

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING K-12 SCHOOL FUNDING; REPLACING
5 GUARANTEED TAX BASE, DIRECT STATE AID, AND COUNTY EQUALIZATION AID WITH A STATE BASIC
6 CURRICULUM TEACHER PAYMENT; ELIMINATING COUNTY TAX FOR ELEMENTARY AND HIGH SCHOOL
7 EQUALIZATION AND RETIREMENT; PROVIDING THAT BASE AID IS THE BASIC CURRICULUM TEACHER
8 PAYMENT AND THE BASIC ENTITLEMENT; REQUIRING THAT ALL FEDERAL AND STATE SCHOOL
9 FUNDING PROVIDED IN ADDITION TO THE BASIC CURRICULUM TEACHER PAYMENT AND BASIC
10 ENTITLEMENT IS OVER-BASE; REQUIRING THAT ANY COURSE OF INSTRUCTION OFFERED BY A K-12
11 PUBLIC SCHOOL THAT IS NOT A BASIC CURRICULUM COURSE IS FUNDED BY SCHOOL DISTRICT
12 THROUGH A DISTRICT VOTED BUDGET LEVY; PROVIDING THAT THE LEGISLATURE DEFINES AND
13 SPECIFIES THE SCHOOL ACCREDITATION STANDARDS; ELIMINATING SCHOOL DISTRICT GENERAL
14 FUND BUDGET LIMITS; REVISING SECTIONS UTILIZING THE TERM "QUALITY EDUCATOR"; REVISING
15 THE DEFINITION OF A BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY
16 SCHOOLS AND THE ESTABLISHMENT OF THE FUNDING FORMULA; REVISING THE METHOD FOR
17 CALCULATING AVERAGE NUMBER BELONGING AND LIMITING AVERAGE NUMBER BELONGING TO
18 FUNDING FOR COUNTYWIDE TRANSPORTATION GRANTS; PROVIDING A STATEWIDE PROPERTY TAX
19 LEVY FOR THE SUPPORT OF BASE AID; REVISING SPECIAL EDUCATION FUNDING; ELIMINATING THE
20 SCHOOL FACILITY AND TECHNOLOGY ACCOUNT AND THE QUALITY SCHOOLS FACILITY GRANT
21 PROGRAM; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING AN AD HOC COMMITTEE TO REVIEW
22 ACCREDITATION STANDARDS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-1-409,
23 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-24-2102, 15-30-2336, 15-39-110,
24 17-3-213, 17-3-1003, 17-6-340, 17-7-140, 17-7-301, 17-7-502, 20-1-301, 20-2-121, 20-3-106, 20-3-205,
25 20-3-209, 20-3-324, 20-3-363, 20-4-203, 20-4-501, 20-4-502, 20-4-503, 20-4-504, 20-4-505, 20-4-506, 20-5-102,
26 20-5-323, 20-5-324, 20-6-326, 20-6-502, 20-6-503, 20-6-504, 20-6-702, 20-6-703, 20-6-704, 20-7-101, 20-7-102,
27 20-7-111, 20-7-117, 20-7-401, 20-7-420, 20-7-435, 20-9-104, 20-9-141, 20-9-166, 20-9-212, 20-9-303, 20-9-306,
28 20-9-309, 20-9-310, 20-9-311, 20-9-321, 20-9-323, 20-9-329, 20-9-330, 20-9-342, 20-9-343, 20-9-344, 20-9-346,
29 20-9-347, 20-9-351, 20-9-353, 20-9-360, 20-9-406, 20-9-422, 20-9-439, 20-9-501, 20-9-515, 20-9-517, 20-9-533,
30 20-9-620, 20-9-622, 20-9-630, 69-11-202, 77-1-218, 90-6-309, 90-6-403, AND 90-6-1001, MCA; AMENDING

1 SECTION 29, CHAPTER 418, LAWS OF 2011; REPEALING SECTIONS 20-7-202, 20-9-305, 20-9-308,
 2 20-9-313, 20-9-314, 20-9-326, 20-9-327, 20-9-331, 20-9-332, 20-9-333, 20-9-335, 20-9-348, 20-9-361, 20-9-366,
 3 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, 20-9-516, 20-9-534, 90-6-801, 90-6-802, 90-6-803, 90-6-809,
 4 90-6-810, 90-6-811, 90-6-812, 90-6-818, AND 90-6-819, MCA; AND PROVIDING AN EFFECTIVE DATE."

5

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

7

8 **Section 1.** Section 15-1-409, MCA, is amended to read:

9 **"15-1-409. Exclusion of certain property subject to property tax protest -- guaranteed tax base**

10 **-- tax refund.** (1) A school district that has centrally assessed property subject to pending property tax protests
 11 shall, prior to February 1 of each year, elect whether to waive the school district's right to receive its portion of
 12 protested taxes under 15-1-402(5)(b) for the previous year.

13 ~~(2) If the school district elects to waive its right to its portion of the protested taxes under subsection (1),~~
 14 ~~the district's guaranteed tax base aid calculated under 20-9-366 must be determined based on the total taxable~~
 15 ~~value of property in the school district less the taxable value of the centrally assessed property for which a school~~
 16 ~~district waived its right to receive its portion of protested taxes. Upon settlement or other resolution of the protest,~~
 17 the department is responsible for refunding protested taxes or paying any other costs due the protesting taxpayer
 18 and retaining any portion of protested taxes that would have been distributed to the school district for each year
 19 the school district has elected to waive receiving its portion of the protested taxes.

20 (3) For the purpose of this section, "centrally assessed property" means property that is centrally
 21 assessed pursuant to 15-23-101 and industrial property that is assessed annually by the department."

22

23 **Section 2.** Section 15-10-420, MCA, is amended to read:

24 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
 25 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
 26 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
 27 years. The maximum number of mills that a governmental entity may impose is established by calculating the
 28 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
 29 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
 30 one-half of the average rate of inflation for the prior 3 years.

1 (b) A governmental entity that does not impose the maximum number of mills authorized under
2 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
3 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
4 carried forward may be imposed in a subsequent tax year.

5 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
6 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
7 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

8 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
9 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
10 taxable property.

11 (3) (a) For purposes of this section, newly taxable property includes:

12 (i) annexation of real property and improvements into a taxing unit;

13 (ii) construction, expansion, or remodeling of improvements;

14 (iii) transfer of property into a taxing unit;

15 (iv) subdivision of real property; and

16 (v) transfer of property from tax-exempt to taxable status.

17 (b) Newly taxable property does not include an increase in value that arises because of an increase in
18 the incremental value within a tax increment financing district.

19 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
20 release of taxable value from the incremental taxable value of a tax increment financing district because of:

21 (i) a change in the boundary of a tax increment financing district;

22 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

23 (iii) the termination of a tax increment financing district.

24 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
25 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
26 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
27 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

28 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
29 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
30 year market value of that property less the previous year market value of that property.

1 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
2 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
3 agricultural land as described in 15-6-133(1)(c).

4 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

5 (a) school district levies established in Title 20; or

6 (b) a mill levy imposed for a newly created regional resource authority.

7 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
8 under 15-6-131 and 15-6-132.

9 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

10 (a) may increase the number of mills to account for a decrease in reimbursements; and

11 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
12 that is reimbursed under the provisions of 15-1-121(7).

13 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
14 of 15-10-108, ~~20-9-331~~, ~~20-9-333~~, 20-9-360, and 20-25-439. However, the number of mills calculated by the
15 department may not exceed the mill levy limits established in those sections. The mill calculation must be
16 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
17 calculation must be rounded up to the nearest tenth of a mill.

18 (9) (a) The provisions of subsection (1) do not prevent or restrict:

19 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

20 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

21 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

22 (iv) a levy for the support of a study commission under 7-3-184;

23 (v) a levy for the support of a newly established regional resource authority;

24 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
25 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

26 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
27 county under 7-2-2807 upon relocation of a county boundary.

28 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
29 actually assessed in a subsequent year.

30 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,

1 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
2 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
3 funds by a county or municipality during that time.

4 (11) The department may adopt rules to implement this section. The rules may include a method for
5 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
6 improvements, or newly taxable property in a governmental unit."

7

8 **Section 3.** Section 15-24-1402, MCA, is amended to read:

9 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
10 a construction permit is issued, qualifying improvements or modernized processes that represent new industry
11 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their
12 taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal
13 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
14 taxed at 100% of its taxable value.

15 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body
16 of the affected county or the incorporated city or town must have approved by separate resolution for each
17 project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for
18 in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until
19 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

20 (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but
21 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

22 (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
23 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The
24 resolution may provide that real property other than land, personal property, improvements, or any combination
25 thereof is eligible for the tax benefits described in subsection (1).

26 (d) Property taxes abated from the reduction in taxable value allowed by this section are subject to
27 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
28 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture
29 is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided
30 in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The

1 amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts
 2 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this
 3 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary
 4 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body
 5 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
 6 of the taxpayer.

7 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The
 8 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
 9 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the
 10 tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the
 11 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

12 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
 13 for local high school district and elementary school district purposes and to the number of mills levied and
 14 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
 15 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,
 16 ~~20-9-331, 20-9-333~~, or 20-9-360 or otherwise required under state law.

17 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
 18 all taxing jurisdictions affected by the tax benefit."
 19

20 **Section 4.** Section 15-24-1703, MCA, is amended to read:

21 **"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of delinquent
 22 property taxes pursuant to this part:

23 (1) applies to all mills levied in the county or otherwise required under state law, including levies or
 24 assessments required under Title 15, chapter 10, ~~20-9-331, and 20-9-333~~;

25 (2) does not apply to assessments made against property for the payment of bonds issued pursuant to
 26 Title 7, chapter 12."
 27

28 **Section 5.** Section 15-24-1802, MCA, is amended to read:

29 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
 30 leased and operated by a local economic development organization is eligible for an exemption from property

1 taxes as provided in this section.

2 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
3 consolidated government, incorporated city or town, or school district in which the property is located shall
4 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
5 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved,
6 the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction.
7 The governing body may not grant approval for the business incubator until all of the applicant's taxes have been
8 paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that
9 property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing,
10 the governing body shall determine that the local economic development organization:

11 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under
12 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

13 (b) is engaged in economic development and business assistance work in the area; and

14 (c) owns or leases and operates or will operate the business incubator.

15 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
16 make the assessment change for the tax exemption provided for in this section.

17 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
18 assessed by the governing body approving the exemption over which the governing body has sole discretion.
19 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
20 the exemption applies to levies and assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ or
21 otherwise required under state law.

22 (5) Property taxes abated from the reduction in property taxes allowed by this section are subject to
23 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
24 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
25 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
26 during any period in which an abatement under the provisions of this section was in effect. The amount
27 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
28 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
29 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
30 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that

1 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."

2

3 **Section 6.** Section 15-24-1902, MCA, is amended to read:

4 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
5 and operated by a local economic development organization or a port authority is eligible for an exemption from
6 property taxes as provided in this section.

7 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
8 consolidated government, incorporated city or town, or school district in which the property is located shall
9 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
10 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved,
11 the governing body shall do so by a separate resolution for each industrial park in its respective jurisdiction. The
12 governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in
13 full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall
14 determine that:

15 (a) the local economic development organization:

16 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under
17 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

18 (ii) is engaged in economic development and business assistance work in the area; and

19 (iii) owns and operates or will own and operate the industrial development park; or

20 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

21 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
22 make the assessment change for the tax exemption provided for in this section.

23 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
24 assessed by the governing body approving the exemption over which the governing body has sole discretion.
25 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
26 the exemption applies to levies or assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~
27 otherwise required under state law.

28 (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt
29 property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state,
30 or local government, the tax exemption provided in this section terminates. The termination of the exemption

1 applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property.
2 Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

3 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
4 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
5 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
6 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
7 during any period in which an abatement under the provisions of this section was in effect. The amount
8 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
9 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
10 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
11 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
12 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
13

14 **Section 7.** Section 15-24-2002, MCA, is amended to read:

15 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
16 owned by a local economic development organization that the local economic development organization intends
17 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
18 taxes as provided in this section.

19 (2) In order to qualify for the tax exemption described in this section, the governing body of the affected
20 county, consolidated government, incorporated city or town, or school district in which the building and land are
21 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The
22 governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body
23 shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the
24 building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude
25 approval. Prior to holding the hearing, the governing body shall determine that the local economic development
26 organization:

27 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
28 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

29 (b) is engaged in economic development and business assistance work in the area; and

30 (c) owns or will own the building and land.

1 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
2 make the assessment change for the tax exemption provided for in this section.

3 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
4 assessed by the governing body approving the exemption over which the governing body has sole discretion.
5 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
6 the exemption applies to levies or assessments required under Title 15, chapter 10, ~~20-9-331~~, or ~~20-9-333~~ and
7 other levies required under state law.

8 (5) When a local economic development organization sells, leases, or otherwise disposes of the exempt
9 property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state,
10 or local government, the tax exemption provided in this section terminates. The termination of the exemption
11 applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property.
12 Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

13 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
14 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
15 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,
16 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which
17 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and
18 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio
19 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property
20 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may
21 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the
22 requirements is a result of circumstances beyond the control of the taxpayer."
23

24 **Section 8.** Section 15-24-2102, MCA, is amended to read:

25 **"15-24-2102. Reduction in assessment of taxable value of commercial and industrial property --**
26 **application -- approval.** (1) (a) For property tax years 2009, 2010, and 2011, the governing bodies of a county
27 or consolidated local government unit, incorporated city or town, if the property is located in the city or town, and
28 school district may jointly reduce by 95% the taxable value of commercial real property improvements, personal
29 property, or any combination of that property, other than land, that is subject to taxation. The reduction in taxable
30 value under this section applies only to commercial or industrial property taxed under 15-6-134 or 15-6-138. A

1 taxpayer that has not been operating the property for at least 6 months immediately preceding the request for
2 reduction in taxable value and that does not intend to use the property for at least 6 months following the
3 reduction in taxable value qualifies under this section.

4 (b) (i) Except as provided in subsection (1)(b)(ii), an application for the reduction in taxable value allowed
5 under this section must be made to the affected local governing bodies by April 15 of the property tax year.

6 (ii) An application for the reduction in taxable value allowed under this section for property tax year 2009
7 must be made to the affected local governing bodies by May 15, 2009.

8 (c) For the purposes of 15-24-2103 and this section, a local governing body includes the board of
9 trustees of a school district.

10 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing
11 bodies of the affected county or consolidated local government unit, incorporated city or town, if the property is
12 located in the city or town, and school district must have approved by a separate, joint resolution for each
13 commercial or industrial property, following due notice as defined in 76-15-103 and a public hearing, the taxable
14 value reduction provided for in subsection (1) for the respective jurisdictions. The presiding officer of the
15 governing body of the affected county or consolidated local government unit is the presiding officer of the joint
16 meeting of the affected taxing jurisdictions. If the property is located in more than one county, the presiding officer
17 of the governing body of the county in which most of the property is located is the presiding officer of the joint
18 meeting.

19 (b) For the purpose of this subsection (2), each affected governing body shall provide due notice of the
20 joint meeting.

21 (c) Subject to 15-10-420, the governing bodies may end the tax benefits by majority vote at any time,
22 but the tax benefits may not be denied to a commercial or industrial business that previously qualified for the
23 benefits in the tax year.

24 (d) The joint resolution provided for in subsection (2)(a) must include a description of the improvements
25 and personal property that qualify for the tax treatment that is to be allowed in the taxing jurisdictions. The joint
26 resolution may provide that commercial real property improvements, personal property, or any combination of
27 that property, other than land, is eligible for the tax benefits described in subsection (1).

28 (3) The joint resolution must state that the reduction in taxable value is in the best interest of the
29 governing body based on full disclosure of all pertinent financial information by the owner of the real and personal
30 property as required by the local governing body. The joint resolution must be approved by a majority vote of the

1 governing body of each affected taxing jurisdiction referred to in subsection (2)(a).

2 (4) The governing bodies may refuse to reduce the taxable value of the property if they determine that
3 the business is restructuring the ownership of the property for the primary purpose of escaping payment of
4 property taxes or if the governing bodies determine that the reduction in taxable value is not in the best interest
5 of the local governments.

6 (5) The reduction in taxable value granted by the joint resolution may be only for the current tax year.
7 The governing bodies may grant a reduction in taxable value for the same owner of the property in the
8 subsequent tax year under the provisions of this section, but they may not grant a reduction in taxable value for
9 more than 3 tax years as provided in this section. The tax benefit granted under this section applies for the entire
10 tax year.

11 (6) The tax benefits may not be granted under this section if the business owes delinquent property taxes
12 for prior tax years.

13 (7) (a) If the reduction in taxable value is granted by a majority vote of the governing body of each
14 affected taxing jurisdiction, the reduction applies only to mills levied in the affected county or consolidated local
15 government unit, the affected incorporated city or town, and the affected school district.

16 (b) The benefit described in subsection (1) does not apply to levies or assessments required under Title
17 15, chapter 10, ~~20-9-331, 20-9-333,~~ or 20-9-360 or otherwise required under state law.

18 (8) Within 15 days of approving the joint resolution to grant a reduction of taxable value but not later than
19 July 15 of the tax year for which the reduction is granted, the governing body of the affected county or
20 consolidated local government unit shall notify the department of the approval by each of the affected governing
21 bodies. Upon receipt of the notification of approval by the governing body of the affected county or consolidated
22 local government unit, the department shall make the assessment change pursuant to this section for each
23 affected taxing jurisdiction."
24

25 **Section 9.** Section 15-30-2336, MCA, is amended to read:

26 **"15-30-2336. Refundable income tax credit -- statewide equalization property tax levies on**
27 **principal residence -- rules.** (1) (a) There is a credit against the tax imposed by this chapter, which is calculated
28 by multiplying the amount of property taxes imposed and paid on a property taxpayer's principal residence under
29 ~~20-9-331, 20-9-333,~~ and 20-9-360 on \$20,000 of market value on the residence times the relief multiple.

30 (b) As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief

1 allowed under this section. The relief multiple is 0. Each interim, the revenue and transportation interim committee
 2 shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine
 3 if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change
 4 the relief multiple.

5 (2) As used in this section, "principal residence" means a class four residential dwelling under 15-6-134
 6 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home
 7 and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling
 8 and that is occupied by the owner for at least 7 months during the tax year.

9 (3) Only one claim may be made with respect to any property.

10 (4) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess
 11 must be refunded to the claimant. The credit may be claimed even if the claimant has no income taxable under
 12 this chapter.

13 (5) The department may adopt rules to implement and administer this section."
 14

15 **Section 10.** Section 15-39-110, MCA, is amended to read:

16 **"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine
 17 the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that
 18 produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through ~~(9)~~ (6).

19 (b) For each semiannual period, the department shall determine the amount of tax, late payment interest,
 20 and penalties collected under this part from bentonite mines that first began producing bentonite after December
 21 31, 2004. The tax is distributed as provided in subsection ~~(10)~~ (7).

22 (2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3)
 23 through ~~(9)~~ (6) is allocated according to the following schedule:

24 (a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the
 25 purposes of the state tax levy as provided in 15-10-108;

26 (b) 18.14% to the ~~state general fund~~ guarantee account provided for in 20-9-622 to be appropriated for
 27 the purposes of the ~~tax levies as provided in 20-9-331, 20-9-333, and 20-9-360~~ basic curriculum teacher payment
 28 provided for in [section 53];

29 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing
 30 jurisdictions in which production occurs, except a distribution may not be made for county and state levies under

1 15-10-108, ~~20-9-331, 20-9-333~~, and 20-9-360; and

2 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing
3 jurisdictions in which production occurs, except a distribution may not be made for county and state levies under
4 15-10-108, ~~20-9-331, 20-9-333~~, and 20-9-360.

5 ~~———— (3) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60%~~
6 ~~of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must~~
7 ~~be distributed as provided in subsection (10).~~

8 ~~———— (4) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50%~~
9 ~~of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must~~
10 ~~be distributed as provided in subsection (10).~~

11 ~~———— (5) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40%~~
12 ~~of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must~~
13 ~~be distributed as provided in subsection (10).~~

14 ~~(6)~~(3) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013,
15 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70%
16 must be distributed as provided in subsection ~~(10)~~ (7).

17 ~~(7)~~(4) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014,
18 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80%
19 must be distributed as provided in subsection ~~(10)~~ (7).

20 ~~(8)~~(5) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015,
21 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90%
22 must be distributed as provided in subsection ~~(10)~~ (7).

23 ~~(9)~~(6) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100%
24 of the tax determined under subsection (1)(a) must be distributed as provided in subsection ~~(10)~~ (7).

25 ~~(10)~~(7) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the
26 distribution percentages determined under subsections (3) through ~~(9)~~ (6) are allocated according to the following
27 schedule:

28 (a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the
29 purposes of the state tax levy as provided in 15-10-108;

30 (b) 20.75% to the ~~state general fund~~ guarantee account provided for in 20-9-622 to be appropriated for

1 the purposes of the ~~tax levies as provided in 20-9-331, 20-9-333, and 20-9-360~~ basic curriculum teacher payment
 2 provided for in [section 53];

3 (c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year
 4 mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county
 5 and state levies under 15-10-108, ~~20-9-331, 20-9-333,~~ and 20-9-360.

6 ~~(11)(8)~~ The department shall remit the amounts to be distributed in this section to the county treasurer
 7 by the following dates:

8 (a) On or before October 1 of each year, the department shall remit the county's share of bentonite
 9 production tax payments received for the semiannual period ending June 30 of the current year to the county
 10 treasurer.

11 (b) On or before April 1 of each year, the department shall remit the county's share of bentonite
 12 production tax payments received to the county treasurer for the semiannual period ending December 31 of the
 13 previous year.

14 ~~(12)(9)~~ (a) The department shall also provide to each county the amount of gross yield of value from
 15 bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield
 16 of value must be treated as taxable value for determining school district debt limits under 20-9-406.

17 (b) The percentage amount of the gross yield of value determined under subsection ~~(12)(a)~~ (9)(a) must
 18 be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding
 19 provisions as provided by law.

20 ~~(13)(10)~~ The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the
 21 department for distribution as provided in this section."

22

23 **Section 11.** Section 17-3-213, MCA, is amended to read:

24 **"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal**
 25 **law.** (1) The board of county commissioners in each county shall decide among payment options provided in
 26 subsections (2) through ~~(6)~~ (5), as provided in Public Law 106-393 and Public Law 110-343, to determine how
 27 the forest reserve funds, Public Law 106-393 funds, and Public Law 110-343 funds apportioned to each county
 28 must be distributed by the county treasurer pursuant to this section.

29 (2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived
 30 from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as

1 provided in subsection (5).

2 (3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under
3 Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be designated
4 by the county for distribution as provided in subsection (5).

5 (b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in
6 accordance with Public Law 106-393.

7 (4) If a county's full payment under Public Law 106-393 is less than \$100,000, the county may elect to
8 distribute up to 100% of the payment as provided in subsection (5).

9 (5) (a) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be
10 distributed as follows:

11 ~~(a)(i) except as provided in subsection (5)(b),~~ to the general road fund, 66 2/3% of the amount
12 designated;

13 ~~(b)(ii) except as provided in subsection (5)(b),~~ to the following ~~countywide school levies~~ county
14 transportation fund provided for in 20-10-146, 33 1/3% of the amount designated.

15 (b) If the distribution under subsection (5)(a)(ii) exceeds the county transportation levy requirement, the
16 money in excess must be deposited to the county general road fund.

17 ~~—— (i) county equalization for elementary schools provided for in 20-9-331;~~

18 ~~—— (ii) county equalization for high schools provided for in 20-9-333;~~

19 ~~—— (iii) the county transportation fund provided for in 20-10-146; and~~

20 ~~—— (iv) the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

21 ~~(6) The apportionment of money to the funds provided for under subsection (5)(b) must be made by the~~
22 ~~county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills~~
23 ~~for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is~~
24 ~~greater than the total requirements of a levy, the excess money and any interest income must be retained in a~~
25 ~~separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection~~
26 ~~(5)(b):~~

27 ~~(7)(6)~~ In counties in which special road districts have been created according to law, the board of county
28 commissioners shall distribute a proportionate share of the ~~66 2/3% distributed~~ distribution under subsection
29 (5)~~(a)~~ for the general road fund to the special road districts within the county based upon the percentage that the
30 total area of the road district bears to the total area of the entire county.

1 ~~(6)~~(7) Except as provided in subsection ~~(9)~~ (8), if a county elects to receive the county's full payment
 2 under Public Law 110-343, not less than 80% but not more than 85% of the funds must be expended in the same
 3 manner as provided in subsection (5). A county may reserve not more than 7% of the county's full payment for
 4 projects in accordance with Title III of section 601 of Public Law 110-343. The balance of the funds may be:

5 (a) reserved for projects in accordance with Title II of section 601 of Public Law 110-343; or

6 (b) returned to the United States.

7 ~~(9)~~(8) (a) If a county's full payment is more than \$100,000 but less than or equal to \$350,000, the county
 8 may use all of the funds as provided in Title II or Title III of section 601 of Public Law 110-343 or return the funds
 9 to the United States.

10 (b) If a county's full payment is less than or equal to \$100,000, the county may elect to distribute up to
 11 100% of the payment as provided in subsection (5)."

12

13 **Section 12.** Section 17-3-1003, MCA, is amended to read:

14 **"17-3-1003. Support of state institutions.** (1) Except as provided in subsection (5), for the support and
 15 endowment of each state institution, there is annually and perpetually appropriated, after any deductions made
 16 under 77-1-109, the income from all permanent endowments for the institution and from all land grants as
 17 provided by law. All money received or collected in connection with permanent endowments by all higher
 18 educational institutions, reformatory, custodial and penal institutions, state hospitals, and sanitariums, for any
 19 purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the
 20 purchase, construction, equipment, or improvement of facilities at units of the Montana university system and for
 21 the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to
 22 withdrawal or repayment, must be paid to the state treasurer, who shall deposit the money to the credit of the
 23 proper fund.

24 (2) Except as provided in subsections (1), (3), and (5), all money received from the investment of grants
 25 of a state institution and all money received from the leasing of lands granted to a state institution must be
 26 deposited with the state treasurer of Montana for each institution, to the credit of the state special revenue fund.

27 (3) Except as provided in 77-1-109 and subsection (4) of this section, all money received from the sale
 28 of timber from lands granted to a state institution must be deposited to the credit of the permanent trust fund for
 29 the support of the institution.

30 (4) The board of regents shall designate, at least once a biennium, whether the timber sale proceeds

1 from Montana university system lands must be distributed to the beneficiaries or placed in the permanent fund.

2 (5) Except as provided in 77-1-109, income received from certain lands and riverbeds pursuant to
3 77-1-103(4) or 77-4-208 must be deposited ~~as follows:~~

4 ~~—— (a) from July 1, 2011, through June 30, 2014, to in the guarantee account provided for in 20-9-622; and~~

5 ~~—— (b) on or after July 1, 2014, to the school facility and technology account provided for in 20-9-516."~~

6

7 **Section 13.** Section 17-6-340, MCA, is amended to read:

8 **"17-6-340. Purchase of permanent fund mineral estate.** The department of natural resources and
9 conservation may purchase the mineral production rights held by the public school fund established in Article X,
10 section 2, of the Montana constitution for fair market value. If the department of natural resources and
11 conservation purchases mineral production rights, any royalty payments received by the board that are not used
12 to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must
13 be deposited in the guarantee account provided for in 20-9-622 ~~and transferred to the school facility and~~
14 ~~technology account provided for in 20-9-516."~~

15

16 **Section 14.** Section 17-7-140, MCA, is amended to read:

17 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall
18 ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in
19 subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the
20 criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the
21 projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations
22 during the biennium. An agency may not be required to reduce general fund spending for any program, as defined
23 in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by
24 elected officials or the board of regents may not be required to reduce general fund spending by a percentage
25 greater than the percentage of general fund spending reductions required for the total of all other executive
26 branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may
27 direct that the appropriation item may not be reduced by more than 10%.

28 (b) The governor shall direct agencies to manage their budgets in order to reduce general fund
29 expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall
30 direct each agency to analyze the nature of each program that receives a general fund appropriation to determine

1 whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending
 2 on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning
 3 and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The office of budget and
 4 program planning shall review each agency's analysis, and the budget director shall submit to the governor a
 5 copy of the office of budget and program planning's recommendations for reductions in spending. The budget
 6 director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the
 7 recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed
 8 changes to the recommendations. The legislative finance committee shall meet within 20 days of the date that
 9 the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal
 10 analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed
 11 reductions in spending to the budget director at least 5 days before the meeting of the legislative finance
 12 committee. The committee may make recommendations concerning the proposed reductions in spending. The
 13 governor shall consider each agency's analysis and the recommendations of the office of budget and program
 14 planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in
 15 spending must be designed to have the least adverse impact on the provision of services determined to be most
 16 integral to the discharge of the agency's statutory responsibilities.

17 (2) Reductions in spending for the following may not be directed by the governor:

- 18 (a) payment of interest and principal on state debt;
 19 (b) the legislative branch;
 20 (c) the judicial branch;
 21 (d) the school BASE funding program, ~~including special education~~;
 22 (e) the state or federal portion of over-BASE aid as provided for in 20-9-306;
 23 ~~(f)~~ salaries of elected officials during their terms of office; and
 24 ~~(f)~~ (g) the Montana school for the deaf and blind.

25 (3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the
 26 budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- 27 (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of
 28 the year preceding a legislative session;
 29 (ii) 3/4 of 1% in October of the year preceding a legislative session;
 30 (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and

1 (iv) 1/4 of 1% in March of the year in which a legislative session is convened.

2 (b) In determining the amount of the projected general fund budget deficit, the budget director shall take
3 into account revenue, established levels of appropriation, anticipated supplemental appropriations for school
4 equalization aid, and anticipated reversions.

5 (4) If the budget director determines that an amount of actual or projected receipts will result in an
6 amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227,
7 the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within
8 20 days of notification, the revenue and transportation interim committee shall provide the budget director with
9 any recommendations concerning the amount. The budget director shall consider any recommendations of the
10 revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the
11 governor."
12

13 **Section 15.** Section 17-7-301, MCA, is amended to read:

14 **"17-7-301. Authorization to expend during first year of biennium from appropriation for second**
15 **year -- proposed supplemental appropriation defined -- limit on second-year expenditures.** (1) An agency
16 may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year
17 of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general
18 appropriations act to make first-year expenditures may be granted spending authorization by the approving
19 authority upon submission and approval of a proposed supplemental appropriation to the approving authority.
20 The proposal submitted to the approving authority must include a plan for reducing expenditures in the second
21 year of the biennium that allows the agency to contain expenditures within appropriations. If the approving
22 authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the
23 first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the
24 agency during the year for which the appropriation was made, the approving authority shall, after careful study
25 and examination of the request and upon review of the recommendation for executive branch proposals by the
26 budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

27 (2) The plan for reducing expenditures required by subsection (1) is not required if the proposed
28 supplemental appropriation is:

29 (a) due to an unforeseen and unanticipated emergency for fire suppression;

30 (b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351,

1 and is to complete the state's funding of ~~guaranteed tax base aid~~, BASE aid, over-BASE aid, or transportation
2 aid, or equalization aid to elementary and secondary schools for the current biennium; or

3 (c) requested by the attorney general and:

4 (i) is to pay the costs associated with litigation in which the department of justice is required to provide
5 representation to the state of Montana; or

6 (ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is
7 responsible for confinement of an arrested person in a detention center.

8 (3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the
9 approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the
10 appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving
11 authority shall require the agency to implement the plan for reducing expenditures in the second year of the
12 biennium that contains agency expenditures within appropriations.

13 (4) The agency may expend the amount authorized by the approving authority only for the purposes
14 specified in the authorization.

15 (5) The approving authority shall report to the next legislature in a special section of the budget the
16 amounts expended as a result of all authorizations granted by the approving authority and shall request that any
17 necessary supplemental appropriation bills be passed.

18 (6) As used in this part, "proposed supplemental appropriation" means an application for authorization
19 to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year
20 of the biennium.

21 (7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the
22 second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly
23 referred to as a "supplemental appropriation".

24 (b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in
25 the second year of the biennium that contains agency expenditures within appropriations. The approving authority
26 is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated
27 expenditures that are required by state or federal law will cause an agency to exceed appropriations or available
28 funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the
29 greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer
30 funds between fund types in order to implement a plan."

1

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

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

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

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

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

11 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
12 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
13 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
14 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
15 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
16 19-20-604; 19-20-607; 19-21-203; 20-8-107; ~~20-9-534~~; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
17 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
18 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
19 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
20 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603; 87-1-621;
21 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

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

1 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
 2 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
 3 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
 4 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 5 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 6 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 7 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 8 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 9 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 10 June 30, 2017.)"

11

12 **Section 17.** Section 20-1-301, MCA, is amended to read:

13 **"20-1-301. School fiscal year.** (1) The school fiscal year begins on July 1 and ends on June 30. At least
 14 the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except
 15 that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient.

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

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

19 (b) 720 hours for grades 1 through 3; and

20 (c) 1,080 hours for grades 4 through 12.

21 (3) For any elementary or high school district that fails to provide for at least the minimum aggregate
 22 hours of course curriculum instruction, as listed in subsections (1) and (2), the superintendent of public instruction
 23 shall reduce the ~~direct state~~ BASE aid for the district for that school year by two times an hourly rate, as
 24 calculated by the office of public instruction, for the aggregate hours missed."

25

26 **Section 18.** Section 20-2-121, MCA, is amended to read:

27 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

28 (1) effect an orderly and uniform system for teacher certification and specialist certification and for the
 29 issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and
 30 20-4-111;

- 1 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial
2 of teacher or specialist certification in accordance with the provisions of 20-4-110;
- 3 (3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;
- 4 (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction,
5 and operation of school buses in accordance with the provisions of 20-10-111;
- 6 (5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types
7 of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of
8 20-1-303 and 20-1-304;
- 9 (6) ~~adopt standards of accreditation and~~ establish the accreditation status of every school in accordance
10 with the provisions of 20-7-101 and 20-7-102;
- 11 (7) approve or disapprove educational media selected by the superintendent of public instruction for the
12 educational media library in accordance with the provisions of 20-7-201;
- 13 (8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;
- 14 (9) adopt rules for issuance of documents certifying equivalency of completion of secondary education
15 in accordance with 20-7-131;
- 16 (10) adopt policies for the conduct of programs for gifted and talented children in accordance with the
17 provisions of 20-7-903 and 20-7-904;
- 18 (11) adopt rules for student assessment in the public schools; and
- 19 (12) perform any other duty prescribed from time to time by this title or any other act of the legislature."
20

21 **Section 19.** Section 20-3-106, MCA, is amended to read:

22 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction has
23 the general supervision of the public schools and districts of the state and shall perform the following duties or
24 acts in implementing and enforcing the provisions of this title:

- 25 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the
26 provisions of 20-3-362;
- 27 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- 28 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
29 20-5-314;
- 30 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of

- 1 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- 2 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- 3 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
4 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and
5 20-9-506;
- 6 (7) establish a system of communication for calculating joint district revenue in accordance with the
7 provisions of 20-9-151;
- 8 (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions
9 prescribed in 20-9-163 and adopt rules for an application for additional ~~direct state~~ BASE aid for a budget
10 amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 11 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 12 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
13 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county
14 superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;
- 15 ~~———(11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance
16 with the provisions of 20-9-313 and 20-9-314;~~
- 17 ~~(12)(11) distribute BASE and over-BASE aid and special education allowable cost payments in support
18 of the BASE funding program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346,
19 20-9-347, and 20-9-366 through 20-9-369;~~
- 20 ~~(13)(12) provide for the uniform and equal provision of transportation by performing the duties prescribed
21 by the provisions of 20-10-112;~~
- 22 ~~(14)(13) request, accept, deposit, and expend federal money in accordance with the provisions of
23 20-9-603;~~
- 24 ~~(15)(14) authorize the use of federal money for the support of an interlocal cooperative agreement in
25 accordance with the provisions of 20-9-703 and 20-9-704;~~
- 26 ~~(16)(15) prescribe the form and contents of and approve or disapprove interstate contracts in accordance
27 with the provisions of 20-9-705;~~
- 28 ~~(17)(16) recommend standards of accreditation for all schools to the board of public education legislature
29 and evaluate compliance with the standards and recommend accreditation status of every school to the board
30 of public education in accordance with the provisions of 20-7-101 and 20-7-102;~~

1 ~~(18)~~(17) collect and maintain a file of curriculum guides and assist schools with instructional programs
2 in accordance with the provisions of 20-7-113 and 20-7-114;

3 ~~(19)~~(18) establish and maintain a library of visual, aural, and other educational media in accordance with
4 the provisions of 20-7-201;

5 ~~(20)~~(19) license textbook dealers and initiate prosecution of textbook dealers violating the law in
6 accordance with the provisions of the textbooks part of this title;

7 ~~(21)~~(20) as the governing agent and executive officer of the state of Montana for K-12 career and
8 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of
9 20-7-301;

10 ~~(22)~~(21) supervise and coordinate the conduct of special education in the state in accordance with the
11 provisions of 20-7-403;

12 ~~(23)~~(22) administer the traffic education program in accordance with the provisions of 20-7-502;

13 ~~(24)~~(23) administer the school food services program in accordance with the provisions of 20-10-201
14 through 20-10-203;

15 ~~(25)~~(24) review school building plans and specifications in accordance with the provisions of 20-6-622;

16 ~~(26)~~(25) provide schools with information and technical assistance for compliance with the student
17 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
18 the board of public education and the legislature;

19 ~~(27)~~(26) upon request and in compliance with confidentiality requirements of state and federal law,
20 disclose to interested parties all school district student assessment data for a test required by the board of public
21 education; and

22 ~~—(28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;~~
23 **and**

24 ~~(29)~~(27) perform any other duty prescribed from time to time by this title, any other act of the legislature,
25 or the policies of the board of public education."

26

27 **Section 20.** Section 20-3-205, MCA, is amended to read:

28 **"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools
29 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

30 (a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions

1 of 20-3-352, 20-3-353, and 20-3-354;

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

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

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

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

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

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

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

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

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

18 (k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget
19 amendments, and fulfill other responsibilities assigned under the provisions of this title;

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

23 ~~_____ (m) act on any request to transfer average number belonging (ANB) in accordance with the provisions~~
24 ~~of 20-9-313(1)(c);~~

25 ~~(n)~~(m) calculate the estimated budgeted general fund sources of revenue in accordance with the general
26 fund revenue provisions of the general fund part of this title;

27 ~~(o)~~(n) compute the revenue and compute the district and county levy requirements for each fund included
28 in each district's final budget and report the computations to the board of county commissioners in accordance
29 with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

30 ~~(p)~~(o) file and forward bus driver certifications, transportation contracts, and state transportation

1 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

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

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

6 ~~(s)~~(r) act on district requests to allocate federal money for indigent children for school food services in
7 accordance with the provisions of 20-10-205;

8 ~~(t)~~(s) perform any other duty prescribed from time to time by this title, any other act of the legislature, the
9 policies of the board of public education, the policies of the board of regents relating to community college
10 districts, or the rules of the superintendent of public instruction;

11 ~~(u)~~(t) administer the oath of office to trustees without the receipt of pay for administering the oath;

12 ~~(v)~~(u) keep a record of official acts, preserve all reports submitted to the superintendent under the
13 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable
14 to the administration of the office, and surrender all records, books, supplies, and equipment to the next
15 superintendent;

16 ~~(w)~~(v) within 90 days after the close of the school fiscal year, publish an annual report in the county
17 newspaper stating the following financial information for the school fiscal year just ended for each district of the
18 county:

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

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

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

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

24 ~~(x)~~(w) hold meetings for the members of the trustees from time to time at which matters for the good of
25 the districts must be discussed.

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

28 (b) When two or more districts in more than one county consolidate, the duties required by this section
29 must be performed by the county superintendent designated in the same manner as other county officials in
30 20-9-202."

1

2 **Section 21.** Section 20-3-209, MCA, is amended to read:

3 **"20-3-209. Annual report.** The county superintendent of each county shall submit an annual report to
4 the superintendent of public instruction on or before September 15. The report must be completed on the forms
5 supplied by the superintendent of public instruction and must include:

6 (1) the final budget information for each district of the county, as prescribed by 20-9-134(1);

7 (2) the revenue amounts used to establish the levy requirements for the county school fund supporting
8 school district transportation schedules, as prescribed by 20-10-146, ~~and for the county school funds supporting~~
9 ~~elementary and high school district retirement obligations, as prescribed by 20-9-504;~~

10 (3) the financial activities of each district of the county for the immediately preceding school fiscal year
11 as provided by the trustees' annual report to the county superintendent under the provisions of 20-9-213(6); and

12 (4) any other information that may be requested by the superintendent of public instruction that is within
13 the superintendent's authority prescribed by this title."

14

15 **Section 22.** Section 20-3-324, MCA, is amended to read:

16 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

17 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district
18 superintendent, the county high school principal, or other principal as the board considers necessary, accepting
19 or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the
20 provisions of Title 20, chapter 4;

21 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians,
22 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered
23 necessary to carry out the various services of the district;

24 (3) administer the attendance and tuition provisions and govern the pupils of the district in accordance
25 with the provisions of the pupils chapter of this title;

26 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the school
27 elections chapter of this title;

28 (5) participate in the teachers' retirement system of the state of Montana in accordance with the
29 provisions of the teachers' retirement system chapter of Title 19;

30 (6) participate in district boundary change actions in accordance with the provisions of the school districts

- 1 chapter of this title;
- 2 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the
3 provisions of the school organization part of this title;
- 4 (8) adopt and administer the annual budget or a budget amendment of the district in accordance with
5 the provisions of the school budget system part of this title;
- 6 (9) conduct the fiscal business of the district in accordance with the provisions of the school financial
7 administration part of this title;
- 8 (10) establish the ANB, BASE budget ~~levy~~, over-BASE budget, any district voted budget levy, additional
9 levy, and operating reserve, ~~and state impact aid~~ amounts for the general fund of the district in accordance with
10 the provisions of the general fund part of this title;
- 11 (11) establish, maintain, budget, and finance the transportation program of the district in accordance with
12 the provisions of the transportation parts of this title;
- 13 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions
14 of the bonds parts of this title;
- 15 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund,
16 building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous
17 programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal
18 cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance
19 with the provisions of the other school funds parts of this title;
- 20 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in
21 accordance with the provisions of the miscellaneous financial parts of this title;
- 22 (15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with
23 the provisions of the school sites and facilities part of this title;
- 24 (16) operate the schools of the district in accordance with the provisions of the school calendar part of
25 this title;
- 26 (17) set the length of the school term, school day, and school week in accordance with 20-1-302;
- 27 (18) establish and maintain the instructional services of the schools of the district in accordance with the
28 provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special
29 education parts of this title;
- 30 (19) establish and maintain the school food services of the district in accordance with the provisions of

1 the school food services parts of this title;

2 (20) make reports from time to time as the county superintendent, superintendent of public instruction,
3 and board of public education may require;

4 (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions
5 of the school or the general health conditions of each pupil and, upon request, make available to any parent or
6 guardian any medical reports or health records maintained by the district pertaining to the child;

7 (22) for each member of the trustees, visit each school of the district not less than once each school fiscal
8 year to examine its management, conditions, and needs, except that trustees from a first-class school district may
9 share the responsibility for visiting each school in the district;

10 (23) procure and display outside daily in suitable weather on school days at each school of the district
11 an American flag that measures not less than 4 feet by 6 feet;

12 (24) provide that an American flag that measures approximately 12 inches by 18 inches be prominently
13 displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled.
14 This requirement is waived if the flags are not provided by a local civic group.

15 (25) adopt and administer a district policy on assessment for placement of any child who enrolls in a
16 school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

17 (26) upon request and in compliance with confidentiality requirements of state and federal law, disclose
18 to interested parties school district student assessment data for any test required by the board of public
19 education;

20 (27) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in
21 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a
22 postsecondary institution;

23 (28) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of
24 20-1-303;

25 (29) consider and, if advisable for a high school or K-12 district, establish a student financial institution,
26 as defined in 32-1-115; and

27 (30) perform any other duty and enforce any other requirements for the government of the schools
28 prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public
29 instruction."

30

1 **Section 23.** Section 20-3-363, MCA, is amended to read:

2 **"20-3-363. Multidistrict agreements -- fund transfers.** (1) The boards of trustees of any two or more
3 school districts may enter into a multidistrict agreement to create a multidistrict cooperative to perform any
4 services, activities, and undertakings of the participating districts and to provide for the joint funding and operation
5 and maintenance of all participating districts upon the terms and conditions as may be mutually agreed to by the
6 districts subject to the conditions of this section. An agreement must be approved by the boards of trustees of
7 all participating districts by April 1 of the year in which the agreement is executed and by April 1 in any
8 subsequent year to which the agreement applies.

9 (2) All expenditures in support of the multidistrict agreement may be made from the interlocal cooperative
10 fund as specified in 20-9-703 and 20-9-704. Each participating district of the multidistrict cooperative may transfer
11 funds into the interlocal cooperative fund from the general fund or any other budgeted fund of the district.
12 Transfers to the interlocal cooperative fund from each participating school district's general fund are limited to an
13 amount not to exceed the ~~direct state~~ BASE aid in support of the respective school district's general fund. All
14 transfers must be completed by April 1 of the year in which the agreement is executed and by April 1 in any
15 subsequent year to which the agreement applies.

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

19 (4) The intent of this section is to increase the flexibility and efficiency of school districts without an
20 increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund
21 supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the
22 amount of funds transferred.

23 (5) As used in this title, "multidistrict cooperative" means a public entity created by two or more school
24 districts executing a multidistrict agreement under this section or any school district or other public entity
25 participating in an interlocal cooperative agreement under the provisions of Title 20, chapter 9, part 7, as either
26 a coordinating or a cooperating agency."
27

28 **Section 24.** Section 20-4-203, MCA, is amended to read:

29 **"20-4-203. Teacher tenure.** (1) Except as provided in 20-4-208, whenever a teacher has been elected
30 by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position

1 requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be
 2 reelected from year to year as a tenured teacher at the same salary and in the same or a comparable position
 3 of employment as that provided by the last-executed contract with the teacher unless the trustees resolve by
 4 majority vote of their membership to terminate the services of the teacher in accordance with the provisions of
 5 20-4-204.

6 (2) The tenure of a teacher with a district may not be impaired upon termination of services of the teacher
 7 if the following conditions exist:

8 (a) the tenure teacher is terminated because the financial condition of the district requires a reduction
 9 in the number of teachers employed; and

10 (b) continued employment rights are provided for in a collectively bargained contract of the district.

11 (3) (a) For the purposes of subsection (1), "same salary" means the daily rate of pay, excluding benefits
 12 and excluding stipends for nonteaching duties, multiplied by the number of days worked under the last-executed
 13 contract with the teacher, up to the total number of days funded by the state ~~in the per-ANB entitlements, as~~
 14 ~~provided in 20-9-311~~, including pupil-instruction-related days. The calculation of daily rate of pay is determined
 15 by dividing the salary in the last-executed contract with the teacher for pupil-instruction and
 16 pupil-instruction-related days, excluding benefits and excluding stipends for nonteaching duties, by the total
 17 number of contracted days under the last-executed contract.

18 (b) The definition of same salary may be modified if negotiated and agreed to in a collective bargaining
 19 agreement executed by the district and the teacher's exclusive representative pursuant to Title 39, chapter 31,
 20 or in an individual contract between the district and a teacher in a district in which the teachers have no exclusive
 21 representative as provided in Title 39, chapter 31.

22 (4) Upon receiving tenure, the employment of a teacher may be terminated for good cause."
 23

24 **Section 25.** Section 20-4-501, MCA, is amended to read:

25 **"20-4-501. Quality Certified educator loan assistance program.** There is a quality certified educator
 26 loan assistance program administered by the board of regents through the office of the commissioner of higher
 27 education. The program must provide for the direct repayment of educational loans of eligible quality certified
 28 educators in accordance with policies and procedures adopted by the board of regents in accordance with this
 29 part."
 30

1 **Section 26.** Section 20-4-502, MCA, is amended to read:

2 **"20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following
3 definitions apply:

4 (1) (a) "Certified educator" means a full-time equivalent educator, as reported to the superintendent of
5 public instruction for accreditation purposes in the current school year, who holds a valid certificate under the
6 provisions of 20-4-106 and is employed by an entity listed in subsection (1)(b) of this section in a position that
7 requires an educator license in accordance with administrative rules adopted by the board of public education.

8 (b) For purposes of subsection (1)(a), an entity means:

9 (i) a school district;

10 (ii) an education cooperative;

11 (iii) the Montana school for the deaf and blind, as described in 20-8-101;

12 (iv) the Montana youth challenge program; and

13 (v) a state youth correctional facility, as defined in 41-5-103.

14 ~~(1)(2)~~ "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

15 ~~(2)(3)~~ "Educational loans" means all loans made pursuant to a federal loan program, except federal
16 parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

17 ~~(3)(4)~~ "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C.
18 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

19 ~~(4) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of~~
20 ~~public instruction for accreditation purposes in the current school year, who:~~

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

24 ~~(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301,~~
25 ~~37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (4)(b) of this section to~~
26 ~~provide services to students.~~

27 ~~(b) For purposes of subsection (4)(a), an entity means:~~

28 ~~(i) a school district;~~

29 ~~(ii) an education cooperative;~~

30 ~~(iii) the Montana school for the deaf and blind, as described in 20-8-101;~~

- 1 ~~_____ (iv) the Montana youth challenge program; and~~
- 2 ~~_____ (v) a state youth correctional facility, as defined in 41-5-103.~~

3 (5) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."
 4

5 **Section 27.** Section 20-4-503, MCA, is amended to read:

6 **"20-4-503. Critical quality certified educator shortages.** (1) The board of public education, in
 7 consultation with the office of public instruction, shall identify:

- 8 (a) specific schools that are impacted by critical quality certified educator shortages; and
- 9 (b) within the schools identified in subsection (1)(a), the specific quality certified educator licensure or
 10 endorsement areas that are impacted by critical quality certified educator shortages.

11 (2) The board of public education shall publish an annual report listing the schools and the licensure or
 12 endorsement areas identified as impacted by critical quality certified educator shortages, explaining the reasons
 13 that specific schools and licensure or endorsement areas have been identified and providing information
 14 regarding any success in retention.

15 (3) Quality Certified educators working at schools identified in subsection (1) are eligible for repayment
 16 of all or part of the quality certified educator's outstanding educational loans existing at the time of application in
 17 accordance with the eligibility and award criteria established under this part."
 18

19 **Section 28.** Section 20-4-504, MCA, is amended to read:

20 **"20-4-504. Loan repayment assistance.** Loan repayment assistance may be provided on behalf of a
 21 quality certified educator who:

- 22 (1) is employed in an identified school described in 20-4-503(1); and
- 23 (2) has an educational loan that is not in default and that has a minimum unpaid current balance of at
 24 least \$1,000 at the time of application."
 25

26 **Section 29.** Section 20-4-505, MCA, is amended to read:

27 **"20-4-505. Loan repayment assistance documentation.** (1) A quality certified educator shall submit
 28 an application for loan repayment assistance to the board of regents in accordance with policies and procedures
 29 adopted by the board of regents. The application must include official verification or proof of the applicant's total
 30 unpaid accumulated educational loan debt and other documentation required by the board of regents that is

1 necessary for verification of the applicant's eligibility.

2 (2) A quality certified educator is eligible for loan repayment assistance for up to a maximum of 4 years.
3 The total annual loan repayment assistance for an eligible quality certified educator may not exceed \$3,000. The
4 board of regents may require an eligible quality certified educator to provide documentation that the quality
5 certified educator has exhausted repayment assistance from other federal, state, or local loan forgiveness,
6 discharge, or repayment incentive programs.

7 (3) The board of regents may remit payment of the loan on behalf of the quality certified educator in
8 accordance with the requirements of this part and policies and procedures adopted by the board of regents."
9

10 **Section 30.** Section 20-4-506, MCA, is amended to read:

11 **"20-4-506. Funding -- priorities.** (1) If the funding for this part in any year is less than the total amount
12 for which Montana quality certified educators qualify, the board of regents shall provide preference in the award
13 of loan repayment assistance to quality certified educators working in the specific schools that are most impacted
14 by quality certified educator shortages identified as provided in 20-4-503.

15 (2) This part may not be construed to require the provision of loan repayment assistance without an
16 express appropriation for that purpose. This part may not be construed to require loan repayment assistance for
17 school years prior to July 1, 2007."
18

19 **Section 31.** Section 20-5-102, MCA, is amended to read:

20 **"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), any parent,
21 guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the
22 first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the
23 ~~board of public education~~ legislature pursuant to 20-7-111 until the later of the following dates:

24 (a) the child's 16th birthday; or

25 (b) the date of completion of the work of the 8th grade.

26 (2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the
27 district within the first week of the school term or when the parent, guardian, or person establishes residence in
28 the district unless the child is:

29 (a) enrolled in a school of another district or state under any of the tuition provisions of this title;

30 (b) provided with supervised correspondence study or supervised home study under the transportation

1 provisions of this title;

2 (c) excused from compulsory school attendance upon a determination by a district judge that attendance
3 is not in the best interest of the child;

4 (d) excused by the board of trustees upon a determination that attendance by a child who has attained
5 the age of 16 is not in the best interest of the child and the school; or

6 (e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the
7 purposes of this subsection (2)(e), a home school is the instruction by a parent of the parent's child, stepchild,
8 or ward in the parent's residence and a nonpublic school includes a parochial, church, religious, or private
9 school."

10

11 **Section 32.** Section 20-5-323, MCA, is amended to read:

12 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5),
13 whenever a child has approval to attend a school outside of the child's district of residence under the provisions
14 of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the
15 ~~per-ANB maximum rate established in 20-9-306~~ per- student program costs for the year of attendance.

16 (2) The tuition for a child with a disability must be determined under rules adopted by the superintendent
17 of public instruction for the calculation of tuition for special education pupils.

18 (3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student
19 without disabilities who requires a program with costs that exceed the average district costs must be determined
20 as the actual individual costs of providing that program according to the following:

21 (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall
22 approve an agreement with the district of attendance for the tuition cost;

23 (b) for a Montana resident student, 80% of ~~the maximum per-ANB rate established in 20-9-306, received~~
24 ~~in the year for which the tuition charges are calculated, must be subtracted from~~ the per-student program costs
25 for a Montana resident student; and

26 (c) the maximum tuition rate paid to a district under this section may not exceed ~~\$2,500 per ANB~~ the
27 per-student program costs.

28 (4) When a child attends a public school of another state or province, the amount of daily tuition may not
29 be greater than the average annual cost for each student in the child's district of residence. This calculation for
30 tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the

1 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal
 2 year. For the purposes of this subsection, the following do not apply:

- 3 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;
- 4 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;
- 5 (c) an order issued under Title 40, chapter 4, part 2; or
- 6 (d) out-of-state placement by a state agency.
- 7 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency
 8 making the placement is responsible for the education costs resulting from the placement.
- 9 (6) The amount, if any, charged for transportation may not exceed the lesser of the average
 10 transportation cost for each student in the child's district of residence or 35 cents a mile. The average
 11 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing
 12 the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

13

14 **Section 33.** Section 20-5-324, MCA, is amended to read:

15 **"20-5-324. Tuition report and payment provisions.** (1) Following the close of each school fiscal year,
 16 the trustees of a district shall report to the superintendent of public instruction:

- 17 (a) the name and district of residence of each child who attended a school of the district under a
 18 mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e) in the
 19 previous school year;
- 20 (b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);
- 21 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
 22 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);
- 23 (d) the names, districts of attendance, and amount of tuition paid by the district for resident students
 24 attending public schools out of state in the previous school year; and
- 25 (e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students
 26 attending day-treatment programs under approved individualized education programs at private, nonsectarian
 27 schools in the previous school year.

28 (2) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

- 29 (a) pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c),
 30 prorated for the actual days of enrollment;

1 (b) determine the total ~~per-ANB-entitlement~~ per-student program costs for which the district would have
2 been eligible if the students reported in subsections (1)(d) and (1)(e) had been enrolled in the resident district in
3 the prior year; and

4 (c) reimburse the district of residence for the state portion of the ~~per-ANB-entitlement~~ per-student
5 program costs for each student, not to exceed the district's actual payment of tuition or fees for service for the
6 student in the previous year.

7 (3) In order to be eligible to receive payment under subsection (2), the trustees of the district of
8 attendance shall submit the report required by subsection (1) within the school fiscal year following the year of
9 attendance.

10 (4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district
11 placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.

12 (5) (a) (i) When a child has approval to attend a school outside the child's district of residence at the
13 resident district's expense under the provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has
14 approval to attend a day-treatment program under an approved individualized education program at a private,
15 nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance
16 the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

17 (ii) By December 31 of the school fiscal year following the year of attendance, the district of residence
18 shall pay at least one-half of any tuition and transportation obligation established under subsection (5)(a)(i) out
19 of the money realized to date from the district tuition or transportation fund. The remaining tuition and
20 transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

21 (b) When a child has approval to attend a school outside the child's district of residence because of a
22 parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the
23 child shall finance the tuition and transportation amount.

24 (6) (a) Except as provided in subsections (6)(b) through (6)(d), the district shall credit tuition receipts to
25 the district general fund and transportation receipts to the transportation fund.

26 (b) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year
27 that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund
28 and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for
29 which the tuition was received.

30 (c) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a disability

1 that exceed the tuition amount received for a pupil without disabilities may be deposited in the district
2 miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support
3 the costs of the program for which the tuition was received.

4 (d) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts
5 of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in
6 the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the
7 district general fund budget.

8 (7) The reimbursements paid under subsection (2)(c) must be deposited into the district tuition fund and
9 must be used by the district to pay obligations for resident students attending public schools out of state or for
10 resident students attending day-treatment programs under approved individualized education programs at private,
11 nonsectarian schools at district expense.

12 (8) The provisions of this section do not apply to out-of-state placements made by a state agency
13 pursuant to 20-7-422."
14

15 **Section 34.** Section 20-6-326, MCA, is amended to read:

16 **"20-6-326. Procedure for creation of high school district solely for expansion into K-12 school**
17 **district -- trustee resolution.** (1) An existing elementary district may create a high school district solely for the
18 purpose of expanding an elementary district into a K-12 district only if:

19 (a) the nearest elementary school building is located at a distance of at least 40 miles from the nearest
20 accessible high school;

21 (b) the trip from the nearest elementary school building to the nearest accessible high school is 60
22 minutes or more over the shortest passable route;

23 (c) periodically during the school year, the condition of the road makes it impractical to attend the nearest
24 accessible high school; and

25 (d) at least 50 high school students reside in the elementary district; and

26 (e) the taxable valuation and boundaries of the combining elementary and high school district are the
27 same.

28 (2) The creation of a new high school district may be requested by the trustees of an existing elementary
29 district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the
30 county superintendent to order an election to allow the electors of the elementary district to consider the

1 proposition to create a high school district solely for the purpose of expanding the elementary school district into
2 a K-12 district. Approval of the proposition results in a tax levy for payments as provided in subsection (6)(b).

3 (3) If the proposition for the expansion and the transition levy provided for in 20-9-502(6) is approved
4 by the electors of the elementary district and the trustees issue a certificate of election as provided in 20-20-416,
5 the county superintendent shall order the creation of the high school district and oversee the expansion of the
6 high school district into a K-12 district pursuant to 20-6-701.

7 (4) The county superintendent shall send a copy of the order to the board of county commissioners and
8 to the trustees of the districts affected by the creation of the district.

9 (5) If a new district is created, the effective date of its creation is the following July 1. The trustees of the
10 elementary district must be designated as the trustees of the new K-12 district.

11 (6) Until the first school fiscal year in which the new K-12 district enrolls high school students in all
12 grades, the existing high school district shall provide high school instruction to students residing in the newly
13 created K-12 district with the K-12 district paying the existing high school district:

14 (a) tuition and transportation charged pursuant to the provisions of 20-5-320 and 20-5-321; and

15 (b) an amount equal to the ~~BASE~~ general fund mills for the existing high school district assessed against
16 the taxable valuation in the new K-12 district and funded using a building reserve fund levy for transition costs
17 as provided in 20-9-502. The payment to the existing high school district must be deposited in the district general
18 fund and used ~~to reduce the BASE budget levy for transition costs.~~

19 (7) If bonded indebtedness has been approved by the voters of the existing high school district prior to
20 April 12, 2007, but the bonds have not been sold prior to the creation of the new K-12 district, then the future
21 indebtedness of those bonds when those bonds are sold must be paid by levies on the original territory.

22 (8) If the K-12 school district does not open and operate a high school within 3 years after the effective
23 date of the creation of the new district, the order of the county superintendent creating a new district under this
24 section is void, the new district ceases to exist, and the trustees of the new district have no capacity to act. Those
25 trustees retain authority as trustees of the elementary district."

26

27 **Section 35.** Section 20-6-502, MCA, is amended to read:

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

1 (1) The parents of at least two pupils who would attend the opened or reopened school petition the
2 trustees of the district to open or reopen a school. The petition must identify the school, state the reasons for
3 requesting the opening or reopening, and give the names of the children who would attend the school.

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

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

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

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

1 (ii) Before a school may open or reopen during the current school fiscal year, the school must be
 2 classified as an isolated school in accordance with the provisions of 20-9-302, except that the dates in that
 3 section for the submission and approval of the application for classification do not apply and the application must
 4 be made at the same time that the application for opening or reopening the school is made."

5

6 **Section 36.** Section 20-6-503, MCA, is amended to read:

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

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

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

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

18 (d) the taxable value of the district;

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

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

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

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

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

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

1 (4) Nothing ~~herein~~ contained ~~shall in this section may~~ be construed ~~so as~~ to preclude the trustees of a
2 high school district from establishing more than one high school in the district."

3

4 **Section 37.** Section 20-6-504, MCA, is amended to read:

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

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

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

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

23

24 **Section 38.** Section 20-6-702, MCA, is amended to read:

25 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
26 through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for
27 high school districts.

28 (2) The number of elected trustees of the K-12 school district must be based on the classification of the
29 attached elementary district under the provisions of 20-3-341 and 20-3-351.

30 (3) Calculations for the ~~following~~ basic curriculum teacher payment as provided in [section 53] must be

1 made separately for the elementary school program and the high school program of a K-12 school district;

2 ~~(a) the~~ The calculation of ANB for purposes of determining the total per-ANB entitlements for countywide
 3 school transportation grants must be in accordance with the provisions of 20-9-311;

4 ~~—— (b) the basic county tax for elementary equalization and revenue for the elementary BASE funding~~
 5 ~~program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county~~
 6 ~~tax for high school equalization and revenue for the high school BASE funding program for the district must be~~
 7 ~~determined in accordance with 20-9-333; and~~

8 ~~—— (c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be~~
 9 ~~calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget~~
 10 ~~levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program~~
 11 ~~amounts for elementary school programs to the BASE funding program amounts for high school programs.~~

12 (4) The retirement obligation ~~and eligibility for retirement guaranteed tax base aid~~ for a K-12 school
 13 district must be calculated and funded as a high school district retirement obligation under the provisions of
 14 20-9-501.

15 (5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any
 16 of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs
 17 of the district.

18 (6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils
 19 and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures
 20 used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school
 21 programs in the appropriate funds of each district in the year prior to the attachment of the districts."
 22

23 **Section 39.** Section 20-6-703, MCA, is amended to read:

24 **"20-6-703. Transitions after formation of K-12 school district.** (1) When an attachment order for a
 25 K-12 school district becomes effective on July 1 under the provisions of 20-6-701:

26 (a) the county superintendent shall order the trustees to execute all necessary and appropriate deeds,
 27 bills of sale, or other instruments for the conveyance of title to all real and personal property of the elementary
 28 district to the high school district;

29 (b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the
 30 elementary district documents, and other records to the high school district to which it is attached; and

1 (c) the county treasurer shall transfer all end-of-the-year warrants and fund balances of the attached
2 elementary district to the similar funds established for the K-12 school district in the high school district.

3 (2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district
4 attached to a high school district must be payable to the appropriate fund of the high school district.

5 ~~———— (3) The previous year's general fund budget amounts for the elementary district and the high school
6 district that form a K-12 school district must be combined to determine the budget limitation for the ensuing school
7 fiscal year pursuant to 20-9-308."~~

8

9 **Section 40.** Section 20-6-704, MCA, is amended to read:

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

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

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

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

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

1 petition must contain a description of the manner in which the property, funds, and financial obligations, including
 2 bonded indebtedness, of the K-12 district are to be apportioned to the district or districts whose territory is not
 3 annexed to or consolidated with another district.

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

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

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

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

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

23

24 **Section 41.** Section 20-7-101, MCA, is amended to read:

25 **"20-7-101. Standards of accreditation.** ~~(1)~~ Standards of accreditation for all schools, as determined
 26 by the legislature, must be ~~adopted~~ supervised by the board of public education upon the recommendations of
 27 the superintendent of public instruction.

28 ~~————(2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal~~
 29 ~~to the education and local government interim committee for review. The interim committee shall request a fiscal~~
 30 ~~analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis~~

1 to the interim committee and to the office of budget and program planning to be used in the preparation of the
2 executive budget.

3 ~~———(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial
4 fiscal impact, the board may not implement the standard until July 1 following the next regular legislative session
5 and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal
6 impact is an amount that cannot be readily absorbed in the budget of an existing school district program.~~

7 ~~———(4) Standards for the retention of school records must be as provided in 20-1-212."~~

8

9 **Section 42.** Section 20-7-102, MCA, is amended to read:

10 **"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each
11 middle school, each junior high school, ~~7th and 8th grades funded at high school rates~~, and each high school
12 operates must be reviewed by the superintendent of public instruction to determine compliance with the standards
13 of accreditation. The accreditation status of each school must then be established by the board of public
14 education upon the recommendation of the superintendent of public instruction. Notification of the accreditation
15 status for the applicable school year or years must be given to each district by the superintendent of public
16 instruction.

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

19 (3) A nonpublic school may, through its governing body, request that the board of public education
20 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

21 ~~———(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school
22 district or K-12 district elementary program whose 7th and 8th grades are funded as provided in
23 20-9-306(14)(c)(ii)."~~

24

25 **Section 43.** Section 20-7-111, MCA, is amended to read:

26 **"20-7-111. Instruction in public schools.** The board of public education legislature shall define and
27 specify the basic instructional program for pupils in public schools, and ~~such that~~ that program ~~shall~~ must be set forth
28 in the standards of accreditation. Other instruction may be given when approved by ~~the~~ a school district board
29 of trustees."

30

1 **Section 44.** Section 20-7-117, MCA, is amended to read:

2 **"20-7-117. Kindergarten and preschool programs.** (1) The trustees of an elementary district shall
3 establish or make available a kindergarten program capable of accommodating, at a minimum, all the children
4 in the district who will be 5 years old on or before September 10 of the school year for which the program is to
5 be conducted or who have been enrolled by special permission of the board of trustees. The kindergarten
6 program, which the trustees may designate as either a half-time or full-time program, must be an integral part of
7 the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion
8 in the calculation of ANB pursuant to 20-9-311, a child must have reached 5 years of age on or before September
9 10 of the school year covered by the calculation or have been enrolled by special permission of the board of
10 trustees. A kindergarten program must meet the minimum aggregate hour requirements established in 20-1-301.
11 A kindergarten program that is designated as a full-time program must allow a parent, guardian, or other person
12 who is responsible for the enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.

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

17

18 **Section 45.** Section 20-7-401, MCA, is amended to read:

19 **"20-7-401. Definitions.** In this title, unless the context clearly indicates otherwise, the following
20 definitions apply:

21 (1) "Child with a disability" means a child evaluated in accordance with the regulations of the Individuals
22 With Disabilities Education Act as having a disability and who because of the disability needs special education
23 and related services.

24 (2) "Free appropriate public education" means special education and related services that:

25 (a) are provided at public expense under public supervision and direction and without charge;

26 (b) meet the accreditation standards of the ~~board of public education~~ legislature, the special education
27 requirements of the superintendent of public instruction, and the requirements of the Individuals With Disabilities
28 Education Act;

29 (c) include preschool, elementary school, and high school education in Montana; and

30 (d) are provided in conformity with an individualized education program that meets the requirements of

1 the Individuals With Disabilities Education Act.

2 (3) "Related services" means services in accordance with regulations of the Individuals With Disabilities
3 Education Act that are required to assist a child with a disability to benefit from special education.

4 (4) "Special education" means specially designed instruction, given at no cost to the parents or
5 guardians, to meet the unique needs of a child with a disability, including but not limited to instruction conducted
6 in a classroom, home, hospital, institution, or other setting and instruction in physical education.

7 (5) "State-operated adult health care facility providing special education services to its residents" means
8 the Montana state hospital, the Montana developmental center, the Montana mental health nursing care center,
9 or the Montana chemical dependency treatment center.

10 (6) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the child's
11 interests in educational evaluation, placement, and hearing or appeal procedures concerning the child."

12

13 **Section 46.** Section 20-7-420, MCA, is amended to read:

14 **"20-7-420. Residency requirements -- financial responsibility for special education.** (1) Except for
15 a pupil attending the Montana youth challenge program or a job corps program pursuant to 20-9-707, a child's
16 district of residence for special education purposes must be determined in accordance with the provisions of
17 1-1-215.

18 (2) The superintendent of public instruction is financially responsible for tuition and transportation as
19 established under 20-5-323 and 20-5-324 for a child with a disability, as defined in 20-7-401, who attends school
20 outside the district and county of residence because the student has been placed in a foster care or group home
21 licensed by the state. The superintendent of public instruction is not financially responsible for tuition and
22 transportation for a child who is placed by a state agency in an out-of-state public school or an out-of-state private
23 residential facility.

24 (3) If an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state residential
25 treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational services are
26 provided by a public school district under the provisions of 20-7-411 or 20-7-435, the superintendent of public
27 instruction shall reimburse the district providing the services for the negotiated amount, as established pursuant
28 to 20-7-435(5), that represents the district's costs of providing education and related services. Payments must
29 be made from funds appropriated for this purpose. If the negotiated amount exceeds the daily membership rate
30 under 20-7-435(3) and any per-ANB amount of direct state aid, the superintendent of public instruction shall pay

1 the remaining balance from available funds. However, the amount spent from available funds for this purpose
2 may not exceed \$500,000 during a biennium.

3 (4) A state agency that makes a placement of a child with a disability is responsible for the financial costs
4 of room and board and the treatment of the child. The state agency that makes an out-of-state placement of a
5 child with a disability is responsible for the education fees required to provide a free appropriate public education
6 that complies with the requirements of Title 20, chapter 7, part 4."

7

8 **Section 47.** Section 20-7-435, MCA, is amended to read:

9 **"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and**
10 **in-state residential treatment programs for eligible children.** (1) It is the intent of the legislature that eligible
11 children in in-state children's psychiatric hospitals and residential treatment facilities be provided with an
12 appropriate educational opportunity in a cost-effective manner, including the provision of a free appropriate public
13 education for an eligible child with a disability that is consistent with state standards for the provision of special
14 education and related services. General education programs for eligible children without disabilities must be
15 provided in accordance with the requirements for a nonpublic school under the provisions of 20-5-109.

16 (2) The superintendent of public instruction may contract with an in-state children's psychiatric hospital
17 or residential treatment facility for provision of an educational program for an eligible child in the hospital or
18 treatment facility.

19 (3) Whenever the superintendent of public instruction contracts with an in-state children's psychiatric
20 hospital or residential treatment facility for provision of an educational program for an eligible child in the children's
21 psychiatric hospital or residential treatment facility, the superintendent of public instruction shall:

22 (a) ensure the provision of a free appropriate public education and an education that is consistent with
23 the requirements for a nonpublic school in 20-5-109 for children attending the hospital or residential treatment
24 facility;

25 (b) negotiate the approval of allowable costs under the provisions of 20-7-431 for allowable costs for
26 providing special education, including the costs of retirement benefits, federal social security system contributions,
27 and unemployment compensation insurance;

28 (c) from appropriations provided for this purpose, fund any approved allowable costs under this section,
29 with the exception of services for which reimbursement is made under any provision of state or federal law or an
30 insurance policy;

1 (d) provide funding for allowable costs according to a proration based on average daily membership.

2 (4) A supplemental education fee or tuition may not be charged for an eligible Montana child who
3 receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital or
4 residential treatment facility.

5 (5) If a children's psychiatric hospital or residential treatment facility fails to provide an education in
6 accordance with 20-5-109 or a free appropriate public education under the provisions of this part for an eligible
7 child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a contract under the
8 provisions of subsection (2), the superintendent of public instruction shall negotiate with the school district in
9 which the children's psychiatric hospital or residential treatment facility is located for the supervision and
10 implementation of an appropriate educational program that is consistent with accreditation standards provided
11 for in 20-7-111 and with the provisions of 20-7-402 for children attending the children's psychiatric hospital or
12 residential treatment facility. The amount negotiated with the school district must include all education and related
13 services costs that may be negotiated under the provisions of subsection (3) and all education and related
14 services costs necessary to fulfill the requirements of providing the child with an education.

15 (6) Funds provided to a district under this section, including funds received under the provisions of
16 20-7-420:

17 ~~_____ (a),~~ must be deposited in the miscellaneous programs fund of the district that provides the education
18 program for an eligible child, regardless of the age or grade placement of the child who is served under a
19 negotiated contract; ~~and~~

20 ~~_____ (b) are not subject to the budget limitations in 20-9-308."~~

21

22 **Section 48.** Section 20-9-104, MCA, is amended to read:

23 **"20-9-104. (Temporary) General fund operating reserve.** (1) At the end of each school fiscal year, the
24 trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be
25 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July
26 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (7) and (8), the amount
27 of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund
28 budget for the ensuing school fiscal year.

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

1 (3) Excess reserves as provided in subsection (7) may be appropriated to reduce the ~~BASE budget levy,~~
2 ~~the over-BASE budget levy, or the additional district voted budget levy provided by 20-9-353.~~

3 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection
4 (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax
5 reduction as provided in 20-9-141(1)(b) up to an amount not exceeding ~~45%~~ 30% of a school district's maximum
6 general fund budget.

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

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

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

13 (b) 5% of the excess amount must be remitted to the state to be deposited in the state school oil and
14 natural gas impact account provided for in 20-9-517; and

15 (c) 25% of the excess amount must be deposited in the county school oil and natural gas impact fund
16 provided for in 20-9-518.

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

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

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

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

23 (8) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is
24 \$10,000 or less.

25 (9) Prior to June 30, 2011, a school district may transfer any general fund money in excess of 15% of
26 the fiscal year 2011 general fund budget that is not needed to fund the budget to any budgeted fund considered
27 appropriate by the trustees. (Terminates June 30, 2016--~~sec. 29, Ch. 418, L. 2011~~ 2013.)

28 **20-9-104. (Effective July 1, 2016 2013) General fund operating reserve.** (1) At the end of each school
29 fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund
30 balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by

1 the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5)
 2 and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed ~~10%~~
 3 30% of the final general fund budget for the ensuing school fiscal year.

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

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

8 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection
 9 (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax
 10 reduction as provided in 20-9-141(1)(b).

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

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

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

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

17 (6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is
 18 \$10,000 or less."

19

20 **Section 49.** Section 20-9-141, MCA, is amended to read:

21 **"20-9-141. Computation of general fund net levy district voted budget levy requirement by county**

22 **superintendent.** (1) The county superintendent shall compute the each district's voted budget levy requirement
 23 ~~for each district's general fund~~ on the basis of the following procedure:

24 (a) Determine the funding required for the district's final general fund budget less ~~the sum of direct state~~
 25 BASE aid and the special education allowable cost payment for the district by totaling:

26 ~~—— (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in~~
 27 ~~20-9-303; and~~

28 ~~—— (ii) any general fund budget amount adopted by the trustees of the district under the provisions of~~
 29 ~~20-9-308 and 20-9-353.~~

30 (b) Determine the money available for the reduction of the property tax on the district for the ~~general fund~~

1 district voted budget levy by totaling:

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

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

4 following:

5 (A) interest earned by the investment of general fund cash in accordance with the provisions of
6 20-9-213(4); and

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

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

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

11 ~~(v)(iv)~~ school district block grants distributed under 20-9-630;

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

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

20 (vi) other funds available to the district for the reduction of the district voted budget levy.

21 ~~(e)(c) Subtract the amount determined in subsection (1)(d) (1)(b) from any additional funding requirement
22 to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional and the
23 remainder of the over-BASE budget funds provided in 20-9-306(10) from the amount in subsection (1)(a) to
24 determine the funds needed through the district voted budget levy financing as provided in 20-9-353 to determine
25 any additional general fund levy requirements.~~

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

30 ~~—— (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified~~

1 ~~by the superintendent of public instruction; and~~

2 ~~———(b) the current total taxable valuation of the district, as certified by the department of revenue under~~
3 ~~15-10-202, divided by 1,000.~~

4 (3) ~~The net general fund~~ If electors of the district approve the district voted budget levy in an election
5 pursuant to 20-9-353, the district voted budget levy requirement determined in subsections subsection (1)(c) and
6 ~~(1)(d)~~ must be reported to the county commissioners by the later of the first Tuesday in September or within 30
7 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy
8 requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

9 (4) For each school district, the department of revenue shall calculate and report to the county
10 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
11 proceeds under 15-23-703."
12

13 **Section 50.** Section 20-9-166, MCA, is amended to read:

14 **"20-9-166. State financial aid for budget amendments.** Whenever a final budget amendment has
15 been adopted for the general fund to finance the cost of an amendment resulting from increased enrollment, the
16 trustees may apply to the superintendent of public instruction for an increased payment from the state for ~~direct~~
17 ~~state~~ BASE aid. Whenever a final budget amendment has been adopted for the transportation fund, the trustees
18 may apply to the superintendent of public instruction for an increased payment for state transportation
19 reimbursement. The superintendent of public instruction shall adopt rules for the application. The superintendent
20 of public instruction shall approve or disapprove each application for increased ~~state~~ BASE aid ~~made in~~
21 ~~accordance with 20-9-314 and this section~~ based on the need for additional basic curriculum teachers as a result
22 of increased enrollment. When the superintendent of public instruction approves an application, the
23 superintendent of public instruction shall determine the additional amount of ~~direct state aid~~ the basic curriculum
24 teacher payment or the state transportation reimbursement that will be made available to the applicant district
25 because of the increase in enrollment or additional pupil transportation obligations. The superintendent of public
26 instruction shall notify the applicant district of the superintendent's approval or disapproval and, in the event of
27 approval, the amount of additional ~~state~~ BASE aid that will be made available for the general fund or the
28 transportation fund. The superintendent of public instruction shall disburse the ~~state~~ BASE aid to the eligible
29 district at the time the next regular ~~state~~ BASE aid payment is made."
30

1 **Section 51.** Section 20-9-212, MCA, is amended to read:

2 **"20-9-212. Duties of county treasurer.** The county treasurer of each county:

3 (1) must receive and shall hold all school money subject to apportionment and keep a separate
4 accounting of its apportionment to the several districts that are entitled to a portion of the money according to the
5 apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate
6 accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized
7 purpose, including:

8 ~~—— (a) the basic county tax for elementary equalization;~~

9 ~~—— (b) the basic county tax for high school equalization;~~

10 ~~(c)~~(a) the county tax in support of the transportation schedules;

11 (b) any district tax in support of the district voted budget; and

12 ~~(d) the county tax in support of the elementary and high school district retirement obligations; and~~

13 ~~(e)~~(c) any other county tax for schools, including the community colleges, that may be authorized by law
14 and levied by the county commissioners.

15 (2) whenever requested, shall notify the county superintendent and the superintendent of public
16 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1)
17 and the amount of any other school money subject to apportionment and apportion the county and other school
18 money to the districts in accordance with the apportionment ordered by the county superintendent or the
19 superintendent of public instruction;

20 (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

21 (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district
22 school money;

23 (5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund
24 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school
25 taxes must be credited to the same fund and district for which the original taxes were levied.

26 (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county
27 treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3
28 months after that date until the end of the school fiscal year;

29 (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and
30 revenue anticipation notes as provided in Title 7, chapter 6, part 11;

1 (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
 2 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered
 3 warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

4 (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days
 5 of the direction;

6 (10) each month, shall give to the trustees of each district an itemized report for each fund maintained
 7 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue
 8 received, and the cash balance;

9 (11) shall remit promptly to the department of revenue receipts for the county tax for a
 10 vocational-technical program within a unit of the university system when levied by the board of county
 11 commissioners under the provisions of 20-25-439;

12 (12) shall invest the money received from ~~the basic county taxes for elementary and high school~~
 13 ~~equalization, the county levy in support of the elementary and high school district retirement obligations, and the~~
 14 county levy in support of the transportation schedules within 3 working days of receipt. The money must be
 15 invested until the working day before it is required to be distributed to school districts within the county or remitted
 16 to the state. Clerks of a school district shall provide a minimum of 30 hours' notice in advance of cash demands
 17 to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325. If a clerk
 18 of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any
 19 charges demanded by the state investment pool or other permissible investment manager for improperly noticed
 20 withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must be
 21 deposited, and credited proportionately, in the funds established to account for the taxes received for the
 22 purposes specified in ~~subsections (1)(a) through (1)(d)~~ subsection (1).

23 ~~———— (13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county~~
 24 ~~equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in~~
 25 ~~repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state~~
 26 ~~advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

27

28 **Section 52.** Section 20-9-303, MCA, is amended to read:

29 **"20-9-303. Nonisolated school BASE budget funding -- special education funds.** (1) An elementary
 30 school that has an ANB of nine or fewer pupils for 2 consecutive years and that is not approved as an isolated

1 school under the provisions of 20-9-302 may budget and spend the BASE and over-BASE budget amount, but
 2 the ~~county and~~ state shall provide one-half of the ~~direct state~~ BASE aid, and the district shall finance the
 3 remaining one-half of the ~~direct state~~ BASE aid by a tax levied on the property of the district. When a school of
 4 nine or fewer pupils is approved as isolated under the provisions of 20-9-302, the ~~county and~~ state shall
 5 ~~participate in the financing of~~ provide the total amount of the ~~direct state~~ BASE aid.

6 (2) Funds provided to support the special education program may be expended only for special
 7 education purposes as approved by the superintendent of public instruction in accordance with the special
 8 education budgeting provisions of this title. Expenditures for special education must be accounted for separately
 9 from and in addition to the balance of the school district general fund ~~budgeting requirements provided in~~
 10 ~~20-9-308. The amount of the special education allowable cost payments that is not matched with district funds,~~
 11 ~~as required in 20-9-321, will reduce by a like amount the district's ensuing year's allowable cost payment for~~
 12 ~~special education."~~

13
 14 NEW SECTION. Section 53. Basic curriculum teacher payment. (1) (a) The state shall provide a
 15 basic curriculum teacher payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose
 16 of funding BASE aid.

17 (b) The state's share of revenue from the oil and natural gas production tax as provided in 15-36-331
 18 and from the mill levy in 20-9-360 must be deposited in the guarantee account provided for in 20-9-622 to fund
 19 the basic curriculum teacher payment.

20 (2) Each school district is entitled to \$100,000 for each teacher in the district instructing a minimum of
 21 six basic curriculum classes under the basic system of accreditation. Guidance counselors, administrative staff,
 22 and librarians are not included in the basic curriculum teacher calculation. The payment for a teacher teaching
 23 less than six basic curriculum classes must be proportionally reduced.

24 (3) If a school district determines to include a course of instruction not required under the basic
 25 curriculum accreditation standards, the funding for the course must be met by the district voted budget levy as
 26 described in 20-9-306(8) and approved by the registered electors of the district pursuant to 20-9-353 or through
 27 other available district funds. The funding must be equivalent to the basic curriculum teacher payment on a
 28 proportional basis.

29 (4) For school year 2015, the basic curriculum teacher calculation is the number of teachers instructing
 30 basic curriculum courses as of March 30, 2014.

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Section 54. 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 the basic curriculum teacher payment provided in [section 53] and the basic entitlement. Funding for Indian education for all pursuant to Article X, section 1(2), of the Montana constitution is included in BASE aid.:

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

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

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

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

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

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

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

——— (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)(4) "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 basic curriculum teacher payment and the basic entitlement.

1 (5) "Basic system of accreditation" means the minimum basic curriculum course requirements as of June
2 30, 2010, or adopted by the legislature after that date.

3 (6) "Basic entitlement" means:

4 (a) for each high school district, \$300,000 per year:-

5 ~~—— (i) \$256,003 for fiscal year 2012; and~~

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

7 (b) for each elementary school district or K-12 district elementary program without an approved and
8 accredited junior high school, 7th and 8th grade program, or middle school, \$50,000 per year:-

9 ~~—— (i) \$23,033 for fiscal year 2012;~~

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

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

13 (i) for kindergarten through grade 6 elementary program, \$50,000 per year:-

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

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

16 (ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle
17 school, \$100,000 per year:-

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

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

20 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
21 20-9-311.

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

24 (8) "District voted budget levy" means any district levy in support of the general fund budget that is above
25 the sum of the BASE budget and over-BASE budget and approved by electors.

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

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

1 ~~_____ (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures~~
 2 ~~to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a~~
 3 ~~maximum allowable ratio of 200% the total of a district's BASE budget, over-BASE budget, and any district voted~~
 4 ~~budget levy.~~

5 (10) "Over-BASE aid" means state and federal funding distributed to a district in support of the district's
 6 over-BASE budget.

7 ~~(10)(11) "Over-BASE budget levy" means the district levy in support of any general fund amount~~
 8 ~~budgeted that is above the BASE budget and below the maximum general fund budget for a district the portion~~
 9 ~~of a district's general fund budget consisting of:~~

- 10 (a) 100% of the total at-risk student payment;
 11 (b) 100% of the total American Indian achievement gap payment;
 12 (c) the special education allowable cost payments under 20-9-321;
 13 (d) nonlevy revenue available pursuant to 20-9-141(1)(b);
 14 (e) any additional revenue from federal sources;
 15 (f) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium;
 16 (g) any other funds available to the school district under Title 20.

17 ~~(11)(12) "Total American Indian achievement gap payment" means the payment resulting from multiplying~~
 18 ~~\$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.~~

19 ~~(12)(13) "Total at-risk student payment" means the payment resulting from the distribution of any funds~~
 20 ~~appropriated for the purposes of 20-9-328.~~

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

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

25 ~~_____ (a) for a high school district or a K-12 district high school program, a maximum rate of \$6,343 for fiscal~~
 26 ~~year 2012 and \$6,444 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB~~
 27 ~~for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same~~
 28 ~~amount of entitlement as the 800th ANB;~~

29 ~~_____ (b) for an elementary school district or a K-12 district elementary program without an approved and~~
 30 ~~accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$4,955 for fiscal~~

1 year 2012 and \$5,034 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB
 2 for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the
 3 same amount of entitlement as the 1,000th ANB; and

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

6 ~~——— (i) a maximum rate of \$4,955 for fiscal year 2012 and \$5,034 for each succeeding fiscal year for the first
 7 ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up
 8 through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th
 9 ANB; and~~

10 ~~——— (ii) a maximum rate of \$6,343 for fiscal year 2012 and \$6,444 for each succeeding fiscal year for the first
 11 ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8
 12 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th
 13 ANB.~~

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

17

18 **Section 55.** Section 20-9-309, MCA, is amended to read:

19 **"20-9-309. Basic system of free quality public elementary and secondary schools defined --**
 20 **identifying educationally relevant factors -- establishment of funding formula and budgetary structure --**
 21 **legislative review.** (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to
 22 provide a basic system of free quality public elementary and secondary schools throughout the state of Montana
 23 that will guarantee equality of educational opportunity to all.

24 (2) As used in this section, a "basic system of free quality public elementary and secondary schools"
 25 means:

26 (a) the educational program specified by the basic curriculum in the accreditation standards provided
 27 for in 20-7-111, which that represent the minimum standards upon which a basic system of free quality public
 28 elementary and secondary schools is built;

29 (b) educational programs to provide for students with special needs, such as:

30 (i) a child with a disability, as defined in 20-7-401;

- 1 (ii) an at-risk student;
- 2 (iii) a student with limited English proficiency;
- 3 (iv) a child who is qualified for services under 29 U.S.C. 794; and
- 4 (v) gifted and talented children, as defined in 20-7-901;
- 5 (c) educational programs to implement the provisions of Article X, section 1(2), of the Montana
- 6 constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and
- 7 unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;
- 8 (d) qualified and effective teachers or administrators and qualified staff to implement the programs in
- 9 subsections (2)(a) through (2)(c);
- 10 (e) facilities and distance learning technologies associated with meeting the accreditation standards;
- 11 (f) transportation of students pursuant to Title 20, chapter 10;
- 12 (g) a procedure to assess and track student achievement in the programs established pursuant to
- 13 subsections (2)(a) through (2)(c); and
- 14 (h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article
- 15 X, section 8, of the Montana constitution.

16 (3) In developing a mechanism to fund the basic system of free quality public elementary and secondary

17 schools and in making adjustments to the funding formula, the legislature shall, at a minimum, consider the

18 following educationally relevant factors:

- 19 ~~_____ (a) the number of students in a district;~~
- 20 ~~_____ (b) the needs of isolated schools with low population density;~~
- 21 ~~_____ (c) the needs of urban schools with high population density;~~
- 22 ~~(d)~~(a) the needs of students with special needs, such as a child with a disability, an at-risk student, a
- 23 student with limited English proficiency, a child who is qualified for services under 29 U.S.C. 794, and gifted and
- 24 talented children;
- 25 ~~(e)~~(b) the needs of American Indian students; and
- 26 ~~(f)~~(c) the ability of school districts to attract and retain qualified educators and other personnel.

27 (4) ~~By July 1, 2007, the~~ The legislature shall:

- 28 ~~_____ (a) determine the costs of providing the basic system of free quality public elementary and secondary~~
- 29 ~~schools;~~
- 30 ~~_____ (b) and~~ and establish a funding formula that:

1 ~~_____ (i) is based on the definition of a basic system of free quality public elementary and secondary schools~~
 2 ~~and reflects the costs associated with providing that system as determined in subsection (4)(a);~~

3 ~~_____ (ii) allows the legislature to adjust the funding formula based on the educationally relevant factors~~
 4 ~~identified in this section;~~

5 ~~_____ (iii) is self-executing and includes a mechanism for annual inflationary adjustments;~~

6 ~~_____ (iv) is based on state laws;~~

7 ~~(v)(a) is based on federal education laws consistent with Montana's constitution and laws; and~~

8 ~~(vi)(b) distributes to school districts in an equitable manner the state's share of the costs of the basic~~
 9 ~~system of free quality public elementary and secondary schools; and~~

10 (c) ~~consolidate~~ consolidates the budgetary fund structure to create the number and types of funds
 11 necessary to provide school districts with the greatest budgetary flexibility while ensuring accountability and
 12 efficiency.

13 ~~_____ (5) At least every 10 years following April 7, 2005, the legislature shall:~~

14 ~~_____ (a) authorize a study to reassess the educational needs and costs related to the basic system of free~~
 15 ~~quality public elementary and secondary schools; and~~

16 ~~_____ (b) if necessary, incorporate the results of those assessments into the state's funding formula.~~

17 (5) A basic system of free quality public elementary and secondary schools does not include any course
 18 or instruction in addition to the basic curriculum in the accreditation standards. Any course or instruction offered
 19 by a school or school district in addition to the basic curriculum must be funded by local levy, through federal
 20 funding, or by other funds available to the district."

21

22 **Section 56.** Section 20-9-310, MCA, is amended to read:

23 **"20-9-310. (Temporary) Oil and natural gas production taxes for school districts -- allocation and**
 24 **limits.** (1) The maximum amount of oil and natural gas production taxes that a school district may retain is 130%
 25 of the sum of the school district's ~~maximum budget, determined in accordance with 20-9-308~~ BASE and
 26 over-BASE budgets.

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

30 (3) The department of revenue shall make the full quarterly distribution of oil and natural gas production

1 taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this
2 section.

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil
2 and natural gas impact fund provided for in 20-9-518. (Terminates June 30, 2016--sec. 29, Ch. 418, L. 2011.)"

3

4 **Section 57.** Section 20-9-311, MCA, is amended to read:

5 **"20-9-311. Calculation of average number belonging (ANB) -- three-year averaging.** (1) Average
6 number belonging (ANB) must be computed for each budget unit ~~as follows:~~

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

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

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

15 ~~(3) When a school district has approval to operate less than the minimum aggregate hours under
16 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.~~

17 ~~(4)(2)~~ (a) For Except as provided in subsection (2)(d), for the purpose of calculating ANB, enrollment in
18 an education program:

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

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

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

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

26 (b) ~~Enrollment~~ Except as provided in subsection (2)(d), enrollment in a program intended to provide fewer
27 than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

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

30 (d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing

1 fewer than the required aggregate hours of pupil instruction required under subsection (2)(a) or (2)(b) if the pupil
 2 has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school
 3 board using district assessments. The ANB of a pupil under this subsection (2)(d) must be converted to an hourly
 4 equivalent based on the hours of instruction ordinarily provided for the content over which the student has
 5 demonstrated proficiency.

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

8 ~~(5)~~(3) For a district that is transitioning from a half-time to a full-time kindergarten program, the state
 9 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
 10 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the
 11 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten
 12 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for
 13 districts offering full-time kindergarten.

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

17 ~~(7)~~(4) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB
 18 calculations.

19 ~~(8)~~(5) The average number belonging of the regularly enrolled, full-time pupils for the public schools of
 20 a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
 21 district, except that the ANB is calculated as a separate budget unit when:

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

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

30 (iii) the superintendent of public instruction approves an application not to aggregate when conditions

1 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
 2 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
 3 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
 4 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
 5 other schools of the district; or

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

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

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

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

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

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

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

23 ~~(9)(6)~~ The district shall provide the superintendent of public instruction with semiannual reports of school
 24 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
 25 superintendent.

26 ~~(10)(7)~~ (a) Except as provided in subsections ~~(10)(b)~~ (7)(b) and ~~(10)(c)~~ (7)(c), enrollment in a basic
 27 education program provided by the district through any combination of onsite or offsite instruction may be
 28 included for ANB purposes only if the pupil is offered access to the complete range of educational services for
 29 the basic education program required by the accreditation standards adopted by the ~~board of public education~~
 30 legislature.

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

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

7 (d) This subsection ~~(40)~~ (7) may not be construed to require a school district to offer access to activities
8 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
9 pupil who is not otherwise eligible under the rules of the organization.

10 ~~(41)~~(8) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under
11 this title and who is:

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

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

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

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

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

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

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

- 1 (i) meet the residency requirements for that district as provided in 1-1-215;
- 2 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
- 3 Education Act or under 29 U.S.C. 794; or
- 4 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.
- 5 (h) a resident of the district attending the Montana youth challenge program or a Montana job corps
- 6 program under an interlocal agreement with the district under 20-9-707.

7 ~~(12)(9)~~ A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge

8 program participant as half-time enrollment.

9 ~~————(13) (a) For an elementary or high school district that has been in existence for 3 years or more, the~~

10 ~~district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated~~

11 ~~using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever~~

12 ~~generates the greatest maximum general fund budget.~~

13 ~~————(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund~~

14 ~~budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and~~

15 ~~high school programs pursuant to subsection (13)(a) and then combined.~~

16 ~~(14)(10)~~ The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated

17 by:

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

19 previous 2 school fiscal years; and

20 (b) dividing the sum calculated under subsection ~~(14)(a)~~ (10)(a) by three."

21

22 **Section 58.** Section 20-9-321, MCA, is amended to read:

23 **"20-9-321. Allowable cost payment for special education.** ~~(1) As used in this section, "ANB" means~~

24 ~~the current year ANB.~~

25 ~~————(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution~~

26 ~~of state special education allowable cost payments provided for in this section.~~

27 ~~————(3) For the purpose of establishing the allowable cost payment for a current year special education~~

28 ~~program for a school district, the superintendent of public instruction shall determine the total special education~~

29 ~~payment to a school district, cooperative, or joint board for special education services formed under 20-3-361~~

30 ~~prior to July 1, 1992, using the following factors:~~

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

9 ~~(4)(1)~~ (a) The total special education allocation must be distributed according to the following formula:

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

14 (b) Special education allowable cost payments outlined in subsection ~~(4)(a)~~ (1)(a) must be granted to
 15 each school district and cooperative with a special education program as follows:

16 (i) The instructional block grant limit prescribed in subsection ~~(4)(a)(i)~~ (1)(a)(i) must be awarded to each
 17 school district, based on the ~~district ANB and the per-ANB special education instructional amount~~ district's
 18 anticipated special education expenses.

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

25 (iii) If a district's allowable costs of special education exceed the total of the special education instructional
 26 and special education-related services block grant ~~plus the required district match required by subsection (6)~~, the
 27 district is eligible to receive at least a 40% reimbursement of the ~~additional costs~~. To ensure that the total of
 28 reimbursements to all districts does not exceed 25% of the total special education allocation limit established in
 29 subsection ~~(4)(a)(iii)~~ (1)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level
 30 calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount

1 above the sum of the district's block grants plus the required district match.

2 (iv) ~~Of the~~ The amount distributed under subsection ~~(4)(a)(iv)~~ (1)(a)(iv), ~~three-fifths~~ must be distributed
3 based on ~~the ANB count of the school districts that are members of the special education cooperative or joint~~
4 ~~board and two-fifths must be distributed based on~~ distances, population density, and the number of itinerant
5 personnel under rules adopted by the superintendent of public instruction.

6 ~~(5)(2)~~ (2) The superintendent of public instruction shall adopt rules necessary to implement this section.

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

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

14 ~~(8)(3)~~ (3) A district that demonstrates severe economic hardship because of exceptional special education
15 costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in
16 which the actual costs will be incurred."

17

18 **Section 59.** Section 20-9-323, MCA, is amended to read:

19 **"20-9-323. Ending fund balance limits.** (1) Beginning July 1, 2016, the combined ending fund balance
20 for all budgeted funds of a school district may not exceed 300% of the maximum general fund budget. The 300%
21 limit is not applicable to the building reserve fund, the debt service fund, or the bus depreciation reserve fund.

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

30 (3) Unless an exception is granted under subsection (5), upon completion of a school fiscal year, a

1 school district with combined ending fund balances in excess of the 300% limit shall cooperate with the county
 2 superintendent in effectuating the redistribution of excess funds as provided in subsection (2). A school district
 3 may make the payment required under this subsection from any fund or funds of the district other than the debt
 4 service fund, the building reserve fund, and the bus depreciation reserve fund.

5 (4) Any funds that cannot be redistributed within a county without causing a school district in the county
 6 to exceed the 300% limit must be remitted by the county treasurer to the state for deposit in the guarantee
 7 account provided for in 20-9-622.

8 (5) In accordance with 20-9-161, a school district shall report to the education and local government
 9 interim committee for any exception taken to the limits prescribed by subsection (1) of this section.

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

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

14

15 **Section 60.** Section 20-9-329, MCA, is amended to read:

16 **"20-9-329. Indian education for all payment.** (1) The state shall provide an Indian education for all
 17 payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article
 18 X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

19 (2) The Indian education for all payment is calculated as provided in 20-9-306 and is a component of the
 20 basic curriculum teacher payment within the BASE budget of the district.

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

22 (4) A public school district that receives an Indian education for all payment may ~~not divert~~ use the funds
 23 ~~to any purpose other than~~ for curriculum development, providing curriculum and materials to students, and
 24 providing training to teachers about the curriculum and materials. A public school district shall file an annual report
 25 with the office of public instruction, in a form prescribed by the superintendent of public instruction, that specifies
 26 how ~~the~~ Indian education for all funds were expended."

27

28 **Section 61.** Section 20-9-330, MCA, is amended to read:

29 **"20-9-330. American Indian achievement gap payment.** (1) The state shall provide an American
 30 Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose

1 of closing the educational achievement gap that exists between American Indian students and non-Indian
2 students.

3 (2) (a) The American Indian achievement gap payment is calculated as provided in 20-9-306, using the
4 number of American Indian students enrolled and present in the district ~~based on the count of regularly enrolled~~
5 ~~students~~ on the first Monday in October of the prior school year as reported to the office of public instruction.

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

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

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

12 **Section 62.** Section 20-9-342, MCA, is amended to read:

13 **"20-9-342. Deposit of interest and income money by state board of land commissioners.** Except
14 ~~as provided in 20-9-516, the~~ The state board of land commissioners shall deposit the interest and income money
15 and the investment income earned by investing interest and income money for each fiscal year into the guarantee
16 account, provided for in 20-9-622, for ~~state equalization~~ BASE aid by the last business day of February and June
17 before the close of the fiscal year in which the money was received."
18

19 **Section 63.** Section 20-9-343, MCA, is amended to read:

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

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

24 ~~— (b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium~~ the basic curriculum
25 teacher payment and the basic entitlement.

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

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

- 1 (a) ~~subject to 20-9-516(2)(a)~~, interest and income money described in 20-9-341 and 20-9-342; and
 2 (b) investment income earned by investing interest and income money described in 20-9-341 and
 3 20-9-342."

4

5 **Section 64.** Section 20-9-344, MCA, is amended to read:

6 **"20-9-344. Duties of board of public education for distribution of BASE aid and over-BASE aid.**

7 (1) The board of public education shall administer and distribute the BASE aid and ~~state advances for county~~
 8 ~~equalization~~ over-BASE aid in the manner and with the powers and duties provided by law. The board of public
 9 education:

10 (a) shall adopt policies for ~~regulating~~ the distribution of BASE aid and ~~state advances for county~~
 11 ~~equalization~~ the over-BASE aid described in 20-9-306 in accordance with the provisions of law;

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

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

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

- 21 (a) submit reports or budgets as required by law or rules adopted by the board of public education; or
 22 (b) maintain accredited status.

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

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

29 (5) Except as provided in 20-9-347(2), 10% of the BASE aid payment and 10% of the over-BASE aid
 30 payment must be distributed ~~according to the following schedule:~~

- 1 ~~_____~~(a) from August to ~~October~~ May of the school fiscal year, to each district 10% of:
- 2 (i) ~~direct state~~ BASE aid; and
- 3 (ii) ~~the total quality educator payment;~~ over-BASE aid
- 4 ~~_____~~(iii) ~~the total at-risk student payment;~~
- 5 ~~_____~~(iv) ~~the total Indian education for all payment; and~~
- 6 ~~_____~~(v) ~~the total American Indian achievement gap payment;~~
- 7 ~~_____~~(b) from December to April of the school fiscal year, to each district 10% of:
- 8 ~~_____~~(i) ~~direct state aid;~~
- 9 ~~_____~~(ii) ~~the total quality educator payment;~~
- 10 ~~_____~~(iii) ~~the total at-risk student payment;~~
- 11 ~~_____~~(iv) ~~the total Indian education for all payment; and~~
- 12 ~~_____~~(v) ~~the total American Indian achievement gap payment;~~
- 13 ~~_____~~(c) in November of the school fiscal year, ~~one-half of the guaranteed tax base aid payment to each~~
- 14 ~~district or county that has submitted a final budget to the superintendent of public instruction in accordance with~~
- 15 ~~the provisions of 20-9-134;~~
- 16 ~~_____~~(d) in May of the school fiscal year, ~~the remainder of the guaranteed tax base aid payment to each district~~
- 17 ~~or county; and~~
- 18 ~~_____~~(e) in June of the school fiscal year, ~~the remaining payment to each district of direct state aid, the total~~
- 19 ~~quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the~~
- 20 ~~total American Indian achievement gap payment.~~
- 21 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."
- 22

23 **Section 65.** Section 20-9-346, MCA, is amended to read:

24 **"20-9-346. Duties of superintendent of public instruction for ~~state and county equalization~~ BASE**

25 **aid and over-BASE aid distribution.** The superintendent of public instruction shall administer the distribution

26 ~~of the state and county equalization~~ BASE aid ~~and over-BASE aid~~ by:

- 27 (1) establishing the annual entitlement of each district ~~and county to state and county equalization~~ BASE
- 28 ~~aid and over-BASE aid~~, based on the data reported in the retirement; ~~and~~ general fund; ~~and debt service fund~~
- 29 budgets for each district that have been adopted for the current school fiscal year and verified by the
- 30 superintendent of public instruction;

- 1 ~~_____ (2) for the purposes of state advances and reimbursements for school facilities, limiting the distribution~~
 2 ~~to no more than the amount appropriated for the school fiscal year to the districts that are eligible under the~~
 3 ~~provisions of 20-9-366 through 20-9-371 by:~~
- 4 ~~_____ (a) determining the debt service payment obligation in each district for debt service on bonds that were~~
 5 ~~sold as provided in 20-9-370(3) that qualify for a state advance or reimbursement for school facilities under the~~
 6 ~~provisions of 20-9-366 through 20-9-369 and 20-9-370;~~
- 7 ~~_____ (b) based on the limitation of state equalization aid appropriated for debt service purposes, determining~~
 8 ~~the state advance for school facilities and the proportionate share of state reimbursement for school facilities that~~
 9 ~~each eligible district must receive for the school fiscal year; and~~
- 10 ~~_____ (c) distributing that amount by May 31 of each school fiscal year to each eligible district for reducing the~~
 11 ~~property tax for the debt service fund for the ensuing school fiscal year;~~
- 12 ~~(3)(2) distributing by electronic transfer the BASE aid and state advances for county equalization~~
 13 ~~over-BASE aid, for each district or county entitled to the aid, to the county treasurer of the respective county for~~
 14 ~~county equalization or to the county treasurer of the county where the district is located or to the investment~~
 15 ~~account identified by the applicable district for BASE aid and over-BASE aid, in accordance with the distribution~~
 16 ~~ordered by the board of public education;~~
- 17 ~~(4)(3) keeping a record of the full and complete data concerning money available for state equalization~~
 18 ~~aid, state advances for county equalization, and the entitlements for BASE aid and over-BASE aid of the districts~~
 19 ~~of the state;~~
- 20 ~~_____ (5) reporting to the board of public education the estimated amount that will be available for state~~
 21 ~~equalization aid; and~~
- 22 ~~(6)(4) reporting to the office of budget and program planning, as provided in 17-7-111:~~
- 23 ~~(a) the figures and data available concerning distributions of state and county equalization BASE aid and~~
 24 ~~over-BASE aid during the preceding 2 school fiscal years;~~
- 25 ~~_____ (b) the amount of state equalization aid then available;~~
- 26 ~~(c)(b) the apportionment made of the available money but not yet distributed;~~
- 27 ~~(d)(c) the latest estimate of accruals of money available for state equalization aid; and BASE aid,~~
 28 ~~over-BASE aid, and interest and income money pursuant to 20-9-341 and 20-9-342.~~
- 29 ~~_____ (e) the amount of state advances and repayment for county equalization."~~
- 30

1 **Section 66.** Section 20-9-347, MCA, is amended to read:

2 "**20-9-347. Distribution of BASE aid and ~~special education allowable cost payments in support~~**
3 **~~of BASE funding program over-BASE aid -- exceptions.~~** (1) The superintendent of public instruction shall:

4 ~~(a)~~ supply the county treasurer and the county superintendent with a ~~monthly~~ report of the payment of
5 BASE aid and over-BASE aid in support of the BASE funding program of for each district of the county following
6 the payments described in 20-9-344.

7 ~~———— (b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that~~
8 ~~is no less than the amount anticipated to be raised for the elementary and high school county equalization funds~~
9 ~~as provided in 20-9-331 and 20-9-333; and~~

10 ~~———— (c) adopt rules to implement the provisions of subsection (1)(b).~~

11 (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in
12 20-9-344 for distribution of the BASE aid and over-BASE aid payments if the distribution will cause a district to
13 register warrants under the provisions of 20-9-212(8).

14 (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the
15 superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed
16 in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's
17 warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to
18 authorize the superintendent of public instruction to exceed a district's annual ~~payment for~~ BASE aid or
19 over-BASE aid.

20 (3) The superintendent of public instruction shall:

21 (a) distribute special education allowable cost payments to districts; and

22 (b) supply the county treasurer and the county superintendent of schools with a report of payments for
23 special education allowable costs to districts of the county."
24

25 **Section 67.** Section 20-9-351, MCA, is amended to read:

26 "**20-9-351. Funding of deficiency in BASE aid or over-BASE aid.** If the money available for BASE
27 aid or over-BASE aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide
28 the ~~guaranteed tax base aid required under 20-9-366 through 20-9-369 and~~ BASE aid ~~support~~ or over-BASE aid
29 determined under 20-9-347, the superintendent of public instruction shall request the budget director to submit
30 a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the

1 funding of BASE aid and over-BASE aid for the elementary and high school districts for the current biennium."

2

3 **Section 68.** Section 20-9-353, MCA, is amended to read:

4 **"20-9-353. ~~Additional financing~~ District voted budget levy for general fund -- election for**
 5 **authorization to impose.** (1) The trustees of a district may propose to adopt an over-BASE budget a district
 6 voted budget amount for the district general fund ~~that does not exceed the general fund budget limitations, as~~
 7 ~~provided in 20-9-308.~~

8 (2) When the trustees of the district propose to adopt an over-BASE a district voted budget under
 9 subsection (1), any increase in local property taxes ~~authorized by 20-9-308(4) over revenue previously authorized~~
 10 ~~by the electors of the district or imposed by the district in any of the previous 5 years~~ must be submitted to a vote
 11 of the qualified electors of the district, as provided in 15-10-425. ~~The trustees are not required to submit to the~~
 12 ~~qualified electors any increase in state funding of the basic or per-ANB entitlements or of the general fund~~
 13 ~~payments established in 20-9-327 through 20-9-330 approved by the legislature. When the trustees of a district~~
 14 ~~determine that a voted amount of financing is required for the general fund budget, the trustees shall submit the~~
 15 ~~proposition to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the~~
 16 ~~proposition.~~ The election must be called and conducted in the manner prescribed by this title for school elections
 17 and must conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements
 18 of 15-10-425.

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

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

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

30

1 **Section 69.** Section 20-9-360, MCA, is amended to read:

2 "**20-9-360. State equalization aid levy for BASE aid.** (1) Subject to 15-10-420, there is a uniform
3 statewide levy of ~~40 mills~~ imposed by the county commissioners of each county on all taxable property within the
4 state, except property for which a tax or fee is required under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562,
5 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as provided in
6 15-1-504, and must be deposited to the credit of the state ~~general fund~~ guarantee account for ~~state equalization~~
7 BASE aid to the public schools of Montana.

8 (2) The department of revenue, from information provided by the office of public instruction, shall
9 calculate, on a statewide basis, the number of mills to be imposed for the purposes of this section. The number
10 of mills to be levied is the number sufficient to generate the amount necessary to fully fund BASE aid after
11 subtracting the total amount available under the guarantee account, collections from distribution of oil and natural
12 gas production taxes, and any amount appropriated from the state general fund. The amount may not exceed
13 the mill levy limit established under 15-10-420(1). The mill levy calculation must be established in tenths of mills.
14 If the mill levy calculation does not result in an even mill, then the calculation must be rounded up to the nearest
15 hundredth of a mill."

16
17 **Section 70.** Section 20-9-406, MCA, is amended to read:

18 "**20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**
19 **payment.** (1) (a) ~~Except as provided in subsection (1)(c), the~~ The maximum amount for which an elementary
20 district or a high school district may become indebted by the issuance of general obligation bonds, including all
21 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
22 outstanding obligations under 20-9-471, and any other loans or notes payable that are held as general obligations
23 of the district, is 50% of the taxable value of the property subject to taxation, as ascertained by the last
24 assessment for state, county, and school taxes previous to the incurring of the indebtedness.

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

1 ~~———— (c) (i) The maximum amount for which an elementary district or a high school district with a district mill~~
2 ~~value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per~~
3 ~~elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation~~
4 ~~bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues,~~
5 ~~registered warrants, outstanding obligations under 20-9-471, and any other loans or notes payable that are held~~
6 ~~as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per ANB times~~
7 ~~1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become~~
8 ~~indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times the~~
9 ~~elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times the~~
10 ~~high school ANB of the district. For the purpose of calculating ANB under this subsection, a district may use the~~
11 ~~greater of the current year ANB or the 3-year ANB calculated under 20-9-311.~~

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

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

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

29 (4) When the total indebtedness of a school district has reached the limitations prescribed in this section,
30 the school district may pay all reasonable and necessary expenses of the school district on a cash basis in

1 accordance with the financial administration provisions of this chapter.

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

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

8

9 **Section 71.** Section 20-9-422, MCA, is amended to read:

10 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** ~~(1)~~ In addition
11 to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees' resolution
12 calling a school district bond election must:

13 ~~(a)~~(1) specify whether the bonds will be general obligation bonds or impact aid revenue bonds;

14 ~~(b)~~(2) fix the exact amount of the bonds proposed to be issued, which may be more or less than the
15 amounts estimated in a petition;

16 ~~(c)~~(3) fix the maximum number of years in which the proposed bonds would be paid; and

17 ~~(d)~~(4) in the case of initiation by a petition, state the essential facts about the petition and its presentation;

18 **and**

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

22 ~~_____ (2) Prior to the adoption of the resolution calling for a school bond election for a general obligation bond,
23 the trustees of a district may request from the superintendent of public instruction a statement of the estimated
24 amount of state advance for school facilities that the district will receive for debt service payments on the
25 proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The
26 district shall provide the superintendent with an estimate of the debt service payment due in the first school fiscal
27 year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant to
28 20-9-371(2)."~~

29

30 **Section 72.** Section 20-9-439, MCA, is amended to read:

1 **"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure when**
 2 **levy inadequate.** Subject to 20-6-326, the following provisions apply:

3 (1) The county superintendent shall compute the levy requirement for each school district's general
 4 obligation debt service fund on the basis of the following procedure:

5 (a) Determine the total money available in the debt service fund for the reduction of the property tax on
 6 the district by totaling:

7 (i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as
 8 provided in 20-9-438;

9 (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the
 10 provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

11 ~~(iii) any state advance for school facilities distributed to a qualified district under the provisions of~~
 12 ~~20-9-346, 20-9-370, and 20-9-371;~~

13 ~~(iv)(iii)~~ funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized
 14 by 20-9-437(2) to be used to repay the district's bonds; and

15 ~~(v)(iv)~~ any other money, including money from federal sources, anticipated by the trustees to be available
 16 in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money
 17 transfers into the debt service fund or from rental income, ~~excluding any guaranteed tax base aid.~~

18 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from
 19 the final budget for the debt service fund as established in 20-9-438.

20 (2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the
 21 county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving
 22 certified taxable values by the county superintendent as the net debt service fund levy requirement for the district,
 23 and a levy must be made by the county commissioners in accordance with 20-9-142.

24 (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or
 25 series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal
 26 becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this
 27 section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court
 28 of the county in which the school district is located for a writ of mandate to compel the board of county
 29 commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the
 30 application, it appears to the satisfaction of the court that the board of county commissioners of the county has

1 failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as
2 established in the manner provided in this section, the court shall determine the amount of the deficiency and
3 shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting
4 for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the
5 school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required
6 to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the
7 petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be
8 a charge against the school district or the county."

9

10 **Section 73.** Section 20-9-501, MCA, is amended to read:

11 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
12 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
13 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal
14 social security system requiring employer contributions shall establish a retirement fund for the purposes of
15 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's
16 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must
17 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for
18 each employee who is a member of the public employees' retirement system must be calculated in accordance
19 with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social
20 security system must be paid in accordance with federal law and regulation. The district's or the cooperative's
21 contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title
22 39, chapter 51, part 11.

23 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
24 social security, and unemployment insurance systems from the retirement fund for the following:

25 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
26 provided to the employee, are paid from state or local funding sources;

27 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
28 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported
29 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
30 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the

1 medicaid program, pursuant to 53-6-101;

2 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
3 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

4 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
5 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

6 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
7 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
8 systems from the funding source that pays the employee's salary.

9 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall
10 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the
11 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems
12 in accordance with the financial administration provisions of this title.

13 ~~———— (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
14 the levy requirement by:~~

15 ~~———— (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:~~

16 ~~———— (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
17 year;~~

18 ~~———— (ii) oil and natural gas production taxes;~~

19 ~~———— (iii) coal gross proceeds taxes under 15-23-703;~~

20 ~~———— (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
21 end of the year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
22 year by the trustees from the end of the year fund balance in the retirement fund. The retirement fund operating
23 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must
24 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund
25 budget.~~

26 ~~———— (v) property tax reimbursements made pursuant to 15-1-123(6);~~

27 ~~———— (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
28 fiscal year, excluding any guaranteed tax base aid;~~

29 ~~———— (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the
30 levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final~~

1 retirement fund budget.

2 ~~——— (5) The county superintendent shall:~~

3 ~~——— (a) total the net retirement fund levy requirements separately for all elementary school districts, all high~~
4 ~~school districts, and all community college districts of the county, including any prorated joint district or special~~
5 ~~education cooperative agreement levy requirements; and~~

6 ~~——— (b) report each levy requirement to the county commissioners by the later of the first Tuesday in~~
7 ~~September or within 30 calendar days after receiving certified taxable values as the respective county levy~~
8 ~~requirements for elementary district, high school district, and community college district retirement funds.~~

9 ~~——— (6) The county commissioners shall fix and set the county levy or district levy in accordance with~~
10 ~~20-9-142.~~

11 ~~——— (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district~~
12 ~~must be prorated to each county in which a part of the district is located in the same proportion as the district ANB~~
13 ~~of the joint district is distributed by pupil residence in each county. The county superintendents of the counties~~
14 ~~affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.~~

15 ~~——— (8) The net retirement fund levy requirement for districts that are members of special education~~
16 ~~cooperative agreements must be prorated to each county in which the district is located in the same proportion~~
17 ~~as the special education cooperative budget is prorated to the member school districts. The county~~
18 ~~superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each~~
19 ~~county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net~~
20 ~~retirement fund levy for each county in the same manner as provided in 20-9-152.~~

21 ~~——— (9) The county superintendent shall calculate the number of mills to be levied on the taxable property~~
22 ~~in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection~~
23 ~~(5)(a) by the sum of:~~

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

26 ~~——— (b) the taxable valuation of the district divided by 1,000.~~

27 ~~——— (10) The levy for a community college district may be applied only to property within the district.~~

28 ~~——— (11) The county superintendent of each county shall submit a report of the revenue amounts used to~~
29 ~~establish the levy requirements for county school funds supporting elementary and high school district retirement~~
30 ~~obligations to the superintendent of public instruction on or before September 15. The report must be completed~~

1 on forms supplied by the superintendent of public instruction.

2 (4) Retirement contributions for district employees not considered basic curriculum teacher or any
 3 proportion of a part-time basic curriculum teacher's contribution not paid for with the basic curriculum teacher
 4 payment must be paid for through the district voted budget levy."

5

6 **Section 74.** Section 20-9-515, MCA, is amended to read:

7 **"20-9-515. Litigation reserve fund.** (1) The trustees of a school district may establish a litigation reserve
 8 fund only when litigation that is pending against the district could result in an award against the district.

9 (2) At the end of each school fiscal year, the trustees of a district may transfer money from the general
 10 fund, within the adopted budget, to establish the fund.

11 (3) Upon conclusion of litigation, the balance of the money in the fund reverts to the general fund and
 12 must be used to reduce the district's ~~general fund BASE budget levy requirement~~ voted budget levy computed
 13 pursuant to 20-9-141."

14

15 **Section 75.** Section 20-9-517, MCA, is amended to read:

16 **"20-9-517. (Effective July 1, 2013) State school oil and natural gas impact account.** (1) There is a
 17 state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The
 18 purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes
 19 under 15-36-331 but are impacted by contiguous counties that are benefiting from receipt of oil and natural gas
 20 production taxes.

21 (2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to
 22 20-9-310(7) and any amounts pursuant to 20-9-104(6).

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

26 ~~—(a) an unusual enrollment increase as determined pursuant to 20-9-314;~~

27 ~~(b)~~(a) a district's need to hire new teachers or staff as a result of increased enrollment;

28 ~~(c)~~(b) the opening or reopening of an elementary or high school approved by the superintendent of public
 29 instruction pursuant to 20-6-502 or 20-6-503; or

30 ~~(d)~~(c) major maintenance for a school or district.

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

3 (a) the local district's or school's need;

4 (b) the severity of the energy development impacts;

5 (c) availability of funds in the account; and

6 (d) the applicant district's ability to meet the needs identified in subsection (3).

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

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

11

12 **Section 76.** Section 20-9-533, MCA, is amended to read:

13 **"20-9-533. Technology acquisition and depreciation fund -- limitations.** (1) The trustees of a district
14 may establish a technology acquisition and depreciation fund for school district expenditures incurred and
15 depreciation accrued for:

16 (a) the purchase, rental, repair, maintenance, and depreciation of technological equipment, including
17 computers and computer network access; and

18 (b) associated technical training for school district personnel.

19 (2) Any expenditures from the technology acquisition and depreciation fund must be made in accordance
20 with the financial administration requirements for a budgeted fund pursuant to this title. The trustees of a district
21 shall fund the technology acquisition and depreciation fund with:

22 ~~—— (a) the state money received under 20-9-534; and~~

23 ~~—— (b) other local, state, private, and federal funds received for the purpose of funding technology or~~
24 ~~technology-associated training.~~

25 (3) In depreciating the technological equipment of a school district, the trustees may include in the
26 district's budget, contingent upon voter approval of a levy under subsection (6) and pursuant to the school
27 budgeting requirements of this title, an amount each fiscal year that does not exceed 20% of the original cost of
28 any technological equipment, including computers and computer network access, that is owned by the district.
29 The amount budgeted may not, over time, exceed 150% of the original cost of the equipment.

30 (4) The annual revenue requirement for each district's technology acquisition and depreciation fund

1 determined within the limitations of this section must be reported by the county superintendent of schools to the
 2 board of county commissioners on or before the later of the first Tuesday in September or within 30 calendar days
 3 after receiving certified taxable values as the technology acquisition and depreciation fund levy requirement for
 4 that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

5 (5) Any expenditure of technology acquisition and depreciation fund money must be within the limitations
 6 of the district's final technology acquisition and depreciation fund budget and the school financial administration
 7 provisions of this title.

8 (6) In addition to the funds received pursuant to subsection (2), the trustees of a school district may
 9 submit a proposition to the qualified electors of the district to approve an additional levy to fund the depreciation
 10 of technological equipment authorized under this section. The election must be called and conducted in the
 11 manner prescribed by this title for school elections and in the manner prescribed by 15-10-425.

12 (7) The technology proposition is approved if a majority of those electors voting at the election approve
 13 the levy. Notwithstanding any other provision of law, the levy under subsection (6) is subject to 15-10-420.

14 (8) The trustees of a district may not use revenue in the technology acquisition and depreciation fund
 15 to finance contributions to the teachers' retirement system, the public employees' retirement system, or the federal
 16 social security system or for unemployment compensation insurance."

17

18 **Section 77.** Section 20-9-620, MCA, is amended to read:

19 **"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue"
 20 means, except for that portion of revenue described in ~~20-9-516(2)(a) and~~ 77-1-109, 95% of all revenue from the
 21 management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest,
 22 dividends, and net realized capital gains.

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

25

26 **Section 78.** Section 20-9-622, MCA, is amended to read:

27 **"20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The
 28 guarantee account is intended to:

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

30 (b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all

1 distributable revenue must be deposited in the guarantee account. Except as provided in subsection (2), the
 2 guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through
 3 ~~school equalization~~ BASE aid as provided in 20-9-343.

4 (2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of
 5 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the
 6 guarantee account to the general fund an amount that represents the amount of interest income that would be
 7 earned from the investment of the amount of the loan that is currently outstanding. ~~When the loan is fully paid,~~
 8 ~~all mineral royalties deposited in the guarantee account must be transferred to the school facility and technology~~
 9 ~~account pursuant to 17-6-340."~~

10

11 **Section 79.** Section 20-9-630, MCA, is amended to read:

12 **"20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a block
 13 grant to each school district based on:

14 (i) the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license
 15 taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax
 16 reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999; and

17 (ii) any reimbursement to be made to a school district pursuant to subsection (2).

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

21 (2) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
 22 the office of public instruction shall determine the reimbursement amount as provided in the enactment and add
 23 the appropriate amount to block grant distributions under this section. Except for the reimbursement made under
 24 15-1-123(3)(b), the total of reimbursement distributions made pursuant to this subsection in a fiscal year must
 25 be added to all other distributions to the school district in the fiscal year to determine the distribution for the
 26 subsequent fiscal year.

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

29 (4) (a) The block grant for the district general fund is equal to the amount received in fiscal year 2011
 30 by the district general fund from the block grants provided for in subsection (1) and the amount received by the

1 district general fund under subsection (2), except the amount received under 15-1-123(3)(b).

2 (b) The block grant for the district transportation fund is equal to the amount received in fiscal year 2011
3 by the district transportation fund from the block grants provided for in subsection (1) and the amount received
4 by the district transportation fund under subsection (2), except the amount received under 15-1-123(3)(b).

5 (c) (i) The combined fund block grant is equal to the amount received in fiscal year 2011 and the amount
6 received under subsection (2), except the amount received under 15-1-123(3)(b).

7 (ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."
8

9 **Section 80.** Section 69-11-202, MCA, is amended to read:

10 "**69-11-202. Establishment and notice of schedule for passenger carriers.** A common carrier of
11 passengers by railroad or by vessel plying upon waters lying wholly within this state shall establish and give public
12 notice of a schedule time for the starting of trains or vessels from their stations or wharves. A common carrier
13 shall, except in case of accident or detention caused by connecting lines or weather conditions, start trains or
14 vessels at or within 10 minutes after the schedule time. Failure to comply is punishable by a fine of \$250, to be
15 recovered by action before any court of competent jurisdiction, upon complaint filed by the county attorney, and
16 paid into the ~~elementary county equalization~~ general fund."

17

18 **Section 81.** Section 77-1-218, MCA, is amended to read:

19 "**77-1-218. Public school land acquisition account.** (1) There is a public school land acquisition
20 account in the state special revenue fund established in 17-2-102. The account must be administered by the
21 department.

22 (2) Money in the account may be used only for the purpose of purchasing and managing interests in and
23 appurtenances to real property in accordance with 77-1-219.

24 (3) After deductions are made pursuant to 77-1-109 and 77-1-613, the net interest and income earned
25 on real property and appurtenances purchased with funds from the account must be ~~distributed to the school~~
26 ~~facility improvement account provided for in 20-9-516~~ deposited in the guarantee account provided for in
27 20-9-622."

28

29 **Section 82.** Section 90-6-309, MCA, is amended to read:

30 "**90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence

1 operation is granted by the appropriate governmental agency and upon request of the governing body of a county
2 in which a facility is to be located, a person intending to construct or locate a large-scale mineral development
3 in this state shall prepay property taxes as specified in the impact plan. This prepayment must exclude the 6-mill
4 university levy established under 15-10-108 ~~and may exclude the mandatory county levies for the school BASE~~
5 ~~funding program established in 20-9-331 and 20-9-333.~~

6 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
7 established in subsection (1) at one time. Upon request of the governing body of an affected local government
8 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

9 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
10 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as
11 needed for expenditures created by the impacts of the large-scale mineral development.

12 (4) When the mineral development facilities are completed and assessed by the department of revenue,
13 they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except
14 that in each year after the start of production, the local government unit that received a property tax prepayment
15 shall provide for repayment of prepaid property taxes in accordance with subsection (5).

16 (5) A local government unit that received all or a portion of the property tax prepayment under this
17 section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not,
18 however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited
19 to the productive life of the mining operation."
20

21 **Section 83.** Section 90-6-403, MCA, is amended to read:

22 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
23 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to
24 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected
25 local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this
26 section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation
27 of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill
28 levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404.
29 The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application
30 of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation

1 allocated to the local government unit is considered newly taxable property in the recipient local government unit
2 as provided in 15-10-420.

3 (2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains
4 subject to the statewide mill levies ~~and basic county levies for elementary and high school~~ for BASE funding
5 programs ~~as provided in 20-9-331 and 20-9-333.~~

6 (3) The provisions of subsection (1) remain in effect until the large-scale mineral development ceases
7 operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."
8

9 **Section 84.** Section 90-6-1001, MCA, is amended to read:

10 **"90-6-1001. Oil, gas, and coal natural resource accounts.** (1) There is an oil and gas natural resource
11 distribution account in the state special revenue fund. The collections allocated to the account from
12 15-36-304(7)(b) must be deposited in the account ~~to be used~~ and distributed to counties as provided in
13 15-36-332(7) ~~and (8).~~

14 (2) There is a coal natural resource account in the state special revenue fund. The collections allocated
15 to the account from 15-35-108(7) must be deposited in the account. The money in the account is allocated to the
16 coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205
17 through 90-6-207 and costs related to the administration of the grant awards."
18

19 NEW SECTION. **Section 85. Rulemaking authority of superintendent of public instruction.** The
20 superintendent of public instruction shall make rules to provide for the adjustment of the basic curriculum teacher
21 payment calculation based upon changes in enrollment. The rules must include:

22 (1) an application process for a school district to request an increase in the basic curriculum teacher
23 calculation for a school or schools;

24 (2) procedures as to the frequency that a school district may apply for an increase; and

25 (3) procedures for determining whether a school has a decrease in the number of students requiring a
26 decrease in the number of basic curriculum teachers on an annual basis.
27

28 NEW SECTION. **Section 86. Ad hoc committee on accreditation standards -- appointment**
29 **process.** (1) There is an ad hoc committee on accreditation standards that meets during the interim for the
30 purpose of reviewing accreditation standards for K-12 schools. On or before September 15, 2014, the committee

1 shall issue a report on the committee's findings and prepare recommendations for the 64th Legislature.

2 (2) The ad hoc accreditation standards committee consists of:

3 (a) four members of the house of representatives appointed by the speaker of the house;

4 (b) four members of the senate appointed by the committee on committees;

5 (c) one representative of the office of public instruction; and

6 (d) one representative of the board of public education.

7 (3) The committee may request recommendations for curriculum or accreditation standards from the
8 superintendent of public instruction or the board of public education.

9 (4) The committee is attached for administrative purposes to the legislative services division. The
10 legislative members of the committee must be reimbursed for salary as provided in 5-2-302 and travel expenses
11 as provided in 2-18-501 through 2-18-503.

12

13 **Section 87.** Section 29, Chapter 418, Laws of 2011, is amended to read:

14 **"Section 29. Termination.** (1) [Sections 1,~~7~~, and 8] terminate June 30, 2016.

15 (2) [Section 7] terminates June 30, 2013."
16

16

17 **NEW SECTION. Section 88. Repealer.** The following sections of the Montana Code Annotated are
18 repealed:

19 20-7-202. School library required.

20 20-9-305. Proration and calculation of BASE funding program for joint district.

21 20-9-308. BASE budgets and maximum general fund budgets.

22 20-9-313. Circumstances under which regular average number belonging may be increased.

23 20-9-314. Procedures for determining eligibility and amount of increased average number belonging due
24 to unusual enrollment increase.

25 20-9-326. Annual inflation-related adjustments to basic entitlements and per-ANB entitlements.

26 20-9-327. Quality educator payment.

27 20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of
28 elementary BASE funding program.

29 20-9-332. Fines and penalties proceeds for elementary county equalization.

30 20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high

- 1 school BASE funding program.
- 2 20-9-335. Formula for apportionment of county equalization money.
- 3 20-9-348. Estimation of state equalization aid for budget purposes.
- 4 20-9-361. County equalization revenue.
- 5 20-9-366. Definitions.
- 6 20-9-367. Eligibility to receive guaranteed tax base aid or state advance or reimbursement for school
- 7 facilities.
- 8 20-9-368. Amount of guaranteed tax base aid.
- 9 20-9-369. Duties of superintendent of public instruction and department of revenue.
- 10 20-9-370. Definitions.
- 11 20-9-371. Calculation and uses of school facility entitlement amount.
- 12 20-9-516. School facility and technology account.
- 13 20-9-534. Statutory appropriation for school technology purposes.
- 14 90-6-801. Short title.
- 15 90-6-802. Purpose.
- 16 90-6-803. Definitions.
- 17 90-6-809. Quality schools facility grant program -- legislature to authorize grants -- types of grants
- 18 available.
- 19 90-6-810. Procedure for approval of projects -- role of department and governor -- approval by legislature.
- 20 90-6-811. Priorities for projects -- application of criteria -- consideration of project attributes -- adjustments
- 21 for educationally relevant factors.
- 22 90-6-812. Conditions for grants.
- 23 90-6-818. Disbursement of funds -- department discretion when actual expenses are less than projected
- 24 expenses.
- 25 90-6-819. Department to adopt rules.

26

27 **NEW SECTION. Section 89. Appropriation.** There is appropriated \$200,000 from the state general

28 fund to the legislative services division for the biennium beginning July 1, 2013, to support the activities of the ad

29 hoc committee on accreditation standards established in [section 86] and any contracted services the committee

30 considers to be warranted.

