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## Part 3

### Funding of Basic System of Quality Public Schools

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

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

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

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

**History:** En. Sec. 3, Ch. 4, Sp. L. December 2005; amd. Sec. 17, Ch. 1, Sp. L. May 2007.

#### **Compiler's Comments**

*2007 Special Session Amendment:* Chapter 1 in (2) substituted "is calculated as provided in 20-9-306 and is a component of the BASE budget of the district" for "is the greater of \$100 for each district or \$20.40 for each ANB, calculated as provided in 20-9-311, for each fiscal year"; and inserted (4) concerning nondiversion of Indian education for all funds. Amendment effective July 1, 2007.

*Applicability:* Section 32, Ch. 1, Sp. L. May 2007, provided: "[This act] applies to school district budgets for fiscal years beginning on or after July 1, 2007."

*Effective Date — Applicability:* Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

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## Part 14

### Cultural Integrity Commitment Act

#### Part Compiler's Comments

*Extension of Termination Date:* Section 1, Ch. 171, L. 2019, amended sec. 10, Ch. 442, L. 2015, by extending the termination date imposed by that section to June 30, 2023. Effective April 18, 2019.

*Effective Date:* Section 9, Ch. 442, L. 2015, provided that this section is effective on passage and approval. Approved May 6, 2015.

*Termination:* Section 10, Ch. 442, L. 2015, provided: "[This act] terminates June 30, 2019."

**20-7-1401. (Temporary) Short title.** This part may be cited as the "Cultural Integrity Commitment Act". (*Terminates June 30, 2023—sec. 1, Ch. 171, L. 2019.*)

**History:** En. Sec. 1, Ch. 442, L. 2015.

**20-7-1402. (Temporary) Legislative findings — purposes.** (1) The legislature finds that:

- (a) language in the form of spoken, written, or sign language is foundational to cultural integrity;
- (b) Montana tribal languages are in a time of crisis through the loss of native speakers, writers, and signers;
- (c) achievement gaps persist for Indian students, including higher dropout rates;
- (d) Article X, section 1, of the Montana constitution established the educational goals of:
  - (i) establishing an education system that develops the full educational potential of each person;

and

- (ii) preserving Indian cultural integrity.

(2) The purpose of this part is to promote innovative, culturally relevant, Indian language immersion programs for Indian and non-Indian students with the goal of raising student achievement, strengthening families, and preserving and perpetuating Indian language and culture throughout Indian country and Montana. (*Terminates June 30, 2023—sec. 1, Ch. 171, L. 2019.*)

**History:** En. Sec. 2, Ch. 442, L. 2015.

**20-7-1403. (Temporary) Definitions.** As used in this part, the following definitions apply:

(1) "Eligible district" means a school district encompassing or adjacent to an Indian reservation or a school district that includes one or more schools with an Indian population of 10% or greater.

(2) "Immersion program" means a program of an eligible district in which:

(a) all participating students receive content area instruction in an Indian language at least 50% of the day;

(b) teachers are fully proficient in the languages they use for instruction; and

(c) the goal of the program is perpetuating cultural integrity and promoting bilingualism and biliteracy.

(3) "Indian language" means any of the languages of the tribes located on the seven Montana reservations and the Little Shell Chippewa tribe. (*Terminates June 30, 2023—sec. 1, Ch. 171, L. 2019.*)

**History:** En. Sec. 3, Ch. 442, L. 2015.

**20-7-1404. (Temporary) Indian language immersion programs — funding — flexibility.** (1) School districts are encouraged to create Indian language immersion programs and in doing so:

(a) collaborate with other school districts, the Montana digital academy, tribal governments, and tribal colleges;

(b) utilize materials produced in the Montana Indian language preservation pilot program pursuant to section 1, Chapter 410, Laws of 2013;

(c) utilize American Indian language and culture specialists as teachers of language and culture;

and

(d) look to existing native language schools in Montana and around the world for guidance and best practices.

(2) In acknowledgment of Article X, section 1, of the Montana constitution, the educationally relevant factors for the school funding formula under 20-9-309(3), and the increased costs associated with language immersion programs, a district creating an Indian language immersion program is entitled to the following in addition to the school funding formula in Title 20, chapter 9:

(a) (i) subject to subsections (3) and (4), for every Indian student participating in an Indian language immersion program, an additional American Indian achievement gap payment, as calculated in 20-9-306, multiplied by 2; and

(ii) for every non-Indian student participating in an Indian language immersion program, an additional Indian education for all payment, as calculated in 20-9-306, multiplied by 2; and

(b) for every full-time American Indian language and culture specialist teaching in an Indian language immersion program, a quality educator payment as calculated in 20-9-306.

(3) For a district operating an Indian language immersion program that improves the district's graduation rate for American Indians by 5 percentage points or more from the previous year as measured by the office of public instruction, the multiplier in subsection (2)(a)(i) must be increased to 3.

(4) If the money appropriated for Indian language immersion programs is insufficient to provide the amounts in subsections (2) and (3), the office of public instruction shall prorate the payments accordingly.

(5) The board of public education is encouraged to approve proposed variances to standards of accreditation for Indian language immersion programs when the board finds the proposal to be educationally sound and in alignment with the purpose described in 20-7-1402(2).

(6) The cultural and intellectual property rights from materials developed for an Indian language immersion program belong to the tribe to which the materials relate. Use of the cultural and intellectual property outside of the Indian language immersion program may be negotiated with the tribe.

(7) A district may use payments received pursuant to this section as matching funds for federal or private fund sources to accomplish the purposes of this part. (*Terminates June 30, 2023—sec. 1, Ch. 171, L. 2019.*)

**History:** En. Sec. 4, Ch. 442, L. 2015; amd. Sec. 1, Ch. 8, L. 2017; amd. Sec. 11, Ch. 275, L. 2017.

#### **Compiler's Comments**

*2017 Amendments — Composite Section:* Chapter 8 inserted (7) concerning matching funds; and made minor changes in style. Amendment effective July 1, 2017.

Chapter 275 in (4) near beginning deleted brackets around "language". Amendment effective October 1, 2017.

*Code Commissioner Correction:* In (4) the code commissioner inserted the bracketed word "language" for consistent use of terminology.

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## Part 3

### Funding of Basic System of Quality Public Schools

**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) 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) 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.

**History:** En. 75-6903 by Sec. 253, Ch. 5, L. 1971; amd. Sec. 4, Ch. 345, L. 1973; amd. Sec. 2, Ch. 343, L. 1974; amd. Sec. 1, Ch. 141, L. 1975; R.C.M. 1947, 75-6903; amd. Sec. 4, Ch. 334, L. 1979; amd. Sec. 2, Ch. 148, L. 1981; amd. Sec. 7, Ch. 337, L. 1989; amd. Sec. 6, Ch. 466, L. 1993; amd. Sec. 11, Ch. 343, L. 1999; amd. Sec. 14, Ch. 1, Sp. L. May 2007.

#### Compiler's Comments

*2007 Special Session Amendment:* Chapter 1 in (1)(e) in introductory clause inserted "kindergarten"; in (1)(e)(i) after "public instruction" inserted "for the purpose of implementing a half-time kindergarten program as provided in 20-1-301"; inserted (1)(e)(ii) concerning number of 5-year-old children residing in the district for implementing a full-time kindergarten program; inserted (2) making section inapplicable to expansion of half-time kindergarten; and made minor changes in style. Amendment effective July 1, 2007.

*Applicability:* Section 32, Ch. 1, Sp. L. May 2007, provided: "[This act] applies to school district budgets for fiscal years beginning on or after July 1, 2007."

*1999 Amendment:* Chapter 343 in middle of (6) after "enrollment" deleted "or when a high school district provides early graduation for a class of students who have completed the requirements for graduation after 175 pupil-instruction days in the 12th grade"; and made minor changes in style. Amendment effective July 1, 1999.

*Effective Date — Applicability:* Section 16, Ch. 343, L. 1999, provided: "[This act] is effective July 1, 1999, and applies to school budgets for school fiscal years beginning on or after July 1, 1999."

*1993 Amendment:* Chapter 466 deleted former (6) that read: "(6) a full-time special pupil, as defined in 20-9-311, in a given school fiscal year may no longer be considered a full-time special pupil in the ensuing school fiscal year (the superintendent of public instruction may grant one ANB for the pupil for the ensuing school fiscal year)." Amendment effective July 1, 1994.

*1993 Statement of Intent:* The statement of intent attached to Ch. 466, L. 1993, provided: "A statement of intent is required for this bill because 20-7-431 gives the superintendent of public instruction rulemaking authority to implement changes in special education funding distribution.

It is the intent of the legislature to enhance student and taxpayer equity by revising the method of distributing special education state funding to school districts and special education cooperatives. A revision in funding distribution methods may necessitate transitional steps to minimize disruption of program services to students. It is intended that the superintendent of public instruction implement the changes in the funding provisions of this bill to assist a smoother transition and to minimize the impact of the changes to students and districts."

*1989 Amendment:* Near beginning, after "school", deleted "for a given school fiscal year"; in three places in (6) inserted "fiscal"; near end of (7) inserted "fiscal"; and made minor changes in phraseology. Amendment effective July 1, 1989.

*Effective Date — Applicability:* Section 12, Ch. 337, L. 1989, provided: "[This act] is effective July 1, 1989, and applies to school budgets and foundation program [renamed 1993] support for school fiscal years beginning after June 30, 1990."

*1981 Amendment:* Inserted "or when a high school district provides early graduation for a class of students who have completed the requirements for graduation after 175 pupil-instruction days in the twelfth grade" at the end of the first sentence in (7).

#### **Administrative Rules**

ARM 10.20.102 Calculation of average number belonging (ANB).

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

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

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

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

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

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

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

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

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the adjusted enrollment exceeds the enrollment used for the budgeted average number belonging; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least 4% or 40 students, whichever is less.

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

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as determined by the superintendent of public instruction in subsection (3) minus the sum of:

(a) the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year; and

(b) the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year.

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

(b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the superintendent of public instruction shall recalculate the district's BASE budget and maximum budget limitations, adopted budget, and BASE aid using the actual enrollment in place of the adjusted enrollment and:

(i) any BASE aid received by the district in excess of the amount recalculated is an overpayment subject to the refund provisions of 20-9-344(4); and

(ii) any revenue received by the district from BASE budget and over-BASE budget levies increased by the difference between the adjusted enrollment and the actual enrollment is an overpayment and must be used to reduce the BASE budget levy calculated as provided in 20-9-141 to the extent of any BASE budget levy revenue overpayment and to reduce the over-BASE budget levy to the extent of any over-BASE budget levy revenue overpayment in the ensuing school fiscal year. In order to return the full amount of the overpayment to local taxpayers, the amount of the reduction in the BASE budget mills levied as a result of any overpayment must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to the reduction in BASE mills.

**History:** En. 75-6904 by Sec. 254, Ch. 5, L. 1971; amd. Sec. 1, Ch. 113, L. 1973; R.C.M. 1947, 75-6904; amd. Sec. 1, Ch. 484, L. 1979; amd. Sec. 1, Ch. 203, L. 1981; amd. Sec. 8, Ch. 337, L. 1989; amd. Sec. 10, Ch. 555, L. 1991; amd. Sec. 21, Ch. 633, L. 1993; amd. Sec. 37, Ch. 18, L. 1995; amd. Sec. 19, Ch. 22, L. 1997; amd. Sec. 16, Ch. 237, L. 2001; amd. Sec. 14, Ch. 462, L. 2005; amd. Sec. 15, Ch. 1, Sp. L. May 2007; amd. Sec. 11, Ch. 400, L. 2013; amd. Sec. 1, Ch. 259, L. 2017; amd. Sec. 3, Ch. 128, L. 2019.

### Compiler's Comments

*2019 Amendment:* Chapter 128 in (6)(b) near middle inserted "adopted budget"; in (6)(b)(ii) in first sentence after "must be used" substituted current text concerning reducing the BASE budget levy and the over-BASE budget levy for "for reducing BASE budget and over-BASE budget levies in the ensuing school year" and inserted last sentence regarding timing of budget calculations; and made minor changes in style. Amendment effective April 10, 2019.

*2017 Amendment:* Chapter 259 in (6)(b) substituted "recalculate the district's BASE budget and maximum budget limitations and BASE aid" for "revise the total per-ANB entitlement and basic entitlement calculations"; in (6)(b)(i) substituted "any BASE aid received by the district in excess of the amount recalculated is an overpayment" for "All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments"; inserted (6)(b)(ii) requiring the use of overpayment of funds received from BASE budget and over-BASE budget levies to reduce the BASE budget and over-BASE budget levies in the next school fiscal year; and made minor changes in style. Amendment effective July 1, 2017.

*Applicability:* Section 5, Ch. 259, L. 2017, provided: "[This act] applies to school fiscal years beginning on or after July 1, 2017."

*2013 Amendment — Code Commissioner Correction:* Chapter 400 in (2) before "unusual" inserted "anticipated"; in (2)(d) substituted "anticipated" for "estimated"; in (3) substituted "enrollment used to calculate the budgeted" for "estimated" and substituted "school fiscal year" for "ANB calculation period"; in (3)(a) and (6)(b) substituted "adjusted" for "estimated"; in (3)(b) substituted "4% or 40 students, whichever is less" for "6%"; in (5) substituted "the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as determined by the superintendent of public instruction in

subsection (3) minus the sum of" for "the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for the ensuing school fiscal year and 106% of the enrollment used to calculate the budgeted ANB. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement" and inserted (5)(a) and (5)(b); and made minor changes in style. Amendment effective May 6, 2013.

In (6)(b) after "calculations" the code commissioner deleted "as provided in subsection (5)" to correct a reference rendered erroneous by the amendment made by Ch. 400.

*Applicability:* Section 42(1), Ch. 400, L. 2013, provided that this section applies to school fiscal year 2014 and subsequent school fiscal years.

*2007 Special Session Amendment:* Chapter 1 in introductory clause substituted "20-9-313(1)(d)" for "20-9-313(4)"; in (3)(a) after "percentage" deleted "increase" and substituted "enrollment exceeds the enrollment used for budgeted ANB" for "enrollment increase exceeds the current enrollment"; in (5) in first sentence near middle inserted "determined using" and at end substituted "enrollment used to calculate the budgeted ANB" for "current enrollment"; in (6)(b) in first sentence substituted "the enrollment used to determine the budgeted ANB" for "the average number belonging used for BASE funding program and entitlement calculations", inserted "as provided in subsection (5)", and at end substituted "enrollment in place of the estimated enrollment" for "average number belonging"; and made minor changes in style. Amendment effective July 1, 2007.

*Applicability:* Section 32, Ch. 1, Sp. L. May 2007, provided: "[This act] applies to school district budgets for fiscal years beginning on or after July 1, 2007."

*2005 Amendment:* Chapter 462 in (3)(a) near beginning after "percentage" deleted "increase", after "estimated enrollment" deleted "increase", and after "exceeds the" substituted "enrollment used for the budgeted ANB" for "current enrollment"; in (3)(b) at end substituted "greater than 6%" for "at least 6%"; in (5) in first sentence near middle after "period is" inserted "determined using" and at end substituted "enrollment used to calculate the budgeted ANB" for "current enrollment"; in (6)(b) near beginning after "less than" substituted "the enrollment used to determine budgeted ANB" for "the average number belonging used for BASE funding program and entitlement calculations", near middle after "calculations" inserted "as provided in subsection (5)", and at end after "actual" substituted "enrollment in place of the estimated enrollment" for "average number belonging"; and made minor changes in style. Amendment effective April 28, 2005, and terminates June 30, 2007.

*Effective Date — Applicability:* Section 24(1), Ch. 462, L. 2005, provided: "(1) [Sections 1 and 12 through 15] [20-5-323, 20-9-308, 20-9-311, 20-9-314, and 20-9-321] are effective on passage and approval [approved April 28, 2005] and apply to school budgets for the school fiscal years beginning on or after July 1, 2005."

*2001 Amendment:* Chapter 237 near beginning of (1) and (2) substituted "June 1" for "May 10"; and made minor changes in style. Amendment effective July 1, 2001, and applies to school budgets for the school fiscal years beginning on or after July 1, 2001.

*1997 Amendment:* Chapter 22 in (6), in second sentence after "per-ANB entitlement", inserted "and basic entitlement". Amendment effective July 1, 1997.

*1995 Amendment:* Chapter 18 at end of (6) substituted reference to 20-9-344(4) for reference to 20-9-344(3).

*1993 Amendment:* Chapter 633 in six places changed "foundation program" or "foundation program schedule amount" to "basic entitlement and total per-ANB entitlement"; in (2)(a), before "school", substituted "current" for "preceding"; and in (6), in first sentence before "entitlement", deleted "equalization or", in second sentence substituted "BASE funding" for "foundation" and after "revise the" substituted "total per-ANB" for "foundation program and", and in third sentence substituted "total per-ANB entitlement" for "payments". Amendment effective July 1, 1993.

*1991 Amendment:* In (1) substituted "elementary or high school enrollment" for "probable average number belonging" and "school fiscal year" for "ANB calculation period"; in (2), in introductory clause, inserted "by elementary or high school level"; in (2)(a) substituted "the enrollment for the preceding school fiscal year" for "the average number belonging for the preceding ANB calculation period"; in (2)(b), before "average number belonging", deleted "current" and inserted "used to calculate the foundation program schedule amount for the current school fiscal year"; inserted (2)(c) relating to the ANB used to calculate the foundation program schedule amount for the next year; in (2)(d) substituted "enrollment" for "average

number belonging for the ensuing ANB calculation period"; in (3)(a) substituted "enrollment increase" for "average number belonging for the ensuing ANB calculation period" and at end substituted "enrollment" for "average number belonging"; in (5), at end of first sentence, substituted "the enrollment for the ensuing school fiscal year and 106% of the current enrollment" for "the approved estimated average number belonging for the ensuing ANB calculation period and 106% of the current average number belonging" and in second sentence, before "average number belonging", deleted "actual current"; in (6), in second sentence after "If the actual", substituted "enrollment" for "average number belonging"; and made minor changes in style. Amendment effective July 1, 1991.

*1989 Amendment:* Deleted former (1) that read: "(1) The district shall estimate the current year's average number belonging by totaling the aggregate days of attendance and aggregate days of absence realized in the district through April 30 and dividing such total by 180. The resulting average number belonging shall be increased by the ratio that the total number of planned school days in the current school fiscal year bears to the number of school days completed through April 30"; in middle of (1) substituted "ANB calculation period" for "school fiscal year"; in (2)(a), before "average", deleted "previous year's" and at end inserted "for the preceding ANB calculation period"; in (2)(b), before "current", deleted "estimate of the", after "current" deleted "school fiscal year's", and after "belonging" deleted "as provided in subsection (1) above"; in (2)(c), after "ensuing", substituted "ANB calculation period" for "school fiscal year"; at end of first sentence of (3) substituted "ANB calculation period" for "school fiscal year"; in (3)(a), after "ensuing", substituted "ANB calculation period" for "fiscal year" and after "current" deleted "year's"; in two places in (5) substituted reference to ANB calculation period for reference to school fiscal year, near end of first sentence, after "current", deleted "year's", and in second sentence, after "actual", inserted "current" and after "belonging" deleted "for the current school fiscal year"; corrected internal references; and made minor changes in phraseology. Amendment effective July 1, 1989.

*Effective Date — Applicability:* Section 12, Ch. 337, L. 1989, provided: "[This act] is effective July 1, 1989, and applies to school budgets and foundation program [renamed 1993] support for school fiscal years beginning after June 30, 1990."

*1981 Amendment:* Increased the average number belonging number used to establish the foundation aid to a school district with an unusual enrollment increase by deleting "80% of" before "the difference" in the middle of the first sentence of (6).

### **Administrative Rules**

- Title 10, chapter 20, subchapter 1, ARM Average number belonging (ANB).
- ARM 10.20.102 Calculation of average number belonging (ANB).
- ARM 10.20.105 Unanticipated enrollment increase.



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## Part 1 School Budgets

**20-9-166. State financial aid for budget amendments.** Whenever a final budget amendment has been adopted for the general fund to finance the cost of an amendment resulting from increased enrollment, the trustees may apply to the superintendent of public instruction for an increased payment from the state for direct state aid. Whenever a final budget amendment has been adopted for the transportation fund, the trustees may apply to the superintendent of public instruction for an increased payment for state transportation reimbursement. The superintendent of public instruction shall adopt rules for the application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with 20-9-314 and this section. When the superintendent of public instruction approves an application, the superintendent of public instruction shall determine the additional amount of direct state aid or the state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment or additional pupil transportation obligations. The superintendent of public instruction shall notify the applicant district of the superintendent's approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse the state aid to the eligible district at the time the next regular state aid payment is made.

**History:** En. 75-6729 by Sec. 235, Ch. 5, L. 1971; R.C.M. 1947, 75-6729; amd. Sec. 16, Ch. 767, L. 1991; amd. Sec. 43, Ch. 633, L. 1993; amd. Sec. 32, Ch. 509, L. 1995; amd. Sec. 17, Ch. 22, L. 1997; amd. Sec. 8, Ch. 343, L. 1999.

### Compiler's Comments

*1999 Amendment:* Chapter 343 near beginning of first sentence after "general fund" deleted "or the transportation fund" and at end after "state aid" deleted "or for state transportation reimbursement, or both"; inserted second sentence authorizing trustees to apply to superintendent of public instruction for increased transportation reimbursement payment when final transportation fund budget amendment adopted; and in fourth sentence substituted "direct state aid" for "state aid from the state" and at end inserted "or additional pupil transportation obligations". Amendment effective July 1, 1999.

*Effective Date — Applicability:* Section 16, Ch. 343, L. 1999, provided: "[This act] is effective July 1, 1999, and applies to school budgets for school fiscal years beginning on or after July 1, 1999."

*1997 Amendment:* Chapter 22 near end of first sentence substituted "direct state aid" for "the BASE funding program". Amendment effective July 1, 1997.

*1995 Amendment:* Chapter 509 in first and fourth sentences, after "aid from the state", deleted "public school equalization aid account". Amendment effective July 1, 1995.

*1993 Amendment:* Chapter 633 in first sentence, after "enrollment", deleted "or any other reason approved by the superintendent of public instruction under the provisions of 20-9-163"; and made minor changes in style. Amendment effective July 1, 1993.

*1991 Amendment:* Near beginning of first sentence substituted reference to budget amendment for reference to emergency budget and near middle, after "cost of an", substituted "amendment resulting from" for "emergency due to an", in second sentence substituted "adopt" for "publish", in third sentence inserted reference to 20-9-314, and in fourth sentence, before "increase", deleted "emergency caused by an"; and made minor changes in style. Amendment effective May 15, 1991.

*Retroactive Applicability:* Section 59, Ch. 767, L. 1991, provided that this section applies retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

### Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.  
State transportation reimbursement, 20-10-145.

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## Part 12

### Montana Digital Academy

#### Part Cross-References

Basic system of free quality public elementary and secondary schools, 20-9-309.

Calculation of average number belonging (ANB), 20-9-311.

University system, Title 20, ch. 25.

**20-7-1201. Montana digital academy — purposes — governance.** (1) There is a Montana digital academy at a unit of the Montana university system.

(2) The purposes of the Montana digital academy are to:

(a) make distance learning opportunities available to all school-age children through public school districts in the state of Montana;

(b) offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; and

(c) emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

(3) The Montana digital academy must be governed by a board with equal representation from:

(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana-licensed and Montana-endorsed classroom teacher appointed by the board of public education;

(d) a Montana-licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;

(f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members.

(4) The governing board shall elect a presiding officer and vice presiding officer to 2-year terms without limitation on the number of terms.

(5) The governing board shall hire a program director and a curriculum director who shall serve as chief executive officer and vice chief executive officer respectively on the governing board in a nonvoting capacity. The program director shall develop and, upon approval of the governing board, implement and publish policies and guidelines for the Montana digital academy pertaining to:

(a) course offerings;

(b) software and hardware selection;

(c) instructor selection;

(d) partnering school agreements;

(e) instructor training and curriculum development;

(f) course evaluation;

(g) grant opportunities; and

(h) other activities that are essential to the success of a statewide distance learning program.

**History:** En. Sec. 1, Ch. 417, L. 2009; amd. Sec. 14, Ch. 19, L. 2011; amd. Sec. 6, Ch. 418, L. 2011; amd. Sec. 1, Ch. 142, L. 2015.

#### Compiler's Comments

*2015 Amendment:* Chapter 142 in (5) in second sentence after "implement" inserted "and publish". Amendment effective July 1, 2015.

*2011 Amendments — Composite Section:* Chapter 19 in (1), (2), (3), and (5) substituted "digital academy" for "virtual academy". Amendment effective October 1, 2011.

Chapter 418 in (1), (2), (3), and (5) substituted "digital academy" for "virtual academy". Amendment effective May 13, 2011.

*Applicability:* Section 28(1), Ch. 418, L. 2011, provided that this section applies to school fiscal year 2012.

*Effective Date:* Section 5, Ch. 417, L. 2009, provided: "[This act] is effective July 1, 2009."

*Report to Legislature:* Section 2, Ch. 417, L. 2009, provided: "The governing board shall provide the 62nd legislature with a report that details:

(1) how the line item funding in House Bill No. 645 cited in [section 4] [not codified—coordination instruction] was spent; and

(2) future funding requirements and recommendations, instructor standards, curriculum development issues, and evaluation of the software for implementing a seamless educational distance learning continuum in the state of Montana."

#### **Law Review Articles**

"Virtual" Schools: Real Discrimination, Lin, 32 Seattle U. L. Rev. 177 (2008).

Rural School Districts Struggle to Meet the Demands of No Child Left Behind, Webb, 16 S.J. Agric. L. Rev. 191 (2007).

**20-7-1202. Funding — rulemaking authority.** (1) (a) In addition to any amount appropriated to the Montana digital academy by the legislature, beginning July 1, 2016, school districts enrolling students at the digital academy shall pay to the digital academy any supplemental fee established by the digital academy that is required to pay for the prorated costs of course delivery that exceed the amount appropriated to the digital academy by the legislature. The fee must be established by the governing board of the digital academy by rule and must be commensurate with the costs of operating the digital academy that exceed the appropriation provided by the legislature.

(b) Fees collected under subsection (1)(a) may be spent only on the operating costs of the digital academy.

(c) The governing board of the digital academy shall adopt rules regarding the establishment of any fees required under subsection (1)(a).

(2) A school district is prohibited from charging a fee to a student who enrolls in a class provided by the Montana digital academy that the school district requires for graduation.

**History:** En. Sec. 2, Ch. 142, L. 2015.

#### **Compiler's Comments**

*Effective Date:* Section 4, Ch. 142, L. 2015, provided: "[This act] is effective July 1, 2015."