



AN ACT GENERALLY REVISING K-12 EDUCATION LAWS; CREATING THE PATHWAY TO EXCELLENCE PROGRAM; AMENDING THE STRUCTURE OF ESTIMATING AND ALLOCATING OIL AND NATURAL GAS PRODUCTION TAXES FOR SCHOOLS; CHANGING THE MONTANA VIRTUAL ACADEMY TO THE MONTANA DIGITAL ACADEMY; LIMITING A SCHOOL DISTRICT'S FUND BALANCE REAPPROPRIATED TO A PERCENTAGE OF THE MAXIMUM GENERAL FUND BUDGET; ALLOWING A SCHOOL DISTRICT A ONE-TIME TRANSFER OF GENERAL FUND MONEY; PROVIDING AN INFLATIONARY INCREASE TO THE BASIC ENTITLEMENT AND TOTAL PER-ANB ENTITLEMENT; CREATING A STATE SCHOOL OIL AND NATURAL GAS IMPACT ACCOUNT; CREATING A COUNTY SCHOOL OIL AND NATURAL GAS IMPACT FUND; ALLOWING FOR MULTIDISTRICT AGREEMENTS; DEFINING "MULTIDISTRICT COOPERATIVE"; ALLOWING TRUSTEES TO DECIDE THE DISPOSITION OF INACTIVE TUITION FUNDS; EXEMPTING PARTICIPANTS IN A COOPERATIVE PURCHASING GROUP FROM CERTAIN COMPETITIVE BIDDING REQUIREMENTS; ALLOWING THE TRANSFER OF FUNDS RAISED BY A VOTED OR PERMISSIVE LEVY IF VOTERS APPROVE THE TRANSFER IN AN ELECTION; ALLOWING TRUSTEES TO IMPOSE AN OVER-BASE LEVY IN SUPPORT OF A DISTRICT'S GENERAL FUND BUDGET IN AN AMOUNT NOT TO EXCEED REVENUE AMOUNTS PREVIOUSLY AUTHORIZED BY THE VOTERS IN THE PREVIOUS 5 YEARS; ELIMINATING THE PERCENTAGE OF GROWTH FOR SCHOOL DISTRICT BLOCK GRANTS; REVISING THE USE OF THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; PROVIDING RULEMAKING AUTHORITY; REMOVING THE REQUIREMENT THAT TRUSTEES SUBMIT TO ELECTORS THE PROPOSITION OF TRANSFERRING BUS DEPRECIATION RESERVE FUNDS TO ANOTHER FUND; REQUIRING A SCHOOL DISTRICT TO REPORT BUDGET AMENDMENTS TO THE LEGISLATURE AND THE BOARD OF PUBLIC EDUCATION; LIMITING A SCHOOL DISTRICT'S ENDING FUND BALANCE TO A SPECIFIC PERCENTAGE; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-36-332, 20-3-363, 20-7-102, 20-7-1201, 20-9-104, 20-9-161, 20-9-201, 20-9-204, 20-9-208, 20-9-306, 20-9-308, 20-9-353, 20-9-507, 20-9-516, 20-9-630, AND 20-10-147, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

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

**Section 1.** Section 15-36-332, MCA, is amended to read:

**"15-36-332. Distribution of taxes to taxing units -- appropriation.** (1) (a) ~~By Subject to [section 8],~~ by the dates referred to in subsection (6) of this section, the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (8) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	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 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) as provided in subsections (4)(b) through (4)(d) and subject to the provisions of [section 8].

(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).

(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).

(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 8].~~

~~(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) ~~The~~ Subject to [section 8], 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 are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

**Section 2.** Section 20-3-363, MCA, is amended to read:

**"20-3-363. Interdistrict Multidistrict agreements -- fund transfers.** (1) The boards of trustees of any two or more school districts that have unified pursuant to 20-6-312, any two school districts that have created a joint board of trustees pursuant to 20-3-361, or a high school district and any elementary school district associated with that high school district may enter into an interdistrict a multidistrict agreement to create a multidistrict cooperative to perform any services, activities, and undertakings of the participating districts and to provide for the joint funding and operation and maintenance of both all participating districts upon the terms and conditions as may be mutually agreed to by the districts subject to the conditions of this section. An agreement must be approved by the board boards of trustees of both all participating districts by February 1 April 1 of the current fiscal year in which the agreement is executed and by April 1 in any subsequent year to which the agreement applies.

(2) All expenditures in support of the interdistrict multidistrict agreement may be made from the interlocal cooperative fund as specified in 20-9-703 and 20-9-704. Each participating district of the multidistrict cooperative may transfer funds into the interlocal cooperative fund from the general fund or any other budgeted fund of the district. Transfers to the interlocal cooperative fund from each participating school district district's general fund are limited to an amount not to exceed the direct state aid in support of the respective school district's general

fund, and All transfers must be completed by February 1 April 1 of the current fiscal year in which the agreement is executed and by April 1 in any subsequent year to which the agreement applies.

(3) Expenditures from the interlocal cooperative fund under this section are limited to those expenditures that are permitted by law and that are within the final budget for the general budgeted fund from which the transfer was made.

(4) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are 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.

(5) As used in this title, "multidistrict cooperative" means a public entity created by two or more school districts executing a multidistrict agreement under this section or any school district or other public entity participating in an interlocal cooperative agreement under the provisions of Title 20, chapter 9, part 7, as either a coordinating or a cooperating agency."

**Section 3. Montana pathway to excellence program -- purpose.** (1) [Sections 3 and 4] may be known as the pathway to excellence program.

(2) The purpose of the pathway to 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.

**Section 4. Transparency and public availability of public school performance data -- reporting.**

(1) The office of public instruction shall develop a publicly available data system that displays an educational data profile for each school district.

(2) Each school district's educational profile must include, at a minimum, the following elements:

- (a) school district contact information and links to district websites, when available;
- (b) state criterion-referenced testing results;
- (c) program and course offerings;
- (d) student enrollment and demographics by grade level; and

(e) graduation rates.

(3) Each school district shall annually report to the office of public instruction and publish and post on the school district's internet website the following district data for the preceding school year:

(a) the number and type of employee positions, including administrators;

(b) for the current employee in each position:

(i) the total amount of compensation paid to the employee by the district. The total amount of compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other income from school-sanctioned extracurricular activities, including coaching and similar activities; and

(ii) the certification held by and required of the employee;

(c) the student-teacher ratio by grade;

(d) (i) the amount, by category, spent by the district for operation and maintenance, stated in total cost and cost per square foot; and

(ii) the amount of principal and interest paid on bonds;

(e) the total district expenditures per student;

(f) the total budget for all funds;

(g) the total number of students enrolled and the average daily attendance;

(h) the total amount spent by the district on extracurricular activities and the total number of students that participated in extracurricular activities; and

(i) the number of students that entered the 9th grade in the school district but did not graduate from a high school in that district and for which the school district did not receive a transfer request. For reporting purposes, the students identified under this subsection (3)(i) are considered to have dropped out of school.

(4) Each school district shall also post on the school district's internet website a copy of every working agreement the district has with any organized labor organization and the district's costs, if any, associated with employee union representation, collective bargaining, and union grievance procedures and litigation resulting from union employee grievances.

(5) If a school district does not have an internet website, the school district shall publish the information required under subsections (2) and (3) in printed form and provide a copy of the information upon request at the cost incurred by the school district for printing only.

(6) 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.

(7) 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 results, scholastic achievement test results, and advanced placement exam data.

(8) The superintendent of public instruction shall emphasize the creation of and distribution of individual diagnostic data for each student in a manner that is timely and protects the privacy rights of students and families as they relate to education 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.

(9) 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.

**Section 5.** 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)(14)(a)(iii)(B)."

**Section 6.** Section 20-7-1201, MCA, is amended to read:

**"20-7-1201. Montana virtual digital academy -- purposes -- governance.** (1) There is a Montana virtual digital academy at a unit of the Montana university system.

(2) The purposes of the Montana virtual digital academy are to:

(a) make distance learning opportunities available to all school-age children through public school districts in the state of Montana;

(b) offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; and

(c) emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

(3) The Montana virtual digital academy must be governed by a board with equal representation from:

(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana-licensed and Montana-endorsed classroom teacher appointed by the board of public education;

(d) a Montana-licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;  
 (f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members.

(4) The governing board shall elect a presiding officer and vice presiding officer to 2-year terms without limitation on the number of terms.

(5) The governing board shall hire a program director and a curriculum director who shall serve as chief executive officer and vice chief executive officer respectively on the governing board in a nonvoting capacity. The program director shall develop and, upon approval of the governing board, implement policies and guidelines for the Montana ~~virtual~~ digital academy pertaining to:

- (a) course offerings;
- (b) software and hardware selection;
- (c) instructor selection;
- (d) partnering school agreements;
- (e) instructor training and curriculum development;
- (f) course evaluation;
- (g) grant opportunities; and
- (h) other activities that are essential to the success of a statewide distance learning program."

**Section 7.** 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)~~ (7) and (8), 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)~~ (7) 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) For fiscal year 2012, any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state to be deposited in the state general fund.

(6) Beginning in fiscal year 2013, any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:

(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622;

(b) 5% of the excess amount must be remitted to the state to be deposited in the state school oil and natural gas impact account provided for in [section 9]; and

(c) 25% of the excess amount must be deposited in the county school oil and natural gas impact fund provided for in [section 10].

~~(5)~~(7) 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)~~(8) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is \$10,000 or less.

(9) 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 is not needed to fund the budget to any budgeted fund considered appropriate by the trustees."

**Section 8. Oil and natural gas production taxes for school districts -- allocation and limits. (1)**

The maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the

school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section.

(4) For fiscal year 2012, any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) must be deposited in the guarantee account as provided in 20-9-622.

(5) Subject to the limitation in subsection (1), the trustees shall budget and allocate the oil and natural gas production taxes received by the district as follows:

(a) for fiscal year 2012, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(b) for fiscal year 2013, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 35% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(c) for fiscal year 2014, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 45% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(d) for each succeeding fiscal year, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 55% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(e) oil and natural gas production taxes received by the district must be deposited in the general fund until the budgeted amount is reached; and

(f) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

(6) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the

shortfall.

(7) Beginning in fiscal year 2013, for any amount retained by the department of revenue in compliance with the limitation in subsection (1), the amount retained must be allocated as follows:

- (a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;
- (b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in [section 9]; and
- (c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in [section 10].

**Section 9. State school oil and natural gas impact account.** (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes under 15-36-331 but are impacted by contiguous counties that are benefiting from receipt of oil and natural gas production taxes.

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to [section 8(3)] and any amounts pursuant to [section 7].

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

- (a) an unusual enrollment increase as determined pursuant to 20-9-314;
- (b) a district's need to hire new teachers or staff as a result of increased enrollment;
- (c) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or
- (d) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

- (a) the local district's or school's need;
- (b) the severity of the energy development impacts;
- (c) availability of funds in the account; and
- (d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the state general fund.

**Section 10. County school oil and natural gas impact fund.** (1) The governing body of a county receiving an allocation under [section 7] and [section 8(3)] shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to [section 7] and [section 8(3)] must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 30% or less of the amount of the average received by the district in the previous 4 fiscal years;

(b) the average price of oil is \$50 a barrel or less for the fiscal year; or

(c) the production of oil in the county drops 50% or more below the average oil production in the county during the immediately preceding 5-year period.

(3) Within 30 days of any of the circumstances described in subsections (2)(a) through (2)(c) occurring, the governing body of the county shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county.

(4) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil described in subsection (2)(b);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by the changes in oil and natural gas activity described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity described in subsection (2).

(5) Except as provided in subsection (4)(b), money held in the fund may not be considered as fund

balance for the purpose of reducing mill levies.

(6) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund.

**Section 11.** 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 in combination with other budget amendments within the same school fiscal year exceeds 10% of the district's adopted general fund budget must be reported by the school district to the education and local government interim committee and the board of public education with an explanation of why the budget amendment is necessary."

**Section 12.** Section 20-9-201, MCA, is amended to read:

**"20-9-201. Definitions and application.** (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, tuition fund, retirement fund, debt service fund, building reserve fund, adult education fund, nonoperating fund, and any other funds designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, internal service fund, impact aid fund, enterprise fund, agency fund, extracurricular fund, metal mines tax reserve fund, endowment fund, litigation reserve fund, and any other funds designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) ~~(a) Except as provided in subsection (3)(b) or as otherwise provided by law, whenever~~ Except as

otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to any fund considered appropriate by the trustees if the fund does not have a cash or fund balance deficit.

~~———— (b) If the trustees of a district determine that its tuition fund is inactive and will no longer be used, the trustees shall close the fund by transferring any cash and account balances to the district's miscellaneous programs fund if the tuition fund does not have a cash or fund balance deficit."~~

**Section 13.** Section 20-9-204, MCA, is amended to read:

**"20-9-204. Conflicts of interests, letting contracts, and calling for bids -- exceptions.** (1) It is unlawful for a trustee to:

(a) have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while acting in that official capacity or by the board of trustees of which the trustee is a member; or

(b) be employed in any capacity by the trustee's own school district, with the exception of officiating at athletic competitions under the auspices of the Montana officials association.

(2) For the purposes of subsection (1):

(a) "contract" does not include:

(i) merchandise sold to the highest bidder at public auctions;

(ii) investments or deposits in financial institutions that are in the business of loaning or receiving money when the investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

(iii) contracts for professional services, other than salaried services, or for maintenance or repair services or supplies when the services or supplies are not reasonably available from other sources if the interest of any board member and a determination of the lack of availability are entered in the minutes of the board meeting at which the contract is considered; and

(b) "pecuniary interest" does not include holding an interest of 10% or less in a corporation.

(3) (a) Except for district needs that must be met because of an unforeseen emergency, as defined in 20-3-322(5), or as provided in subsections (4) and ~~(7)~~ (6) of this section, whenever any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district is necessary, the work done or the purchase made must be by contract if the sum exceeds \$50,000.

(b) Except as provided in Title 18, chapter 2, part 5, each contract must be let to the lowest responsible bidder after advertisement for bids. The advertisement for bids under this subsection (3)(b) must be published in the newspaper that will give notice to the largest number of people of the district as determined by the trustees. The advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section is void. The bidding requirements applicable to services performed for the benefit of the district under this section do not apply to:

- (i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;
- (ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;
- (iii) an attorney;
- (iv) a consulting actuary;
- (v) a private investigator licensed by any jurisdiction;
- (vi) a claims adjuster;
- (vii) an accountant licensed under Title 37, chapter 50; or

(viii) a project, as defined in 18-2-501, for which a governing body, as defined in 18-2-501, enters into an alternative project delivery contract pursuant to Title 18, chapter 2, part 5.

(4) A district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. ~~The award of a contract to a successful bidder must comply with the requirements of subsection (5). The request for bids must be advertised in a daily newspaper of general circulation in each county in which a district participating in the cooperative purchasing contract is located. The advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids.~~ A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of subsection (3) if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list.

~~—(5) Except as provided in Title 18, chapter 2, part 5, whenever bidding is required, the contract must be awarded to the lowest responsible bidder, except that any or all bids may be rejected.~~

~~(6)~~(5) This section may not require the board of trustees to let a contract for any routine and regularly performed maintenance or repair project or service that can be accomplished by district staff whose regular employment with the school district is related to the routine performance of maintenance for the district.

~~(7)~~(6) Subsection (3) does not apply to the solicitation or award of a contract for an investment grade energy audit or an energy performance contract pursuant to Title 90, chapter 4, part 11, including construction and installation of conservation measures pursuant to the energy performance contract."

**Section 14.** Section 20-9-208, MCA, is amended to read:

**"20-9-208. Transfers among appropriation items of fund -- transfers from fund to fund.** (1)

Whenever it appears to the trustees of a district that the appropriated amount of an item of a budgeted fund of the final budget or a budget amendment is in excess of the amount actually required during the school fiscal year for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other appropriation item of the same budgeted fund.

(2) Unless otherwise restricted by a specific provision in this title, transfers may be made between different funds of the same district or between the final budget and a budget amendment under one of the following circumstances:

(a) (i) Except as provided in subsection (2)(a)(ii), transfers may be made from one budgeted fund to another budgeted fund or between the final budget and a budget amendment for a budgeted fund whenever the trustees determine, in their discretion, that the transfer of funds is necessary to improve the efficiency of spending within the district or when an action of the trustees results in savings in one budgeted fund that can be put to more efficient use in another budgeted fund. Transfers may not be made with funds approved by the voters or with funds raised by a nonvoted levy unless:

(A) the transfer is within or directly related to the purposes for which the funds were raised. ~~Before a transfer can occur, the trustees shall~~ and the trustees hold a properly noticed hearing to accept public comment on the transfer; or

(B) the transfer is approved by the qualified electors of the district in an election called for the purpose of approving the transfer, in which case the funds may be spent for the purpose approved on the ballot.

(ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to any other fund and transfers to the general fund from any other fund are prohibited.

(b) Transfers may be made from one nonbudgeted fund to another nonbudgeted fund whenever the trustees determine that the transfer of funds is necessary to improve the efficiency of spending within the district. Transfers may not be made with funds restricted by state or federal law unless the transfer is in compliance with any restrictions or conditions imposed by state or federal law. Before a transfer can occur, the trustees shall hold a properly noticed hearing to accept public comment on the transfer.

(3) The trustees shall enter the authorized transfers upon the permanent records of the district.

(4) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are 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.

**Section 15.** 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 and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) 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 total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

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

(f) 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, 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) (a) "Basic entitlement" means:

(a)(i) for each high school district:

(i)(A) ~~\$246,085~~ \$256,003 for fiscal year ~~2010~~ 2012; and

(i)(B) ~~\$253,468~~ for each succeeding fiscal year; \$262,224 for fiscal year 2013; and

(C) except as provided in subsection (6)(b), \$260,099 for each succeeding fiscal year;

(b)(ii) 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)(A) ~~\$22,144~~ \$23,033 for fiscal year ~~2010~~ 2012;

(i)(B) ~~\$22,805~~ for each succeeding fiscal year; and \$23,593 for fiscal year 2013; and

(C) except as provided in subsection (6)(b), \$23,402 for each succeeding fiscal year;

(e)(iii) 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)(A) for kindergarten through grade 6 elementary program:

(A)(I) ~~\$22,144~~ \$23,033 for fiscal year ~~2010~~ 2012; and

(B)(II) ~~\$22,805~~ for each succeeding fiscal year; plus \$23,593 for fiscal year 2013; and

(III) except as provided in subsection (6)(b), \$23,402 for each succeeding fiscal year; plus

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

(A)(I) ~~\$62,704~~ \$65,231 for fiscal year ~~2010~~ 2012; and

(B)(II) ~~\$64,585~~ for each succeeding fiscal year; \$66,816 for fiscal year 2013; and

(III) except as provided in subsection (6)(b), \$66,275 for each succeeding fiscal year.

(b) If fiscal year 2012 general fund revenue, including transfers in, reflected in the audited comprehensive

annual financial report exceeds \$1,766,500,000, then the entitlements for fiscal year 2013 in this subsection (6) are the amounts to be paid for succeeding fiscal years.

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

(13) "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) (a) "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)(i) for a high school district or a K-12 district high school program, a maximum rate of ~~\$6,097~~ \$6,343 for fiscal year ~~2010~~ 2012, and ~~\$6,280~~ \$6,497 for fiscal year 2013, and except as provided in subsection (14)(b), \$6,444 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)(ii)~~ 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~~ \$4,955 for fiscal year ~~2010~~ 2012, and ~~\$4,906~~ \$5,075 for fiscal year 2013, and except as provided in subsection (14)(b), \$5,034 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

~~(e)(iii)~~ 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)~~ a maximum rate of ~~\$4,763~~ \$4,955 for fiscal year ~~2010~~ 2012, and ~~\$4,906~~ \$5,075 for fiscal year 2013, and except as provided in subsection (14)(b), \$5,034 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

~~(i)(B)~~ a maximum rate of ~~\$6,097~~ \$6,343 for fiscal year ~~2010~~ 2012, and ~~\$6,280~~ \$6,497 for fiscal year 2013, and except as provided in subsection (14)(b), \$6,444 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.

(b) If the fiscal year 2012 general fund revenue, including transfers in, reflected in the audited comprehensive annual financial report exceeds \$1,766,500,000, then the entitlements for fiscal year 2013 in this subsection (14) are the amounts to be paid for succeeding fiscal years.

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

**Section 16.** 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 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 revenue previously authorized by the electors of the district or imposed by the district in any 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 17.** 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 revenue previously authorized by the electors of the district or imposed by the district in any 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 18.** Section 20-9-507, MCA, is amended to read:

**"20-9-507. Miscellaneous programs fund.** (1) The trustees of a district receiving money from local, state, federal, or other sources provided in 20-5-324, other than money under the provisions of impact aid, as provided in 20 U.S.C. 7701, et seq., or federal money designated for deposit in a specific fund of the district, shall establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of miscellaneous program fund expenditures already realized by the district, indirect cost recoveries, ~~the transfer of a fund balance from a tuition fund closed under 20-9-201,~~ or a grant of money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the money is a reimbursement, ~~the transfer of a tuition fund balance,~~ or a local government severance tax payment, the money may be expended at the discretion of the trustees for school purposes. When the money is a grant, the money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall maintain a separate accounting for each local, state, or federal grant project, ~~funds transferred from a closed tuition fund,~~ and the indirect cost recoveries.

(2) The financial administration of the miscellaneous programs fund must be in accordance with the financial administration provisions of this title for a nonbudgeted fund."

**Section 19.** Section 20-9-516, MCA, is amended to read:

**"20-9-516. School facility and technology account.** (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools for:

- (a) major deferred maintenance;
- (b) improving energy efficiency in school facilities;
- (c) critical infrastructure in school districts;
- (d) emergency facility needs; ~~and~~
- (e) technological improvements; and
- (f) state reimbursement for school facilities as provided in 20-9-371.

(2) There must be deposited in the account:

- (a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year;
- (b) the mineral royalties transferred from the guarantee account as provided in 20-9-622; and
- (c) the rental income received from power site leases as provided in 77-4-208."

**Section 20.** Section 20-9-630, MCA, is amended to read:

**"20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a block grant to each school district based on the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

~~————(2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.~~

~~(3)(2)~~ Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

~~(4)(3)~~ (a) The block grant for the district general fund is equal to the ~~average~~ amount received in fiscal years ~~2002 and 2003~~ year 2011 by the district general fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(b) The block grant for the district transportation fund is equal to ~~one-half of the average~~ amount received in fiscal years ~~2002 and 2003~~ year 2011 by the district transportation fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(c) (i) The combined fund block grant is equal to the ~~average~~ amount received in fiscal years ~~2002 and 2003~~ year 2011. ~~by the district tuition, bus depreciation reserve, building reserve, nonoperating, and adult education funds from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.~~

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."

**Section 21.** Section 20-10-147, MCA, is amended to read:

**"20-10-147. Bus depreciation reserve fund.** (1) The trustees of a district owning a bus or a two-way radio used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio. The trustees of a district may also use

the bus depreciation reserve fund to purchase an additional bus for purposes of transportation, as defined in 20-10-101.

(2) Whenever a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over time, exceed 150% of the original cost of a bus or two-way radio. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, must be reported by the county superintendent to the county commissioners on the fourth Monday of August as the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) Any expenditure of bus depreciation reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses, to replace the buses or radios, or for the purchase of an additional bus as provided in subsection (1), for which the bus depreciation reserve fund was created.

~~\_\_\_\_\_ (4) Whenever the trustees of a district maintaining a bus depreciation reserve fund sell all of the district's buses and consider it to be in the best interest of the district to transfer any portion or all of the bus depreciation reserve fund balance to any other fund maintained by the district, the trustees shall submit the proposition to the electors of the district. The electors qualified to vote at the election shall qualify under 20-20-301, and the election must be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund, the transfer is approved and the trustees shall immediately order the county treasurer to make the approved transfer."~~

**Section 22. Ending fund balance limits.** (1) Beginning July 1, 2016, the combined ending fund balance for all budgeted funds of a school district may not exceed 300% of the maximum general fund budget. The 300% limit is not applicable to the building reserve fund, the debt service fund, or the bus depreciation reserve fund.

(2) The county superintendent shall, upon completion of a school fiscal year, redistribute any amounts in excess of the 300% limit among any other school districts in the same county whose 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 immediately preceding school 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 of each district.

(3) Unless an exception is granted under subsection (5), upon completion of a school fiscal year, a school district with combined ending fund balances in excess of the 300% limit shall cooperate with the county superintendent in effectuating the redistribution of excess funds as provided in subsection (2). A school district may make the payment required under this subsection from any fund or funds of the district other than the debt service fund, the building reserve fund, and the bus depreciation reserve fund.

(4) Any funds that cannot be redistributed within a county without causing a 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 provided for in 20-9-622.

(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 limits prescribed by subsection (1) of this section.

(6) This section does not apply to school districts that are in a nonoperating status under 20-9-505 or that are in the first year of operation after reopening under 20-6-502 or 20-6-503.

(7) Beginning July 1, 2013, the balance of a school district's flexibility fund may not exceed 150% of the school district's maximum general fund budget.

**Section 23. Appropriation.** (1) There is appropriated \$1 million for fiscal year 2013 from the general fund to the superintendent of public instruction. The purpose of the appropriation is to contribute to interlocal cooperative funds provided for in 20-3-363 to be paid to districts participating in multidistrict cooperatives. The superintendent shall pay to participating districts an amount in proportion to the size of the district's BASE budget compared to the sum of the BASE budgets of participating districts in all multidistrict cooperatives.

(2) By December 31, 2012, the prime applicant of a multidistrict cooperative shall report to the office of public instruction the name of each participating district along with a copy of the finalized agreement pursuant to 20-3-363. The office of public instruction shall pay the district's proportionate share no later than February 1, 2013.

**Section 24. 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.

**Section 25. Codification instruction.** [Sections 3, 4, 8 through 10, and 22] 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 3, 4, 8 through 10, and 22].

**Section 26. Coordination instruction.** If House Bill No. 316 is not passed and approved in a form that reallocates at least 10% of the metalliferous mines license tax allocations in 15-37-117(1)(a), (1)(b), (1)(d), and (1)(e) to the state general fund and at least 10% of the lodging and facility use tax allocations in 15-65-121(1)(a) through (1)(e) to the state general fund, then [section 15 of this act], amending 20-9-306, is void and 20-9-306 is amended as follows:

**"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 and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) 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 total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

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

(f) 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, 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~~ \$256,003 for fiscal year ~~2010~~ 2012; and

(ii) ~~\$253,468~~ \$260,099 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) ~~\$22,144~~ \$23,033 for fiscal year ~~2010~~ 2012;

(ii) ~~\$22,805~~ \$23,402 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) ~~\$22,144~~ \$23,033 for fiscal year ~~2010~~ 2012; and

(B) ~~\$22,805~~ \$23,402 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~~ \$65,231 for fiscal year ~~2010~~ 2012; and

(B) ~~\$64,585~~ \$66,275 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 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) "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) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "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) "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~~ \$6,343 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,444 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~~ \$4,955 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$5,034 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~~ \$4,955 for fiscal year ~~2010~~ 2012 and ~~\$4,906~~ \$5,034 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~~ \$6,343 for fiscal year ~~2010~~ 2012 and ~~\$6,280~~ \$6,444 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) "Total quality educator payment" means the payment resulting from multiplying \$3,036 for fiscal year 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

**Section 27. Coordination instruction.** If [this act] is passed and approved, the general fund appropriation for BASE aid in House Bill No. 2 is increased by \$3,419,812.

**Section 28. Effective dates -- applicability.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval and applies to school fiscal year 2012.

(2) [Sections 9 and 10] are effective July 1, 2013.

**Section 29. Termination.** [Sections 1, 7, and 8] terminate June 30, 2016.

- END -

I hereby certify that the within bill,  
SB 0329, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

SENATE BILL NO. 329

INTRODUCED BY R. ZINKE, MOORE, JONES, BRANAE, HAWKS, RIPLEY, BROWN, REICHNER, FACEY,  
OLSON, HANSEN, S. STEWART-PEREGOY

AN ACT GENERALLY REVISING K-12 EDUCATION LAWS; CREATING THE PATHWAY TO EXCELLENCE PROGRAM; AMENDING THE STRUCTURE OF ESTIMATING AND ALLOCATING OIL AND NATURAL GAS PRODUCTION TAXES FOR SCHOOLS; CHANGING THE MONTANA VIRTUAL ACADEMY TO THE MONTANA DIGITAL ACADEMY; LIMITING A SCHOOL DISTRICT'S FUND BALANCE REAPPROPRIATED TO A PERCENTAGE OF THE MAXIMUM GENERAL FUND BUDGET; ALLOWING A SCHOOL DISTRICT A ONE-TIME TRANSFER OF GENERAL FUND MONEY; PROVIDING AN INFLATIONARY INCREASE TO THE BASIC ENTITLEMENT AND TOTAL PER-ANB ENTITLEMENT; CREATING A STATE SCHOOL OIL AND NATURAL GAS IMPACT ACCOUNT; CREATING A COUNTY SCHOOL OIL AND NATURAL GAS IMPACT FUND; ALLOWING FOR MULTIDISTRICT AGREEMENTS; DEFINING "MULTIDISTRICT COOPERATIVE"; ALLOWING TRUSTEES TO DECIDE THE DISPOSITION OF INACTIVE TUITION FUNDS; EXEMPTING PARTICIPANTS IN A COOPERATIVE PURCHASING GROUP FROM CERTAIN COMPETITIVE BIDDING REQUIREMENTS; ALLOWING THE TRANSFER OF FUNDS RAISED BY A VOTED OR PERMISSIVE LEVY IF VOTERS APPROVE THE TRANSFER IN AN ELECTION; ALLOWING TRUSTEES TO IMPOSE AN OVER-BASE LEVY IN SUPPORT OF A DISTRICT'S GENERAL FUND BUDGET IN AN AMOUNT NOT TO EXCEED REVENUE AMOUNTS PREVIOUSLY AUTHORIZED BY THE VOTERS IN THE PREVIOUS 5 YEARS; ELIMINATING THE PERCENTAGE OF GROWTH FOR SCHOOL DISTRICT BLOCK GRANTS; REVISING THE USE OF THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; PROVIDING RULEMAKING AUTHORITY; REMOVING THE REQUIREMENT THAT TRUSTEES SUBMIT TO ELECTORS THE PROPOSITION OF TRANSFERRING BUS DEPRECIATION RESERVE FUNDS TO ANOTHER FUND; REQUIRING A SCHOOL DISTRICT TO REPORT BUDGET AMENDMENTS TO THE LEGISLATURE AND THE BOARD OF PUBLIC EDUCATION; LIMITING A SCHOOL DISTRICT'S ENDING FUND BALANCE TO A SPECIFIC PERCENTAGE; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-36-332, 20-3-363, 20-7-102, 20-7-1201, 20-9-104, 20-9-161, 20-9-201, 20-9-204, 20-9-208, 20-9-306, 20-9-308, 20-9-353, 20-9-507, 20-9-516, 20-9-630, AND 20-10-147, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.