

HOUSE BILL NO. 755

INTRODUCED BY F. MOORE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO
5 PRESCHOOL; CREATING A DEPARTMENT OF EARLY CHILDHOOD WITHIN THE EXECUTIVE BRANCH
6 AND A DIRECTOR OF EARLY CHILDHOOD; PROVIDING LEGISLATIVE INTENT; CREATING THE MONTANA
7 SCHOOL-READY PRESCHOOL PROGRAM; PROVIDING DEFINITIONS AND GUIDELINES FOR THE
8 PROGRAM AND DESCRIBING FUNDING FOR PARTICIPATING PROVIDERS; OUTLINING DUTIES FOR THE
9 OFFICE OF PUBLIC INSTRUCTION; PROVIDING THE DIRECTOR OF EARLY CHILDHOOD WITH
10 RULEMAKING AUTHORITY AND REQUIRING THE DIRECTOR TO ADOPT RULES FOR THE PROGRAM;
11 ESTABLISHING AN EARLY CHILDHOOD COORDINATING COUNCIL; CLARIFYING UNDER WHAT
12 EXCEPTIONAL CIRCUMSTANCES A SCHOOL DISTRICT MAY ADMIT STUDENTS OUTSIDE REGULAR AGE
13 PARAMETERS; REVISING THE DEFINITION OF ELIGIBLE TRANSPORTEE; PROVIDING RULEMAKING
14 AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 2-15-104, 20-5-101, 20-7-117,
15 20-9-306, 20-9-313, AND 20-10-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 NEW SECTION. **Section 1. Department of early childhood -- head.** There is a department of early
20 childhood. The department head is the director of early childhood.

21
22 NEW SECTION. **Section 2. Director of early childhood.** (1) There is the position of director of early
23 childhood.

24 (2) The director of early childhood shall be appointed and serve as provided for directors in 2-15-111.

25 (3) The director is the chief administrative officer of the department.

26
27 **Section 3.** Section 2-15-104, MCA, is amended to read:

28 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and
29 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state
30 government and their respective functions are allocated by this chapter among and within the following

1 departments or entities:

- 2 (a) department of administration;
3 (b) department of military affairs;
4 (c) department of revenue;
5 (d) state board of education;
6 (e) department of labor and industry;
7 (f) department of commerce;
8 (g) department of justice;
9 (h) department of public health and human services;
10 (i) department of corrections;
11 (j) department of transportation;
12 (k) department of public service regulation;
13 (l) department of agriculture;
14 (m) department of livestock;
15 (n) department of natural resources and conservation;
16 (o) department of fish, wildlife, and parks;
17 (p) department of environmental quality;
18 (q) department of early childhood.

19 (2) For its internal structure, each department shall adhere to the following standard terms:

- 20 (a) The principal unit of a department is a division. Each division is headed by an administrator.
21 (b) The principal unit of a division is a bureau. Each bureau is headed by a chief.
22 (c) The principal unit of a bureau is a section. Each section is headed by a supervisor."
23

24 **NEW SECTION. Section 4. Purpose -- intent.** (1) The purpose of [sections 4 through 9] is to provide
25 opportunities to increase the school readiness of Montana children.

26 (2) It is the intent of the legislature in [sections 4 through 9] to:

- 27 (a) create a voluntary Montana school-ready preschool program that increases opportunities for parents
28 to enroll their children in a high-quality preschool program of the parents' choice from a variety of providers;
29 (b) focus limited state resources on the communities most in need of increased opportunities for
30 high-quality preschool;

- 1 (c) increase coordination and alignment of programs serving children from birth through high school
2 graduation;
- 3 (d) encourage preschool models that maximize lasting educational impact and cost efficiency;
- 4 (e) empower the director of early childhood with the flexibility to design and refine the program while
5 remaining accountable to the legislature; and
- 6 (f) in no way limit the existing ability of school districts, private providers, or head start grantees from
7 providing preschool or to impede parental choice in determining how best to educate their children.

8

9 **NEW SECTION. Section 5. Definitions.** As used in [sections 4 through 9] the following definitions
10 apply:

- 11 (1) "Applicant" means a preschool provider that is applying to the director for inclusion or continuation
12 as a participating preschool provider.
- 13 (2) "Approved classroom" means a preschool classroom of a participating provider serving a maximum
14 of 18 preschoolers, providing a minimum of 432 aggregate hours of instruction in a school year and approved
15 by the director.
- 16 (3) "Director" means the director of the department of early childhood provided in [section 2].
- 17 (4) "Expansion" means an increase in the number of approved classrooms for a participating provider.
- 18 (5) "Participating provider" means a school district, head start program, or private provider that:
- 19 (a) provides high quality voluntary preschool education to preschoolers;
- 20 (b) is nonsectarian; and
- 21 (c) is approved for participation in the program by the director pursuant to [section 7].
- 22 (6) "Pre-enrollment" means the indication by a child's parent or guardian of the desire to enroll the child
23 at a participating provider in the ensuing school year.
- 24 (7) "Preschooler" means a child who is at least 4 years of age by September 10 of the year and enrolled
25 in and attending an approved classroom at a participating provider.
- 26 (8) "Program" means the Montana school-ready preschool program.
- 27 (9) "Projected enrollment" means the number of preschoolers an applicant proposes to serve in the
28 ensuing year.
- 29 (10) "Quality guidelines" means the objective preschool quality guidelines established by the director
30 pursuant to [section 6(1)(c)].

1
2 **NEW SECTION. Section 6. Director of early childhood -- powers and duties.** (1) The director of
3 early childhood shall:

4 (a) adopt rules, criteria, and guidance to administer all programs and services necessary for the
5 operation and management of the voluntary Montana school-ready preschool program for 4-year-olds;

6 (b) adopt statewide early learning developmental standards;

7 (c) establish objective preschool quality guidelines that participating providers must meet, except as
8 provided in subsection (2) of this section, in order to receive funding under [section 8], including but not limited
9 to standards addressing:

10 (i) lead teacher preparation and qualifications;

11 (ii) auxiliary teacher qualifications;

12 (iii) ongoing professional development for lead and auxiliary teachers;

13 (iv) maximum class size and minimum classroom staff-child ratio;

14 (v) length of preschool day and optional provision of child care services beyond the preschool day to
15 accommodate the needs of families;

16 (vi) provision of developmental screenings and referrals to ensure healthy child development and
17 availability of additional support services for parents;

18 (vii) use of a developmentally appropriate curriculum emphasizing growth in language and literacy, math
19 concepts, science, arts, physical development, and personal and social competence and aimed at meeting
20 statewide early learning developmental standards;

21 (viii) support for curriculum implementation;

22 (ix) a system for fostering continuous improvement;

23 (x) parental outreach and involvement;

24 (xi) pursuant to subsection (1)(k), provider effectiveness in helping preschoolers become school ready;

25 (xii) financial accountability and guidelines for allowable tuition based on family ability to pay;

26 (xiii) health and safety standards; and

27 (xiv) in order to support equality of educational opportunity and to encourage classrooms with children
28 from a variety of socioeconomic backgrounds, require the use of a lottery system when the number of
29 pre-enrolled preschoolers exceeds the number of available preschool slots in approved classrooms. This does
30 not preclude participating providers from providing preschool to children not selected in a lottery in preschool

1 classrooms not funded under the program.

2 (d) coordinate with the office of public instruction for the inclusion of preschool special education and
3 with the department of public health and human services for other relevant programs;

4 (e) direct the distribution of funds appropriated by the legislature to participating providers pursuant to
5 [section 8];

6 (f) utilize and assist units of local government as appropriate to assure the proliferation of preschool
7 under this section;

8 (g) issue annual reports to the governor and legislature concerning the administration, operation, and
9 effectiveness of the preschool program;

10 (h) provide leadership for enhancement of school readiness by aggressively establishing a unified
11 approach to the state's efforts toward enhancement of school readiness, including the development and
12 implementation of specific strategies that address the state's early childhood care and school readiness
13 programs;

14 (i) ensure the cost-effective use of federal, state, local, and private resources to achieve the highest
15 possible level of school readiness for all of the state's children;

16 (j) assess gaps in services and provide appropriate technical assistance to participating providers to
17 support their continuous improvement;

18 (k) by June 30, 2020, adopt a system for measuring school readiness that provides objective data
19 regarding the expectations for school readiness, and establish a method for collecting the data and guidelines
20 for using the data. The measurement, the data collection, and the use of the data must serve the statewide school
21 readiness goals. The criteria for determining which data to collect should be the usefulness of the data to state
22 policymakers and participating providers' administrators in administering programs and allocating state funds,
23 and must include the tracking of school readiness system information back to individual participating providers
24 to assist in determining program effectiveness.

25 (l) select an appropriate staff to perform the duties required under [sections 4 through 9] and may hire
26 and fire all personnel under the director's supervision.

27 (2) The director may in the director's full discretion:

28 (a) accept the federal approval of a head start preschool program as an indication of high quality; and

29 (b) accept the accreditation of a public school preschool program as an indication of high quality.
30

1 **NEW SECTION. Section 7. Application and approval process -- prioritization.** (1) The director shall
2 establish a procedure and timeline for applicants to apply for inclusion in the Montana school-ready preschool
3 program and for continuation of participation in the program. In addition to addressing the quality guidelines, the
4 application must include a number of requested classrooms and a projected enrollment for the subsequent year.
5 The timeline must be designed to allow participating providers to report to the office of public instruction a
6 pre-enrollment count for the ensuing year at the same time the February enrollment counts of school districts are
7 reported pursuant to 20-9-311.

8 (2) In applying to the director for approval, a provider that is not a school district shall include a proposed
9 budget based on projected enrollment and a description of how the provider will contribute a minimum 25% match
10 of state funding on a concise form provided by the director. The match may include:

11 (a) in-kind contributions, including the provision of physical classroom space, materials, equipment, or
12 services in support of the preschool program; and

13 (b) for a participating providers other than school districts, tuition revenue not to exceed the tuition
14 guidelines established by the director.

15 (3) (a) The director shall approve applicants that meet the quality guidelines. If more applicants apply than
16 are able to be funded with money appropriated by the legislature, as determined by the director with assistance
17 from the office of public instruction, the director shall prioritize approval of applicants and the number of approved
18 classrooms based on the following priority classes:

19 (i) previous participating providers, including for expansion, conditional on the continued meeting of the
20 quality guidelines;

21 (ii) first-time applicants, with half of the remaining funding capacity after approvals are granted under
22 subsection (3)(a)(i) being prioritized for applicants located within school districts with high rates of poverty as
23 determined by the director.

24 (b) If it is necessary to prioritize within one of the classes under subsection (a), the director shall prioritize
25 based on the order in which applications were received.

26 (4) When approving an applicant, the director shall report to the office public instruction the number of
27 approved classrooms that are eligible for state funding and projected enrollment for each participating provider.

28

29

30 **NEW SECTION. Section 8. Funding for participating providers -- duties of superintendent of**

1 **public instruction -- statewide data system.** (1) (a) A participating provider is eligible for funding as described
2 in this section.

3 (b) The director shall order the superintendent of public instruction to distribute money to participating
4 providers as described in this section.

5 (c) The enrollment in an approved classroom may not exceed 18 preschoolers.

6 (d) In a year when the legislature is in session, approvals by the director must be considered pending
7 until the amount of the appropriation to support the program is known, after which the director shall make
8 adjustments as necessary and issue final approvals for the ensuing year and the office of public instruction shall
9 advise participating providers and recalculate school district budget limits accordingly.

10 (e) For school districts to be eligible for funding under this section, the preschool accreditation standards
11 adopted by the board of public education must:

12 (i) allow a preschool program to provide a minimum of 432 aggregate hours of instruction in a school
13 year; and

14 (ii) provide flexibility in teacher qualifications such that a school district preschool program that meets the
15 quality standards for lead and auxiliary teachers established by the director is not penalized in terms of
16 accreditation status.

17 (2) (a) For a participating provider that is a school district, the provisions of this subsection (2) apply.

18 (b) Each preschooler shall be included in the October and February enrollment counts as half-time
19 enrollment.

20 (c) (i) In order to provide funding for the initial year as a participating provider or for expansion, the district
21 shall report to the director and the superintendent of public instruction the number of children pre-enrolled in the
22 district's first-year-approved classrooms by the first Monday of February and the superintendent shall increase
23 the district's average number belonging as described in 20-9-313.

24 (ii) By July 15, the superintendent of public instruction shall calculate the increases to BASE aid required
25 by the inclusion of preschoolers under this subsection (2)(c).

26 (iii) By July 31, the director shall transfer from the director's appropriation authority for distribution to
27 participating providers the appropriation authority for the amount calculated by the superintendent under
28 subsection (2)(c)(ii) to the office of public instruction for the purposes of BASE aid distribution.

29 (3) (a) For a participating provider that is not a school district, the provisions of this subsection (3) apply.

30 (b) The provider shall report to the director the number of pre-enrolled preschoolers in approved

1 classrooms by the first Monday of February prior to any year in which the provider will enroll preschoolers.

2 (c) Except as provided in subsection (3)(d), the director shall distribute to a participating provider by the
3 last day of the month in August through May, 10% of an amount equal to the number of pre-enrolled preschoolers
4 reported under subsection (3)(b) of this section multiplied by an amount equal to one-half of 80% of the maximum
5 rate per-ANB entitlement for a preschool through 6th grade student pursuant to 20-9-306 for the current fiscal
6 year.

7 (d) A participating provider shall report to the office of public instruction the number of preschoolers as
8 of the first Monday in October and if the actual enrollment is less than the pre-enrollment on which payments have
9 been based, the office shall reduce subsequent payments so that the total funding provided to the provider for
10 the year reflects the actual enrollment.

11 (4) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent
12 of public instruction shall calculate and note the increased costs of BASE aid in the upcoming biennium that are
13 attributable to the inclusion of preschoolers under the program.

14 (5) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the director of
15 early childhood shall calculate the total payments scheduled to be distributed to participating providers that are
16 not public school districts in the second year of the biennium. The present law base for the distributions,
17 calculated under Title 17, chapter 7, part 1, must consist of this amount plus the inflation factor calculated
18 pursuant to 20-9-326, not to exceed 3% in each year, applied to both years of the biennium.

19 (6) The superintendent of public instruction and the director shall collaboratively ensure the inclusion of
20 preschoolers in the statewide data system, pursuant to 20-7-104, so that the long-term effectiveness of the
21 Montana school-ready preschool program can be assessed.

22
23 **NEW SECTION. Section 9. Early childhood coordinating council.** (1) There is an early childhood
24 coordinating council allocated to the department of early childhood. The council consists of seven members:

- 25 (a) the director or the director's designee;
- 26 (b) the superintendent of public instruction or the superintendent's designee;
- 27 (c) the director of the department of public health and human services or the director's designee;
- 28 (d) the following members, who may or may not be legislators:
- 29 (i) one member appointed by the speaker of the house;
- 30 (ii) one member appointed by the house minority leader;

1 (iii) one member appointed by the president of the senate; and

2 (iv) one member appointed by the senate minority leader.

3 (2) Initial appointments under subsection (1) must be made within 60 days following [the effective date
4 of this act].

5 (3) A vacancy on the council must be filled in the same manner as the original appointment.

6 (4) The early childhood coordinating council shall collaborate to strengthen, coordinate, align, and
7 maximize the efficiency of systems of early childhood care and education in the state. The director shall convene
8 the council at least quarterly.

9 (5) Members of the early childhood coordinating council must be compensated as provided in 2-15-124
10 and must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council
11 who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled
12 to their regular compensation. Legislator members must be compensated as provided in 5-2-302.

13

14 **Section 10.** Section 20-5-101, MCA, is amended to read:

15 **"20-5-101. Admittance of child to school.** (1) The trustees shall assign and admit a child to a school
16 in the district when the child is:

17 (a) ~~6~~ 5 years of age or older on or before September 10 of the year in which the child is to enroll but is
18 not yet 19 years of age;

19 (b) a resident of the district; and

20 (c) otherwise qualified under the provisions of this title to be admitted to the school.

21 (2) The trustees of a district may assign and admit any nonresident child to a school in the district under
22 the tuition provisions of this title.

23 (3)(a) The trustees may at their discretion assign and admit a child to a school in the district who is under
24 ~~6~~ 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances, as described
25 in subsection (3)(b), that merit waiving the age provision of this section. The trustees may also admit an individual
26 who has graduated from high school but is not yet 19 years of age even though no special circumstances exist
27 for waiver of the age provision of this section.

28 (b) As used in this subsection, "exceptional circumstances" means any of the following:

29 (i) the child is a preschooler participating in the Montana school-ready preschool program pursuant to
30 [sections 4 through 9];

- 1 (ii) the child is in a preschool program established by the trustees pursuant to 20-7-117;
 2 (iii) the child is participating in a special education program of the district under 20-7-411;
 3 (iv) the child is determined by the trustees to be ready for kindergarten and the child's parents have
 4 requested early entry into the district's regular 1-year kindergarten program; or
 5 (v) the adult is 19 years of age or older and in the trustees' determination would benefit from educational
 6 programs offered by a school of the district.
 7 (c) The admittance of an individual under this subsection (3) does not in and of itself impact the ANB
 8 calculations governed by 20-9-311.

9 (4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney
 10 Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees
 11 may not require an out-of-district attendance agreement or tuition for a homeless child.

12 (5) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance
 13 with the tuition provisions of this title.

14 (6) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the
 15 district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy.
 16 Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the
 17 assignment is final."
 18

19 **Section 11.** Section 20-7-117, MCA, is amended to read:

20 **"20-7-117. Kindergarten and preschool programs.** (1) The trustees of an elementary district shall
 21 establish or make available a kindergarten program capable of accommodating, at a minimum, all the children
 22 in the district who will be 5 years old on or before September 10 of the school year for which the program is to
 23 be conducted or who have been enrolled by special permission of the board of trustees. The kindergarten
 24 program, which the trustees may designate as either a half-time or full-time program, must be an integral part of
 25 the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion
 26 in the calculation of ANB pursuant to 20-9-311, a child must have reached 5 years of age on or before September
 27 10 of the school year covered by the calculation or have been enrolled by special permission of the board of
 28 trustees. A kindergarten program must meet the minimum aggregate hour requirements established in 20-1-301.
 29 A kindergarten program that is designated as a full-time program must allow a parent, guardian, or other person
 30 who is responsible for the enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.

1 (2) The trustees of an elementary school district may establish and operate a free preschool program
 2 for children between the ages of 3 and 5 years in addition to a Montana school-ready preschool program
 3 established under [sections 4 through 9]. When preschool programs are established under this section, they must
 4 be an integral part of the elementary school and must be governed accordingly. Financing of preschool programs
 5 under this subsection may not be supported by money available from state equalization aid."

6

7 **Section 12.** Section 20-9-306, MCA, is amended to read:

8 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
 9 definitions apply:

10 (1) "BASE" means base amount for school equity.

11 (2) "BASE aid" means:

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

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

17 (c) the total quality educator payment;

18 (d) the total at-risk student payment;

19 (e) the total Indian education for all payment;

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

21 (g) the total data-for-achievement payment.

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

27 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
 28 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
 29 20-9-369.

30 (5) "BASE funding program" means the state program for the equitable distribution of the state's share

1 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization
2 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
3 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

4 (6) "Basic entitlement" means:

5 (a) for each high school district:

6 (i) \$306,897 for fiscal year 2018 and \$312,636 for each succeeding fiscal year for school districts with
7 an ANB of 800 or fewer; and

8 (ii) \$306,897 for fiscal year 2018 and \$312,636 for each succeeding fiscal year for school districts with
9 an ANB of more than 800, plus \$15,345 for fiscal year 2018 and \$15,632 for each succeeding fiscal year for each
10 additional 80 ANB over 800;

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

13 (i) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12
14 district elementary programs with an ANB of 250 or fewer; and

15 (ii) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12
16 district elementary programs with an ANB of more than 250, plus \$2,558 for fiscal year 2018 and \$2,606 for each
17 succeeding fiscal year for each additional 25 ANB over 250;

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

20 (i) for the district's preschool program approved pursuant to [section 7] and kindergarten through grade
21 6 elementary program:

22 (A) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12
23 district elementary programs with an ANB of 250 or fewer; and

24 (B) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12
25 district elementary programs with an ANB of more than 250, plus \$2,558 for fiscal year 2018 and \$2,606 for each
26 succeeding fiscal year for each additional 25 ANB over 250; and

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

29 (A) \$102,299 for fiscal year 2018 and \$104,212 for each succeeding fiscal year for school districts or
30 K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

1 (B) \$102,299 for fiscal year 2018 and \$104,212 for each succeeding fiscal year for school districts or
2 K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,115 for
3 fiscal year 2018 and \$5,211 for each succeeding fiscal year for each additional 45 ANB over 450.

4 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
5 20-9-311.

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

8 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the
9 basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,
10 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement
11 gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable
12 cost payment multiplied by:

13 (a) 175%; or

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

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

19 (11) "Total American Indian achievement gap payment" means the payment resulting from multiplying
20 \$210 for fiscal year 2018 and \$214 for each succeeding fiscal year times the number of American Indian students
21 enrolled in the district as provided in 20-9-330.

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

24 (13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from
25 multiplying \$20.46 for fiscal year 2018 and \$20.84 for each succeeding fiscal year by the district's ANB calculated
26 in accordance with 20-9-311.

27 (14) "Total Indian education for all payment" means the payment resulting from multiplying \$21.36 for
28 fiscal year 2018 and \$21.76 for each succeeding fiscal year times the ANB of the district or \$100 for each district,
29 whichever is greater, as provided for in 20-9-329.

30 (15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations

1 and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

2 (a) for a high school district or a K-12 district high school program, a maximum rate of \$7,005 for fiscal
3 year 2018 and \$7,136 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB
4 for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same
5 amount of entitlement as the 800th ANB;

6 (b) for an elementary school district or a K-12 district elementary program without an approved and
7 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,471 for fiscal
8 year 2018 and \$5,573 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB
9 for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the
10 same amount of entitlement as the 1,000th ANB; and

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

13 (i) a maximum rate of \$5,471 for fiscal year 2018 and \$5,573 for each succeeding fiscal year for the first
14 ANB for a preschool program approved pursuant to [section 7] and kindergarten through grade 6, decreased at
15 the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000
16 receiving the same amount of entitlement as the 1,000th ANB; and

17 (ii) a maximum rate of \$7,005 for fiscal year 2018 and \$7,136 for each succeeding fiscal year for the first
18 ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8
19 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th
20 ANB.

21 (16) "Total quality educator payment" means the payment resulting from multiplying \$3,185 for fiscal year
22 2018 and \$3,245 for each succeeding fiscal year by the number of full-time equivalent educators as provided in
23 20-9-327."

24

25 **Section 13.** Section 20-9-313, MCA, is amended to read:

26 **"20-9-313. Circumstances under which regular average number belonging may be increased. (1)**

27 The average number belonging of a school, calculated in accordance with the ANB formula prescribed in
28 20-9-311, may be increased when:

29 (a) the opening of a new elementary school or the reopening of an elementary school has been approved
30 in accordance with 20-6-502. The average number belonging for the school must be established by the county

1 superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

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

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

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

13 (e) a district is planning the initial year of operation of a preschool program or has been approved for
14 expansion under [sections 4 through 9]. The increase in average number belonging to be used for budget
15 purposes, calculated pursuant to 20-9-311, must be based on the district's report to the superintendent of public
16 instruction no later than the first Monday of February of the number of pre-enrolled preschool children pursuant
17 to [section 8] with a preschool student counting as half-time enrollment for ANB purposes. If the actual preschool
18 enrollment determined in the October enrollment count is less than the enrollment used to increase the ANB, the
19 provisions of 20-9-314(6)(b) apply. For the purposes of calculating the 3-year ANB under this subsection (1)(e),
20 the superintendent of public instruction shall calculate the preschool enrollment and then add the additional
21 preschool ANB to the 3-year ANB for district.

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

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

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

1 in 20-1-301; or

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

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

8

9 **Section 14.** Section 20-10-101, MCA, is amended to read:

10 **"20-10-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
11 definitions apply:

12 (1) "Bus route" means a route approved by the board of trustees of a school district and by the county
13 transportation committee.

14 (2) "Eligible transportee" means a public school pupil who:

15 ~~(a) is 5 years of age or older and has not reached the age of 21 on or before September 10 of the current
16 school year or who is a preschool child with a disability between the ages of 3 and 6;~~

17 ~~(b)~~(a) is a resident of the state of Montana;

18 ~~(c)~~(b) regardless of district and county boundaries:

19 (i) resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary
20 school or public high school, whichever the case may be; or

21 (ii) has transportation identified as a related service in an individualized education program as developed
22 and implemented in accordance with the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.; and

23 ~~(d)~~(c) is considered to reside with a parent or guardian who maintains legal residence within the
24 boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives
25 when attending school.

26 (3) "Passenger seating position" means, as defined in 49 CFR 571.222, the space on a school bus
27 allocated for one passenger.

28 (4) (a) "School bus" means, except as provided in subsection (4)(b), any motor vehicle that complies with
29 the bus standards established by the board of public education as verified by the department of justice's
30 semiannual inspection of school buses and the superintendent of public instruction and:

1 (i) is owned by a district or other public agency and operated for the transportation of pupils to or from
2 school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to
3 or from school; or

4 (ii) is district-owned, is designed to carry 10 or fewer passengers, has an overall safety rating of five stars
5 from the national highway traffic safety administration at the time of purchase, and is insured in accordance with
6 minimum coverage requirements set forth in 20-10-109.

7 (b) A school bus does not include a vehicle that is:

8 (i) privately owned and not operated for compensation under this title;

9 (ii) privately owned and operated for reimbursement under 20-10-142;

10 (iii) either district-owned or privately owned, designed to carry not more than nine passengers, and used
11 to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other
12 emergency situations and that was purchased prior to July 1, 2017; or

13 (iv) an over-the-road passenger coach used only to transport pupils to activity events.

14 (5) "Transportation" means:

15 (a) a district's conveyance of a pupil by a school bus between the pupil's legal residence or an officially
16 designated bus stop and the school designated by the trustees for the pupil's attendance; or

17 (b) "individual transportation" by which a district is relieved of actually conveying a pupil. Individual
18 transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or
19 guardian for the pupil's board and room, or providing supervised correspondence study or supervised home
20 study.

21 (6) "Transportation service area" means the geographic area of responsibility for school bus
22 transportation for each district that operates a school bus transportation program."

23
24 **NEW SECTION. Section 15. Appropriations.** (1) There is appropriated \$2 million from the general fund
25 to the department of public health and human services for the fiscal year beginning July 1, 2019, for the purposes
26 of continuing the STARS preschool pilot programs under section 12, Chapter 364, Laws of 2017, for fiscal year
27 2020.

28 (2) There is appropriated \$3 million from the general fund to the office of public instruction for the fiscal
29 year beginning July 1, 2019, for the purposes of sustaining preschool classrooms funded by the federal Preschool
30 Development Grant for fiscal year 2020.

1 (3) There is appropriated \$400,000 from the general fund to the department of early childhood for each
 2 fiscal year of the biennium beginning July 1, 2019, for the purposes of administering the department of early
 3 childhood, including the hiring of up to 3 FTE.

4 (4) There is appropriated \$11 million from the general fund to the department of early childhood for the
 5 fiscal year beginning July 1, 2020, for the purposes of distributing payments to participating providers in the
 6 program, including transfer of a portion of this appropriation to the office of public instruction for distribution of
 7 BASE aid as provided in [section 8].

8 (5) The legislature intends that the appropriations for fiscal year 2021 in subsections (3) and (4) be
 9 considered as part of the ongoing base for the next legislative session.

10
 11 **NEW SECTION. Section 16. Codification instruction.** (1) [Sections 1 and 2] are intended to be
 12 codified as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [sections 1
 13 and 2].

14 (2) [Sections 4 through 9] are intended to be codified as an integral part of Title 20, and the provisions
 15 of Title 20 apply to [sections 4 through 9].

16
 17 **COORDINATION SECTION. Section 17. Coordination instruction.** If both Senate Bill No. 9 and [this
 18 act] are passed and approved and if Senate Bill No. 9 contains a section amending 20-9-308, then the section
 19 in Senate Bill No. 9 amending 20-9-308 is void and 20-9-308 must be amended as follows:

20 **"20-9-308. ~~BASE budgets and maximum general~~ General fund budgets budget limits.** (1) (a) The
 21 trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for
 22 the district. ~~The~~ Except as provided in subsection (1)(b), the trustees of a district may adopt a general fund budget
 23 up to the greater of:

24 (i) the current year maximum general fund budget; or

25 (ii) the previous year's general fund budget, ~~whichever is greater~~ plus any increase in direct state aid for
 26 the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement payment
 27 under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330.

28 (b) When anticipated enrollment increases under 20-9-314 are not realized in the previous year or actual
 29 preschool enrollment in October of the previous year is less than the preschool pre-enrollment used to calculate
 30 budget limit ANB in the previous year pursuant to [section 8(2)(c)], the trustees may adopt a general fund budget

1 up to the greater of:

2 (i) the current year maximum general fund budget; or

3 (ii) the previous year's adopted general fund budget recalculated to reflect the previous year's actual
 4 enrollment pursuant to 20-9-314(6)(b) and adjusted for any decrease in preschool enrollment pursuant to [section
 5 8(2)(c)] plus any increase in direct state aid for the basic and per-ANB entitlements and any increases in state
 6 funding of the data-for-achievement payment under 20-9-325 and in the general fund payments in 20-9-327
 7 through 20-9-330.

8 ~~(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in direct~~
 9 ~~state aid for the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement~~
 10 ~~payment under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330 to the district's previous~~
 11 ~~year's general fund budget.~~

12 (2) (a) Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a
 13 general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE budget
 14 levy over the highest revenue previously authorized by the electors of the district or imposed by the district in any
 15 of the previous 5 years to support the general fund budget, the trustees shall submit a proposition to the electors
 16 of the district, as provided in 20-9-353.

17 (b) The intent of this section is to increase the flexibility and efficiency of elected school boards without
 18 increasing school district property taxes. In furtherance of this intent and provided that budget limitations
 19 otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-BASE
 20 budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be
 21 imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE
 22 budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed
 23 under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the district impose
 24 any increase in other nonvoted property tax levies.

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

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

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

29 (c) a district levy for support of a school not approved as an isolated school under the provisions of
 30 20-9-302;

- 1 (d) payments in support of special education programs under the provisions of 20-9-321;
- 2 (e) nonlevy revenue, as provided in 20-9-141; and
- 3 (f) a BASE budget levy on the taxable value of all property within the district.
- 4 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
- 5 property within the district or other revenue available to the district, as provided in 20-9-141."

6

7 NEW SECTION. **Section 18. Effective date.** [This act] is effective on passage and approval.

8

- END -