

HOUSE BILL NO. 639

INTRODUCED BY B. HARRIS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FINANCE LAWS BY
5 INCREASING THE PER-ANB ENTITLEMENT; ELIMINATING THE REQUIREMENT FOR A RESIDENT
6 DISTRICT'S APPROVAL OF A STUDENT ENROLLING OUTSIDE THE RESIDENT DISTRICT; ESTABLISHING
7 THAT THE PER-ANB ENTITLEMENT AND STATE SPECIAL EDUCATION PAYMENT FOLLOW A STUDENT
8 TO A DISTRICT OTHER THAN A STUDENT'S RESIDENT DISTRICT AND TO AN IN-STATE RESIDENTIAL
9 TREATMENT FACILITY; REDUCING THE NUMBER OF SCHOOL DISTRICT FUNDS BY ELIMINATING THE
10 FLEXIBILITY FUND, THE TUITION FUND, THE LITIGATION RESERVE FUND, THE TRAFFIC EDUCATION
11 FUND, THE METAL MINES FUND, AND THE MINING IMPACT FUND AND DIVIDING THE MISCELLANEOUS
12 PROGRAMS FUND INTO THE FEDERAL PROGRAMS AND STATE AND PRIVATE PROGRAMS FUNDS;
13 ADJUSTING THE DISTRIBUTION SCHEDULE FOR DIRECT STATE AID; ENSURING LEGISLATIVE BUDGET
14 AUTHORITY THROUGH THE REMOVAL OF AUTOMATIC INFLATIONARY ADJUSTMENTS; PROVIDING
15 THAT THE CALCULATION OF AVERAGE NUMBER BELONGING ACCURATELY REFLECTS ENROLLMENT;
16 AMENDING SECTIONS 20-3-324, 20-4-203, 20-5-314, 20-5-320, 20-5-321, 20-5-322, 20-5-323, 20-6-702,
17 20-7-118, 20-7-306, 20-7-420, 20-7-421, 20-7-435, 20-7-457, 20-7-507, 20-7-705, 20-9-141, 20-9-201, 20-9-231,
18 20-9-306, 20-9-308, 20-9-309, 20-9-311, 20-9-323, 20-9-344, 20-9-353, 20-9-501, 20-9-505, 20-9-507, 20-9-510,
19 20-9-703, 20-10-105, AND 20-10-144, MCA; REPEALING SECTIONS 20-5-324, 20-9-326, 20-9-327, 20-9-328,
20 20-9-329, 20-9-330, 20-9-515, 20-9-541, 20-9-542, 20-9-543, AND 20-9-544, MCA; AND PROVIDING AN
21 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 **Section 1.** Section 20-3-324, MCA, is amended to read:

26 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

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



- 1 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians,
2 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered
3 necessary to carry out the various services of the district;
- 4 (3) administer the attendance and tuition provisions and govern the pupils of the district in accordance
5 with the provisions of the pupils chapter of this title;
- 6 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the school
7 elections chapter of this title;
- 8 (5) participate in the teachers' retirement system of the state of Montana in accordance with the
9 provisions of the teachers' retirement system chapter of Title 19;
- 10 (6) participate in district boundary change actions in accordance with the provisions of the school districts
11 chapter of this title;
- 12 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the
13 provisions of the school organization part of this title;
- 14 (8) adopt and administer the annual budget or a budget amendment of the district in accordance with
15 the provisions of the school budget system part of this title;
- 16 (9) conduct the fiscal business of the district in accordance with the provisions of the school financial
17 administration part of this title;
- 18 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve,
19 and state impact aid amounts for the general fund of the district in accordance with the provisions of the general
20 fund part of this title;
- 21 (11) establish, maintain, budget, and finance the transportation program of the district in accordance with
22 the provisions of the transportation parts of this title;
- 23 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions
24 of the bonds parts of this title;
- 25 (13) when applicable, establish, financially administer, and budget for the ~~tuition fund~~, retirement fund,
26 building reserve fund, adult education fund, nonoperating fund, school food services fund, ~~miscellaneous federal~~
27 programs fund, state and private programs fund, building fund, lease or rental agreement fund, ~~traffic education~~
28 ~~fund~~, impact aid fund, interlocal cooperative fund, and other funds as authorized by the state superintendent of
29 public instruction in accordance with the provisions of the other school funds parts of this title;
- 30 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in

1 accordance with the provisions of the miscellaneous financial parts of this title;

2 (15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with
3 the provisions of the school sites and facilities part of this title;

4 (16) operate the schools of the district in accordance with the provisions of the school calendar part of
5 this title;

6 (17) set the length of the school term, school day, and school week in accordance with 20-1-302;

7 (18) establish and maintain the instructional services of the schools of the district in accordance with the
8 provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special
9 education parts of this title;

10 (19) establish and maintain the school food services of the district in accordance with the provisions of
11 the school food services parts of this title;

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

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

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

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

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

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

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

30 (27) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in

1 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a
2 postsecondary institution;

3 (28) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of
4 20-1-303;

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

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

10

11 **Section 2.** Section 20-4-203, MCA, is amended to read:

12 **"20-4-203. Teacher tenure.** (1) Except as provided in 20-4-208, whenever a teacher has been elected
13 by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position
14 requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be
15 reelected from year to year as a tenured teacher at the same salary and in the same or a comparable position
16 of employment as that provided by the last-executed contract with the teacher unless the trustees resolve by
17 majority vote of their membership to terminate the services of the teacher in accordance with the provisions of
18 20-4-204.

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

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

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

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

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

5 (4) Upon receiving tenure, the employment of a teacher may be terminated for good cause."
 6

7 **Section 3.** Section 20-5-314, MCA, is amended to read:

8 **"20-5-314. Reciprocal attendance agreement with adjoining state or province.** (1) The
 9 superintendent of public instruction may execute a reciprocal attendance agreement with the superintendent of
 10 public instruction or a department of education of any state or province adjoining Montana to allow a child who
 11 is a Montana resident to attend school in the adjoining state or province and a child of the adjoining state or
 12 province to attend school in Montana. In negotiating a reciprocal attendance agreement, ~~the tuition rates~~
 13 ~~prescribed by 20-5-323 are waived~~ and the reciprocal tuition rate may be negotiated as a flat amount or an
 14 actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal
 15 attendance agreement that is executed to the county superintendent of each county that may be affected by the
 16 agreement.

17 (2) An out-of-district attendance agreement approved under the provisions of 20-5-320 and 20-5-321
 18 must be completed for a child's attendance at a school outside the state or for an out-of-state child to attend a
 19 school in Montana."
 20

21 **Section 4.** Section 20-5-320, MCA, is amended to read:

22 **"20-5-320. Attendance with discretionary approval.** (1) A child may be enrolled in and attend a school
 23 in a Montana school district that is outside of the child's district of residence or a public school in a district of
 24 another state or province that is adjacent to the county of the child's residence, subject to discretionary approval
 25 by the trustees of ~~the resident district and~~ the district of choice. If the trustees grant discretionary approval of the
 26 child's attendance in a school of the district, the parent or guardian ~~may be charged tuition and~~ may be charged
 27 for transportation.

28 (2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the
 29 provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes
 30 to attend. The application must be made on an out-of-district attendance agreement form supplied by the district

1 and developed by the superintendent of public instruction.

2 (b) The attendance agreement must set forth the financial obligations, if any, for tuition and for costs
3 incurred for transporting the child under Title 20, chapter 10.

4 (c) ~~(i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the~~
5 ~~district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity~~
6 ~~and may charge tuition for all students whose tuition is required to be paid by another type of entity. However,~~
7 ~~any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.~~

8 ~~—— (ii) As used in this subsection (2)(c), "entity" means a parent or guardian or the trustees of the district of~~
9 ~~residence. When an attendance agreement is established and filed with the district of residence and the~~
10 ~~superintendent of public instruction, the district of residence must pay to the district of choice the sum of 80% of~~
11 ~~the child's total per-ANB entitlement and the child's state special education payment prorated based on the~~
12 ~~number of school days remaining in that school year. The amount must be deposited in the general fund of the~~
13 ~~district of choice.~~

14 (3) An out-of-district attendance agreement approved under this section requires that the parent or
15 guardian initiate the request for an out-of-district attendance agreement and that the trustees of ~~both the district~~
16 ~~of residence and the district of choice~~ approve the agreement for the remainder of the designated school year.

17 ~~(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not~~
18 ~~required.~~

19 ~~(5)(4) The trustees of a school district may approve or not disapprove the out-of-district attendance~~
20 ~~agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district~~
21 ~~attendance agreements for any reason except capacity.~~

22 ~~(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the~~
23 ~~result of an appeal must authorize the child named in the agreement to enroll in and attend the school named~~
24 ~~in the agreement for the designated school year.~~

25 ~~(5) The district of residence must count the child for ANB purposes for the duration of the out-of-district~~
26 ~~attendance agreement. The district of choice may not count the child for the purposes of ANB for the duration~~
27 ~~of the out-of-district attendance agreement.~~

28 ~~(6) An out-of-district attendance agreement must be established each school year.~~

29 ~~(7) The trustees of the district where the child wishes to attend have the discretion to approve any~~
30 ~~attendance agreement.~~

1 ~~———(8) This section does not preclude the trustees of a district from approving an attendance agreement for~~
 2 ~~educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8~~
 3 ~~programs, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and~~
 4 ~~transportation requirement. For purposes of this subsection, the trustees of the resident district shall initiate the~~
 5 ~~out-of-district agreement.~~

6 (9) (a) A provision of this title may not be construed to deny a parent or guardian the right to send a child,
 7 at personal expense, to any school of a district other than the resident district when the trustees of the district of
 8 choice have approved an out-of-district attendance agreement and the parent or guardian has agreed to pay the
 9 tuition as prescribed by 20-5-323. However, under this subsection (9), the tuition rate must be reduced by the
 10 amount that the parent or guardian of the child paid in district property taxes during the immediately preceding
 11 school fiscal year for the benefit and support of the district in which the child will attend school.

12 (b) For the purposes of this section, "parent or guardian" includes an individual shareholder of a domestic
 13 corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree
 14 of consanguinity or by marriage to the sixth degree of affinity.

15 ~~———(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection~~
 16 ~~(9)(a) is determined in the following manner:~~

17 ~~———(i) determine the percentage of the total shares of the corporation held by the shareholder parent or~~
 18 ~~parents or guardian;~~

19 ~~———(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation,~~
 20 ~~parent, or guardian for the benefit and support of the district in which the child will attend school.~~

21 ~~———(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid~~
 22 ~~as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.~~

23 ~~———(10) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor as~~
 24 ~~provided in Title 72, chapter 5, part 2."~~

25

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

27 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
 28 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is
 29 outside of the child's district of residence or in a public school district of a state or province that is adjacent to the
 30 county of the child's residence is mandatory whenever:

1 (a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the
2 school the child would attend in the resident district and the resident district does not provide transportation;

3 (b) (i) the child resides in a location where, because of geographic conditions between the child's home
4 and the school that the child would attend within the district of residence, it is impractical to attend school in the
5 district of residence, as determined by the county transportation committee based on the following criteria:

6 (A) the length of time that is in excess of the 1-hour limit for each bus trip for an elementary child as
7 authorized under 20-10-121;

8 (B) whether distance traveled is greater than 40 miles one way from the child's home to school on a dirt
9 road or greater than a total of 60 miles one way from the child's home to school in the district of residence over
10 the shortest passable route; or

11 (C) whether the condition of the road or existence of a geographic barrier, such as a river or mountain
12 pass, causes a hazard that prohibits safe travel between the home and school.

13 (ii) The decision of the county transportation committee is subject to appeal to the superintendent of
14 public instruction, as provided in 20-3-107, ~~but the decision must be considered as final for the purpose of the~~
15 ~~payment of tuition under 20-5-324(5)(a)(ii) until a decision is issued by the superintendent of public instruction.~~
16 The superintendent of public instruction may review and rule upon a decision of the county transportation
17 committee without an appeal being filed.

18 (c) the child is a member of a family that is required to send another child outside of the elementary
19 district to attend high school and the child of elementary age may more conveniently attend an elementary school
20 where the high school is located, provided that the child resides more than 3 miles from an elementary school
21 in the resident district or that the parent is required to move to the elementary district where the high school is
22 located to enroll another child in high school. A child enrolled in an elementary school pursuant to this subsection
23 (1)(c) may continue to attend the elementary school after the other child has left the high school.

24 (d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need
25 of intervention or a delinquent youth, as defined in 41-5-103; or

26 (e) the child is required to attend school outside of the district of residence as the result of a placement
27 in foster care or a group home licensed by the state.

28 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child
29 attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an
30 out-of-district attendance agreement in consultation with an appropriate official of the district that the child will

1 attend.

2 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition
3 ~~and plan and anticipated costs for~~ transportation as provided in 20-5-323 and Title 20, chapter 10.

4 (c) (i) ~~The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the~~
5 ~~district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity~~
6 ~~and may charge tuition for all students whose tuition is required to be paid by another type of entity. However,~~
7 ~~any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.~~

8 ~~—— (ii) As used in this subsection (2)(c), "entity" means a parent, a guardian, the trustees of the district of~~
9 ~~residence, or a state agency~~ When an attendance agreement is established and filed with the district of residence
10 and the superintendent of public instruction, the district of residence must pay to the district of choice the sum
11 of 80% of the child's total per-ANB entitlement and the child's state special education payment prorated based
12 on the number of school days remaining in that school year, and the transportation costs as outlined in the
13 attendance agreement and in accordance with 20-5-323.

14 (3) The resident school district must count the child for ANB purposes for the duration of the
15 out-of-district attendance agreement. The district of choice may not count the child for the purposes of ANB for
16 the duration of the out-of-district attendance agreement.

17 (4) An out-of-district attendance agreement must be established each school year.

18 ~~(3) Except as provided in subsection (4), the trustees of the resident district and the trustees of the~~
19 ~~district of attendance shall approve the out-of-district attendance agreement. The trustees of the district of~~
20 ~~attendance shall:~~

21 ~~—— (a) notify the county superintendent of schools of the county of the child's residence of the approval of~~
22 ~~the agreement within 10 days; and~~

23 ~~—— (b) submit the agreement for a student attending under the provisions of subsection (1)(d) or (1)(e) to~~
24 ~~the superintendent of public instruction for approval for payment under 20-5-324.~~

25 ~~—— (4) Unless the child is a child with a disability who resides in the district, the trustees of the district where~~
26 ~~the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find~~
27 ~~that, because of insufficient room and overcrowding, the accreditation of the school would be adversely affected~~
28 ~~by the acceptance of the child."~~

29

30 **Section 6.** Section 20-5-322, MCA, is amended to read:

1 **"20-5-322. Residency determination -- notification -- appeal for attendance agreement.** (1) In
 2 considering an out-of-district attendance agreement, except as provided in 20-9-707, the trustees shall determine
 3 the child's district of residence on the basis of the provisions of 1-1-215.

4 (2) Within 10 days of the initial application for an agreement, the trustees of the district of choice shall
 5 notify the parent or guardian of the child and the trustees of the district of residence involved in the out-of-district
 6 attendance agreement of the anticipated date for approval or disapproval of the agreement.

7 (3) Within 10 days of approval or disapproval of an out-of-district attendance agreement, the trustees
 8 shall provide copies of the approved or disapproved attendance agreement to the parent or guardian and to the
 9 child's district of residence.

10 ~~(4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the~~
 11 ~~district of residence shall approve or disapprove the agreement under the provisions of this part and forward the~~
 12 ~~completed agreement to the county superintendent of schools of the county of residence, the trustees of the~~
 13 ~~district of choice, and the parent or guardian.~~

14 ~~(5)~~(4) If an out-of-district attendance agreement is disapproved or no action is taken, the parent may
 15 appeal the disapproval or lack of action to the county superintendent and, subsequently, to the superintendent
 16 of public instruction under the provisions for the appeal of controversies in this title.

17 ~~(6) For purposes of payment under 20-5-324(2), a nonresident student who becomes a resident by~~
 18 ~~reaching 18 years of age during the school year may continue to have tuition paid on the student's behalf for the~~
 19 ~~duration of the student's enrollment in the district for that school year."~~

20

21 **Section 7.** Section 20-5-323, MCA, is amended to read:

22 **"20-5-323. Tuition and transportation Transportation rates.** (1) Except as provided in subsections
 23 ~~(2) through (5), whenever Whenever a child has approval to attend attends a school outside of the child's district~~
 24 ~~of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident~~
 25 ~~student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.~~

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

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

1 ~~_____ (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall~~
 2 ~~approve an agreement with the district of attendance for the tuition cost;~~
 3 ~~_____ (b) for a Montana resident student, 80% of the maximum the per-ANB rate established in 20-9-306,~~
 4 ~~received in the year for which the tuition charges are calculated, must be subtracted from the per-student program~~
 5 ~~costs for a Montana resident student; and~~
 6 ~~_____ (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.~~
 7 ~~_____ (4) When a child attends a public school of another state or province, the amount of daily tuition may not~~
 8 ~~be greater than the average annual cost for each student in the child's district of residence. This calculation for~~
 9 ~~tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the~~
 10 ~~preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal~~
 11 ~~year. For the purposes of this subsection, the following do not apply:~~
 12 ~~_____ (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;~~
 13 ~~_____ (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;~~
 14 ~~_____ (c) an order issued under Title 40, chapter 4, part 2; or~~
 15 ~~_____ (d) out-of-state placement by a state agency.~~
 16 ~~_____ (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency~~
 17 ~~making the placement is responsible for the education costs resulting from the placement.~~
 18 ~~_____ (6) The amount, if any, charged for transportation may not exceed the lesser of the average~~
 19 ~~transportation cost for each student in the child's district of residence or 35 cents a mile. The average~~
 20 ~~expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing~~
 21 ~~the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."~~

22
 23 **Section 8.** Section 20-6-702, MCA, is amended to read:

24 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
 25 through ~~(6)~~ (5), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law
 26 for high school districts.

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

29 (3) Calculations for the following must be made separately for the elementary school program and the
 30 high school program of a K-12 school district:

1 (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in
2 accordance with the provisions of 20-9-311;

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

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

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

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

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

21

22 **Section 9.** Section 20-7-118, MCA, is amended to read:

23 **"20-7-118. Offsite provision of educational services by school district.** (1) A school district may
24 provide educational services at an offsite instructional setting, including the provision of services through
25 electronic means. A district shall comply with any rules adopted by the board of public education that specify
26 standards for the provision of educational services at an offsite instructional setting. The provision of educational
27 services at an offsite instructional setting by a district is limited to pupils:

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

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

1 (c) attending school in the district under ~~a mandatory~~ an out-of-district attendance agreement as provided
2 in 20-5-320 or 20-5-321.

3 (2) The superintendent of public instruction shall adopt rules for the administration and enforcement of
4 this section."
5

6 **Section 10.** Section 20-7-306, MCA, is amended to read:

7 **"20-7-306. Distribution of secondary K-12 career and vocational/technical education funds. (1)**

8 The superintendent of public instruction shall categorize secondary K-12 career and vocational/technical
9 education programs according to the relative additional costs of those programs based on weighted factors,
10 including but not limited to:

11 (a) K-12 career and vocational/technical education enrollment;

12 (b) approved career and technical student organizations;

13 (c) field supervision of students beyond the school year for K-12 career and vocational/technical
14 education; and

15 (d) district expenditures related to the K-12 career and vocational/technical education programs.

16 (2) The superintendent of public instruction shall adjust the weighted factors outlined in subsection (1)
17 as necessary to ensure that the allocations do not exceed the amount appropriated.

18 (3) Except for other expenditures outlined in subsection (1)(d), funding must be based upon the
19 calculation for secondary K-12 career and vocational/technical education programs of the high school district in
20 the year preceding the year for which funding is requested. Funding for the expenditures referred to in subsection
21 (1)(d) must be based on the calculation for the secondary K-12 career and vocational/technical education
22 programs of the high school district for the 2 years preceding the year for which funding is requested. The funding
23 must be computed for each separate secondary K-12 career and vocational/technical education program.

24 (4) For secondary career and vocational/technical education programs, the total funding must be
25 distributed to eligible programs based on the four factors listed in subsections (1)(a) through (1)(d).

26 (5) The superintendent of public instruction shall annually distribute the funds allocated in this section
27 by November 1. The money received by the high school district must be deposited into the subfund of the
28 ~~miscellaneous~~ state and private programs fund established by 20-9-507 and may be expended only for approved
29 secondary K-12 career and vocational/technical education programs. The expenditure of the money must be
30 reported in the annual trustees' report as required by 20-9-213."

1

2 **Section 11.** Section 20-7-420, MCA, is amended to read:

3 **"20-7-420. Residency requirements -- financial responsibility for special education.** (1) Except for
4 a pupil attending the Montana youth challenge program or a job corps program pursuant to 20-9-707, a child's
5 district of residence for special education purposes must be determined in accordance with the provisions of
6 1-1-215.

7 (2) The superintendent of public instruction is financially responsible for ~~tuition and transportation as~~
8 ~~established under 20-5-323 and 20-5-324~~ appropriate educational costs beyond 80% of the child's total per-ANB
9 entitlement and the child's state special education payment described in 20-5-321 for a child with a disability, as
10 defined in 20-7-401, who attends school outside the district and county of residence because the student has
11 been placed in a foster care or group home licensed by the state or because the trustees of the district of
12 residence arrange for the attendance of a child in need of special education and related services in another
13 district within the state. The superintendent of public instruction is not financially responsible for tuition and
14 transportation for a child who is placed by a state agency in an out-of-state public school or an out-of-state private
15 residential facility.

16 (3) If an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state residential
17 treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational services are
18 provided by a public school district that is not the child's district of residence under the provisions of 20-7-411 or
19 20-7-435, the district of residence must pay to the district providing services the sum of 80% of the child's total
20 per-ANB entitlement and the child's state special education payment prorated based on the number of days of
21 service provided. ~~the~~ The superintendent of public instruction shall reimburse the district providing the services
22 for the negotiated amount, as established pursuant to 20-7-435(5), that represents the district's costs of providing
23 education and related services beyond the payment from the district of residence. Payments must be made from
24 funds appropriated for this purpose. ~~If the negotiated amount exceeds the daily membership rate under~~
25 ~~20-7-435(3) and any per-ANB amount of direct state aid, the superintendent of public instruction shall pay the~~
26 ~~remaining balance from available funds.~~ However, the amount spent from available funds for this purpose may
27 not exceed \$500,000 during a biennium.

28 (4) A state agency that makes a placement of a child with a disability is responsible for the financial costs
29 of room and board and the treatment of the child. The state agency that makes an out-of-state placement of a
30 child with a disability is responsible for the education fees required to provide a free appropriate public education

1 that complies with the requirements of Title 20, chapter 7, part 4."

2

3 **Section 12.** Section 20-7-421, MCA, is amended to read:

4 **"20-7-421. Arranging attendance in another district in lieu of a special education program --**
5 **tuition.** (1) In accordance with a placement decision made by persons determining an individualized education
6 program for a child with a disability, the trustees may arrange for the attendance of a child in need of special
7 education and related services in another district within the state of Montana.

8 (2) Tuition and transportation ~~as required under 20-5-323~~ may be charged as provided in 20-5-321 and
9 20-7-420."

10

11 **Section 13.** Section 20-7-435, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

18 (6) Funds provided to a district under this section, including funds received under the provisions of
 19 20-7-420:

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

23 (b) are not subject to the budget limitations in 20-9-308."
 24

25 **Section 14.** Section 20-7-457, MCA, is amended to read:

26 **"20-7-457. Funding provisions for special education purposes of cooperatives or joint boards.**

27 (1) The superintendent of public instruction shall pay directly to a cooperative or to a joint board formed under
 28 20-3-361 prior to July 1, 1992, for special education purposes the special education allowable cost payments
 29 determined pursuant to 20-9-321.

30 (2) A school district that elects to participate in a cooperative for special education purposes shall agree

1 in the cooperative contract to participate for a period of at least 3 years.

2 (3) A school district that elects to participate in a joint board formed under 20-3-361 for special education
3 purposes shall confirm in writing to the joint board by October 1 of the current school fiscal year the district's
4 intention to participate or to not participate in a joint board agreement for the next school fiscal year.

5 (4) A cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions
6 of this section except by approval of the superintendent of public instruction. The superintendent shall adopt rules
7 for approval of full service education cooperatives.

8 (5) A full service education cooperative may establish a retirement fund, a ~~miscellaneous federal~~
9 programs fund, a state and private programs fund, and a transportation fund, as provided for in 20-9-201, for the
10 purposes of a full service education cooperative contract and the purposes allowed by law.

11 (6) The superintendent of public instruction, after consulting with regional representatives, shall define
12 boundaries for cooperatives established for special education programs that incorporate the territory of all public
13 school districts.

14 (7) Restructuring of cooperatives established for providing special education services must:

15 (a) be limited to a statewide total of no more than 23;

16 (b) include districts that are adjacent to each other and not overlapping into another cooperative's
17 territory; and

18 (c) provide that all districts located within a cooperative's boundary may voluntarily become a cooperative
19 member."
20

21 **Section 15.** Section 20-7-507, MCA, is amended to read:

22 **"20-7-507. District Deposit of traffic education fund funds.** The trustees of any district maintaining
23 a traffic education course shall establish a ~~special nonbudgeted~~ state and private programs fund with the county
24 treasurer for traffic education. All nontax receipts for traffic education must be deposited in the district's ~~traffic~~
25 education state and private programs fund. The expenditure of the traffic education money deposited in the
26 district's ~~traffic education~~ state and private programs fund is not subject to the budgeting provisions of this title,
27 and the money may be expended for traffic education."
28

29 **Section 16.** Section 20-7-705, MCA, is amended to read:

30 **"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when an

1 adult education program is operated by a district or community college district. The financial administration of the
2 fund must comply with the budgeting, financing, and expenditure provisions of the laws governing the schools.

3 (2) Whenever the trustees of a district establish an adult education program under the provisions of
4 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult education
5 fund is the depository for all district money received by the district in support of the adult education program.
6 ~~Federal and state adult education program money must be deposited in the miscellaneous federal programs fund~~
7 and state adult education money must be deposited in the state and private programs fund.

8 (3) The trustees of a district may authorize the levy of a tax on the taxable value of all taxable property
9 within the district for the operation of an adult education program.

10 (4) Whenever the trustees of a district decide to offer an adult education program during the ensuing
11 school fiscal year, they shall budget for the cost of the program in the adult education fund of the final budget.
12 Any expenditures in support of the adult education program under the final adult education budget must be made
13 in accordance with the financial administration provisions of this title for a budgeted fund.

14 (5) When a tax levy for an adult education program is included as a revenue item on the final adult
15 education budget, the county superintendent shall report the levy requirement to the county commissioners by
16 the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and
17 a levy on the district must be made by the county commissioners in accordance with 20-9-142."

18

19 **Section 17.** Section 20-9-141, MCA, is amended to read:

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

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

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

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

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

- 1 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;
- 2 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
- 3 following:
- 4 (A) interest earned by the investment of general fund cash in accordance with the provisions of
- 5 20-9-213(4); and
- 6 (B) any other revenue received during the school fiscal year that may be used to finance the general
- 7 fund, excluding any guaranteed tax base aid;
- 8 (iii) anticipated oil and natural gas production taxes;
- 9 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and
- 10 (v) school district block grants distributed under 20-9-630.
- 11 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property
- 12 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund
- 13 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general
- 14 fund BASE budget levy requirement.
- 15 ~~(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any~~
- 16 ~~tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except~~
- 17 ~~the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a~~
- 18 ~~pupil without disabilities, as calculated under 20-5-323(2).~~
- 19 ~~(e)(d)~~ Subtract the amount determined in subsection ~~(1)(d)~~ (1)(c) from any additional funding requirement
- 20 to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing
- 21 as provided in 20-9-353 to determine any additional general fund levy requirements.
- 22 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property
- 23 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget
- 24 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:
- 25 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified
- 26 by the superintendent of public instruction; and
- 27 (b) the current total taxable valuation of the district, as certified by the department of revenue under
- 28 15-10-202, divided by 1,000.
- 29 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported
- 30 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after

1 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the
2 district, and a levy must be set by the county commissioners in accordance with 20-9-142.

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

6

7 **Section 18.** Section 20-9-201, MCA, is amended to read:

8 **"20-9-201. Definitions and application.** (1) As used in this title, unless the context clearly indicates
9 otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as
10 authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are
11 classified as follows:

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

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

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

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

1 deficit."

2

3 **Section 19.** Section 20-9-231, MCA, is amended to read:

4 **"20-9-231. ~~Metalliferous~~ Metalliferous mines license tax reserve fund proceeds -- deposit.** (1) The
5 governing body of a local school district receiving metalliferous mines license tax collections under
6 15-37-117(1)(e) ~~may establish a metal mines tax reserve~~ shall deposit the money in a state and private programs
7 ~~fund to be used to hold the collections.~~ The governing body may hold metalliferous mines license tax money in
8 the fund for any time period considered appropriate by the governing body. Money held in the fund may not be
9 considered as fund balance for the purpose of reducing mill levies.

10 (2) ~~Money~~ Metalliferous mines license tax money may be expended from the fund for any purpose
11 provided by law.

12 (3) ~~Money~~ Metalliferous mines license tax money in the fund must be invested as provided by law.
13 Interest and income from the investment of the ~~metal mines tax reserve~~ metalliferous mines license tax money
14 in the state and private programs fund must be credited to the fund.

15 (4) The metalliferous mines license tax money in the state and private programs fund must be financially
16 administered as a nonbudgeted fund under the provisions of this title."

17

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

19 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
20 definitions apply:

21 (1) "BASE" means base amount for ~~school equity~~ student education.

22 (2) "BASE aid" means:

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

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

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

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

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

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

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

6 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
7 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
8 20-9-369.

9 (5) "BASE funding program" means the state program for the equitable distribution of the state's share
10 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization
11 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
12 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

13 (6) "Basic entitlement" means:

14 (a) for each high school district:

15 ~~_____ (i) \$256,003 for fiscal year 2012; and~~

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

17 (b) for each elementary school district or K-12 district elementary program without an approved and
18 accredited junior high school, 7th and 8th grade program, or middle school:

19 ~~_____ (i) \$23,033 for fiscal year 2012;~~

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

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

23 (i) for kindergarten through grade 6 elementary program:

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

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

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

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

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

30 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to

1 20-9-311.

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

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

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

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

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

14 ~~———(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying~~
15 ~~\$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.~~

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

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

20 ~~(14)(11) "Total per-ANB entitlement" means the district per-student entitlement resulting from the~~
21 ~~following calculations and payment which includes funding for providing Indian education for all Montana~~
22 ~~students, addressing the needs of at-risk students, and attracting, retaining, and providing professional~~
23 ~~development for high-quality educators. The payment is determined using either the current year ANB or the~~
24 ~~3-year ANB provided for in 20-9-311 as follows:~~

25 (a) for a high school district or a K-12 district high school program, ~~a maximum rate of \$6,343~~ \$7,000
26 ~~for fiscal year 2012~~ 2014 and ~~\$6,444~~ \$7,000 for each succeeding fiscal year for the first ANB, ~~decreased at the~~
27 ~~rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess~~
28 ~~of 800 receiving the same amount of entitlement as the 800th ANB per ANB; and~~

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~~ \$5,468

1 for fiscal year ~~2012~~ 2014 and ~~\$5,034~~ \$5,468 for each succeeding fiscal year per ANB for the first ANB, decreased
 2 at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in
 3 excess of 1,000 receiving the 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 per ANB."~~

17

18 **Section 21.** Section 20-9-308, MCA, is amended to read:

19 **"20-9-308. BASE budgets and maximum general fund budgets.** (1) ~~(a)~~ The trustees of a district shall
 20 adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees
 21 of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's
 22 general fund budget, whichever is greater.

23 ~~(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state~~
 24 ~~funding for the general fund payments in 20-9-327 through 20-9-330 to the district's previous year's general fund~~
 25 ~~budget.~~

26 (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE
 27 budget for the district and to increase the over-BASE budget levy over revenue previously authorized by the
 28 electors of the district or imposed by the district in any of the previous 5 years to support the general fund budget,
 29 the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

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

- 1 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
2 district may be eligible, as provided in 20-9-366 through 20-9-369;
- 3 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;
- 4 (c) a district levy for support of a school not approved as an isolated school under the provisions of
5 20-9-302;
- 6 (d) payments in support of special education programs under the provisions of 20-9-321;
- 7 (e) nonlevy revenue, as provided in 20-9-141; and
- 8 (f) a BASE budget levy on the taxable value of all property within the district.
- 9 (4) The over-BASE budget amount of a district must be financed by a voted levy on the taxable value
10 of all property within the district or other revenue available to the district, as provided in 20-9-141."

11

12 **Section 22.** Section 20-9-309, MCA, is amended to read:

13 **"20-9-309. Basic system of free quality public elementary and secondary schools defined --**
14 **identifying educationally relevant factors -- establishment of funding formula and budgetary structure --**
15 **legislative review.** (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to
16 provide a basic system of free quality public elementary and secondary schools throughout the state of Montana
17 that will guarantee equality of educational opportunity to all.

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

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

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

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

25 (ii) an at-risk student;

26 (iii) a student with limited English proficiency;

27 (iv) a child who is qualified for services under 29 U.S.C. 794; and

28 (v) gifted and talented children, as defined in 20-7-901;

29 (c) educational programs to implement the provisions of Article X, section 1(2), of the Montana
30 constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and

1 unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;
2 (d) qualified and effective teachers or administrators and qualified staff to implement the programs in
3 subsections (2)(a) through (2)(c);
4 (e) facilities and distance learning technologies associated with meeting the accreditation standards;
5 (f) transportation of students pursuant to Title 20, chapter 10;
6 (g) a procedure to assess and track student achievement in the programs established pursuant to
7 subsections (2)(a) through (2)(c); and
8 (h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article
9 X, section 8, of the Montana constitution.

10 (3) In developing a mechanism to fund the basic system of free quality public elementary and secondary
11 schools and in making adjustments to the funding formula, the legislature shall, at a minimum, consider the
12 following educationally relevant factors:

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

21 (4) By July 1, 2007, the legislature shall:

22 (a) determine the costs of providing the basic system of free quality public elementary and secondary
23 schools;
24 (b) establish a funding formula that:
25 (i) is based on the definition of a basic system of free quality public elementary and secondary schools
26 and reflects the costs associated with providing that system as determined in subsection (4)(a);
27 (ii) allows the legislature to adjust the funding formula based on the educationally relevant factors
28 identified in this section and on inflationary factors;
29 ~~(iii) is self-executing and includes a mechanism for annual inflationary adjustments;~~
30 ~~(iv)~~(iii) is based on state laws;

- 1 ~~(v)~~(iv) is based on federal education laws consistent with Montana's constitution and laws; and
 2 ~~(vi)~~(v) distributes to school districts in an equitable manner the state's share of the costs of the basic
 3 system of free quality public elementary and secondary schools; and
 4 (c) consolidate the budgetary fund structure to create the number and types of funds necessary to
 5 provide school districts with the greatest budgetary flexibility while ensuring accountability and efficiency.
 6 (5) At least every 10 years following April 7, 2005, the legislature shall:
 7 (a) authorize a study to reassess the educational needs and costs related to the basic system of free
 8 quality public elementary and secondary schools; and
 9 (b) if necessary, incorporate the results of those assessments into the state's funding formula."

- 10
 11 **Section 23.** Section 20-9-311, MCA, is amended to read:
 12 **"20-9-311. Calculation of average number belonging (ANB) -- three-year averaging.** (1) Average
 13 number belonging (ANB) must be computed for each budget unit ~~as follows:~~
 14 ~~———(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils and any~~
 15 ~~residents of the district enrolled in a school of another district under an out-of-district attendance agreement~~
 16 ~~pursuant to 20-5-320 or 20-5-321 who were enrolled as of the first Monday in October of the prior school fiscal~~
 17 ~~year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day~~
 18 ~~if those dates do not fall on a school day, and divide the sum by two; and~~
 19 ~~(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved~~
 20 ~~pupil-instruction-related days for the current school fiscal year and divide by 180.~~
 21 ~~(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related~~
 22 ~~days may be included in the calculation.~~
 23 ~~(3)~~(2) When a school district has approval to operate less than the minimum aggregate hours under
 24 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.
 25 ~~(4)~~(3) (a) For the purpose of calculating ANB, enrollment in an education program:
 26 (i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time
 27 enrollment;
 28 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
 29 enrollment;
 30 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time

1 enrollment; and

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

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

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

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

9 ~~(5)~~(4) For a district that is transitioning from a half-time to a full-time kindergarten program, the state
10 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
11 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the
12 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten
13 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for
14 districts offering full-time kindergarten.

15 ~~(6)~~(5) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
16 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
17 attendance prior to the day of the enrollment count.

18 ~~(7)~~(6) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB
19 calculations.

20 ~~(8)~~(7) The average number belonging of the regularly enrolled, full-time pupils for the public schools of
21 a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
22 district, except that the ANB is calculated as a separate budget unit when:

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

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

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

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

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

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

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

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

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

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

24 ~~(9)(8)~~ The district shall provide the superintendent of public instruction with semiannual reports of school
 25 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
 26 superintendent.

27 ~~(10)(9)~~ (a) Except as provided in subsections ~~(10)(b)~~ (9)(b) and ~~(10)(c)~~ (9)(c), enrollment in a basic
 28 education program provided by the district through any combination of onsite or offsite instruction may be
 29 included for ANB purposes only if the pupil is offered access to the complete range of educational services for
 30 the basic education program required by the accreditation standards adopted by the board of public education.

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 (10) 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 ~~(11)~~(10) 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~~ or a resident of the district who is enrolled in a school of
 14 another district under an out-of-district attendance agreement pursuant to 20-5-320 or 20-5-321;

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

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

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

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

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

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

1 instructional setting with the approval of the trustees of the district. The pupil shall:

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

3 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities

4 Education Act or under 29 U.S.C. 794; ~~or~~

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

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

8 ~~(12)~~(11) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth
9 challenge program participant as half-time enrollment.

10 ~~(13)~~(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
11 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
12 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
13 generates the greatest maximum general fund budget.

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

17 ~~(14)~~(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated
18 by:

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

21 (b) dividing the sum calculated under subsection (14)(a) by three."
22

23 **Section 24.** Section 20-9-323, MCA, is amended to read:

24 **"20-9-323. Ending fund balance limits.** (1) Beginning July 1, 2016, the combined ending fund balance
25 for all budgeted funds of a school district may not exceed 300% of the maximum general fund budget. The 300%
26 limit is not applicable to the building reserve fund, the debt service fund, or the bus depreciation reserve fund.

27 (2) The county superintendent shall, upon completion of a school fiscal year, redistribute any amounts
28 in excess of the 300% limit among any other school districts in the same county whose combined ending fund
29 balance for all budgeted funds included in subsection (1) has not exceeded the 300% limit. The county
30 superintendent shall redistribute funds equally to the school districts qualifying for redistribution on a

1 per-quality-educator basis, calculated by dividing the total funds by the total number of quality educators, as
 2 defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school
 3 fiscal year. School districts receiving the funds may place the funds in any budgeted fund of the district at the
 4 discretion of the board of trustees of each district.

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

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

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

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

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

19

20 **Section 25.** Section 20-9-344, MCA, is amended to read:

21 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
 22 education shall administer and distribute the BASE aid and state advances for county equalization in the manner
 23 and with the powers and duties provided by law. The board of public education:

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

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

28 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each
 29 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the
 30 distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution

1 to any district on account of any difference that may occur during the school fiscal year between budgeted and
2 actual receipts from any other source of school revenue.

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

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

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

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

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

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

16 ~~—— (i) direct state aid;~~

17 ~~—— (ii) the total quality educator payment;~~

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

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

20 ~~—— (v) the total American Indian achievement gap payment;~~

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

22 ~~—— (i) direct state aid;~~

23 ~~—— (ii) the total quality educator payment;~~

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

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

26 ~~—— (v) the total American Indian achievement gap payment;~~

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

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

1 or county; and

2 (e) in June of the school fiscal year, the remaining payment to each district of direct state aid, ~~the total~~
 3 ~~quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the~~
 4 ~~total American-Indian achievement gap payment.~~

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

7 **Section 26.** Section 20-9-353, MCA, is amended to read:

8 **"20-9-353. Additional financing for general fund -- election for authorization to impose.** (1) The
 9 trustees of a district may propose to adopt an over-BASE budget amount for the district general fund that does
 10 not exceed the general fund budget limitations, as provided in 20-9-308.

11 (2) When the trustees of the district propose to adopt an over-BASE budget under subsection (1), any
 12 increase in local property taxes authorized by 20-9-308(4) over revenue previously authorized by the electors of
 13 the district or imposed by the district in any of the previous 5 years must be submitted to a vote of the qualified
 14 electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified electors
 15 any increase in state funding of the basic or per-ANB entitlements ~~or of the general fund payments established~~
 16 ~~in 20-9-327 through 20-9-330~~ approved by the legislature. When the trustees of a district determine that a voted
 17 amount of financing is required for the general fund budget, the trustees shall submit the proposition to finance
 18 the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The election
 19 must be called and conducted in the manner prescribed by this title for school elections and must conform to the
 20 requirements of 15-10-425. The ballot for the election must conform to the requirements of 15-10-425.

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

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

29 (5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget
 30 amount, as allowed by 20-9-308, to the electors of the district, the trustees shall comply with the provisions of

1 subsections (2) through (4) of this section."
 2

3 **Section 27.** Section 20-9-501, MCA, is amended to read:

4 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
 5 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
 6 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal
 7 social security system requiring employer contributions shall establish a retirement fund for the purposes of
 8 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's
 9 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must
 10 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for
 11 each employee who is a member of the public employees' retirement system must be calculated in accordance
 12 with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social
 13 security system must be paid in accordance with federal law and regulation. The district's or the cooperative's
 14 contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title
 15 39, chapter 51, part 11.

16 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
 17 social security, and unemployment insurance systems from the retirement fund for the following:

18 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
 19 provided to the employee, are paid from state or local funding sources;

20 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
 21 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported
 22 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
 23 or are paid from the ~~miscellaneous~~ state and private programs fund, provided for in 20-9-507, from money
 24 received from the medicaid program, pursuant to 53-6-101;

25 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
 26 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

27 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
 28 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

29 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
 30 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance

1 systems from the funding source that pays the employee's salary.

2 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall
3 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the
4 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems
5 in accordance with the financial administration provisions of this title.

6 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
7 the levy requirement by:

8 (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

9 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
10 year;

11 (ii) oil and natural gas production taxes;

12 (iii) coal gross proceeds taxes under 15-23-703;

13 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
14 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
15 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
16 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must
17 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund
18 budget.

19 (v) property tax reimbursements made pursuant to 15-1-123(6);

20 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
21 fiscal year, excluding any guaranteed tax base aid;

22 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the
23 levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final
24 retirement fund budget.

25 (5) The county superintendent shall:

26 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
27 school districts, and all community college districts of the county, including any prorated joint district or special
28 education cooperative agreement levy requirements; and

29 (b) report each levy requirement to the county commissioners by the later of the first Tuesday in
30 September or within 30 calendar days after receiving certified taxable values as the respective county levy

1 requirements for elementary district, high school district, and community college district retirement funds.

2 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
3 20-9-142.

4 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district
5 must be prorated to each county in which a part of the district is located in the same proportion as the district ANB
6 of the joint district is distributed by pupil residence in each county. The county superintendents of the counties
7 affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

8 (8) The net retirement fund levy requirement for districts that are members of special education
9 cooperative agreements must be prorated to each county in which the district is located in the same proportion
10 as the special education cooperative budget is prorated to the member school districts. The county
11 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
12 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
13 retirement fund levy for each county in the same manner as provided in 20-9-152.

14 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property
15 in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection
16 (5)(a) by the sum of:

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

19 (b) the taxable valuation of the district divided by 1,000.

20 (10) The levy for a community college district may be applied only to property within the district.

21 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
22 establish the levy requirements for county school funds supporting elementary and high school district retirement
23 obligations to the superintendent of public instruction on or before September 15. The report must be completed
24 on forms supplied by the superintendent of public instruction."
25

26 **Section 28.** Section 20-9-505, MCA, is amended to read:

27 **"20-9-505. Purpose and establishment of nonoperating fund.** (1) The trustees of a district that will
28 not operate a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of
29 the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the
30 end-of-the-year fund balance of each fund maintained by the district during the immediately preceding school

1 fiscal year to the nonoperating fund. However, fund balances of the debt service fund and the ~~miscellaneous state~~
 2 ~~and private~~ programs fund, if any, must be maintained in their individual funds.

3 (2) The trustees of a district establishing a nonoperating fund for the first year of nonoperation may
 4 earmark a portion of the nonoperating fund balance as a nonoperating fund operating reserve when they
 5 anticipate the reopening of a school in the following school fiscal year. The operating reserve may not be more
 6 than the general fund operating reserve designated for the immediately preceding school fiscal year. If a school
 7 is not operated in the following school fiscal year, the authority of the trustees to earmark a nonoperating fund
 8 operating reserve terminates and the money earmarked as an operating reserve must be used to reduce the levy
 9 requirement of the nonoperating fund. If the trustees acquire approval to reopen a school in the following school
 10 fiscal year under the provisions of 20-6-502 or 20-6-503 and operate the school, the nonoperating fund operating
 11 reserve must be restored as the general fund operating reserve.

12 (3) The purpose of the nonoperating fund is to centralize the financing and budgeting for the limited
 13 functions of a district not operating a school. The functions include:

- 14 (a) elementary tuition obligations to other districts;
- 15 (b) transportation of the resident pupils;
- 16 (c) maintenance of district-owned property; and
- 17 (d) any other nonoperating school function of the district considered necessary by the trustees or
 18 required by law.

19 (4) Any expenditure of nonoperating fund money must be made in accordance with the financial
 20 administration provisions of this title for a budgeted fund."

21

22 **Section 29.** Section 20-9-507, MCA, is amended to read:

23 **"20-9-507. ~~Miscellaneous programs fund~~ Federal programs and state and private programs funds.**

24 (1) The trustees of a district receiving money from local, state, or federal, ~~or other sources provided in 20-5-324~~
 25 ~~sources~~, other than money under the provisions of impact aid, as provided in 20 U.S.C. 7701, et seq., or federal
 26 money designated for deposit in a specific fund of the district, shall establish a ~~miscellaneous~~ federal programs
 27 fund for the deposit of ~~the federal~~ money and a state and private programs fund for the deposit of state or private
 28 money. The money may be a reimbursement of ~~miscellaneous program~~ federal programs or state and private
 29 programs fund expenditures already realized by the district, indirect cost recoveries, or a grant of money for the
 30 financing of expenditures to be realized by the district for a special, approved program to be operated by the

1 district. When the money is a reimbursement or a local government severance tax payment, the money may be
 2 expended at the discretion of the trustees for school purposes. When the money is a grant, the money must be
 3 expended according to the conditions of the program approval by the superintendent of public instruction or any
 4 other approval agent. Within the ~~miscellaneous programs fund~~ federal programs and the state and private
 5 programs funds, the trustees shall maintain a separate accounting for each local, state, or federal grant project
 6 and the indirect cost recoveries.

7 (2) The financial administration of the ~~miscellaneous programs fund~~ federal programs and the state and
 8 private programs funds must be in accordance with the financial administration provisions of this title for a
 9 nonbudgeted fund."

10

11 **Section 30.** Section 20-9-510, MCA, is amended to read:

12 **"20-9-510. Traffic education fund funds -- deposit.** The trustees of any district offering a state
 13 reimbursed traffic education program shall establish a ~~traffic education~~ state and private programs fund under
 14 the provisions of 20-7-507. ~~Such fund shall be a nonbudgeted fund and shall be financially administered under~~
 15 ~~the provisions of this title for a nonbudgeted fund."~~

16

17 **Section 31.** Section 20-9-703, MCA, is amended to read:

18 **"20-9-703. District as prime agency.** (1) When the prime agency is a district, it is authorized and
 19 required to establish a nonbudgeted interlocal cooperative fund for the purpose of the financial administration of
 20 the interlocal cooperative agreement. All ~~revenues~~ revenue received, including federal, state, or other types of
 21 grant payments in direct support of the agreement and the financial support provided by cooperating agencies,
 22 ~~shall~~ must be deposited in ~~such~~ the fund. All financial support of the agreement contributed by a district
 23 designated as the prime agency may be transferred to the interlocal cooperative fund from any fund maintained
 24 by ~~such~~ the district by resolution of the trustees. Any ~~such~~ transfer to the interlocal cooperative fund ~~shall~~ must
 25 be used to finance those expenditures under the agreement ~~which~~ that are comparable to those that are
 26 permitted by law to be made out of the fund from which the transfer was made and ~~which~~ that are within the final
 27 budget for the fund from which the transfer was made. ~~No~~ A transfer ~~shall~~ may not be made from the
 28 ~~miscellaneous~~ federal programs fund without the express approval of the superintendent of public instruction.

29 (2) All expenditures in support of the interlocal cooperative agreement ~~shall~~ must be made from the
 30 interlocal cooperative fund established by the district ~~which~~ that is the prime agency, except that expenditures

1 in support of ~~such the~~ agreement may be made from the ~~miscellaneous~~ federal programs fund when the express
2 approval of the superintendent of public instruction is given."

3

4 **Section 32.** Section 20-10-105, MCA, is amended to read:

5 **"20-10-105. Determination of residence.** When the residence of an eligible transportee is a matter of
6 controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent
7 of public instruction, except as provided in 20-9-707, the residence must be established on the basis of the
8 general state residence law as provided in 1-1-215. ~~Whenever the state is determined to be responsible for~~
9 ~~paying tuition for any pupil in accordance with 20-5-321 through 20-5-323, the residence of the pupil for tuition~~
10 ~~purposes is the residence of the pupil for transportation purposes."~~

11

12 **Section 33.** Section 20-10-144, MCA, is amended to read:

13 **"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund**
14 **budget.** Before the second Monday of August, the county superintendent shall compute the revenue available
15 to finance the transportation fund budget of each district. The county superintendent shall compute the revenue
16 for each district on the following basis:

17 (1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in
18 20-10-141 and 20-10-142 must be determined by adding the following amounts:

19 (a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained
20 by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile
21 by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by
22 the county transportation committee and maintained by the district); plus

23 (b) the total of all individual transportation per diem reimbursement rates for the district as determined
24 from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the
25 ensuing school attendance year; plus

26 (c) any estimated costs for supervised home study or supervised correspondence study for the ensuing
27 school fiscal year; plus

28 (d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the
29 amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
30 contingency amount on the budget must be reduced to the limitation amount and used in this determination of

1 the schedule amount; plus

2 (e) any estimated costs for transporting a child out of district when the child has mandatory approval to
3 attend school in a district outside the district of residence.

4 (2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget,
5 whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be
6 budgeted on the following basis:

7 (i) one-half is the budgeted state transportation reimbursement; and

8 (ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the
9 manner provided in 20-10-146.

10 (b) When the district has a sufficient amount of fund balance for reappropriation and other sources of
11 district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any
12 remaining amount of district revenue and fund balance reappropriated must be used to reduce the county
13 financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce
14 the state financial obligation in subsection (2)(a)(i).

15 (c) The county revenue requirement for a joint district, after the application of any district money under
16 subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the
17 ANB of the joint district is distributed by pupil residence in each county.

18 (3) The total of the money available for the reduction of property tax on the district for the transportation
19 fund must be determined by totaling:

20 (a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other
21 anticipated federal money received in lieu of that federal act;

22 (b) anticipated payments from other districts for providing school bus transportation services for the
23 district;

24 (c) anticipated payments from a parent or guardian for providing school bus transportation services for
25 a child;

26 (d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in
27 accordance with the provisions of 20-9-213(4);

28 (e) anticipated revenue from coal gross proceeds under 15-23-703;

29 (f) anticipated oil and natural gas production taxes;

30 (g) anticipated local government severance tax payments for calendar year 1995 production;

1 (h) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through
2 ~~20-5-324~~ 20-5-323;

3 (i) school district block grants distributed under 20-9-630;

4 (j) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that
5 may be used to finance the transportation fund; and

6 (k) any fund balance available for reappropriation as determined by subtracting the amount of the
7 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal
8 year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may
9 not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the
10 purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

11 (4) The district levy requirement for each district's transportation fund must be computed by:

12 (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation
13 budget amount; and

14 (b) subtracting the amount of money available to reduce the property tax on the district, as determined
15 in subsection (3), from the amount determined in subsection (4)(a).

16 (5) The transportation fund levy requirements determined in subsection (4) for each district must be
17 reported to the county commissioners on or before the later of the first Tuesday in September or within 30
18 calendar days after receiving certified taxable values by the county superintendent as the transportation fund levy
19 requirements for the district, and the levy must be made by the county commissioners in accordance with
20 20-9-142."

21
22 **NEW SECTION. Section 34. Repealer.** The following sections of the Montana Code Annotated are
23 repealed:

24 20-5-324. Tuition report and payment provisions.

25 20-9-326. Annual inflation-related adjustments to basic entitlements and per-ANB entitlements.

26 20-9-327. Quality educator payment.

27 20-9-328. At-risk student payment.

28 20-9-329. Indian education for all payment.

29 20-9-330. American Indian achievement gap payment.

30 20-9-515. Litigation reserve fund.

- 1 20-9-541. Definitions.
- 2 20-9-542. School flexibility account -- distribution of funds.
- 3 20-9-543. School flexibility fund -- uses.
- 4 20-9-544. District school flexibility fund levy.

5

6 **NEW SECTION. Section 35. Effective date -- applicability.** [This act] is effective on passage and
7 approval and applies to school years beginning on or after July 1, 2014.

8 - END -