

Amendments to Senate Bill No. 352  
Reference Copy

Requested by Representative Frederick (Eric) Moore

For the Senate Free Conference Committee

Prepared by Padraic McCracken  
April 23, 2019 (9:46pm)

1. Title, page 1, line 5.

**Following:** "BUDGET;"

**Insert:** "CREATING A DEPARTMENT OF EARLY CHILDHOOD WITHIN THE EXECUTIVE BRANCH AND A DIRECTOR OF EARLY CHILDHOOD; CREATING THE MONTANA SCHOOL-READY PRESCHOOL PROGRAM; PROVIDING DEFINITIONS AND GUIDELINES FOR THE PROGRAM AND DESCRIBING FUNDING FOR PARTICIPATING PROVIDERS; OUTLINING DUTIES FOR THE OFFICE OF PUBLIC INSTRUCTION; PROVIDING THE DIRECTOR OF EARLY CHILDHOOD WITH RULEMAKING AUTHORITY AND REQUIRING THE DIRECTOR TO ADOPT RULES FOR THE PROGRAM; ESTABLISHING AN EARLY CHILDHOOD COORDINATING COUNCIL; REVISING THE DEFINITION OF "ELIGIBLE TRANSPORTEE"; PROVIDING RULEMAKING AUTHORITY;"

2. Title, page 1, line 6.

**Following:** "APPROPRIATIONS;"

**Insert:** "AMENDING SECTIONS 2-15-104, 20-7-117, 20-9-306, 20-9-313, AND 20-10-101, MCA;"

3. Page 1, line 13.

**Insert:** "NEW SECTION. **Section 1. Department of early childhood -- head.** There is a department of early childhood. The department head is the director of early childhood."

**Insert:** "NEW SECTION. **Section 2. Director of early childhood.**

(1) There is the position of director of early childhood.

(2) The director of early childhood shall be appointed and shall serve as provided for directors in 2-15-111, except that the qualifications of the director must include but are not limited to:

(a) a bachelor's degree in early childhood education and 3 years' experience working in an early childhood education setting or similar relevant education and experience, as determined by the governor;

(b) not less than 3 years' experience in a professional administrative capacity; and

(c) demonstrated skills in conducting early childhood education policy research and coordinating grant funds from federal, state, or private sector sources.

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

**Insert: "Section 3.** Section 2-15-104, MCA, is amended to read:

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

- (a) department of administration;
- (b) department of military affairs;
- (c) department of revenue;
- (d) state board of education;
- (e) department of labor and industry;
- (f) department of commerce;
- (g) department of justice;
- (h) department of public health and human services;
- (i) department of corrections;
- (j) department of transportation;
- (k) department of public service regulation;
- (l) department of agriculture;
- (m) department of livestock;
- (n) department of natural resources and conservation;
- (o) department of fish, wildlife, and parks;
- (p) department of environmental quality;
- (q) department of early childhood.

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

(a) The principal unit of a department is a division. Each division is headed by an administrator.

(b) The principal unit of a division is a bureau. Each bureau is headed by a chief.

(c) The principal unit of a bureau is a section. Each section is headed by a supervisor."

{Internal References to 2-15-104:

2-15-112 ok}"

**Insert: "NEW SECTION. Section 4. Purpose -- intent --**

**encouragement of updated rulemaking.** (1) The purpose of [sections 4 through 9] is to provide opportunities to increase the school readiness of Montana children.

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

(a) create a voluntary Montana school-ready preschool program that increases opportunities for parents to enroll their children in a high-quality preschool program of the parents' choice from a variety of providers;

(b) focus limited state resources on the communities most in need of increased opportunities for high-quality preschool;

(c) increase coordination and alignment of programs serving young children;

(d) encourage preschool models that maximize lasting educational impact and cost efficiency; and

(e) in no way limit the existing ability of school

districts, private providers, or head start grantees from providing preschool or to impede parental choice in determining how best to educate their preschool children.

(3) The legislature encourages the board of public education to initiate negotiated rulemaking to consider amendments to its preschool education standards on or before June 1, 2020, and to adopt changes as may be identified as necessary on or before December 31, 2020."

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

(1) "Applicant" means a preschool provider that is applying for inclusion or continuation as a participating preschool provider.

(2) "Approved classroom" means a preschool classroom of a participating provider serving a maximum of 18 preschoolers, providing a minimum of 432 aggregate hours of instruction in a school year, and:

(a) for a private provider or head start program, approved by the director as provided in [section 7]; or

(b) for an elementary or K-12 school district, approved by the superintendent as provided in [section 8].

(3) "Director" means the director of early childhood provided for in [section 2].

(4) "Expansion" means an increase in the number of approved classrooms for a participating provider.

(5) "Participating provider" means an elementary or K-12 school district, head start program, or private provider that:

(a) provides high-quality voluntary preschool education to preschoolers;

(b) is nonsectarian; and

(c) is approved for participation in the program by the director pursuant to [section 7] or the superintendent pursuant to [section 8].

(6) "Preenrollment" means the indication by a child's parent or guardian of the desire to enroll the child at a participating provider in the ensuing school year.

(7) "Preschooler" means a child who is at least 4 years of age by September 10 of the year and enrolled in and attending an approved classroom at a participating provider.

(8) "Program" means the Montana school-ready preschool program.

(9) "Projected enrollment" means the number of preschoolers an applicant proposes to serve in the ensuing year.

(10) "Quality guidelines" means:

(a) for a school district, the preschool accreditation standards adopted by the board of public education;

(b) for a head start program, the federal guidelines required for approval as a head start program; and

(c) for a private provider, the objective preschool quality guidelines established by the director pursuant to [section 6(2)].

(11) "Superintendent" means the superintendent of public instruction."

**Insert:    "NEW SECTION.   Section 6.   Director of early childhood -- powers and duties.**   The director shall:

(1)   adopt rules necessary to fulfill the director's duties in administering the voluntary Montana school-ready preschool program for 4-year-old children;

(2)   establish objective preschool quality guidelines that participating private providers must meet in order to receive funding under [section 8], including but not limited to standards addressing:

(a)   lead teacher preparation and qualifications;

(b)   auxiliary teacher qualifications;

(c)   ongoing professional development for lead and auxiliary teachers;

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

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

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

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

(h)   support for curriculum implementation;

(i)   a system for fostering continuous improvement;

(j)   parental outreach and involvement;

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

(l)   health and safety standards; and

(m)   in order to support equality of educational opportunity and to encourage classrooms with children from a variety of socioeconomic backgrounds, the use of a lottery system when the number of preenrolled preschoolers exceeds the number of available preschool slots in approved classrooms. This does not preclude participating providers from providing preschool to children not selected in a lottery in preschool classrooms not funded under the program.

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

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

(5)   issue annual reports to the governor and legislature concerning the administration, operation, and effectiveness of the program;

(6) provide leadership for enhancement of school readiness by pursuing a unified approach to the state's efforts toward enhancement of school readiness, including the development and implementation of specific strategies that address the state's early childhood care and school readiness programs;

(7) work collaboratively with the superintendent to ensure the inclusion of preschoolers in the statewide data system, pursuant to 20-7-104, so that the long-term effectiveness of the Montana school-ready preschool program can be assessed;

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

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

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

**Insert: "NEW SECTION. Section 7. Participating providers that are not school districts -- application and approval process -- prioritization -- funding.** (1) (a) This section applies to participating providers that are not school districts and that are applying for approval by the director.

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

(c) In a year when the legislature is in session, approvals must be considered pending until the amount of the appropriation to support the program is known, after which the director shall make adjustments as necessary, issue final approvals for the ensuing year, and advise participating providers.

(2) The director shall establish a procedure and timeline for applicants to apply for inclusion in the Montana school-ready preschool program and for continuation of participation in the program. In addition to addressing the applicable quality guidelines, the application must include a number of requested classrooms and a projected enrollment for the subsequent year. The timeline must be designed to allow participating providers to report to the director a preenrollment count for the ensuing year at the same time the February enrollment counts of school districts are reported pursuant to 20-9-311.

(3) In applying for approval, a provider shall include a proposed budget based on projected enrollment and a description of how the provider will contribute a minimum 25% match of state funding on a concise form provided by the director. The match may include:

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

(b) tuition revenue not to exceed the tuition guidelines established by the director.

(4) (a) The director shall approve applicants that meet the

applicable quality guidelines.

(b) If more applicants apply than are able to be funded with money appropriated by the legislature, the director shall prioritize approval of applicants and the number of approved classrooms based on the following priority classes:

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

(ii) first-time applicants, with the remaining funding capacity after approvals are granted under subsection (4)(b)(i) prioritized based on the percentage of families at or below 200% of the federal poverty level, with applicants located within school districts with higher rates of poverty prioritized over applicants located within school districts with lower rates of poverty.

(c) If it is necessary to prioritize within one of the classes under subsection (4)(b), the director shall prioritize based on the order in which applications were received.

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

(b) The participating provider shall report to the director the number of preenrolled preschoolers in approved classrooms by the first Monday of February prior to any year in which the provider will enroll preschoolers.

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

(d) A participating provider shall report to the director the number of preschoolers as of the first Monday in October, and if the actual enrollment is less than the preenrollment on which payments have been based, the director shall reduce subsequent payments so that the total funding provided to the provider for the year reflects the actual enrollment.

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

**Insert: "NEW SECTION. Section 8. Participating providers that are school districts -- application and approval process--**

**prioritization -- funding.** (1) (a) This section applies to participating providers that are school districts and that are applying for approval by the superintendent.

(b) The enrollment in an approved classroom may not exceed

18 preschoolers.

(c) In a year when the legislature is in session, approvals must be considered pending until the amount of the appropriation to support the program is known, after which the superintendent shall make adjustments as necessary, issue final approvals for the ensuing year, advise participating providers, and recalculate school district budget limits accordingly.

(2) The superintendent shall establish a procedure and timeline for applicants to apply for inclusion in the Montana school-ready preschool program and for continuation of participation in the program. In addition to addressing the applicable quality guidelines, the application must include a number of requested classrooms and a projected enrollment for the subsequent year. The timeline must be designed to allow participating providers to report to the superintendent a preenrollment count for the ensuing year at the same time the February enrollment counts of school districts are reported pursuant to 20-9-311.

(3) (a) The superintendent shall approve applicants that meet the applicable quality guidelines.

(b) If more applicants apply than are able to be funded with money appropriated by the legislature, the superintendent shall prioritize approval of applicants and the number of approved classrooms based on the following priority classes:

(i) for fiscal year 2021, preschool programs previously operating under the STARS preschool pilot program under section 12, Chapter 364, Laws of 2017, or under the federal Preschool Development Grant;

(ii) previous participating providers, including for expansion, conditional on the continued meeting of the applicable quality guidelines;

(iii) first-time applicants, with the remaining funding capacity after approvals are granted under subsections (3)(b)(i) and (3)(b)(ii) based on the percentage of families at or below 200% of the federal poverty level, with school districts with higher rates of poverty prioritized over districts with lower rates of poverty.

(c) If it is necessary to prioritize within one of the classes under subsection (3)(b), the superintendent shall prioritize based on the order in which applications were received.

(4) (a) For a participating provider that is a school district, the funding provisions of this subsection (4) apply.

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

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

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

**Insert:** "NEW SECTION. **Section 9. Early childhood coordinating council.** (1) There is an early childhood coordinating council allocated to the department of early childhood. The council consists of seven members as follows:

- (a) the director or the director's designee;
- (b) the superintendent or the superintendent's designee;
- (c) the director of the department of public health and human services or the director's designee;
- (d) the presiding officer of the board of public education or the presiding officer's designee;
- (e) the following members, who may or may not be legislators:
  - (i) one member appointed by the speaker of the house;
  - (ii) one member appointed by the house minority leader;
  - (iii) one member appointed by the president of the senate;

and

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

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

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

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

(5) The early childhood coordinating council shall consider recommending that the director and the board of public education adopt a uniform system for measuring school readiness that provides objective data regarding the expectations for school readiness and establish a method for collecting the data and guidelines for using the data. The measurement, the data collection, and the use of the data must serve statewide school readiness goals. The criteria for determining which data to collect must be the usefulness of the data to state policymakers and participating providers' administrators in administering programs and allocating state funds and must include the tracking of school readiness system information back to individual participating providers to assist in determining program effectiveness.

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



be compensated as provided in 5-2-302."

**Insert: "Section 10.** 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 in addition to a Montana school-ready preschool program established under [sections 4 through 9]. When preschool programs are established, they must be an integral part of the elementary school and must be governed accordingly. Financing of preschool programs under this section may not be supported by money available from state equalization aid."

{Internal References to 20-7-117:

20-1-301 ok 20-9-311 ok 20-9-313 ok}"

**Insert: "Section 11.** 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:
  - (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;
  - (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;
  - (c) the total quality educator payment;
  - (d) the total at-risk student payment;
  - (e) the total Indian education for all payment;
  - (f) the total American Indian achievement gap payment; and

(g) the total data-for-achievement 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, 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, 100% of the total data-for-achievement 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) "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.

(6) "Basic entitlement" means:

(a) for each high school district:

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

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

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

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

(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 the district's preschool program approved pursuant to [section 8] and kindergarten through grade 6 elementary program:

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

(B) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12 district

elementary programs with an ANB of more than 250, plus \$2,558 for fiscal year 2018 and \$2,606 for each succeeding fiscal year for each additional 25 ANB over 250; and

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

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

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

(7) "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) "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, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; 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%.

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

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

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

(14) "Total Indian education for all payment" means the payment resulting from multiplying \$21.36 for fiscal year 2018

and \$21.76 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "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 \$7,005 for fiscal year 2018 and \$7,136 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;

(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 \$5,471 for fiscal year 2018 and \$5,573 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 \$5,471 for fiscal year 2018 and \$5,573 for each succeeding fiscal year for the first ANB for a preschool program approved pursuant to [section 8] and 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 \$7,005 for fiscal year 2018 and \$7,136 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.

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

{Internal References to 20-9-306:

20-5-323      20-5-323      20-6-326      20-7-102  
20-7-1404      20-7-1404      20-7-1404      20-9-325  
20-9-327      20-9-329      20-9-330      20-9-376 ALL OK}"

**Insert: "Section 12.** Section 20-9-313, MCA, is amended to read:

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

~~(e)~~ (f) for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB 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)~~(g) 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."

{ Internal References to 20-9-313:

20-3-106 20-3-205 20-9-314 20-9-321 ALL OK}

**Insert: "Section 13.** Section 20-10-101, MCA, is amended to read:

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

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

(2) "Eligible transportee" means a public school pupil who:  
~~(a) is 5 years of age or older and has not reached the age of 21 on or before September 10 of the current school year or who is a preschool child with a disability between the ages of 3 and 6;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) "Transportation" means:

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

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

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

{Internal References to 20-10-101:

20-10-141 20-10-145 20-10-147 20-10-147

20-10-148 20-10-148 61-8-102 61-9-226 ALL OK}"

**Renumber:** subsequent sections

4. Page 1, line 22.

**Insert:** "NEW SECTION. Section 15. Codification instruction.

(1) [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [sections 1 and 2].

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

"COORDINATION SECTION. Section 16. Coordination

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

"20-9-308. ~~BASE budgets and maximum general fund budgets~~  
General fund budget limits. (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 Except as provided in subsection (1)(b), the trustees of a district may adopt a general fund budget up to the greater of:

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

(b) When anticipated enrollment increases under 20-9-314 are not realized in the previous year or actual preschool enrollment in October of the previous year is less than the preschool preenrollment used to calculate budget limit ANB in the previous year pursuant to [section 8(4)(c)], the trustees may adopt a general fund budget up to the greater of:

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

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

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

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



the district impose any increase in other nonvoted property tax levies.

(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.

(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."

{Internal References to 20-9-308:

20-6-703 20-6-704 20-7-435 20-9-141

20-9-303 20-9-310 20-9-353 20-9-353

20-9-353 ALL OK}

**Insert:** "COORDINATION SECTION. Section 17. Coordination

**instruction.** If [this act] and [House Bill No. 2] are passed and approved, then [House Bill No. 2] is amended to include a new section that reads:

"NEW SECTION. Section 13. Appropriations. (1) There is appropriated \$2 million from the general fund to the department of public health and human services for the fiscal year beginning July 1, 2019, for the purposes of continuing the STARS preschool pilot programs under section 12, Chapter 364, Laws of 2017, for fiscal year 2020.

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

(3) There is appropriated \$400,000 from the general fund to the department of early childhood established in [section 1 of Senate Bill No. 352] for each fiscal year of the biennium beginning July 1, 2019, for the purposes of administering the department of early childhood, including the hiring of up to three FTE.

(4) There is appropriated \$3 million from the general fund to the department of early childhood for the fiscal year beginning July 1, 2020, for the purposes of distributing payments to participating providers in the program pursuant to [section 7 of Senate Bill No. 352]. If the department does not receive enough applications to utilize the full \$3 million and the office

of public instruction receives more applications than it can fund with its appropriation under subsection (5), the director shall transfer from the director's appropriation authority the unutilized portion of the department's authority under this subsection (4) to the office of public instruction.

(5) There is appropriated \$8 million from the general fund to the office of public instruction for the fiscal year beginning July 1, 2020, for the purposes of distributing payments to participating providers in the program pursuant to [section 8 of Senate Bill No. 352]. If the office of public instruction does not receive enough applications to utilize the full \$8 million and the department of early childhood receives more applications than it can fund with its appropriation under subsection (4), the superintendent shall transfer from the office of public instruction's appropriation authority the unutilized portion of the office's authority under this subsection (5) to the department of early childhood.

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

**Renumber:** subsequent sections

- END -