

SENATE BILL NO. 396
INTRODUCED BY R. LAIBLE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FUNDING; ESTABLISHING A FORMULA CONSISTING OF NINE COMPONENTS BASED UPON AND ADJUSTED BY EDUCATIONALLY RELEVANT FACTORS; PROVIDING AN AT-RISK ADJUSTMENT TO THE PER-STUDENT COMPONENT FOR INCREASED FUNDING TO DISTRICTS PROVIDING SERVICES FOR AT-RISK STUDENTS; PROVIDING FOR THE CALCULATION OF THE FUNDING OF CLASSROOMS BY SCHOOL SIZE, STUDENT-TEACHER RATIO, AND TEACHER SALARIES, WITH ADJUSTMENTS PROVIDED FOR GIFTED AND TALENTED AND AT-RISK STUDENTS IN EACH CLASSROOM; REPLACING EXISTING FUNDING FOR SPECIFIED PURPOSES WITH THE NEW COMPONENTS; PROVIDING FOR A REVISED SCHOOL DISTRICT GENERAL FUND CALCULATION; PROVIDING SCHOOL DISTRICTS WITH BUDGETARY FLEXIBILITY BY ELIMINATING CERTAIN FUNDS AND BY DIVIDING THE MISCELLANEOUS PROGRAMS FUND INTO THE FEDERAL PROGRAMS FUND AND THE STATE AND PRIVATE PROGRAMS FUND; REVISING GENERAL FUND BUDGET LIMITATIONS; CLARIFYING THE COMPUTATION OF THE GENERAL FUND LEVY REQUIREMENT; PROVIDING AN INCENTIVE FOR DISTRICTS THAT CHOOSE TO CONSOLIDATE; PROVIDING FUNDING FOR DEFERRED MAINTENANCE; REQUIRING EACH SCHOOL DISTRICT TO ANNUALLY PUBLISH CERTAIN DATA AND REPORT TO THE OFFICE OF PUBLIC INSTRUCTION; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO IDENTIFY AND ELECTRONICALLY POST BEST PRACTICES USED BY SCHOOL DISTRICTS TO IMPROVE THE ACHIEVEMENT OF AT-RISK STUDENTS; REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO PROVIDE A DISTRICT WITH THE ESTIMATED COSTS OF EACH PROGRAM RECOMMENDED IN A STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT PROCEDURES TO PAY FOR STUDENTS UNDER 19 YEARS OF AGE WHO HAVE DROPPED OUT OF THEIR RESIDENT DISTRICT TO ENROLL IN AN ACCREDITED PROGRAM THAT OFFERS A HIGH SCHOOL DIPLOMA; ELIMINATING SCHOOL BLOCK GRANTS; PROVIDING AN INCOME TAX CREDIT FOR PROPERTY TAXES PAID FOR FUNDING SCHOOLS; AMENDING SECTIONS 7-2-2253, 17-3-222, 17-7-140, 17-7-301, 20-2-121, 20-3-106, 20-3-324, 20-4-203, 20-5-323, 20-5-324, 20-6-502, 20-6-503, 20-6-504, 20-6-506, 20-6-507, 20-6-702, 20-7-102, 20-7-306, 20-7-414, 20-7-420, 20-7-435, 20-7-457, 20-7-507, 20-7-705, 20-9-104, 20-9-141, 20-9-201, 20-9-231, 20-9-302, 20-9-303, 20-9-305, 20-9-308, 20-9-309, 20-9-311, 20-9-314, 20-9-326, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-348, 20-9-351, 20-9-353, 20-9-366, 29-9-367, 20-9-368, 20-9-369, 20-9-370,

20-9-371, 20-9-422, 20-9-439, 20-9-501, 20-9-505, 20-9-507, 20-9-510, 20-9-620, 20-9-622, 20-9-703, 20-9-704, 20-10-144, 20-10-146, 39-71-2352, 90-6-309, AND 90-6-403, MCA; REPEALING SECTIONS 20-9-306, 20-9-327, 20-9-328, 20-9-329, 20-9-330, 20-9-515, 20-9-533, 20-9-534, 20-9-541, 20-9-542, 20-9-543, 20-9-544, 20-9-630, 20-9-631, AND 20-9-632, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A TERMINATION DATE."

WHEREAS, on March 22, 2005, the Montana Supreme Court, in *Columbia Falls Elementary School District v. Montana*, 2005 MT 69, 326 Mont. 304, 109 P.3d 257 (2005), affirmed the District Court's decision by concluding that the current school funding system is not correlated with any understanding of what constitutes a "quality" education; and

WHEREAS, the Court concluded that without an assessment of what constitutes a "quality" education, as that term is used in Article X, section 1(3), of the Montana Constitution, the Legislature has no reference point from which to relate funding to relevant educational needs; and

WHEREAS, the Court ruled that the current funding system is not based on educationally relevant factors and ordered the Legislature to fashion appropriate policies and legislation to define "quality", assess educational needs, and construct a funding system rationally related to educationally relevant factors; and

WHEREAS, the Court also ordered the Legislature to uphold the state's recognition, in Article X, section 1(2), of the Montana Constitution, of the distinct and unique cultural heritage of American Indians and the state's commitment in its educational goals to preserve the cultural identity of American Indians by funding the constitutional provision as implemented by the Legislature through enactment of "Indian Education for All" codified in Title 20, chapter 1, part 5, MCA; and

WHEREAS, with the passage of Senate Bill No. 152 (Chapter 208, Laws of 2005), the 2005 Montana Legislature defined "a basic system of free quality public elementary and secondary schools" and provided for educationally relevant adjustments to the basic funding formula; and

WHEREAS, the 2005 Legislature also enacted Senate Bill No. 525 (Chapter 371, Laws of 2005), which established a Quality Schools Interim Committee to assess the educational needs of Montana's children, determine the costs of a basic system of free quality public elementary and secondary schools based on the definition enacted by the Legislature in Senate Bill No. 152, determine the state's share of the total costs of the basic system, and construct a funding formula that allows for adjustments based on the educationally relevant factors adopted by the Legislature in Senate Bill No. 152 and that equitably distributes the state's share of the costs of the basic system of free quality public elementary and secondary schools; and

WHEREAS, in the spring of 2005, the Quality Schools Interim Committee contracted with a team of national and Montana school finance experts to complete a needs assessment and cost analyses of the K-12 schools in Montana; and

WHEREAS, based on the needs assessment, cost analyses, and other research regarding educationally relevant factors, the Quality Schools Interim Committee drafted legislation to construct a funding formula to ensure equitable distribution of the state's share of funding for an adequately funded basic system of free quality public elementary and secondary schools.

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

NEW SECTION. Section 1. Components of basic system of free quality public elementary and secondary schools. (1) The components of the basic system of free quality public elementary and secondary schools, as defined in 20-9-309, include the costs related to the nine components described in subsections (2) through (10) of this section.

(2) (a) The per-student component includes:

(i) funding for supplies and materials of an expendable nature that are consumed or worn out or that have deteriorated in use or items that lose their identity through fabrication or incorporation into different or more complex units or substances, commonly known as consumables; and

(ii) funding for school-sponsored activities for students that are not part of the regular instructional programs and for which students do not receive educational credit and one-half of the general fund expenses for school-sponsored athletics that allow student participation in sports programs, normally involving competition between schools.

(b) The per-student component must be adjusted pursuant to [section 4] to provide additional funding to each district serving at-risk students.

(3) The classroom component includes funding for providing the services necessary for classrooms in a school district, including funding for salaries, benefits and professional development for instructional staff, and expenditures other than salaries and benefits that are associated with educational media services and improvement of instruction services.

(4) (a) The accredited program component includes funding for the cost of providing:

(i) services necessary for general administration, building administration, and support services for students;

- (ii) salaries and benefits associated with support services and business services; and
- (iii) general fund food services costs.

(b) The accredited program component provides funding for a school district based on the ANB of the schools within the district, the ANB of the district as a whole, the accreditation standard requirements for administrative staff and support staff, and additional staffing determined to be necessary for district and school-level business services.

(5) The building operation and maintenance component includes funding for the operation and maintenance of fixed assets, such as land, buildings, building improvements, site improvements, service systems, and equipment.

(6) The special education component includes funding for services to students who meet the definition of a child with a disability under 20-7-401.

(7) (a) The transportation component includes funding for school district expenditures for activities associated with transporting students to and from school as provided by state and federal law, including trips between home and school.

(b) The transportation component does not include student transportation related to extracurricular activities or athletics.

(8) The capital projects component includes funding for the acquisition of fixed assets, such as land, buildings, building improvements, site improvements, service systems, and equipment.

(9) (a) The debt service component includes funding to retire long-term debt of the school district, including payments of both principal and interest on bonds. The debt service component is allocated on the basis of a debt service per-ANB amount.

(b) As used in subsection (9)(a), "long-term debt" means obligations in excess of 1 year.

(10) The Indian education for all component includes funding to each district of a base amount or a per-student amount, whichever is greater, to implement the provisions of Article X, section 1(2), of the Montana Constitution and Title 20, chapter 1, part 5.

(11) The sum of the calculated amount of all nine components constitutes the funding for a basic system of free quality public elementary and secondary schools as defined in 20-9-309. Funding is allocated based upon a calculated amount. A district is not required to allocate or expend funds in accordance with a calculation unless specifically provided by law.

NEW SECTION. Section 2. Method of calculating per-student and classroom components --

per-student size categories -- elementary and high school size categories -- gifted and talented and at-risk adjustments -- student-teacher ratios -- classroom teacher salaries. (1) The number of classrooms for each school district is calculated based on the maximum number of students that may be in each classroom according to the accreditation standards and is adjusted as provided in subsection (4). The student-teacher ratio for a classroom is based upon the size category for an elementary school district or a high school district as described in subsection (2).

(2) (a) The size of an elementary school district is the larger of the current year ANB or the 3-year average ANB calculated as provided in 20-9-311. The size categories are as follows:

(i) "E6" means an elementary school district or a K-12 elementary program with less than 41 ANB;

(ii) "E5" means an elementary school district or a K-12 elementary program with at least 41 ANB, but not more than 150 ANB;

(iii) "E4" means an elementary school district or a K-12 elementary program with at least 151 ANB, but not more than 400 ANB;

(iv) "E3" means an elementary school district or a K-12 elementary program with at least 401 ANB, but not more than 850 ANB;

(v) "E2" means an elementary school district or a K-12 elementary program with at least 851 ANB, but not more than 2,500 ANB;

(vi) "E1" means an elementary school district or a K-12 elementary program with more than 2,500 ANB.

(b) The size of a high school district or a K-12 high school program is the larger of the current year ANB or the average 3-year ANB calculated as provided in 20-9-311. The size categories are as follows:

(i) "H5" means a high school district or a K-12 high school program with less than 75 ANB;

(ii) "H4" means a high school district or a K-12 high school program with at least 75 ANB, but not more than 200 ANB;

(iii) "H3" means a high school district or a K-12 high school program with at least 201 ANB, but not more than 400 ANB;

(iv) "H2" means a high school district or a K-12 high school program with at least 401 ANB, but not more than 1,250 ANB;

(v) "H1" means a high school district or a K-12 high school program with more than 1,250 ANB.

(c) In order to reflect the additional instructional time needed for gifted and talented and at-risk students, the ANB for the classroom component calculated pursuant to 20-9-311 must be multiplied by 1.02 to reflect gifted and talented students and by 1.0638 to reflect at-risk students as defined in 20-1-101.

(3) The per-student component is calculated based on the following per-ANB amounts according to the size categories identified in subsection (2):

- (a) E6, \$558;
- (b) E5, \$362;
- (c) E4, \$363;
- (d) E3, \$339;
- (e) E2, \$231;
- (f) E1, \$145;
- (g) H5, \$1,442;
- (h) H4, \$1,005;
- (i) H3, \$843;
- (j) H2, \$648; and
- (k) H1, \$369.

(4) The student-teacher ratios, including the weighting for gifted and talented and at-risk students, as defined in 20-1-101, used to determine the number of classrooms for the classroom component are based on the size categories in subsection (2) and are funded as follows:

- (a) E6, 10.2 students per teacher;
- (b) E5, 16.0 students per teacher;
- (c) E4, 18.3 students per teacher;
- (d) E3, 19.7 students per teacher;
- (e) E2, 21.2 students per teacher;
- (f) E1, 22.5 students per teacher;
- (g) H5, 10.1 students per teacher;
- (h) H4, 17.1 students per teacher;
- (i) H3, 19.7 students per teacher;
- (j) H2, 21.0 students per teacher; and
- (k) H1, 22.5 students per teacher.

(5) The salaries for teachers in the classroom component are funded as follows:

- (a) E6, \$24,069;
- (b) E5, \$30,003;
- (c) E4, \$37,982;

- (d) E3, \$41,151;
- (e) E2, \$40,921;
- (f) E1, \$44,254;
- (g) H5, \$33,660;
- (h) H4, \$36,583;
- (i) H3, \$38,957;
- (j) H2, \$41,515; and
- (k) H1, \$46,224.

(6) The classroom component includes the following amounts for each classroom:

- (a) \$6,761 each year for health insurance, which consists of \$6,378 times 1.06 in order to provide coverage for the teacher and the paraprofessional;
- (b) \$765 each year for paraprofessional costs;
- (c) \$761 each year for substitute teacher costs;
- (d) \$800 each year for professional development; and
- (e) 1.3% of instructional salaries for workers' compensation.

NEW SECTION. Section 3. Method of calculating accredited program component -- definitions.

(1) The accredited program component is calculated using three tiers, which include the central office tier, the school office tier, and the per-student tier.

(2) The central office tier provides funding for district- level costs of an independent elementary district, a K-12 district, a high school district and elementary district operating under a combined board, or an independent high school district that does not have a unified elementary district. The central office tier is calculated as follows:

- (a) for each school district, determine the greater of the current year ANB or the 3-year average ANB as provided in 20-9-311;
- (b) add the ANB of districts within a school system to determine the total school system ANB;
- (c) use the school system ANB to determine the number of FTE, calculated pursuant to subsection (3), to be funded for the central office, which includes the district superintendent, assistant superintendents, district level program and activities coordinators, curriculum coordinators, department chairs, business managers or clerks, business clerical staff, district secretarial staff, nurses, human resources staff, superintendent support staff, information technology staff, central services staff, and athletic directors; and
- (d) for each FTE allocated for funding pursuant to subsection (2)(c), multiply the number of FTE by the

average salary and benefits provided for that position, as provided in subsection (6), to determine the total central office tier dollar amount for the school system.

(3) (a) For K-12 districts, high school districts and elementary districts operating under combined boards, or independent high school districts, funding for the central office tier must be calculated based upon the following full-time certified positions with those positions prorated for smaller and larger school systems:

(i) one quarter-time superintendent at a minimum and one full-time superintendent in school systems with more than 500 ANB;

(ii) one full-time assistant superintendent in school systems with more than 5,000 ANB;

(iii) one full-time program and activities coordinator in school systems with more than 4,500 ANB;

(iv) one full-time curriculum coordinator in school systems with more than 1,300 ANB.

(b) For departmentalized middle school, 7th and 8th grade, and high school programs funding for the central office tier is as follows:

(i) for school systems with 1,301 to 5,000 ANB, 0.60 FTE for department chair positions;

(ii) for school systems with 5,001 to 7,500 ANB, 0.75 FTE for department chair positions;

(iii) for school systems with 7,501 to 10,000 ANB, 1.2 FTE for department chair positions;

(iv) for school systems with 10,001 to 12,500 ANB, 1.35 FTE for department chair positions;

(v) for school systems with 12,501 to 15,000 ANB, 1.8 FTE for department chair positions; and

(vi) for school systems with more than 15,000 ANB, 1.95 FTE for department chair positions.

(c) For independent elementary districts, funding for the central office tier must be calculated based upon the following full-time certified positions with those positions prorated for smaller and larger school systems:

(i) one quarter-time superintendent in school systems with more than 125 ANB and one full-time superintendent in school systems with more than 500 ANB;

(ii) one quarter-time program or activities coordinator in school systems with more than 1,000 ANB; and

(iii) one full-time curriculum coordinator and 0.15 FTE for department chair positions in school systems with more than 1,300 ANB.

(d) Funding for the central office tier must be calculated based upon the following full-time, noncertified positions, with those positions prorated for smaller and larger school systems as follows:

(i) one full-time business manager or clerk for school systems with more than 80 ANB;

(ii) one half-time business clerical position for school systems with 750 to 1,150 ANB, increasing by increments of one quarter-time position for each additional 400 ANB;

(iii) one full-time district secretarial position for each superintendent and each assistant superintendent;

(iv) 0.22 full-time equivalent nurses for school systems with 151 to 400 ANB, increasing by increments of 0.22 FTE for each additional 400 ANB;

(v) one full-time human resource position for school systems with 400 ANB, increasing by increments of one half-time position for each additional 400 ANB up to 4,000 ANB and then by one half-time position for each additional 500 ANB;

(vi) one full-time position for superintendent support and public relations for school systems with 5,000 to 10,000 ANB and two full-time positions for school systems with more than 10,000 ANB;

(vii) one quarter-time position for information technology for:

(A) K-12 districts, high school districts and elementary districts operating under combined boards, or independent high school districts with up to 350 ANB and 0.48 FTE for school systems with 351 to 750 ANB, increasing by increments of 0.48 FTE for each additional 400 ANB; or

(B) independent elementary school districts with 125 to 350 ANB and 0.48 FTE for school systems with 351 to 750 ANB, increasing by increments of 0.48 FTE for each additional 400 ANB;

(viii) one quarter-time position for central services for school systems with 351 to 750 ANB, increasing by one quarter-time position for each additional 400 ANB;

(ix) no athletic directors for independent elementary districts;

(x) one half-time athletic director for K-12 districts, high school districts and elementary districts operating under combined boards, or independent high school districts with 400 to 799 ANB; and

(xi) one full-time athletic director for school systems with 800 to 8,000 ANB and two full-time athletic directors for school systems with more than 8,000 ANB.

(4) For a school system comprising elementary and high school programs:

(a) multiply the total central office tier dollar amount determined under subsection (2)(d) by the ratio of elementary ANB to the school system ANB, rounded to the nearest whole percentage to determine the elementary portion of the central office tier dollar amount;

(b) multiply the total central office tier dollar amount determined under subsection (2)(d) by the ratio of high school ANB to the school system ANB, rounded to the nearest whole percentage, to determine the high school district's portion of the central office tier dollar amount.

(5) (a) The school office tier provides funding for school-level costs for schools included in an elementary, high school, or K-12 district. The school office tier is calculated as follows:

(i) determine the ANB of each school of the district using the greater of the current year ANB or the 3-year average ANB for the district determined as provided in 20-9-311. In a K-12 district, the current ANB or the

3-year average ANB of an elementary school must be determined on the same basis as the elementary ANB of the district, and the current year ANB or the 3-year average ANB for a high school must be determined on the same basis as the high school ANB of the district.

(ii) use the school ANB to determine the number of FTE, calculated pursuant to subsection (5)(b), funded for the school office tier including the supervising teacher or principal, assistant principal, librarians, counselors, and school program coordinators;

(iii) for each FTE allocated for funding in subsection (5)(b), multiply the number of FTE by the average salary and benefits provided for that position as provided in subsection (6) to determine the school office tier dollar amount for the school;

(iv) add the school office tier dollar amounts for all schools of a district to determine the total school office tier dollar amount of the accredited program component for the school district.

(b) The school office tier of the accredited program component must be calculated for each school based on the ANB for the school. Funding for the school office tier must be calculated based upon the following full-time certified positions with those positions prorated for smaller and larger school systems:

(i) a supervising teacher in each elementary school in independent elementary districts with 80 or fewer ANB;

(ii) a full-time principal in schools with more than 250 ANB;

(iii) a full-time assistant principal in schools with more than 500 ANB;

(iv) a full-time librarian in schools with more than 250 ANB;

(v) a full-time guidance counselor in schools with more than 350 ANB; and

(vi) a full-time school program coordinator in schools with more than 950 ANB.

(c) Funding for the school office tier must be calculated based upon the following full-time, noncertified positions, with those positions prorated for smaller and larger school systems:

(i) one full-time school secretarial staff position for each principal; and

(ii) one full-time school attendance and records staff position for schools with 1,000 to 1,800 ANB and two full-time school attendance and records staff positions for schools with more than 1,800 students.

(6) The dollar amounts to be applied for each FTE in the accredited program component include average salaries, workers' compensation coverage, health insurance, and professional development for certain funded positions. The salaries in the accredited program component are funded as follows:

(a) superintendent and assistant superintendent, \$68,846;

(b) district-level program and activities coordinator, \$65,005;

- (c) curriculum coordinator and department chair positions, \$65,015;
 - (d) business manager, \$43,781;
 - (e) business clerical staff, \$37,732;
 - (f) district secretarial staff, \$25,101;
 - (g) nurse, \$39,790;
 - (h) human resources staff, \$48,565;
 - (i) information technology staff, \$37,694;
 - (j) central services staff, \$24,310;
 - (k) athletics director, \$36,508;
 - (l) supervising teacher, \$39,870;
 - (m) principal and assistant principal, \$65,986;
 - (n) librarian, \$47,740;
 - (o) counselor, \$52,229;
 - (p) school program coordinator, \$39,870; and
 - (q) school secretarial staff and school attendance and records staff, \$25,101.
- (7) The accredited program component includes:
- (a) \$6,378 each year for health insurance for each funded FTE;
 - (b) 1.3% of salaries for workers' compensation; and
 - (c) professional development for each funded position as follows:
 - (i) \$800 each year for the superintendent, assistant superintendent, district-level program and activities coordinator, curriculum coordinator, supervising teacher, principal, assistant principal, librarian, counselor, and school program coordinator; and
 - (ii) \$500 each year for the business manager, business clerical staff, district secretarial staff, nurse, human resources staff, information technology staff, central services staff, athletics director, school secretarial staff, and school attendance and records staff.
- (8) The per-student tier of the accredited program component provides funding for purchased services, administrative supplies, and other expenditures associated with business services, administration, support services for students and instructional staff, and general fund food services and must be allocated to each school district by multiplying the ANB, as calculated in 20-9-311, for the elementary or high school district or program of a K-12 district by the per-student amounts as follows:
- (a) E6, \$446;

- (b) E5, \$364;
- (c) E4, \$312;
- (d) E3, \$229;
- (e) E2, \$191;
- (f) E1, \$118;
- (g) H5, \$730;
- (h) H4, \$553;
- (i) H3, \$352;
- (j) H2, \$246;
- (k) H1, \$178.

(9) For purposes of the accredited program component:

(a) "accredited school program" means a set of course offerings and support services designed to meet the Montana accreditation standards;

(b) "FTE" means a full-time equivalent personnel position;

(c) "school" means an accredited school program, including an elementary school program, an accredited 7th and 8th grade, junior high, or middle school program, or a high school program; and

(d) "school system" means the administrative unit of a district or combination of districts. The types of school systems include:

(i) a K-12 district;

(ii) a combined elementary and high school district, which is an elementary district and a high school district that are combined for district administration purposes;

(iii) a county high school district, which is a 4-year high school operated on a countywide basis; and

(iv) an independent elementary school district, which is a district organized for the purpose of providing public education for all or any combination of kindergarten through 8th grade.

NEW SECTION. Section 4. Risk category index -- calculation of at-risk adjustments to the per-student component. (1) (a) An at-risk adjustment to the per-student component must be computed for each district as provided in this section. The indexed value for the adjustment is derived from the following risk categories:

(i) the percentage of students in the school district who are American Indian;

(ii) the percentage of students who are eligible for free or reduced-price lunches in the school district;

(iii) the percentage of migrant students in the school district;

(iv) the percentage of students who are identified as students with limited English proficiency in the school district;

(v) the educational attainment of women within the boundaries of the school district; and

(vi) the per capita income within the boundaries of the school district.

(b) (i) The percentages in subsections (1)(a)(i) through (1)(a)(iv) must be calculated for each fiscal year by the office of public instruction based on the count of regularly enrolled students as provided in 20-9-311 for the previous school year.

(ii) The information in subsection (1)(a)(v) and (1)(a)(vi) must be calculated by the office of public instruction based upon the most recent data from the national center for educational statistics and must be updated as new data becomes available from the decennial census.

(2) (a) By March 1 of each year, the office of public instruction shall compute a risk category index for each school district by:

(i) subtracting the district's computed value for each risk category enumerated in subsection (1)(a)(i) through (1)(a)(iv) from one and dividing the result by the difference of the statewide average value for that risk category from one; and

(ii) dividing each district's average value for each risk category provided in subsections (1)(a)(v) and (1)(a)(vi) by the statewide average for that risk category.

(b) The office of public instruction shall calculate the sum of the values across risk categories for the district and divide the sum by the total number of risk categories. The office of public instruction shall subtract one from the result and convert the difference to a percent difference from the statewide average.

(3) (a) For districts where the difference calculated in subsection (2)(b) is positive, a 10% premium must be added to the district's per-student component.

(b) For districts where the difference calculated in subsection (2)(b) is negative, a premium equal to the percent difference in subsection (2)(b), plus 10%, must be added to the district's per-student component.

NEW SECTION. Section 5. School district funds. The superintendent of public instruction has general supervisory authority over the provisions of this section and the fund structure used by school districts. For the purpose of limiting the number and type of school district funds to those necessary for maximum budgetary flexibility while still ensuring accountability and efficiency, school districts must use the following funds, fund types, and fund categories:

(1) the governmental fund category, which includes:

(a) the general fund, which accounts for the general operating costs of the district and includes the per-student component, the classroom component, the accredited program component, the building operation and maintenance component, the special education component, and the Indian education for all component. The costs of school district general administration, school administration, and business office support services must be accounted for in the school district general fund.

(b) the special revenue fund type, which accounts for the proceeds of specific revenue sources, other than private purpose trusts or major capitol projects that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided into the following funds to serve the purpose indicated:

(i) the retirement fund, which accounts for all money from state and county sources that is earmarked for purposes of paying the employer contributions for retirement, social security, medicare, and unemployment for school district employees whose salaries are paid from the general fund, the impact aid fund, or the school food services fund;

(ii) the transportation fund, which accounts for costs related to the transportation component and all money from county and local sources that is earmarked for the purpose of paying the costs of transporting students to and from school and home;

(iii) the tuition fund, which accounts for money earmarked for the purpose of paying the cost of tuition paid by the district under approved out-of-district attendance agreements;

(iv) the school food services fund, which accounts for federal, state, and local money earmarked for the purpose of paying the costs of operating the district's school breakfast and lunch programs;

(v) the impact aid fund, which accounts for federal funds received and expended under the provisions of 20 U.S.C. 7701, et seq.;

(vi) the federal programs fund, which accounts for money from federal sources, excluding impact aid money and medicaid reimbursements;

(vii) the state and private programs fund, which accounts for all money from state grants, private grants, and private donations that is not required to be accounted for in another fund;

(viii) the adult education fund, which accounts for all local money received by the district in support of the community education program, including the adult education levy under 20-7-705;

(ix) the interlocal cooperative fund, which accounts for money earmarked for the financial administration of an interlocal cooperative agreement established under Title 7, chapter 11, part 1, including federal, state, or

other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies;

(x) the compensated absences fund, which accounts for transfers from the general fund that are used for the purpose of paying:

(A) any accumulated amount of sick leave that a nonteaching or administrative school district employee is entitled to upon termination of employment with the district in accordance with the provisions of 2-18-618; and

(B) any accumulated amount of vacation leave that a nonteaching or administrative school district employee is entitled to upon termination of employment with the district; and

(xi) the nonoperating fund, which is established when a district will not operate a school during the ensuing school fiscal year from end-of-the-year fund balances in each fund maintained by the district during the immediately preceding school fiscal year. The purpose of the nonoperating fund is to centralize the financing and budgeting for the limited functions of a district not operating a school.

(c) the capital projects fund type, which accounts for all financial resources to be used for the acquisition, remodeling, constructing, or equipping of major capital facilities other than those financed by the impact aid fund, proprietary funds, or trust funds. Expenditures are limited to the direct costs of capital facilities and exclude the cost of school district general administration, school administration, and business office support services. The financial activities of the capital projects fund type are subdivided into the following funds to serve the purpose indicated:

(i) the building fund, which accounts for the capital projects component and other money that is expended for building, enlarging, remodeling, or repairing a school or other building of the district;

(ii) the building reserve fund, which is established with voter approval for the purpose of raising money for the future construction, equipping, or enlarging of school buildings, for the purpose of purchasing land needed for school purposes in the district, or for the purpose of funding school transition costs;

(iii) the bus depreciation reserve fund, which is used to accumulate funds for converting, remodeling, or rebuilding a bus, for the replacement of a bus or radio, or to purchase an additional bus;

(iv) the lease or rental agreement fund, which is used by a district that provides pupil or teacher housing in district-owned buildings under a lease or rental agreement or that rents or leases any buildings, land, facilities, or personal property of the district. Money received from the lease or rental agreements may be credited to the lease or rental agreement fund and used for the maintenance and operation of the district-owned buildings to which the lease or rental agreements apply or for the acquisition of additional housing or dormitory facilities.

(d) the debt service fund type, which accounts for the accumulation of resources for and the payment

of bond principal and interest, including the debt service component;

(e) the permanent fund type, which accounts for financial resources from endowments and other private donations that are legally restricted to the extent that only earnings, but not principal, may be used;

(2) the proprietary fund category, which includes:

(a) the enterprise fund type, which accounts for operations:

(i) that are financed and operated in a manner similar to private business enterprises whenever the intent of the district is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; or

(ii) whenever the district has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes; and

(b) the internal service fund type, which accounts for the financing of goods or services provided by one department to other departments of the school district or to other governmental entities on a cost-reimbursed basis; and

(3) the fiduciary fund category, which includes trust and agency fund types used to account for assets held by the school districts in a trustee capacity or as an agent for employees, private organizations, other governmental entities, or other funds.

NEW SECTION. Section 6. Definitions -- calculation of component costs. (1) As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(a) (i) "Direct state aid" means 44.7% of the sum of the components described in [section 1] that are included in the general fund of a district and the consolidation incentive provided under [section 7], excluding the special education component.

(ii) As used in subsection (1)(a)(i), "general fund of a district" means the fund that includes amounts for the per-student, classroom, accredited program, building operation and maintenance, special education, and Indian education for all components and the consolidation incentive provided under [section 7].

(b) "Maximum general fund budget" means a district's general fund budget amount up to 120% of the sum of the per-student, classroom, accredited program, building operation and maintenance, and Indian education for all components for the district, the consolidation incentive provided under [section 7], and the greater of:

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

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

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

(d) "Quality BASE" means the base amount for school equity and adequacy necessary to provide the basic system of free quality public elementary and secondary schools, as defined in 20-9-309.

(e) "Quality BASE aid" means:

(i) direct state aid for the general fund budget of a district;

(ii) guaranteed tax base aid for an eligible district for:

(A) 55.3% of the sum of the per-student, classroom, accredited program, and building operation and maintenance components and the consolidation incentive amount as provided in [section 7]; and

(B) 40% of the special education allowable cost payment.

(f) "Quality BASE budget" means the minimum general fund budget of a district, which includes:

(i) the sum of the per-student, classroom, accredited program, building operation and maintenance, and Indian education for all components and the consolidation incentive as provided in [section 7]; and

(ii) 140% of the special education allowable cost payment.

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

(h) "Quality BASE funding program" means the program for equitable distribution of the cost of Montana's basic system of free quality public elementary and secondary schools through county equalization aid as provided in 20-9-331 and 20-9-333, state equalization aid as provided in 20-9-343, direct state aid, guaranteed tax base aid, legislative appropriations, and local levies.

(2) Calculation of the costs of the components described in [section 1] is as follows:

(a) (i) Funding for the per-student component is based on a specified amount per ANB by size category contained in [section 2] for fiscal year 2007.

(ii) The ANB calculation in [section 2] must be adjusted by the weighting calculation for the additional funding for at-risk students as provided in [section 4].

(b) Funding for the classroom component is the sum of the items included for each classroom by school district size category calculated pursuant to [section 2].

(c) Funding for the accredited program component is calculated pursuant to [section 3].

(d) Funding for the building operation and maintenance component is \$4.50 per square foot multiplied by 137 square feet per ANB for each elementary district and 178 square feet per ANB for each high school district plus a base amount of \$5,800 for each elementary district and \$51,000 for each high school district.

(e) Funding for the special education component is the amount provided to fund services for students who meet the definition of a child with disabilities under 20-7-401.

(f) Funding for the transportation component is calculated pursuant to Title 20, chapter 10.

(g) Funding for the debt service component is the debt service amount calculated pursuant to 20-9-371.

(h) Funding for the Indian education for all component is the greater of \$100 per district or \$21.25 per ANB.

(3) The funding for each general fund component must be adjusted for inflation pursuant to 20-9-326.

(4) Each district receiving funding for the Indian education for all component shall provide an annual accounting to the office of public instruction for the expenditure of those funds.

NEW SECTION. Section 7. Consolidation incentive. (1) If on or after July 1, 2001, two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the resulting district is entitled to include a consolidation incentive amount in the quality BASE budget for 6 years. Beginning with the first school fiscal year following the consolidation or annexation, the consolidation incentive amount is:

(a) for a high school district:

(i) \$220,646 for 3 years;

(ii) \$165,484 for the fourth year;

(iii) \$110,323 for the fifth year; and

(iv) \$55,161 for the sixth year;

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

(i) \$19,859 for 3 years;

(ii) \$14,894 for the fourth year;

(iii) \$9,929 for the fifth year; and

(iv) \$4,964 for the sixth year;

(c) for an elementary district or K-12 district elementary program with an accredited 7th or 8th grade, junior high school, or middle school, an amount calculated as follows:

(i) \$19,859 times the ratio of the budgeted ANB for kindergarten through 6th grade to the total budgeted ANB of kindergarten through 8th grade plus \$220,646 times the ratio of the ANB for 7th and 8th grades to the total ANB of kindergarten through 8th grade for 3 years based on ANB budgeted in the first year following consolidation;

(ii) 75% of the amount calculated pursuant to subsection (1)(c)(i) for the fourth year;

(iii) 50% of the amount calculated pursuant to subsection (1)(c)(i) for the fifth year; and

(iv) 25% of the amount calculated pursuant to subsection (1)(c)(iii) for the sixth year.

(2) For districts that received a consolidation incentive prior to July 1, 2007, that choose to receive funding under [sections 1 through 6], and that remain eligible for a consolidation incentive, the superintendent of public instruction shall recalculate a district's incentive payment for the remaining years in accordance with subsection (1).

NEW SECTION. Section 8. Residential property tax. (1) In order to provide relief for the increased cost of providing funding to the basic system of free quality public elementary and secondary schools, there is allowed a credit against the taxes imposed by 15-30-103 in the amount of \$250 for property taxes paid on the taxpayer's primary residence.

(2) For purposes of this section, a "primary residence" is a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling.

Section 9. Section 7-2-2253, MCA, is amended to read:

"7-2-2253. Procedure to transfer money to school and road funds. (1) The county superintendent of schools of an old county shall furnish the county superintendent of schools of the new county with a certification of the average number belonging (ANB), calculated pursuant to 20-9-311, in the different school districts in the territory set apart to form the new county and shall certify to the board of county commissioners of the old county the amount due based upon the calculation of the local share of the components in [section 1]. The board of the old county shall order a warrant drawn on the treasury of the old county for all the money that is or may be due by apportionment or otherwise to the different school districts embraced in the new county and taken from the old county.

(2) The county treasurer shall certify to the county commissioners of an old county the amount due in the different road funds. The county commissioners shall order a warrant drawn on the treasury of the old county

in favor of the new county for all money that is or may be due by apportionment or otherwise to the different road and district funds in the territory set apart to form the new county and taken from the old county; ~~which~~ The amounts ~~shall~~ must be properly credited in both counties.

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

Section 10. Section 17-3-222, MCA, is amended to read:

"17-3-222. Apportionment of money to counties. (1) The state treasurer shall apportion the money received under 17-3-221 to the appropriate counties and then allocate the money due each county as follows:

(a) 50% to the county treasurer for deposit in the county general fund; and

(b) 50% to the state general fund to be used for the elementary quality BASE funding programs of the school districts in the county.

(2) The payments from the state to the county treasurers provided for in subsection (1) are statutorily appropriated as provided in 17-7-502."

Section 11. Section 17-7-140, MCA, is amended to read:

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

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

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

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

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school quality BASE funding program, including special education;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

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

- (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
 - (ii) 3/4 of 1% in October of the year preceding a legislative session;
 - (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and
 - (iv) 1/4 of 1% in March of the year in which a legislative session is convened.
- (b) In determining the amount of the projected general fund budget deficit, the budget director shall take

into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid, and anticipated reversions.

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

Section 12. Section 17-7-301, MCA, is amended to read:

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

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

- (a) due to an unforeseen and unanticipated emergency for fire suppression;
- (b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid, transportation aid, ~~or~~ equalization aid, or quality BASE aid to elementary and secondary schools for the current biennium; or
- (c) requested by the attorney general and:

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

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

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

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

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

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

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

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

Section 13. Section 20-2-121, MCA, is amended to read:

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

(1) effect an orderly and uniform system for teacher certification and specialist certification and for the

issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and 20-4-111;

(2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

(3) administer and order the distribution of quality BASE aid in accordance with the provisions of 20-9-344;

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of 20-10-111;

(5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of 20-1-303 and 20-1-304;

(6) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of 20-7-101 and 20-7-102;

(7) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of 20-7-201;

(8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

(9) adopt rules for issuance of documents certifying equivalency of completion of secondary education in accordance with 20-7-131;

(10) adopt policies for the conduct of programs for gifted and talented children in accordance with the provisions of 20-7-903 and 20-7-904;

(11) adopt rules for student assessment in the public schools; and

(12) perform any other duty prescribed from time to time by this title or any other act of the legislature."

Section 14. Section 20-3-106, MCA, is amended to read:

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

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

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

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of

20-5-314;

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

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

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

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

(8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;

and

(29) adopt procedures to:

(a) collect the names of students who have:

(i) reported to their district of residence that they wish to enroll in an accredited program;

(ii) not reached 19 years of age; and

(iii) dropped out of their school of residence prior to receiving a high school diploma; and

(b) enter into a contract to pay the costs of enrolling each student identified in subsection (29)(a) in an accredited program that offers a high school diploma;

(30) identify and electronically post the best practices being used by school districts to successfully

address the achievement gap for at-risk students;

(31) collect school-based financial data; and

~~(29)~~(32) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

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

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

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

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

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

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

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

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) subject to ~~15-10-420~~ 20-9-305, establish the ANB calculation, quality BASE budget levy, ~~over-BASE~~ over-quality BASE budget levy, additional levy, operating reserve amount, and state impact aid ~~amounts~~ amount for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, ~~miscellaneous programs fund~~ federal programs fund, state and private programs fund, building fund, lease or rental agreement fund, ~~traffic education fund~~, impact aid fund, interlocal cooperative ~~agreement~~ fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

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

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

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

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

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

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

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

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

(23) procure and display outside daily in suitable weather on school days at each school of the district

an American flag that measures not less than 4 feet by 6 feet;

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

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

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

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

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

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

(30) annually publish district data, electronically or in a local newspaper, and report to the office of public instruction on:

(a) the number and type of position openings;

(b) the salaries paid to certified teachers and the years of experience for each teacher;

(c) the entry level salary and the highest salary paid in the district;

(d) the student-teacher ratio by grade;

(e) the achievement data by grade;

(f) the number of days spent by certified staff in the classroom;

(g) the total amount spent by the district for:

(i) health insurance for each district employee;

(ii) operation and maintenance costs per square foot;

(iii) the amount of bonds and yearly payments;

(iv) curricular transportation miles driven and cost per mile;

(v) the total amount expended per student;

(vi) the amount spent annually on extracurricular activities; and

(vii) the number of students enrolled in the district who drop out of school in the district before receiving a diploma; and

~~(30)~~(31) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Section 16. Section 20-4-203, MCA, is amended to read:

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

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

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

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

(3) (a) For the purposes of subsection (1), "same salary" means the daily rate of pay, excluding benefits and excluding stipends for nonteaching duties, multiplied by the number of days worked under the last-executed contract with the teacher, up to the total number of ~~days~~ aggregate hours funded by the state in the ~~per-ANB entitlements~~ classroom component, as provided in ~~20-9-314~~ [section 2], including pupil-instruction-related days. The calculation of daily rate of pay is determined by dividing the salary in the last-executed contract with the teacher for pupil-instruction and pupil-instruction-related days, excluding benefits and excluding stipends for nonteaching duties, by the total number of contracted days under the last-executed contract.

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

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

Section 17. Section 20-5-323, MCA, is amended to read:

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

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

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

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

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

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 35 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing

the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Section 18. Section 20-5-324, MCA, is amended to read:

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

(a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e) in the previous school year;

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

(d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state in the previous school year; and

(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools in the previous school year.

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

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

(b) determine the ~~total per-ANB entitlement~~ state share of funding for components in the school district general fund for which the district would have been eligible if the students reported in subsections (1)(d) and (1)(e) had been enrolled in the resident district in the prior year; and

(c) reimburse the district of residence for the state portion of the ~~per-ANB entitlement~~ funding for the components in the school district general fund for each student, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

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

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

(5) (a) (i) When a child has approval to attend a school outside the child's district of residence at the

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

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

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

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

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

(c) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the district ~~miscellaneous~~ state and private programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

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

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

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

Section 19. Section 20-6-502, MCA, is amended to read:

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

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

(2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy of their approval resolution to the county superintendent. The county superintendent shall review the petition to determine if the ~~average number belonging (ANB)~~ enrollment of the school would be two or more and if the district meets the isolation criteria as provided in 20-9-302. If the trustees plan to open or reopen the school during the current school fiscal year, the trustees shall include the proposed opening date in the approval resolution and shall request that the process outlined in this section be expedited.

(3) The county superintendent shall present the petition, the trustees' approval, and the county superintendent's findings on the probable ~~ANB~~ school enrollment and whether the district meets the isolation criteria as provided in 20-9-302 to the board of county commissioners for their consideration. The board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate for the school is less than two ~~ANB~~ or if the elementary district does not meet the isolation criteria as provided in 20-9-302. In all other cases, the board may approve or disapprove the requested opening or reopening of the elementary school.

(4) (a) If the board approves a school opening or reopening, the county superintendent shall send a copy of the approval, along with the petition, the trustees' approval, and the county superintendent's estimate of the probable ~~ANB~~ school enrollment and whether the district meets the isolation criteria as provided in 20-9-302 to the superintendent of public instruction. Except under the circumstances described in subsection (4)(b), the trustees shall apply to the superintendent of public instruction for approval to open or reopen the school by June 1 prior to the beginning of the school year in which they intend to open or reopen the elementary school. The superintendent of public instruction shall approve or disapprove the requested opening or reopening of the elementary school by the fourth Monday of June. If the opening or reopening is approved, the superintendent of public instruction shall approve or adjust the ANB estimate of the county superintendent for the ~~school~~ district and the ANB ~~amount~~ estimate must be used for budgeting and quality BASE funding program purposes during the ensuing school fiscal year. ~~An ANB~~ A quality BASE funding amount may not be approved for the ensuing school

fiscal year for an opening or reopening school when the request for the school has not been received by the superintendent of public instruction by June 1.

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

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

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

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

- (a) ~~their the trustees'~~ reasons why the high school should be opened or reopened;
- (b) the probable enrollment of ~~such the~~ high school;
- (c) the distance and road conditions of the route to neighboring high schools;
- (d) the taxable value of the district;
- (e) the building and equipment facilities available for ~~such the~~ high school;
- (f) the planned course of instruction for ~~such the~~ high school;
- (g) the planned methods of complying with high school standards of accreditation; and
- (h) any other information that may be required by the superintendent of public instruction.

(2) The superintendent of public instruction shall investigate the application for the opening or reopening

of a high school and shall deny the opening or reopening of any school if the district does not meet the isolation criteria provided in 20-9-302. In all other cases, the state superintendent shall approve or disapprove the opening of the high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the high school district trustees may open ~~such~~ the high school.

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

(4) ~~Nothing herein contained shall~~ This section may not be construed ~~so as~~ to preclude the trustees of a high school district from establishing more than one high school in the district."

Section 21. Section 20-6-504, MCA, is amended to read:

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

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

(3) The superintendent of public instruction shall investigate the application for the opening of a junior high school and shall deny the opening or reopening of any school if the districts operating the junior high school do not meet the isolation criteria in 20-9-302. In all other cases, the state superintendent shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the trustees of the elementary district and the high school district may jointly open ~~such~~ the school.

(4) Whenever the opening of a junior high school is approved for the ensuing school fiscal year, the county superintendent shall estimate the increase in average number belonging (ANB) of the district after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent shall be used for budgeting and quality BASE funding program purposes during the ensuing

school fiscal year."

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

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

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

Section 23. Section 20-6-507, MCA, is amended to read:

"20-6-507. Opening of middle school. The trustees of any elementary district may open a middle school when ~~such~~ the opening has been approved by the superintendent of public instruction. The state superintendent shall investigate an application for the opening of a middle school and shall deny the opening or reopening of any school if the elementary district does not meet the isolation criteria in 20-9-302. In all other cases, the state superintendent shall approve or disapprove the opening before the fourth Monday in June preceding the first year of intended operation. When a middle school opening is approved, the county superintendent shall estimate the ANB after investigating the probable enrollment for the middle school. The estimated ANB ~~so estimated shall~~ must be used for budgeting and quality BASE funding program purposes during the ensuing school fiscal year."

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

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

(2) The number of elected trustees of the K-12 school district must be based on the classification of the

attached elementary district under the provisions of 20-3-341 and 20-3-351.

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

(a) the calculation of ANB for purposes of determining the ~~total per-ANB entitlements~~ components of the quality BASE funding program must be in accordance with the provisions of 20-9-311 and must be adjusted by the weighting calculations of those components;

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

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

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

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

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

Section 25. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public

education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

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

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

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in ~~20-9-306(14)(c)(ii)~~ [section 6]."

Section 26. Section 20-7-306, MCA, is amended to read:

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

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

- (a) K-12 career and vocational/technical education enrollment;
- (b) approved career and technical student organizations;
- (c) field supervision of students beyond the school year for K-12 career and vocational/technical education; and
- (d) district expenditures related to the K-12 career and vocational/technical education programs.

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

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

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

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

Section 27. Section 20-7-414, MCA, is amended to read:

"20-7-414. Determination of children in need and type of special education needed. (1) The determination of the children requiring special education and the type of special education needed by these children is the responsibility of the school district, and the determination must be made in compliance with the procedures established in the rules of the superintendent of public instruction. The school district shall make available a free appropriate public education, in accordance with 20-7-411, to all children who are eligible under the Individuals With Disabilities Education Act and who reside in the school district.

(2) The Upon receiving the cost estimate pursuant to subsection (3), the trustees of a school district shall establish and implement policies and procedures for the conduct of special education that are consistent with the Individuals With Disabilities Education Act and with state laws and rules of the board of public education and the superintendent of public instruction.

(3) The office of public instruction shall provide to each school district an estimate of the costs of each program recommended in a student's individualized education program."

Section 28. Section 20-7-420, MCA, is amended to read:

"20-7-420. Residency requirements -- financial responsibility for special education. (1) Except for a pupil attending a job corps program pursuant to 20-9-707, a child's district of residence for special education purposes must be determined in accordance with the provisions of 1-1-215, unless otherwise determined by the court. This applies to a child living at home, in an institution, or under foster care. If the parent has left the state, the parent's last-known district of residence is the child's district of residence.

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

residential facility.

(3) If an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state residential treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational services are provided by a public school district under the provisions of 20-7-411 or 20-7-435, the superintendent of public instruction shall reimburse the district providing the services for the negotiated amount, as established pursuant to 20-7-435(5), that represents the district's costs of providing education and related services. Payments must be made from funds appropriated for this purpose. If the negotiated amount exceeds the daily membership rate under 20-7-435(3) and any calculated per-ANB amount of direct state aid, the superintendent of public instruction shall pay the remaining balance from available funds. However, the amount spent from available funds for this purpose may not exceed \$500,000 during a biennium.

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

Section 29. Section 20-7-435, MCA, is amended to read:

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

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

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

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

facility;

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

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

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

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

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

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

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

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

Section 30. Section 20-7-457, MCA, is amended to read:

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

(1) The superintendent of public instruction shall pay directly to a cooperative or to a joint board formed under

20-3-361 prior to July 1, 1992, for special education purposes the special education allowable cost payments determined pursuant to 20-9-321.

(2) A school district that elects to participate in a cooperative for special education purposes shall agree in the cooperative contract to participate for a period of at least 3 years.

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

(4) A cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction. The superintendent shall adopt rules for approval of full service education cooperatives.

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

(6) Before July 1, 1994, the superintendent of public instruction, after consulting with regional representatives, shall define boundaries for cooperatives established for special education programs that incorporate the territory of all public school districts.

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

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

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

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

Section 31. Section 20-7-507, MCA, is amended to read:

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

Section 32. Section 20-7-705, MCA, is amended to read:

"20-7-705. Adult education fund. (1) A separate adult education fund must be established when an adult education program is operated by a district or community college district. The financial administration of the fund must comply with the budgeting, financing, and expenditure provisions of the laws governing the schools.

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

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

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

(5) When a tax levy for an adult education program is included as a revenue item on the final adult education budget, the county superintendent shall report the levy requirement to the county commissioners on the fourth Monday of August and a levy on the district must be made by the county commissioners in accordance with 20-9-142."

Section 33. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

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

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

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

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

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

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

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

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

Section 34. Section 20-9-141, MCA, is amended to read:

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

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

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

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353, ~~including any additional funding for a general fund budget that exceeds the maximum general fund budget.~~

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

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

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

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

(B) any other revenue received during the school fiscal year that may be used to finance the general

fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes; and

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

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

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

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

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

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

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

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

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

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

Section 35. Section 20-9-201, MCA, is amended to read:

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

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

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

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

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

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

Section 36. Section 20-9-231, MCA, is amended to read:

"20-9-231. ~~Metal~~ Metalliferous mines license tax reserve fund proceeds -- deposit. (1) The governing body of a local school district receiving metalliferous mines license tax collections under

15-37-117(1)(e) ~~may establish a metal mines tax reserve~~ shall deposit the money in a state and private programs fund ~~to be used to hold the collections.~~ The governing body may hold metalliferous mines license tax money in the fund for any time period considered appropriate by the governing body. Money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

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

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

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

Section 37. Section 20-9-302, MCA, is amended to read:

"20-9-302. School isolation. (1) Except as provided in 20-6-502(4)(b), the trustees of any district operating an elementary ~~school~~ district of less than 40 18 ANB or a high school district of less than 25 ANB for 2 consecutive years shall apply to have the school classified as an isolated ~~school~~ district. The application must be submitted by the trustees to the county superintendent by May 1 of the second consecutive year that enrollment falls below the amount specified in this subsection. The application must include:

(a) the name of each pupil who will attend the ~~school~~ district during the ensuing school fiscal year with the distance the pupil resides from the nearest county road or highway;

(b) a description of conditions affecting transportation such as poor roads, mountains, rivers, or other obstacles to travel, the distance the school is from the nearest open school having room and facilities for the pupils of the school, or any other condition that would result in an unusual hardship to the pupils of the school if they were transported to another school; and

(c) any other information prescribed by the superintendent of public instruction.

(2) The county superintendent shall submit the applications to the board of county commissioners for their consideration on or before May 15. The board shall approve or disapprove the application based on the ~~basis of the following~~ criteria; ~~established by the superintendent of public instruction. The board may approve an application because of the existence of other conditions which would result in an unusual hardship to the pupils of the school if they were transported to another school~~

(a) for an elementary district, any school building that is located at a distance of more than 20 miles from

the nearest open elementary school or that is 45 minutes or more away from the nearest open elementary school over the shortest passable route; or

(b) for a high school district, any school building that is located at a distance of more than 40 miles from the nearest open high school or that is 60 minutes or more away from the nearest open high school over the shortest passable route.

(3) When an application is approved, the county superintendent shall submit the application to the superintendent of public instruction before June 1. The superintendent of public instruction shall approve or disapprove the application for isolated classification by the fourth Monday of June on the basis of the information supplied by the application or objective information the superintendent of public instruction may collect on the superintendent's own initiative. An elementary district or high school district may not be considered an isolated ~~school~~ district until the approval of the superintendent of public instruction has been received."

Section 38. Section 20-9-303, MCA, is amended to read:

"20-9-303. Nonisolated school quality BASE budget funding -- special education funds. (1) An elementary school ~~that has an ANB of nine or fewer pupils~~ with less than 18 ANB or a high school district ~~with less than 25 ANB~~ for 2 consecutive years and that is not approved as an isolated school under the provisions of 20-9-302 ~~may shall~~ budget and spend the quality BASE budget amount, but the county and state shall provide one-half of the direct state aid, and the district shall finance the remaining one-half of the direct state aid by a tax levied on the property of the district. When ~~a an elementary school of nine or fewer pupils with less than 18 ANB~~ or a high school district with less than 25 ANB is approved as isolated under the provisions of 20-9-302, the county and state shall participate in the financing of the total amount of the direct state aid.

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

Section 39. Section 20-9-305, MCA, is amended to read:

"20-9-305. Proration and calculation of quality BASE funding program for joint district. (1) In joint

districts, the direct state aid of a joint district must be prorated among the counties in which any part of the joint district is located for the purpose of determining the amount of each source of revenue for the direct state aid for which each county is obligated. The proration of the joint district direct state aid must be calculated as follows:

(a) Divide the joint district direct state aid by the ANB of the joint district to determine the per-ANB amount of the direct state aid.

(b) Determine the ANB for each county's portion of the joint district on the basis of each pupil's resident county. When taken together, the sum of the ANB assigned to all the counties must equal the total ANB for the joint district.

(c) Multiply the per-ANB amount of the direct state aid determined in subsection (1)(a) by the ANB for each county's portion, as determined in subsection (1)(b), to determine the portion of the direct state aid for each county.

(2) The portion of a joint district direct state aid for each county, as determined in subsection (1)(c), is a separate direct state aid amount in the county for the purposes of calculating the various revenues for the quality BASE funding program. After the calculation of the direct state aid revenues, the remainder of the general fund revenues must be calculated in accordance with the provisions for general fund financing."

Section 40. Section 20-9-308, MCA, is amended to read:

"20-9-308. (Temporary) BASE Quality BASE budgets and maximum general fund budgets. (1) (a) The trustees of a district shall adopt a general fund budget that is at least equal to the quality BASE budget established for the district ~~and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district.~~ The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's general fund budget, whichever is greater.

(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state funding passed by the legislature for the quality BASE funding components in [section 1] to the district's previous year's general fund budget.

(2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the quality BASE budget for the district ~~but does not exceed the maximum general fund budget for the district~~ and to increase the over-quality BASE budget levy to support the general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

(3) (a) (i) ~~Except as provided in subsections (3)(a)(ii) and (3)(b), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt~~

~~a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. Except as provided in subsection (3)(b), a school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the 5-year period.~~

~~———(ii) Except as provided in subsection (3)(b), the trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:~~

~~———(A) the adopted budget for the previous year; or~~

~~———(B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.~~

~~———(b) A school district that adopted a general fund budget over its maximum general fund budget under any provision of subsection (3)(a) at any time between fiscal year 2001 and fiscal year 2005 may, for fiscal year 2006 and fiscal year 2007, adopt the greater of its maximum general fund budget or the highest actual budget adopted between fiscal year 2001 and fiscal year 2005.~~

~~———(c) Except as provided in 20-9-353(8), the trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.~~

~~(4)(3) The quality BASE budget for the district must be financed by the following sources of revenue:~~

~~(a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;~~

~~(b) county equalization aid, as provided in 20-9-331 and 20-9-333;~~

~~(c) a mandatory district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;~~

~~(d) payments in support of special education programs under the provisions of 20-9-321;~~

~~(e) nonlevy revenue, as provided in 20-9-141; and~~

~~(f) a mandatory quality BASE budget levy on the taxable value of all property within the district; and~~

~~(g) reappropriated fund balance.~~

~~(5)(4) The over-BASE over-quality BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141.~~

(Terminates June 30, 2007--sec. 3, Ch. 190, L. 2005; sec. 25(2), Ch. 462, L. 2005.)

20-9-308. (Effective July 1, 2007) Quality BASE budgets and maximum general fund budgets. (1)

~~(a) The trustees of a district shall adopt a general fund budget that is at least equal to the quality BASE budget established for the district and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's general fund budget, whichever is greater.~~

~~(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state funding passed by the legislature for the quality BASE funding components in [section 1] to the district's previous year's general fund budget.~~

(2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the quality BASE budget for the district but does not exceed the maximum general fund budget for the district and to increase the over-quality BASE budget levy to support the general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

~~(3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the 5-year period. A school district whose adopted general fund budget for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

~~———— (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~———— (B) in the second year, 25% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~———— (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~———— (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

~~———— (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

~~_____ (ii) The trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget.~~

~~_____ However, the budget adopted for the current year may not exceed the lesser of:~~

~~_____ (A) the adopted budget for the previous year; or~~

~~_____ (B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.~~

~~_____ (b) The trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.~~

~~(4)(3)~~ The quality BASE budget for the district must be financed by the following sources of revenue:

(a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;

(b) county equalization aid, as provided in 20-9-331 and 20-9-333;

(c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

(d) payments in support of special education programs under the provisions of 20-9-321;

(e) nonlevy revenue, as provided in 20-9-141; and

(f) a mandatory quality BASE budget levy on the taxable value of all property within the district; and

(g) reappropriated fund balance.

~~(5)(4)~~ The ~~over-BASE~~ over-quality BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141."

Section 41. Section 20-9-309, MCA, is amended to read:

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

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

means:

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

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

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

(ii) an at-risk student;

(iii) a student with limited English proficiency;

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

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

(c) educational programs to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;

(d) qualified and effective teachers or administrators and qualified staff to implement the programs in subsections (2)(a) through (2)(c);

(e) facilities and distance learning technologies associated with meeting the accreditation standards;

(f) transportation of students pursuant to Title 20, chapter 10;

(g) a procedure to assess and track student achievement in the programs established pursuant to subsections (2)(a) through (2)(c); and

(h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.

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

(a) the number of students in a district;

(b) the needs of isolated schools with low population density;

(c) the needs of urban schools with high population density;

(d) the needs of students with special needs, such as a child with a disability, an at-risk student, a student with limited English proficiency, a child who is qualified for services under 29 U.S.C. 794, and gifted and talented children;

(e) the needs of American Indian students; and

(f) the ability of school districts to attract and retain qualified educators and other personnel.

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

~~— (a) determine the costs of providing the basic system of free quality public elementary and secondary schools;~~

~~— (b) establish a funding formula that:~~

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

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

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

~~— (iv) is based on state laws;~~

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

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

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

~~(5)(4) At least every 10 years following April 7, 2005, the legislature shall:~~

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

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

~~(5) At least every 3 to 5 years, an appropriate legislative committee shall review the school funding formula for equity and adequacy. The staffs of the legislative services division and the legislative fiscal division shall assist the committee.~~

Section 42. Section 20-9-311, MCA, is amended to read:

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

(1) Average number belonging (ANB) must be ~~computed for each budget unit as follows:~~

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

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

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

~~(3)~~(2) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

~~(4)~~(3) (a) Except as provided in subsection ~~(5)~~ (4), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

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

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

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

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

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

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

~~(5)~~(4) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

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

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

~~(8)~~(7) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the

district, except that the ANB is calculated as a separate budget unit when:

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

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

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

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

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

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

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

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

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

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

program for the district: when a school has not been accredited by the board of public education, the regularly enrolled pupils attending the nonaccredited school are not included for the purposes of calculating ANB.

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

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

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

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

(d) This subsection ~~(10)~~ (9) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(13)~~(12) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the ~~budget unit~~ district or the separate elementary and high school programs for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection ~~(13)(a)~~ (12)(a) by three. (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)

20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year averaging. (1) Average number belonging (ANB) must be ~~computed as follows:~~

~~—(a) compute~~ determined by computing an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of

regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and ~~divide~~ dividing the sum by two; ~~and~~

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

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

~~(3)~~(2) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

~~(4)~~(3) (a) Except as provided in subsection ~~(5)~~ (4), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

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

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

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

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

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

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

~~(5)~~(4) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

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

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

~~(8)(7)~~ The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

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

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

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

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

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

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

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

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

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

~~———(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time~~

~~pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district when a school has not been accredited by the board of public education, the regularly enrolled pupils attending the nonaccredited school are not included for the purposes of calculating ANB.~~

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

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

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

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

(d) This subsection ~~(10)~~ ~~(9)~~ may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

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

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

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

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

(d) receiving special education and related services, other than day treatment, under a placement by the

trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

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

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

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

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

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

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

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

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

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

~~(13)(12)~~ The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the ~~budget unit~~ district or the separate elementary and high school programs of a K-12 district for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection ~~(13)(a)~~ (12)(a) by three."

Section 43. Section 20-9-314, MCA, is amended to read:

"20-9-314. (Temporary) Procedures for determining eligibility and amount of increased average

number belonging due to unusual enrollment increase. A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its ~~basic entitlement and total per-ANB entitlement~~ ANB calculation for quality BASE budget funding purposes for the ensuing school fiscal year in accordance with the following provisions:

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

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

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

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

(c) the average number belonging that will be used to calculate the ~~basic entitlement and total per-ANB entitlement~~ quality BASE budget for the ensuing school fiscal year;

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

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

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

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

(b) approve an increase of the average number belonging used to establish the ensuing year's ~~basic entitlement and total per-ANB entitlement~~ quality BASE budget in accordance with subsection (5) if the increase in subsection (3)(a) is greater than 6%.

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

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the increase of the average number belonging used to establish the ~~basic entitlement and total per-ANB entitlement~~ quality BASE budget for the ensuing ANB calculation period is determined using the difference between the enrollment for the ensuing school fiscal year and 106% of the enrollment used to calculate the

budgeted ANB. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's ~~basic entitlement and total per-ANB entitlement~~ quality BASE budget.

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

(b) If the actual enrollment is less than the enrollment used to determine budgeted ANB, the superintendent of public instruction shall revise the ~~total per-ANB entitlement and basic entitlement~~ quality BASE budget calculations, as provided in subsection (5), using the actual ~~enrollment in place of the estimated enrollment~~ ANB.

(c) All ~~total per-ANB entitlements~~ quality BASE budget funding amounts received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4). (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)

20-9-314. (Effective July 1, 2007) Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its ~~basic entitlement and total per-ANB entitlement~~ ANB calculation for quality BASE budget funding purposes for the ensuing school fiscal year in accordance with the following provisions:

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

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

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

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

(c) the average number belonging that will be used to calculate the ~~basic entitlement and total per-ANB entitlement~~ quality BASE budget for the ensuing school fiscal year;

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

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

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing

ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

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

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

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

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

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

(b) If the actual enrollment is less than the average number belonging used for ~~the quality BASE funding program and entitlement calculations~~ budget, the superintendent of public instruction shall revise the ~~total per-ANB entitlement and basic entitlement~~ quality BASE budget calculations, as provided in subsection (5), using the actual ~~average number belonging~~ ANB.

(c) All ~~total per-ANB entitlements~~ quality BASE budget funding amounts received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4)."

Section 44. Section 20-9-326, MCA, is amended to read:

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

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year

by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio to the power of one-third; and

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

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

(3) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

Section 45. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary quality BASE funding program. (1) ~~Subject to 15-10-420, the~~ The county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state quality BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary quality BASE funding programs of the school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the quality BASE funding programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue

from the following sources must be used for the equalization of the elementary quality BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

- (a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization fund under the provisions of 17-3-222;
- (b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;
- (c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;
- (d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;
- (e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;
- (f) gross proceeds taxes from coal under 15-23-703; and
- (g) oil and natural gas production taxes."

Section 46. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high school quality BASE funding program. (1) ~~Subject to 15-10-420, the~~ The county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state quality BASE funding program support. The revenue collected from this levy must be apportioned to the support of the quality BASE funding programs of high school districts in the county and to the state general fund in the following manner:

- (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the quality BASE funding programs of all high school districts of the county.
- (b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon

occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school quality BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703; and

(d) oil and natural gas production taxes."

Section 47. Section 20-9-343, MCA, is amended to read:

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

(a) distribution to the public schools for guaranteed tax base aid, quality BASE aid, state reimbursement for ~~school facilities~~ debt service, and grants for school technology purchases; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

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

~~(3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:~~

~~—— (a) interest and income money described in 20-9-341 and 20-9-342; and~~

~~—— (b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.~~

~~(4)(3) Beginning July 1, 2003, the~~ The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) ~~(i) subject to subsection (4)(a)(ii);~~ interest and income money described in 20-9-341 and 20-9-342;

and

~~(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;~~

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

Section 48. Section 20-9-344, MCA, is amended to read:

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

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

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

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

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

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

(b) maintain accredited status.

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

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

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

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

- (i) direct state aid;
- (ii) the total quality educator payment;
- (iii) the total at-risk student payment;
- (iv) the total Indian education for all payment; and
- (v) the total American Indian achievement gap payment;

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

- (i) direct state aid;
- (ii) the total quality educator payment;
- (iii) the total at-risk student payment;
- (iv) the total Indian education for all payment; and
- (v) the total American Indian achievement gap payment;

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

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

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

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

Section 49. Section 20-9-346, MCA, is amended to read:

"20-9-346. Duties of superintendent of public instruction for state and county equalization aid distribution. The superintendent of public instruction shall administer the distribution of the state and county equalization aid by:

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

(2) for the purposes of state advances and reimbursements for ~~school facilities~~ debt service, limiting the distribution to no more than the amount appropriated for the school fiscal year to the districts that are eligible under the provisions of 20-9-366 through 20-9-371 by:

(a) determining the debt service payment obligation in each district for debt service on bonds that were sold as provided in 20-9-370(3) that qualify for a state advance or reimbursement for ~~school facilities~~ debt service under the provisions of 20-9-366 through 20-9-369 and 20-9-370;

(b) based on the limitation of state equalization aid appropriated for debt service purposes, determining the state advance for ~~school facilities~~ debt service and the proportionate share of state reimbursement for ~~school facilities~~ debt service that each eligible district must receive for the school fiscal year; and

(c) distributing that amount by May 31 of each school fiscal year to each eligible district for reducing the property tax for the debt service fund for the ensuing school fiscal year;

(3) distributing by electronic transfer the BASE aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county for county equalization or to the county treasurer of the county where the district is located or to the investment account identified by the applicable district for quality BASE aid, in accordance with the distribution ordered by the board of public education;

(4) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for quality BASE aid of the districts of the state;

(5) reporting to the board of public education the estimated amount that will be available for state equalization aid; and

(6) reporting to the office of budget and program planning, as provided in 17-7-111:

(a) the figures and data available concerning distributions of state and county equalization aid during the preceding 2 school fiscal years;

(b) the amount of state equalization aid then available;

(c) the apportionment made of the available money but not yet distributed;

(d) the latest estimate of accruals of money available for state equalization aid; and

(e) the amount of state advances and repayment for county equalization."

Section 50. Section 20-9-347, MCA, is amended to read:

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

(a) supply the county treasurer and the county superintendent with a monthly report of the payment of quality BASE aid in support of the quality BASE funding program of each district of the county;

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

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

(2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the quality BASE aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(8).

(b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to authorize the superintendent of public instruction to exceed a district's annual payment for quality BASE aid.

(3) The superintendent of public instruction shall:

(a) distribute special education allowable cost payments to districts; and

(b) supply the county treasurer and the county superintendent of schools with a report of payments for special education allowable costs to districts of the county."

Section 51. Section 20-9-348, MCA, is amended to read:

"20-9-348. Estimation of state equalization aid for budget purposes. The apportionment of state equalization aid ~~shall be~~ is the second source of revenue in calculating the financing of the elementary district quality BASE funding program and the high school district quality BASE funding program. In order to allow for the estimation of the amount of money to be realized from this source of revenue when the county superintendent is estimating the general fund budget ~~revenues~~ revenue, the county superintendent shall consider that the state quality BASE funding program ~~revenues~~ revenue and county equalization ~~moneys~~ money, together, will be capable of financing 100% of the quality BASE funding program."

Section 52. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in quality BASE aid. If the money available for quality BASE aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the guaranteed tax base

aid required under 20-9-366 through 20-9-369 and quality BASE aid support determined under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of quality BASE aid for the elementary and high school districts for the current biennium."

Section 53. Section 20-9-353, MCA, is amended to read:

"20-9-353. (Temporary) Additional financing for general fund -- election for authorization to impose. (1) The trustees of a district may propose to adopt:

(a) an ~~over-BASE~~ over-quality BASE budget amount for the district general fund that does not exceed the ~~maximum general fund budget for the district or other~~ general fund budget limitations, as provided in 20-9-308(2); or

(b) ~~a general fund budget amount in excess of the maximum general fund budget amount for the district, as provided in 20-9-308(3).~~

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

(3) ~~Except as provided in subsection (8), when the trustees of a district propose to adopt the general fund budget amount in excess of the maximum general fund budget under subsection (1)(b), the trustees shall submit the proposition to finance the additional amount of general fund budget authority to the electors who are qualified under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state the amount of the budget to be financed, the approximate number of mills required to fund all or a portion of the budget amount, and the purpose for which the money will be expended. The ballot must be in the following format:~~

PROPOSITION

_____ Shall the district be authorized to expend the sum of (state the additional amount to be expended) and

being approximately (give number) mills for the purpose of (insert the purpose for which the additional financing is made)?

_____ FOR budget authority and any levy.

_____ AGAINST budget authority and any levy.

~~(4)~~(3) If the election on any additional financing ~~or budget authority~~ for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify any additional levy amount authorized by the election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141.

~~(5)~~ Authorization to levy an additional tax to support a budget amount adopted as allowed by 20-9-308(3) is effective for only 1 school fiscal year.

~~(6)~~(4) All levies adopted under this section must be authorized by the election conducted before August 1 of the school fiscal year for which it is effective.

~~(7)~~(5) If the trustees of a district are required to submit a proposition to finance an ~~over-BASE~~ over-quality BASE budget amount ~~or an amount in excess of the maximum general fund budget amount for the district~~, as allowed by 20-9-308(3), to the electors of the district, the trustees shall comply with the provisions of subsections (2) through ~~(6)~~ (4) of this section.

~~(8)~~ The trustees of the district may permissively levy up to the same ~~over-BASE~~ property tax revenue levied in the prior fiscal year. (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)

20-9-353. (Effective July 1, 2007) Additional financing for general fund -- election for authorization to impose. (1) The trustees of a district may propose to adopt:

(a) an ~~over-BASE~~ over-quality BASE budget amount for the district general fund that does not exceed the ~~maximum general fund budget for the district or other general fund budget~~ limitations, as provided in 20-9-308(2); or

_____ (b) a general fund budget amount in excess of the maximum general fund budget amount for the district, as provided in 20-9-308(3).

(2) When the trustees of the district propose to adopt an ~~over-BASE~~ over-quality BASE budget under subsection (1)(a), any increase in local property taxes authorized by 20-9-308(5)(4) must be submitted to a vote of the qualified electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified electors any increase in state funding ~~of the basic or per-ANB entitlements~~ for the quality BASE budget

approved by the legislature. When the trustees of a district determine that a voted amount of financing is required for the over-quality BASE general fund budget, the trustees shall submit the proposition to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner prescribed by this title for school elections and must conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of 15-10-425.

~~(3) When the trustees of a district propose to adopt the general fund budget amount in excess of the maximum general fund budget under subsection (1)(b), the trustees shall submit the proposition to finance the additional amount of general fund budget authority to the electors who are qualified under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state the amount of the budget to be financed, the approximate number of mills required to fund all or a portion of the budget amount, and the purpose for which the money will be expended. The ballot must be in the following format:~~

PROPOSITION

~~_____ Shall the district be authorized to expend the sum of (state the additional amount to be expended) and being approximately (give number) mills for the purpose of (insert the purpose for which the additional financing is made)?~~

~~_____ FOR budget authority and any levy.~~

~~_____ AGAINST budget authority and any levy.~~

~~(4)(3)~~ If the election on any additional financing ~~or budget authority~~ for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify any additional levy amount authorized by the election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141.

~~(5) Authorization to levy an additional tax to support a budget amount adopted as allowed by 20-9-308(3) is effective for only 1 school fiscal year.~~

~~(6)(4)~~ All levies adopted under this section must be authorized by the election conducted before August 1 of the school fiscal year for which it is effective.

~~(7)(5)~~ If the trustees of a district are required to submit a proposition to finance an over-quality BASE budget amount ~~or an amount in excess of the maximum general fund budget amount for the district~~, as allowed by 20-9-308(3), to the electors of the district, the trustees shall comply with the provisions of subsections (2)

through ~~(6)~~ (4) of this section."

Section 54. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary budgeted ANB count or the total county high school budgeted ANB count ~~used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.~~

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the quality BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district divided by the sum of the district's current year quality BASE budget amount less direct state aid, the Indian education for all component, and the state special education allowable cost payment.

(b) "District mill value per ANB", for ~~school facility entitlement~~ debt service component purposes, means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the budgeted ANB count of the district ~~used to calculate the district's current year total per-ANB entitlement amount.~~

(3) "Facility guaranteed mill value per ANB", for ~~school facility entitlement~~ debt service component guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary budgeted ANB count or the total state high school budgeted ANB count ~~used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.~~

(4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the quality BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 175% and divided by the total sum of either the state elementary school districts' or the high school districts' current year quality BASE budget amounts less total direct state aid.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary budgeted ANB count or the total state high school budgeted ANB ~~amount used to calculate the~~

elementary school districts' and high school districts' current year total per-ANB entitlement amounts count."

Section 55. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid or state advance or reimbursement for school facilities. (1) If the district guaranteed tax base ratio of any elementary or high school district is less than the corresponding statewide elementary or high school guaranteed tax base ratio, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of up to 35.3% of the ~~basic entitlement, up to 35.3% of the total per-ANB entitlement,~~ calculated amount for the components described in [section 1] that are eligible for direct state aid and up to 40% of the special education allowable cost payment budgeted within the general fund budget.

(2) If the county retirement mill value per elementary ANB or the county retirement mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county.

(3) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or statewide mill value per high school ANB, the district may receive a state advance or reimbursement for ~~school facilities~~ debt service in support of the debt service fund."

Section 56. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) The amount of guaranteed tax base aid that a district may receive in support of up to 35.3% of the ~~basic entitlement, up to 35.3% of the total per-ANB entitlement~~ calculated amount for the components described

in [section 1] that are budgeted within the general fund budget; and up to 40% of the special education payment is calculated in the following manner:

(a) multiply the sum of the district's quality BASE budget amount less direct state aid by the corresponding statewide guaranteed tax base ratio;

(b) subtract the taxable valuation of the district from the product obtained in subsection (3)(a); and

(c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 57. Section 20-9-369, MCA, is amended to read:

"20-9-369. Duties of superintendent of public instruction and department of revenue. (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final statewide and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid and state advance and reimbursement for ~~school facilities~~ debt service available to counties and districts for the ensuing school fiscal year;

(c) requiring each county and district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(d) keeping a record of the complete data concerning appropriations available for guaranteed tax base aid and the entitlements for the aid of the counties and districts that qualify;

(e) distributing the guaranteed tax base aid entitlement to each qualified county or district from the appropriations for that purpose.

(2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the superintendent of public instruction by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305.

(4) The superintendent of public instruction shall calculate the district and statewide guaranteed tax base ratios by applying the prior year's direct state aid payment."

Section 58. Section 20-9-370, MCA, is amended to read:

"20-9-370. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "~~School facility entitlement~~" "Debt service per-ANB amount" means:

- (a) \$300 per ANB for an elementary school district;
- (b) \$450 per ANB for a high school district; or
- (c) \$370 per ANB for an approved and accredited junior high school or middle school.

(2) "~~State advance for school facilities~~" debt service" is the amount of state equalization aid distributed to an eligible district to pay the debt service obligation for a bond in the first school fiscal year in which a debt service payment is due for the bond.

(3) "~~State reimbursement for school facilities~~" debt service" means the amount of state equalization aid distributed to a district that:

- (a) has a district mill value per ANB that is less than the corresponding facility guaranteed mill value per ANB; and
- (b) has a debt service obligation in the ensuing school year on bonds.

(4) "~~Total school facility entitlement~~" debt service per-ANB amount" means the ~~school facility entitlement~~ debt service per-ANB amount times the total budgeted ANB for the district."

Section 59. Section 20-9-371, MCA, is amended to read:

"20-9-371. Calculation and uses of ~~school facility entitlement~~ debt service funding amount. (1) The state reimbursement for ~~school facilities~~ debt service for a district is the percentage determined in 20-9-346(2)(b) times (1-(district mill value per ANB/facility guaranteed mill value per ANB)) times the lesser of the total ~~school facility entitlement~~ debt service per-ANB funding calculated under the provisions of 20-9-370 or the district's current year debt service obligations on general obligation bonds that qualify under the provisions

of 20-9-370(3).

(2) The state advance for ~~school facilities~~ debt service for a district is determined as follows:

(a) Calculate the percentage of the district's debt service payment that will be advanced by the state using the district ANB, the district mill value and the statewide mill value for the current year, and the percentage used to determine the proportionate share of state reimbursement for ~~school facilities~~ debt service in the prior year.

(b) Multiply the percentage determined in subsection (2)(a) by the lesser of the total ~~school facility entitlement~~ debt service per-ANB funding calculated under the provisions of 20-9-370 or the district's current year debt service obligation for general obligation bonds to which the state advance applies.

(3) Within the available appropriation, the superintendent of public instruction shall first distribute to eligible districts the state advance for ~~school facilities~~ debt service. From the remaining appropriation, the superintendent shall distribute to eligible districts the state reimbursement for ~~school facilities~~ debt service.

(4) The trustees of a district may apply the state reimbursement for ~~school facilities~~ debt service to reduce the levy requirement in the ensuing school fiscal year for all outstanding bonded indebtedness on general obligation bonds sold in the debt service fund of the district. The trustees may apply the state advance for ~~school facilities~~ debt service to reduce the levy requirement in the current school fiscal year for debt service payments on general obligation bonds to which the state advance for ~~school facilities~~ debt service applies."

Section 60. Section 20-9-422, MCA, is amended to read:

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

- (a) specify whether the bonds will be general obligation bonds or impact aid revenue bonds;
 - (b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;
 - (c) fix the maximum number of years in which the proposed bonds would be paid;
 - (d) in the case of initiation by a petition, state the essential facts about the petition and its presentation;
- and
- (e) state the amount of the state advance for ~~school facilities~~ debt service estimated, pursuant to subsection (2), to be received by the district in the first school fiscal year in which a debt service payment would be due on the proposed bonds.

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

Section 61. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's general obligation debt service fund on the basis of the following procedure:

(a) Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

(iii) any state advance for ~~school facilities~~ debt service distributed to a qualified district under the provisions of 20-9-346, 20-9-370, and 20-9-371;

(iv) funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized by 20-9-437(2) to be used to repay the district's bonds; and

(v) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

(b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from the final budget for the debt service fund as established in 20-9-438.

(2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

Section 62. Section 20-9-501, MCA, is amended to read:

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

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

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

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

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

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

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.

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

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

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

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

(ii) oil and natural gas production taxes;

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

~~(iv) countywide school retirement block grants distributed under 20-9-631;~~

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

budget.

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

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

(5) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, all K-12 districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, K-12 district, and community college district retirement funds.

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

(7) The net retirement fund levy requirement for a joint elementary district, ~~or a joint high school district,~~ or a joint K-12 district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

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

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

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

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

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

(11) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary, ~~and~~ high school, and K-12 district retirement obligations to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction."

Section 63. Section 20-9-505, MCA, is amended to read:

"20-9-505. Purpose and establishment of nonoperating fund. (1) The trustees of a district that will not operate a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the end-of-the-year fund balance of each fund maintained by the district during the immediately preceding school fiscal year to the nonoperating fund. However, fund balances of the debt service fund and the ~~miscellaneous state~~ and private programs fund, if any, must be maintained in their individual funds.

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

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

(a) elementary tuition obligations to other districts;

(b) transportation of the resident pupils;

(c) maintenance of district-owned property; and

(d) any other nonoperating school function of the district considered necessary by the trustees or required by law.

(4) Any expenditure of nonoperating fund money must be made in accordance with the financial

administration provisions of this title for a budgeted fund."

Section 64. Section 20-9-507, MCA, is amended to read:

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

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

Section 65. Section 20-9-510, MCA, is amended to read:

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

Section 66. Section 20-9-620, MCA, is amended to read:

"20-9-620. Definition. (1) As used in ~~20-9-621, 20-9-622, and this section,~~ "distributable revenue" means, except for that portion of revenue described in ~~20-9-343(4)(a)(ii) and available on or after July 1, 2003,~~

77-1-607; and 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

Section 67. Section 20-9-622, MCA, is amended to read:

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

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

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in ~~subsections (2) and (3)~~ subsection (2), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding.

~~(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."~~

Section 68. Section 20-9-703, MCA, is amended to read:

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

(2) All expenditures in support of the interlocal cooperative agreement ~~shall~~ must be made from the interlocal cooperative fund established by the district ~~which~~ that is the prime agency, except that expenditures in support of ~~such~~ the agreement may be made from the ~~miscellaneous~~ federal programs fund when the express approval of the superintendent of public instruction is given."

Section 69. Section 20-9-704, MCA, is amended to read:

"20-9-704. District as cooperating agency. (1) When a district is the cooperating agency, it shall transfer its financial support under the interlocal cooperative contract to the prime agency by district warrant.

(2) The financial support may be provided from any fund maintained by the district. Any ~~such~~ fund utilized for the financial support of an interlocal cooperative agreement ~~shall~~ may finance only those expenditures of ~~such~~ the agreement that are comparable to those permitted under the statutory provisions creating ~~such~~ the fund, and ~~such~~ the financial support must be within the currently adopted budget for ~~such~~ the fund. ~~No financial~~ Financial support ~~shall~~ may be ~~financed~~ provided from the ~~miscellaneous~~ federal programs fund without the express approval of the superintendent of public instruction."

Section 70. Section 20-10-144, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (f) anticipated oil and natural gas production taxes;
 - ~~(g) anticipated local government severance tax payments for calendar year 1995 production;~~
 - ~~(h)~~(g) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324;
 - ~~(i) school district block grants distributed under 20-9-630;~~
 - ~~(j)~~(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and
 - ~~(k)~~(i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.
- (4) The district levy requirement for each district's transportation fund must be computed by:
- (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and
 - (b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).
- (5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 71. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

- (a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;
- (b) when the county transportation reimbursement for a school bus has been prorated between two or

more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

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

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

~~(v) countywide school transportation block grants distributed under 20-9-632;~~

~~(vi)~~(v) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;

~~(vii)~~(vi) federal forest reserve funds allocated under the provisions of 17-3-213; and

~~(viii)~~(vii) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the fourth Monday of August by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction.

(5) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

Section 72. Section 39-71-2352, MCA, is amended to read:

"39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 -- spending limit -- authorizing transfer of money. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than \$1.25 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

(4) As used in this section, "adequately funded" means the present value of:

(a) the total cost of future benefits remaining to be paid; and

(b) the cost of administering the claims.

~~(5) Based on audited financial statements adjusted for unrealized gains and losses for each fiscal year, funds in excess of the adequate funding amount established in subsection (4) must be transferred as follows:~~

~~—— (a) Prior to June 30, 2003:~~

~~—— (i) the amount of \$1.9 million must be transferred to the general fund to be transferred to the state library equipment account and appropriated to the university system and the department of public health and human services;~~

~~_____ (ii) the amount of \$2.1 million must be transferred to the school flexibility fund, provided for in 20-9-543; and~~

~~_____ (iii) the amount of \$9,178,000 must be transferred to the general fund.~~

~~_____ (b) Prior to June 30, 2004, an amount up to \$4.3 million in available excess funds from fiscal year 2003 must be transferred to the general fund.~~

~~_____ (c) Prior to June 30, 2005, an amount up to \$3.78 million in available excess funds from fiscal year 2004 must be transferred to the general fund.~~

~~_____ (d) In the fiscal years 2004 and 2005, any remaining amount, and in subsequent fiscal years, an amount of funds in excess of the adequate funding amount established in subsection (4), based on audited financial statements adjusted for unrealized gains and losses, must be transferred to the general fund.~~

~~(6)(5)~~ If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims for injuries resulting from accidents that occurred before July 1, 1990, must be transferred from the general fund to the account provided for in 39-71-2321.

~~(7)(6)~~ The independent actuary engaged by the state fund pursuant to 39-71-2330 shall project the unpaid claims liability for claims for injuries resulting from accidents that occurred before July 1, 1990, each fiscal year until all claims are paid."

Section 73. Section 90-6-309, MCA, is amended to read:

"90-6-309. Tax prepayment -- large-scale mineral development. (1) After permission to commence operation is granted by the appropriate governmental agency; and upon request of the governing body of a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies for the school quality BASE funding program established in 20-9-331 and 20-9-333.

(2) The person who is to prepay under this section is not obligated to prepay the entire amount established in subsection (1) at one time. Upon request of the governing body of an affected local government unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

(3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as needed for expenditures created by the impacts of the large-scale mineral development.

(4) When the mineral development facilities are completed and assessed by the department of revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that in each year after the start of production, the local government unit that received a property tax prepayment shall provide for repayment of prepaid property taxes in accordance with subsection (5).

(5) A local government unit that received all or a portion of the property tax prepayment under this section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not, however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited to the productive life of the mining operation."

Section 74. Section 90-6-403, MCA, is amended to read:

"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain taxable valuation. (1) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation allocated to the local government unit is considered newly taxable property in the recipient local government unit as provided in 15-10-420.

(2) ~~Subject to 15-10-420, the~~ The total taxable valuation of a large-scale mineral development remains subject to the statewide mill levies and basic county levies for elementary and high school quality BASE funding programs as provided in 20-9-331 and 20-9-333.

(3) The provisions of subsection (1) remain in effect until the large-scale mineral development ceases operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."

NEW SECTION. Section 75. Levy authorization -- transition -- public notice and hearing. (1) (a) Subject to subsection (1)(b), for school fiscal years beginning on or after July 1, 2008, a school district may permissively impose previously authorized voted general fund mill levies to support the over-quality BASE general fund budgets in an amount that allows the school district to raise the same amount of revenue from property

taxation that the district budgeted in the prior fiscal year for the purpose of funding the over-BASE budget and school district technology acquisition and depreciation.

(b) (i) Prior to permissively imposing any levy, a school district shall pass a resolution that includes:

(A) the specific purpose for which the additional money will be used;

(B) the specific amount to be permissively raised;

(C) the approximate number of mills required;

(D) the durational limit, if any, on the levy; and

(E) the impact of the levy on a home valued at \$100,000 and a home valued at \$200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences in the district with those values.

(ii) Following passage of the resolution and prior to imposing the levy, the school district shall:

(A) publish a copy of the resolution in a local newspaper in the district for a minimum of 3 weeks; and

(B) subsequent to the publication, hold at least one public hearing in the district on the proposed levy.

(c) This subsection (1) does not apply to a mill levy imposed for the purposes of 20-9-308.

(2) A school district may continue to impose a voted mill levy for the time period authorized by the voters for the purpose of:

(a) establishing a building reserve fund; or

(b) paying principal and interest owed on bonds.

NEW SECTION. Section 76. Repealer. Sections 20-9-306, 20-9-327, 20-9-328, 20-9-329, 20-9-330, 20-9-515, 20-9-533, 20-9-534, 20-9-541, 20-9-542, 20-9-543, 20-9-544, 20-9-630, 20-9-631, and 20-9-632, MCA, are repealed.

NEW SECTION. Section 77. Codification instruction. (1) [Sections 1 through 7] are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1 through 7].

(2) [Section 8] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 8].

NEW SECTION. Section 78. Effective dates -- applicability. (1) Except as provided in subsection (2), [this act] is effective on passage and approval and applies to school fiscal years beginning on or after July 1,

2007.

(2) [Section 8] is effective on passage and approval and applies to tax years beginning after December 31, 2007.

NEW SECTION. **Section 79. Termination.** [Section 8] terminates December 31, 2009.

NEW SECTION. **Section 80. Contingent voidness.** If House Bill No. 2 does not contain an increased appropriation from fiscal year 2006 to the office of public instruction of at least \$58,111,138 for fiscal year 2008 and \$79,349,132 for fiscal year 2009, then [this act] is void.

- END -

