

**HOUSE JOURNAL
62ND LEGISLATURE
EIGHTIETH LEGISLATIVE DAY**

Helena, Montana
April 11, 2011

House Chambers
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Representative Cuffe. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representative Evans, excused. Quorum present.

BILLS (O'Hara, Chairman):

4/11/2011

Correctly printed: **HJR 38, HJR 39, SB 253, SB 295, SB 372, SJR 18, SJR 19, SJR 20.**

Correctly engrossed: **SB 187, SB 329, SB 414, SB 423, SB 424, SJR 21.**

Delivered to the Governor for approval at 9:45 p.m., April 11, 2011: **HB 12, HB 69, HB 107, HB 125, HB 216, HB 295, HB 310, HB 336, HB 469, HB 522, HB 541, HB 552, HB 584.**

Examined by the sponsor and found to be correct: **HB 8, HB 83, HB 91, HB 100, HB 165, HB 279, HB 341, HB 411, HB 483, HB 551.**

Signed by the Speaker at 8:40 a.m., April 11, 2011: **HB 166, HB 196, HB 277, HB 291, HB 538, HB 548, HB 602.**

Signed by the Speaker at 8:35 a.m., April 11, 2011: **HB 3, HB 15, HB 533.**

Signed by the Chief Clerk of the House at 8:30 a.m., April 11, 2011: **HB 3, HB 15, HB 166, HB 196, HB 277, HB 291, HB 533, HB 538, HB 548, HB 602.**

Correctly enrolled: **HB 8, HB 83, HB 91, HB 100, HB 165, HB 279, HB 341, HB 411, HB 483, HB 551.**

Representative Taylor introduced the pages as follows:

LEGISLATIVE ADMINISTRATION (O'Hara, Chairman):

4/11/2011

MR. SPEAKER:

We, your committee on Legislative Administration recommend that employment of the following attaches of the House be terminated as of 12:00 p.m., Friday, April 8, 2011:

TITLE

NAME

Pages:

Brenna Davis, Lolo
Jesse Rogers, Helena
Blaise Hall, Helena
Emily Seamons, Bozeman
Emily Harris, Helena
Carrie Kaiserski, Helena
Mariah Witt, Carter

and recommend that the following attaches of the House be employed as of 8:00 a.m., Monday, April 11, 2011:

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<u>TITLE</u>	<u>NAME</u>
Pages:	Carrie Kaiserski, Helena Sam Poelstra, Bozeman Allie Crowder, Culbertson Alix Siegel, Havre Amanda Wineman, Cut Bank Sam Ganley, Edgar Molly Hedrich, White Sulphur Krista Stone, Butte

Report Adopted.

REPORTS OF STANDING COMMITTEES

APPROPRIATIONS (McNutt, Chairman):

4/11/2011

SB 253, be concurred in. Report adopted.

SB 295, be concurred in. Report adopted.

SB 372, be concurred in. Report adopted.

SB 414, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "REQUIRING" on line 7 through "PREDATION;" on line 8

2. Page 3, line 23.

Strike: "shall"

Insert: "may"

3. Page 4.

Following: line 6

Strike: "state"

Insert: "state's population management"

Strike: "of 15" through the second "met"

Insert: "is threatened in a manner that would cause the gray wolf to be listed under 87-5-107 or under the federal Endangered Species Act. When the population management objective is no longer threatened"

4. Page 4, line 15.

Strike: "-- duty of attorney general"

Strike: "(1)"

5. Page 4, line 19 through line 26.

Strike: subsection (2) in its entirety

And, as amended, be concurred in. Report adopted.

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SB 424, be amended as follows:

1. Page 3, line 2.

Strike: "\$8,166,502"

Insert: "\$8 million"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (MacLaren, Chairman):

4/11/2011

HJR 38, do pass. Report adopted.

HJR 39, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 29**
Report No. 1, April 8, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 29** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 29** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 5.

Strike: "DEPLOYMENT"

Insert: "SERVICE OVERSEAS"

2. Page 3, line 26 through line 27.

Strike: "DEPLOYMENT" on line 26 through "U.S.C. 101(A)(13)" on line 27

Insert: "service overseas"

For the House:

For the Senate:

Berry, Chair
McNiven

Facey
Moore

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 258**
Report No. 1, April 8, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 258** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

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And, recommend that **House Bill 258** (reference copy -- salmon) be amended as follows:

1. Page 4, line 12 through line 13.

Following: "(2)"

Insert: "(a)"

Strike: "who" on line 12 through "overnight." on line 13

Insert: "whose primary purpose on the guest ranch is to participate in recreational activities regularly provided by the guest ranch for a fee including but not limited to hunting, horseback riding, working cattle, hiking, biking, snowmobiling, or fishing, who may be served food incidental to the activity, and who does not stay overnight.

(b) The term does not include persons attending weddings, parties, large group functions, or other meals not related to the recreational activities described in subsection (2)(a) and who may not be served food unless the guest ranch or other entity serving the food has a license issued pursuant to 50-50-201."

2. Page 4, line 22.

Following: "provides"

Insert: "recreational activities that include but are not limited to"

Following: "fishing,"

Insert: "hiking, biking, snowmobiling,"

For the House:

Edmunds, Chair
Hansen

For the Senate:

Mowbray, Vice Chair
Jackson
Tropila

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 525**
Report No. 1, April 8, 2011

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 525** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 525** (reference copy -- salmon) be amended as follows:

1. Page 1, line 10.

Following: "~~(a)~~"

Insert: "(a)"

2. Page 1, line 12.

Following: "~~boards to~~"

Insert: "in each interim review one-half of the licensing boards to"

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3. Page 1.

Following: line 18

Insert: "(b) The review in the first interim after [the effective date of this act] must start with the oldest established boards. The review in the second interim after [the effective date of this act] must include the remaining boards. This review process must be repeated in the subsequent two interims."

4. Page 2, line 12.

Strike: "2012"

Insert: "2018"

For the House:

Arntzen, Chair
McNiven

For the Senate:

Facey, Vice Chair
Jackson
Steinbeisser

MESSAGES FROM THE SENATE

House bills concurred in and returned to the House: 4/8/2011

HB 8, introduced by Sesso
HB 83, introduced by Berry
HB 165, introduced by Hollandsworth
HB 411, introduced by Wilmer
HB 551, introduced by Flynn

House amendments to Senate bills concurred in: 4/8/2011

SB 29, introduced by Moss
SB 75, introduced by Sonju
SB 100, introduced by Shockley
SB 149, introduced by Essmann
SB 172, introduced by Lake
SB 389, introduced by Van Dyk

House bill not concurred in and returned to the House: 4/7/2011

HB 230, introduced by Gibson

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SB 338 - The Senate failed to concur in House amendments to **SB 338**, authorized the President to appoint the following Conference Committee, and requested that the House appoint a like committee to confer on House amendments to **SB 338**:

4/8/2011

Senator Brown, Chair
Senator Arthun
Senator Hawks

SB 126 - The Senate failed to concur in House amendments to **SB 126**, authorized the President to appoint the following Conference Committee, and requested that the House appoint a like committee to confer on House amendments to **SB 126**:

4/8/2011

Senator Brown, Chair
Senator Larsen
Senator Moore

SB 198 - The Senate failed to concur in House amendments to **SB 198**, authorized the President to appoint the following Conference Committee, and requested that the House appoint a like committee to confer on House amendments to **SB 198**:

4/8/2011

Senator Ripley, Chair
Senator Balyeat
Senator Facey

House bills concurred in as amended and returned to the House for concurrence in Senate amendments:

4/8/2011

HB 4, introduced by Mehlhoff
HB 5, introduced by Sesso
HB 262, introduced by Sands
HB 587, introduced by McNutt
HB 619, introduced by Ankney

MESSAGES FROM THE GOVERNOR

April 8, 2011

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Representative Milburn:

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Please be informed that I have signed **House Bill 41** sponsored by Representative Stahl, **House Bill 49** sponsored by Representative Hands, **House Bill 77** sponsored by Representative Pease-Lopez, **House Bill 102** sponsored by Representative Menahan, **House Bill 110** sponsored by Representative Welborn, **House Bill 116** sponsored by Representative Ingraham, **House Bill 131** sponsored by Representative Menahan et al., **House Bill 134** sponsored by Representative Squires, **House Bill 135** sponsored by Representative Squires, **House Bill 185** sponsored by Representative Berry et al., **House Bill 225** sponsored by Representative Welborn, **House Bill 256** sponsored by Representative Wilmer, **House Bill 269** sponsored by Representative Lavin et al., **House Bill 315** sponsored by Representative MacDonald et al., **House Bill 430** sponsored by Representative Loney et al., **House Bill 487** sponsored by Representative Clark, **House Bill 498** sponsored by Representative MacLaren et al., **House Bill 528** sponsored by Representative F. Smith et al., and **House Bill 594** sponsored by Representative Sesso et al., on April 8, 2011.

I also delivered the following House Bills with no signature. **House Bill 123** sponsored by Representative McClafferty and **House Bill 391** sponsored by Representative Berry on April 8, 2011.

Sincerely,

BRIAN SCHWEITZER
Governor

April 8, 2011

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Milburn and President Peterson:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto House Bill 342, "**AN ACT REVISING APPEAL BONDS IN CIVIL CASES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons.

HB 342 establishes statutory caps on bonds that must be posted by civil litigants appealing a court judgment regardless of the amount of a court judgment. The bill was advocated by

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proponents claiming the need for “tort reform” and an improved “business climate” in Montana. In hearings on the bill, however, proponents failed to cite one Montana case in which a court required an excessive bond be posted.

As many of you know, I take pride in Montana’s strong business climate. Montana stands 8th in the nation in overall business climate according to Business Facilities. Last year, the U.S. Chamber of Commerce and National Chamber Foundation rated Montana as the Number One state for entrepreneurship and overall business start-up activity, and the Kauffman Foundation gave Montana a similar rating.

Turning to the content of the bill, I believe that current Montana law appropriately and fairly provides the level of bonds that must be posted when a judgment in a civil case is appealed. The amount of the bond is based on the amount of the judgment in the civil case (plus costs on appeal), thus ensuring the injured party the full amount of the remedy to which they will be entitled if the judgment is upheld on appeal. Most importantly under current law, the Montana Supreme Court already has the flexibility and discretion, “in the interests of justice,” to grant relief from the bond level set by a district court. Rule 22 of the Montana Rules of Appellate Procedure.

Certainly, it is a rare case in Montana in which a civil judgment will reach the caps established in this bill. However, since I am unaware of any problems existing with the current appellate court rules pertaining to the posting of bonds, and those rules are more protective of parties who have obtained a court judgment than are the requirements in this bill, I have decided to veto HB 342. The bill is a solution searching for a problem that does not exist.

I ask for your support in sustaining my veto.
Sincerely,

BRIAN SCHWEITZER
Governor

April 8, 2011

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Jim Peterson
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Milburn and President Peterson:

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In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto House Bill 30, **"AN ACT EXEMPTING A HEALTH CARE SHARING MINISTRY FROM REGULATION AS A DISABILITY INSURANCE COMPANY OR POLICY; DEFINING "HEALTH CARE SHARING MINISTRY"; AND AMENDING SECTION 33-1-102, MCA"** for the following reasons.

I issue this veto because I believe this legislation authorizing health care sharing ministries to operate in Montana exempt from Montana's insurance codes and without any regulatory oversight raises an array of very serious consumer protection concerns. Under HB 30, health care sharing ministries would be authorized to operate in a regulatory vacuum with no accountability. These ministries are not health insurance, but, unfortunately, and the reason they run contrary to consumer interests is that participants rely on them with a false sense of security as a substitute for their health insurance needs, unaware of the pitfalls and liabilities to which they are exposing themselves.

HB 30 establishes three minimal and undefined requirements for health care sharing ministries. It requires the ministries to: 1) provide participants a monthly list of "needs" submitted to the ministry and the actual amount "published" or "assigned" to participants, without defining those terms; 2) conduct an annual audit that is available to the public upon request; and 3) include a disclaimer on all applications, or, alternatively, distribute the disclaimer with any guidelines it distributes. The disclaimer required under HB 30 speaks volumes, but its placement and size are not subject to regulation, rendering it ineffective. These are the only legal requirements that would be imposed upon health care sharing ministries should HB 30 become law. HB 30 does not even establish an enforcement mechanism to ensure these three minimal requirements are followed.

Most profoundly, unlike insurance companies, health care sharing ministries are not required to have reserve funds to pay claims. As such, participants have no assurance of protection or recourse from the ministries in the event they have health needs and expenses. In 2007, the Montana State Auditor took legal action to protect a Montana consumer who was denied coverage by a ministry for health care expenses resulting from heart surgery. In that case, a Montana jury found the ministry to have committed fraud, violated Montana's Unfair Trade Practices Act, inflicted emotional distress, and failed to pay claims in a timely manner.

I also offer a word about the relationship between HB 30 and the federal health care reform act. The federal law exempts individuals participating in a health care sharing ministry from the individual mandate requirement, however certain conditions not contained in HB 30 must be satisfied for the federal exemption to apply. For example, the ministry must have been in existence and sharing medical expenses since December 31, 1999. Additionally, the ministry must allow members to retain their membership even after they develop a medical condition. Because these requirements are absent from HB 30, a participant in a ministry operating in Montana under HB 30 would not necessarily be exempt from the individual mandate requirements of the federal law.

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Finally, I note the irony of the fact that proponents of HB 30 presented the bill as a mechanism for Montana consumers to fulfill the requirements of the federal health care reform act, while taking every opportunity throughout this legislative session to vote to reject the federal law and even prohibit its enforcement by Montana government.

In the end, my opposition to HB 30 lies in the fact that I believe it is contrary to the interests of Montana consumers. Health care sharing ministries offer no guarantees of protection when the time comes to pay members' health care costs, and we all know that health care coverage is an essential need of Montanans. While some individuals may garner some benefit from these ministries, when weighing the benefits against the pitfalls on the scale of consumer protection, I believe the balance clearly tips against sanctioning the marketing of health care ministries in Montana exempt from our state's insurance codes.

For these reasons, I respectfully ask that you sustain my veto of HB 30.

Sincerely,

BRIAN SCHWEITZER
Governor

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HJR 8 adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, Belcourt, B. Bennett, Berry, Boland, Clark, Connell, Cook, Court, Driscoll, Fitzpatrick, Furey, Gibson, Hands, Hendrick, Hill, Hiner, Hollenbaugh, Hoven, Hunter, Klock, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Noonan, O'Hara, Pease-Lopez, Phillips, Price, Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, Skees, F. Smith, Squires, Stahl, Swanson, Taylor, Welborn, Williams, Wilmer.

Total 54

Nays: B. Beck, G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Cuffe, Edmunds, Ehli, Esp, Flynn, Greef, Hale, Hansen, Harris, Hollandsworth, Howard, Ingraham, Kary, Kennedy, Kerns, Knox, Knudsen, Loney, McGillvray, McNiven, Miller, More, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Rosendale, Skattum, C. Smith, Vance, Wagner, Warburton, Washburn, Yates, Mr. Speaker.

Total 44

Excused: Evans.

Total 1

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Absent or not voting: Small.

Total 1

SB 81 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Boland, Burnett, Clark, Connell, Cook, Court, Driscoll, Ehli, Fitzpatrick, Furey, Gibson, Greef, Hands, Hansen, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Kary, Klock, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Wagner, Williams, Wilmer, Yates, Mr. Speaker.

Total 71

Nays: G. Bennett, Blasdel, Blyton, Brodehl, Cuffe, Edmunds, Esp, Flynn, Hale, Harris, Hendrick, Howard, Kennedy, Kerns, Knox, Knudsen, Loney, Miller, O'Neil, Randall, Read, Skattum, Skees, C. Smith, Vance, Warburton, Washburn, Welborn.

Total 28

Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

SB 207 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 72

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, MacDonald, Malek, McClafferty, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Rosendale, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 27

Excused: Evans.

Total 1

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Absent or not voting: None.

Total 0

SB 233 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McClafferty, McGillvray, McNiven, McNutt, Mehlhoff, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Sesso, Skattum, Skees, Small, C. Smith, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 74

Nays: Barrett, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hollenbaugh, Hunter, Kerns, MacDonald, Malek, McNally, Menahan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, F. Smith, Squires, Williams, Wilmer.

Total 25

Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

SB 283 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 99

Nays: None.

Total 0

Excused: Evans.

Total 1

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Absent or not voting: None.

Total 0

SB 319 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blyton, Boland, Brodehl, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Fitzpatrick, Flynn, Furey, Greef, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Kary, Klock, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Price, Read, Reichner, Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, F. Smith, Squires, Stahl, Swanson, Taylor, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 75

Nays: G. Bennett, Blasdel, Burnett, Edmunds, Gibson, Hale, Howard, Kennedy, Kerns, Knox, Knudsen, Miller, More, O'Neil, Osmundson, Randall, Regier, Rosendale, Small, C. Smith, Vance, Wagner, Warburton, Washburn.

Total 24

Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

SB 379 concurred in as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNiven, McNutt, Miller, More, O'Hara, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, F. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 70

Nays: Barrett, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hollenbaugh, Hunter, MacDonald, Malek, McClafferty, McNally, Mehlhoff, Menahan, Noonan, O'Neil, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, Squires, Swanson, Williams, Wilmer.

Total 29

Excused: Evans.

Total 1

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Absent or not voting: None.

Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Majority Leader McGillvray moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative More in the chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 329 - Representative McGillvray moved consideration of **SB 329** be placed below HB 2 on the second reading board. Motion carried.

HB 2 - Free Conference Committee Report No. 1 - Representative McNutt moved the Free Conference Committee report to **HB 2** be adopted. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Klock, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, Osmundson, Peterson, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Small, C. Smith, Stahl, Vance, Warburton, Washburn, Welborn, Mr. Speaker.

Total 57

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hale, Hands, Hill, Hiner, Hollenbaugh, Hunter, Kennedy, Kerns, Knox, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, O'Neil, Pease-Lopez, Phillips, Price, Randall, Reinhart, Sands, Schmidt, Sesso, Skattum, Skees, F. Smith, Squires, Swanson, Taylor, Wagner, Williams, Wilmer, Yates.

Total 43

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 329 - Representative C. Smith moved **SB 329** be concurred in.

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SB 329 - Representative Regier moved **SB 329**, second reading copy, be amended as follows:

1. Page 7, line 28.

Following: "DATA"

Insert: "-- reporting"

2. Page 8.

Following: line 5

Insert: " (3) Each school district shall annually report to the office of public instruction and publish and post on the school district's internet website the following district data for the preceding school year:

(a) the number and type of employee positions, including administrators;

(b) for the current employee in each position:

(i) the total amount of compensation paid to the employee by the district. The total amount of compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other income from school-sanctioned extracurricular activities, including coaching and similar activities; and

(ii) the certification held by and required of the employee;

(c) the student-teacher ratio by grade;

(d) (i) the amount, by category, spent by the district for operation and maintenance, stated in total cost and cost per square foot; and

(ii) the amount of principal and interest paid on bonds;

(e) the total district expenditures per student;

(f) the total budget for all funds;

(g) the total number of students enrolled and the average daily attendance;

(h) the total amount spent by the district on extracurricular activities and the total number of students that participated in extracurricular activities; and

(i) the number of students that entered the 9th grade in the school district but did not graduate from a high school in that district and for which the school district did not receive a transfer request. For reporting purposes, the students identified under this subsection (3)(i) are considered to have dropped out of school.

(4) Each school district shall also post on the school district's internet website a copy of every working agreement the district has with any organized labor organization and the district's costs, if any, associated with employee union representation, collective bargaining, and union grievance procedures and litigation resulting from union employee grievances.

(5) If a school district does not have an internet website, the school district shall publish the information required under subsections (2) and (3) in printed form and provide a copy of the information upon request at the cost incurred by the school district for printing only.""

Amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller,

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More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 66

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, Knudsen, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer, Yates.

Total 34

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 329 - Representative Stahl moved consideration of **SB 329** be placed at the bottom of the second reading board for the purpose of amendment. Representative Sesso objected.

Motion **failed** as follows:

Yeas: Ankney, Arntzen, Bangerter, Blasdel, Burnett, Clark, Cuffe, Edmunds, Ehli, Fitzpatrick, Flynn, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Ingraham, Kary, Kennedy, Kerns, Knox, Knudsen, MacLaren, McGillvray, McNiven, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Rosendale, Skattum, Skees, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Yates.

Total 46

Nays: Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blyton, Boland, Brodehl, Connell, Cook, Court, Driscoll, Esp, Furey, Gibson, Greef, Hands, Hill, Hiner, Hollenbaugh, Hunter, Klock, Lavin, Loney, MacDonald, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reichner, Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer, Mr. Speaker.

Total 51

Excused: Evans.

Total 1

Absent or not voting: G. Bennett, Howard.

Total 2

SB 329 - Representative Stahl moved **SB 329**, second reading copy, be further amended as follows:

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1. Title, page 1, line 6.

Following: "AGREEMENTS;"

Insert: "PROVIDING THAT THE LEGISLATURE DEFINES AND SPECIFIES THE SCHOOL ACCREDITATION STANDARDS;"

2. Title, page 1, line 19.

Following: "FUND;"

Insert: "ESTABLISHING AN AD HOC COMMITTEE TO REVIEW ACCREDITATION STANDARDS; PROVIDING AN APPROPRIATION;"

3. Title, page 1.

Following: line 20

Insert: "20-2-121, 20-3-106,"

4. Title, page 1, line 21.

Following: "20-3-363,"

Insert: "20-7-101, 20-7-102, 20-7-111, 20-7-401,"

Following: "20-9-308,"

Insert: "20-9-311,"

5. Page 1, line 26.

Insert: "**Section 1.** 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 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;

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(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."

Insert: "Section 2. 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 BASE aid and special education allowable cost payments in support of the 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;

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- (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~~ legislature 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; and
- (28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369; and
- (29) 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."

Renumber: subsequent sections

6. Page 2, line 21.

Insert: "Section 4. Section 20-7-101, MCA, is amended to read:

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

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

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~~The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.~~

~~(3)(2) The legislature may request a fiscal analysis to be prepared by the legislative fiscal division.~~ If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial fiscal impact, the ~~board~~ legislature may not implement the standard until July 1 following the next regular legislative session and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

~~(4)(3) Standards for the retention of school records must be as provided in 20-1-212."~~

Insert: "Section 5. 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).

(5) For fiscal years 2012 and 2013, the accreditation status of each elementary school, each middle school, 7th and 8th grades funded at high school rates, and each high school may not be altered by the board of public education from the school's 2011 accreditation status."

Insert: "Section 6. Section 20-7-111, MCA, is amended to read:

"20-7-111. Instruction in public schools. (1) ~~The board of public education~~ legislature shall define and specify the basic instructional program for pupils in public schools, and ~~such that program shall~~ must be set forth in the standards of accreditation. Other instruction may be given when approved by ~~the a school district~~ board of trustees.

(2) A basic instructional program, as defined by the legislature, may not include any course of instruction that is not part of centric core curriculum output-based accreditation standards. The accreditation standards core curriculum may include only:

- (a) English arts;
- (b) mathematics;
- (c) science;
- (d) business;
- (e) geography;
- (f) civics; and
- (g) international relations.

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(3) The superintendent of public instruction shall continually enhance the statewide data system to support the collection of data from schools, implement a data collection plan to reduce redundant data requests, increase data use from the centralized system by various functions within the office of public instruction, and promote transparency in reporting to schools, school districts, communities, and the public. Actionable data analysis must be produced to promote academic improvement.

(4) The superintendent of public instruction shall gather, maintain, and distribute longitudinal, actionable data in the following areas:

- (a) statewide student identifier;
- (b) student-level enrollment data, including average daily attendance;
- (c) student-level statewide assessment data;
- (d) information on untested students;
- (e) student-level graduation and dropout data;
- (f) ability to match student-level K-12 and higher education data;
- (g) Grade 3 CRT and CRT-Alt grade assessment data ensuring grade level performance;
- (h) a statewide data audit system;
- (i) a system to track student achievement with a direct teacher-to-student match to help track, report, and create opportunities for improved individual student performance;
- (j) student-level course completion data, including transcripts, to assess career and college readiness; and
- (k) scholastic achievement test and advanced placement exam data. ""

Insert: "Section 7. Section 20-7-401, MCA, is amended to read:

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

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

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

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

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

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

(d) are provided in conformity with an individualized education program that meets the requirements of the Individuals With Disabilities Education Act.

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

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

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

Renumber: subsequent sections

7. Page 7, line 14.

Insert: "Section 12. Section 20-9-311, MCA, is amended to read:

"20-9-311. 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 an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

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

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

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

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

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

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

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

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

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

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

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

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

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enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Renumber: subsequent sections

8. Page 12, line 26.

Insert: "NEW SECTION. Section 16. Ad hoc committee on accreditation standards -- appointment process. (1) There is an ad hoc committee on accreditation standards that meets during the interim for the purpose of reviewing and approving accreditation standards for K-12 schools.

(2) The ad hoc accreditation standards committee consists of:

(a) four members from the house of representatives appointed by the speaker of the house;

(b) four members from the senate appointed by the committee on committees;

(c) one representative of the office of public instruction; and

(d) one representative from the board of public education.

(3) The committee may request recommendations for curriculum or accreditation standards from the superintendent of public instruction or the board of public education."

Insert: "NEW SECTION. Section 17. Appropriation. There is appropriated \$200,000 for the biennium beginning July 1, 2011, to the ad hoc committee on accreditation standards for the purpose of reviewing the K-12 standards and recommending core curriculum standards to the 2013 legislature."

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Arntzen, G. Bennett, Blasdel, Burnett, Edmunds, Ehli, Evans, Flynn, Hale, Hansen, Harris, Hendrick, Hollandsworth, Howard, Ingraham, Kary, Kennedy, Kerns, Knox, Knudsen, Loney, McGillvray, McNiven, More, O'Neil, Osmundson, Randall, Read, Regier, Rosendale,

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Salomon, Skattum, Skees, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn.
Total 40

Nays: Ankney, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blyton, Boland, Brodehl, Clark, Connell, Cook, Court, Cuffe, Driscoll, Esp, Fitzpatrick, Furey, Gibson, Greef, Hands, Hill, Hiner, Hollenbaugh, Hoven, Hunter, Klock, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Price, Reichner, Reinhart, Roberts, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 60

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 329 - Representative Stahl moved **SB 329**, second reading copy, be further amended as follows:

1. Title, page 1, line 5, through page 2, line 3.

Strike: "CREATING" on line 5 through "DATE" on line 3

Insert: "REPLACING GUARANTEED TAX BASE, DIRECT STATE AID, AND COUNTY EQUALIZATION AID WITH A STATE CORE CURRICULUM TEACHER PAYMENT; PROVIDING THAT BASE AID IS THE CORE CURRICULUM TEACHER PAYMENT; REQUIRING THAT ALL FEDERAL AND STATE SCHOOL FUNDING PROVIDED IN ADDITION TO THE CORE CURRICULUM TEACHER PAYMENT IS OVER-BASE; REQUIRING THAT ANY COURSE OF INSTRUCTION OFFERED BY A K-12 PUBLIC SCHOOL THAT IS NOT A CORE CURRICULUM COURSE IS FUNDED BY A COUNTY OR SCHOOL DISTRICT; PROVIDING THAT THE LEGISLATURE DEFINES AND SPECIFIES THE SCHOOL ACCREDITATION STANDARDS; LIMITING AVERAGE NUMBER BELONGING TO FUNDING FOR SPECIAL EDUCATION AND COUNTYWIDE TRANSPORTATION GRANTS; PROVIDING A STATEWIDE PROPERTY TAX LEVY OF NOT MORE THAN 40 MILLS FOR THE SUPPORT OF THE STATE CORE CURRICULUM TEACHER PAYMENT; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING AN AD HOC COMMITTEE TO REVIEW ACCREDITATION STANDARDS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 2-7-514, 7-1-2111, 15-1-112, 15-1-409, 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-24-2102, 15-36-331, 15-36-332, 15-39-110, 17-3-213, 17-7-140, 17-7-301, 17-7-502, 20-1-301, 20-2-121, 20-3-106, 20-3-205, 20-3-324, 20-3-363, 20-4-203, 20-4-501, 20-4-502, 20-4-503, 20-4-504, 20-4-505, 20-4-506, 20-5-323, 20-5-324, 20-6-326, 20-6-502, 20-6-503, 20-6-504, 20-6-506, 20-6-507, 20-6-702, 20-7-101, 20-7-102, 20-7-111, 20-7-117, 20-7-401, 20-7-420, 20-7-701, 20-7-714, 20-9-104, 20-9-141, 20-9-166, 20-9-212, 20-9-302, 20-9-303, 20-9-305, 20-9-306, 20-9-308, 20-9-309, 20-9-311,

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20-9-313, 20-9-314, 20-9-326, 20-9-327, 20-9-329, 20-9-332, 20-9-342, 20-9-344, 20-9-346, 20-9-347, 20-9-348, 20-9-351, 20-9-353, 20-9-360, 20-9-406, 20-9-422, 20-9-439, 20-9-501, 20-9-515, 20-9-533, 20-9-622, 20-9-630, 69-11-202, 90-6-309, 90-6-403, AND 90-6-1001, MCA; REPEALING SECTIONS 15-30-2336, 20-7-202, 20-9-331, 20-9-333, 20-9-335, 20-9-343, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, AND 20-9-534, MCA; AND PROVIDING AN EFFECTIVE DATE"

. Page 1, line 27 through page 12, line 28.

Strike: everything after the enacting clause

Insert: **Section 1.** Section 2-7-514, MCA, is amended to read:

"2-7-514. Filing of audit report and financial report. (1) Completed audit reports must be filed with the department. Completed financial reports must be filed with the department as provided in 2-7-503(1). The state superintendent of public instruction shall file with the department a list of school districts subject to audit under 2-7-503(3). The list must be filed with the department within 6 months after the close of the fiscal year.

(2) At the time that the financial report is filed or, in the case of a school district, when the audit report is filed with the department, the local government entity shall pay to the department a filing fee. The department shall charge a filing fee to any local government entity required to have an audit under 2-7-503, which fee must be based upon the costs incurred by the department in the administration of this part. ~~Notwithstanding the provisions of 20-9-343,~~ ~~the~~ The filing fees for school districts required by this section must be paid by the office of public instruction. The department shall adopt the fee schedule by rule based upon the local government entities' revenue amounts.

(3) Copies of the completed audit and financial reports must be made available by the department and the local government entity for public inspection during regular office hours."

Insert: **Section 22.** Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers not otherwise provided for and for fixing the penalties of officers' bonds, the counties of this state must be classified according to the taxable valuation of the property in the counties upon which the tax levy is made as follows:

- (a) first class--all counties having a taxable valuation of \$50 million or more;
- (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50 million;
- (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;
- (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;
- (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;
- (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;
- (g) seventh class--all counties having a taxable valuation of less than \$5 million.

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(2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county as of the time of determination plus:

(a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;

(c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds;

(e) the value provided by the department of revenue under 15-36-332(7)(4);

(f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications property under 15-6-141;

(g) 50% of the taxable value in the county on December 31, 1999, attributable to electrical generation property under 15-6-141;

(h) the value provided by the department of revenue under 15-24-3001;

(i) 6% of the taxable value of the county on January 1 of each tax year;

(j) 45% of the contract sales price of the gross proceeds of coal in the county as provided in 15-23-703 and as reported under 15-23-702; and

(k) 33 1/3% of the value of bentonite produced during the previous year as provided in 15-39-110(12)(10) and as reported under 15-39-101."

Insert: Section 33. Section 15-1-112, MCA, is amended to read:

"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing jurisdictions. (1) ~~On or before January 1, 1996, for the reduction in payment under subsection (4) and by June 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the~~ The department shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 and provide that information to each county treasurer. The reimbursement amount must be determined for each local government taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However, the reimbursement does not apply to property described in 15-6-138 that has a reduced tax rate under 15-24-1402.

~~(2) (a) The reimbursement amount to be used as the basis for the payment reduction under subsection (4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.~~

~~(b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.~~

~~(ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in~~

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~~15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

~~——— (c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.~~

~~——— (ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

~~——— (d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.~~

~~——— (ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

~~(3)(2) (a) For purposes of this section, "local government taxing jurisdiction" means a local government rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county governments, incorporated city and town governments, consolidated county and city governments, tax increment financing districts, local elementary and high school districts, local community college districts, miscellaneous districts, and special districts. The term includes countywide mills levied for equalization of school retirement or transportation.~~

~~(b) The term does not include county or state school equalization levies provided for in 20-9-331, 20-9-333, 20-9-360, and 20-25-439.~~

~~(c) Each tax increment financing district must receive the benefit of the state mill on the incremental taxable value of the district.~~

~~(4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a) for all of the local government taxing jurisdictions in the county.~~

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~~_____ (5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~_____ (12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(13) (a) The reimbursement amount for tax year 1999 and each subsequent tax year for 9 years must be progressively reduced each year by 10% of the reimbursement amount for tax year 1998, according to the following schedule:~~

Tax Year	Percentage of 1998
-	-
Reimbursement Amount	
1999	
90	
2000	
80	

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2001

70

2002

60

2003

50

2004

40

2005

30

2006

20

2007

10

2008 and following years

0

~~_____ (b) The reimbursement amount for each tax year must be the basis for reducing the amount remitted to the state for the levy imposed under 20-9-360 in December of the same year and June of the following year.~~

~~_____ (14) The county treasurer shall use the funds from the reduced payment to the state for the levy imposed under 20-9-360 to reimburse each local government taxing jurisdiction in the amount determined by the department under subsection (2). The reimbursement must be distributed to funds within local government taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The reimbursement in June must be distributed based on the prior year's mill levy, and the reimbursement in December must be based on the current year's mill levy.~~

~~(15)(3) Each local government taxing jurisdiction receiving reimbursements shall consider the amount of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the amount that would otherwise have to be raised by the mill levy.~~

~~(16)(4) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the revenue loss and reimbursement is attributed to the new jurisdictions."~~

Insert: **Section 44.** Section 15-1-409, MCA, is amended to read:

"15-1-409. Exclusion of property subject to property tax protest -- guarantee tax base -- tax refund. (1) A school district that has property subject to pending property tax protests shall, prior to February 1 of each year, elect whether to waive the school district's right to receive its portion of protested taxes for the previous year.

(2) If the school district elects to waive its right to its portion of the protested taxes, the district's guaranteed tax base aid calculated under 20-9-366 must be determined based on the total taxable value of property in the school district that is not subject to a tax protest. Upon

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settlement or other resolution of the protest, the department is responsible for refunding protested taxes or paying any other costs due the protesting taxpayer and retaining any portion of protested taxes that would have been distributed to the school district for each year the school district has elected to waive receiving its portion of the protested taxes."''

Insert: Section 55. Section 15-10-420, MCA, is amended to read:

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

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

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

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

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

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

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

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

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

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

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

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

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

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

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

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

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

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

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

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

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

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

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

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

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

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

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

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

Insert: **Section 66.** Section 15-24-1402, MCA, is amended to read:

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

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value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

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

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

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

(d) Property taxes abated from the reduction in taxable value allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

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

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

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

Insert: Section 77. Section 15-24-1703, MCA, is amended to read:

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

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

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

Insert: **Section 88.** Section 15-24-1802, MCA, is amended to read:

"15-24-1802. Business incubator tax exemption -- procedure. (1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

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

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

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

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

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

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

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

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Insert: **Section 99.** Section 15-24-1902, MCA, is amended to read:

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

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

(a) the local economic development organization:

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

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

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

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

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

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

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

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

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

Insert: **Section 1010.** Section 15-24-2002, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."''

Insert: **Section 1111.** Section 15-24-2102, MCA, is amended to read:

"15-24-2102. Reduction in assessment of taxable value of commercial and industrial property -- application -- approval. (1) (a) For property tax years 2009, 2010, and 2011, the governing bodies of a county or consolidated local government unit, incorporated city or town, if the property is located in the city or town, and school district may jointly reduce by 95% the taxable value of commercial real property improvements, personal property, or any combination of that property, other than land, that is subject to taxation. The reduction in taxable value under this section applies only to commercial or industrial property taxed under 15-6-134 or 15-6-138. A taxpayer that has not been operating the property for at least 6 months immediately preceding the request for reduction in taxable value and that does not intend to use the property for at least 6 months following the reduction in taxable value qualifies under this section.

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

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

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

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

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

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

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

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

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resolution must be approved by a majority vote of the governing body of each affected taxing jurisdiction referred to in subsection (2)(a).

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

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

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

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

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

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

Insert: **Section 1212.** Section 15-36-331, MCA, is amended to read:

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

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

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

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

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

Big Horn
45.05%

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Blaine
58.39%
Carbon
48.27%
Chouteau
58.14%
Custer
69.53%
Daniels
50.81%
Dawson
47.79%
Fallon
41.78%
Fergus
69.18%
Garfield
45.96%
Glacier
58.83%
Golden Valley
58.37%
Hill
64.51%
Liberty
57.94%
McCone
49.92%
Musselshell
48.64%
Petroleum
48.04%
Phillips
54.02%
Pondera
54.26%
Powder River
60.9%
Prairie
40.38%
Richland
47.47%
Roosevelt
45.71%
Rosebud
39.33%

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Sheridan
47.99%
Stillwater
53.51%
Sweet Grass
61.24%
Teton
46.1%
Toole
57.61%
Valley
51.43%
Wibaux
49.16%
Yellowstone
46.74%
All other counties
50.15%

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

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

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

- ~~—— (i) 1.23% to the coal bed methane protection account established in 76-15-904;~~
- ~~—— (ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;~~
- ~~—— (iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;~~
- ~~—— (iv) 2.99% to the orphan share account established in 75-10-743;~~
- ~~—— (v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and~~
- ~~—— (vi) all remaining proceeds to the state general fund;~~

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

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

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

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

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

~~(v)(e) all remaining proceeds to the state general fund guarantee account provided for in 20-9-622 for the core curriculum teacher payment as provided in [section 55]."~~

Insert: **Section 1313.** Section 15-36-332, MCA, is amended to read:

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"15-36-332. Distribution of taxes to taxing units -- appropriation. (1) ~~(a)~~ By the dates referred to in subsection ~~(6)~~ (3), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

~~(b)~~ By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)~~(b)~~ as provided in subsection (8) of this section.

(2) ~~(a)~~ Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)~~(a)~~, including the amounts referred to in subsection (2)(b); to funds within state and local taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The payments to be made by February 1, May 1, and August 1 must be distributed based on the prior year's mill levy, and the payment to be made by November 1 must be based on the current year's mill levy. ~~the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:~~

	Elementary School Retirement Districts	High School Retirement	Countywide Transportation
Big Horn	14.81% 26.99%	10.36%	2.99%
Blaine	5.86% 24.73%	2.31%	2.71%
Carbon	3.6% 49.18%	6.62%	1.31%
Chouteau	8.1% 23.79%	4.32%	3.11%
Custer	6.9% 31.25%	3.4%	1.19%
Daniels	0 48.48%	7.77%	3.92%
Dawson	5.53% 35.6%	2.5%	1.11%
Fallon	0 42.58%	7.63%	1.24%
Fergus	7.88% 53.25%	4.84%	2.08%
Garfield	4.04% 26.19%	3.13%	5.29%
Glacier	11.2% 46.11%	4.87%	3.01%
Golden Valley	0 54.65%	11.52%	2.77%
Hill	6.7% 49.87%	4.07%	1.59%
Liberty	4.9% 35.22%	4.56%	1.15%

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McCone	4.18%	3.19%	2.58%
	43.21%		
Musselshell	5.98%	4.07%	3.53%
	32.17%		
Petroleum	0	11.92%	4.59%
	55.48%		
Phillips	0.43%	6.6%	1.08%
	41.29%		
Pondera	6.96%	5.06%	1.94%
	45.17%		
Powder River	3.96%	2.97%	4.57%
	22.25%		
Prairie	0	8.88%	1.63%
	36.9%		
Richland	4.1%	3.92%	2.26%
	43.77%		
Roosevelt	9.93%	7.37%	2.74%
	40.94%		
Rosebud	3.87%	2.24%	1.05%
	72.97%		
Sheridan	0	3.39%	2.22%
	47.63%		
Stillwater	6.87%	4.86%	1.63%
	41.16%		
Sweet Grass	6.12%	6.5%	2.4%
	37.22%		
Teton	6.88%	8.19%	3.8%
	29.43%		
Toole	2.78%	4.78%	1.3%
	43.56%		
Valley	2.26%	12.61%	4.63%
	41.11%		
Wibaux	0	4.1%	0.77%
	31.46%		
Yellowstone	7.98%	4.56%	1.07%
	52.77%		
All other counties	3.81%	7.84%	1.81%
	41.04%		

_____ (b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County:

_____ (ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County:

_____ (3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county:

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~~———— (4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).~~

~~———— (b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).~~

~~———— (c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).~~

~~———— (d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.~~

~~———— (ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.~~

~~———— (5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.~~

~~———— (b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.~~

~~(6)(3) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:~~

~~(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.~~

~~(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.~~

~~(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.~~

~~(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.~~

~~(7)(4) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the~~

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previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

~~(8) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.~~

~~(9)(5) The distributions to taxing units and to counties and incorporated cities and towns counties under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."~~

Insert: **Section 1414.** Section 15-39-110, MCA, is amended to read:

"15-39-110. Distribution of taxes. (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through ~~(9)~~ (7).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection ~~(10)~~ (8).

(2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3) through ~~(9)~~ (7) is allocated according to the following schedule:

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

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

(c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-108, ~~20-9-331, 20-9-333, and 20-9-360;~~ and

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

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

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

~~(5)(3) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must be distributed as provided in subsection (10) (8).~~

~~(6)(4) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must be distributed as provided in subsection (10) (8).~~

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~~(7)~~(5) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must be distributed as provided in subsection ~~(10)~~ (8).

~~(8)~~(6) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must be distributed as provided in subsection ~~(10)~~ (8).

~~(9)~~(7) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of the tax determined under subsection (1)(a) must be distributed as provided in subsection ~~(10)~~ (8).

~~(10)~~(8) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through ~~(9)~~ (7) are allocated according to the following schedule:

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

(b) 20.75% to the ~~state general fund~~ guarantee account provided for in 20-9-622 to be appropriated for the purposes of the ~~tax levies as provided in 20-9-331, 20-9-333, and 20-9-360~~ core curriculum teacher payment as provided in [section 55];

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

~~(11)~~(9) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

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

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

~~(12)~~(10) (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection ~~(12)~~(a) (10)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as provided by law.

~~(13)~~(11) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the department for distribution as provided in this section.""

Insert: Section 1515. Section 17-3-213, MCA, is amended to read:

"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal law. (1) The board of county commissioners in each county shall decide among payment options provided in subsections (2) through (6), as provided in Public Law 106-393 and Public Law 110-343, to determine how the forest reserve funds, Public Law

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106-393 funds, and Public Law 110-343 funds apportioned to each county must be distributed by the county treasurer pursuant to this section.

(2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as provided in subsection (5).

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

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

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

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

(a) to the general road fund, 66 2/3% of the amount designated;

(b) to the following countywide school levies, 33 1/3% of the amount designated:

~~(i) county equalization for elementary schools provided for in 20-9-334;~~

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

(i) the core curriculum teacher payment provided for in [section 55];

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

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

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

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

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

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

(b) returned to the United States.

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

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

Insert: Section 1616. 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 BASE funding program, ~~including special education~~;
- (e) the state or federal portion of over-BASE funding as provided in 20-9-306(8);

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(e)(f) salaries of elected officials during their terms of office; and
(f)(g) 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."

Insert: Section 1717. 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, the core curriculum teacher payment or transportation aid, or equalization aid~~ to elementary and secondary schools for the current biennium; or

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(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."

Insert: Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604;

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19-20-607; 19-21-203; 20-8-107; ~~20-9-534~~; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

Insert: **Section 1919.** Section 20-1-301, MCA, is amended to read:

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

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

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

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

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

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

Insert: **Section 2020.** 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;

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(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 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."''

Insert: **Section 2121.** 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

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~~direct state~~ BASE 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 BASE aid and special education allowable cost payments in support of the BASE over-BASE funding program in accordance with the provisions of ~~20-9-331, 20-9-333, 20-9-342, 20-9-346, and 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~~ legislature 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;

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(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; and

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

~~(29)~~(28) 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."

Insert: **Section 2222.** Section 20-3-205, MCA, is amended to read:

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

(a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

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

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

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

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

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

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

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

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

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

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

(l) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

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

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

(o) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title;

(p) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of

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county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(q) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Insert: **Section 2323.** 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;

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(2) employ and dismiss administrative personnel, clerks, secretaries, teacher's 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 school 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) establish the ANB, the core curriculum teacher payment calculation, BASE budget levy, over-BASE budget levy, additional levy, and operating reserve, and state impact aid amounts 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, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative 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;

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(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 that 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) 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."

Insert: **Section 2424.** Section 20-3-363, MCA, is amended to read:

"20-3-363. Interdistrict agreements -- fund transfers. (1) The trustees of any two school districts that have unified pursuant to 20-6-312, any two school districts that have created a joint board of trustees pursuant to 20-3-361, or a high school district and any elementary school district associated with that high school district may enter into an interdistrict agreement to provide for the joint funding and operation and maintenance of both districts upon the terms and conditions as may be mutually agreed to by the districts subject to the conditions of this section. An agreement must be approved by the board of trustees of both districts by February 1 of the current fiscal year.

(2) All expenditures in support of the interdistrict agreement may be made from the interlocal cooperative fund as specified in 20-9-703 and 20-9-704. Each district may transfer funds into the interlocal cooperative fund from the general fund of the district. Transfers to the interlocal cooperative fund from each school district are limited to an amount not to exceed the ~~direct state aid~~ core curriculum teacher payment in support of the respective school district's general fund and must be completed by February 1 of the current fiscal year.

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

Insert: Section 2525. 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 funded by the state in the ~~per-ANB entitlements, as provided in 20-9-311,~~ 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."''

Insert: Section 2626. Section 20-4-501, MCA, is amended to read:

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

Insert: Section 2727. Section 20-4-502, MCA, is amended to read:

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

(1) (a) "Certified educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in

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subsection (1)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education.

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

(i) a school district;

(ii) an education cooperative;

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

(iv) the Montana youth challenge program; and

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

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

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

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

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

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

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

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

~~—— (i) a school district;~~

~~—— (ii) an education cooperative;~~

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

~~—— (iv) the Montana youth challenge program; and~~

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

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

Insert: Section 20-4-503, MCA, is amended to read:

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

(a) specific schools that are impacted by critical quality certified educator shortages; and

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

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

(3) Quality certified educators working at schools identified in subsection (1) are eligible for repayment of all or part of the quality certified educator's outstanding educational loans

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existing at the time of application in accordance with the eligibility and award criteria established under this part."''

Insert: Section 2929. Section 20-4-504, MCA, is amended to read:

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

(1) is employed in an identified school described in 20-4-503(1); and

(2) has an educational loan that is not in default and that has a minimum unpaid current balance of at least \$1,000 at the time of application."''

Insert: Section 3030. Section 20-4-505, MCA, is amended to read:

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

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

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

Insert: Section 3131. Section 20-4-506, MCA, is amended to read:

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

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

Insert: Section 3232. 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~~ per-student program costs 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:

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(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, 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 the per-student program costs.~~

(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."''

Insert: Section 3333. 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:

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(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~~ per-student program costs 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~~ per-student program costs 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 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 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 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

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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."

"

Insert: **Section 3434.** Section 20-6-326, MCA, is amended to read:

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

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

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

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

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

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

(2) The creation of a new high school district may be requested by the trustees of an existing elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the county superintendent to order an election to allow the electors of the elementary district to consider the proposition to create a high school district solely for the purpose of expanding the elementary school district into a K-12 district. Approval of the proposition results in a tax levy for payments as provided in subsection (6)(b).

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

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

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

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

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

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

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school district must be deposited in the district general fund ~~and used to reduce the BASE budget levy for transition costs.~~

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

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

Insert: **Section 3535.** 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) of the school would be two~~ anticipated number of students would be 10 or more. 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 and anticipated number of students to be enrolled 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~~ 10. 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 and the number of students to be enrolled, 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 or enrolled student estimate of the county superintendent for the school and the ANB amount and core curriculum teacher payment calculation must be used for budgeting and BASE funding program purposes during the ensuing school fiscal year. ~~An ANB amount~~ Funding may not be approved for the ensuing

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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 dates in that section for the submission and approval of the application for classification do not apply and the application must be made at the same time that the application for opening or reopening the school is made."

Insert: Section 3636. 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 that~~ 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~~ must state:

(a) their 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 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 average number belonging (ANB) and the anticipated number of students to be enrolled after investigating the probable enrollment for the high school. The ANB and the anticipated enrollment determined by the county superintendent ~~shall~~ must be used for budgeting and BASE funding program purposes.

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

Insert: Section 3737. Section 20-6-504, MCA, is amended to read:

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"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 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 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 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 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 average number belonging (ANB) and the anticipated number of students to be enrolled after investigating the probable enrollment for the junior high school. The ANB and the anticipated enrollment determined by the county superintendent shall must be used for budgeting and BASE funding program purposes during the ensuing school fiscal year.""

Insert: Section 3838. 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 average number belonging (ANB) and the anticipated number of students to be enrolled after investigating the probable enrollment for the junior high school. The ANB and the anticipated enrollment determined by the county superintendent and the ANB and enrollment actually realized in subsequent school fiscal years must be applied to prorate the 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.""

Insert: Section 3939. 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 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 and the anticipated number of students to be enrolled after investigating the probable enrollment for the middle school. The estimated ANB

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and ~~so~~ ~~estimated shall~~ enrollment must be used for budgeting and BASE funding program purposes during the ensuing school fiscal year. ""

Insert: Section 4040. 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~~ core curriculum teacher payment as provided in [section 55] must be made separately for the elementary school program and the high school program of a K-12 school district:

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

~~(b) the basic county tax for elementary equalization and revenue for the elementary 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 BASE funding program for the district must be determined in accordance with 20-9-333; and~~

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

Insert: Section 4141. Section 20-7-101, MCA, is amended to read:

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

~~(2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal to the education and local government interim committee for review. The interim committee shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.~~

~~(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial fiscal impact, the board may not implement the standard until July 1 following the~~

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~~next regular legislative session and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.~~

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

Insert: **Section 4242.** 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 grade program, 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)."~~

Insert: **Section 4343.** Section 20-7-111, MCA, is amended to read:

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

Insert: **Section 4444.** Section 20-7-117, MCA, is amended to read:

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

(2) The trustees of an elementary school district may establish and operate a free preschool program for children between the ages of 3 and 5 years. When preschool programs are established, they must be an integral part of the elementary school and must be governed

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accordingly. Financing of preschool programs may not be supported by money available from state ~~equalization aid~~ BASE aid.""

Insert: Section 4545. Section 20-7-401, MCA, is amended to read:

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

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

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

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

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

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

(d) are provided in conformity with an individualized education program that meets the requirements of the Individuals With Disabilities Education Act.

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

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

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

Insert: Section 4646. 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 the Montana youth challenge program or 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,

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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 ~~per-ANB amount of direct state aid~~ per-student program costs, 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."

Insert: **Section 4747.** Section 20-7-701, MCA, is amended to read:

"20-7-701. Definition of adult basic education and adult education. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Adult basic education" means instruction in basic skills, such as reading, writing, arithmetic, and other skills required to function in society, offered to persons 16 years of age or older who are not regularly enrolled, full-time K-12 pupils ~~for the purposes of ANB computation~~. Adult basic education may include any subject normally offered in the basic curricula of an accredited elementary or secondary school in the state.

(2) "Adult education" means the instruction of persons 16 years of age or older who are not regularly enrolled, full-time K-12 pupils ~~for the purposes of ANB computation~~."

Insert: **Section 4848.** Section 20-7-714, MCA, is amended to read:

"20-7-714. County adult literacy programs -- authorization to levy tax and establish fund. (1) (a) Subject to 15-10-420, the governing body of a county may, in its discretion, establish a fund and levy a tax on the taxable value of all taxable property in the county for the support of county literacy programs that give first priority to providing direct instruction to adults. The tax levy is in addition to all other tax levies and is subject to limitations on property taxes set forth in 15-10-402.

(b) The fund may be used only for the support of adult literacy programs within the county.

(2) (a) If a county levies a property tax for adult literacy programs, the county governing body shall appoint a county adult literacy board to administer the expenditure of funds from the county adult literacy fund established in subsection (1).

(b) The county adult literacy board shall coordinate all adult literacy programs receiving county adult literacy funds. The board may adopt policies concerning program standards and financial accountability for organizations receiving adult literacy funds. The board may require that adult literacy programs match adult literacy funds with federal, state, or private money. The board may, with the concurrence of the appropriate county officials, arrange for county in-kind services to support adult literacy programs.

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(c) County adult literacy funding may be expended only on literacy programs for persons who are 16 years of age or older and who are not regularly enrolled, full-time K-12 pupils for the purposes of ANB computation.""

Insert: Section 4949. 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 ~~BASE budget levy, the over-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. ""

Insert: Section 5050. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund over-BASE net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund over-BASE budget 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 core curriculum teacher payment, and the special education allowable cost payment for the district by totaling:~~

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

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

(b) Determine the money available for the reduction of the property tax on the district for the general fund over-BASE 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

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(B) any other revenue received during the school fiscal year that may be used to finance the general fund, ~~excluding any guaranteed tax base aid;~~
~~(iii) anticipated oil and natural gas production taxes;~~
~~(iv)(iii) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and~~
~~(v)(iv) school district block grants distributed under 20-9-630;~~
~~(v) the special education allowable cost payment for the district;~~

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

~~(d)(vi) 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); and~~

~~(vii) and other funds available to the district for the reduction of the over-BASE budget levy.~~

~~(e)(c) Subtract the amount determined in subsection (1)(d) (1)(b) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional and the remainder of the over-BASE funds provided in 20-9-306(8) from the amount in (1)(a) to determine the remainder to fund the maximum or general fund budget.~~

~~(2) Additional financing necessary to fund a school district's maximum general fund budget may be met through a tax levy as provided in 20-9-353 to determine any additional general fund levy requirements.~~

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

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

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

~~(3) The net general fund over-BASE levy requirement determined in subsections (1)(c) and (1)(d) subsection (2) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the general fund over-BASE 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."~~

Insert: Section 5151. Section 20-9-166, MCA, is amended to read:

"20-9-166. State financial aid for budget amendments. Whenever a final budget amendment has been adopted for the general fund to finance the cost of an amendment resulting from increased enrollment, the trustees may apply to the superintendent of public

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instruction for an ~~increased payment~~ increase from the state for ~~direct state aid~~ the core curriculum teacher payment. Whenever a final budget amendment has been adopted for the transportation fund, the trustees may apply to the superintendent of public instruction for an increased payment for state transportation reimbursement. The superintendent of public instruction shall adopt rules for the application. The superintendent of public instruction shall approve or disapprove each application for increased state BASE aid ~~made in accordance with 20-9-314 and this section~~ based on the need for additional core curriculum teachers as a result of the increased enrollment. When the superintendent of public instruction approves an application, the superintendent of public instruction shall determine the additional amount of ~~direct state aid~~ the core curriculum teacher payment or the state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment or additional pupil transportation obligations. The superintendent of public instruction shall notify the applicant district of the superintendent's approval or disapproval and, in the event of approval, the amount of additional state BASE aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse the state BASE aid to the eligible district at the time the next regular state BASE aid payment is made."''

Insert: **Section 5252.** Section 20-9-212, MCA, is amended to read:

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

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

- ~~(a) the basic county tax for elementary equalization;~~
- ~~(b) the basic county tax for high school equalization;~~
- ~~(c)(a) the county tax in support of the transportation schedules;~~
- ~~(b) any county tax in support of the over-BASE;~~
- ~~(d)(c) the county tax in support of the elementary and high school district retirement obligations; and~~
- ~~(e)(d) any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners.~~

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

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

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

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

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

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

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

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

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

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

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

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

Insert: **Section 5353.** 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 of less than 10 ~~ANB~~ enrolled students or a high school of less than 25 ~~ANB~~ enrolled students for 2 consecutive years shall apply to have the school classified as an isolated school. 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 during the ensuing school fiscal year with the distance the pupil resides from the nearest county road or highway;

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(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 on the basis of the 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.

(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 or high school may not be considered an isolated school until the approval of the superintendent of public instruction has been received."''

Insert: Section 5454. Section 20-9-303, MCA, is amended to read:

"20-9-303. Nonisolated school BASE budget funding -- special education funds.

(1) An elementary school that has ~~an ANB~~ of nine or fewer pupils for 2 consecutive years and that is not approved as an isolated school under the provisions of 20-9-302 may budget and spend the BASE budget amount, but the county and state shall provide one-half of the ~~direct state~~ BASE aid, and the district shall finance the remaining one-half of the ~~direct state~~ BASE aid by a tax levied on the property of the district. When a school of nine or fewer pupils 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~~ BASE 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."''

Insert: NEW SECTION. Section 5555. **Core curriculum teacher payment.** (1) (a) The state shall provide a core curriculum teacher payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of funding BASE aid.

(b) Revenue from the oil and natural gas production tax as provided in 15-36-331 and from the mill levy in 20-9-360 must be deposited in the guarantee account provided for in 20-9-622 to fund a core curriculum teacher payment established in this section.

(2) Each school district is entitled to \$90,000 for each teacher in the district instructing core curriculum classes under the basic system of accreditation. Guidance counselors, administrative staff, and librarians are not included in the core curriculum teacher calculation.

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(3) In calculating the number of core curriculum teachers that a school district has, the school district may not include any teacher who is teaching a course other than those required to meet the basic core curriculum standards.

(4) If a school district determines to teach a course of instruction not required under the core curriculum accreditation standards, the funding for the course must be met by available over-BASE funds as described in 20-9-306(8), pursuant to local levy approved by the registered electors of the district, or through other available district funds.

(5) The calculation of the number of core curriculum teachers is based on a full-time teacher's minimum aggregate hours. The sum of all one-quarter-time, half-time, three-quarter-time, and full-time teachers are included in the calculation of the core curriculum teacher payment as follows:

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

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

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

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

(6) If a teacher is teaching a mixture of core curriculum courses and noncore curriculum courses, the teacher's minimum aggregate hours will be calculated based on the core curriculum courses only, consistent with subsection (5).

(7) For fiscal year 2012, the core curriculum teacher calculation is the number of teachers instructing core curriculum courses as of March 30, 2011."

Insert: **Section 5656.** Section 20-9-305, MCA, is amended to read:

"20-9-305. Proration and calculation of BASE funding program for joint district.

(1) In joint districts, the ~~direct state aid~~ BASE 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~~ BASE aid for which each county is obligated. The proration of the joint district ~~direct state~~ BASE aid must be calculated as follows:

(a) ~~Divide the total of the core curriculum teachers for the joint district~~ ~~direct state aid by the ANB of the joint district to determine the per-ANB amount of the direct state aid by the~~ number of full-time core curriculum teachers as described in [section 55] in each county.

(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 full-time teachers assigned to all the counties must equal the total ANB full-time teachers for the joint district.~~

(c) ~~Multiply the per-ANB amount of the direct state aid determined in subsection~~ number of full-time core curriculum teachers in subsection (1)(a) by the ANB amount in [section 55(2)] for each county's portion, as determined in subsection (1)(b), to determine the portion of the direct state aid core curriculum teacher payment for each county.

(2) The portion of a joint district ~~direct state aid~~ core curriculum teacher payment 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 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."~~

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Insert: Section 5757. Section 20-9-306, MCA, is amended to read:

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

- (1) "BASE" means base amount for school equity.
- (2) "BASE aid" means the core curriculum teacher payment, which includes:
 - (a) ~~direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;~~
 - (b) ~~guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;~~
 - (e)(a) the total quality educator payment; and
 - (d) the total at-risk student payment;
 - (e)(b) the total Indian education for all payment; and
 - (f) the total American Indian achievement gap payment.
- (3) "BASE budget" means the minimum general fund budget of a district, ~~which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, and is 100% of the core curriculum teacher payment 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.~~
- (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.
- (5)(4) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.
- (5) "Basic system of accreditation" means the minimum core curriculum course requirements under the school accreditation standards.
- (6) "Basic entitlement" means:
 - (a) for each high school district:
 - (i) \$246,085 for fiscal year 2010; and
 - (ii) \$253,468 for each succeeding fiscal year;
 - (b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:
 - (i) \$22,141 for fiscal year 2010;
 - (ii) \$22,805 for each succeeding fiscal year; and
 - (c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:
 - (i) for kindergarten through grade 6 elementary program:
 - (A) \$22,141 for fiscal year 2010; and
 - (B) \$22,805 for each succeeding fiscal year; plus
 - (ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:

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~~_____ (A) \$62,704 for fiscal year 2010; and~~

~~_____ (B) \$64,585 for each succeeding fiscal year.~~

~~(7)(6) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.~~

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

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

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

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

~~(8) "Over-BASE budget" means the amount of funding provided by a school district in addition to the BASE budget not to exceed the maximum general fund budget and includes:~~

~~(a) 100% of the total at-risk student payment;~~

~~(b) 100% of the total American Indian achievement gap payment;~~

~~(c) the special education allowable cost payments under 20-9-321;~~

~~(d) nonlevy revenue available pursuant to 20-9-141(1)(b);~~

~~(e) any additional revenue from federal sources;~~

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

~~(g) any other funds available to the school district under Title 20; and~~

~~(h) any over-BASE budget levy imposed.~~

~~(10)(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and the over-BASE payments provided in subsection (8) and that is below the maximum general fund budget for a district.~~

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

~~(12)(11) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.~~

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

~~(14)(12) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:~~

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

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

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

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

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

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

Insert: Section 5858. Section 20-9-308, MCA, is amended to read:

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

(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state funding for the general fund payments in ~~20-9-327 through 20-9-328 and 20-9-330~~ 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 BASE budget for the district and to increase the over-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) The BASE budget for the district must be financed by the following sources of revenue:

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

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

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

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

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

(f) a BASE budget levy on the taxable value of all property within the district. core curriculum teacher payment.

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

Insert: Section 5959. 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 core curriculum in 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 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, 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)~~(a) 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)~~(b) the needs of American Indian students; and

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

(4) ~~By July 1, 2007, the~~ 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)(a) is based on federal education laws consistent with Montana's constitution and laws; and~~

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

Insert: Section 6060. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- three-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit for the entitlement for special education and countywide school transportation block grants as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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must receive a ~~basic~~ the 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~~ the 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Insert: Section 6161. Section 20-9-313, MCA, is amended to read:

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

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

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

(c) a district anticipates an increase in the average number belonging due to the closing of a private or public school in the district or a neighboring district. The estimated increase in average number belonging must be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June.

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

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

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

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

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

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

Insert: Section 6262. Section 20-9-314, MCA, is amended to read:

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

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(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~~ for the current school fiscal year;
- (c) the average number belonging that will be used to calculate the ~~basic entitlement and total per-ANB entitlement~~ for the ensuing school fiscal year;
- (d) the estimated 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~~ 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~~ 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~~.

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

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

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

"20-9-326. Annual inflation-related adjustments to ~~basic entitlements and per-ANB entitlements~~ for special education and countywide transportation. (1) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the

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superintendent of public instruction shall determine the inflation factor for the ~~basic and per-ANB entitlements~~ for special education and countywide transportation 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, 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. ""

Insert: Section 6464. Section 20-9-327, MCA, is amended to read:

"20-9-327. Quality educator payment. (1) (a) The state shall provide a quality educator payment, as a component of the core curriculum teacher payment, to:

- (i) public school districts, as defined in 20-6-101 and 20-6-701;
- (ii) special education cooperatives, as described in 20-7-451;
- (iii) the Montana school for the deaf and blind, as described in 20-8-101;
- (iv) state youth correctional facilities, as defined in 41-5-103; and
- (v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is ~~calculated as provided in 20-9-306~~, determined by using the number of full-time ~~equivalent educators~~ core curriculum teachers, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; ~~or~~ and

(b) (i) ~~is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and~~

(ii) (b) is employed by an entity listed in subsection (1) to provide services to students. ""

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Insert: Section 6565. Section 20-9-329, MCA, is amended to read:

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

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

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

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

Insert: Section 6666. Section 20-9-332, MCA, is amended to read:

"20-9-332. Fines and penalties proceeds for elementary county equalization general fund. All fines and penalties collected under the provisions of this title, except those collected by a justice's court, must be paid into the ~~elementary county equalization fund as provided by 20-9-331(2)(e)~~ county general fund. In order to implement this section and any other provision of law requiring the deposit of fines in the ~~elementary county equalization general fund~~, a report must be made to the county superintendent of the county, at the close of each term, by the clerk of each district court, reporting all fines imposed and collected during the term and indicating the type of violation and the date of collection.""

Insert: Section 6767. Section 20-9-342, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. Except as provided in 20-9-516, the state board of land commissioners shall annually deposit the interest and income money and the investment income earned by investing interest and income money for each calendar year into the guarantee account, provided for in 20-9-622, for state equalization aid by the last business day of February following the calendar year in which the money was received.""

Insert: Section 6868. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid and over-BASE payments. (1) The board of public education shall administer and distribute the BASE aid ~~and state advances for county equalization~~ and over-BASE payments as required by 20-9-141 in the manner and with the powers and duties provided by law. The board of public education:

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

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

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

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aid distribution or over-BASE payments to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid or over-BASE payments 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 BASE aid or ~~county equalization money~~ over-BASE payments, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

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

(5) Except as provided in 20-9-347(2), the BASE aid payment and over-BASE payments 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~~ the core curriculum teacher payment;

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

(iii)(ii) ~~the total at-risk student payment~~; and

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

(v)(iii) ~~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~~ the core curriculum teacher payment;

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

(iii)(ii) ~~the total at-risk student payment~~; and

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

(v)(iii) ~~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)(c) in May of the school fiscal year, the remainder of the ~~guaranteed tax base aid~~ over-BASE payment to each district or county not otherwise scheduled for payment; and

(e)(d) in June of the school fiscal year, the remaining payment to each district of ~~direct state aid~~ the core curriculum teacher payment, ~~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. ""

Insert: Section 6969. Section 20-9-346, MCA, is amended to read:

"20-9-346. Duties of superintendent of public instruction for ~~state and county equalization~~ BASE aid and over-BASE distribution. The superintendent of public instruction

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shall administer the distribution of the ~~state and county equalization~~ BASE aid and over-BASE payments by:

(1) establishing the annual entitlement of each district and county to state ~~and county equalization~~ BASE aid and over-BASE payments, based on the data reported in the retirement; ~~and 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, 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 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 and the proportionate share of state reimbursement for school facilities 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)(2) distributing by electronic transfer the BASE aid and over-BASE payments 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 BASE aid and over-BASE payments, in accordance with the distribution ordered by the board of public education;~~

~~(4)(3) 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 BASE aid and over-BASE payments 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)(4) 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 BASE aid, over-BASE payments, and interest and income money pursuant to 20-9-341 and 20-9-342.~~

~~(e) the amount of state advances and repayment for county equalization."~~

Insert: Section 7070. Section 20-9-347, MCA, is amended to read:

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

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~~(a)~~ supply the county treasurer and the county superintendent with a monthly report of the payment of BASE aid in support of the 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 BASE aid and over-BASE 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 BASE aid or over-BASE payments.

(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."

Insert: Section 7171. 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 BASE funding program and the high school district 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, the county superintendent shall consider that the state BASE funding program ~~revenues and county equalization moneys, together,~~ revenue will be capable of financing 100% of the BASE funding program."

Insert: Section 7272. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in BASE aid. If the money available for 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 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 BASE aid for the elementary and high school districts for the current biennium."

"

Insert: Section 7373. Section 20-9-353, MCA, is amended to read:

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

(2) When the trustees of the district propose to adopt an over-BASE budget under subsection (1), any increase in local property taxes authorized by 20-9-308(4) must be

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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 or of the general fund payments established in 20-9-327 through 20-9-330 approved by the legislature. When the trustees of a district determine that a voted amount of financing is required for the 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) If the proposition on any additional financing for the general fund over-BASE 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.

(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.

(5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget amount, as allowed by 20-9-308, to the electors of the district, the trustees shall comply with the provisions of subsections (2) through (4) of this section."

Insert: Section 7474. Section 20-9-360, MCA, is amended to read:

"20-9-360. State equalization aid levy for core curriculum teacher payment. (1) Subject to 15-10-420, there is a levy of not more than 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and must be deposited to the credit of the state general fund for ~~state equalization aid to core curriculum teacher payments~~ as provided in [section 55] for the public schools of Montana.

(2) The state share to be funded is the core curriculum teacher payment plus special education allowable cost payments. The state share is to be funded first from the revenue in the guarantee account and then from the state general fund. In fiscal year 2014 and in each succeeding fiscal year, any increase in the core curriculum teacher payment must be funded by increases in the statewide mill levy, subject to 15-10-420."

Insert: Section 7575. Section 20-9-406, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

Insert: **Section 7676.** 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 estimated, pursuant to subsection (2), to be received by the district in the first school fiscal year in which a debt service payment would be due on the proposed bonds.

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

Insert: **Section 7777.** 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. Subject to 20-6-326, the following provisions apply:

- (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 distributed to a qualified district under the provisions of 20-9-346, 20-9-370, and 20-9-371;~~
 - ~~(iv)~~(iii) 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

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(iv) 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. ""

Insert: Section 7878. 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, 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:

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(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 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 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;

(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; and

(v) for the 2011 biennium only, a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are budgeted in the district general fund but are paid from state fiscal stabilization funds received pursuant the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(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)(ii) coal gross proceeds taxes under 15-23-703;~~

~~(iv)(iii) 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.~~

~~(v)(iv) 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.

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(5) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school 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, 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 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 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."''

Insert: Section 7979. Section 20-9-515, MCA, is amended to read:

"20-9-515. Litigation reserve fund. (1) The trustees of a school district may establish a litigation reserve fund only when litigation that is pending against the district could result in an award against the district.

(2) At the end of each school fiscal year, the trustees of a district may transfer money from the general fund, within the adopted budget, to establish the fund.

(3) Upon conclusion of litigation, the balance of the money in the fund reverts to the general fund and must be used to reduce the district's general fund BASE over-BASE budget levy requirement computed pursuant to 20-9-141."''

Insert: Section 8080. Section 20-9-533, MCA, is amended to read:

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"20-9-533. Technology acquisition and depreciation fund -- limitations. (1) The trustees of a district may establish a technology acquisition and depreciation fund for school district expenditures incurred and depreciation accrued for:

(a) the purchase, rental, repair, maintenance, and depreciation of technological equipment, including computers and computer network access; and

(b) associated technical training for school district personnel.

(2) Any expenditures from the technology acquisition and depreciation fund must be made in accordance with the financial administration requirements for a budgeted fund pursuant to this title. The trustees of a district shall fund the technology acquisition and depreciation fund with:

~~_____ (a) the state money received under 20-9-534; and~~

~~_____ (b) other local, state, private, and federal funds received for the purpose of funding technology or technology-associated training.~~

(3) In depreciating the technological equipment of a school district, the trustees may include in the district's budget, contingent upon voter approval of a levy under subsection (6) and pursuant to the school budgeting requirements of this title, an amount each fiscal year that does not exceed 20% of the original cost of any technological equipment, including computers and computer network access, that is owned by the district. The amount budgeted may not, over time, exceed 150% of the original cost of the equipment.

(4) The annual revenue requirement for each district's technology acquisition and depreciation fund determined within the limitations of this section must be reported by the county superintendent of schools to the board of county commissioners on the fourth Monday of August as the technology acquisition and depreciation fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(5) Any expenditure of technology acquisition and depreciation fund money must be within the limitations of the district's final technology acquisition and depreciation fund budget and the school financial administration provisions of this title.

(6) In addition to the funds received pursuant to subsection (2), the trustees of a school district may submit a proposition to the qualified electors of the district to approve an additional levy to fund the depreciation of technological equipment authorized under this section. The election must be called and conducted in the manner prescribed by this title for school elections and in the manner prescribed by 15-10-425.

(7) The technology proposition is approved if a majority of those electors voting at the election approve the levy. Notwithstanding any other provision of law, the levy under subsection (6) is subject to 15-10-420.

(8) The trustees of a district may not use revenue in the technology acquisition and depreciation fund to finance contributions to the teachers' retirement system, the public employees' retirement system, or the federal social security system or for unemployment compensation insurance. ""

Insert: **Section 8181.** 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) (1) stabilize the long-term growth of the permanent fund; and

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

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~~as provided in subsection (2), the~~ The guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid ~~as provided in 20-9-343.~~

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

Insert: Section 8282. Section 20-9-630, MCA, is amended to read:

"20-9-630. School district block grants. (1) (a) The office of public instruction shall provide a block grant to each school district based on the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

(2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.

(3) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May ~~at the same time that guaranteed tax base aid is distributed.~~

(4) (a) The block grant for the district general fund is equal to the average amount received in fiscal years 2002 and 2003 by the district general fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(b) The block grant for the district transportation fund is equal to one-half of the average amount received in fiscal years 2002 and 2003 by the district transportation fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(c) (i) The combined fund block grant is equal to the average amount received in fiscal years 2002 and 2003 by the district tuition, bus depreciation reserve, building reserve, nonoperating, and adult education funds from the block grants provided for in subsection (1).

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The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district.""

Insert: Section 8383. Section 69-11-202, MCA, is amended to read:

"69-11-202. Establishment and notice of schedule for passenger carriers. A common carrier of passengers by railroad or by vessel plying upon waters lying wholly within this state shall establish and give public notice of a schedule time for the starting of trains or vessels from their stations or wharves. A common carrier shall, except in case of accident or detention caused by connecting lines or weather conditions, start trains or vessels at or within 10 minutes after the schedule time. Failure to comply is punishable by a fine of \$250, to be recovered by action before any court of competent jurisdiction, upon complaint filed by the county attorney, and paid into the elementary county equalization general fund.""

Insert: Section 8484. 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 must exclude the 6-mill university levy established under 15-10-108 and may exclude the mandatory county levies for the school 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.""

Insert: Section 8585. 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

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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 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~~ for 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."

Insert: **Section 8686.** Section 90-6-1001, MCA, is amended to read:

"90-6-1001. Oil, gas, and coal natural resource accounts. (1) There is an oil and gas natural resource distribution account in the state special revenue fund. The collections allocated to the account from 15-36-304(7)(b) must be deposited in the account ~~to be used~~ and distributed to counties as provided in 15-36-332~~(8) and (9)~~.

(2) There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from 15-35-108(7) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards."

Insert: **NEW SECTION. Section 8787. Rulemaking authority of superintendent of public instruction.** The superintendent of public instruction shall make rules to provide for the adjustment of the core curriculum teacher payment calculation based upon an increase in enrollment. The rules must include:

(1) an application process for a school district to request an increase in the core curriculum teacher calculation for a school or schools;

(2) procedures as to the frequency that a school district may apply for an increase; and

(3) procedures for determining whether a school has a decrease in the number of students requiring a decrease in the number of core curriculum teachers."

Insert: **NEW SECTION. Section 8888. Ad hoc committee on accreditation standards -- appointment process.** (1) There is an ad hoc committee on accreditation standards that shall meet during the interim for the purpose of reviewing and approving accreditation standards for K-12 schools.

(2) The ad hoc accreditation standards committee must consist of:

(a) four members from the house of representatives appointed by the speaker of the house;

(b) four members from the senate appointed by the committee on committees;

(c) one representative of the office of public instruction; and

(d) one representative from the board of public education.

(3) The committee may request recommendations for curriculum or accreditation standards from the superintendent of public instruction or the board of public education."

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- Insert:** NEW SECTION. **Section 8989. Repealer.** The following sections of the Montana Code Annotated are repealed:
- 15-30-2336. Refundable income tax credit -- statewide equalization property tax levies on principal residence -- rules.
- 20-7-202. School library required.
- 20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program.
- 20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high school BASE funding program.
- 20-9-335. Formula for apportionment of county equalization money.
- 20-9-343. Definition of and revenue for state equalization aid.
- 20-9-361. County equalization revenue.
- 20-9-366. Definitions.
- 20-9-367. Eligibility to receive guaranteed tax base aid or state advance or reimbursement for school facilities.
- 20-9-368. Amount of guaranteed tax base aid.
- 20-9-369. Duties of superintendent of public instruction and department of revenue.
- 20-9-370. Definitions.
- 20-9-371. Calculation and uses of school facility entitlement amount.
- 20-9-534. Statutory appropriation for school technology purposes."
- Insert:** NEW SECTION. **Section 9090. Appropriation.** There is appropriated \$200,000 for the biennium beginning July 1, 2011, to the ad hoc committee on accreditation standards for the purpose of reviewing the K-12 standards and recommending core curriculum standards to the 2013 legislature."
- Insert:** NEW SECTION. **Section 9191. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe."
- Insert:** NEW SECTION. **Section 9292. Codification instruction.** [Section 55] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 55]."
- Insert:** NEW SECTION. **Section 9393. Effective date.** [This act] is effective July 1, 2011."

Amendment **not** adopted as follows:

Yeas: Arntzen, B. Beck, G. Bennett, Blasdel, Burnett, Cuffe, Edmunds, Flynn, Hale, Hansen, Harris, Hendrick, Hollandsworth, Ingraham, Kary, Kennedy, Kerns, Knox, Knudsen, Miller, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Rosendale, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn.
Total 37

Nays: Ankney, Bangerter, Barrett, Belcourt, B. Bennett, Berry, Blyton, Boland, Brodehl, Clark, Connell, Cook, Court, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hands, Hill, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Klock, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan,

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More, Noonan, O'Hara, Pease-Lopez, Phillips, Price, Reichner, Reinhart, Roberts, Salomon, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 63

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 329 - Representative C. Smith moved **SB 329**, as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Bangerter, B. Beck, G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Klock, Lavin, Loney, MacLaren, McGillvray, McNiven, More, O'Hara, Osmundson, Peterson, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, Squires, Taylor, Vance, Washburn, Welborn, Mr. Speaker.

Total 52

Nays: Arntzen, Barrett, Belcourt, B. Bennett, Berry, Boland, Court, Driscoll, Furey, Hands, Harris, Hill, Hiner, Hollenbaugh, Hunter, Kary, Kennedy, Kerns, Knox, Knudsen, MacDonald, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Miller, Noonan, O'Neil, Pease-Lopez, Phillips, Price, Randall, Reinhart, Sands, Schmidt, Sesso, C. Smith, F. Smith, Stahl, Swanson, Wagner, Williams, Wilmer, Yates.

Total 47

Excused: None.

Total 0

Absent or not voting: Warburton.

Total 1

SB 423 - Representative Berry moved **SB 423** be concurred in.

SB 423 - Representative Fitzpatrick moved **SB 423**, second reading copy, be amended as follows:

1. Page 6, line 3.

Following: "corrections"

Strike: "or"

Insert: ", "

Following: "court"

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Insert: ", a district court, or a court of limited jurisdiction or is ordered by a court to participate in any state, county, or local government criminal supervision or enforcement program"

2. Page 6, line 28.

Following: "court"

Insert: ", a district court, or a court of limited jurisdiction or is ordered by a court to participate in any state, county, or local government criminal supervision or enforcement program"

3. Page 10, line 18.

Following: "facility"

Insert: ", including all facilities described in 53-1-203"

4. Page 10, line 21.

Following: "public"

Strike: "or"

5. Page 10, line 23.

Following: "children"

Insert: "; or (xi) who is under the supervision of the department of corrections or a youth court or is ordered by a court to participate in any state, county, or local government criminal supervision or enforcement program"

Amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Hansen, Hendrick, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 96

Nays: B. Bennett, Harris, Hill, Wagner.

Total 4

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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SB 423 - Representative Noonan moved **SB 423**, second reading copy, be further amended as follows:

1. Page 7, line 5 through line 7.

Following: "(3)" on line 5

Insert: "(a)"

Strike: "only one" on line 5 through "marriage" on line 7

Insert: "up to 30 registered cardholders"

2. Page 3.

Following: line 7

Insert: "(b) If the provider is a registered cardholder, the provider's card must be included as part of the total count of cards held."

3. Page 7, line 10 through line 13.

Strike: ":" on line 10 through "(a)" on line 11

Strike: ";" on line 11 through "cardholder" on line 13

4. Page 11, line 13.

Following: "marijuana"

Insert: "unless the provider is also a registered cardholder"

5. Page 11, line 14.

Following: "personal use"

Insert: "if the provider is not a registered cardholder"

Amendment **not** adopted as follows:

Yeas: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Miller, Noonan, O'Neil, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 33

Nays: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Menahan, More, O'Hara, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 67

Excused: None.

Total 0

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Absent or not voting: None.

Total 0

SB 423 - Representative Berry moved **SB 423**, as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Roberts, Rosendale, Salomon, Sands, Schmidt, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 77

Nays: Barrett, B. Bennett, Driscoll, Furey, Hands, Harris, Hill, Hollenbaugh, Hunter, Kerns, MacDonald, Malek, McClafferty, Noonan, Pease-Lopez, Phillips, Price, Reichner, Reinhart, Sesso, Swanson, Williams, Wilmer.

Total 23

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Majority Leader McGillvray moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair.

Chairman More moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNiven, McNutt, Menahan, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Yates, Mr. Speaker.

Total 73

Nays: Belcourt, B. Bennett, Boland, Court, Furey, Hands, Hill, Hiner, Hollenbaugh, MacDonald, Malek, McClafferty, McNally, Mehlhoff, Miller, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Wilmer.

Total 26

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Excused: Evans.

Total 1

Absent or not voting: None.

Total 0

House Recessed.

House Reconvened.

Roll Call. All members present, except Representative Evans, excused. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Majority Leader McGillvray moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative More in the chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 326 - Representative Furey moved **SB 326** be concurred in. Motion carried as follows:

Yeas: Ankney, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Boland, Clark, Cook, Court, Cuffe, Driscoll, Ehli, Furey, Gibson, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hunter, Ingraham, Kary, Klock, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Read, Reinhart, Salomon, Sands, Schmidt, Sesso, Small, F. Smith, Squires, Swanson, Taylor, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 56

Nays: Arntzen, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Connell, Edmunds, Esp, Evans, Fitzpatrick, Greef, Hale, Hansen, Harris, Hendrick, Howard, Kennedy, Kerns, Knox, Knudsen, McGillvray, McNiven, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Regier, Reichner, Roberts, Rosendale, Skattum, Skees, C. Smith, Stahl, Vance, Wagner.

Total 40

Excused: None.

Total 0

Absent or not voting: Flynn, Hoven, Loney, Miller.

Total 4

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SB 348 - Representative Welborn moved **SB 348** be concurred in.

SB 348 - Representative Knox moved **SB 348**, second reading copy, be amended as follows:

1. Page 3, line 2.

Strike: subsection (E) in its entirety

Renumber: subsequent subsections

Amendment **not** adopted as follows:

Yeas: Arntzen, Bangerter, B. Beck, Berry, Blasdel, Blyton, Burnett, Clark, Cook, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Hale, Hansen, Harris, Hendrick, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, McGillvray, McNutt, More, O'Neil, Regier, Reichner, Rosendale, Salomon, Skattum, Skees, Stahl, Taylor, Vance, Wagner, Warburton, Washburn.
Total 43

Nays: Ankney, Barrett, Belcourt, B. Bennett, G. Bennett, Boland, Brodehl, Court, Cuffe, Driscoll, Furey, Gibson, Greef, Hands, Hill, Hiner, Hollandsworth, Hollenbaugh, Hunter, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNiven, Mehlhoff, Menahan, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Reinhart, Roberts, Sands, Schmidt, Sesso, Small, C. Smith, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer, Yates, Mr. Speaker.
Total 51

Excused: None.
Total 0

Absent or not voting: Connell, Flynn, Hoven, Loney, Miller, Read.
Total 6

SB 348 - Representative Welborn moved **SB 348** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Burnett, Clark, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Howard, Hunter, Ingraham, Kary, Kerns, Klock, Knox, Knudsen, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Mr. Speaker.
Total 90

Nays: Brodehl, Greef, Kennedy, O'Neil, Yates.
Total 5

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Excused: None.

Total 0

Absent or not voting: Connell, Flynn, Hoven, Loney, Roberts.

Total 5

SB 358 - Representative Fitzpatrick moved **SB 358** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Howard, Hunter, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 94

Nays: Ingraham, C. Smith.

Total 2

Excused: None.

Total 0

Absent or not voting: Connell, Flynn, Hoven, Loney.

Total 4

HB 559 - Governor's Amendments - Representative Esp moved Governor's amendments to **HB 559** be concurred in. Motion carried as follows:

Yeas: Ankney, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, Berry, Blasdel, Blyton, Brodehl, Clark, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hands, Hansen, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Howard, Hunter, Ingraham, Kary, Kennedy, Klock, Knudsen, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, Pease-Lopez, Phillips, Price, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 82

Nays: Arntzen, G. Bennett, Burnett, Hale, Harris, Kerns, Knox, McNiven, O'Neil, Peterson, Randall. Total 11

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Excused: None.

Total 0

Absent or not voting: Boland, Connell, Flynn, Hoven, Loney, Osmundson, Small.

Total 7

HB 90 - Governor's Amendments - Representative McNutt moved Governor's amendments to **HB 90** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Cook, Court, Cuffe, Driscoll, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Furey, Gibson, Greef, Hale, Hands, Hansen, Harris, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Howard, Hunter, Kennedy, Kerns, Klock, Knox, Lavin, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Vance, Washburn, Welborn, Williams, Wilmer, Yates, Mr. Speaker.

Total 86

Nays: Ingraham, Kary, Knudsen, Randall, Read, Regier, Skees, C. Smith, Wagner, Warburton.

Total 10

Excused: None.

Total 0

Absent or not voting: Connell, Flynn, Hoven, Loney.

Total 4

HB 333 - Governor's Amendments - Representative Reichner moved Governor's amendments to **HB 333** be **not** concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Howard, Ingraham, Kary, Kerns, Klock, Knox, Knudsen, Lavin, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 64

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 32

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Excused: None.

Total 0

Absent or not voting: Connell, Hoven, Kennedy, Loney.

Total 4

HB 271 - Conference Committee Report No. 1 - Representative Kerns moved the Conference Committee report to **HB 271** be adopted. Motion carried as follows:

Yeas: Ankney, Arntzen, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, MacLaren, McChesney, McGillvray, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Wilmer, Yates, Mr. Speaker.

Total 68

Nays: Bangerter, Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hill, Hollenbaugh, Hunter, MacDonald, Malek, McClafferty, McNally, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams.

Total 29

Excused: None.

Total 0

Absent or not voting: Connell, Hoven, Loney.

Total 3

SB 417 - Representative Skees moved **SB 417** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Fitzpatrick, Flynn, Furey, Gibson, Greef, Hale, Hands, Harris, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Kary, Klock, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skees, Small, F. Smith, Squires, Stahl, Swanson, Taylor, Warburton, Washburn, Williams, Wilmer, Yates, Mr. Speaker.

Total 81

Nays: Blasdel, Edmunds, Evans, Hansen, Hendrick, Kennedy, Kerns, McGillvray, Miller, O'Neil, Randall, Read, Regier, Skattum, C. Smith, Vance, Wagner, Welborn. Total 18

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Excused: None.

Total 0

Absent or not voting: Howard.

Total 1

HJR 13 - Representative Hansen moved **HJR 13** be adopted. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Burnett, Clark, Connell, Cook, Court, Driscoll, Edmunds, Ehli, Evans, Fitzpatrick, Furey, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McClafferty, McGillvray, McNally, McNiven, Miller, More, Noonan, O'Hara, O'Neil, Osmundson, Peterson, Phillips, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Williams, Mr. Speaker.

Total 69

Nays: Belcourt, B. Bennett, Boland, Brodehl, Cuffe, Esp, Flynn, Gibson, Hands, Hill, Hiner, Hollenbaugh, Hunter, Kerns, Klock, MacDonald, Malek, McNutt, Mehlhoff, Menahan, Pease-Lopez, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Wilmer, Yates.

Total 31

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 187 - Representative K. Peterson moved **SB 187** be concurred in.

SB 187 - Representative Menahan moved **SB 187**, second reading copy, be amended as follows:

1. Page 8, line 24.

Following: "(1)"

Strike: "As"

Insert: "Subject to the provisions of subsections (2) and (3), as"

2. Page 8, line 25.

Following: "condition"

Strike: "under"

Insert: "of"

Following: "sentence"

Insert: "that is"

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3. Page 8, line 25 through line 26.

Following: "shall" on line 25

Strike: remainder of line 25 through "require" on line 26

Insert: "determine whether"

Strike: "to"

Insert: "should"

4. Page 8, line 27.

Following: "as follows"

Strike: ", except as provided in subsections (2) and (3)"

5. Page 8, line 28 through line 30.

Strike: line 28 through line 30 in their entirety

Insert: "(a) If the defendant pleads guilty prior to trial:

(i) to one or more misdemeanor charges and no felony charges, the cost of counsel is \$250; or

(ii) to one or more felony charges, the cost of counsel is \$800.

(b) If the case goes to trial, the defendant shall pay the costs incurred by the office of state public defender"

6. Page 9, line 1.

Strike: the first "proceeding"

Insert: "trial"

7. Page 9, line 1 through line 2.

Following: "." on line 1

Strike: remainder of line 1 through "trial," on line 2

Following: "by"

Strike: "the"

Insert: "The"

8. Page 9, line 5.

Following: "~~statement~~"

Insert: "for the trial"

Following: "."

Insert: "(2) Any costs imposed pursuant to this section must be paid in accordance with 46-18-251(2)(e).

(3)"

Renumber: subsequent subsections

9. Page 9, line 10.

Strike: "them"

Insert: "the costs imposed by subsection (1). The court may find that the defendant is able to pay only a portion of the costs assessed"

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10. Page 9, line 11.

Following: "account"

Strike: "the hours spent on the case and the costs and expenses incurred,"

11. Page 9, line 12.

Strike: " "

12. Page 9, line 18.

Following: line 17

Insert: "(6) Any costs imposed under this section must be included in the court's judgment."

Amendment .

SB 187 - Representative O'Neil moved the amendment be divided. Without objection, so ordered.

SB 187 - Representative O'Neil moved Do Not Concur on section 5 of Representative Menahan's amendment.

Motion **failed** as follows:

Yeas: Arntzen, B. Beck, G. Bennett, Berry, Blyton, Brodehl, Connell, Cuffe, Edmunds, Flynn, Gibson, Greef, Hale, Hansen, Harris, Ingraham, Kary, Kennedy, Kerns, Knox, McNiven, Miller, O'Neil, Osmundson, Randall, Regier, Roberts, Rosendale, Skattum, Skees, Taylor, Vance, Wagner, Warburton, Washburn, Williams, Yates.

Total 37

Nays: Ankney, Bangerter, Barrett, Belcourt, B. Bennett, Blasdel, Boland, Burnett, Clark, Cook, Court, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Furey, Hands, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Price, Read, Reichner, Reinhart, Salomon, Sands, Schmidt, Sesso, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Welborn, Wilmer, Mr. Speaker.

Total 62

Excused: None.

Total 0

Absent or not voting: Klock.

Total 1

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SB 187 - Representative Menahan's amendment adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, B. Beck, Belcourt, B. Bennett, G. Bennett, Berry, Blasdel, Blyton, Boland, Burnett, Clark, Connell, Cook, Court, Cuffe, Driscoll, Ehli, Esp, Evans, Fitzpatrick, Flynn, Furey, Hands, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Kerns, Knox, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skattum, Skees, Small, C. Smith, F. Smith, Squires, Stahl, Swanson, Taylor, Warburton, Washburn, Williams, Wilmer, Mr. Speaker.

Total 85

Nays: Brodehl, Edmunds, Gibson, Greef, Hale, Hansen, Harris, Kennedy, Miller, O'Neil, Vance, Wagner, Welborn, Yates.

Total 14

Excused: None.

Total 0

Absent or not voting: Klock.

Total 1

SB 187 - Representative K. Peterson moved **SB 187**, as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, Barrett, Belcourt, B. Bennett, Berry, Blasdel, Blyton, Boland, Brodehl, Burnett, Clark, Connell, Cook, Court, Driscoll, Edmunds, Ehli, Esp, Evans, Furey, Gibson, Greef, Hands, Hansen, Hendrick, Hill, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Kary, Knudsen, Lavin, Loney, MacDonald, MacLaren, Malek, McChesney, McClafferty, McGillvray, McNally, McNiven, McNutt, Mehlhoff, Menahan, More, Noonan, O'Hara, Osmundson, Pease-Lopez, Peterson, Phillips, Price, Randall, Read, Regier, Reichner, Reinhart, Roberts, Rosendale, Salomon, Sands, Schmidt, Sesso, Skees, Small, C. Smith, Squires, Stahl, Swanson, Warburton, Washburn, Williams, Wilmer, Yates, Mr. Speaker.

Total 81

Nays: B. Beck, G. Bennett, Cuffe, Fitzpatrick, Flynn, Hale, Harris, Kennedy, Kerns, Klock, Knox, Miller, O'Neil, Skattum, F. Smith, Taylor, Vance, Wagner, Welborn.

Total 19

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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SB 214 - Representative Di. Barrett moved **SB 214** be concurred in. Motion **failed** as follows:

Yeas: Barrett, Belcourt, B. Bennett, Boland, Burnett, Cook, Court, Driscoll, Ehli, Furey, Gibson, Hands, Hill, Hiner, Hollenbaugh, Hoven, Hunter, Lavin, MacDonald, Malek, McChesney, McClafferty, McNally, McNiven, McNutt, Mehlhoff, Menahan, Miller, Noonan, Pease-Lopez, Phillips, Price, Reichner, Reinhart, Salomon, Sands, Schmidt, Sesso, F. Smith, Squires, Stahl, Swanson, Williams, Wilmer, Yates.

Total 45

Nays: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Clark, Connell, Cuffe, Edmunds, Esp, Evans, Fitzpatrick, Flynn, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Loney, MacLaren, McGillvray, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Roberts, Rosendale, Skattum, Skees, Small, C. Smith, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 55

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 371 - Representative Knudsen moved **SB 371** be concurred in. Motion carried as follows:

Yeas: Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, MacLaren, McChesney, McClafferty, McNiven, McNutt, Mehlhoff, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Yates, Mr. Speaker.

Total 63

Nays: Ankney, Barrett, Belcourt, B. Bennett, Boland, Burnett, Court, Driscoll, Evans, Furey, Gibson, Greef, Hands, Hill, Hollenbaugh, Hunter, Loney, MacDonald, Malek, McGillvray, McNally, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Roberts, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Welborn, Williams, Wilmer.

Total 37

Excused: None.

Total 0

Absent or not voting: None.

Total 0

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SB 406 - Representative Knudsen moved **SB 406** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Edmunds, Ehli, Esp, Evans, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Yates, Mr. Speaker.

Total 68

Nays: Barrett, Belcourt, B. Bennett, Boland, Court, Driscoll, Furey, Hands, Hiner, Hollenbaugh, Hunter, MacDonald, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 31

Excused: None.

Total 0

Absent or not voting: Hill.

Total 1

Majority Leader McGillvray moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman More moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cook, Cuffe, Driscoll, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, MacLaren, McChesney, McGillvray, McNiven, McNutt, Miller, More, O'Hara, O'Neil, Osmundson, Peterson, Randall, Read, Regier, Reichner, Roberts, Rosendale, Salomon, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.

Total 70

Nays: Barrett, B. Bennett, Boland, Court, Furey, Hands, Hill, Hollenbaugh, MacDonald, Malek, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Pease-Lopez, Phillips, Price, Reinhart, Sands, Schmidt, Sesso, Skattum, F. Smith, Squires, Swanson, Williams, Wilmer.

Total 28

Excused: Evans.

Total 1

Absent or not voting: Yates.

Total 1

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REPORTS OF STANDING COMMITTEES

EDUCATION (Reichner, Chairman): 4/11/2011
SJR 19, be concurred in. Report adopted.

HUMAN SERVICES (Howard, Chairman): 4/11/2011
SJR 18, be concurred in. Report adopted.
SJR 20, be concurred in. Report adopted.

NATURAL RESOURCES (Hendrick, Chairman): 4/11/2011
SJR 21, be amended as follows:

1. Page 1, line 25.

Following: "public use"

Insert: ", including whether merchant transmission lines should be considered a public use"

2. Page 1, line 27.

Following: "levels"

Insert: ", including whether current law considers damages to the condemnee's remaining interests"

3. Page 2, line 1.

Following: "impacts"

Insert: ";

(5) review alternatives that would propose the use of public land prior to the use of eminent domain to condemn private land;

(6) analyze the options for what constitutes a public use and, if necessary, provide a statutory definition of the term;

(7) determine if property owners are adequately reimbursed for costs incurred during negotiations that occur prior to eminent domain proceedings;

(8) review options for implementing an analysis of costs to Montana consumers when a project that may use eminent domain is energy-related and whether those costs should be mitigated in the permitting process"

And, as amended, be concurred in. Report adopted.

MOTIONS

Representative McGillvray moved **SB 406** be moved from the Committee of the Whole after Second Reading to the Business and Labor committee.

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Representative McGillvray moved to accede to the request of the Senate and dissolve the **Free** Conference Committee on **SB 97** and appoint a Conference Committee. Motion Carried.

Speaker Milburn appointed:

4/11/2011

Representative K. Peterson
Representative Bangerter
Representative Driscoll

Representative McGillvray moved to appoint a Conference Committee on **SB 198** and accede to the request of the Senate to appoint a like committee. Motion Carried. Speaker Milburn appointed:

4/11/2011

Representative Hendrick
Representative B. Bennett
Representative Kary

Representative McGillvray moved to appoint a Conference Committee on **SB 338** and accede to the request of the Senate to appoint a like committee. Motion Carried. Speaker Milburn appointed:

4/11/2011

Representative Kennedy
Representative G. Bennett
Representative Wilmer

Representative McGillvray moved to appoint a Conference Committee on **SB 126** and accede to the request of the Senate to appoint a like committee. Motion Carried. Speaker Milburn appointed:

4/11/2011

Representative Salomon
Representative Furey
Representative Wagner

Representative Hoven moved that **SB 94** be taken from the Taxation Committee and be brought before the Committee of the Whole and placed on second reading on April 12th.

Motion **failed** as follows:

Yeas: Ankney, Barrett, Belcourt, B. Bennett, Berry, Boland, Cook, Driscoll, Furey, Hands, Hill, Hiner, Hollenbaugh, Hoven, Hunter, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, McNutt, Mehlhoff, Menahan, Noonan, Pease-Lopez, Peterson, Phillips, Price, Read, Reinhart, Roberts, Salomon, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer, Yates.

Total 41

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Nays: Arntzen, Bangerter, B. Beck, G. Bennett, Blasdel, Blyton, Brodehl, Burnett, Clark, Connell, Cuffe, Edmunds, Ehli, Esp, Fitzpatrick, Flynn, Gibson, Greef, Hale, Hansen, Harris, Hendrick, Hollandsworth, Howard, Ingraham, Kary, Kennedy, Kerns, Klock, Knox, Knudsen, Lavin, Loney, McGillvray, Miller, More, O'Hara, O'Neil, Osmundson, Randall, Regier, Reichner, Rosendale, Sands, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.
Total 56

Excused: Evans.
Total 1

Absent or not voting: Court, McNiven.
Total 2

Representative G. Bennett moved that **SB 400** be taken from the Fish, Wildlife and Parks Committee and be brought before the Committee of the Whole and placed on second reading on April 12th.

Motion **failed** as follows:

Yeas: Arntzen, Bangerter, B. Beck, Belcourt, G. Bennett, Berry, Blasdel, Blyton, Brodehl, Clark, Cuffe, Edmunds, Esp, Flynn, Greef, Hansen, Harris, Hendrick, Hollandsworth, Hoven, Howard, Ingraham, Kary, Kerns, Klock, Knox, Knudsen, Lavin, Loney, McGillvray, McNutt, Miller, More, O'Hara, O'Neil, Peterson, Randall, Read, Regier, Reichner, Rosendale, Salomon, Skattum, Skees, Small, C. Smith, Stahl, Taylor, Vance, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.
Total 54

Nays: Ankney, Barrett, B. Bennett, Boland, Burnett, Connell, Cook, Driscoll, Ehli, Fitzpatrick, Furey, Gibson, Hale, Hands, Hill, Hiner, Hollenbaugh, Hunter, Kennedy, MacDonald, MacLaren, Malek, McChesney, McClafferty, McNally, Mehlhoff, Menahan, Noonan, Osmundson, Pease-Lopez, Phillips, Price, Reinhart, Roberts, Sands, Schmidt, Sesso, F. Smith, Squires, Swanson, Williams, Wilmer, Yates.
Total 43

Excused: Evans.
Total 1

Absent or not voting: Court, McNiven.
Total 2

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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Representative McGillvray moved that the House adjourn until 10:00 a.m., Tuesday, April 12, 2011. Motion carried.

House adjourned at 6:03 p.m.

BETH CARGO
Chief Clerk of the House

MIKE MILBURN
Speaker of the House