

Schoolwide % of Students Tested at Proficient or Advanced	% Full Flexibility	% Required to Be Spent on Specified Support Services
greater than 80%	100%	0%
greater than 70%	60%	40%
greater than 60%	30%	70%
greater than 50%	10%	90%
50% or below	0%	100%

(3) Schools with a percentage of proficiency under the schedule in subsection (2) in the lowest ~~10%~~ **5%** of all schools in the state shall enter into an agreement with the office of public instruction to receive intensive assistance. Intensive assistance may include, subject to negotiation between the school board and the office of public instruction:

(a) management of student support services funds;

(b) provision of staff from the office of public instruction at the school to provide assistance services;

(c) selection of specific professional development activities designed to improve student performance results;

(d) selection or guidance of curricular support or instructional materials;

(e) guidance on updating local curriculum;

(f) guidance on revision to attendance policies;

(g) consultation in hiring decisions;

(h) development of a licensed staff evaluation system; or

(i) provision of strategies to improve community and parent ~~involvement~~ **ENGAGEMENT**.

(4) Each school board shall proportion the funding and flexibility from the pathway to ~~Improvement~~ **EXCELLENCE** payment according to each school's individual performance unless the school has been identified in subsection (3) as being in need of intensive assistance. Full flexibility dollars may be spent in any lawful manner authorized for a general fund expenditure. School boards are encouraged to use the payment to reward successful efforts of staff in increasing academic achievement of students in each applicable school of the district. Any bonus system or other enhancement of compensation, benefits, or working conditions provided as a reward is subject to collective bargaining **OR DISTRICT POLICY WHERE NO COLLECTIVE**

BARGAINING APPLIES.

(5) Funding required to be spent on student support services for those schools or school districts scoring 50% or below, as described in subsection (2), may be committed to any of the following research-based strategies in order to improve academic performance of students in the school:

(a) professional development addressing the use and application in the classroom of standards, assessment, and longitudinal data;

(b) data systems if needed to integrate into the longitudinal data system of the office of public instruction;

(c) enhanced curriculum and instructional development and support;

(d) tutoring;

(e) extended day and extended-year learning programs;

(f) professional development;

(g) early childhood educational intervention; and

(h) any other strategy adopted by the board of public education by rule or approved alternative standard if the strategy is research-based and focused on increased student academic achievement.

(6) A school district that has been certified by the superintendent of public instruction as having complied with the provisions of [section 2] on or before June 30, 2012, may spend up to $250 for each quality educator, as defined in 20-4-502, in fiscal year 2013 from any budgeted fund of the school district, except for the county school funds supporting elementary and high school district retirement provided for in 20-9-501, to pay for enhanced assessments and data collection to improve academic achievement of students in the district.

(7) THE INTENT OF THIS SECTION IS TO INCREASE THE FLEXIBILITY AND EFFICIENCY OF SCHOOL DISTRICTS WITHOUT AN INCREASE IN LOCAL TAXES. IF THE PAYMENT IN SUBSECTION 6 IS MADE FROM ANY SCHOOL DISTRICT FUND SUPPORTED BY A NONVOTED LEVY, THE DISTRICT MAY NOT INCREASE ITS NONVOTED LEVY FOR THE PURPOSE OF RESTORING THE AMOUNT OF FUNDS TRANSFERRED.

~~(7)~~ **(8)** If a school's pathway to ~~Improvement~~ **EXCELLENCE** payment is less than $5,000, the school must have full flexibility for allocation of the payment.

NEW SECTION. **Section 5. Superintendent of public instruction -- duties for data collection to support pathway to ~~Improvement~~ EXCELLENCE program.** (1) The superintendent of public instruction

shall continually enhance the statewide data system to support the collection of data from schools, implement a data collection plan to reduce redundant data requests, increase data use from the centralized system by various functions within the office of public instruction, and promote transparency in reporting to schools, school districts, communities, and the public. Actionable data analysis must be produced to promote academic improvement.

(2) The superintendent of public instruction shall gather, maintain, and distribute longitudinal, actionable data in the following areas:

(a) statewide student identifier;

(b) student-level enrollment data, including average daily attendance;

(c) student-level statewide assessment data;

(d) information on untested students;

(e) student-level graduation and dropout data;

(f) ability to match student-level K-12 and higher education data;

(g) a statewide data audit system;

(h) a system to track student achievement with a direct teacher-to-student match to help track, report, and create opportunities for improved individual student performance;

(i) student-level course completion data, including transcripts, to assess career and college readiness; and

(j) student-level ACT, scholastic achievement test, and advanced placement exam data.

(3) The superintendent of public instruction shall emphasize the creation of and distribution of individual diagnostic data for each student in a ~~timely~~ **MANNER THAT IS TIMELY AND PROTECTS THE INDIVIDUAL PRIVACY RIGHTS OF STUDENTS AND FAMILIES** so that school districts may use the data to support timely academic intervention as needed and to otherwise improve the academic achievement of the students of each school district.

(4) On or before June 30, 2013, the superintendent of public instruction shall begin presenting longitudinal data on academic achievement and shall develop **PLANS FOR** a measurement of growth for the statewide student assessment required by the board of public education.

NEW SECTION.**Section 6. Interim monitoring and programming.** (1) The initial scope of [sections 1 through 5] is intended as a beginning effort of the legislature to support and foster school district efforts to enhance the collection and use of data for the continuous improvement of academic achievement of students

in Montana's public schools.

(2) During the 2011-2013 interim, the education and local government interim committee shall oversee the implementation of [sections 1 through 5].

(3) The committee shall make recommendations to the legislature concerning any necessary changes to [sections 1 through 5] for introduction during the 2013 regular legislative session.

Section 7. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) The amount of the tax allocated in 15-36-304(7)(b) for the oil and gas natural resource distribution account established in 90-6-1001(1) must be deposited in the account.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated ~~to each county~~ among the state, counties, and school districts according to the following schedule and subject to the provisions of [section 11]:

~~Big Horn 45.05%~~

~~Blaine 58.39%~~

~~Carbon 48.27%~~

~~Chouteau 58.14%~~

~~Custer 69.53%~~

~~Daniels 50.81%~~

~~Dawson 47.79%~~

~~Fallon 41.78%~~

~~Fergus 69.18%~~

~~Garfield 45.96%~~

~~Glacier 58.83%~~

~~Golden Valley 58.37%~~
~~Hill 64.51%~~
~~Liberty 57.94%~~
~~McCone 49.92%~~
~~Musselshell 48.64%~~
~~Petroleum 48.04%~~
~~Phillips 54.02%~~
~~Pondera 54.26%~~
~~Powder River 60.9%~~
~~Prairie 40.38%~~
~~Richland 47.47%~~
~~Roosevelt 45.71%~~
~~Rosebud 39.33%~~
~~Sheridan 47.99%~~
~~Stillwater 53.51%~~
~~Sweet Grass 61.24%~~
~~Teton 46.1%~~
~~Toole 57.61%~~
~~Valley 51.43%~~
~~Wibaux 49.16%~~
~~Yellowstone 46.74%~~
~~All other counties 50.15%~~

County	State	State Guarantee Account	County	School Districts	Elementary Retirement	High School Retirement	County Transportation	
Big Horn	54.95%	1.22%	20.20%	10.94%	6.67%	4.67%	1.35%	
Blaine	41.61%	1.44%	37.60%	13.00%	3.42%	1.35%	1.58%	
Carbon	~~51.73%~~ **51.72%**		2.37%	18.97%	21.37%	1.74%	3.20%	0.63%
Chouteau	41.86%	1.38%	35.28%	12.45%	4.71%	2.51%	1.81%	
Custer	30.47%	2.17%	39.81%	19.56%	4.80%	2.36%	0.83%	
Daniels	49.19%	2.46%	20.24%	22.17%	0.00%	3.95%	1.99%	

Dawson	~~52.21%~~ **52.22%**	1.70%	26.41%	15.31%	2.64%	1.19%	0.53%
Fallon	58.22%	1.78%	20.28%	16.01%	0.00%	3.19%	0.52%
Fergus	~~30.82%~~ **30.83%**	3.68%	22.10%	33.15%	5.45%	3.35%	1.44%
Garfield	54.04%	1.20%	28.20%	10.83%	1.86%	1.44%	2.43%
Glacier	41.17%	2.71%	20.48%	24.41%	6.59%	2.87%	1.77%
Golden Valley	41.63%	3.19%	18.13%	28.71%	0.00%	6.72%	1.62%
Hill	~~35.49%~~ **35.48%**	3.22%	24.37%	28.95%	4.32%	2.63%	1.03%
Liberty	~~42.06%~~ **42.05%**	2.04%	31.39%	18.37%	2.84%	2.64%	0.67%
McCone	50.08%	2.16%	23.38%	19.41%	2.09%	1.59%	1.29%
Musselshell	51.36%	1.56%	26.39%	14.08%	2.91%	1.98%	1.72%
Petroleum	~~51.96%~~ **51.94%**	2.67%	13.46%	23.99%	0.00%	5.73%	2.21%
Phillips	~~45.98%~~ **45.99%**	2.23%	27.33%	20.07%	0.23%	3.57%	0.58%
Pondera	~~45.74%~~ **45.73%**	2.45%	22.18%	22.06%	3.78%	2.75%	1.05%
Powder River	~~39.10%~~ **39.09%**	1.36%	40.35%	12.20%	2.41%	1.81%	2.78%
Prairie	~~59.62%~~ **59.61%**	1.49%	21.24%	13.41%	0.00%	3.59%	0.66%
Richland	52.53%	2.08%	21.81%	18.70%	1.95%	1.86%	1.07%
Roosevelt	54.29%	1.87%	17.84%	16.84%	4.54%	3.37%	1.25%
Rosebud	~~60.67%~~ **60.68%**	2.87%	7.81%	25.83%	1.52%	0.88%	0.41%
Sheridan	~~52.01%~~ **52.00%**	2.29%	22.44%	20.57%	0.00%	1.63%	1.07%
Stillwater	46.49%	2.20%	24.34%	19.82%	3.68%	2.60%	0.87%
Sweet Grass	38.76%	2.28%	29.25%	20.51%	3.75%	3.98%	1.47%
Teton	53.90%	1.36%	23.83%	12.21%	3.17%	3.78%	1.75%
Toole	42.39%	2.51%	27.41%	22.59%	1.60%	2.75%	0.75%
Valley	48.57%	2.11%	20.26%	19.03%	1.16%	6.49%	2.38%
Wibaux	~~50.84%~~ **50.83%**	1.55%	31.30%	13.92%	0.00%	2.02%	0.38%
Yellowstone	53.26%	2.47%	15.71%	22.20%	3.73%	2.13%	0.50%
All other counties	49.85%	2.06%	22.82%	18.52%	1.91%	3.93%	0.91%

(b) The oil and natural gas production taxes allocated to ~~each county~~ counties and school districts must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332 and in accordance with the schedule set forth in this section.

(c) The oil and natural gas production taxes allocated to the guarantee account must be deposited in

1 the guarantee account as provided in 20-9-622.
2 (4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion
3 of oil and natural gas production taxes ~~remaining after the distributions~~ pursuant to subsections (2) and (3) as
4 follows:
5 (a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:
6 (i) 1.23% to the coal bed methane protection account established in 76-15-904;
7 (ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;
8 (iii) 1.45% to the natural resources operations state special revenue account established in 15-38-
9 301;
10 (iv) 2.99% to the orphan share account established in 75-10-743;
11 (v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for
12 the purposes of the state tax levy as provided in 15-10-108; and
13 (vi) all remaining proceeds to the state general fund;
14 (b) for fiscal years beginning after June 30, 2011, to be distributed as follows:
15 (i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;
16 (ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;
17 (iii) 2.95% to the orphan share account established in 75-10-743;
18 (iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for
19 the purposes of the state tax levy as provided in 15-10-108; and
20 (v) all remaining proceeds to the state general fund."
21
22 **Section 8.** Section 15-36-332, MCA, is amended to read:
23 **"15-36-332. Distribution of taxes to taxing units -- appropriation.** (1) (a) **SUBJECT TO**
24 **[SECTION 11], BY** ~~By~~ the dates referred to in subsection (6), the department shall distribute oil and natural
25 gas production taxes allocated under 15-36-331(3) to each eligible county and school district.
26 (b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in
27 the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (8) of
28 this section.
29 (2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes
30 designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide
31 elementary and high school retirement funds, countywide transportation funds, and eligible school districts

1 according to the ~~following~~ schedule~~:~~ set forth in 15-36-331(3).

	~~Elementary Retirement~~	~~High School Retirement~~	~~Countywide Transportation~~	~~School Districts~~
~~Big Horn~~	~~14.81%~~	~~10.36%~~	~~2.99%~~	~~26.99%~~
~~Blaine~~	~~5.86%~~	~~2.31%~~	~~2.71%~~	~~24.73%~~
~~Carbon~~	~~3.6%~~	~~6.62%~~	~~1.31%~~	~~49.18%~~
~~Chouteau~~	~~8.1%~~	~~4.32%~~	~~3.11%~~	~~23.79%~~
~~Custer~~	~~6.9%~~	~~3.4%~~	~~1.19%~~	~~31.25%~~
~~Daniels~~	~~0~~	~~7.77%~~	~~3.92%~~	~~48.48%~~
~~Dawson~~	~~5.53%~~	~~2.5%~~	~~1.11%~~	~~35.6%~~
~~Fallon~~	~~0~~	~~7.63%~~	~~1.24%~~	~~42.58%~~
~~Fergus~~	~~7.88%~~	~~4.84%~~	~~2.08%~~	~~53.25%~~
~~Garfield~~	~~4.04%~~	~~3.13%~~	~~5.29%~~	~~26.19%~~
~~Glacier~~	~~11.2%~~	~~4.87%~~	~~3.01%~~	~~46.11%~~
~~Golden Valley~~	~~0~~	~~11.52%~~	~~2.77%~~	~~54.65%~~
~~Hill~~	~~6.7%~~	~~4.07%~~	~~1.59%~~	~~49.87%~~
~~Liberty~~	~~4.9%~~	~~4.56%~~	~~1.15%~~	~~35.22%~~
~~McCone~~	~~4.18%~~	~~3.19%~~	~~2.58%~~	~~43.21%~~
~~Musselshell~~	~~5.98%~~	~~4.07%~~	~~3.53%~~	~~32.17%~~
~~Petroleum~~	~~0~~	~~11.92%~~	~~4.59%~~	~~55.48%~~
~~Phillips~~	~~0.43%~~	~~6.6%~~	~~1.08%~~	~~41.29%~~
~~Pondera~~	~~6.96%~~	~~5.06%~~	~~1.94%~~	~~45.17%~~
~~Powder River~~	~~3.96%~~	~~2.97%~~	~~4.57%~~	~~22.25%~~
~~Prairie~~	~~0~~	~~8.88%~~	~~1.63%~~	~~36.9%~~
~~Richland~~	~~4.1%~~	~~3.92%~~	~~2.26%~~	~~43.77%~~
~~Roosevelt~~	~~9.93%~~	~~7.37%~~	~~2.74%~~	~~40.94%~~
~~Rosebud~~	~~3.87%~~	~~2.24%~~	~~1.05%~~	~~72.97%~~
~~Sheridan~~	~~0~~	~~3.39%~~	~~2.22%~~	~~47.63%~~
~~Stillwater~~	~~6.87%~~	~~4.86%~~	~~1.63%~~	~~41.16%~~
~~Sweet Grass~~	~~6.12%~~	~~6.5%~~	~~2.4%~~	~~37.22%~~
~~Teton~~	~~6.88%~~	~~8.19%~~	~~3.8%~~	~~29.43%~~

~~Toole~~	~~2.78%~~	~~4.78%~~	~~1.3%~~	~~43.56%~~
~~Valley~~	~~2.26%~~	~~12.61%~~	~~4.63%~~	~~41.11%~~
~~Wibaux~~	~~0~~	~~4.1%~~	~~0.77%~~	~~31.46%~~
~~Yellowstone~~	~~7.98%~~	~~4.56%~~	~~1.07%~~	~~52.77%~~
~~All other counties~~	~~3.81%~~	~~7.84%~~	~~1.81%~~	~~41.04%~~

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The ~~remaining~~ oil and natural gas production taxes for each county, as provided in 15-36-331(3), must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county ~~referred to in subsection (2)~~ based on the schedule in 15-36-331(3) as provided in subsections (4)(b) through (4)(d) of this section and subject to the provisions of [section 11].

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in ~~subsection (2)(a)~~ ~~**20-9-331(3)(a)**~~ **15-36-331(3)(A)**.

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas production taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in ~~subsection (2)(a)~~ ~~**20-9-331(3)(a)**~~ **15-36-331(3)(A)**.

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection

(4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) ~~(a)~~ Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district ~~in the relative proportion of the mill levy for each fund~~ as provided in [section 11].

~~(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.~~

(6) **Subject to [section 11], THE** ~~The~~ department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

(9) The distributions to taxing units and to counties and incorporated cities and towns under this section, except for distributions to the guarantee account provided in 20-9-622, are statutorily appropriated, as

provided in 17-7-502, from the state special revenue fund."

Section 9. Section 17-5-117, MCA, is amended to read:

"17-5-117. Tax credit bonds. (1) As used in this section, "tax credit bond" means any general obligation bond, impact aid revenue bond, oil and natural gas revenue bond, special improvement district bond, revenue bond, industrial development bond, tax increment bond, or any other bond of the state or a political subdivision that has been duly authorized and is eligible for designation as and has been designated as a qualified tax credit bond under section 54A, section 54D, section 54E, section 54F, or section 54AA of the Internal Revenue Code, 26 U.S.C. 54A, 54D, 54E, 54F, or 54AA.

(2) Any bond issued as a tax credit bond may be issued and sold at public or private sale, may be payable and mature as to principal and interest, if any, on any date or dates, may be subject to redemption in whole or in part as determined by the governing body of the issuer, and may have other terms and conditions that the issuer considers to be necessary and appropriate.

(3) The governing body of the issuer of any tax credit bond is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bond, including investment of funds and accounts to repay the bond."

Section 10. Section 17-6-340, MCA, is amended to read:

"17-6-340. Purchase of permanent fund mineral estate. The department of natural resources and conservation may purchase the mineral production rights held by the public school fund established in Article X, section 2, of the Montana constitution for fair market value. If the department of natural resources and conservation purchases mineral production rights, any royalty payments received by the board that are not used to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must be deposited in the guarantee account provided for in 20-9-622~~ and transferred to the school facility and technology account provided for in 20-9-516~~."

NEW SECTION.Section 11. Oil and natural gas production taxes for school districts -- estimation, allocation, and limits. (1) In accordance with ~~20-9-131~~ **20-9-141**, the trustees of a district receiving oil and natural gas production taxes shall adopt an estimate of those taxes anticipated to be received by the district in any given school fiscal year. **THE ESTIMATED REVENUES MUST BE ALLOCATED IN THE DISTRICT BUDGET IN ACCORDANCE WITH SUBSECTION (7).**

(2) (a) The maximum amount of oil and natural gas production taxes a school district may retain is calculated according to the greater of the school district's maximum or adopted budget, determined in accordance with 20-9-308 and subject to the limitations in subsections (2)(b) and (2)(c).

(b) If a school district's maximum or adopted budget is $1.25 million or less, the amount of oil and natural gas production taxes that a school district may retain is the greater of the school district's maximum or adopted budget.

(c) If a school district's maximum or adopted budget is greater than $1.25 million, the amount of oil and natural gas production taxes that a school district may retain is limited to $1.25 million plus 50% of the **AMOUNT BY WHICH** ~~remaining oil and natural gas production taxes received up to~~ the greater of the school district's maximum or adopted budget **EXCEEDS $1.25 MILLION**.

(3) ~~The amount of oil and natural gas production taxes received by a county in excess of the retention limits allowed in subsection (2) must be remitted by the county treasurer to the state no later than June 30~~ **UPON RECEIPT OF SCHOOL DISTRICT BUDGET REPORTS REQUIRED UNDER 20-9-134, THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL PROVIDE THE DEPARTMENT OF REVENUE A LIST INDICATING, FOR EACH SCHOOL DISTRICT, THE LIMITATION IN SUBSECTION (2). THE DEPARTMENT OF REVENUE SHALL MAKE THE FULL QUARTERLY DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION AS REQUIRED UNDER 15-36-332(6) UNTIL THE AMOUNT DISTRIBUTED REACHES THE LIMITATION IN SUBSECTION (2)**.

(4) All amounts ~~received from school districts' excess~~ **OF** oil and natural gas production taxes **ALLOCATED TO SCHOOL DISTRICTS UNDER 15-36-331, BUT RETAINED BY THE DEPARTMENT OF REVENUE IN COMPLIANCE WITH THE RESTRICTIONS IN SUBSECTIONS (2) AND (3) OF THIS SECTION** must be deposited into the state guarantee account as provided in 20-9-622.

(5) If the total oil and natural gas production ~~tax revenue remitted to~~ **TAXES ALLOCATED TO THE GUARANTEE ACCOUNT IN 15-36-331(3) PLUS THE AMOUNTS RETAINED BY** the state ~~from all school districts~~ **UNDER SUBSECTION (3) OF THIS SECTION** exceeds $27 million in any school fiscal year, the amount in excess of $27 million must be allocated as follows:

(a) 50% of the amount in excess of $27 million must be deposited in the oil and natural gas impact schools account as provided in [section 13]; and

(b) except as provided in subsection (6), 50% of the amount in excess of $27 million must be deposited in the guarantee account as provided in 20-9-622.

(6) In any year in which the teachers' retirement board determines that the teachers' retirement

system is not funded on an actuarially sound basis, 50% of the amount in subsection (5)(b) must be deposited in the teachers' retirement system investment accounts for continuing the actuarial soundness of the funds.

(7) The trustees shall allocate a school district's share calculated under subsection (2) as follows:

(a) The lesser of 50% of the school district's oil and natural gas production tax share or an amount equal to the over-BASE portion of the school district's general fund budget must be directed to support the over-BASE portion of the school district's general fund budget.

(b) The remainder of a school district's share may be allocated by the trustees to any fund, except that the trustees may not allocate more than one-half of the remainder to the school district's flexibility fund.

~~(8) For fiscal years 2012, 2013, and 2014, a school district's estimate of anticipated oil and natural gas production taxes must be adjusted downward by 10% to account for the state's allocation of that amount as provided in 15-36-331 and 15-36-332 to the guarantee account.~~

NEW SECTION.**Section 12. Temporary limit on mill increase in certain districts receiving oil and natural gas production taxes.** (1) If a school district with oil and natural gas production taxes transfers oil and natural gas production tax revenue to the state under [section 11(3)] in an amount that is equal to or in excess of the amount it retains under [section 11(2)], the district may retain additional oil and natural gas production taxes during the 2012, 2013, 2014, 2015, and 2016 school fiscal years only in an amount calculated pursuant to subsection (2) of this section.

(2) The additional oil and natural gas production taxes that a district qualifying under subsection (1) may retain must be used to reduce local property taxes. The amount that may be retained is any increase in BASE mills caused by eliminating oil and natural gas production taxes as a BASE budget revenue source under 20-9-141, minus any reduction in over-BASE mills that result from the allocation in [section 11(7)(a)] if the net increase in BASE and over-BASE general fund mills from fiscal year 2011 to fiscal year 2012 would exceed 15 mills for an elementary or high school district or 30 mills for a K-12 school district.

NEW SECTION.**Section 13. Oil and natural gas impact schools account.** (1) There is an oil and natural gas impact schools account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to the ~~oil and natural gas impact schools~~ **SCHOOL DISTRICTS RECEIVING OIL AND NATURAL GAS PRODUCTION TAXES UNDER 15-36-331** to help defray the costs of:

(a) major deferred maintenance;

(b) improving energy efficiency in schools;

(c) critical infrastructure in schools;

(d) emergency facility needs;

(e) technological improvements; and

(f) conservation-related energy savings.

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to [section ~~11(7)(a)~~ **11(5)(A)**].

(3) ~~By October 1, the superintendent of public instruction shall calculate an oil and natural gas impact payment for each school district that remitted funds to the state under [section 11] in the previous school year. The~~ **ANY AMOUNTS APPROPRIATED BY THE LEGISLATURE FOR DISTRIBUTION TO SCHOOL DISTRICTS RECEIVING OIL AND NATURAL GAS PRODUCTION TAXES PURSUANT TO 15-36-331 MUST BE DISTRIBUTED BY THE** superintendent of public instruction ~~shall calculate the payment~~ to each **QUALIFYING** district as follows:

(a) add the total number of quality educators as defined in 20-4-501 and calculated as provided in 20-9-327 in the ~~oil and natural gas impact school districts that remitted funds~~ **school districts receiving oil and natural gas production taxes pursuant to 15-36-331** in the prior school year;

(b) divide the ~~account balance in the oil and natural gas impact schools account for the fiscal year that ended on June 30~~ **AMOUNT APPROPRIATED** by the number of quality educators determined in subsection (3)(a); and

(c) multiply the amount determined in subsection (3)(b) by the number of quality educators in the school district as provided in 20-9-327.

(4) ~~By October 31, the~~ **THE** superintendent of public instruction shall distribute the amounts determined in subsection (3)(c) to **QUALIFYING** school districts for deposit in the fund established under [section 14].

NEW SECTION. **Section 14. Oil and natural gas reserve fund.** (1) The trustees of a school district receiving a payment under [section 13] may establish an oil and natural gas reserve fund to be used to hold the payments. The trustees may hold money in the fund for any time period considered appropriate by the trustees. ~~Money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.~~

(2) Money may be expended from the fund for any ~~purpose provided by law~~ **OF THE PURPOSES SET FORTH IN [SECTION 13(1)]**.

(3) Money in the fund must be invested as provided by law. Interest and income from the investment of the oil and natural gas reserve fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund under the provisions of ~~this title~~ **20-9-210**.

NEW SECTION. **Section 15. Ending fund balance limits.** (1) Beginning July 1, ~~2014~~ **2016**, the combined ending fund balance of any school for all budgeted ~~and nonbudgeted~~ funds of a school district may not exceed 300% of the maximum general fund budget. The 300% limit is not applicable to the ~~building fund, the impact aid fund, or~~ **DEBT SERVICE FUND OR** the bus depreciation reserve fund.

(2) The county superintendent shall, upon completion of a school fiscal year ~~and a school district audit provided for in 20-9-203~~, redistribute any amounts in excess of the 300% limit among any other school districts in the same county whose ~~budget~~ **combined ending fund balance for all budgeted funds included in subsection (1)** has not exceeded the 300% limit. The county superintendent shall redistribute funds equally to the school districts qualifying for redistribution on a per-quality-educator basis, calculated by dividing the total funds by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediate preceding fiscal year. School districts receiving the funds may place the funds in any budgeted fund of the district, at the discretion of the board of trustees in each district.

(3) Unless an exception is granted under subsection (4), upon completion of a school fiscal year ~~and the school district audit provided for in 20-9-203~~, a school district with ~~reserves~~ **COMBINED ENDING FUND BALANCES** in excess of the 300% limit shall cooperate with the county superintendent in effectuating the redistribution of excess ~~reserves~~ **FUNDS** as provided in (2). A school district may make the payment required under this subsection from any fund or funds of the district other than ~~those funds referred to in subsection (1)~~ **THE DEBT SERVICE FUND, THE BUILDING RESERVE FUND, AND BUS DEPRECIATION FUND**.

(4) ANY FUNDS THAT CANNOT BE REDISTRIBUTED WITHIN A COUNTY WITHOUT CAUSING ANY SCHOOL DISTRICT IN THE COUNTY TO EXCEED THE 300% LIMIT MUST BE REMITTED BY THE COUNTY TREASURER TO THE STATE FOR DEPOSIT IN THE GUARANTEE ACCOUNT.

~~(4)~~ **(5)** In accordance with 20-9-161, a school district shall report to the education and local government interim committee for any exception taken to the subsection (1) limits.

(6) THIS SECTION DOES NOT APPLY TO SCHOOL DISTRICTS THAT ARE IN NON-OPERATING STATUS UNDER 20-9-505 OR ARE IN THE FIRST YEAR OF OPERATION AFTER REOPENING UNDER

1 **20-6-502 OR 20-9-503.**

2 **Section 16.** Section 17-7-502, MCA, is amended to read:

3 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
4 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
5 the need for a biennial legislative appropriation or budget amendment.

6 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
7 both of the following provisions:

8 (a) The law containing the statutory authority must be listed in subsection (3).

9 (b) The law or portion of the law making a statutory appropriation must specifically state that a
10 statutory appropriation is made as provided in this section.

11 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
12 11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-
13 314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-
14 70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-
15 11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
16 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; ~~20-9-622;~~ 20-26-1503; 22-3-1004; 23-4-105; 23-5-
17 306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-
18 1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-
19 3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-
20 10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and
21 90-9-306.

22 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
26 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes
27 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L.
28 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement
29 system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6,
30 Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant
31 to sec. 17, Ch. 593, L. 2005, and sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1,

Comment [Comment1]: <eff>

2015; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

Comment [Comment2]: </eff>

Section 17. Section 20-1-101, MCA, is amended to read:

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

(1) "Accreditation standards" means the body of administrative rules governing standards such as:

(a) school leadership;

(b) educational opportunity;

(c) academic requirements;

(d) program area standards;

(e) content and performance standards;

(f) school facilities and records;

(g) student assessment; and

(h) general provisions.

(2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is offered or for which a pupil is enrolled.

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

(4) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

(5) "Average daily attendance" means the aggregate hours of pupil attendance during a school year divided by the number of minimum aggregate hours of pupil instruction required by grade under 20-1-301.

~~(5)~~(6) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

~~(6)~~(7) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

1 ~~(7)~~(8) "Board of regents" means the board of regents of higher education created by Article X,
2 section 9, subsection (2), of the Montana constitution and 2-15-1505.
3 ~~(8)~~(9) "Commissioner" means the commissioner of higher education created by Article X, section 9,
4 subsection (2), of the Montana constitution and 2-15-1506.
5 ~~(9)~~(10) "County superintendent" means the county government official who is the school officer of the
6 county.
7 ~~(10)~~(11) "District superintendent" means a person who holds a valid class 3 Montana teacher
8 certificate with a superintendent's endorsement that has been issued by the superintendent of public
9 instruction under the provisions of this title and the policies adopted by the board of public education and who
10 has been employed by a district as a district superintendent.
11 ~~(11)~~(12) (a) "Educational program" means a set of educational offerings designed to meet the
12 program area standards contained in the accreditation standards.
13 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.
14 ~~(12)~~(13) "K-12 career and vocational/technical education" means organized educational activities that
15 have been approved by the office of public instruction and that:
16 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and
17 skills that the pupil needs to prepare for further education and for careers in the current or emerging
18 employment sectors; and
19 (b) include competency-based applied learning that contributes to the academic knowledge, higher-
20 order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and
21 occupation-specific skills of the pupil.
22 ~~(13)~~(14) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
23 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between
24 classes.
25 (b) The term does not include lunch time and periods of unstructured recess.
26 ~~(14)~~(15) "Offsite instructional setting" means an instructional setting at a location, separate from a
27 main school site, where a school district provides for the delivery of instruction to a student who is enrolled in
28 the district.
29 ~~(15)~~(16) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an
30 applicable principal's endorsement that has been issued by the superintendent of public instruction under the
31 provisions of this title and the policies adopted by the board of public education and who has been employed

1 by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as
2 including a principal.
3 ~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in
4 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-
5 101(3) but who has not yet reached 19 years of age and who is enrolled in a school established and
6 maintained under the laws of the state at public expense. For purposes of calculating the average number
7 belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of
8 age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained
9 under the laws of the state at public expense.
10 ~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
11 schools while under the supervision of a teacher.
12 ~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and
13 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as
14 established by the board of public education.
15 ~~(19)~~(20) "Regents" means the board of regents of higher education.
16 ~~(20)~~(21) "School food services" means a service of providing food for the pupils of a district on a
17 nonprofit basis and includes any food service financially assisted through funds or commodities provided by
18 the United States government.
19 ~~(21)~~(22) "State board of education" means the board composed of the board of public education and
20 the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.
21 ~~(22)~~(23) "State university" means Montana state university-Bozeman.
22 ~~(23)~~(24) "Student with limited English proficiency" means any student:
23 (a) (i) who was not born in the United States or whose native language is a language other than
24 English;
25 (ii) who is an American Indian and who comes from an environment in which a language other than
26 English has had a significant impact on the individual's level of English proficiency; or
27 (iii) who is migratory, whose native language is a language other than English, and who comes from
28 an environment in which a language other than English is dominant; and
29 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be
30 sufficient to deny the student:
31 (i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

~~(24)~~(25) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(25)~~(26) "System" means the Montana university system.

~~(26)~~(27) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(27)~~(28) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(28)~~(29) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(29)~~(30) "Trustees" means the governing board of a district.

~~(30)~~(31) "University" means the university of Montana-Missoula.

~~(31)~~(32) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

Section 18. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education

accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306~~(14)(c)(ii)~~(15)(c)(ii)."

Section 19. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections ~~(5) and (6)~~ (6) and (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection ~~(5)~~ (6) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)~~.~~ up to an amount not exceeding 15% of a school district's maximum general fund budget.

(5) **(A) PRIOR TO JUNE 30, 2011, A SCHOOL DISTRICT MAY TRANSFER ANY GENERAL FUND MONEY IN EXCESS OF 15% OF THE FISCAL YEAR 2011 GENERAL FUND BUDGET THAT ARE NOT NEEDED TO FUND THE BUDGET TO ANY BUDGETED FUND CONSIDERED APPROPRIATE BY THE TRUSTEES.**

(B) For any fund balance reappropriated exceeding 15% of a school district's maximum general fund budget, any excess amount must be remitted to the state for deposit into the guarantee account provided for in 20-9-622 no later than 90 days after the end of the fiscal year.

~~(5)~~(6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of

revenue or its agents; or

(c) received in delinquent taxes from a prior school fiscal year.

~~(6)~~(7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less."

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

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) ~~If the trustees of a district propose to adopt a general fund budget that exceeds the BASE budget for the district, the~~ ~~The~~ **THE** county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid**, 44.7% OF THE PATHWAY TO EXCELLENCE PAYMENT, THE PAYMENTS UNDER 20-9-327 THROUGH 20-9-330,** and the special education allowable cost payment for the district by totaling:

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

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

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

(i) the general fund balance reappropriated, as established under the provisions and subject to the limitations of 20-9-104;

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

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

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

~~(iii) anticipated oil and natural gas production taxes;~~

~~(iv)~~(iii) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

~~(v)~~(iv) school district block grants distributed under and subject to the limitations of 20-9-630.

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

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c)**, ANY ANTICIPATED OIL AND NATURAL GAS PRODUCTION TAXES RECEIVED UNDER [SECTION 11(7)(A)]** and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

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

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

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

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

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

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 21. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting:

(a) the safety of the students and district employees; or

(b) the educational functions of the district. Any budget amendment adopted pursuant to this subsection (6)(b) that exceeds 5% of a school district's adopted general fund budget must be reported by the school district to the education and local government interim committee justifying why the amendment is necessary."

Section 22. Section 20-9-306, MCA, is amended to read:

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

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

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement~~, 44.7% of the pathway to Improvement payment,~~ and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(B) 44.7% OF THE PATHWAY TO EXCELLENCE PAYMENT;

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

~~(c)~~ **(D)** the total quality educator payment;

~~(d)~~ **(E)** the total at-risk student payment;

~~(e)~~ **(F)** the total Indian education for all payment; and

~~(f)~~ **(G)** the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 80% of the pathway to ~~Improvement~~ **EXCELLENCE** payment, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

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

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

(6) "Basic entitlement" means:

(a) for each high school district:

(i) ~~$246,085~~ $258,284 for fiscal year ~~2010~~ 2012; and

(ii) ~~$253,468~~ $262,236 for each succeeding fiscal year;

(b) for each elementary school district or K-12 district elementary program without an approved and

accredited junior high school, 7th and 8th grade program, or middle school:

(i) ~~$22,141~~ $23,238 for fiscal year ~~2010~~ 2012;

(ii) ~~$22,805~~ $23,594 for each succeeding fiscal year; and

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for kindergarten through grade 6 elementary program:

(A) ~~$22,141~~ $23,238 for fiscal year ~~2010~~ 2012; and

(B) ~~$22,805~~ $23,594 for each succeeding fiscal year; plus

(ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:

(A) ~~$62,704~~ $65,812 for fiscal year ~~2010~~ 2012; and

(B) ~~$64,585~~ $66,819 for each succeeding fiscal year.

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

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

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

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

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

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

(11) "Pathway to ~~Improvement~~ **EXCELLENCE** payment" means a maximum rate of $500 for fiscal year 2012 and $1,000 for each succeeding fiscal year multiplied by the number of full-time equivalent educators as provided in 20-9-327(3).

~~(11)~~(12) "Total American Indian achievement gap payment" means the payment resulting from

multiplying $200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

~~(12)~~(13) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

~~(13)~~(14) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in 20-9-329.

~~(14)~~(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~$6,097~~ $6,399 for fiscal year ~~2010~~ 2012 and ~~$6,280~~ $6,497 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~$4,763~~ $4,999 for fiscal year ~~2010~~ 2012 and ~~$4,906~~ $5,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~$4,763~~ $4,999 for fiscal year ~~2010~~ 2012 and ~~$4,906~~ $5,075 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~$6,097~~ $6,399 for fiscal year ~~2010~~ 2012 and ~~$6,280~~ $6,497 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

~~(15)~~(16) "Total quality educator payment" means the payment resulting from multiplying ~~$3,036~~ $3,042 for fiscal year ~~2008~~ 2012 and ~~$3,042~~ $3,089 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

Section 23. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets. (1) (a) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's general fund budget, whichever is greater.

(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state funding for the general fund payments in 20-9-327 through 20-9-330 **AND ANY INCREASE IN THE PATHWAY TO EXCELLENCE PAYMENT** to the district's previous year's general fund budget.

(2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE budget for the district and to increase the over-BASE budget levy ~~over tax revenue previously~~ **OVER ANNUAL TAX REVENUE LEVELS PREVIOUSLY COLLECTED OR** authorized by the electors of the district in **THE HIGHEST OF** the previous 5 years to support the general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

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

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

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

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

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

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

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

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

Section 24. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-

529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary BASE funding programs of the school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

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

(a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213; and

(f) gross proceeds taxes from coal under 15-23-703~~; and~~

~~(g) oil and natural gas production taxes~~."

Section 25. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic county tax for high school equalization and other revenue for county

equalization of high school BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general fund in the following manner:

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

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

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

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

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213; <u>and</u>

(c) gross proceeds taxes from coal under 15-23-703~~; and~~

~~(d) oil and natural gas production taxes~~."

Section 26. Section 20-9-342, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. ~~Except as provided in 20-9-516, the~~ <u>The</u> state board of land commissioners shall annually deposit the interest and income money for each calendar year into the guarantee account, provided for in 20-9-622, for

state equalization aid by the last business day of February following the calendar year in which the money was received."

Section 27. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for guaranteed tax base aid, BASE aid, and state reimbursement for school facilities; and

(b) negotiated payments authorized under 20-7-420(3) up to $500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, and negotiated payments authorized under 20-7-420(3).

(3) The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) ~~subject to 20-9-516(2)(a),~~ interest and income money described in 20-9-341 and 20-9-342; and

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

Section 28. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional financing for general fund -- election for authorization to impose. (1) The trustees of a district may propose to adopt an over-BASE budget amount for the district general fund that does not exceed the general fund budget limitations, as provided in 20-9-308.

(2) When the trustees of the district propose to adopt an over-BASE budget under subsection (1), any increase in local property taxes authorized by 20-9-308(4) ~~over tax levels previously~~ **OVER ANNUAL TAX REVENUE LEVELS PREVIOUSLY COLLECTED OR** authorized by the electors of the district in **THE HIGHEST OF** the previous 5 years must be submitted to a vote of the qualified electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified electors any increase in state funding of the basic or per-ANB entitlements or of the general fund payments established in 20-9-327 through 20-9-330 approved by the legislature. When the trustees of a district determine that a voted amount of financing is required for the general fund budget, the trustees shall submit the proposition to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The election

must be called and conducted in the manner prescribed by this title for school elections and must conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of 15-10-425.

(3) If the proposition on any additional financing for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify any additional levy amount authorized by the election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141.

(4) All levies adopted under this section must be authorized by the election conducted before August 1 of the school fiscal year for which it is effective.

(5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget amount, as allowed by 20-9-308, to the electors of the district, the trustees shall comply with the provisions of subsections (2) through (4) of this section."

Section 29. Section 20-9-403, MCA, is amended to read:

"20-9-403. Bond issues for certain purposes. (1) The trustees of a school district may issue and negotiate general obligation bonds, oil and natural gas revenue bonds, or impact aid bonds of the school district for the purpose of:

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

(b) buying a school bus or buses;

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

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

(e) funding a judgment against the district, including the repayment of tax protests lost by the district; or

(f) funding a debt service reserve account that may be required for oil and natural gas revenue bonds or impact aid revenue bonds.

(2) Money realized from the sale of bonds issued on the credit of a high school district may not be

used for any of the purposes listed in subsection (1) in an elementary school district, and the money may be used for any of the purposes listed in subsection (1) for a junior high school but only to the extent that the 9th grade of the high school is served.

(3) If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in 17-5-116(1) or tax credit bonds as provided in 17-5-117."

Section 30. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support payment <u>and oil and natural gas payment</u>. (1) (a) Except as provided in subsection (1)(c), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, and any other loans or notes payable that are held as general obligations of the district, is 50% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as general obligations of the district, is up to 100% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(c) (i) The maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value

per high school ANB times 1,000 times the high school ANB of the district. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to general obligation bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess of the amount are void, except as provided in this section.

(3) The maximum amount of impact aid revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments of the school district for the current year.

(4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual oil and natural gas ~~payments~~ **PRODUCTION TAXES RECEIVED** pursuant to 15-36-331(3) **AND [SECTION 11]** for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal and interest on the oil and natural gas revenue bonds each year may not exceed ~~25%~~ **35%** of the total oil and natural gas ~~revenue payments of~~ **PRODUCTION TAXES RECEIVED BY** the school district **UNDER THE LIMITATIONS IN [SECTION 11]** for the current year.

~~(4)~~(5) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

~~(5)~~(6) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly.

~~(6)~~(7) As used in this part ~~,~~:

~~(a)~~ "federal impact aid basic support payment" means the annual impact aid revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707~~; and~~

~~(b) "oil and natural gas payment" means the annual payment received by a school district under 15-36-331(3).~~"

Section 31. Section 20-9-408, MCA, is amended to read:

"20-9-408. Definition of forms of bonds. As used in this part, the following definitions apply:

(1) "Amortization bond" means that form of bond on which a part of the principal is required to be paid each time that interest becomes due and payable. The part payment of principal increases with each following installment in the same amount that the interest payment decreases, so that the combined amount payable on principal and interest is the same on each payment date. However, the payment on the initial interest payment date may be less or greater than the amount of other payments on the bond, reflecting the payment of interest only or the payment of interest for a period different from that between other interest payment dates. The final payment may vary from prior payments in amount as a result of rounding prior payments.

(2) "General obligation bonds" means bonds that pledge the full faith and credit and the taxing power of a school district.

(3) "Impact aid revenue bonds" means bonds that pledge and are payable solely from federal impact aid basic support payments received and deposited to the credit of the fund established in 20-9-514.

(4) "Oil and natural gas revenue bonds" means bonds that pledge and are payable solely from oil and natural gas ~~payments~~ **PRODUCTION TAXES** received by the school district pursuant to ~~15-36-331(3)~~ **[SECTION 11]**.

~~(4)~~(5) "Serial bonds" means a bond issue payable in annual installments of principal commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing or subject to mandatory sinking fund redemption in each installment, commencing with the installment payable in the fourth year after the date of issue, not exceeding three times

the principal amount of the bonds payable in the immediately preceding installment."

Section 32. Section 20-9-422, MCA, is amended to read:

"20-9-422. Additional requirements for trustees' resolution calling bond election. (1) In addition to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees' resolution calling a school district bond election must:

(a) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds, or impact aid revenue bonds;

(b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

(c) fix the maximum number of years in which the proposed bonds would be paid;

(d) in the case of initiation by a petition, state the essential facts about the petition and its presentation; and

(e) state the amount of the state advance for school facilities estimated, pursuant to subsection (2), to be received by the district in the first school fiscal year in which a debt service payment would be due on the proposed bonds.

(2) Prior to the adoption of the resolution calling for a school bond election for a general obligation bond, the trustees of a district may request from the superintendent of public instruction a statement of the estimated amount of state advance for school facilities that the district will receive for debt service payments on the proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The district shall provide the superintendent with an estimate of the debt service payment due in the first school fiscal year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant to 20-9-371(2)."

Section 33. Section 20-9-423, MCA, is amended to read:

"20-9-423. Form, contents, and circularization of petition proposing school district bond election. Any petition for the calling of an election on the proposition of issuing school district bonds must:

(1) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds, or impact aid revenue bonds;

(2) plainly state each purpose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

(3) be signed by not less than 20% of the school district electors qualified to vote under the provisions of 20-20-301 in order to constitute a valid petition;

(4) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed, they must be fastened together to form a single petition when submitted to the county registrar;

(5) be circulated by any one or more qualified electors of the school district; and

(6) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition circulated. The affidavit must attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it."

Section 34. Section 20-9-426, MCA, is amended to read:

"20-9-426. Preparation and form of ballots for bond election. (1) The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots must be prepared for each purpose.

(2) For bond elections that are not held in conjunction with a school election, the ballots for absentee voting must be printed and made available at least 30 days before the bond election.

(3) All ballots must be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS--YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words "BONDS--NO".

Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation, oil and natural gas revenue, or impact aid revenue) bonds of this school district in the amount of ..... dollars ($.....), bearing interest at a rate not more than ..... percent (.....%) a year, payable semiannually, during a period not more than..... years, for the purpose..... (here state the purpose the same way as in the notice of election)?

[] BONDS -- YES.

[] BONDS -- NO."

Section 35. Section 20-9-427, MCA, is amended to read:

1 **"20-9-427. Notice of bond election by separate purpose.** (1) A school district bond election must
2 be conducted in accordance with the school election provisions of this title, except that the election notice
3 must be in substantially the following form:
4 NOTICE OF SCHOOL DISTRICT BOND ELECTION
5 Notice is hereby given by the trustees of School District No..... of ..... County, state of Montana,
6 that pursuant to a certain resolution adopted at a meeting of the board of trustees of the school district held
7 on the ..... day of ....., ..., an election of the registered electors of School District No. ..... of .....
8 County, state of Montana, will be held on the ..... day of ....., ..., at ..... for the purpose of voting upon
9 the question of whether or not the trustees may issue and sell (state here: general obligation, oil and natural
10 gas revenue, or impact aid revenue) bonds of the school district in the amount of ..... dollars ($ .....),
11 bearing interest at a rate not more than ..... percent (.....%) a year, payable semiannually, for the purpose
12 of ..... (here state purpose). The bonds to be issued will be payable in installments over a period not
13 exceeding ..... (state number) years.
14 The polls will be open from ..... o'clock ....m. and until ..... o'clock ....m. of the election day.
15 Dated and posted this ..... day of ....., ...
16 .....
17 Presiding officer, School District No. .....
18 of ..... County
19 Address.....
20 (2) If the bonds proposed to be issued are for more than one purpose, then each purpose must be
21 separately stated in the notice, together with the proposed amount of bonds for each purpose.
22 (3) The notice must specify whether the bonds will be general obligation bonds, oil and natural gas
23 revenue bonds, or impact aid revenue bonds."
24
25 **Section 36.** Section 20-9-430, MCA, is amended to read:
26 **"20-9-430. Notice of sale of school district bonds.** The trustees shall give notice of the sale of
27 school district bonds. The notice must state the purpose for which the bonds are to be issued and the
28 amount proposed to be issued and must be substantially in the following form:
29 NOTICE OF SALE OF SCHOOL DISTRICT BONDS
30 Notice is hereby given by the trustees of School District No. ..... of ..... County, state of Montana,
31 that the trustees will on the ..... day of ....., ..., at the hour of ..... o'clock .....m. at ....., in the school

1 district, sell to the highest and best bidder for cash (state here: general obligation, oil and natural gas
2 revenue, or impact aid revenue) bonds of the school district in the total amount of ..... dollars ($ .....), for
3 the purpose of .....
4 The bonds will be issued and sold in the aggregate principal amount of ..... dollars ($ .....) each
5 and will become payable according to the maturity schedule set forth below (set forth maturity schedule
6 adopted by the school district). (If the bonds are to be issued as amortization bonds, indicate that here.)
7 The bonds will bear an original issue date of ....., ..., will pay interest commencing on the .....
8 day of .....(month), ..., will be payable semiannually on the ..... day of ..... (month) and ..... (month)
9 in each year thereafter, and will be redeemable in full. (Here insert optional provisions, if any, to be recited
10 on the bonds.)
11 The bonds will be sold for not less than $ ....., with accrued interest on the principal amount of the
12 bonds to the date of their delivery, and all bidders shall state the lowest rate of interest at which they will
13 purchase the bonds at the price specified for the bonds. The trustees reserve the right to reject any bids and
14 to sell the bonds at private sale.
15 All bids must be accompanied by (insert appropriate bid security as permitted by 18-1-202) in the
16 sum of ..... dollars ($ .....) payable to the order of the district, which will be forfeited by the successful
17 bidder in the event that the bidder refuses to purchase the bonds.
18 All bids should be addressed to the undersigned district.
19
20 .....
21 Presiding officer, School District No. .....
22 of ..... County
Address: .....
23 ATTEST:
24 Subscribed and sworn to before me this ..... day of ....., ...; ..... Notary Public for the State
25 residing at ....., Montana. My commission expires ....."
26
27 **Section 37.** Section 20-9-437, MCA, is amended to read:
28 **"20-9-437. School district liable on bonds.** (1) The full faith, credit, and taxable resources of a
29 school district issuing general obligation bonds under the provisions of this title are pledged for the
30 repayment of the bonds with interest according to the terms of the bonds. For the purpose of making the
31 provisions of this part enforceable, each school district is a body corporate that may sue and be sued by or in

the name of the trustees of the school district.

(2) A school district may use up to 25% of its federal impact aid funds received pursuant to 20-9-514 or 25% of its oil and natural gas ~~payments~~ **PRODUCTION TAXES** received pursuant to ~~15-36-331(3)~~ **[SECTION 11]** for repayment of general obligation bonds.

(3) Impact aid revenue bonds must be payable solely from the federal impact aid basic support payment received by the school district and deposited to the credit of the impact aid fund established in 20-9-514 and do not constitute a general obligation of the school district. The school district's taxing power is not pledged for the repayment of impact aid revenue bonds.

(4) Oil and natural gas revenue bonds must be payable solely from the oil and natural gas ~~payment~~ **PRODUCTION TAXES** received by the school district **UNDER THE LIMITATIONS IN [SECTION 11]** and deposited to the debt service fund and do not constitute a general obligation of the school district. The school district's taxing power is not pledged for the repayment of oil and natural gas revenue bonds."

Section 38. Section 20-9-440, MCA, is amended to read:

"20-9-440. Payment of debt service obligations -- termination of interest. (1) The school district shall provide the county treasurer with a general obligation bond, oil and natural gas revenue bond, or impact aid revenue bond debt services schedule. The county treasurer shall maintain a separate debt service fund for each school district and, if bonds are to be issued as either impact aid revenue bonds or oil and natural gas revenue bonds, a separate impact aid revenue bond debt service fund or oil and natural gas revenue bond debt service fund, as applicable, and an impact aid revenue bond debt service reserve account or oil and natural gas revenue bond debt service reserve account, if required, and shall credit all tax money, oil and natural gas revenue, or impact aid revenue collected for debt service to the appropriate fund and use the money credited to the fund for the payment of debt service obligations in accordance with the school financial administration provisions of this title.

(2) The county treasurer shall pay from the debt service fund all amounts of interest and principal on school district bonds as the interest or principal becomes due when the coupons or bonds are presented and surrendered for payment and shall pay all special improvement district assessments as they become due. If the bonds are held by the state of Montana, then all payments must be remitted to the state treasurer who shall cancel the coupons or bonds and return the coupons or bonds to the county treasurer with the state treasurer's receipt. If the bonds are not held by the state of Montana and the interest or principal is made payable at some designated bank or financial institution, the county treasurer shall remit the amount due for

interest or principal to the bank or financial institution for payment against the surrender of the canceled coupons or bonds.

(3) Whenever any school district bond or installment on school district bonds becomes due and payable, interest ceases on that date unless sufficient funds are available to pay the bond when it is presented for payment or when payment of an installment is demanded. In either case, interest on the bond or installment continues until payment is made.

(4) Any installment on interest and principal on bonds held by the state that is not promptly paid when due draws interest at an annual rate of 6% from the date due until actual payment, irrespective of the rate of interest on the bonds."

NEW SECTION.Section 39. Security for oil and natural gas revenue bonds. (1) To secure the payment of principal and interest on oil and natural gas revenue bonds, the trustees of a school district, by resolution or indenture of trust, may provide that oil and natural gas revenue bonds are secured by a first lien on the oil and natural gas production revenue received pursuant to the ~~schedule set forth in 15-36-331(3)~~ **PROVISIONS OF [SECTION 11]** and pledge to the holders of the oil and natural gas revenue bonds all of the oil and natural gas revenue deposited in the district's ~~building~~ **DEBT SERVICE** fund.

(2) Upon receipt of oil and natural gas revenue, the county treasurer shall deposit in the district's building fund the amount that is required to pay the principal and interest on the oil and natural gas revenue bonds due in the next 12-month period. All other oil and natural gas revenue must be deposited as directed by the board of trustees as provided in [section 11]. The school district and county treasurer may designate a trustee for holders of the bonds to receive the school district's oil and natural gas revenue for purposes of making the annual debt service payments on oil and natural gas revenue bonds.

(3) Any pledge made pursuant to this section is valid and binding from the time the pledge is made, and the money pledged and received by the county treasurer on behalf of the school district to be placed in the building fund is immediately subject to the lien of the pledge without any future physical delivery or further act. A lien of any pledge is valid and binding against all parties that have claims of any kind against the school district, regardless of whether the parties have notice of the lien. The bond resolution or indenture of trust that creates the pledge, when adopted by the trustees of any district, is notice of the creation of the pledge, and those instruments are not required to be recorded in any other place to perfect the pledge.

(4) The state may not limit, alter, or impair the ability of a school district to qualify for oil and natural gas revenue or in any way impair the rights and remedies of the bondholders until all bonds issued under

this section, together with interest on the bonds, interest on any unpaid installments of principal or interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The trustees of any district, as agents for the state, may include a pledge and undertaking in resolutions and indentures authorizing and securing the bonds as described in this subsection.

Section 40. Section 20-9-534, MCA, is amended to read:

"20-9-534. Statutory appropriation for school technology purposes. (1) The amount of $1 million a year is statutorily appropriated, as provided in 17-7-502, from the ~~school facility and technology account established in 20-9-516 for grants for school technology purposes~~ guarantee account as provided in 20-9-622.

(2) By September 1, the superintendent of public instruction shall allocate the annual statutory appropriation for school technology purposes to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in 20-9-343 for the purposes of 20-9-533 in the prior fiscal year."

Section 41. Section 20-9-620, MCA, is amended to read:

"20-9-620. Definition. (1) As used in ~~20-9-621,~~ 20-9-622~~,~~ and this section, "distributable revenue" means, except for that portion of revenue described in ~~20-9-516(2)(a) and~~ 77-1-109, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

Section 42. Section 20-9-622, MCA, is amended to read:

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

~~(a)~~(1) stabilize the long-term growth of the permanent fund; and

~~(b)~~(2) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account **AND MUST ONLY BE APPROPRIATED FOR K-12 PUBLIC EDUCATION PURPOSES.**

1 **(3) INTEREST AND INCOME EARNINGS ON THE GUARANTEE ACCOUNT MUST BE DEPOSITED IN**
2 **THE ACCOUNT**. ~~Except as provided in subsection (2), the guarantee account is statutorily appropriated, as~~
3 ~~provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-~~
4 ~~343.~~
5 ~~(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of~~
6 ~~2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the~~
7 ~~guarantee account to the general fund an amount that represents the amount of interest income that would~~
8 ~~be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully~~
9 ~~paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility and~~
10 ~~technology account pursuant to 17-6-340.~~"
11
12 **Section 43.** Section 20-9-630, MCA, is amended to read:
13 **"20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a
14 block grant to each school district based on the revenue received by each district in fiscal year 2001 from
15 vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land
16 payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and
17 169(6), Chapter 584, Laws of 1999.
18 (b) Block grants must be calculated using the electronic reporting system that is used by the office
19 of public instruction and school districts. The electronic reporting system must be used to allocate the block
20 grant amount into each district's budget as an anticipated revenue source by fund.
21 (c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount
22 actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block
23 grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall
24 use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year
25 2002.
26 (2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is
27 insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office
28 of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall
29 anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for
30 fiscal year 2003.
31 (3) Each year, 70% of each district's block grant must be distributed in November and 30% of each

1 district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.
2 (4) (a) The block grant for the district general fund is equal to the average amount received in fiscal
3 years 2002 and 2003 by the district general fund from the block grants provided for in subsection (1)~~. The~~
4 ~~block grant~~ and must be increased by 0.76% in fiscal ~~year~~ years 2004 ~~and in each succeeding fiscal year~~
5 through 2011.
6 (b) The block grant for the district transportation fund is equal to one-half of the average amount
7 received in fiscal years 2002 and 2003 by the district transportation fund from the block grants provided for in
8 subsection (1). The block grant must be increased by 0.76% in fiscal ~~year~~ years 2004 ~~and in each~~
9 ~~succeeding fiscal year~~ through 2011.
10 (c) (i) The combined fund block grant is equal to the average amount received in fiscal years 2002
11 and 2003 by the district tuition, bus depreciation reserve, building reserve, nonoperating, and adult education
12 funds from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in
13 fiscal ~~year~~ years 2004 ~~and in each succeeding fiscal year~~ through 2011.
14 (ii) The school district may deposit the combined fund block grant into any budgeted fund of the
15 district.
16 (5) A school district's block grant **IN SUBSECTION (4)** may not exceed 15% of the school district's
17 maximum general fund budget. The superintendent of public instruction shall calculate the amount in excess
18 of the 15%**, REDUCE THE GRANTS PROPORTIONATELY UNDER SUBSECTIONS (4)(A) THROUGH**
19 **(4)(C),** and transfer that excess amount from the state general fund to the guarantee account as provided in
20 20-9-622."
21 **(6) THIS SECTION DOES NOT APPLY TO SCHOOL DISTRICTS THAT ARE IN NON-**
22 **OPERATING STATUS UNDER 20-9-505 OR IN THE FIRST YEAR OF OPERATION AFTER REOPENING**
23 **UNDER 20-6-502 OR 20-9-503.**"
24 **Section 44.** Section 77-1-218, MCA, is amended to read:
25 **"77-1-218. Public school land acquisition account.** (1) There is a public school land acquisition
26 account in the state special revenue fund established in 17-2-102. The account must be administered by the
27 department.
28 (2) Money in the account may be used only for the purpose of purchasing and managing interests in
29 and appurtenances to real property in accordance with 77-1-219.
30 (3) After deductions are made pursuant to 77-1-109 and 77-1-613, the net interest and income
31 earned on real property and appurtenances purchased with funds from the account must be distributed to

the ~~school facility improvement~~ guarantee account provided for in ~~20-9-516~~ 20-9-622."

Section 45. Section 77-4-208, MCA, is amended to read:

"77-4-208. Rental for power sites -- deposit of rental money in proper accounts. (1) The rental payment to the state for power sites must be paid annually or semiannually, and the rental may not be less than the full market value of the estate or interest disposed of through the granting of the lease or license. The value must be carefully ascertained from all available sources.

(2) Ninety-five percent of all rental payments received under this section must be deposited in the ~~school facility and technology account provided for in 20-9-516~~ guarantee account provided for in 20-9-622. The remaining 5% of the rental payments received must be deposited annually in the public school permanent fund provided for in 20-9-621."

Section 46. Section 90-6-802, MCA, is amended to read:

"90-6-802. Purpose. The purpose of this part is to establish a mechanism to distribute grants to public school districts for school facility and technology projects from **APPROPRIATIONS MADE FROM** the ~~school facility and technology account established in 20-9-516~~ guarantee account provided for in 20-9-622. ~~The account is to~~ ~~Money in the account~~ **APPROPRIATIONS MADE FROM THE GUARANTEE ACCOUNT FOR GRANTS UNDER THIS SECTION** may be used to assist schools in addressing major deferred maintenance, energy efficiency, critical infrastructure needs, emergency facility needs, and technological improvements ~~and establishes an ongoing flow of state revenue into the account~~. Grants must be distributed for projects that:

(1) enhance the quality of life and protect the health, safety, and welfare of Montana's public school students;

(2) ensure the successful delivery of an educational system that meets the accreditation standards provided for in 20-7-111;

(3) extend the life of Montana's existing public school facilities;

(4) promote energy conservation and reduction;

(5) integrate technology into Montana's education framework to support student educational needs for the 21st century; and

(6) are fiscally responsible by considering both long-term and short-term needs of the public school district, the local community, and the state."

Section 47. Section 90-6-803, MCA, is amended to read:

"90-6-803. Definitions. As used in this part, the following definitions apply:

(1) "Account" means the ~~school facility and technology account provided for in 20-9-516~~ guarantee account provided for in 20-9-622.

(2) "Department" means the department of commerce established in 2-15-1801.

(3) "Emergency" means the imminent threat or actual occurrence of an event causing immediate peril to life, property, or the environment that can be averted or minimized with timely action.

(4) "Program" means the quality schools facility grant program established in 90-6-809.

(5) "Public school district" means a district as defined in 20-6-101 or a K-12 school district as defined in 20-6-701.

(6) "School" has the meaning provided for in 20-6-501.

(7) "School facility project" means a project to support a basic system of free quality public elementary and secondary schools under 20-9-309 that involves:

(a) construction of a school facility;

(b) major repairs or deferred maintenance to an existing school facility;

(c) major improvements or enhancements to an existing school facility; or

(d) information technology infrastructure, including installations, upgrades, or improvements to an existing school facility or facilities."

NEW SECTION.**Section 48. Repealer.** The following section of the Montana Code Annotated is repealed:

20-9-516. School facility and technology account.

~~NEW SECTION.**Section 49. One-time fund transfer.** A school district with excess general fund reserves as defined in 20-9-104 may transfer the excess amounts to any fund considered appropriate by the trustees. A transfer must be completed no later than June 30, 2011.~~

NEW SECTION.**Section ~~50~~ (49). Fund transfer -- transition.** The closure of the school facility and technology account as a result of the repeal of 20-9-516 must occur by September 1, 2011, to allow for transfer of unencumbered funds and booked anticipated revenue to the guarantee account as provided in

20-9-622.

NEW SECTION.**Section ~~51~~ (50). Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION.**Section ~~52~~ (51). Codification instruction.** (1) [Sections 1 through 5 and 11 through 15] are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1 through 5 and 11 through 15].

(2) [Section 39] is intended to be codified as an integral part of Title 20, chapter 9, part 4, and the provisions of Title 20, chapter 9, part 4, apply to [section 39].

NEW SECTION.**Section ~~53~~ (52). Effective date.** [This act] is effective on passage and approval.

NEW SECTION.**Section ~~54~~ (53). Termination.** [Section 12] terminates June 30, 2016.

END