

1 HOUSE BILL NO. 606

2 INTRODUCED BY W. STAHL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TERM "AVERAGE NUMBER BELONGING" TO
5 "ACTUAL NUMBER BELONGING"; DEFINING AND PROVIDING A METHOD OF CALCULATING ACTUAL
6 NUMBER BELONGING; AMENDING SECTIONS 7-2-2253, 20-1-101, 20-3-106, 20-3-205, 20-6-502, 20-6-503,
7 20-6-504, 20-6-506, 20-9-306, 20-9-311, 20-9-313, 20-9-314, 20-9-321, 20-9-406, AND 20-9-707, MCA;
8 PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
9 APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 7-2-2253, MCA, is amended to read:
14 **"7-2-2253. Procedure to transfer money to school and road funds.** (1) The county superintendent
15 of schools of an old county shall furnish the county superintendent of schools of the new county with a
16 certification of the ~~average~~ actual number belonging (ANB) in the different school districts in the territory set apart
17 to form the new county and shall certify to the board of county commissioners of the old county the amount due.
18 The board of the old county shall order a warrant drawn on the treasury of the old county for all the money that
19 is or may be due by apportionment or otherwise to the different school districts embraced in the new county and
20 taken from the old county.

21 (2) The county treasurer shall certify to the county commissioners of an old county the amount due in
22 the different road funds. The county commissioners shall order a warrant drawn on the treasury of the old county
23 in favor of the new county for all money that is or may be due by apportionment or otherwise to the different road
24 and district funds in the territory set apart to form the new county and taken from the old county, which amounts
25 ~~shall~~ must be properly credited in both counties.

26 (3) Whenever in the formation of a new county a road or school district has been divided, the board of
27 county commissioners shall by resolution direct the treasurer to transfer the proper proportionate amount of the
28 money remaining in the fund of ~~such~~ the district to the treasurer of the new county."

29
30 **Section 2.** Section 20-1-101, MCA, is amended to read:

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

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

4 (a) school leadership;

5 (b) educational opportunity;

6 (c) academic requirements;

7 (d) program area standards;

8 (e) content and performance standards;

9 (f) school facilities and records;

10 (g) student assessment; and

11 (h) general provisions.

12 (2) "Actual number belonging" or "ANB" means the aggregate hours of pupil attendance during a school
13 year divided by the number of minimum aggregate hours of pupil instruction required by grade under 20-1-301.

14 ~~(2)(3)~~ "Aggregate hours" means the hours of pupil instruction for which a school course or program is
15 offered or for which a pupil is enrolled.

16 ~~(3)(4)~~ "Agricultural experiment station" means the agricultural experiment station established at Montana
17 state university-Bozeman.

18 ~~(4)(5)~~ "At-risk student" means any student who is affected by environmental conditions that negatively
19 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

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

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

25 (7) "Board of regents" means the board of regents of higher education created by Article X, section 9,
26 subsection (2), of the Montana constitution and 2-15-1505.

27 (8) "Commissioner" means the commissioner of higher education created by Article X, section 9,
28 subsection (2), of the Montana constitution and 2-15-1506.

29 (9) "County superintendent" means the county government official who is the school officer of the county.

30 (10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with

1 a superintendent's endorsement that has been issued by the superintendent of public instruction under the
2 provisions of this title and the policies adopted by the board of public education and who has been employed by
3 a district as a district superintendent.

4 (11) (a) "Educational program" means a set of educational offerings designed to meet the program area
5 standards contained in the accreditation standards.

6 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

7 (12) "K-12 career and vocational/technical education" means organized educational activities that have
8 been approved by the office of public instruction and that:

9 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills
10 that the pupil needs to prepare for further education and for careers in the current or emerging employment
11 sectors; and

12 (b) include competency-based applied learning that contributes to the academic knowledge, higher-order
13 reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and
14 occupation-specific skills of the pupil.

15 (13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
16 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

17 (b) The term does not include lunch time and periods of unstructured recess.

18 (14) "Offsite instructional setting" means an instructional setting at a location, separate from a main
19 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the
20 district.

21 (15) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable
22 principal's endorsement that has been issued by the superintendent of public instruction under the provisions of
23 this title and the policies adopted by the board of public education and who has been employed by a district as
24 a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

25 (16) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which
26 the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but
27 who has not yet reached 19 years of age and who is enrolled in a school established and maintained under the
28 laws of the state at public expense. For purposes of calculating the ~~average~~ actual number belonging pursuant
29 to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10
30 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state

1 at public expense.

2 (17) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools
3 while under the supervision of a teacher.

4 (18) "Qualified and effective teacher or administrator" means an educator who is licensed and endorsed
5 in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established
6 by the board of public education.

7 (19) "Regents" means the board of regents of higher education.

8 (20) "School food services" means a service of providing food for the pupils of a district on a nonprofit
9 basis and includes any food service financially assisted through funds or commodities provided by the United
10 States government.

11 (21) "State board of education" means the board composed of the board of public education and the
12 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

13 (22) "State university" means Montana state university-Bozeman.

14 (23) "Student with limited English proficiency" means any student:

15 (a) (i) who was not born in the United States or whose native language is a language other than English;

16 (ii) who is an American Indian and who comes from an environment in which a language other than
17 English has had a significant impact on the individual's level of English proficiency; or

18 (iii) who is migratory, whose native language is a language other than English, and who comes from an
19 environment in which a language other than English is dominant; and

20 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be
21 sufficient to deny the student:

22 (i) the ability to meet the state's proficiency assessments;

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

24 (iii) the opportunity to participate fully in society.

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

27 (25) "System" means the Montana university system.

28 (26) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher
29 certificate that has been issued by the superintendent of public instruction under the provisions of this title and
30 the policies adopted by the board of public education and who is employed by a district as a member of its

1 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
 2 emergency authorization of employment has been issued under the provisions of 20-4-111.

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

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

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

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

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

12

13 **Section 3.** Section 20-3-106, MCA, is amended to read:

14 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction has
 15 the general supervision of the public schools and districts of the state and shall perform the following duties or
 16 acts in implementing and enforcing the provisions of this title:

17 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the
 18 provisions of 20-3-362;

19 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

20 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
 21 20-5-314;

22 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of
 23 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

24 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

25 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
 26 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and
 27 20-9-506;

28 (7) establish a system of communication for calculating joint district revenue in accordance with the
 29 provisions of 20-9-151;

30 (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions

1 prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment
2 in accordance with the approval and disbursement provisions of 20-9-166;

3 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

4 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
5 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county
6 superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

7 (11) approve, disapprove, or adjust an increase of the ~~average~~ actual number belonging (ANB) in
8 accordance with the provisions of 20-9-313 and 20-9-314;

9 (12) distribute BASE aid and special education allowable cost payments in support of the BASE funding
10 program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366
11 through 20-9-369;

12 (13) provide for the uniform and equal provision of transportation by performing the duties prescribed by
13 the provisions of 20-10-112;

14 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

15 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
16 accordance with the provisions of 20-9-703 and 20-9-704;

17 (16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance
18 with the provisions of 20-9-705;

19 (17) recommend standards of accreditation for all schools to the board of public education and evaluate
20 compliance with the standards and recommend accreditation status of every school to the board of public
21 education in accordance with the provisions of 20-7-101 and 20-7-102;

22 (18) collect and maintain a file of curriculum guides and assist schools with instructional programs in
23 accordance with the provisions of 20-7-113 and 20-7-114;

24 (19) establish and maintain a library of visual, aural, and other educational media in accordance with the
25 provisions of 20-7-201;

26 (20) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance
27 with the provisions of the textbooks part of this title;

28 (21) as the governing agent and executive officer of the state of Montana for K-12 career and
29 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of
30 20-7-301;

- 1 (22) supervise and coordinate the conduct of special education in the state in accordance with the
2 provisions of 20-7-403;
- 3 (23) administer the traffic education program in accordance with the provisions of 20-7-502;
- 4 (24) administer the school food services program in accordance with the provisions of 20-10-201 through
5 20-10-203;
- 6 (25) review school building plans and specifications in accordance with the provisions of 20-6-622;
- 7 (26) provide schools with information and technical assistance for compliance with the student
8 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
9 the board of public education and the legislature;
- 10 (27) upon request and in compliance with confidentiality requirements of state and federal law, disclose
11 to interested parties all school district student assessment data for a test required by the board of public
12 education;
- 13 (28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;
14 and
- 15 (29) perform any other duty prescribed from time to time by this title, any other act of the legislature, or
16 the policies of the board of public education."

- 17
- 18 **Section 4.** Section 20-3-205, MCA, is amended to read:
- 19 **"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools
20 of the county within the limitations prescribed by this title and shall perform the following duties or acts:
- 21 (a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions
22 of 20-3-352, 20-3-353, and 20-3-354;
- 23 (b) administer and file the oaths of members of the boards of trustees of the districts in the county in
24 accordance with the provisions of 20-3-307;
- 25 (c) register the teacher or specialist certificates or emergency authorization of employment of any person
26 employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the
27 provisions of 20-4-202;
- 28 (d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;
- 29 (e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;
- 30 (f) keep a transcript of the district boundaries of the county;

- 1 (g) fulfill all responsibilities assigned under the provisions of this title regulating the organization,
2 alteration, or abandonment of districts;
- 3 (h) act on any unification proposition and, if approved, establish additional trustee nominating districts
4 in accordance with 20-6-312 and 20-6-313;
- 5 (i) estimate the ~~average~~ actual number belonging (ANB) of an opening school in accordance with the
6 provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;
- 7 (j) process and, when required, act on school isolation applications in accordance with the provisions
8 of 20-9-302;
- 9 (k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget
10 amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school
11 budgeting systems;
- 12 (l) submit an annual financial report to the superintendent of public instruction in accordance with the
13 provisions of 20-9-211;
- 14 (m) monthly, unless otherwise provided by law, order the county treasurer to apportion state money,
15 county school money, and any other school money subject to apportionment in accordance with the provisions
16 of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;
- 17 (n) act on any request to transfer ~~average~~ actual number belonging (ANB) in accordance with the
18 provisions of 20-9-313(1)(c);
- 19 (o) calculate the estimated budgeted general fund sources of revenue in accordance with the general
20 fund revenue provisions of the general fund part of this title;
- 21 (p) compute the revenue and compute the district and county levy requirements for each fund included
22 in each district's final budget and report the computations to the board of county commissioners in accordance
23 with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;
- 24 (q) file and forward bus driver certifications, transportation contracts, and state transportation
25 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;
- 26 (r) for districts that do not employ a district superintendent or principal, recommend library book and
27 textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;
- 28 (s) notify the superintendent of public instruction of a textbook dealer's activities when required under
29 the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;
- 30 (t) act on district requests to allocate federal money for indigent children for school food services in

1 accordance with the provisions of 20-10-205;

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

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

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

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

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

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

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

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

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

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

22 (b) When two or more districts in more than one county consolidate, the duties required by this section
23 must be performed by the county superintendent designated in the same manner as other county officials in
24 20-9-202."

25

26 **Section 5.** Section 20-6-502, MCA, is amended to read:

27 **"20-6-502. Opening or reopening of elementary school.** The trustees of any elementary district may
28 open or reopen an elementary school of the district when the opening or reopening has been approved in
29 accordance with the following procedure:

30 (1) The parents of at least two pupils who would attend the opened or reopened school petition the

1 trustees of the district to open or reopen a school. The petition must identify the school, state the reasons for
2 requesting the opening or reopening, and give the names of the children who would attend the school.

3 (2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy
4 of their approval resolution to the county superintendent. The county superintendent shall review the petition to
5 determine if the average actual number belonging (ANB) of the school would be two or more. If the trustees plan
6 to open or reopen the school during the current school fiscal year, the trustees shall include the proposed opening
7 date in the approval resolution and shall request that the process outlined in this section be expedited.

8 (3) The county superintendent shall present the petition, the trustees' approval, and the county
9 superintendent's findings on the probable ANB to the board of county commissioners for their consideration. The
10 board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate for
11 the school is less than two ANB. In all other cases, the board may approve or disapprove the requested opening
12 or reopening of the elementary school.

13 (4) (a) If the board approves a school opening or reopening, the county superintendent shall send a copy
14 of the approval, along with the petition, the trustees' approval, and the county superintendent's estimate of the
15 probable ANB, to the superintendent of public instruction. Except under the circumstances described in
16 subsection (4)(b), the trustees shall apply to the superintendent of public instruction for approval to open or
17 reopen the school by June 1 prior to the beginning of the school year in which they intend to open or reopen the
18 elementary school. The superintendent of public instruction shall approve or disapprove the requested opening
19 or reopening of the elementary school by the fourth Monday of June. If the opening or reopening is approved,
20 the superintendent of public instruction shall approve or adjust the ANB estimate of the county superintendent
21 for the school and the ANB amount must be used for budgeting and BASE funding program purposes during the
22 ensuing school fiscal year. An ANB amount may not be approved for the ensuing school fiscal year for an opening
23 or reopening school when the request for the school has not been received by the superintendent of public
24 instruction by June 1.

25 (b) (i) If the opening or reopening is approved and the trustees want to open or reopen the school during
26 the current school fiscal year, the trustees shall submit a budget request to the superintendent of public instruction
27 for that portion of the fiscal year in which the school will be in operation prior to the ensuing school fiscal year.
28 The superintendent of public instruction shall approve or adjust the budget request and shall fund the budget for
29 the portion of the school year in which the school will be in operation.

30 (ii) Before a school may open or reopen during the current school fiscal year, the school must be

1 classified as an isolated school in accordance with the provisions of 20-9-302, except that the dates in that
 2 section for the submission and approval of the application for classification do not apply and the application must
 3 be made at the same time that the application for opening or reopening the school is made."

4

5 **Section 6.** Section 20-6-503, MCA, is amended to read:

6 **"20-6-503. Opening or reopening of a high school.** (1) The trustees of any high school district may
 7 open or reopen a high school of the district or a branch of a high school of the district when ~~such the~~ opening or
 8 reopening has been approved by the superintendent of public instruction; ~~;~~ except that when a county high school
 9 is discontinued by a unification action, the trustees may establish, by resolution, a high school to be operated by
 10 the high school district without further action or approval. When the trustees of a high school district resolve to
 11 open or reopen a high school, they shall apply to the superintendent of public instruction for approval to open or
 12 reopen ~~such the~~ school by June 1 before the school fiscal year in which they intend to open or reopen the high
 13 school. ~~Such The~~ application shall state:

14 (a) their reasons why the high school should be opened or reopened;

15 (b) the probable enrollment of ~~such the~~ high school;

16 (c) the distance and road conditions of the route to neighboring high schools;

17 (d) the taxable value of the district;

18 (e) the building and equipment facilities available for ~~such the~~ high school;

19 (f) the planned course of instruction for ~~such the~~ high school;

20 (g) the planned methods of complying with high school standards of accreditation; and

21 (h) any other information that may be required by the superintendent of public instruction.

22 (2) The superintendent of public instruction shall investigate the application for the opening or reopening
 23 of a high school and shall approve or disapprove the opening of the high school before the fourth Monday of June
 24 preceding the first year of intended operation. If the opening is approved, the high school district trustees may
 25 open ~~such the~~ high school.

26 (3) Whenever the opening or reopening of a high school is approved for the ensuing school fiscal year,
 27 the county superintendent shall estimate the ~~average~~ actual number belonging (ANB) after investigating the
 28 probable enrollment for the high school. The ANB determined by the county superintendent ~~shall~~ must be used
 29 for budgeting and BASE funding program purposes.

30 (4) Nothing ~~herein contained shall~~ in this section may be construed so as to preclude the trustees of a

1 high school district from establishing more than one high school in the district."

2

3 **Section 7.** Section 20-6-504, MCA, is amended to read:

4 **"20-6-504. Opening of a junior high school.** (1) The trustees of any elementary district and the trustees
5 of the high school district in which ~~such the~~ elementary district is located may open a junior high school when
6 ~~such the~~ opening has been approved by the superintendent of public instruction, except that when the high
7 school district operates a county high school, the opening of a junior high school ~~shall~~ must be approved under
8 the provisions of 20-6-505.

9 (2) When the trustees of ~~such the~~ districts resolve to open a junior high school, they shall jointly apply
10 to the superintendent of public instruction for approval to open ~~such the~~ school by June 1 before the school fiscal
11 year in which they intend to open the junior high school. The application ~~shall~~ must contain ~~such the~~ information
12 ~~as is~~ required under 20-6-503 for an application to open a high school.

13 (3) The superintendent of public instruction shall investigate the application for the opening of a junior
14 high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of
15 June preceding the first year of intended operation. If the opening is approved, the trustees of the elementary
16 district and the high school district may jointly open ~~such the~~ school.

17 (4) Whenever the opening of a junior high school is approved for the ensuing school fiscal year, the
18 county superintendent shall estimate the ~~average actual~~ number belonging (ANB) after investigating the probable
19 enrollment for the junior high school. The ANB determined by the county superintendent ~~shall~~ must be used for
20 budgeting and BASE funding program purposes during the ensuing school fiscal year."

21

22 **Section 8.** Section 20-6-506, MCA, is amended to read:

23 **"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district**
24 **and high school district operating county high school.** (1) Whenever the opening of a junior high school is
25 approved for the ensuing school fiscal year under 20-6-505, the county superintendent shall estimate the ~~average~~
26 actual number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB
27 determined by the county superintendent and the ANB actually realized in subsequent school fiscal years must
28 be applied to prorate the BASE funding program amount between the elementary and high school districts. Each
29 district shall adopt its general fund budget on the basis of the prorated amount and shall finance its proportionate
30 share of the cost of operating the junior high school.

1 (2) The cost of operating the junior high school must be prorated between the elementary district and
2 the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment
3 of the junior high school."
4

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

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

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

9 (2) "BASE aid" means:

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

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

15 (c) the total quality educator payment;

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

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

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

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

23 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
24 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
25 20-9-369.

26 (5) "BASE funding program" means the state program for the equitable distribution of the state's share
27 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization
28 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
29 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

30 (6) "Basic entitlement" means:

- 1 (a) for each high school district:
- 2 (i) \$246,085 for fiscal year 2010; and
- 3 (ii) \$253,468 for each succeeding fiscal year;
- 4 (b) for each elementary school district or K-12 district elementary program without an approved and
- 5 accredited junior high school, 7th and 8th grade program, or middle school:
- 6 (i) \$22,141 for fiscal year 2010;
- 7 (ii) \$22,805 for each succeeding fiscal year; and
- 8 (c) for each elementary school district or K-12 district elementary program with an approved and
- 9 accredited junior high school, 7th and 8th grade program, or middle school:
- 10 (i) for kindergarten through grade 6 elementary program:
- 11 (A) \$22,141 for fiscal year 2010; and
- 12 (B) \$22,805 for each succeeding fiscal year; plus
- 13 (ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle
- 14 school:
- 15 (A) \$62,704 for fiscal year 2010; and
- 16 (B) \$64,585 for each succeeding fiscal year.
- 17 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
- 18 20-9-311.
- 19 (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement
- 20 for the general fund budget of a district and funded with state and county equalization aid.
- 21 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the
- 22 basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,
- 23 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement
- 24 gap payment, and the greater of:
- 25 (a) 175% of special education allowable cost payments; or
- 26 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures
- 27 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a
- 28 maximum allowable ratio of 200%.
- 29 (10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
- 30 that is above the BASE budget and below the maximum general fund budget for a district.

1 (11) "Total American Indian achievement gap payment" means the payment resulting from multiplying
2 \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

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

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

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

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

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

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

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

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

28 (15) "Total quality educator payment" means the payment resulting from multiplying \$3,036 for fiscal year
29 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided
30 in 20-9-327."

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Section 10. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average actual number belonging (ANB) -- ~~three-year averaging.~~ (1)

Average Actual number belonging (ANB) must be reported within 10 days after the conclusion of each school semester and must be computed for each budget unit as follows:

(a) ~~compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two~~ record on a daily basis the attendance of each pupil during hours of pupil instruction; and

(b) for all regularly enrolled students, add the aggregate hours of attendance of each student and divide by the hours of pupil instruction; and

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

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

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

(4) (a) For the purpose of calculating ANB, enrollment in an education program:

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

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

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

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

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

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

(d) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school,

1 program, or district may not be counted as more than one full-time pupil for ANB purposes.

2 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state
3 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
4 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. ~~For the~~
5 ~~purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten~~
6 ~~enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for~~
7 ~~districts offering full-time kindergarten.~~

8 (6) (a) School districts shall report pupil enrollment to the superintendent of public instruction on the first
9 Monday in October, February 1, or the next school day if those dates do not fall on a school day, and a date
10 designated by the superintendent of public instruction as the official enrollment count date during the statewide
11 student assessment.

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

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

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

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

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

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

1 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
2 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
3 other schools of the district; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge
5 program participant as half-time enrollment.

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

10 ~~———— (b) For a K-12 district that has been in existence for 3 years or more, the A K-12 district's maximum
11 general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the
12 elementary and high school programs pursuant to subsection (13)(a) and then combined.~~

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

14 ~~———— (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
15 previous 2 school fiscal years; and~~

16 ~~———— (b) dividing the sum calculated under subsection (14)(a) by three."~~

17

18 **Section 11.** Section 20-9-313, MCA, is amended to read:

19 **"20-9-313. Circumstances under which regular average actual number belonging may be
20 increased.** (1) The average actual number belonging of a school, calculated in accordance with the ANB formula
21 prescribed in 20-9-311, may be increased when:

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

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

29 (c) a district anticipates an increase in the average actual number belonging due to the closing of a
30 private or public school in the district or a neighboring district. The estimated increase in average actual number

1 belonging must be established by the trustees and the county superintendent and approved, disapproved, or
 2 adjusted by the superintendent of public instruction no later than the fourth Monday in June.

3 (d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase
 4 in ~~average~~ actual number belonging must be based on estimates of increased enrollment approved by the
 5 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

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

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

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

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

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

22

23 **Section 12.** Section 20-9-314, MCA, is amended to read:

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

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

30 (2) No later than June 1, the district shall submit its application for an unusual enrollment increase by

1 elementary or high school level to the superintendent of public instruction. The application must include:

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

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

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

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

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

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

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

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

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

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

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

29 (b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the
30 superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations,

1 as provided in subsection (5), using the actual enrollment in place of the estimated enrollment. All total per-ANB
 2 entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund
 3 provisions of 20-9-344(4)."

4

5 **Section 13.** Section 20-9-321, MCA, is amended to read:

6 **"20-9-321. Allowable cost payment for special education.** (1) As used in this section, "ANB" means
 7 the current year ANB.

8 ~~(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution~~
 9 ~~of state special education allowable cost payments provided for in this section.~~

10 ~~(3)(2)~~ For the purpose of establishing the allowable cost payment for a current year special education
 11 program for a school district, the superintendent of public instruction shall determine the total special education
 12 payment to a school district, cooperative, or joint board for special education services formed under 20-3-361
 13 prior to July 1, 1992, using the following factors:

- 14 (a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;
- 15 (b) a per-ANB amount for the special education instructional block grant;
- 16 (c) a per-ANB amount for the special education-related services block grant;
- 17 (d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate
 18 for the additional costs of operations and maintenance, travel, supportive services, recruitment, and
 19 administration; and
- 20 (e) any other data required by the superintendent of public instruction to administer the provisions of this
 21 section.

22 ~~(4)(3)~~ (a) The total special education allocation must be distributed according to the following formula:

- 23 (i) 52.5% through instructional block grants;
- 24 (ii) 17.5% through related services block grants;
- 25 (iii) 25% to reimbursement of local districts; and
- 26 (iv) 5% to special education cooperatives and joint boards for administration and travel.

27 (b) Special education allowable cost payments outlined in subsection ~~(4)(a)~~ (3)(a) must be granted to
 28 each school district and cooperative with a special education program as follows:

- 29 (i) The instructional block grant limit prescribed in subsection ~~(4)(a)(i)~~ (3)(a)(i) must be awarded to each
 30 school district, based on the district ANB and the per-ANB special education instructional amount.

1 (ii) The special education-related services block grant limit prescribed in subsection ~~(4)(a)(iii)~~ (3)(a)(ii)
 2 must be awarded to each school district that is not a cooperative member, based on the district ANB and the
 3 per-ANB special education-related services amount, or to a cooperative or joint board that meets the
 4 requirements of 20-7-457. The special education-related services block grant amount for districts that are
 5 members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

6 (iii) If a district's allowable costs of special education exceed the total of the special education instructional
 7 and special education-related services block grant plus the required district match required by subsection ~~(6)~~ (5),
 8 the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of
 9 reimbursements to all districts does not exceed 25% of the total special education allocation limit established in
 10 subsection ~~(4)(a)(iii)~~ (3)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level
 11 calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount
 12 above the sum of the district's block grants plus the required district match.

13 (iv) Of the amount distributed under subsection ~~(4)(a)(iv)~~ (3)(a)(iv), three-fifths must be distributed based
 14 on the ANB count of the school districts that are members of the special education cooperative or joint board and
 15 two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under
 16 rules adopted by the superintendent of public instruction.

17 ~~(5)~~(4) The superintendent of public instruction shall adopt rules necessary to implement this section.

18 ~~(6)~~(5) A district shall provide a 25% local contribution for special education, matching every \$3 of state
 19 special education instructional and special education-related services block grants with at least one local dollar.
 20 A district that is a cooperative member is required to provide the 25% match of the special education-related
 21 services grant amount to the special education cooperative.

22 ~~(7)~~(6) The superintendent of public instruction shall determine the actual district match based on the
 23 trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing
 24 year's special education allowable cost payment.

25 ~~(8)~~(7) A district that demonstrates severe economic hardship because of exceptional special education
 26 costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in
 27 which the actual costs will be incurred."
 28

29 **Section 14.** Section 20-9-406, MCA, is amended to read:

30 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**

1 **payment.** (1) (a) Except as provided in subsection (1)(c), the maximum amount for which an elementary district
2 or a high school district may become indebted by the issuance of general obligation bonds, including all
3 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
4 outstanding obligations under 20-9-471, and any other loans or notes payable that are held as general obligations
5 of the district, is 50% of the taxable value of the property subject to taxation, as ascertained by the last
6 assessment for state, county, and school taxes previous to the incurring of the indebtedness.

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

14 (c) (i) The maximum amount for which an elementary district or a high school district with a district mill
15 value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per
16 elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation
17 bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues,
18 registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable
19 that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per
20 ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may
21 become indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times
22 the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times
23 the high school ANB of the district. ~~For the purpose of calculating ANB under this subsection, a district may use~~
24 ~~the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.~~

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

1 ~~year ANB or the 3-year ANB calculated under 20-9-311.~~

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

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

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

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

18 (6) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue
19 received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education
20 under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

21

22 **Section 15.** Section 20-9-707, MCA, is amended to read:

23 **"20-9-707. Agreement with Montana youth challenge program or accredited Montana job corps**
24 **program.** (1) The trustees of a school district may enter into an interlocal cooperative agreement for the ensuing
25 school fiscal year under the provisions of Title 7, chapter 11, part 1, with the Montana youth challenge program
26 or with a Montana job corps program accredited by the northwest commission on colleges and universities to
27 provide educational or vocational services that are supplemental to the educational programs offered by the
28 resident school district.

29 (2) A student who receives educational or vocational services at the Montana youth challenge program
30 or a Montana job corps program pursuant to an agreement authorized under subsection (1) must be enrolled,

1 for purposes of calculating ~~average~~ actual number belonging, in a public school in the student's district of
2 residence. Credits taken at the Montana youth challenge program or an accredited Montana job corps program
3 must be approved by the school district and meet the requirements for graduation at a school in the student's
4 district of residence, must be taught by an instructor who has a current and appropriate Montana high school
5 certification, and must be reported by the institution to the student's district of residence. Upon accumulating the
6 necessary credits at a school in the district of residence or at the Montana youth challenge program or an
7 accredited Montana job corps program pursuant to an interlocal cooperative agreement, a student must be
8 allowed to graduate from the school in the student's district of residence.

9 (3) A school district that, pursuant to an interlocal cooperative agreement, allows an enrolled student to
10 attend the Montana youth challenge program or a Montana job corps program accredited as prescribed in
11 subsection (1) is not responsible for payment of the student's transportation costs to the job corps program.

12 (4) A student attending the Montana youth challenge program or a job corps program may not claim the
13 Montana youth challenge program's or job corps program's facility as the student's residence for the purposes
14 of this section."

15
16 **NEW SECTION. Section 16. Appropriation.** There is appropriated \$14,800 from the state general fund
17 to the office of public instruction for the 2013 biennium to be used to pay for the costs of collecting and reporting
18 data required under [this act].

19
20 **NEW SECTION. Section 17. Effective date -- applicability.** [This act] is effective upon passage and
21 approval and applies to school fiscal years beginning on or after July 1, 2011.

22 - END -