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2 INTRODUCED BY *Senate BILL NO. 240*
3 *Bastick Waters* *Brady* *Hubbard* *Graham*

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE VOLUNTARY CONSOLIDATION AND
5 ANNEXATION INCENTIVE PLAN FOR SCHOOL DISTRICTS; PROVIDING FOR STATE FINANCIAL
6 ASSISTANCE THROUGH GENERAL BONUS PAYMENTS AND TRANSPORTATION BONUS PAYMENTS TO
7 SCHOOL DISTRICTS THAT CONSOLIDATE OR ANNEX; STATUTORILY APPROPRIATING THE PAYMENTS;
8 AMENDING SECTIONS 17-7-502, 20-6-703, AND 20-9-104, MCA; AND PROVIDING AN EFFECTIVE
9 DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 8], unless the context
14 clearly indicates otherwise, the following definitions apply:

15 (1) "Component district" means the elementary, high school, or K-12 district incorporated into the
16 enlarged district.

17 (2) "Eligible pupils" means the average number belonging (ANB) in the operating schools of the
18 component districts and the tuition pupils residing in the component districts and attending another
19 district's school under the tuition provisions of the school laws except that the pupils residing in the
20 component district having the largest total number of pupils are ineligible for bonus payment consideration.

21 (3) "Enlarged district" means the elementary, high school, or K-12 district resulting from the
22 consolidation or annexation of two or more component districts.

23 (4) The "general bonus payment" for first- and second-class school districts must be \$450 per
24 eligible pupil a year for a period of 3 years and must be deposited in the enlarged district's general fund.
25 The general bonus payment for third-class school districts must be \$750 per eligible pupil a year for a
26 period of 3 years and must be deposited in the enlarged district's general fund. The general bonus payment
27 must be made from the state school equalization aid account.

28 (5) "Transportation bonus payment" is the provision of 66 2/3% state financing of the on-schedule
29 transportation amount as provided by the transportation provisions of the school laws. When an eligible
30 pupil is entitled to transportation, the enlarged district is entitled to the transportation bonus payment for

1 the eligible pupil for a period of 3 years. The payment must be made from the state transportation aid
2 account. When the eligible pupil rides a bus providing transportation for ineligible pupils, the 66 2/3% state
3 financing of the on-schedule amount for this payment must be prorated to provide financing for the eligible
4 pupil.

5
6 **NEW SECTION. Section 2. Voluntary consolidation and annexation incentive plan.** [Sections 1
7 through 8] shall be known as the voluntary consolidation and annexation incentive plan. The purpose of
8 this plan is to provide additional financial assistance to school districts that consolidate or annex under the
9 provisions of 20-6-203, 20-6-205, or 20-6-208 for elementary school districts, 20-6-315 or 20-6-317 for
10 high school districts, or Title 20, chapter 6, part 4, for K-12 districts.

11
12 **NEW SECTION. Section 3. Application for bonus payments.** Whenever two or more elementary
13 school districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208; two or more
14 high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317; or two or more
15 K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the enlarged district may apply for the
16 bonus payments as provided in this section if the consolidation or annexation results in the dissolution of
17 at least one elementary, high school, or K-12 district. Application for the bonus payments must be made
18 during the school year of the order creating the enlarged school district.

19
20 **NEW SECTION. Section 4. Application to superintendent of public instruction.** Application for the
21 bonus payments must be made to the superintendent of public instruction and must include a copy of the
22 order issued by the proper officials creating the enlarged school district, the number of eligible pupils as
23 defined in this section, and any other information the superintendent of public instruction considers
24 necessary.

25
26 **NEW SECTION. Section 5. Approval or disapproval of application.** The superintendent of public
27 instruction shall approve only those applications that demonstrate compliance with the requirements of this
28 plan. When an application is approved, the superintendent of public instruction shall determine the number
29 of eligible pupils for the bonus payment. The superintendent shall notify the enlarged district's board of
30 trustees and the county superintendent of the disapproval of the application or of the approval of the

1 application establishing the number of eligible pupils.

2

3 **NEW SECTION. Section 6. Disbursal and deposit of bonus payments.** On or before June 30 of the
4 next 3 consecutive years following the year of application, the superintendent of public instruction shall
5 disburse the bonus payments for approved applications to the enlarged school district, and that
6 disbursement is statutorily appropriated as provided in 17-7-502. The general bonus payment must be
7 deposited by the county treasurer in the enlarged district's general fund, and the transportation bonus
8 payment must be deposited by the county treasurer in the transportation fund. These bonus payments may
9 not be considered as a part of the regular state equalization aid or state transportation aid received by the
10 enlarged district.

11

12 **NEW SECTION. Section 7. Effect on plan of reduction in territory.** Any reduction in the amount of
13 territory encompassed in the enlarged school district's territory during the 3-year period of bonus payments
14 will cause the enlarged district to be ineligible to receive any remaining bonus payments under this plan.

15

16 **NEW SECTION. Section 8. Effect of addition of component districts.** The subsequent addition of
17 other component districts to the enlarged district entitles the enlarged district to additional bonus payments
18 under the provisions of this plan.

19

20 **Section 9.** Section 17-7-502, MCA, is amended to read:

21 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
22 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
23 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

29 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
30 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;

1 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 2 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 3 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 4 19-19-305; 19-19-506; [section 6]; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306;
 5 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501;
 6 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232;
 7 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214;
 8 75-11-313; 76-12-123; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220;
 9 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

10 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 11 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 12 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 13 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 14 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 15 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 16 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 17 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 18 July 1, 2001.)"

19

20 **Section 10.** Section 20-6-703, MCA, is amended to read:

21 **"20-6-703. Transitions after formation of K-12 school district.** (1) When an attachment order for
 22 a K-12 school district becomes effective on July 1 under the provisions of 20-6-701:

23 (a) the board of county commissioners shall execute all necessary and appropriate deeds, bills of
 24 sale, or other instruments for the conveyance of title to all real and personal property of the elementary
 25 district to the high school district;

26 (b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the
 27 elementary district documents, and other records to the high school district to which it is attached; and

28 (c) the county treasurer shall transfer all end-of-the-year warrants and fund balances of the
 29 attached elementary district to the similar funds established for the K-12 school district in the high school
 30 district.

1 (2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district
2 attached to a high school district must be payable to the appropriate fund of the high school district.

3 (3) The previous year's general fund budget amounts for the elementary district and the high school
4 district that form a K-12 school district must be combined to determine the budget limitation for the ensuing
5 school fiscal year pursuant to 20-9-308.

6 (4) An elementary district and a high school district that form a K-12 school district under the
7 provisions of 20-6-701 may not be considered an enlarged district for the purposes of bonus payments
8 under [sections 1 through 8]."

9
10 **Section 11.** Section 20-9-104, MCA, is amended to read:

11 **"20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees
12 of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be
13 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from
14 July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the
15 amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final
16 general fund budget for the ensuing school fiscal year.

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

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

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

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

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

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

29 (iii) received in delinquent taxes from a prior school fiscal year; and

30 (iv) received as a local government severance tax payment for calendar year 1995 production as

1 provided in 15-36-325; or

2 (b) a district was entitled to as a general bonus payment ~~prior to July 1, 1994~~ under the provisions
3 of [sections 1 through 8].

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

6
7 NEW SECTION. Section 12. Codification instruction. [Sections 1 through 8] are intended to be
8 codified as an integral part of Title 20, chapter 6, part 4, and the provisions of Title 20, chapter 6, part 4,
9 apply to [sections 1 through 8].

10
11 NEW SECTION. Section 13. Saving clause. [This act] does not affect rights and duties that
12 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
13 act].

14
15 NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 1997.

16 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0240, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act creating the voluntary consolidation and annexation incentive plan for school districts; providing for state financial assistance through general bonus payments and transportation bonus payments to school districts that consolidate or annex; statutorily appropriating the payments.

ASSUMPTIONS:

1. The general bonus payment for a first- and second-class school district is \$450 per eligible pupil per year for a three year period. The general bonus payment for a third-class school district is \$750 per eligible pupil per year for three years.
2. Historically, one consolidation or annexation occurs among elementary districts each school year. For the purposes of this fiscal note, it is assumed that the consolidations are consolidations of elementary school districts.
3. On average, the annual cost to the state general fund per consolidation would be \$35,100 for the general fund bonus for an average of 78 pupils and \$3,400 for the transportation bonus. The total payment from the state general fund for the average consolidation would be \$38,500 per year per district. If a larger district consolidates the cost would be proportionately higher, for example the payment for the approximately 300 pupils in the proposed Helena-Kessler consolidation would be \$150,000 per year for three years.
4. The annual fiscal impact would grow over each of the first three years as more school districts became eligible for the three year payment. (In year 1, one school district would receive a payment. In year 2, two school districts would receive payments. In year 3 and beyond, an average of three schools will receive bonus payments.)
5. As school districts consolidate, the "component district" will no longer receive the basic entitlement of \$17,190 for an elementary program. The state pays 40% of the basic entitlement through a direct state aid payment. On average, the state also pays 42% of the GTB budget area. State general fund costs would be reduced by \$9,764 per district per year.

FISCAL IMPACT: The impact to the state general fund for the 1999 biennium is \$86,200.

Expenditures:

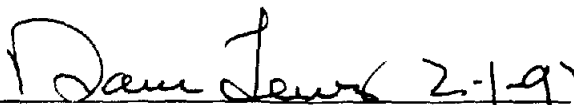
	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Direct State Aid	(6,874)	(13,748)
State GTB costs	(2,887)	(5,774)
Bonus Payments	<u>38,500</u>	<u>77,000</u>
Total	28,739	57,478

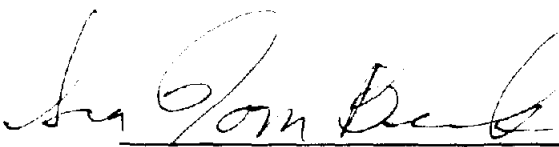
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The new consolidated district will have additional funds in an amount equal to the state expenditure which can be used to reduced levies or for increased expenditures. Increases in expenditure above the previous years budget or previous years budget per ANB must be approved by a vote.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

In year three and beyond, the state general fund cost will be \$86,200 per year.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/3/97
TOM BECK, PRIMARY SPONSOR DATE

TECHNICAL NOTES:

1. Section 1, subsection (4) of the bill requires that the general bonus payment must be made from the state equalization aid account. The state equalization aid account no longer exists. The statutory appropriation should be made from the state general fund.
2. State transportation aid for on-schedule transportation costs is funded at 50% state and 50% county. The "66 2/3%" share in Section 1, subsection (5) is not consistent with current statute or practice.
3. Section 1, subsection (5) refers to a non-existent state transportation aid account. The payment should be made from the state general fund.
4. It is not clear in section 1(4) whether the calculation of bonus payments is based on the class of the "component district" or the "enlarged district" when districts of different class consolidate.

SENATE BILL NO. 240

INTRODUCED BY BECK, GRADY, HIBBARD, MESAROS, BARTLETT, WATERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE VOLUNTARY CONSOLIDATION AND ANNEXATION INCENTIVE PLAN FOR SCHOOL DISTRICTS; ~~PROVIDING FOR STATE FINANCIAL ASSISTANCE THROUGH GENERAL BONUS PAYMENTS AND TRANSPORTATION BONUS PAYMENTS TO SCHOOL DISTRICTS THAT CONSOLIDATE OR ANNEX; STATUTORILY APPROPRIATING THE PAYMENTS ALLOWING AN ELEMENTARY, HIGH SCHOOL, OR K-12 SCHOOL DISTRICT THAT IS CONSOLIDATED OR ANNEXED TO RECEIVE ANB AND ENTITLEMENT PAYMENTS OF THE COMPONENT DISTRICTS FOR 3 YEARS FOLLOWING THE CONSOLIDATION OR ANNEXATION; AMENDING SECTIONS 17-7-502, 20-6-703, AND 20-9-104 SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.~~"

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

~~NEW SECTION. Section 1. Definitions. As used in [sections 1 through 8], unless the context clearly indicates otherwise, the following definitions apply:~~

~~(1) "Component district" means the elementary, high school, or K-12 district incorporated into the enlarged district.~~

~~(2) "Eligible pupils" means the average number belonging (ANB) in the operating schools of the component districts and the tuition pupils residing in the component districts and attending another district's school under the tuition provisions of the school laws except that the pupils residing in the component district having the largest total number of pupils are ineligible for bonus payment consideration.~~

~~(3) "Enlarged district" means the elementary, high school, or K-12 district resulting from the consolidation or annexation of two or more component districts.~~

~~(4) The "general bonus payment" for first and second class school districts must be \$450 per eligible pupil a year for a period of 3 years and must be deposited in the enlarged district's general fund. The general bonus payment for third class school districts must be \$750 per eligible pupil a year for a period of 3 years and must be deposited in the enlarged district's general fund. The general bonus payment must be made from the state school equalization aid account.~~

1 ~~(5) "Transportation bonus payment" is the provision of 66 2/3% state financing of the on-schedule~~
 2 ~~transportation amount as provided by the transportation provisions of the school laws. When an eligible~~
 3 ~~pupil is entitled to transportation, the enlarged district is entitled to the transportation bonus payment for~~
 4 ~~the eligible pupil for a period of 3 years. The payment must be made from the state transportation aid~~
 5 ~~account. When the eligible pupil rides a bus providing transportation for ineligible pupils, the 66 2/3% state~~
 6 ~~financing of the on-schedule amount for this payment must be prorated to provide financing for the eligible~~
 7 ~~pupil.~~

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 9 ~~**NEW SECTION. Section 2. Voluntary consolidation and annexation incentive plan.** [Sections 1~~
 10 ~~through 8] shall be known as the voluntary consolidation and annexation incentive plan. The purpose of~~
 11 ~~this plan is to provide additional financial assistance to school districts that consolidate or annex under the~~
 12 ~~provisions of 20-6-203, 20-6-205, or 20-6-208 for elementary school districts, 20-6-315 or 20-6-317 for~~
 13 ~~high school districts, or Title 20, chapter 6, part 4, for K-12 districts.~~

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 15 ~~**NEW SECTION. Section 3. Application for bonus payments.** Whenever two or more elementary~~
 16 ~~school districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208; two or more~~
 17 ~~high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317; or two or more~~
 18 ~~K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the enlarged district may apply for the~~
 19 ~~bonus payments as provided in this section if the consolidation or annexation results in the dissolution of~~
 20 ~~at least one elementary, high school, or K-12 district. Application for the bonus payments must be made~~
 21 ~~during the school year of the order creating the enlarged school district.~~

22
 23 ~~**NEW SECTION. Section 4. Application to superintendent of public instruction.** Application for the~~
 24 ~~bonus payments must be made to the superintendent of public instruction and must include a copy of the~~
 25 ~~order issued by the proper officials creating the enlarged school district, the number of eligible pupils as~~
 26 ~~defined in this section, and any other information the superintendent of public instruction considers~~
 27 ~~necessary.~~

28
 29 ~~**NEW SECTION. Section 5. Approval or disapproval of application.** The superintendent of public~~
 30 ~~instruction shall approve only those applications that demonstrate compliance with the requirements of this~~

1 plan. When an application is approved, the superintendent of public instruction shall determine the number
 2 of eligible pupils for the bonus payment. The superintendent shall notify the enlarged district's board of
 3 trustees and the county superintendent of the disapproval of the application or of the approval of the
 4 application establishing the number of eligible pupils.

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 6 ~~**NEW SECTION. Section 6. Disbursal and deposit of bonus payments.**~~ On or before June 30 of the
 7 next 3 consecutive years following the year of application, the superintendent of public instruction shall
 8 disburse the bonus payments for approved applications to the enlarged school district, and that
 9 disbursement is statutorily appropriated as provided in 17-7-502. The general bonus payment must be
 10 deposited by the county treasurer in the enlarged district's general fund, and the transportation bonus
 11 payment must be deposited by the county treasurer in the transportation fund. These bonus payments may
 12 not be considered as a part of the regular state equalization aid or state transportation aid received by the
 13 enlarged district.

14
 15 ~~**NEW SECTION. Section 7. Effect on plan of reduction in territory.**~~ Any reduction in the amount of
 16 territory encompassed in the enlarged school district's territory during the 3 year period of bonus payments
 17 will cause the enlarged district to be ineligible to receive any remaining bonus payments under this plan.

18
 19 ~~**NEW SECTION. Section 8. Effect of addition of component districts.**~~ The subsequent addition of
 20 other component districts to the enlarged district entitles the enlarged district to additional bonus payments
 21 under the provisions of this plan.

22
 23 ~~**Section 9.**~~ Section 17-7-502, MCA, is amended to read:

24 ~~**"17-7-502. Statutory appropriations — definition — requisites for validity.**~~ (1) A statutory
 25 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 26 without the need for a biennial legislative appropriation or budget amendment.

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

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

30 ~~(b) The law or portion of the law making a statutory appropriation must specifically state that a~~

1 ~~statutory appropriation is made as provided in this section.~~

2 ~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;~~
 3 ~~2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;~~
 4 ~~15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;~~
 5 ~~16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;~~
 6 ~~18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;~~
 7 ~~19-19-305; 19-19-506; [section 6]; 20-8-107; 20-8-111; 20-8-361; 20-26-1503; 23-5-136; 23-5-306;~~
 8 ~~23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501;~~
 9 ~~39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232;~~
 10 ~~50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214;~~
 11 ~~75-11-313; 76-12-123; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220;~~
 12 ~~85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.~~

13 ~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 14 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 15 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 16 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 17 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 18 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec-~~
 19 ~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 20 ~~supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates~~
 21 ~~July 1, 2001.)"~~

22

23 ~~Section 10. Section 20-6-703, MCA, is amended to read:~~

24 ~~"20-6-703. Transitions after formation of K-12 school district. (1) When an attachment order for~~
 25 ~~a K-12 school district becomes effective on July 1 under the provisions of 20-6-701:~~

26 ~~(a) the board of county commissioners shall execute all necessary and appropriate deeds, bills of~~
 27 ~~sale, or other instruments for the conveyance of title to all real and personal property of the elementary~~
 28 ~~district to the high school district;~~

29 ~~(b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the~~
 30 ~~elementary district documents, and other records to the high school district to which it is attached; and~~

1 ~~(e) the county treasurer shall transfer all end of the year warrants and fund balances of the~~
 2 ~~attached elementary district to the similar funds established for the K-12 school district in the high school~~
 3 ~~district.~~

4 ~~(2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district~~
 5 ~~attached to a high school district must be payable to the appropriate fund of the high school district.~~

6 ~~(3) The previous year's general fund budget amounts for the elementary district and the high school~~
 7 ~~district that form a K-12 school district must be combined to determine the budget limitation for the ensuing~~
 8 ~~school fiscal year pursuant to 20-9-308.~~

9 ~~(4) An elementary district and a high school district that form a K-12 school district under the~~
 10 ~~provisions of 20-6-701 may not be considered an enlarged district for the purposes of bonus payments~~
 11 ~~under [sections 1 through 8]."~~

12
 13 ~~**Section 11.** Section 20-9-104, MCA, is amended to read:~~

14 ~~"**20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees~~
 15 ~~of each district shall designate the portion of the general fund end of the year fund balance that is to be~~
 16 ~~earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from~~
 17 ~~July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the~~
 18 ~~amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final~~
 19 ~~general fund budget for the ensuing school fiscal year.~~

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

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

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

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

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

30 ~~(ii) received in taxes from a prior school fiscal year as a result of a tax audit by the department of~~

1 ~~revenue or its agents;~~

2 ~~(iii) received in delinquent taxes from a prior school fiscal year; and~~

3 ~~(iv) received as a local government severance tax payment for calendar year 1995 production as~~
4 ~~provided in 15-36-325; or~~

5 ~~(b) a district was entitled to as a general bonus payment prior to July 1, 1994 under the provisions~~
6 ~~of [sections 1 through 8].~~

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

9

10 ~~**NEW SECTION. Section 12. Codification instruction.** [Sections 1 through 8] are intended to be~~
11 ~~codified as an integral part of Title 20, chapter 6, part 4, and the provisions of Title 20, chapter 6, part 4,~~
12 ~~apply to [sections 1 through 8].~~

13

14 ~~**NEW SECTION. Section 13. Saving clause.** [This act] does not affect rights and duties that~~
15 ~~matured, penalties that were incurred, or proceedings that were begun before [the effective date of this~~
16 ~~act].~~

17

18 **SECTION 1. SECTION 20-9-311, MCA, IS AMENDED TO READ:**

19 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)
20 must be computed as follows:

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

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

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

30 (3) When a school district has approval to operate less than 180 school days under 20-9-804, the

1 total ANB must be calculated in accordance with the provisions of 20-9-805.

2 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be
3 counted as enrollment for one-half day.

4 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),
5 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon
6 session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided
7 in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,
8 but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

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

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

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

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

22 (ii) a school of the district is located more than 20 miles from any other school of the district and
23 no incorporated territory is involved in the district, the number of regularly enrolled, full-time pupils of the
24 school must be calculated separately for ANB purposes and the district must receive a basic entitlement
25 for the school calculated separately from the other schools of the district; ~~or~~

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

1 school calculated separately from the other schools of the district; or

2 (iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203,
 3 20-6-205, or 20-6-208; two or more high school districts consolidate or annex under the provisions of
 4 20-6-315 or 20-6-317; or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part
 5 4, the ANB and the basic entitlements of the component districts must be calculated separately for a period
 6 of 3 years following the consolidation or annexation;

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

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

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

17 (9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may
 18 calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an
 19 equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

20 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of
 21 public instruction with annual reports of school attendance for regularly enrolled students and special
 22 education students, using a format determined by the superintendent."

23

24 **NEW SECTION. Section 2. Effective date -- RETROACTIVE APPLICABILITY.** [This act] is effective
 25 July 1, 1997, AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO A DISTRICT THAT
 26 IS CONSOLIDATED OR ANNEXED ON OR AFTER JANUARY 1, 1997.

27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0240, second reading

DESCRIPTION OF PROPOSED LEGISLATION: An act creating the voluntary consolidation and annexation incentive plan for school districts; allowing an elementary, high school, or K-12 district that is consolidated or annexed to receive ANB and entitlement payments of the component districts for 3 years following the consolidation or annexation; amending section 20-9-311, MCA; and providing an effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Historically, one consolidation or annexation occurs among elementary districts each school year. For the purposes of this fiscal note, it is assumed that the consolidations are consolidations of elementary school districts.
2. Under current law, as two elementary districts consolidate, the "component district" no longer receives the basic entitlement of \$17,190 for an elementary program. The state pays 40% of the basic entitlement through a direct state aid payment. On average, the state also pays 42% of the GTB budget area. State general fund costs would be reduced by \$9,764 per district per year.
3. Under SB 240, consolidating districts are treated as two separate budget units and allowed to retain the basic and per-ANB entitlements for three years. Therefore, the state will not experience the savings referred to in #2 above.
4. The estimates of direct state aid and guaranteed tax base aid for the 1999 biennium do not assume any state savings from consolidations or annexations.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Direct State Aid	(6,874)	(13,748)
State GTB costs	(2,887)	(5,774)
Consolidation Allowance	<u>9,761</u>	<u>19,522</u>
Total	0	0

Funding:

General Fund (01)	0	0
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

School districts that choose to consolidate will have additional state aid and budget authority to assist the districts in making the transition to a consolidated district.

At the end of three years, the enlarged district will have to adopt a general fund budget that does not exceed the maximum budget for the enlarged school district.

Dave Lewis 2-18-97

 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Tom Beck

 TOM BECK, PRIMARY SPONSOR DATE 2/18/97
 Fiscal Note for SB0240, second reading
 Am SB 240 #2

1 SENATE BILL NO. 240

2 INTRODUCED BY BECK, GRADY, HIBBARD, MESAROS, BARTLETT, WATERMAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE VOLUNTARY CONSOLIDATION AND
5 ANNEXATION INCENTIVE PLAN FOR SCHOOL DISTRICTS; ~~PROVIDING FOR STATE FINANCIAL~~
6 ~~ASSISTANCE THROUGH GENERAL BONUS PAYMENTS AND TRANSPORTATION BONUS PAYMENTS TO~~
7 ~~SCHOOL DISTRICTS THAT CONSOLIDATE OR ANNEX; STATUTORILY APPROPRIATING THE PAYMENTS~~
8 ALLOWING AN ELEMENTARY, HIGH SCHOOL, OR K-12 SCHOOL DISTRICT THAT IS CONSOLIDATED OR
9 ANNEXED TO RECEIVE ANB AND ENTITLEMENT PAYMENTS OF THE COMPONENT DISTRICTS FOR 3
10 YEARS FOLLOWING THE CONSOLIDATION OR ANNEXATION; AMENDING SECTIONS 17-7-502, 20-6-703,
11 AND 20-9-104 SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE
12 APPLICABILITY DATE."

13

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

1 SENATE BILL NO. 240
2 INTRODUCED BY BECK, GRADY, HIBBARD, MESAROS, BARTLETT, WATERMAN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE VOLUNTARY CONSOLIDATION AND
5 ANNEXATION INCENTIVE PLAN FOR SCHOOL DISTRICTS; ~~PROVIDING FOR STATE FINANCIAL~~
6 ~~ASSISTANCE THROUGH GENERAL BONUS PAYMENTS AND TRANSPORTATION BONUS PAYMENTS TO~~
7 ~~SCHOOL DISTRICTS THAT CONSOLIDATE OR ANNEX; STATUTORILY APPROPRIATING THE PAYMENTS~~
8 ALLOWING AN ELEMENTARY, HIGH SCHOOL, OR K-12 SCHOOL DISTRICT THAT IS CONSOLIDATED OR
9 ANNEXED TO RECEIVE ANB AND ENTITLEMENT PAYMENTS OF THE COMPONENT DISTRICTS FOR 3
10 YEARS FOLLOWING THE CONSOLIDATION OR ANNEXATION; AMENDING SECTIONS 17-7-502, 20-6-703,
11 AND 20-9-104 SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE
12 APPLICABILITY DATE."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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SENATE BILL NO. 240

INTRODUCED BY BECK, GRADY, HIBBARD, MESAROS, BARTLETT, WATERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE VOLUNTARY CONSOLIDATION AND ANNEXATION INCENTIVE PLAN FOR SCHOOL DISTRICTS; ~~PROVIDING FOR STATE FINANCIAL ASSISTANCE THROUGH GENERAL BONUS PAYMENTS AND TRANSPORTATION BONUS PAYMENTS TO SCHOOL DISTRICTS THAT CONSOLIDATE OR ANNEX; STATUTORILY APPROPRIATING THE PAYMENTS ALLOWING AN ELEMENTARY, HIGH SCHOOL, OR K-12 SCHOOL DISTRICT THAT IS CONSOLIDATED OR ANNEXED TO RECEIVE ANB AND ENTITLEMENT PAYMENTS OF THE COMPONENT DISTRICTS FOR 3 YEARS FOLLOWING THE CONSOLIDATION OR ANNEXATION; AMENDING SECTIONS 17-7-502, 20-6-703, AND 20-9-104 SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.~~"

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

~~NEW SECTION. Section 1. Definitions. As used in [sections 1 through 8], unless the context clearly indicates otherwise, the following definitions apply:~~

~~(1) "Component district" means the elementary, high school, or K-12 district incorporated into the enlarged district.~~

~~(2) "Eligible pupils" means the average number belonging (ANB) in the operating schools of the component districts and the tuition pupils residing in the component districts and attending another district's school under the tuition provisions of the school laws except that the pupils residing in the component district having the largest total number of pupils are ineligible for bonus payment consideration.~~

~~(3) "Enlarged district" means the elementary, high school, or K-12 district resulting from the consolidation or annexation of two or more component districts.~~

~~(4) The "general bonus payment" for first and second class school districts must be \$450 per eligible pupil a year for a period of 3 years and must be deposited in the enlarged district's general fund. The general bonus payment for third class school districts must be \$750 per eligible pupil a year for a period of 3 years and must be deposited in the enlarged district's general fund. The general bonus payment must be made from the state school equalization aid account.~~

1 ~~(5) "Transportation bonus payment" is the provision of 66-2/3% state financing of the on-schedule~~
2 ~~transportation amount as provided by the transportation provisions of the school laws. When an eligible~~
3 ~~pupil is entitled to transportation, the enlarged district is entitled to the transportation bonus payment for~~
4 ~~the eligible pupil for a period of 3 years. The payment must be made from the state transportation aid~~
5 ~~account. When the eligible pupil rides a bus providing transportation for ineligible pupils, the 66-2/3% state~~
6 ~~financing of the on-schedule amount for this payment must be prorated to provide financing for the eligible~~
7 ~~pupil.~~

8
9 ~~**NEW SECTION. Section 2. Voluntary consolidation and annexation incentive plan.** [Sections 1~~
10 ~~through 8] shall be known as the voluntary consolidation and annexation incentive plan. The purpose of~~
11 ~~this plan is to provide additional financial assistance to school districts that consolidate or annex under the~~
12 ~~provisions of 20-6-203, 20-6-205, or 20-6-208 for elementary school districts, 20-6-315 or 20-6-317 for~~
13 ~~high school districts, or Title 20, chapter 6, part 4, for K-12 districts.~~

14
15 ~~**NEW SECTION. Section 3. Application for bonus payments.** Whenever two or more elementary~~
16 ~~school districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208; two or more~~
17 ~~high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317; or two or more~~
18 ~~K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the enlarged district may apply for the~~
19 ~~bonus payments as provided in this section if the consolidation or annexation results in the dissolution of~~
20 ~~at least one elementary, high school, or K-12 district. Application for the bonus payments must be made~~
21 ~~during the school year of the order creating the enlarged school district.~~

22
23 ~~**NEW SECTION. Section 4. Application to superintendent of public instruction.** Application for the~~
24 ~~bonus payments must be made to the superintendent of public instruction and must include a copy of the~~
25 ~~order issued by the proper officials creating the enlarged school district, the number of eligible pupils as~~
26 ~~defined in this section, and any other information the superintendent of public instruction considers~~
27 ~~necessary.~~

28
29 ~~**NEW SECTION. Section 5. Approval or disapproval of application.** The superintendent of public~~
30 ~~instruction shall approve only those applications that demonstrate compliance with the requirements of this~~

1 plan. When an application is approved, the superintendent of public instruction shall determine the number
 2 of eligible pupils for the bonus payment. The superintendent shall notify the enlarged district's board of
 3 trustees and the county superintendent of the disapproval of the application or of the approval of the
 4 application establishing the number of eligible pupils.

5
 6 NEW SECTION. Section 6. Disbursal and deposit of bonus payments. On or before June 30 of the
 7 next 3 consecutive years following the year of application, the superintendent of public instruction shall
 8 disburse the bonus payments for approved applications to the enlarged school district, and that
 9 disbursement is statutorily appropriated as provided in 17-7-502. The general bonus payment must be
 10 deposited by the county treasurer in the enlarged district's general fund, and the transportation bonus
 11 payment must be deposited by the county treasurer in the transportation fund. These bonus payments may
 12 not be considered as a part of the regular state equalization aid or state transportation aid received by the
 13 enlarged district.

14
 15 NEW SECTION. Section 7. Effect on plan of reduction in territory. Any reduction in the amount of
 16 territory encompassed in the enlarged school district's territory during the 3-year period of bonus payments
 17 will cause the enlarged district to be ineligible to receive any remaining bonus payments under this plan.

18
 19 NEW SECTION. Section 8. Effect of addition of component districts. The subsequent addition of
 20 other component districts to the enlarged district entitles the enlarged district to additional bonus payments
 21 under the provisions of this plan.

22
 23 Section 9. Section 17-7-502, MCA, is amended to read:

24 "17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory
 25 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 26 without the need for a biennial legislative appropriation or budget amendment.

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

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

30 (b) The law or portion of the law making a statutory appropriation must specifically state that a

1 ~~statutory appropriation is made as provided in this section.~~

2 ~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;~~
 3 ~~2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;~~
 4 ~~15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;~~
 5 ~~16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;~~
 6 ~~18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;~~
 7 ~~19-19-305; 19-19-506; [section 6]; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306;~~
 8 ~~23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501;~~
 9 ~~39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232;~~
 10 ~~50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214;~~
 11 ~~75-11-313; 76-12-123; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220;~~
 12 ~~85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.~~

13 ~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
 14 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
 15 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
 16 ~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
 17 ~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
 18 ~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3), pursuant to sec-~~
 19 ~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
 20 ~~supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates~~
 21 ~~July 1, 2001.)"~~

22

23 ~~Section 10. Section 20-6-703, MCA, is amended to read:~~

24 ~~"20-6-703. Transitions after formation of K-12 school district. (1) When an attachment order for~~
 25 ~~a K-12 school district becomes effective on July 1 under the provisions of 20-6-701;~~

26 ~~(a) the board of county commissioners shall execute all necessary and appropriate deeds, bills of~~
 27 ~~sale, or other instruments for the conveyance of title to all real and personal property of the elementary~~
 28 ~~district to the high school district;~~

29 ~~(b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the~~
 30 ~~elementary district documents, and other records to the high school district to which it is attached; and~~

1 ~~(c) the county treasurer shall transfer all end of the year warrants and fund balances of the~~
 2 ~~attached elementary district to the similar funds established for the K-12 school district in the high school~~
 3 ~~district.~~

4 ~~(2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district~~
 5 ~~attached to a high school district must be payable to the appropriate fund of the high school district.~~

6 ~~(3) The previous year's general fund budget amounts for the elementary district and the high school~~
 7 ~~district that form a K-12 school district must be combined to determine the budget limitation for the ensuing~~
 8 ~~school fiscal year pursuant to 20-9-308.~~

9 ~~(4) An elementary district and a high school district that form a K-12 school district under the~~
 10 ~~provisions of 20-6-701 may not be considered an enlarged district for the purposes of bonus payments~~
 11 ~~under [sections 1 through 8]."~~

12
 13 ~~Section 11. Section 20-9-104, MCA, is amended to read:~~

14 ~~"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees~~
 15 ~~of each district shall designate the portion of the general fund end of the year fund balance that is to be~~
 16 ~~earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from~~
 17 ~~July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the~~
 18 ~~amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final~~
 19 ~~general fund budget for the ensuing school fiscal year.~~

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

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

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

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

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

30 ~~(iii) received in taxes from a prior school fiscal year as a result of a tax audit by the department of~~

1 revenue or its agents;

2 (iii) ~~received in delinquent taxes from a prior school fiscal year; and~~

3 (iv) ~~received as a local government coverage tax payment for calendar year 1995 production as~~
4 ~~provided in 15-36-325; or~~

5 (b) ~~a district was entitled to as a general bonus payment prior to July 1, 1994 under the provisions~~
6 ~~of [sections 1 through 8].~~

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

9

10 ~~**NEW SECTION. Section 12. Codification instruction.** [Sections 1 through 8] are intended to be~~
11 ~~codified as an integral part of Title 20, chapter 6, part 4, and the provisions of Title 20, chapter 6, part 4,~~
12 ~~apply to [sections 1 through 8].~~

13

14 ~~**NEW SECTION. Section 13. Saving clause.** [This act] does not affect rights and duties that~~
15 ~~matured, penalties that were incurred, or proceedings that were begun before [the effective date of this~~
16 ~~act].~~

17

18 ~~**SECTION 1. SECTION 20-9-311, MCA, IS AMENDED TO READ:**~~

19 ~~**"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)~~
20 ~~must be computed as follows:~~

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

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

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

30 (3) ~~When a school district has approval to operate less than 180 school days under 20-9-804, the~~

1 total ANB must be calculated in accordance with the provisions of 20-9-805.

2 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be
3 counted as enrollment for one-half day.

4 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),
5 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon
6 session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided
7 in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction,
8 but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

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

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

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

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

22 (ii) a school of the district is located more than 20 miles from any other school of the district and
23 no incorporated territory is involved in the district, the number of regularly enrolled, full-time pupils of the
24 school must be calculated separately for ANB purposes and the district must receive a basic entitlement
25 for the school calculated separately from the other schools of the district; or

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

1 school calculated separately from the other schools of the district; or

2 (iv) two or more elementary districts consolidate or annex under the provisions of 20 6 203,
 3 20 6 205, or 20 6 208; two or more high school districts consolidate or annex under the provisions of
 4 20 6 315 or 20 6 317; or two or more K 12 districts consolidate or annex under Title 20, chapter 6, part
 5 4, the ANB and the basic entitlements of the component districts must be calculated separately for a period
 6 of 3 years following the consolidation or annexation;

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

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

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

17 (9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may
 18 calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an
 19 equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

20 (10) For average daily attendance reporting purposes, districts shall provide the superintendent of
 21 public instruction with annual reports of school attendance for regularly enrolled students and special
 22 education students, using a format determined by the superintendent."

23
 24 **NEW SECTION. Section 2. Effective date -- RETROACTIVE APPLICABILITY.** [This act] is effective
 25 **July 1, 1997, AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO A DISTRICT THAT**
 26 **IS CONSOLIDATED OR ANNEXED ON OR AFTER JANUARY 1, 1997.**

27 **END.**