EXHIBIT 6
DATE 4/8/2013
SB 175

MTSBA

March 28, 2013

Dear Ms. Stockton:

Please find attached materials related to SB 175 which is scheduled in the House Education Committee on Monday, April 8, 2013.

Included are:

1. A current draft of SB 175 as it came out of the Senate;
2. A section by section analysis of the bill;
3. Amendments by the sponsor for the House Education Committee; and
4. An explanation of each of the amendments.

Hopefully you will have time to review these materials prior to the hearing to facilitate clear understanding of the intent of this important piece of legislation.

If you have any questions or need more information, please do not hesitate to contact us at the Montana School Boards Association.

Thank you,

Steve Meloy
Grassroots Advocacy Specialist
MTSBA

GREY BILL VERSION WITH AMENDMENTS TO BE OFFERED IN THE HOUSE BY SENATOR JONES

SENATE BILL NO. 175 –

INTRODUCED BY L. JONES, ARTHUN, AUGARE, T. BROWN, BUTTREY, CLARK, DRISCOLL, FACEY, HAMLETT, KEANE, MALEK, MCCHESNEY, MEHLHOFF, O'HARA, OLSON, PETERSON, POMNICHOWSKI, RIPLEY, TUTVEDT, VUCKOVICH, WELBORN, JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FINANCE LAWS BY INCREASING FUNDING, REDUCING SCHOOL DISTRICT PROPERTY TAXES, AND INCREASING FLEXIBILITY TO SUPPORT IMPROVED ACADEMIC PERFORMANCE OF STUDENTS ENROLLED IN PUBLIC SCHOOLS; CREATING A K-12 DATA TASK FORCE; ESTABLISHING A DATA-FOR-ACHIEVEMENT PAYMENT; REDIRECTING OIL AND NATURAL GAS PRODUCTION TAX REVENUE FROM THE STATE GENERAL FUND TO A NEW NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT TO SUPPORT BASE BUDGETS OF SCHOOL DISTRICTS; ENHANCING THE STATEWIDE K-12 DATA SYSTEM TO IMPROVE TIMELY ACCESS TO INFORMATION NEEDED TO POSITIVELY IMPACT STUDENT PERFORMANCE; AMENDING THE DEFINITION OF BASE AID TO INCLUDE THE NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT AND THE TOTAL DATA-FOR-ACHIEVEMENT PAYMENT; APPLYING ~~AN~~ INFLATIONARY ~~ADJUSTMENT~~ ADJUSTMENTS TO ~~THE PER-ANB ENTITLEMENT~~ ENTITLEMENTS; REVISING AND INCREASING THE BASIC ENTITLEMENT; ALLOWING SCHOOL DISTRICTS TO ADD INCREASES IN THEIR BASIC AND PER-ANB ENTITLEMENT TO THE PREVIOUS YEAR'S GENERAL FUND BUDGET; REVISING AND CREATING EXCEPTIONS TO THE LIMITS, ALLOCATION, AND BUDGETING REQUIREMENTS FOR A SCHOOL DISTRICT RECEIVING OIL AND NATURAL GAS PRODUCTION TAX REVENUE; ADDING A THIRD ENROLLMENT COUNT TO CALCULATE ANB; REVISING THE CALCULATION OF ANB TO INCLUDE STUDENTS MASTERING CONTENT IN FEWER HOURS THAN OTHERWISE REQUIRED; ALIGNING THE REQUIREMENT OF REMOVING FUNDING FOR A SCHOOL LOSING ACCREDITATION WITH THE BOARD OF PUBLIC EDUCATION'S ACCREDITATION MODEL; REVISING WHEN AN INCREASE TO ANB IS APPROVED BASED ON UNUSUAL ENROLLMENT FOR PURPOSES OF ESTABLISHING THE DISTRICT'S ENSUING YEAR'S BASIC ENTITLEMENT AND PER-ANB ENTITLEMENT; EXTENDING THE DEADLINE

FOR CERTAIN SCHOOL DISTRICT FUND BALANCE LIMITS; AMENDING BONDING PROVISIONS TO ALLOW FOR THE ISSUANCE AND NEGOTIATION OF OIL AND NATURAL GAS REVENUE BONDS FOR SCHOOL PURPOSES; PROVIDING FOR SECURITY FOR OIL AND NATURAL GAS PRODUCTION BONDS; MODIFYING RECIPIENTS OF THE STATE OIL AND NATURAL GAS IMPACT ACCOUNT; PROVIDING THAT ANY EXCESS INTEREST AND INCOME REVENUE ABOVE $1 MILLION IN THE GUARANTEE ACCOUNT MUST BE ALLOCATED TO THE DISTRIBUTION OF THE REVENUE BETWEEN SCHOOL DISTRICT PROPERTY TAX RELIEF AND INCREASED BUDGET AUTHORITY FOR FACILITIES REPAIRS AND OTHER PURPOSES; SPECIFYING AN INTENT THAT INCREASED BUDGET AUTHORITY OF SCHOOL DISTRICTS ABOVE INFLATION BE USED TO IMPLEMENT RECENT CHANGES TO THE ACCREDITATION STANDARDS ADOPTED BY THE BOARD OF PUBLIC EDUCATION; ~~PROVIDING FOR A TRANSFER FROM THE GENERAL FUND TO THE GUARANTEE ACCOUNT OF 50% OF THE FUNDS FROM OIL AND NATURAL GAS PRODUCTION TAXES COLLECTED IN FISCAL YEAR 2013 REMAINING AFTER DISTRIBUTION;~~ ESTABLISHING A STATE SCHOOL OIL AND NATURAL GAS DISTRIBUTION ACCOUNT; AMENDING SECTIONS ~~15-36-331,~~ 20-7-102, 20-7-104, 20-9-141, 20-9-306, 20-9-308, 20-9-310, 20-9-311, 20-9-314, 20-9-323, 20-9-326, 20-9-342, 20-9-344, 20-9-403, 20-9-406, 20-9-408, 20-9-422, 20-9-423, 20-9-426, 20-9-427, 20-9-430, 20-9-437, 20-9-438, 20-9-440, 20-9-517, 20-9-518, AND 20-9-622, MCA; AMENDING SECTION 29, CHAPTER 418, LAWS OF 2011; AND PROVIDING EFFECTIVE DATES AND ~~RETROACTIVE~~ AN APPLICABILITY ~~DATES~~ DATE

."

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

NEW SECTION. **Section 1. K-12 data task force.** (1) There is a K-12 data task force established by the office of public instruction.

(2) The K-12 data task force is composed of:

(a) The presiding officer and vice presiding officer of the senate and house standing committees on education and the presiding officer and vice presiding officer of the joint subcommittee for education that deals with appropriations or their designees;

(b) additional positions appointed by the majority vote of the presiding officers and vice presiding

officers referred to in subsection (2)(a), as follows:

(i) three elected school board trustees consisting of one each from a class 1, class 2, and class 3 school district;

(ii) three school administrators consisting of one each employed by a class 1, class 2, and class 3 school district;

(iii) three teachers consisting of one each employed by a class 1, class 2, and class 3 school district;

(iv) three technology staff consisting of one each employed by a class 1, class 2, and class 3 school district;

(v) six parents, consisting of one parent of an elementary pupil currently enrolled in each of a class 1, class 2, and class 3 school district and one parent of a high school pupil currently enrolled in each of a class 1, class 2, and class 3 school district; and

(vi) three school district clerks, as provided in 20-3-325, consisting of one each employed by a class 1, class 2, and class 3 school district.

(3) The K-12 data task force shall serve in an advisory capacity to the office of public instruction. The task force shall review, monitor, and provide input and guidance in enhancing the statewide K-12 data system pursuant to 20-7-104.

(4) Unless otherwise provided by law, each member is entitled to be paid $50 for each day in which the member is engaged in the performance of duties under this section and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of task force duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their task force duties outside their regular working hours or during hours charged against their leave time, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

NEW SECTION. **Section 2. Data-for-achievement payment.** (1) The state shall provide a data-for-achievement payment to public school districts as defined in 20-6-101 and 20-6-701. The data-for-achievement payment is $20 times the district's ANB, calculated in accordance with 20-9-311.

(2) Funds received for the data-for-achievement payment must be used by a school district to pay for

access fees or other costs associated with use of or participation in the statewide data system administered by the office of public instruction or a comparable data system provided by a private vendor, including data entry and staff training on use of the systems.

~~**Section 3.** Section 15-36-331~~

~~, MCA, is amended to read:~~

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

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

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

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

~~(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:~~

~~Big Horn~~	~~45.05%~~
~~Blaine~~	~~58.39%~~
~~Carbon~~	~~48.27%~~
~~Chouteau~~	~~58.14%~~
~~Custer~~	~~69.53%~~
~~Daniels~~	~~50.81%~~
~~Dawson~~	~~47.79%~~
~~Fallon~~	~~41.78%~~
~~Fergus~~	~~69.18%~~
~~Garfield~~	~~45.96%~~

~~Glacier 58.83%~~

~~Golden Valley 58.37%~~

~~Hill 64.51%~~

~~Liberty 57.94%~~

~~McCone 49.92%~~

~~Musselshell 48.64%~~

~~Petroleum 48.04%~~

~~Phillips 54.02%~~

~~Pondera 54.26%~~

~~Powder River 60.9%~~

~~Prairie 40.38%~~

~~Richland 47.47%~~

~~Roosevelt 45.71%~~

~~Rosebud 39.33%~~

~~Sheridan 47.99%~~

~~Stillwater 53.51%~~

~~Sweet Grass 61.24%~~

~~Teton 46.1%~~

~~Toole 57.61%~~

~~Valley 51.43%~~

~~Wibaux 49.16%~~

~~Yellowstone 46.74%~~

~~All other counties 50.15%~~

~~(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.~~

~~(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:~~

~~(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:~~

Division

~~(i) 1.23% to the coal bed methane protection account established in 76-15-904;~~

~~(ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;~~

~~(iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;~~

~~(iv) 2.99% to the orphan share account established in 75-10-743;~~

~~(v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and~~

~~(vi) all remaining proceeds to the state general fund;~~

~~(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:~~

~~(i)~~(a) ~~2.16% to the natural resources projects state special revenue account established in 15-38-302;~~

~~(ii)~~(b) ~~2.02% to the natural resources operations state special revenue account established in 15-38-301;~~

~~(iii)~~(c) ~~2.95% to the orphan share account established in 75-10-743;~~

~~(iv)~~(d) ~~2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and~~

~~(v)~~(e) ~~of all remaining proceeds, 50% to the guarantee account, to be deposited following the close of the fiscal year of receipt but not later than October 1, for distribution in compliance with 20-9-622(3) and 50% to the state general fund."~~

Section 3. 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)~~ 20-9-306(15)(c)(ii)."

Section 4. Section 20-7-104

, MCA, is amended to read:

"20-7-104. Transparency and public availability of public school performance data -- reporting -- availability for timely use to improve instruction. (1) The office of public ~~instruction shall develop a publicly available~~ instruction's statewide data system ~~that~~ must, at a minimum:

(a) include data entry and intuitive reporting options that school districts can use to make timely decisions that improve instruction and impact student performance while creating a collaborative environment for parents, teachers, and students to work together in improving student performance. Options that the office of public instruction shall incorporate and make available for each school district must include data linkages to provide for automated conversion of data from systems already in use by school districts or by the office of public instruction that allow districts to collect, manage, and present local classroom assessment scores, grades, attendance, and other data to assist in instructional intervention alongside the existing school accountability and statewide student achievement results. The office of public instruction shall ensure that the design of the system is enhanced to prioritize collaborative support of each student's needs by classroom educators, administrators, and parents.

(b) ~~displays an~~ display a publicly available educational data profile for each school district that protects each student's education records in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99.

(2) ~~Each~~ Subject to subsection (1)(b), 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 work in consultation with the K-12 data task force provided for in [section 1] to analyze the best options for a statewide data system that will best enhance the ability of school districts to use data for the purposes identified in this section. Emphasis must be placed on developing or purchasing and customizing a statewide data system that promotes and preserves community ownership and local control and that incorporates innovative technologies available in the marketplace that may be in use and that are successfully working in other states. The office of public instruction and the K-12 data task force shall collaborate to enhance the statewide data system to support:

(a) the needs of school districts in using data to improve instruction and student performance;

(b) the collection of data from schools through a process that provides for automated conversion of data from systems already in use by school districts or the office of public instruction and that resolves the repetition of data entry and redundancy of data requested that has been characteristic of the data system in the past and that otherwise reduces the diversion of district staff time away from instruction and supervision;~~,~~ ~~implement a data collection plan to reduce redundant data requests,~~

(c) ~~increase~~ increased use of data ~~use~~ from the centralized system by various functions within the office of public instruction~~,~~; and

(d) ~~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 20-9-141

, MCA, IS AMENDED TO READ:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid, the natural resource development K-12 funding payment, and the special education allowable cost payment for the district by totaling:

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

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

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

Division

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

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

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

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

(iii) anticipated oil and natural gas production taxes;

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

(v) school district block grants distributed under 20-9-630.

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

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

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

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

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

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

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be

reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

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

Section 6. 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) the natural resource development K-12 funding payment for a variable percentage of the basic and per-ANB entitlements ABOVE THE DIRECT STATE AID for the general fund budget of a district, ~~based on the revenue available for distribution in any school fiscal year pursuant to the process provided for in 20-9-622(4) WHICH MUST BE AN AMOUNT EQUIVALENT TO THE GREATER OF 50% OF THE FISCAL YEAR 2012 OIL AND NATURAL GAS PRODUCTION TAXES DEPOSITED INTO THE GENERAL FUND PURSUANT TO 15-36-331(4) OR 50% OF THE OIL AND NATURAL GAS PRODUCTION TAXES DEPOSITED INTO THE GENERAL FUND PURSUANT TO 15-36-331(4) FOR THE FISCAL YEAR OCCURRING 2 FISCAL YEARS PRIOR TO THE SCHOOL FISCAL YEAR IN WHICH THE PAYMENT IS PROVIDED PLUS ANY EXCESS INTEREST AND INCOME REVENUE APPROPRIATED BY THE LEGISLATURE PURSUANT TO 20-9-622(3)(A)~~;

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

~~(c)~~(d) the total quality educator payment;

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

Division

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

~~(f)~~(g) the total American Indian achievement gap payment; and

(h) the total data-for-achievement 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, 100% of the total data-for-achievement 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) $256,003 for fiscal year 2012; and~~

~~(ii) $260,099 for each succeeding fiscal year;~~

(i) $290,000 for fiscal year 2014 and $300,000 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) $290,000 for fiscal year 2014 and $300,000 for each succeeding fiscal year for school districts with an ANB of more than 800, plus $12,000 for fiscal year 2014 and $15,000 for each succeeding fiscal year for each additional 80 ANB over 800;

(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) $23,033 for fiscal year 2012;~~

~~(ii) $23,402 for each succeeding fiscal year; and~~

(i) $40,000 for fiscal year 2014 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) $40,000 for fiscal year 2014 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus $2,000 for fiscal year 2014 and $2,500 for each succeeding fiscal year for each additional 25 ANB over 250;

(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 the district's kindergarten through grade 6 elementary program:

~~(A) $23,033 for fiscal year 2012; and~~

~~(B) $23,402 for each succeeding fiscal year; plus~~

(A) $40,000 for fiscal year 2014 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) $40,000 for fiscal year 2014 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus $2,000 for fiscal year 2014 and $2,500 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for ~~an~~ the district's approved and accredited junior high school ~~program~~, 7th and 8th grade ~~program~~ programs, or middle school:

~~(A) $65,231 for fiscal year 2012; and~~

~~(B) $66,275 for each succeeding fiscal year.~~

(A) $80,000 for fiscal year 2014 and $100,000 for each succeeding fiscal year for the school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) $80,000 for fiscal year 2014 and $100,000 for each succeeding fiscal year for the school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus $4,000 for fiscal year 2014 and $5,000 for each succeeding fiscal year for each additional 45 ANB over 450.

(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, the total data-for-achievement 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) "Natural resource development K-12 funding payment" means the payment of a variable percentage of the basic and per-ANB entitlements ABOVE THE DIRECT STATE AID for the general fund budget of a district. ~~funded with revenue available for distribution in any school fiscal year pursuant to the process provided in 20-9-622(3), WHICH MUST BE AN AMOUNT EQUIVALENT TO~~ THE TOTAL PAYMENT TO SCHOOL DISTRICTS MAY NOT EXCEED THE GREATER OF 50% OF THE FISCAL YEAR 2012 OIL AND NATURAL GAS PRODUCTION TAXES DEPOSITED INTO THE GENERAL FUND PURSUANT TO 15-36-331(4) OR 50% OF THE OIL AND NATURAL GAS PRODUCTION TAXES DEPOSITED INTO THE GENERAL FUND PURSUANT TO 15-36-331(4) FOR THE FISCAL YEAR OCCURRING 2 FISCAL YEARS PRIOR TO THE SCHOOL FISCAL YEAR IN WHICH THE PAYMENT IS PROVIDED ~~PLUS ANY EXCESS INTEREST AND INCOME REVENUE APPROPRIATED BY THE LEGISLATURE PURSUANT TO 20-9-622(3)(A).~~ THE AMOUNT OF THE NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT MUST BE DETERMINED AS FOLLOWS:

(A) A PAYMENT OF $12 MILLION FOR FISCAL YEAR 2014;

(B) A PAYMENT OF $13.5 MILLION FOR FISCAL YEAR 2015; AND

(C) FOR FISCAL YEAR 2016 AND EACH SUBSEQUENT YEAR, THE PAYMENT MUST BE, SUBJECT TO THE LIMITATIONS OF THIS SUBSECTION (10), AN AMOUNT SUFFICIENT TO OFFSET ANY ESTIMATED INCREASE IN STATEWIDE REVENUE FROM THE GENERAL FUND BASE BUDGET LEVY PROVIDED FOR IN 20-9-141 THAT IS ANTICIPATED TO RESULT FROM INCREASES IN THE BASIC OR PER-ANB ENTITLEMENTS PLUS ANY EXCESS INTEREST AND INCOME REVENUE APPROPRIATED BY THE LEGISLATURE PURSUANT TO 20-9-622(3)(A). THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL INCORPORATE A NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT CALCULATED IN COMPLIANCE WITH THIS SUBSECTION (10)(C) IN PREPARING AND SUBMITTING AN AGENCY BUDGET PURSUANT TO 17-7-111 AND 17-7-112.

Division

~~(10)~~(11) "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)~~(12) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

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

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

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

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~$6,343~~ $6,555 for fiscal year ~~2012~~ 2014 and ~~$6,444~~ $6,691 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 ~~$4,955~~ $5,120 for fiscal year ~~2012~~ 2014 and ~~$5,034~~ $5,226 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 ~~$4,955~~ $5,120 for fiscal year ~~2012~~ 2014 and ~~$5,034~~ $5,226 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 ~~$6,343~~ $6,555 for fiscal year ~~2012~~ 2014 and ~~$6,444~~ $6,691 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.

Division

(16) "Total data-for-achievement payment" means the payment resulting from multiplying $20 times the school district's ANB calculated in accordance with 20-9-311, as provided in [section 2].

~~(15)~~(17) "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~~ by the number of full-time equivalent educators as provided in 20-9-327."

Section 7. 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~~ DIRECT STATE AID for the basic and per-ANB entitlements~~,~~ AND ANY INCREASES IN STATE FUNDING OF the data-for-achievement payment under [section 2]~~,~~ and IN the general fund payments in 20-9-327 through 20-9-330 to the district's previous year's general fund budget.

(2) (a) ~~Whenever~~ Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE budget for the district and PROPOSE to increase the over-BASE budget levy over THE HIGHEST revenue previously authorized by the electors of the district or imposed by the district in ~~any of~~ 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.

(b) The intent of this section is to increase the flexibility and efficiency of elected school boards without increasing school district property taxes. In furtherance of this intent and provided that budget limitations otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-BASE budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed under this subsection must be decreased in future years to the extent that the trustees of

the district impose any increase in other nonvoted property tax levies.

(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 8. Section 20-9-310

, MCA, is amended to read:

"20-9-310. (Temporary) Oil and natural gas production taxes for school districts -- allocation and limits. (1)(A) ~~The~~ Except as provided in ~~subsection~~ SUBSECTIONS (1)(B) AND (8), 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.

(B) FOR FISCAL YEARS 2014 THROUGH 2016 FOR ANY SCHOOL DISTRICT WITH A MAXIMUM GENERAL FUND BUDGET OF LESS THAN $1 MILLION, THE MAXIMUM AMOUNT OF OIL AND GAS PRODUCTION TAXES THAT A SCHOOL DISTRICT MAY RETAIN IS 150% OF THE SCHOOL DISTRICT'S MAXIMUM GENERAL FUND BUDGET.

(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. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in [section ~~30~~ 32].

(4) (a) ~~For fiscal year 2012, any~~ By the last day of the ~~last month following~~ MONTH IMMEDIATELY FOLLOWING THE MONTH IN WHICH the quarterly distribution of oil and natural gas production taxes in subsection (3) IS MADE, the office of public instruction shall distribute 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.~~ based on allocations determined by the department of revenue pursuant to subsection (3) in the following priority:

(i) to the other school district within the unified school system from which the oil and natural gas production revenue originates or to any school district having a joint board status with the district, as provided in 20-3-361, from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of the school district receiving a distribution of revenue under this subsection (4)(a)(i) on a prorated basis;

(ii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(i), to all school districts immediately contiguous to the district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(ii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for a distribution under this subsection (4)(a)(ii) that is immediately contiguous to a school district qualifying for receipt of a distribution of oil and natural gas revenue under this subsection (4)(a)(ii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates;

(iii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(ii), to all school districts that are located in whole or in part in the same county as the school district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(iii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for

distribution under this subsection (4)(a)(iii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates; and

(iv) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(iii), to all school districts that are located in whole or in part in a county contiguous to a county where a horizontally completed well, as defined in 15-36-303, has been drilled within the last 3 years ACCORDING TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, up to 130% of the maximum budget of each school district receiving a distribution under this subsection (4)(a)(iv) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iv), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.

(b) Any funds remaining after distribution under subsections (4)(a)(i) through (4)(a)(iv) must be deposited as follows:

(i) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

(ii) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and

(iii) 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 20-9-518.

(5) Subject to the limitation in subsection (1) and except as provided in subsection (7), 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)~~(a) ~~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%~~ 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

~~(e)~~(b) oil and natural gas production taxes received by the district must be deposited in the general fund until the ~~budgeted amount~~ limit under subsection (5)(a) is reached; and

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

(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.

(7) The provisions of subsections (5) and (6) do not apply to the following:

(a) a district that has a maximum general fund budget of less than $1 million;

(b) a district whose oil and gas revenue combined with its adopted general fund budget total 105% or less of its maximum general fund budget;

(c) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) would otherwise apply;

(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

(8) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas productions taxes that a school district may retain under subsection (1) applies in the year immediately

following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying $45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

~~(6)~~(9) 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 20-9-517; 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 20-9-518.~~ (Terminates June 30, ~~2016~~ 2020~~--sec. 29, Ch. 418, L. 2011~~.)"

Section 9. Section 20-9-311

, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- ~~three-year~~ 3-year averaging. (1) Average number belonging (ANB) 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~~ the first Monday in December of the prior school fiscal year and to a count of regularly enrolled pupils on the first Monday in February 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~~ three; and

(b) multiply the average enrollment calculated in subsection (1)(a) 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~~ Except as provided in subsection (4)(d), 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) Except as provided in subsection (4)(d), ~~Enrollment~~ 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 school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

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

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

districts offering full-time kindergarten.

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

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

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

(a) the ANB is calculated as a separate budget unit when:

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

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

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

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

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

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

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

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

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

(d) when a school has ~~not been accredited~~ been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

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

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

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

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

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a

pupil who is not otherwise eligible under the rules of the organization.

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

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

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

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

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

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

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

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

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

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

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

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

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge

program participant as half-time enrollment.

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

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

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

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

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

Section 10. Section 20-9-314

, MCA, is amended to read:

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

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

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

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

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

(c) the average number belonging that will be used to calculate the basic entitlement and total

per-ANB entitlement for the ensuing school fiscal year;

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

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

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the ~~estimated~~ ENROLLMENT USED TO CALCULATE THE BUDGETED average number belonging for the ensuing ~~ANB calculation period~~ SCHOOL FISCAL YEAR. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the ~~estimated~~ ADJUSTED enrollment exceeds the enrollment used for the budgeted ~~ANB~~ AVERAGE NUMBER BELONGING; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least ~~6%~~ 4% or ~~25~~ 40 students, whichever is less.

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

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, ~~the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for the ensuing school fiscal year and~~ 106% ~~of the enrollment used to calculate the budgeted ANB. The amount determined~~ is the maximum allowable increase ~~must be added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement~~. THE MAXIMUM ALLOWABLE INCREASE TO THE AVERAGE NUMBER BELONGING IS EQUAL TO THE ADJUSTED ENROLLMENT AS DETERMINED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION IN SUBSECTION (3) MINUS THE SUM OF:

(A) THE ENROLLMENT USED TO CALCULATE THE BUDGETED AVERAGE NUMBER BELONGING FOR THE ENSUING SCHOOL FISCAL YEAR; AND

(B) THE LESSER OF 40 STUDENTS OR 4% OF THE ENROLLMENT USED TO CALCULATE THE BUDGETED AVERAGE NUMBER BELONGING FOR THE ENSUING SCHOOL FISCAL YEAR.

Division

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

(b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations, as provided in subsection (5), using the actual enrollment in place of the ~~estimated~~ ADJUSTED enrollment. All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4)."

Section 11. Section 20-9-323

, MCA, is amended to read:

"20-9-323. Ending fund balance limits. (1) Beginning July 1, ~~2016~~ 2020, 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 and distribution ~~as provided for in~~ IN THE SAME MANNER AS PROVIDED IN ~~20-9-622(4)~~ 20-9-622(3).

(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~~ 2020, the balance of a school district's flexibility fund may not exceed 150% of the school district's maximum general fund budget."

SECTION 12. SECTION 20-9-326

, MCA, IS AMENDED TO READ:

"20-9-326. Annual inflation-related adjustments to basic entitlements and per-ANB entitlements. (1) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent of public instruction shall determine the inflation factor for the basic and per-ANB entitlements, the data-for-achievement payment, and the general fund payments in 20-9-327 through 20-9-330 in each fiscal year of the ensuing biennium. The inflation factor is calculated as follows:

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio to the power of one-third; and

(b) for the second year of the biennium, divide the consumer price index for July 1 of the current calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the current calendar year and raise the resulting ratio to the power of one-third.

(2) The present law base for the ~~basic and per-ANB~~ entitlements referenced in subsection (1), calculated under Title 17, chapter 7, part 1, must consist of any enrollment increases or decreases plus the inflation factor calculated pursuant to this section, not to exceed 3% in each year, applied to both years of the biennium.

(3) For the purposes of this section, "consumer price index" means the consumer price index, U.S.

city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

Section 13. Section 20-9-342

, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. (1) Except as provided in 20-9-516 and subsection (2) of this section, the state board of land commissioners shall deposit the interest and income money for each fiscal year into the guarantee account, provided for in 20-9-622, for state equalization aid by the last business day of February and June before the close of the fiscal year in which the money was received.

(2) Subject to subsection (3), any excess interest and income revenue deposited in the guarantee account IN EACH FISCAL YEAR must be distributed in accordance with ~~20-9-622(4)~~ 20-9-622(3).

(3) The excess interest and income revenue must equal at least $1 million in order to be ~~transferred~~ DISTRIBUTED pursuant to subsection (2). EXCESS INTEREST AND INCOME REVENUE OF $1 MILLION OR LESS MUST BE CARRIED FORWARD AND ADDED TO THE EXCESS INTEREST AND INCOME REVENUE IN THE NEXT ENSUING SCHOOL FISCAL YEAR AND DISTRIBUTED IN ACCORDANCE WITH 20-9-622(3).

(4) For purposes of this section, "excess interest and income revenue" means an ANNUAL amount in excess of ~~the average amount of interest and income revenue generated in the preceding biennium to be deposited in the guarantee account established in 20-9-622~~ $56 MILLION."

Section 14. Section 20-9-344

, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status because of failure to meet the board of public education's assurance and performance standards.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; ~~and~~

(v) the total American Indian achievement gap payment;

(vi) the total data-for-achievement payment; and

(vii) the total natural resource development K-12 funding payment;

(b) from December to April of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; ~~and~~

(v) the total American Indian achievement gap payment;

(vi) the total data-for-achievement payment; and

(vii) the total natural resource development K-12 funding payment;

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, ~~and~~ the total American Indian achievement gap payment, the total data-for-achievement payment, and the total natural resource development K-12 funding payment.

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 15. Section 20-9-403

, MCA, is amended to read:

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

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

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons

appurtenant to bonds when there is not sufficient money to redeem them;

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

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

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

(2) Money realized from the sale of bonds issued on the credit of a high school district may not be used for any of the purposes listed in subsection (1) in an elementary school district, and the money may be used for any of the purposes listed in subsection (1) for a junior high school but only to the extent that the 9th grade of the high school is served.

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

Section 16. Section 20-9-406

, MCA, is amended to read:

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

(b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is

pledged, and any other loans or notes payable that are held as general obligations of the district, is up to 100% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

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

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

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

(3) The maximum amount of impact aid revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual federal impact aid basic support payments for the 5 years immediately preceding

the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments of the school district for the current year.

(4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual oil and natural gas production taxes received pursuant to 15-36-331, 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the oil and natural gas revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation provided in subsection (1) of this section applies to the bonds.

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

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

~~(6)~~(7) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

Section 17. Section 20-9-408

, MCA, is amended to read:

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

(1) "Amortization bond" means that form of bond on which a part of the principal is required to be paid each time that interest becomes due and payable. The part payment of principal increases with each following installment in the same amount that the interest payment decreases, so that the combined amount payable on

principal and interest is the same on each payment date. However, the payment on the initial interest payment date may be less or greater than the amount of other payments on the bond, reflecting the payment of interest only or the payment of interest for a period different from that between other interest payment dates. The final payment may vary from prior payments in amount as a result of rounding prior payments.

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

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

(4) "Oil and natural gas revenue bonds" means bonds that pledge and are payable from a first lien on oil and natural gas production taxes received by a school district pursuant to 20-9-310. OIL AND NATURAL GAS REVENUE BONDS TO WHICH A TAX DEFICIENCY IS PLEDGED ARE NOT CONSIDERED GENERAL OBLIGATION BONDS THAT ARE ELIGIBLE TO RECEIVE GUARANTEED TAX BASE AID PURSUANT TO 20-9-367 BUT ARE TO BE CONSIDERED IN DETERMINING THE DEBT LIMIT OF A SCHOOL DISTRICT FOR THE PURPOSES OF 20-9-406.

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

Section 18. Section 20-9-422

, MCA, is amended to read:

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

(a) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds, or impact aid revenue bonds AND, IF OIL AND NATURAL GAS REVENUE BONDS, WHETHER A TAX DEFICIENCY IS PLEDGED TO THE REPAYMENT OF THE BONDS;

(b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the

amounts estimated in a petition;

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

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

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

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

Section 19. Section 20-9-423

, MCA, is amended to read:

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

(1) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds, or impact aid revenue bonds AND, IF OIL AND NATURAL GAS REVENUE BONDS, WHETHER A TAX DEFICIENCY IS PLEDGED TO THE REPAYMENT OF THE BONDS;

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

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

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

to the county registrar;

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

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

Section 20. Section 20-9-426

, MCA, is amended to read:

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

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

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

OFFICIAL BALLOT

SCHOOL DISTRICT BOND ELECTION

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

Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation, oil and natural gas revenue, OIL AND NATURAL GAS REVENUE FOR WHICH A TAX DEFICIENCY IS PLEDGED, or impact aid revenue) bonds of this school district in the amount of ..... dollars ($ .....), payable semiannually, during a period not more than ..... years, for the purpose ..... (here state the purpose the same way as in the notice of election)?

[] BONDS -- YES.

[] BONDS -- NO."

Section 21. Section 20-9-427

, MCA, is amended to read:

"20-9-427. Notice of bond election by separate purpose. (1) A school district bond election must be conducted in accordance with the school election provisions of this title, except that the election notice must be in substantially the following form:

NOTICE OF SCHOOL DISTRICT BOND ELECTION

Notice is hereby given by the trustees of School District No. ..... of..... County, state of Montana, that pursuant to a certain resolution adopted at a meeting of the board of trustees of the school district held on the..... day of.....,....., an election of the registered electors of School District No..... of..... County, state of Montana, will be held on the..... day of.....,....., at..... for the purpose of voting upon the question of whether or not the trustees may issue and sell (state here: general obligation, oil and natural gas revenue, OIL AND NATURAL GAS REVENUE FOR WHICH A TAX DEFICIENCY IS PLEDGED, or impact aid revenue) bonds of the school district in the amount of..... dollars ($.....), payable semiannually, for the purpose of..... (here state purpose). The bonds to be issued will be payable in installments over a period not exceeding..... (state number) years.

The polls will be open from..... o'clock .....m. and until..... o'clock .....m. of the election day.

Dated and posted this..... day of.....

.....

Presiding officer, School District No.....

of..... County

Address.....

(2) If the bonds proposed to be issued are for more than one purpose, then each purpose must be separately stated in the notice, together with the proposed amount of bonds for each purpose.

(3) The notice must specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds, or impact aid revenue bonds."

Section 22. Section 20-9-430

, MCA, is amended to read:

Division

"20-9-430. Sale of school district bonds and notice of public sale. The trustees may sell school district bonds at public or private sale pursuant to 17-5-107. If the trustees conduct a public sale, the trustees shall give notice of the sale of school district bonds. The notice must state the purpose for which the bonds are to be issued and the amount proposed to be issued and must be substantially in the following form:

NOTICE OF SALE OF SCHOOL DISTRICT BONDS

Notice is hereby given by the trustees of School District No. ..... of ..... County, state of Montana, that the trustees will on the ..... day of ....., ..., at the hour of ..... o'clock .....m. at ....., in the school district, sell to the highest and best bidder for cash (state here: general obligation, oil and natural gas revenue, or impact aid revenue) bonds of the school district in the total amount of ..... dollars ($ .....), for the purpose of .....

The bonds will be issued and sold in the aggregate principal amount of ..... dollars ($ .....) each and will become payable according to the maturity schedule set forth below (set forth maturity schedule adopted by the school district). (If the bonds are to be issued as amortization bonds, indicate that here.)

The bonds will bear an original issue date of ....., ..., will pay interest commencing on the ..... day of ..... (month), ..., will be payable semiannually on the ..... day of ..... (month) and ..... (month) in each year thereafter, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than $ ....., with accrued interest on the principal amount of the bonds to the date of their delivery, and all bidders shall state the lowest rate of interest at which they will purchase the bonds at the price specified for the bonds. The trustees reserve the right to reject any bids and to sell the bonds at private sale.

All bids must be accompanied by (insert appropriate bid security as permitted by 18-1-202) in the sum of ..... dollars ($ .....) payable to the order of the district, which will be forfeited by the successful bidder in the event that the bidder refuses to purchase the bonds.

All bids should be addressed to the undersigned district.

.....

Presiding officer, School District No.....

of..... County

Address: .....

Division

ATTEST:

Subscribed and sworn to before me this ..... day of ....., ...; ..... Notary Public for the State residing at ....., Montana. My commission expires ....."

Section 23. Section 20-9-437

, MCA, is amended to read:

"20-9-437. School district liable on bonds. (1) The full faith, credit, and taxable resources of a school district issuing general obligation bonds under the provisions of this title are pledged for the repayment of the bonds with interest according to the terms of the bonds. For the purpose of making the provisions of this part enforceable, each school district is a body corporate that may sue and be sued by or in the name of the trustees of the school district.

(2) A school district may use up to 25% of its federal impact aid funds received pursuant to 20-9-514 ~~or 25% of its oil and natural gas production taxes received under the limitations in 20-9-310 and pursuant to 15-36-331(3)~~ for repayment of general obligation bonds.

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

(4) (a) Oil and natural gas revenue bonds must be payable from the oil and natural gas production taxes received by the school district under the limitations in 20-9-310 and deposited to the debt service fund.

(b) A school district, as long as it has specified that its oil and natural gas revenue bonds are further secured by a deficiency tax levy in the bond election question and notice under 20-9-426 and 20-9-427, may additionally provide that if for any reason the oil and natural gas production taxes received by the school district and the amounts in the debt service reserve account are inadequate to pay the principal of or interest on the bonds as they become due, payment will be made from a deficiency tax levy.

(5) If for any reason the oil and natural gas taxes or the amounts in the debt service reserve account are inadequate to pay the principal of or interest on any oil and natural gas revenue bonds as to which the school district has pledged a deficiency tax levy in accordance with subsection (4) as it becomes due, the

school district shall, at least 15 days before the first day of the month in which the board of county commissioners of the county or counties in which the school district is located levies the amount of taxes required, furnish to the county treasurer an estimate in writing of the amount of money required:

(a) by the school district for the payment of the principal of or interest on the bonded debt as it becomes due and to replenish the debt service reserve account;

(b) to establish reasonable reserve funds for either purpose; and

(c) by the school district for any other purpose set forth in this section.

(6) Annually and at the time and in the manner of levying other county or city and county taxes, the county treasurer shall, as instructed by the school district, to the extent of any deficiency resulting from oil and natural gas taxes to pay or secure oil and natural gas revenue bonds to which a deficiency tax is pledged and for any other purpose set forth in this section:

(a) until the bonded debt is fully paid, levy upon the taxable property located in the school district and collect a school district oil and natural gas revenue bond deficiency tax sufficient for the payment OR REIMBURSEMENT OF THE PAYMENT of the bonded debt IN THE CURRENT OR ENSUING FISCAL YEAR, OR BOTH; and

(b) until ~~all other expenses or claims are~~ THE BONDED DEBT IS fully paid, levy upon all of the taxable property located in the school district and collect a school district oil and natural gas revenue bond deficiency tax sufficient for ~~the payment of the other expenses or claims, including~~ replenishing amounts in the debt service reserve account.

(7) Taxes for the payment of any oil and natural gas revenue bonds to which the school district has pledged a deficiency tax must be levied on the taxable property located in the school district as stated in the resolution fixing the terms and conditions of the bonds, and all taxes for other purposes must be levied on all property located within the school district."

SECTION 24. SECTION 20-9-438

, MCA, IS AMENDED TO READ:

"20-9-438. Preparation of general obligation debt service fund budget -- operating reserve. (1) The trustees of each school district having outstanding general obligation bonds shall include in the debt service fund of the final budget adopted in accordance with 20-9-133 an amount of money that is necessary to

pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the final budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district that become due during the ensuing school fiscal year; ~~and~~

(b) a limited operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection ~~(3)~~ (4); and

(c) an amount to satisfy the reserve requirement for oil and natural gas revenue bonds.

(3) The trustees of a school district having outstanding oil and natural gas bonds shall include in the debt service reserve account of the final budget adopted in accordance with 20-9-133 oil and natural gas production taxes received by a school district or other legally available funds sufficient to satisfy the reserve requirement. Funds remaining in the debt service reserve account may not be reappropriated or reverted and must be used for the purposes set forth in [section 27].

~~(3)~~(4) At the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year fund balance of the debt service fund to be earmarked as a limited operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations that must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal year. Any portion of the debt service fund end-of-the-year fund balance not earmarked for limited operating reserve purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

~~(4)~~(5) The county superintendent shall compare the final budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in the statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the final budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the final budget. The amount confirmed or revised by the county superintendent is the final budget expenditure amount for the debt service fund of the school district."

Section 25. Section 20-9-440

, MCA, is amended to read:

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

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

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

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

NEW SECTION. **Section 26. Security for oil and natural gas revenue bonds.** (1) To secure the payment of principal of and interest on oil and natural gas revenue bonds, the trustees of a school district, by resolution or indenture of trust, may provide that oil and natural gas revenue bonds are secured by a first lien on the oil and natural gas production revenue received pursuant to 20-9-310 and pledge to the holders of the oil and natural gas revenue bonds all of the oil and natural gas revenue deposited in the district's debt service fund.

(2) Upon receipt of oil and natural gas revenue, the county treasurer shall deposit in the district's debt service fund the amount that is required to pay the principal of and interest on the oil and natural gas revenue bonds due in the next 12-month period and to restore any deficiency in the oil and natural gas revenue debt service reserve account~~. All other oil and natural gas revenue must be deposited in the school district's oil and natural gas revenue bond debt service reserve account~~ up to reserve requirements. Any remaining oil and natural gas revenue must be deposited as directed by the board of trustees as provided in 20-9-310. The school district and county treasurer may designate a trustee for holders of the bonds to receive the school district's oil and natural gas revenue for purposes of making the annual debt service payments on oil and natural gas revenue bonds and may authorize the trustee to establish and maintain the oil and natural gas revenue bond debt service fund and oil and natural gas revenue bond debt service reserve account.

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

(4) The state may not limit, alter, or impair the ability of a school district to qualify for oil and natural gas revenue or in any way impair the rights and remedies of the bondholders until all bonds issued under this section, together with interest on the bonds, interest on any unpaid installments of principal or interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The trustees of any district, as agents for the state, may include a pledge and undertaking in resolutions and indentures authorizing and securing the bonds as described in this subsection.

NEW SECTION. **Section 27. Debt service reserve account.** (1) If a school district issues oil and natural gas revenue bonds, the school district shall establish and maintain an oil and natural gas revenue bond debt service reserve account, to which there must be deposited or transferred an amount from bond proceeds or oil and natural gas production taxes received by a school district or other legally available funds sufficient to satisfy the reserve requirement.

(2) All money held in the oil and natural gas revenue bond debt service reserve account must be used solely for the payment of the principal of or interest on the bonds secured in whole or in part by the account or the debt service fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

Section 28. Section 20-9-517

, MCA, is amended to read:

"20-9-517. (Effective July 1, 2013) 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 in an amount less than 20% of the district's maximum general fund budget but that are impacted by ~~contiguous counties that are benefiting from receipt of~~ oil and natural gas ~~production taxes~~ development.

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to ~~20-9-310(7)~~ 20-9-310(4)(b) and any amounts pursuant to 20-9-104(6).

(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~~ guarantee account and distributed in ~~compliance with~~ THE SAME MANNER AS PROVIDED IN 20-9-622(3)."

Section 29. Section 20-9-518

, MCA, is amended to read:

"20-9-518. (Effective July 1, 2013) County school oil and natural gas impact fund. (1) The governing body of a county receiving an allocation under 20-9-104(6) and ~~20-9-310(7)~~ 20-9-310(4)(b) shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to 20-9-104(6) and ~~20-9-310(7)~~ 20-9-310(4)(b) 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, WHICH MUST BE CALCULATED BY DIVIDING THE TOTAL FUNDS AVAILABLE FOR DISTRIBUTION 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.

(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 30. Section 20-9-622

, MCA, is amended to read:

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

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

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsection (2), the

guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

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

~~(3) Any excess interest and income revenue allocated for distribution under subsection (4)(a) and oil and natural gas production tax revenue transferred to the guarantee account pursuant to 15-36-331(4)(e), 20-9-323(4), and 20-9-517(6) must be designated as the natural resource development K-12 funding payment and must be used and distributed as local assistance by the office of public instruction as a funding source for BASE aid, as defined in 20-9-306, in the fiscal year immediately after deposit of those funds to the guarantee account. If the natural resource development K-12 funding payment exceeds the amount needed to meet the total statewide costs of BASE aid in any fiscal year, any excess amount must be distributed as provided in subsection (4).~~

~~(4)~~(3) Any excess interest and income revenue deposited in the guarantee account for distribution under this section must be allocated as follows:

(a) 50% of the excess interest and income revenue must be ~~distributed~~ RESERVED FOR AN APPROPRIATION IN THE NEXT REGULAR SESSION OF THE LEGISLATURE as part of the natural resource development K-12 funding payment ~~as provided in subsection (3)~~ REFERRED TO IN 20-9-306; and

(b) 50% of the excess interest and income revenue must be distributed to schools on a per-quality-educator basis, with the amount to be distributed to each district calculated by dividing the total funds available for distribution under this subsection ~~(4)(b)~~ (3)(B) by the total number of quality educators, as defined in 20-4-502, employed by each school district in the state in the immediately preceding school fiscal year. A school district receiving funds under this section shall deposit the funds in its miscellaneous programs fund provided for in 20-9-507 and shall use the funds in the following order:

(i) to address any repairs categorized as "safety", "damage/wear out", or "codes and standards" in the facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility

condition and needs assessment prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and

(ii) if repairs under subsection ~~(4)(b)(i)~~ (3)(B)(I) have been completed, to any other purpose authorized by 20-9-543."

NEW SECTION. **Section 31. Purpose of increased funding beyond inflation.** The purpose of increases in state funding of BASE aid, as defined in 20-9-306, that a school district uses to increase its previous year's adopted general fund budget by an amount in excess of the inflation calculated in compliance with 20-9-326 are for the purpose of assisting school districts in meeting costs of implementing the common core curriculum and related changes to the Administrative Rules of Montana adopted by the Montana board of public education during fiscal years 2012 and 2013 and to continue to enhance efforts at improving academic achievement for students enrolled in Montana's public schools.

NEW SECTION. **Section 32. State school oil and natural gas distribution account.** (1) There is a state school oil and natural gas distribution account in the state special revenue fund provided for in 17-2-102. The purpose of the account is for distribution of the oil and natural gas production revenue exceeding the limitation in 20-9-310(1) to school districts in accordance with 20-9-310(4).

(2) The department of revenue shall deposit in the account oil and natural gas production taxes that exceeds 130% of a school district's maximum budget.

(3) The superintendent of public instruction shall distribute the money from the account in accordance with 20-9-310(4) as long as funds remain in the account.

(4) If funds remain after all of the provisions of ~~20-9-310(4)(a) through (4)(e)~~ 20-9-310(4)(A)(I) THROUGH (4)(A)(IV) HAVE OCCURRED, the superintendent of public instruction will deposit the remaining funds in accordance with ~~20-9-310(4)(f)~~ 20-9-310(4)(B).

Section 33. Section 29, Chapter 418, Laws of 2011

, is amended to read:

Division

"Termination. [Sections 1, 7, and 8] terminate June 30, ~~2016~~ 2020."

~~NEW SECTION. **Section 32. Transfer.** By October 1, 2013, the state treasurer shall transfer from the general fund to the guarantee account, provided for in 20-9-622, 50% of the funds from oil and natural gas production taxes collected in fiscal year 2013 remaining after distribution in accordance with 15-36-331(2), (3), and (4)(a) through (4)(d).~~

NEW SECTION. **Section 34. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 35. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to [section 1].

(2) [Sections 2, ~~25, and 29~~ 27, ~~AND 31~~ 31, AND 32] are intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [sections 2, ~~25, and 29~~ 27, ~~AND 31~~ 31, AND 32].

(3) [Section ~~24~~ 26] is intended to be codified as an integral part of Title 20, chapter 9, part 4, and the provisions of Title 20, chapter 9, part 4, apply to [section ~~24~~ 26].

NEW SECTION. **Section 36. Effective dates -- ~~retroactive~~ applicability.** (1) Except as provided in ~~subsections (2) and (3)~~ SUBSECTION (2), [this act] is effective on passage and approval and applies to school fiscal year 2014 and subsequent school fiscal years.

~~(2) [Section 3] applies retroactively, within the meaning of 1-2-109, to oil and natural gas production taxes paid on production in fiscal year 2013 as determined by the department of revenue pursuant to 15-36-331(1).~~

~~(3)~~(2) [Sections ~~26 and 27~~ 28 AND 29] are effective July 1, 2013.

- END -

Montana's Public Schools are Unified in Support of a Legislative Plan for the 2013 Session!

SB 175 by Senator Llew Jones, Conrad
Section by Section Analysis,
With Sponsor's Amendments Prepared for the House
March 27, 2013

1. SECTION 1: Creates a K-12 Data Task Force with trustees, administrators, tech staff, parents, school business officials and legislators to work with OPI to ensure that the statewide data system can be used by classroom educators, administrators, and parents to collaborate in supporting students' academic needs.
2. SECTION 2: Provides for the new Data for Achievement payment.
3. SECTION 3: Minor change in accreditation of schools section (20-7-102) to update a statutory reference.
4. SECTION 4: Amends the law on data systems to ensure that there is a focus on bringing useful data to educators and parents to use to enhance instruction and academic performance of students. The intent is to ensure that OPI and the K-12 Data Task Force work to make sure the data system has a module or other capability of "talking to" and/or automatically converting data from other systems already in use in school districts (e.g., Power Schools) and/or by OPI, both so that districts using systems that have all the components sought in this bill will not have to reinvent the wheel and so that districts do not have to repeatedly input the same data multiple times for different elements of the statewide data system as it has existed in the past. There is also a contemplation that OPI and the K-12 Data Task Force will review options available through private companies that may satisfy the specifications and needs for a statewide data system.
5. SECTION 5: A minor amendment to ensure that the Natural Resource Development K-12 Funding Payment is included in the calculation of the net levy requirement for a school district's general fund.
6. SECTION 6:
    a. Provides for statutory calculated inflation for the per-ANB entitlements (0.89% in FY14 and 2.08% in FY15).
    b. Implements the K-12 Vision Group's basic entitlement concept, phased in over two years and addresses both smaller school districts' concerns by increasing the first entitlement and addresses the

concerns of larger school systems with the one size basic entitlement under current law.

c. Creates the "Data for Achievement payment" of $20 per ANB as a new school district general fund component, funded entirely by the state with no local property tax share.

d. Creates a new Natural Resource Development K-12 Funding Payment (NRD Payment) that will be used to implement a freeze in nonvoted school district general fund BASE property taxes. The NRD Payment is set at an amount that will ensure against an increase in BASE property taxes caused by increases in the funding formula. The NRD Payment is indexed and capped at half of the oil and natural gas production revenues in the state general fund. The revenue will be distributed as a percentage of BASE funding costs of the Basic and per-ANB entitlements, much in the same manner as currently used to fund direct state aid (DSA). The property tax freeze will begin in FY14 and would continue for several years thereafter. The effect of this provision will be to reverse a multi-decade trend of above-inflation increases in property taxes and provide relief to property taxpayers whose BASE property taxes would otherwise increase from year to year through automatic operation of the funding formula.

7. SECTION 7:
   a. Ensures that school districts that are over maximum can add increases in state funding (no property tax increase) of all general fund payments and entitlements to their prior year's budget. This basically ensures that over max districts will have increased spending authority to implement common core and Chapter 55 rules from the Board of Public Education.
   b. Allows a school district to increase its over-base budget levy without a vote to the extent that the school district decreases other non-voted levies imposed by action of the board of trustees. The authority to maintain the non-voted increase in the over-base levy in future years is decreased to the extent of any subsequent increase in other non-voted levies.
8. SECTION 8: Oil and Natural Gas Revenue Issues as follows:
   a. Provides for local area sharing of oil and gas revenues in concentric circles emanating from the originating source of revenue and impacts, first to the other half of unified districts, then to immediate adjoining districts, then to districts throughout the county, then to districts in contiguous counties, then to all schools statewide. This provision will ensure that property taxes do not rise in areas impacted by oil and natural gas development.
   b. Reduces the amount that school districts have to budget in oil and gas revenues in their general fund to 25% of oil and natural gas revenues received. The language also provides additional flexibility in how this money is allocated, with only 50% of the amount used to reduce the

BASE budget and with the remaining 50% available for the over-BASE portion of the budget.

c. Exempts certain school districts from the obligation to budget in the general fund at all (e.g., districts under $1 million, districts with low spending, districts with unusual enrollment increases, etc.).
d. Temporarily (FY14-16) expands the 130% cap on oil and gas revenues to 150% for districts with maximum budgets of less than $1 million.
e. Expands the 130% cap on oil and gas revenues for any district with an unusual enrollment increase approved by OPI, by $45,000 for each additional ANB (150 square feet per pupil times $300 per square foot build cost). This will help ensure that local taxpayers do not have to pick up the tab for development impacts, particularly those related to school construction.

9. SECTION 9:
   a. Adds a new count in December to the existing enrollment counts in October and February to gain an additional data point for calculating ANB.
   b. Adds a new provision that allows a district to count students who achieve proficiency on particular classes in fewer hours than what would otherwise be required by the law. This is the "learning is the constant, time is the variable" concept which has been discussed in the K-12 Vision Group in innovating and customizing learning for each student.
   c. Aligns the existing power under current law for the Board of Public Education to be able to pull funding for a school district that loses accreditation with the new blended accreditation model under Chapter 55.
10. SECTION 10: Reduces the threshold for when a school district is entitled to an immediate increase for an unusual enrollment from 6% under current law to the lesser of an increase of 4% or 40 ANB. This change retains the current law trigger mechanism that allows increased funding only for those students above the trigger of 4% or 40 students.
11. SECTION 11: Extends the date for when ending fund balance and flex fund limits kick in from 2016 to 2020. This changes the law that was created last session in SB 329.
12. SECTION 12: Aligns the definition of the basic system of free quality schools in 20-9-309 with the mechanism for inflation-adjusting the formula. The amendment has the effect of providing for the future calculation of inflation on all general fund entitlements as required by 20-9-309, rather than for just the Basic and Per-ANB entitlements as provided under current law. There is no cost in the current biennium from this provision and the cost in future biennia will be relatively small while improving defensibility of the state's funding formula.
13. SECTION 13: Changes the law so that excess interest and income in state land revenues during an interim, defined as anything over $56 million

annually, gets split 50%-50% tax relief and increased spending for schools (distributed using the Quality Educator Payment from excess interest and income in the Guarantee account at the end of each year). To give you an idea regarding how this works, this change, had it been in effect a couple of years ago, would have brought school districts $40 million in increased spending and $40 million in district property tax relief when Otter Creek bonus payments were received by the state.

14. SECTION 14: Amends 20-9-344 to coordinate funding with the Board of Public Education's accreditation standards and to address the distribution of the natural resource development K-12 funding payment and data for achievement payment, which will be distributed in the same manner as other general fund payments.
15. SECTIONS 15 through 27 are all about adding oil and natural gas revenues as a source of bonding capacity. This is the same conceptual change upon which Senator Jones and education advocates collaborated in SB 403 last session. These changes have been reviewed and approved by the state's bond counsel as workable and sound. The provisions also retain a requirement of voter approval for such bonds.
16. SECTION 28: Allows districts with small or no oil and gas revenues, in insufficient amounts to address impacts, to qualify for funds out of the state oil and gas impact account. This section also changes the law so that amounts over $7.5 million go to the guarantee account for distribution as part of the natural gas K-12 payment rather than to the state general fund.
17. SECTION 29: Minor changes to the County Oil and Natural Gas Impact Fund statute to update coordinating statutory references. This section is also amended to provide for a distribution method for funds available in this account. The distribution would be via a per quality educator payment, which is a method of distribution found to be educationally relevant by the courts.
18. SECTION 30: Purpose of the Guarantee Account is expanded beyond use as BASE aid. As amended in Senate Education, SB 175 proposes to reserve funds in the guarantee account from excess revenue from state lands so that it can be used to further reduce property taxes as appropriated by the next Legislature. This section also captures and distributes excess interest and income from state lands as referenced earlier in this overview. This money gets split 50%-50%, part for tax relief and part to use for facilities repairs and other items. The portion for increased expenditures is distributed on a per quality educator basis and schools must first use the funds they receive to address any key deficiencies in the school facilities study by the Department of Administration and, once those deficiencies have been addressed, for any other purpose allowed for Flex funds (which provides flexibility that is comparable to any general fund expenditure).
19. SECTION 31: This purpose provision specifies that the amounts in this bill that allow school districts to increase their previous year's budget authority above inflation are to be used by school districts to implement common core,

changes to Chapter 55 and to otherwise enhance efforts at improving academic achievement for students in our public schools.

20. SECTION 32: This section provides for the distribution of oil and gas revenues from OPI to school districts from the state school oil and natural gas distribution account.
21. SECTION 33: Extends termination dates from SB 329, 2011 Session, from 2016 to 2020 to give the new oil and natural gas distribution system time to work before it is reviewed in 2020.
22. Remaining provisions are standard codification instructions, applicability clauses, and effective dates.

Amendments to Senate Bill No. 175
3rd Reading Copy

Requested by Senator Llew Jones

For the House Education Committee

Prepared by Pad McCracken
March 27, 2013 (11:45am)

1. Page 11, line 18 through line 24.
Strike: "," on line 18 through "20-9-622(3)(A)" on line 24

2. Page 14, line 5.
Following: "district"
Insert: "."

3. Page 14, line 7.
Strike: "WHICH" through "EQUIVALENT TO"
Insert: "The total payment to school districts may not exceed"

4. Page 14, line 10 through line 11.
Strike: "PLUS" on line 10 through "20-9-622(3)(A)" on line 11

5. Page 14, line 11.
Following: "."
Insert: "The amount of the natural resource development K-12 funding payment must be determined as follows:

(a) for fiscal year 2014, the payment must be $12 million;

(b) for fiscal year 2015, the payment must be $13.5 million;

(c) for fiscal year 2016 and each subsequent year, subject to the limits of this subsection (10), the payment must be an amount sufficient to offset any estimated increase in statewide revenue from the general fund BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB entitlements plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(3)(a). The superintendent of public instruction shall incorporate a natural resource development K-12 funding payment calculated in compliance with this subsection (10)(c) in preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112."

6. Page 15, line 22 through line 23.
Strike: "state" on line 22 through "funding" on line 23
Insert: "direct state aid"

7. Page 15, line 23.
Following: "entitlements"
Strike: ","

Insert: "and any increases in state funding of"
Following: "[section 2]"
Strike: ","
Following: "and"
Insert: "in"

8. Page 15, line 26.
Following: "and"
Insert: "propose"

9. Page 15, line 27.
Following: "over"
Insert: "the highest"
Following: "~~any of~~"
Insert: "any of"

10. Page 16, line 22.
Following: "(1)"
Insert: "(a)"
Strike: "subsection"
Insert: "subsections (1)(b) and"

11. Page 16, line 24.
Following: line 24
Insert: "(b) For fiscal years 2014 through 2016 for any school district with a maximum general fund budget of less than $1 million, the maximum amount of oil and gas production taxes that a school district may retain is 150% of the school district's maximum general fund budget."

12. Page 17, line 2.
Strike: "last month following"
Insert: "month immediately following the month in which"

13. Page 17, line 3.
Following: "subsection (3)"
Insert: "is made"

14. Page 25, line 5.
Following: "an"
Insert: "anticipated"

15. Page 25, line 12.
Strike: "estimated"
Insert: "anticipated"

16. Page 25, line 16.
Strike: "estimated"

Insert: "enrollment used to calculate the budgeted"

17. Page 25, line 17.
Strike:"ANB calculation period"
Insert: "school fiscal year"

18. Page 25, line 19.
Strike: "estimated"
Insert: "adjusted"

19. Page 25, line 20.
Strike: "ANB"
Insert: "average number belonging"

20. Page 25, line 23.
Strike: "25"
Insert: "40"

21. Page 25, line 27 through page 26, line 1.
Strike: "the increase" on page 25, line 27 through the second "entitlement" on page 26, line 1
Insert: "the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as determined by the superintendent of public instruction in subsection (3) minus the sum of:

(a) the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year; and

(b) the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year"

22. Page 26, line 6.
Strike: "estimated"
Insert: "adjusted"

23. Page 26, line 30.
Strike: "as provided for in"
Insert: "in the same manner as provided in"

24. Page 43, line 15.
Strike: "compliance with"
Insert: "the same manner as provided in"

25. Page 43, line 30.
Following: "county"
Insert: ", which must be calculated by dividing the total funds available for distribution 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"

26. Page 46, line 30.
Strike: "AND 31"
Insert: "31, and 32"

27. Page 47, line 1.
Strike: "AND 31"
Insert: "31, and 32"

- END -

Senate Bill 175, Sponsor's Amendments
Explanation and Anticipated Fiscal Impact - March 27, 2013

The groups whose logos appear above all support Senate Bill 175 with amendments offered for consideration of the House by the Sponsor, Senator Llew Jones. The amendments prepared for the House's consideration of Senate Bill 175 have three primary purposes.

1. The first and most significant purpose of these amendments is to bring the cost of Senate Bill 175 down to an amount that can be funded without creating structural balance problems for the State General Fund when considered in conjunction with other pending proposals affecting tax relief and spending. The combined effect of these amendments will save approximately $46 million off of the bill as introduced.

Item in Senate Bill 175	FY14	FY15	Biennial
Current SB 175	$57.3 million	$63.3 million	$120.6 million
Savings from change in NRD Payment	$17.6 million	$17 million	$34.6 million
Savings from change in Unusual Enrollment trigger	$5.4 million	$5.9 million	$11.3 million
Total Savings from Sponsor's House Amendments	$23million	$22.9 million	$45.9 million
Estimated Revised Fiscal Note for State General Fund	$34.4 million	$40.4 million	$74.8 million

2. The second purpose is to conclusively address and resolve technical notes that remain in the fiscal note as revised for the Senate Third Reading Version of Senate Bill 175.

3. The third purpose is to address a couple of remaining oil and gas impact issues, specifically:
   a. Provide temporary additional flexibility for smaller school districts (those with max budgets below $1 million), by allowing such districts to retain up to 150% of their max budget in oil and gas revenues for a three year period; and
   b. Provide for a distribution method for funding distributed to schools under the County Oil and Gas Impact Fund to address a concern of the Montana Association of County Officials regarding how to distribute such funds. The distribution method uses the Quality Educator Payment, which has been found by the Courts to be an educationally relevant means of distributing funds to Montana's public schools.

An explanation of each amendment follows on the next two pages:

Amendment Number in Sponsor's amendments	Page in Grey Bill	Purpose and effect of the amendment	Projected Savings, Biennial, Compared to Current Fiscal Note
1	12	The Natural Resource Development K-12 Funding Payment (NRD Payment) is referenced in two places in 20-9-306, MCA. Pursuant to suggestion of OPI, we have amended the first reference to abbreviate it, as the actual definition of the NRD Payment is defined more comprehensively in the amendments to subsection (10) of 20-9-306.	No change
2 and 3	15	The NRD Payment is changed to implement a property tax freeze rather than a property tax reduction. The Payment goes up to automatically offset and eliminate property tax increases that would otherwise occur through increases in the basic and per ANB entitlements, until the NRD Payment reaches the higher of $48.78 million (which is equivalent to 50% of FY12 oil and gas revenues in the state general fund) or 50% of the oil and natural gas revenues in the general fund 2 years prior to the distribution. Over time, this change is anticipated to increase the state's share of school district budgets and prevent an increase in district property taxes, which will address a key concern expressed by Judge Sherlock in his 2008 opinion (findings 119-121).	$34.6 million savings
4 and 5	17	Clarifies that school districts that are over Maximum can add the increases in the direct state aid portion of the basic and per-ANB entitlement increases to their prior year budget limit. This clarifies what was intended by use of the term "state funding" of the basic and per-ANB entitlements in the original introduced version of SB 175 and will provide for greater ease of administration.	No change
6 and 7	17	This amendment addresses and resolves OPI technical note 3 and clarifies that a school district cannot accumulate unused voted levy	No change

		authority over several years and can only go to the highest amount authorized in those five years rather than the combined total of such five years.	
8 and 9	18	Creates a temporary exception from the 130% of MAX budget oil and gas retention limit for districts with maximum budgets under $1 million. This amendment allows such districts to retain 150% of their maximum budget in oil and gas revenues for a three year period, FY14-16.	Some change in fiscal impact is anticipated, but it will be slight.
10 and 11	18	This amendment addresses and resolves OPI technical note 5 and clarifies the timeframe for OPI's distribution of oil and gas revenues to "concentric circles" districts.	No change
12 through 20	27-28	This amendment changes the provision on calculating an "unusual enrollment increase" that generates immediate funding for a district with an approved unusual enrollment increase. This amendment reduces the cost of the bill by funding enrollment increases that are either 4% or 40 ANB higher (compared to 4% or 25 in the current version of SB 175) and by providing funding only for those students who are above the threshold numbers of 4% or 40. Example is that if a district has an unusual enrollment increase of 44 students, they will get funding for 4 (those above the 40 ANB threshold).	$11.3 million savings
21	29	This amendment addresses and resolves OPI technical note 6.	No change
22	46	This amendment addresses and resolves OPI technical note 7.	No change
23	47	This amendment provides for a designated method of distribution of county school oil and gas impact funds to schools, on a per-quality educator basis. This addresses a concern of MACO regarding the lack of a designated means of distributing such funds	No change
24 and 25	50	This amendment provides a codification instruction for a section of the bill that was missed by the editors	No change