



**MONTANA DEPARTMENT OF ADMINISTRATION**

**State Financial  
Services Division**  
Cheryl Grey, Administrator

Statewide Accounting & Financial Systems • 406.444.3092  
Local Government Services • 406.444.9101  
[sfsd.mt.gov](http://sfsd.mt.gov)

**2025**

**COMPLIANCE SUPPLEMENT**

**FOR**

**SCHOOL DISTRICTS**



## MONTANA DEPARTMENT OF ADMINISTRATION

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DATE: December 12, 2025

TO: Independent Auditors and Other Users of the Compliance Supplement for Audits of Montana Local Government Entities

RE: Additions/Revisions to the Compliance Supplement for Audits of Montana Local Government Entities – 2025 Legislature

### **2025 COMPLIANCE SUPPLEMENT UPDATE**

The Compliance Supplement for Audits of Montana Local Government Entities (Supplement) has been officially updated for the legislative changes passed in the Montana 2024-2025 session.

The Supplement also contains revisions for legislation passed in the 2023 Montana Legislature and can be used for any audits that have not been completed for fiscal years prior to 2025.

Some of the revisions, however, reflect recent concerns and questions and do not necessarily result from recent legislation. We have also made changes in style and format that should be fine with your audit programs. Significant revisions to the Supplement are highlighted in grey to assist you in updating your audit compliance programs.

The Supplement can be found on our website: [Compliance Supplement \(https://sfsd.mt.gov/LGSB/Audit-Financial-Review-Resources/ComplianceSupplement/index1\)](https://sfsd.mt.gov/LGSB/Audit-Financial-Review-Resources/ComplianceSupplement/index1)

If you have any questions or comments regarding the Supplement, please contact our office at any time at [LGSBHelp@mt.gov](mailto:LGSBHelp@mt.gov) or 406-444-9101.

Best Regards,

Local Government Services Bureau  
State Financial Services Division  
Montana Department of Administration



# COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

## BUDGETS

REVISION FEBRUARY 2026

REF: SD01

### **INFORMATION CONTACTS:**

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**UNDERSTANDING SCHOOL FINANCE**

OPI has prepared a booklet entitled “Understanding Montana School Finance & School District Budgets” that can be accessed at OPI’s website:

<https://opi.mt.gov/Leadership/Finance-Grants/School-Finance>

**GENERAL BUDGET REQUIREMENTS**

**Please Note:** MCA 15-10-420 pertaining to the procedures for calculating mill levies does not apply to school district levies established in Title 20 (20-9-331, 20-9-333, 20-9-360) or any other title of the Montana Code Annotated.

MCA 15-10-420(5)(a)

**Dates to Hear & Adopt Budget**

Between July 1 and August 10, the clerk of each district shall publish one notice in the local or county newspaper with the widest circulation in the district, stating the date, time, and place that the trustees will meet for the purpose of considering and adopting the final budget.

MCA 20-9-115

On or before August 20, the trustees shall meet to consider all budget information and any attachments required by law. The trustees shall adopt the final budget and determine the amounts to be raised by tax levies not later than August 25th.

MCA 20-9-131

The Department of Revenue shall submit the certification of taxable values by the first Monday in August. However, upon the request of a taxing authority, the Department of Revenue shall provide an estimate of the total taxable value by the second Monday in July.

MCA 15-10-202

Upon final approval of the budget, the trustees shall deliver the adopted budget, including the amounts to be raised by tax levies, to the county superintendent of schools within 3 days.

MCA 20-9-131(3)

**Budgeted Funds**

A budget must be adopted for the following funds, in order to expend money from the fund:

- a. general fund,

- b. transportation fund,
- c. bus depreciation reserve fund,
- d. tuition fund,
- e. retirement fund,
- f. debt service fund,
- g. building reserve fund,
- h. adult education fund,
- i. nonoperating fund (applicable to only non-operating districts, see MCA 20-9-505), and
- j. any other funds designated by the legislature:
  1. Technology acquisition and depreciation fund (MCA 20-9-533(2))
  2. School flexibility fund (MCA 20-9-543(3))

MCA 20-9-201

General supervision of school budgeting system. The superintendent of public instruction has general supervision over the school budgeting procedure and provisions, as they relate to elementary and high school districts, prescribed by law and shall establish such rules as are necessary to secure compliance with the school budgeting laws.

MCA 20-9-102

### **Expenditure Limitations**

Expenditures must be limited to the total amount that is appropriated in each fund's final budget.

MCA 20-9-133(2)

**Exception** - If a district incurs a legal bonded debt payment after the final debt service fund budget for the current fiscal year has been adopted, and if the payment is required for the current fiscal year, payment in the current fiscal year is allowed if money is available.

MCA 20-9-133(3)

**Non-Budgeted Funds:** The expenditure limitation, at any time during the school fiscal year, for a non-budgeted fund is the amount of cash balance of the non-budgeted fund.

MCA 20-9-210

Transactions recorded to correct expenditures reported in a prior year shall be charged against the current year's budget, as provided in 20-9-209(2). As provided in 20-9-208(1), a budget transfer may be made from other appropriation item(s) to provide budget authority for corrections of prior period expenditure errors which result in a net reduction to beginning fund balance. **Prior-period adjustments must be within the total budget limit imposed by 20-9-133.**

ARM 10.10.305

The district clerk is required to make available revenue and expenditure reports to the board of trustees.

- (1) For budgeted funds, the recommended format for revenue and expenditure reports is:

- (a) The revenue budget report should show by revenue account the amount budgeted by fund for each revenue account, the amount collected to date, and the amount remaining to be collected.
- (b) The expenditure budget report should show the amount budgeted by line item, function, or in total, the amount expended to date and the amount of budget authority remaining.
- (2) For nonbudgeted funds, revenue and expenditure reports should include, at a minimum, the amount collected to date for each revenue account and the amount expended to date by expenditure line item or expenditure function category.

ARM 10.10.505

### **Budget Amendments**

A budget may be amended for the following reasons:

- (1) An increase in enrollment of an elementary or high school district that is beyond what could have been reasonably anticipated at the time of the adoption of the budget. Because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year.
- (2) The destruction or impairment of any school property necessary to the maintenance of the school by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use.
- (3) A judgment for damages against the district issued by a court after the adoption of the budget for the current year.
- (4) An enactment of legislation after the adoption of the budget that imposes an additional financial obligation on the district.
- (5) The receipt of:
  - (a) a settlement of taxes protested in a prior fiscal year,
  - (b) taxes from a prior school fiscal year as a result of a tax audit by the Department of Revenue or its agents,
  - (c) delinquent taxes from a prior school year, and
  - (d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for projects that were deferred from a previous budget of the district.
- (6) Any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting (a) the safety of the students and district employees or (b) the educational functions of the district. (See MCA 20-9-161(6)(b) for required reporting of budget amendments adopted per this subsection (b) that, in combination with other budget amendments, exceed 10% of the district's adopted general fund budget).

MCA 20-9-161

### **Amendment Due to Enrollment Increase (See above):**

A budget amendment required by an enrollment increase may not be adopted until after October 1.

MCA 20-9-162(1)(a)

For a budget amendment required by an enrollment increase, the trustees shall submit a petition, signed by a majority of the trustees, to the Superintendent of Public Instruction. If the petition is approved, the trustees may adopt a resolution and take all other steps required for the adoption of a budget amendment (see below). Upon approval, the district may not adopt a budget amendment if the amount will cause the district to exceed the district's adjusted maximum general fund budget.

MCA 20-9-162(3) & 163

**Terminating June 30, 2023:** A district receiving additional financial support from CARES or ARPA due to an enrollment increase shall deposit the money in the district's miscellaneous programs fund and use it to address costs associated with the enrollment increase.

**Effective 4/25/2023:** (a) When a district experiences an enrollment increase based on the October enrollment count, the district may be eligible for a significant enrollment increase payment in support of the district's general fund as described in this subsection (2). **Effective July 1, 2025:** All enrollment increases under this subsection (2) must be calculated separately for each budget unit of a school district.

(b) To be eligible for a significant enrollment increase payment, a district's October enrollment count in the current year converted to ANB must exceed the district's budget limit ANB for the school fiscal year 3 years prior by 110% or more. The significant enrollment increase payment the district qualifies for must be calculated by the superintendent of public instruction no later than December 1 following the October enrollment count as the difference between:

(i) an amount equal to 80% of the district's total per-ANB entitlement for that fiscal year if the district's budget limit ANB was calculated using the district's actual October enrollment count minus the absorption factor; and

(ii) 80% of the district's total per-ANB entitlement for that fiscal year.

(c) (i) The superintendent of public instruction shall notify a district of the district's eligibility for a significant enrollment increase payment and the amount by December 15.

(ii) The trustees of the district shall determine at the next scheduled board meeting and no later than March 1 whether to accept the full or a partial amount of the payment and adopt a general fund budget amendment for any accepted amount. A budget amendment under this section must be made by resolution of the trustees of the district and is not subject to the requirements of other budget amendments under Title 20, chapter 9, part 1. The trustees shall provide a copy of the budget amendment to the superintendent of public instruction in a manner determined by the superintendent of public instruction.

(iii) On receiving a copy of the budget amendment, the superintendent of public instruction shall disburse from the BASE aid appropriation in House Bill No. 2 the amount of the accepted payment distributed with the remaining direct state aid payments for that fiscal year pursuant to 20-9-344.

(d) A district receiving additional financial support under this subsection (2) shall deposit the money in the district's general fund and use it to address costs associated with the enrollment increase.

(e) For the purposes of this subsection (2), "absorption factor" means an ANB amount rounded to the nearest whole number equal to the sum of 5 ANB plus 3% of the district's budget limit ANB for that fiscal year.

MCA 20-9-166(2)

**Amendment Due to Other Reasons Besides Enrollment Increase:**

These types of budget amendments may be adopted at any time of the school fiscal year.

The trustees may approve these types of budget amendments by a resolution. The trustees may proclaim the need for the amendment by a majority vote, and a copy of the proclamation must be sent to the county superintendent and the board of county commissioners.

MCA 20-9-162(1) & (2)

A copy of the budget amendment resolution must be published in a newspaper. Copies of the budget resolution must also be posted at each schoolhouse of the district and delivered to the county superintendent and county clerk and recorder. The publication, posting, and delivery of the resolution must be done not less than 1 week before the day specified in the resolution for the consideration and adoption of a budget amendment.

MCA 20-9-164

The meeting of the trustees to consider and adopt the budget amendment must be open to the public.

MCA 20-9-165(1)

**Note: See each School District's Budget document, Part III, for Information related to (1) operating reserves, (2) excess reserves, and (3) unreserved fund balance reappropriated. School District budgets for each fiscal year can be found at OPI's website:**

<https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Budgets>

**(Effective 7/1/2025: Temporary) Resolution of Intent to Increase Nonvoted Levy**

- (1) The trustees of a school district shall adopt a resolution no later than March 31 of each fiscal year and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:
  - (a) the tuition fund under MCA 20-5-324;
  - (b) the adult education fund under MCA 20-7-705;
  - (c) the transportation fund under MCA 20-10-143 and 20-10-144; and
  - (d) the bus depreciation reserve fund under MCA 20-10-147.
  - (e) the flexibility fund established in MCA 20-9-543 for the purposes in 20-7-1602.
- (2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:
  - (a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under (1)(a) through (1)(f) imposed in the current school fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on (effective 7/1/2025) homes valued at \$100,000, \$300,000, and \$600,000; and

- (b) publishing in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting to the school district's website
  - (i) the resolution under subsection (2)(a); and
  - (ii) the resolution under 20-9-502(3)(a)(i) if adopted by the trustees.

MCA 20-9-116

**(Effective July 1, 2027) Resolution of Intent to Increase Nonvoted Levy --notice**

- (1) The trustees of a school district shall adopt a resolution no later than June 1 in fiscal year 2017 only and no later than March 31 in fiscal year 2018 and subsequent fiscal years and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:
  - a. the tuition fund under MCA 20-5-324;
  - b. the adult education fund under MCA 20-7-705;
  - (f) the transportation fund under MCA 20-10-143 and 20-10-144; and
  - (g) the bus depreciation reserve fund under MCA 20-10-147.
- (2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:
  - a. adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under (1)(a) through (1)(d) imposed in the current school fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on homes valued at \$100,000, \$300,000, and \$600,000; and
  - b. publishing in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting to the school district's website
    - i. the resolution under subsection (2)(a); and
    - ii. the resolution under 20-9-502(3)(a)(i) if adopted by the trustees.

MCA 20-9-116

**General Fund Reserves**

**Operating Reserve:** At the end of each fiscal year, the trustees shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing fiscal year. The amount of the general fund operating reserve may not exceed 10% of the final general fund budget for the ensuing fiscal year.

Exception: This 10% limitation does not apply when the amount earmarked as operating reserve is \$10,000 or less. (See also "Excess Reserves" below for another exception to this 10% rule.)

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

MCA 20-9-104(1), (2), & (7)

**Excess Reserves:** The 10% limitation referenced above will not apply when the amount in excess of the limitation is equal to or less than the unused\*\* balance of any amount (a) received in settlement of tax payments protested in a prior school fiscal year; (b) received in taxes from a prior fiscal year as a result of a tax audit by the Department of Revenue or its agents; or (c) received in delinquent taxes from a prior school fiscal year.

MCA 20-9-104(6)

\*\*Per OPI, “used” means (a) used for budget amendments, (b) used to fill the operating reserve back to 10%, or (c) used to fund the budget through reappropriation.

The excess reserves may be appropriated to reduce (Deleted effective 7/1/2025) the BASE budget levy or) the over-BASE budget levy.

MCA 20-9-104(3)

### **Fund Balance Reappropriated**

Any portion of the general fund end-of-the-year fund balance, including any portion attributable to a tax increment remitted under 7-15-4286(3) or 7-15-4291 that is not reserved (10% limitation) or reappropriated to reduce the BASE budget levy or the over-BASE budget levy (Deleted effective 7/1/2023: or the additional levy provided by MCA 20-9-353) is fund balance reappropriated and must be used for property tax reduction as provided in MCA 20-9-141(1)(b) up to an amount not exceeding 15% of a school district's maximum general fund budget.

MCA 20-9-104(4)

**Note:** See below for requirements for general fund money in excess of 15%.

**Note:** If the fund balance was artificially lowered to avoid reappropriation, resulting in increased levies and an overpayment of GTB, the district must refund the overpayment to OPI.

### **Excess Fund Balance**

Any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated to various state funds, as detailed at MCA 20-9-104(5).

Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied against budget authority.

MCA 20-9-104(8)

OPI has established the following method for determining the excess that must be remitted to the State for FY2012 and ensuing fiscal years:

End of year fund balance

Minus maximum operating reserve allowed (10% of ensuing year's budget)  
 Minus excess reserves held as allowed by law  
 Minus excess reserves used to fund the BASE and/or over-BASE levy for the ensuing year  
 Equals fund balance available for reappropriation  
Less 15% of the *ensuing year's* Maximum General Fund budget  
 Equals excess amount remaining. The district should go back to their TFS and record an expenditure and offsetting "due to other governments" for the amount of this excess. In the ensuing fiscal year, they should issue a district warrant to OPI.

### **Transfers**

OPI has developed an Excel spreadsheet that details allowable and unallowable transfers and can be found at OPI's website:

<https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Accounting>

### **Transfer of funds – improvements to school safety and security.**

- (1) A school district that has certified to the office of public instruction a current school safety plan or emergency operations plan pursuant to 20-1-401 may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school and student safety and security as follows:
  - (a) planning for improvements to and maintenance of school and student safety, including but not limited to the cost of staffing for or services provided by architects, engineers, school resource officers, counselors, and other staff or consultants assisting the district with improvements to school and student safety and security.
  - (b) **Effective 7/1/2023:** programs and training for school employees, students, parents, and community members approved by the trustees to support school and student safety and security, including but not limited to active shooter training, threat assessment practices pursuant to 20-1-401(3)(b), and restorative justice;
  - (c) installing or updating locking mechanisms and ingress and egress systems at public school access points, including but not limited to systems for exterior egress doors and interior passageways and rooms, using contemporary technologies.
  - (d) installing or updating bullet-resistant windows and barriers.
  - (e) **(effective 7/1/2025)** installing or updating emergency response systems using contemporary technologies; and
  - (f) **(effective 7/1/2025)** providing automated external defibrillators and making other student safety improvements pursuant to 20-7-1339.
- (2) Any transfers made pursuant to subsection (1) are not considered expenditures to be applied against budget authority. Any revenue transfers that are not encumbered for expenditures in compliance with subsection (1) within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

- (3) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the transferred funds.

MCA 20-9-236

**Transfers among appropriation items of a fund:** Whenever it appears to the trustees that the appropriated amount of an item of a budgeted fund of the final budget or a budget amendment is in excess of the amount actually required during the fiscal year for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other appropriation item of the same budgeted fund.

MCA 20-9-208(1)

**Transfers from fund to fund:** Unless otherwise restricted by a specific provision in Title 20, transfers may be made between different funds of the same district or between the final budget and a budget amendment whenever the trustees determine, in their discretion, that the transfer of funds is necessary to improve the efficiency of spending within the district or when an action of the trustees results in savings in one budgeted fund that can be put to more efficient use in another budgeted fund.

MCA 20-9-208(2)

**Note:** See Exceptions Below

#### **Temporarily Required Fund Transfers**

For fiscal years 2018, 2019, 2020, and 2021 only, a school district shall transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its transportation fund in a total amount not to exceed an amount estimated by the district to be necessary to eliminate an increase in school district property taxes resulting from Senate Bill 2 of the November 2017 Special Session of the Legislature.

SB 2, Section 10 - Special Session, November 2017

#### **Specific Provisions Prohibiting Certain Transfers Between Funds:**

**General Fund:** Unless otherwise authorized by a specific provision in Title 20, transfers from the general fund to any other fund and transfers to the general fund from any other fund are prohibited.

MCA 20-9-208(2)(a)(ii)

**Note:** See below under “Public Hearing Required” and “Multidistrict Agreements” for specific provisions for allowable transfers to and from the general fund.

**Retirement Fund:** Unless otherwise authorized by a specific provision in Title 20, transfers from the retirement fund (which is funded by a countywide levy) to any other fund are prohibited.

MCA 20-9-208(2)(a)(iii); ARM 10.10.320(3)

**Debt Service Fund:** Unless otherwise authorized by a specific provision in Title 20, transfers from the debt service fund to any other fund are prohibited.

MCA 20-9-208(2)(a)(iv)

The trustees shall not transfer any portion of the balance in the debt service fund to another fund, except to close the fund after fully paying all obligations as provided in MCA 20-9-443  
ARM 10.10.320(4)

Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with any restrictions or conditions imposed by federal law.

MCA 20-9-208(2)(b)

The trustees shall not transfer cash received through state and federal grants and contracts, unless the transfer is in compliance with any restrictions or conditions imposed by state or federal law.

ARM 10.10.320(6)

The trustees shall **not**:

Transfer money between a budgeted fund and a nonbudgeted fund, except when specifically provided by law.

ARM 10.10.320(8)

Transfer cash from one school district to another school district. Cash of an elementary district fund may only be transferred into another elementary district fund, and cash of a high school district fund may only be transferred into another high school district fund.

MCA 20-9-208(2); ARM 10.10.319(1)

**Transfer of Tax Revenues:** Transfers may not be made with funds approved by the voters or with funds raised by a nonvoted levy **unless**:

- (a) the transfer is within or directly related to the purposes for which the funds were raised and the trustees hold a properly noticed hearing to accept public comment on the transfer; [ARM 10.10.320(5): When tax receipts are transferred, the trustees' resolution shall state the purpose for which the taxes were levied and the purposes for which the funds will be used.] **See Attorney General Opinion, below.**

OR

- (b) the transfer is approved by the qualified electors of the district in an election called for the purpose of approving the transfer, in which case the funds may be spent for the purpose approved on the ballot.

MCA 20-9-208(2)(a)(i); ARM 10.10.320(5)

Property taxes levied to support the adult education and transportation funds may be transferred to the school flexibility fund, but the transfer must be within or directly related to the purposes for which the property taxes were raised, i.e., adult education programming and transportation services. A transfer of property taxes for any other purpose is invalid. (issued 2/2012)

AGO #6, Vol. 54 2012 (20-9-Part 2)

**Public Hearing Required for Transfers – With Exceptions:** Trustees are required to hold a properly noticed hearing to accept public comment on a transfer before the transfer can occur MCA 20-9-208(2)(b)

Exceptions for the following transfers:

- a. Transfers from the general fund to the compensated absences fund to establish and maintain the compensated absences fund, or transfers of excess balance in the compensated absences fund to the general fund (See also MCA 20-9-512).
- b. Transfers of unused employer contributions for self-insurance group coverage allowed by MCA 2-18-703.
- c. Transfers from the general fund to the litigation reserve fund and, upon settlement of the litigation, a transfer returning the balance to the general fund under MCA 20-9-515.
- d. Transfers between the federal impact aid fund and the debt service fund under MCA 20-9-437 & 443.
- e. Transfers from any fund, except the miscellaneous programs fund, to support an interlocal agreement fund under MCA 20-9-703.
- f. Transfers under MCA 20-3-363, from any budgeted or nonbudgeted fund, except the retirement fund, debt service fund, or compensated absence fund. Transfers from the general fund may not exceed the amount of direct state aid received by the district.
- g. Closure of district funds to establish a non-operating fund under MCA 20-9-505.
- h. Transfers of unused tuition receipts from the miscellaneous programs fund to the general fund as provided in ARM 10.10.310; and
- i. Transfers of excess funds in the lease or rental agreement fund to the general fund as required in MCA 20-9-509.

ARM 10.10.320(2)(i)

**Nonbudgeted Funds:** Transfers may be made from one nonbudgeted fund to another nonbudgeted fund whenever the trustees determine that the transfer of funds is necessary to improve the efficiency of spending within the district.  
MCA 20-9-208(2)(b)

Any portion of the cash balance in a nonbudgeted fund may be transferred. The trustees must prepare a resolution stating specifically how the transfer will be used to improve efficiency of spending within the district.

ARM 10.10.320(7)

Authorized transfers shall be entered upon the permanent records of the district.  
MCA 20-9-208(3)

If transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

MCA 20-9-208(4)

Cash may be transferred between funds only if the transfer is specifically allowed by law or administrative rule.

ARM 10.10.320(1)

When the trustees transfer cash from one budgeted fund to another budgeted fund, the trustees may also transfer budget authority up to the amount of the cash transfer.

ARM 10.10.320(9)

Within 30 days of approving a transfer, the trustees shall notify the state superintendent, county superintendent, and county treasurer in writing of the amount of budget authority transferred, the purposes for which the amount transferred will be used, and the funds affected.

ARM 10.10.320(10)

### **Multidistrict Agreements - Fund Transfers (Effective 7/1/2025)**

All expenditures in support of a multidistrict agreement may be made from each participating school district's interlocal cooperative fund. The board of trustees of each participating of a multidistrict cooperative may transfer funds into the district's interlocal cooperative fund from the district's general fund, budgeted funds other than the retirement fund or debt service fund, or nonbudgeted funds other than the compensated absence liability fund. Transfers to the district's interlocal cooperative fund from (deleted "each participating") the school district's general fund are limited to an amount not to exceed the direct state aid in support of the respective school district's general fund. Transfers from the retirement fund and debt service fund are prohibited. Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with any restrictions or conditions imposed by federal law.

Expenditures from the interlocal cooperative fund under this section may include any expenditures that are (deleted "permitted by law and that are within the final budget") considered by the board of trustees of the district to be reasonable and necessary to efficiently and effectively finance the expenditures pursuant to the terms of the multidistrict agreement, not to exceed the total expenditures approved by the board of trustees for the budgeted fund from which the transfer was made, including expenditures pursuant to any budget amendment adopted pursuant to 20-9-165.

If transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

MCA 20-3-363(2), (3), (4)

### **Countywide Resource Sharing (Effective July 1, 2027)**

Beginning in school fiscal year 2027, school districts that achieve the legislative goal for countywide resource sharing outlined in this subsection must receive a 50% increase in their total quality educator payment as defined in 20-9-306.

The legislative goal for countywide resource sharing is for each school district with a majority of its territory in a county to participate in a countywide multidistrict agreement as specified in this subsection

To receive the enhanced incentive, the multidistrict agreement executed by the participating districts must:

- (i) include at least all school districts with a majority of their territory within the boundaries of the same county. Provided that at least all school districts in at least one county have entered into a multidistrict agreement under this subsection, other school districts located in other counties that participate in the multidistrict agreement must also receive the enhanced total quality educator payment calculated in accordance with subsection.
- (ii) provide for the joint funding and operation of the participating districts as described in this subsection.
- (iii) contractually allocate an amount at least equal to each district's general fund direct state aid for the support of joint funding and operations among all participating districts as described in this subsection; and
- (iv) to the extent of the funds committed, jointly and mutually establish, maintain, budget, and finance the programs of the participating districts identified under this subsection. Activities must be in compliance with the accreditation standards of the board of public education and may include the sharing of staff among the participating districts when that is consistent with collective bargaining, if applicable, and when that is determined by the board of trustees of each participating school district to be the most efficient and effective use of district staff. The programs of the participating districts that are mutually administered must include, at a minimum:
- (A) administration functions, including budgeting, payroll, human resources, elections, and services provided in support of the board of trustees.
  - (B) custodial services.
  - (C) instructional services and support, including remote instruction, selection of textbooks, library and media services and curriculum development and implementation.
  - (D) K-12 career and vocational/technical education and work-based learning.
  - (E) school food services.
  - (F) software licensing and other information technology.
  - (G) extracurricular activities.
  - (H) special education programs; and
  - (I) transportation for instruction and school activities.

#### MCA 20-3-363(5)

Nothing in this section may be construed to prohibit a district that has entered into a countywide multidistrict agreement from entering into any other multidistrict agreement otherwise meeting the requirements of this section other than subsection (5). Districts participating in a countywide multidistrict agreement from one county may also cooperate with districts from any other county to form multicounty regional multidistrict agreements.

#### MCA 20-3-363(6)

**Note:** See additional discussion of multidistrict agreements and cooperatives in SD02 – Revenues.

### **Encumbrances**

All appropriations for a budgeted fund in the regular budget or for a budget amendment for a given school fiscal year lapse on the last day of the school fiscal year (June 30), **except that** a school district may encumber the current year budget for the following:

- a. the cost of uncompleted improvements in progress of construction – a legally binding contract must be signed and effective prior to June 30, or a valid purchase order must be issued by June 30. (**Note:** The amount encumbered may include the entire contract price for the project.)
- b. the costs of personal property, (including materials, supplies and equipment, but excluding contracts for services) ordered but not received – a valid purchase order must be issued by June 30.

MCA 20-9-209; ARM 10.10.101

Encumbrances outstanding at year end shall be added to current year expenditures to arrive at the budgetary basis expenditures for the year. Expenditures shall be reported on the trustee's financial summary using the budgetary basis.

### **Fund Closures**

Except as otherwise provided by law (see following provisions), whenever the trustees of a district determine that a fund is inactive and will no longer be used, the fund shall be closed by transferring all cash and other account balances to any fund considered appropriate by the trustees, if the fund does not have a cash or fund balance deficit.

MCA 20-9-201(3)

If an inactive fund has a cash or fund balance deficit, the district must resolve the deficit before closing the fund.

ARM 10.10.319(5)

The following provisions for the closure of specific funds are found in ARM 10.10.319 and various sections of the Montana Code Annotated, as indicated:

When trustees determine that a tuition fund is inactive and will no longer be used, they must close the fund into the miscellaneous programs fund.

ARM 10.10.319(2)

When all bond principal, interest, fees, and all SID obligations have been fully paid, the trustees shall close the debt service fund and all money remaining in the fund and all money that may come into the fund from the payment of delinquent taxes must be transferred to the building reserve fund, general fund, or technology fund. The district shall identify money transferred from the debt service fund using a project reporter code number and track the subsequent uses of the money that are limited by MCA 20-9-443.

MCA 20-9-443; ARM 10.10.319(3)

A district entering non-operating status shall close all funds, except the debt service fund and the miscellaneous programs fund, into a single non-operating fund of the district.

MCA 20-9-505; ARM 10.10.319(4)

Trustees may not close a fund into a fund of another school district. An elementary fund must be closed into another elementary fund, and a high school fund must be closed into another high school fund.

ARM 10.10.319(1)

The trustees must notify the county treasurer in writing of any fund closure, stating the district fund into which the inactive fund is to be closed. The county treasurer shall deposit subsequent receipts on behalf of the closed fund, including subsequent tax receipts, in the fund to which the inactive fund was closed.

ARM 10.10.319(6)

## **ENROLLMENT**

**Note:** For a full discussion of enrollment and ANB (Average Number Belonging) see the document: Student Count for ANB Instructions at:

<https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/Student-Count-ANB>

**Note:** Any difference in enrollment reported to OPI or shown on the enrollment records of the district is considered *SIGNIFICANT* to OPI. OPI recalculates ANB using corrected enrollment counts reported in school district audit reports. Based on this information OPI adjusts guaranteed tax base entitlements (GTB), the state per-student funding, the basic entitlement, and sometimes the general fund budget limits. It is important to know that OPI not only lowers funding when ANB drops due to an audit, but they also PAY ADDITIONAL direct state aid for additional ANB reported in an audit.

**Note:** OPI would prefer that audit reports and financial review reports of Montana school districts disclose all differences between enrollment reported to OPI and that documented by the school district's records. These should include discrepancies in part-time students, early graduates, and discrepancies in attendance and absences reported to OPI.

OPI would prefer auditors utilize the Appendix A: Enrollment schedule found at <http://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Auditing> to report testing of enrollment.

## **Minimum Pupil Instruction Days & Hours**

School districts must provide at least the minimum aggregate hours as defined below:

- a. 360 hours for a half-time kindergarten ~~program~~ or 720 hours for a full-time kindergarten ~~program~~, as provided in 20-7-117.
- b. 720 hours for grades 1 through 3; and
- c. 1,080 hours for grades 4 through 12.

**Note:** 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient.

MCA 20-1-301

Kindergarten, grade 1 through 3, and grade 4 through 12 programs must be considered separately for the purpose of computing compliance with minimum aggregate hour requirements.

MCA 20-9-805(2)

**Minimum Aggregate Hours Not Met:** Except for a circumstance related to an unforeseen emergency (see below), for any district that fails to provide for at least the minimum aggregate hours, the superintendent of public instruction shall reduce the BASE aid for the district for that school year. (MCA 20-1-301 & 20-9-805) However, the board of trustees may close school for 1 school day each school year because of an unforeseen emergency and may not be required to reschedule the pupil-instruction time lost because of the unforeseen emergency. The 1-school-day closure under this subsection is not subject to the reduction in BASE aid pursuant to 20-9-805.

MCA 20-9-806(2)

**School Closure by Declaration of Emergency:** Except as provided above, if a school is closed by reason of an unforeseen emergency that results in a declaration of emergency by the board of trustees, the trustees may later adopt a resolution that a reasonable effort (defined as at least 3 school days or equivalent aggregate hours made up) has been made to reschedule the pupil-instruction time lost. If such a resolution is adopted, the lost pupil-instruction time need not be rescheduled for the district to be entitled to full BASE aid.

MCA 20-9-806(1)

This item is a significant compliance issue, in that BASE aid payments to the districts will be reduced if required minimums are not met. **As the funding agency for school districts, OPI has requested that non-compliance with this issue be disclosed in an audit finding.**

### **PIR Days**

A pupil-instruction-related (PIR) day is a day of teacher activities devoted to improving the quality of instruction. The activities may include but are not limited to in-service training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum of 3 of the days for instructional and professional development meetings or other appropriate in-service training, if the days are planned in accordance with the policy adopted by the board of public education. The days may not be included as a part of the required minimum aggregate hours of pupil instruction.

MCA 20-1-304

### **Accreditation Status**

Accreditation status for ANB purposes is addressed at MCA 20-9-311 & ARM 10.20.102(3). Because OPI monitors and approves accreditation status annually, there is no need for this item to be audited for compliance.

**Enrollment Reports**

For Instructions for the “MAEFAIRS Student Count for ANB and AIM (Achievement in Montana) Enrollment Reporting” – go to:

<https://opi.mt.gov/Leadership/Data-Reporting/AIM-Achievement-in-Montana>

Procedures used to establish the enrollment count are as follows:

- (1) Average number belonging (ANB) must be computed for each budget unit as follows:
  - (a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and
  - (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

MCA 20-9-311(1)

Part-time and full-time enrollment is determined on the hours per year that a student is enrolled, as follows (MCA 20-9-311(4)):

Grade	Not Enrolled	¼-Time Enrolled	½-Time Enrolled	¾-Time Enrolled	Full-Time Enrolled
K-12	<180 hrs.	180-359 hrs.	360-539 hrs.	540-719 hrs.	720+ hrs.

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

MCA 20-9-311(4)(c)

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

MCA 20-9-311(4)(b)

**Exception:** MCA 20-9-311(4)(d) includes a provision related to a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction if the pupil has demonstrated proficiency in the content.

(i) **Effective 7/1/2024:** Except as provided in subsection (4)(e)(ii), A pupil (**effective 7/1/2025:** deletes “in kindergarten through grade 12”) who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil. **Effective 7/1/2023:** When a pupil is concurrently enrolled in more than one district, any fractional enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district.

(ii) **Effective 7/1/2024:** A pupil who participates in a jumpstart program under Title 20, chapter 7, part 18, may be counted as up to 1 ¼ enrollment for ANB purposes. A district shall add one-quarter enrollment for a pupil who participated in an early literacy jumpstart program to the pupil's regular enrollment count under this subsection (4) in both the October and February enrollment counts following the student's participation in the jumpstart program.

MCA 20-9-311(4)(e)

When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count unless the pupil resumes attendance prior to the day of the enrollment count, except for the following: (1) homebound students who are receiving instructional services financed by the school district who were in the education program and due to medical reasons, certified by a medical doctor, are unable to be present for pupil-instruction; (2) students who are confined to a treatment, medical, or custodial facility;

These students may be counted as enrolled on the count dates if the student is enrolled and is currently receiving organized supervised pupil instruction; is in a home or facility which does not offer a regular education program; and has instruction costs during the absences which are financed by the school district general fund.

MCA 20-9-311(5); ARM 10.15.101(35), ARM 10.20.102(8)

- (a) (i) The enrollment of preschool pupils, (effective 7/1/2025) in preschool programs created at the discretion of trustees as provided in 20-7-117, may not be included in the ANB calculations.
- (ii) Preschool children with disabilities receiving special education services as required under 20-7-411(3) may be included in ANB calculations based on the aggregate hours of pupil instructions as provided in subsection (4) of this section.
- (b) Except as provided in subsection (c), a pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.
- (c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by September 10 of the school year and who is receiving special education services from a school district pursuant to 20-7-411(4)(a) may be included in the ANB calculations if:
  - (i) The student has not graduated.
  - (ii) The student is eligible for special education services and is likely to be eligible for adult services for individuals with developmental disabilities due to the significance of the student's disability; and
  - (iii) The student's individualized education program has identified transition goals that focus on preparation for living and working in the community following high school graduation since age 16 or the student's disability has increased in significance after age 16.
- (d) A school district providing special education services pursuant to subsection (c) is encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals of a student's transition plan.

MCA 20-9-311(6)

- (a) A district shall, for ANB purposes, include in the October and February enrollment counts an individual who is otherwise eligible under this title and who during the prior school year:
  - (i) resided in the district.
  - (ii) was not enrolled in the district or was not enrolled full time; and
  - (iii) completed an extracurricular activity with a duration of at least 6 weeks.
- (b) (i) Except as provided in subsection (b)(ii), each completed extracurricular activity under subsection (a) may be counted as one-sixteenth enrollment for the individual, but under this

subsection (12) the individual may not be counted as more than one full-time enrollment for ANB purposes.

(ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-eighth enrollment.

(c) For the purposes of this section, "extracurricular activity" means:

(i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities, contests, and tournaments.

(ii) an approved career and technical student organization, pursuant to 20-7-306; or

(iii) a school theater production.

MCA 20-9-311(12)

**Note:** "Pupil" means an individual who is admitted by the board of trustees pursuant to 20-5-101 and who is enrolled in a school established and maintained under the laws of the state at public expense. The eligibility of pupils and calculations for average number belonging are governed by 20-9-311.

MCA 20-1-101(17)

If a student has left school officially or has already enrolled in another district as of the count date, the student must not be included in the enrollment count. If a student, however, has not been gone more than 10 consecutive days, as of the count date, and it is unknown whether he will return to school, the student should be counted as enrolled.

ARM 10.20.102(4)

**Note:** A district should follow up on unexcused absences. Therefore, it will be uncommon for a district to not know whether the student will return to school or not.

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

MCA 20-9-311(8)

**Note:** OPI uses the attendance and absence information to collect cumulative attendance data required by the Federal government. Accuracy is very important. Several grant programs, including Title I, Impact Aid, Title VI and School Foods use this information to develop allocations based on the average daily attendance.

### **ANB Increases**

A school district may request an increase in regular ANB from the Superintendent of Public Instruction under certain, specified conditions addressed at MCA 20-9-313 **Repealed effective 7/1/2023: & 314**. Because OPI monitors and approves increases in ANB in these cases, **there is no need for this item to be audited for compliance.**

### **ANB Increases for Early Graduation**

A school district may request from OPI an increase in regular ANB if a high school district provides early graduation for any student who completes graduation requirements in less than 8

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 OPI.

MCA 20-9-313(4) (previous to 7/1/2025 was 20-9-313 (e)); ARM 10.20.102(11)

**Note:** OPI has indicated that a student who completes graduation requirements in the 6th semester or less should not be included in the enrollment counts.

### **Kindergarten Students**

The trustees of an elementary district shall establish or make available a kindergarten program capable of accommodating, at a minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for which the program is to be conducted or who have been Effective 7/1/2024: admitted through the exceptional circumstances provision under 20-5-101 by the board of trustees. The kindergarten program,(deleted effective 7/1/2025: “which the trustees may designate as either a half-time or full-time program”), must (effective 7/1/2025) (a) meet, at a minimum, the half-time aggregate hour requirements under 20-1-301; (b) be an integral part of the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion in the calculation of ANB pursuant to MCA 20-9-311, a child must have reached 5 years of age on or before September 10 of the school year covered by the calculation or have been (effective 7/1/2024) admitted to the district's kindergarten program by the board of trustees through the exceptional circumstances provision under 20-5-101. (Effective 7/1/2025 deletes “A kindergarten program must meet the minimum aggregate hour requirements established in MCA 20-1-301. A kindergarten program that is designated as a full-time program must”) (effective 7/1/2025) if offered full-time, allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.

MCA 20-7-117(1)

### **Preschool Programs**

The trustees of an elementary school district may establish and operate a free preschool program for children between the ages of 3 and 5 years. When preschool programs are established, they must be an integral part of school and must be governed accordingly. Financing preschool programs may not be supported by money available from state equalization aid.

MCA 20-7-117(2)

**Note:** The federal “IDEA Preschool Grant” is available for such programs.

### **Standard Audit Contract Requirements**

The standard audit contract requires the audit of any school district to include tests to verify the accuracy of the school district’s enrollment for the fiscal year(s) being audited as reported to the Office of Public Instruction. It also requires that the audit report contains a supplementary schedule of the district’s enrollment as reported to OPI for the fiscal year(s) being audited. The

schedule must contain the enrollment as reported to OPI in the Fall and Spring “Student Count For ANB” reports and as documented by the school district’s enrollment records.

## **GENERAL FUND BUDGET**

### **BASE (Base Amount for School Equity) Funding**

The basic and per-ANB entitlements, as explained below, along with the district’s special education funding (which is discussed in more detail in a subsequent compliance program), define the BASE and Maximum general fund budget limits. The BASE also includes the quality educator and qualified staff payments, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data for-achievement payment, the total future ready payment, and the special education allowable cost payment.

MCA 20-9-306(2) & (9)

The BASE budget for the district must be financed by the following sources of revenue:

- a. state equalization aid, as provided in 20-9-343, (Deleted effective 7/1/2026) including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369.
- b. county equalization aid, as provided in 20-9-331 and 20-9-333.
- c. a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302.
- d. payments in support of special education programs under the provisions of 20-9-321.
- e. nonlevy revenue, as provided in 20-9-141; and
- f. (Deleted effective 7/1/2026) a BASE budget levy on the taxable value of all property within the district. (Effective 7/1/2026) the countywide levy for BASE funding support under 20-9-362.

MCA 20-9-308(3)

**Note:** OPI extensively monitors the BASE funding program as part of the school districts’ budget approval process.

### **Per-ANB & Basic Entitlements**

Total per-ANB entitlement is defined as the district entitlement resulting from the calculations found at MCA 20-9-306(17) and using either the current year ANB or the 3-year ANB provided for in MCA 20-9-311.

**Repealed effective 4/25/2023:** Except for the ensuing school fiscal years of 2022 and 2023, a district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in MCA 20-9-313(1)(d), may increase its BASE aid and special education allowable cost payment for the ensuing school fiscal year in accordance with the provisions discussed in MCA 20-9-314.

The basic entitlement for school districts is calculated per MCA 20-9-306(6).

**Note:** The per-ANB entitlement and basic entitlement are calculated and monitored by OPI.

### **Direct State Aid**

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

MCA 20-9-306(8)

**County Equalization** - The county commissioners of each county shall levy:

- a. an annual basic county tax of **33 mills** for the purposes of **elementary** equalization and state BASE funding program support, (MCA 20-9-331) and
- b. an annual basic county tax of **22 mills** for the purposes of **high school** equalization and state BASE funding program support. (MCA 20-9-333)

**State Equalization:** The county commissioners of each county, in addition to the above tax levies, must levy annually a tax of **40 mills** for state equalization aid to support the BASE funding program.

MCA 20-9-360

The revenues from the county's 33-mill elementary equalization levy, and the revenues from the sources listed at MCA 20-9-331(2) are used for the equalization of the elementary BASE funding program of the county.

The revenues from the county's 22-mill high school equalization levy, and the revenues from the sources listed at MCA 20-9-333(2) are used for the equalization of the high school BASE funding program of the county.

All monies collected for county equalization and state equalization are deposited into the State's general fund and disbursed by OPI. OPI must make the BASE aid payments by the last working day of each month, as detailed at MCA 20-9-344(5).

**Note:** Direct state aid is calculated by OPI and automatically checked for accuracy on the district's trustees' financial summary report (revenue source 3110).

### **BASE & Maximum General Fund Budget**

"BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator and qualified staff payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, 100% of the total future ready payment, and 140% of the special education allowable cost payment.

MCA 20-9-306(3)

"Maximum general fund budget" means, except as provided in subsection (9)(b), a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator and qualified staff payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, the total future ready payment, and the greater of the district's special education allowable cost payment multiplied by:

(i) 175%; or

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

MCA 20-9-306(9)(a)

For a district that meets the legislative goal for base teacher pay under 20-9-324 and has territory within a county in which the median market value for residential properties is greater than 105% of the median county market value for residential properties in the state, the maximum general fund budget is calculated by multiplying the amount calculated in subsection (9)(a) by the percentage by which the county median market value exceed the median county market value for residential properties in the state divided by 60 and rounded to the nearest hundredth of a percent.

The department of revenue shall calculate the median market values in subsection (9)(b)(i), excluding properties with a market value of \$50,000 or less, in odd-numbered calendar years and report this information to the office of public instruction no later than December 1. The values reported must apply to the calculations in subsection (9)(b)(i) and the maximum general fund budgets of districts calculated under this subsection (9) in the 2 school fiscal years beginning the following July 1.

A district adopting a higher general fund budget under this subsection (9)(b) shall expend the additional budget authority under this subsection (9)(b) on:

(A) housing stipends for employees.

(B) construction or purchase of district-owned housing provided for employees.

(C) rental assistance, including subsidies or discounts on rents on housing for employees;

(D) down-payment assistance, including district provided funds to assist employees with the initial down payment on a primary residence.

(E) shared ownership of housing by the district and employee with an option for the employee to buy out the district's interest over time.

(F) district guaranteed or subsidized housing loans, including payment of discount points on housing loans secured by an employee.

(G) relocation assistance; or

(H) any other financial assistance to employees authorized by the Internal Revenue Code, the purpose of which is to improve employee access to affordable housing.

MCA 20-9-306 (9)(b)(i), MCA 20-9-306 (9)(b)(ii), MCA 20-9-306 (9)(b)(iii)

The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the greater of:

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

MCA 20-9-308(1)

The trustees of the district may propose to adopt an over-BASE budget amount for the general fund that does not exceed the limitations of 20-9-308 (above). When the trustees of a district propose to adopt an over-BASE budget, any increase in local property taxes authorized by 20-9-308(4) over revenue previously authorized by the electors of the district or imposed by the district in any of the previous 5 years must be submitted to a vote, as provided in 15-10-425 (i.e., mill levy election), and follow other requirements noted in 20-9-353(2) to (4).

MCA 20-9-308 & 353

- (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.
- (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection 13(a)(14)(a) and then combined.

MCA 20-9-311(13)

**Note:** The BASE and maximum general fund budgets are monitored by OPI.

### **Oil and Natural Gas Production Tax Limitations**

The maximum amount of oil and natural gas (O&G) production taxes that a school district may retain is 130% of the district's maximum budget.

MCA 20-9-310(1)

- (a) **Effective 4/25/2023:** The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district that was eligible for a significant enrollment increase payment pursuant to 20-9-166. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the fiscal year immediately following the fiscal year in which the district was eligible and must be calculated by multiplying \$45,000 times each additional ANB used to calculate the significant enrollment increase payment pursuant to 20-9-166, including the absorption factor reduction.
- (b) For a district in nonoperating status under 20-9-505, the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget in the district's most recent operating year, determined in accordance with 20-9-308.

MCA 20-9-310(5)

**Department of Revenue Distribution of Excess:** The Department of Revenue shall make the full quarterly distribution of O&G production taxes as required under 15-36-332(6) until the amount distributed reaches the above limitations. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) above in the guarantee account provided for in 20-9-622.

MCA 20-9-310(3)

(Effective 7/1/2026: Subsections (b) and (c) deleted.)

**District Budget & Allocation:**

- (a) Subject to the limitation in subsection (1) and the conditions in subsection (4)(b), the trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.
- (b) Except as provided in subsection (4)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:
  - (i) the trustees shall levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year.
  - (ii) the mills levied under subsection (4)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and
  - (iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (4)(b)(i) must be added to the number of mills calculated in 20-9-141(2).
- (c) The provisions of subsection (4)(b) do not apply to the following:
  - (i) a district that has a maximum general fund budget of less than \$1 million.
  - (ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget.
  - (iii) a district that has a maximum general fund budget of \$1 million or more and Effective 4/25/2023: was eligible for a significant enrollment increase payment pursuant to 20-9-166 in the fiscal year immediately preceding the fiscal year to which the provisions of this subsection (4) would otherwise apply; or
  - (iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

MCA 20-9-310(4)

In any year in which the actual O&G production taxes received by a school district are less than 50% of the total O&G production taxes received in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall.

MCA 20-9-310(6)

### **Guaranteed Tax Base Aid**

Guaranteed Tax Base (GTB) aid is a function of a school district's prior year taxable valuation and the district's current year BASE budget, direct state aid and state special education allowable cost payment. Eligible school districts may receive GTB aid in support of the district's GTBA budget area. (See MCA 20-9-368(3) for calculation of the amount of GTB aid that a district may receive.)

MCA 20-9-306(2)(b), MCA 20-9-367, & MCA 20-9-368

**Note:** GTB is calculated and disbursed by OPI.

### **Additional General Fund Payments**

The state shall provide the following payments to public school districts.

- (a) Quality Educator and Qualified Staff payment (MCA 20-9-327, 20-9-306(18), & 20-9-324);
- (b) At-Risk Student payment (MCA 20-9-328);
- (c) Indian Education for All payment - This payment may be expended only for curriculum development Effective 7/1/2023; of an American Indian studies program, providing curriculum and materials to students Effective 7/1/2023; for the program, and providing training to teachers about the Effective 7/1/2023; program's curriculum and materials. Districts must report annually to OPI as to how these funds were expended. (MCA 20-9-329 & 306(14)) (**Note:** This ongoing payment is not to be confused with the one-time-only Indian Education for All payments received in FY2007 – FY2009, which were to be deposited in the Miscellaneous Programs fund. See SD02-Revenues);
- (d) American Indian Achievement Gap payment (MCA 20-9-330 & 306(11));
- (e) Data for Achievement payment - These funds must be used by a school district to pay for access fees or other costs associated with use of or participation in the statewide data system, including data entry and staff training on use of the systems. (MCA 20-9-325 & 306(13));
- (f) State Lands Reimbursement Block Grant (MCA 20-9-640); and
- (g) Coal-Fired Generating Unit Closure Mitigation Block Grant (MCA 20-9-638) – applicable only to school districts meeting very specific criteria at MCA 20-9-638(1).
- (h) Future Ready Payment (**beginning in fiscal year 2028**) (MCA 20-9-381)

**Note:** OPI verifies that these payments are properly deposited and reported in the general fund. In addition, OPI has indicated that auditors do not need to verify Indian student counts.

## **SPECIAL EDUCATION**

### **Special Education Allowable Cost Payment**

OPI determines and distributes the special education allowable cost payments to each school district and cooperative with a special education program as follows:

- a. An **instructional block grant** is awarded to each school district; and
- b. A **special education related services block grant** is awarded to each school district that is not a cooperative member; if the school district is a cooperative member or a joint board member, the block grant is awarded to the cooperative or joint board.
- c. If a district's allowable costs exceed the total of the two block grants discussed above plus the required district match of 25% (discussed below), the district is eligible to receive at least a **40% reimbursement** of the additional costs.
- d. OPI has assigned the following revenue codes for the instructional and related services block grants: School Districts - revenue code number 3115, and Special Education Cooperatives - revenue code number 3233.

MCA 20-9-321(4)

**Note:** OPI determines payments under the above special education funding provisions.

### **Local Matching Funds**

Each district and cooperative shall provide a 25% local contribution for special education, matching every \$3 of state special education block grants with at least one local dollar. OPI determines the actual district match based on the information provided on the trustees' financial summary.

MCA 20-9-321(6); ARM 10.16.3813

Demonstrations that local match contributions have been made is determined by totaling the prior fiscal year special education allowable cost expenditures, as reported on the annual trustees' financial summary for the General Fund, the Impact Aid Fund, the Metal Mines Tax Reserve Fund and State Mining Impact Fund. Those prior fiscal year expenditures must equal or exceed the district's minimum special education expenditures to avoid reversion for the prior fiscal year. ARM 10.16.3813(2)(a)

OPI has assigned expenditure program code 280 for special education expenditures.

Districts that are participating members of a cooperative must provide the required local related services block grant match to their cooperative. This match may be demonstrated by either:

- a. the transfer of the required amount from the district General Fund or Impact Aid Fund to the cooperative, OR
- b. completion of a written agreement between the district and the cooperative that states the manner in which the contribution will be made, if different from a. This written agreement must be on file with the cooperative.

At the close of each fiscal year, cooperatives must certify to OPI that each member district provided its required related services block grant match to the cooperative.

ARM 10.16.3813(3)

### **Special Education Funding Reversion**

If at fiscal year-end, special education allowable cost expenditures do not equal or exceed the amount of the Special Ed Block Grant funds plus the required local match, the unspent balance cannot be used to reduce local levies or to increase the operating reserves. Instead, the unspent balance must be used to reduce the state special ed payment for the ensuing fiscal year through reversion. If special ed payments are not received by that district in the ensuing fiscal year, the district must return the unspent portion by warrant by December 31.

MCA 20-9-321(7); ARM 10.16.3817

Revisions to the annual trustees' financial summary report made by the district after the district's audit report for that fiscal year is issued, or after December 10 of the ensuing fiscal year, if later, will not be considered in calculating the reversion amount. OPI may accept the adjustments after these dates for unusual circumstances.

ARM 10.16.3817

**Note:** OPI monitors these reversion requirements.

### **Special Ed Allowable Costs**

**Instructional Block Grant** - Allowable costs associated with instruction of students with disabilities include:

- (a) salaries and benefits, not excluded in ARM 10.16.3805, for qualified special education teachers and special education teacher aides for the proportion of time spent providing services to students with disabilities. This includes time spent:
  - (i) in activities associated with structured support and assistance to regular education teachers to identify and meet diverse student needs; and
  - (ii) providing or receiving in-service training on the provision of special education services.
- (b) teaching supplies and textbooks necessary to implement an IEP for a student with disabilities.
- (c) the purchase, rental, repair and maintenance of instructional equipment and assistive technology required to implement an IEP for a student with disabilities.
- (d) contracted services, including fees paid for professional advice, training and consultation regarding students with disabilities or their programs and the delivery of special education instructional services by public or private agencies.
- (e) payments made to a cooperative for the instructional services.
- (f) transportation costs for:
  - (i) special education instructional personnel who travel on an itinerant basis from school to school or district to district for the provision of instructional services.
  - (ii) travel to in-state evaluation report team meetings or in-state IEP meetings.
  - (iii) in-state travel related to activities associated with structured support and assistance to regular education teachers in identifying and meeting diverse student needs; and
  - (iv) travel to provide or for receiving in-service training on the provision of special education services.

MCA 20-7-431(1)(a); ARM 10.16.3806

**Related Services Block Grant** - Allowable costs associated with the provision of services related to students with disabilities include:

- (a) salaries and benefits of professional supportive personnel, corresponding to the working time that each person devotes to the special program. Professional supportive personnel may include special education supervisors, speech-language pathologists, audiologists, counselors, social workers, psychologists, psychometrics, physicians, nurses, and physical and occupational therapists.
- (b) salaries and benefits of clerical personnel who assist professional personnel in supportive services, corresponding to the working time that each person devotes to the special program.
- (c) supplies for special programs.
- (d) activities associated with teacher assistance teams that provide pre-referral interventions.
- (e) contracted services, including fees paid for professional advice and consultation regarding special students or the special program, and the delivery of special education services by public or private agencies.
- (f) transportation costs for special education related services personnel who travel on an itinerant basis from school to school or district to district or to in-state evaluation team meetings or in-state IEP meetings, or other travel as listed in ARM 10.16.3807(g).
- (g) equipment purchase, rental, repair, and maintenance required to implement a student's IEP.
- (h) the additional cost of special education cooperatives or joint boards, including operation and maintenance, travel, recruitment, and administration.
- (i) payments made to a cooperative for the provision of related services.

MCA 20-7-431; ARM 10.16.3807

Allowable costs as stated above do not include the costs of the teachers' retirement system, the public employees' retirement system, the federal social security system; or unemployment compensation insurance; the cost of any administrative, instructional or teacher aide personnel necessary to meet Montana school accreditation standards; salaries and benefits for transportation aides employed for assisting students with disabilities; the on-schedule and over-schedule costs of transportation for special education purposes; the cost of administrative support personnel, such as clerks and clerical personnel (with the exception of ARM 10.16.3807(1)(c) & .3808(1)(a)); and any overhead costs of operations and maintenance.

MCA 20-7-431(4); ARM 10.16.3805(1)

The sum of the special education block grants may be spent for any combination of costs allowed under MCA 20-7-431, without regard to whether the money was received as instructional or related services block grant.

ARM 10.16.3813(3)

### **Special Ed Tuition Charges**

Whenever a child with disabilities has approval to attend a school outside the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition must be determined under rules adopted by OPI for the calculation of tuition for special education pupils.

Effective 7/1/2024: The district of residence shall pay the district of attendance a percentage equal to the lesser of the percentage of either school district's adopted general fund budget funded by BASE and over-BASE property tax levies in the year of attendance not to exceed 35.3% of the tuition per-ANB amount for the year of attendance as described in 20-5-324. "Tuition per-ANB amount" means the applicable per-ANB maximum rate established in 20-9-306, plus (Deleted effective 7/1/2024: the sum of (a) the data for achievement payment rate under 20-9-306, (b) the Indian education for all payment rate under 20-9-306, and (c)) the per-ANB amounts of the instructional block grant and related services block grant under 20-9-321.

For a student with disabilities, the district may charge the regular education tuition rate PLUS a special education add-on tuition rate, calculated in accordance with ARM 10.16.3818.

The additional tuition charge for special education is calculated by Option A or Option B, as provided in ARM 10.16.3818. (The school district shall use only one of these options.) MCA 20-5-323; ARM 10.10.301, ARM 10.16.3818

The district shall anticipate and credit tuition receipts to the General Fund of a school district entitled to a tuition payment, Deleted effective 7/1/2026: to reduce the general fund net levy requirement first to the BASE budget and any remaining to the over-BASE budget pursuant to 20-9-141. Deleted effective 7/1/2026: In order to provide local property tax reduction for the tuition amount received under 20-5-323(1), the amount of the reduction in the BASE budget mills levied as a result of anticipated tuition payments 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. **Exceptions** are as follows:

- a. Any tuition receipts received (~~deleted effective 7/1/2024:~~ "or the current school fiscal year for a pupil who is a child with a disability") (effective 7/1/2024) under 20-5-323(2) or for a student without disabilities who requires a program with costs that exceed the average district costs under 20-5-323(3) that exceed the tuition amount received for a pupil without disabilities must be deposited in the district miscellaneous programs fund and must be used (~~deleted effective 7/1/2024,~~ "for that year in the manner provided for in MCA 20-9-507 to support the costs of the program for which the tuition was received").
- b. **Deleted effective 7/1/2024:** Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget.

MCA 20-5-324(5)

### **Special Ed Cooperative or Interlocal Agreement**

When a district participates in a cooperative or enters into an interlocal agreement with another district for special education services, the district may pay its state special education allowable cost payment, required block grant match, and any other additional costs of provided services to the cooperative or district on a reimbursement basis. The payment must be deposited to the miscellaneous programs fund (fund number 15) or the interlocal agreement fund (fund number

82) of the district providing services, or to the interlocal agreement fund of the cooperative providing services. The receipt and payment must be identified in the accounting records using a separate project reporter number, which identifies the special education agreement.

ARM 10.16.3815(2)

When a cooperative contract with a member district to provide special education instructional and related services:

- a. The payments received by a district from a cooperative must be deposited in the district's miscellaneous programs fund or interlocal agreement fund and
- b. The receipt and expenditure of the money must be identified on the accounting records using a separate project reporter number (which identifies the special education agreement).
- c. Any amounts received by the district from the cooperative but not obligated for the special education purposes outlined in the contract must be returned to the paying cooperative by June 30th and recorded as revenue abatement by the district providing the service and as expenditure abatement by the cooperative.

ARM 10.16.3815(3)

**Note:** There should be a written contract for services to be provided by the member district)

## **TRANSPORTATION FUND BUDGET**

**Note to Auditor:** OPI monitors the accuracy of transportation fund budget calculations and State and county reimbursements. OPI would like auditors to verify the accuracy of information submitted to OPI on the following forms: TR-1 (bus route reimbursement form), TR-4 (individual transportation contract form), TR-5 (claim form for individual transportation), and TR-6 (claim form for bus route reimbursement).

### **School Bus Mileage Rates**

The following mileage rates for school transportation constitute the maximum reimbursement to districts for school bus transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates may not limit the amount that a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal year. All bus miles traveled on bus routes approved by the county transportation committee are reimbursable. Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus miles within its own district or approved service area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be a school bus as defined in 20-10-101(5)(a)(ii), driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

Reimbursement is not authorized for bus transportation provided for pupils who live less than three miles from school unless the pupils have transportation listed as a related service on individualized education plans (IEP).

The rate per bus mile traveled must be determined in accordance with the schedule at MCA 20-10-141(2).

MCA 20-10-141(1) & (2); ARM 10.7.110, .112, & .115

The rated capacity is the number of passenger seating positions of a school bus as determined under the policy adopted by the board of public education. If modification of a school bus to accommodate pupils with disabilities reduces the rated capacity of the bus, the reimbursement to a district for pupil transportation is based on the rated capacity of the bus prior to modification. The number of pupils riding the school bus may not exceed the passenger seating positions (i.e., rated capacity) of the bus.

MCA 20-10-141(3) & (4)

**Form TR-1 - Combined School District Application for Registration of School Bus and State Reimbursement** must be completed by the board of trustees for each approved bus route in the district. The Form is to be submitted to the county superintendent's office, and transmitted electronically to OPI, by November 1.

ARM 10.7.118

**Form TR-6 - School District Claim for Reimbursement for School Bus Transportation** must be completed by the board of trustees and sent to the county school superintendent by February 15 (for first semester) and by May 24 (for second semester). The county superintendent must then authorize the claim electronically by February 22 (first semester) and June 1 (second semester). After notifying the school district and county superintendent of the approved reimbursement amount, OPI sends a payment to the county treasurer, with a list of districts and the amount each district is to receive.

ARM 10.7.118

### **Individual Transportation Reimbursement**

The following rates for individual transportation make up the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

When a parent transports an eligible transportee(s) from the residence of the parent to a school or to schools located within 3 miles of one another, the total reimbursement per day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by 35 cents, provided that:

- a. If two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by

different school districts, the total amount of the reimbursement (calculated using the distance to the furthest school) shall be divided equally between the districts.

- b. If two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian shall be separately reimbursed for transporting the eligible transportee or transportees to each school.
- c. If a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection and must be divided equally between the district operating the school and the district operating the bus.
- d. If a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip per day for each scheduled arrival or departure time.
- e. notwithstanding the provisions of “a” through “d” above, a reimbursement may not be less than 35 cents a day.

If, because of a half-time preschool or kindergarten program, a parent or guardian must make a separate trip to transport an eligible preschool or kindergarten transportee from the school or bus stop, the parent or guardian is eligible for reimbursement for this trip. A separate TR-4 form shall be used for this trip.

MCA 20-10-142(1); ARM 10.7.113 to .115

When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement per day of attendance is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by 35 cents, provided that:

- a. If the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally (i.e., “shared contract”); and
- b. If the parent or guardian is required to transport eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

MCA 20-10-142(2); ARM 10.7.113 to .115

**Isolated Transportation:** When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed above would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate.

MCA 20-10-142(3); ARM 10.7.113 to .115

**Transportation Reimbursement:** The state and county transportation reimbursement for an individual transportation contract may not exceed \$12.95 per day of attendance for the first eligible transportee and \$8.40 per day of attendance for each additional eligible transportee.

MCA 20-10-142(4)

**Form TR-4 - Individual Transportation Contract** must be completed by the board of trustees and the families of eligible students by July 1. Completed forms must be sent to the county

school superintendent by July 1, who must forward the original copy of the form to OPI, and an electronic copy of each contract must be transmitted by the district to OPI by July 1.

ARM 10.7.118

**Form TR-5 - School District Claim for State Reimbursement for Individual and Isolated Transportation** must be completed by the board of trustees and sent to the county school superintendent by February 15 (for first semester) and by May 24 (for second semester). The county superintendent must authorize the claim electronically by February 22 (first semester) and June 1 (second semester). After notifying the school district and county superintendent of the approved reimbursement amount, OPI sends a payment to the county treasurer, with a list of districts and the amount each district is to receive.

ARM 10.7.118

### **Transportation Fund Budget Calculation**

The transportation fund budget must include:

- a. an adequate amount to finance the maintenance and operation of district owned and operated school buses.
- b. the annual contracted amount for the maintenance and operation of school buses by a private party.
- c. the annual contracted amount for individual transportation, including any increased amount because of isolation, which may not exceed the schedule amounts prescribed in MCA 20-10-142 (as discussed above).
- d. any amount necessary for the purchase, rental, or insurance of school buses; and
- e. any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district.

MCA 20-10-143(1); ARM 10.7.105 & .108

### **Budgeted Contingency Amount**

The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any unforeseen transportation obligations. The budgeted contingency amount may not exceed 10% of the transportation schedule amount as calculated above, or \$100, whichever is larger.

MCA 20-10-143(2); ARM 10.7.107

Property taxes levied to support the adult education and transportation funds may be transferred to the school flexibility fund, but the transfer must be within or directly related to the purposes for which the property taxes were raised, i.e., adult education programming and transportation services. A transfer of property taxes for any other purpose is invalid. (issued 2/2012)  
AGO #6, Vol. 54 2012 (20-9-Part 2)

**Note:** OPI monitors the accuracy of transportation fund budget calculations and verifies that the districts include in their budget only an allowable amount for contingency.

**Note:** Athletic trips, field trips, and other activities trips are not allowable costs.

The portion of the superintendent's or the clerk's time spent on transportation issues should approximate the portion of the salaries charged to the Transportation fund.

ARM 10.10.303, Appendix E

Only yellow school buses that are used on school bus routes may be purchased through the Transportation Fund. Activities and athletics buses, drivers' education cars, and vehicles intended to be used for employee travel cannot be purchased from this fund.

### **Amount Used to Reduce Property Tax Levy**

The total of the money available for the reduction of property tax on the district for the Transportation Fund must be determined by total:

- a. anticipated federal money received under the provisions of 20 U.S.C. 7701 (i.e., Impact Aid), or other anticipated federal money received in lieu of that federal act.
- b. anticipated payments from other districts for providing school bus services for the district.
- c. anticipated payments from a parent or guardian for providing school bus transportation services for a child.
- d. anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4).
- e. anticipated revenue from coal gross proceeds under 15-23-703.
- f. anticipated oil and natural gas production taxes.
- g. anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324.
- h. any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and
- i. any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the Transportation Fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the Transportation Fund.

MCA 20-10-144(3)

### **Revenue and Levy Calculations**

The county superintendent shall compute the revenue available to finance the Transportation Fund budget of each district. The superintendent first determines the "schedule amount" of the budget expenditures, on the basis provided in MCA 20-10-144(1). The "schedule amount" or the total Transportation Fund budget, whichever is smaller, is then divided by 4 and is used to determine the available state and county revenue to be budgeted on the following basis:

- a. (effective 5/13/2025) three-fourths is the budgeted state transportation reimbursement, and
- b. (effective 5/13/2025) three-fourths is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

MCA 20-10-144(1) & (2)(a)

When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county financing obligation and, if the county financing obligations are reduced to zero, to reduce the state financial obligation.

MCA 20-10-144(2)(b)

The district levy requirement for the Transportation Fund must be computed by subtracting the “schedule amount” from the total preliminary transportation budget amount and then subtracting the money available to reduce the property tax. The resulting district levy requirement must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county school superintendent.

MCA 20-10-144(4) & (5)

The Transportation Fund’s operating reserve may not be more than 20% of the final Transportation Fund budget for the ensuing fiscal year.

MCA 20-10-144(3)(i)

### **State and County Transportation Reimbursements**

**State Reimbursement:** A district providing school bus or individual transportation must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142 (as discussed above). The state transportation reimbursement is one-half of the reimbursement amounts established in 20-10-141 and 20-10-142, or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, to transport eligible transportees, as defined in 20-10-101, to or from school to participate in the minimum aggregate hours of instruction required pursuant to 20-1-301. The State reimbursement is made in 3 separate payments (50% by September 1, an amount equal to the 1<sup>st</sup> semester transportation claims less the September payment by March 31, and the balance by June 30).

MCA 20-10-145(1) & (3)

**County Reimbursement:** The apportionment of the county transportation reimbursement by the county superintendent must be (effective 5/13/2025) one-third the amount of the state transportation reimbursement payment (with exceptions noted at MCA 20-10-146(1)). The county treasurer shall make the apportionments after the receipt of the semiannual state transportation reimbursement payments.

MCA 20-10-146(1) & (5)

**Bus Driver and School Bus Qualifications:** If a district operates a bus route in a manner that does not comply with state law, the district shall forfeit the state and county transportation reimbursement for any bus miles actually traveled during that fiscal year in violation of the law.

MCA 20-10-104

The qualifications of all bus drivers (see ARM 10.7.111) are reviewed at the time the state verification of transportation claims is made, as the qualifications of the bus driver are one of the criteria for eligibility for reimbursement. The State Superintendent will generally not reimburse for routes driven by drivers without a current certificate (Form TR-35) on file with the Office of Public Instruction. Districts must retain a signed copy of each bus driver certificate on file for audit purposes.

ARM 10.7.111

**Contracted School Bus Services:** The District is responsible for verifying the bus driver qualifications of all the bus drivers that drive for the contracted bus line.

See Audit Letter on OPI website for discussion of Bus Driver Training and Bus Driver Credentials.

The Montana Highway Patrol is required to perform semiannual inspections of school buses. The first semiannual inspection must be passed prior to the beginning of the first semester. The second semiannual inspection must be passed no later than January 31. Only school buses that pass inspection will receive state and county transportation reimbursement. A school bus that fails to pass inspection will not be eligible for state and county reimbursement until the bus is reinspected and approved by the inspecting officer. The school district is responsible for contacting the Montana Highway Patrol for bus inspections.

ARM 10.7.110

**Note:** OPI monitors the accuracy of transportation fund budget calculations and State and county reimbursements.

## **BUS DEPRECIATION RESERVE FUND BUDGET**

**Note:** The term “bus” as used here refers to a yellow school bus or a transit-style bus used for athletics and activities.

### **School Bus Definition**

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

- (i) is owned by a district or other public agency and operated for the transportation of pupils to or from school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to or from school; or
- (ii) is district-owned, is designed to carry 10 or fewer passengers, has an overall safety rating of five stars from the national highway traffic safety administration at the time of purchase, and is insured in accordance with minimum coverage requirements set forth 20-10-109.

MCA 20-10-101(5)(a)

**Transportation for special activities.** (1) A district may use a passenger vehicle to transport students to or from school-sponsored functions or activities. A district may not use a passenger vehicle for purposes of transporting students to or from school on a regular bus route.

(2) **Effective 7/1/2023:** A passenger vehicle that is owned by the district is not eligible to be included in the calculations for the bus depreciation reserve fund under 20-10-147.

(3) For purposes of this section, "passenger vehicle" means a motor vehicle that is:

(a) designed to transport 8 to 15 passengers and is the size and style of vehicle necessary to meet the needs of the district; and

(b) insured in accordance with the minimum coverage requirements established in 20-10-109.

MCA 20-10-129

### **Analysis Required Before Purchase of Small School Bus**

The trustees of a district may not purchase and operate a school bus as defined in 20-10-101(5)(a)(ii) until the trustees have:

(1) conducted an analysis of the costs associated with purchase and operation of the school bus compared to the costs associated with purchase or contract and operation of a school bus designed to carry more than 10 passengers; and

(2) adopted a written finding that the purchase and operation of a school bus as defined in 20-10-101(5)(a)(ii) is the most cost-effective means of transporting eligible transportees on the bus route or routes to which the school bus will be assigned.

MCA 20-10-148

The trustees of a district owning a bus used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or communication systems and safety devices installed on the bus, including but not limited to global positioning systems, cameras, and two-way radios. The trustees of a district may also use the bus depreciation reserve fund to purchase an additional bus for purposes of transportation, as defined in 20-10-101.

MCA 20-10-147(1) & (3)

**Note:** Vans and other non-bus vehicles cannot be purchased through this fund; OPI allows the purchase of surveillance cameras for buses using this fund.

Whenever a bus depreciation reserve fund is established, the budget may include an amount each year that does not exceed 20% of the original cost of a bus or communication systems and safety devices installed on the bus. The amount budgeted over time may not exceed 150% of the original cost of a bus or communication systems and safety devices installed on the bus.

MCA 20-10-147(2)

**Note:** Each bus being depreciated must be listed in the budget document.

The annual revenue requirement for the bus depreciation reserve fund must be reported by the county superintendent to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values, and a levy must be made by the county commissioners in accordance with 20-9-142.

MCA 20-10-147(2)

Any expenditure of bus depreciation reserve fund money must be within the approved budget for the fund.

MCA 20-10-147(3)

The accumulative cash balance from all buses can be applied to the purchase price of a new or used replacement bus.

AGO #153, Vol. 37 1978 (20-10-147)

**Note:** OPI's interpretation of this AGO is that it would also apply to the purchase of an additional new or used yellow school bus.

## **TUITION FUND BUDGET**

(i) When a child **Effective 7/1/2024:** attends a school outside the child's district of residence at the resident district's expense under the provisions of 20-5-320 or 20-5-321 or when a child has approval to attend a day-treatment program under an approved individualized education program at a private, nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance **Effective 7/1/2024:** any tuition amount required under 20-5-323 from the levy authorized to support the district tuition fund or from the district's general fund or any other legally available fund in the discretion of the trustees and any transportation amount from the levy authorized to support the transportation fund or from the district's general fund or any other legally available fund in the discretion of the trustees.

(ii) By December 31 of the school fiscal year following the year of attendance, the district of residence shall pay at least one-half of any tuition and transportation obligation established under subsection (4)(a)(i). The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

(iii) In addition to use of a tuition levy to pay tuition for out-of-district attendance of a resident pupil, a district may also include in its tuition levy an amount necessary to pay for the full costs of providing a free appropriate public education, as defined in 20-7-401, in the district to any child with a disability who lives in the district. The amount of the levy imposed for this cost is limited to the formula in 20-5-324(4)(a)(iii).

MCA 20-5-324(4)(a)

In order to be eligible to receive **Effective 7/1/2024:** state reimbursement or payment, the trustees of a district shall report to OPI by June 30 the following information for the concluding school fiscal year:

- (a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e).

- (b) the number of days of enrollment for each child reported under the provisions of subsection (a).
- (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (a).
- (d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state; and
- (e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved IEPs at private, nonsectarian schools.

OPI will determine the total per-ANB entitlement for which the district of residence would have been eligible if the students reported in (d) and (e) above had been enrolled in the resident district in the prior year and will reimburse the district of residence for the state portion of the per-ANB entitlement for each student reported in (d) and (e) above, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year. These reimbursements must be deposited into the district Tuition Fund and must be used by the district to pay obligations for resident students attending public schools out of state or for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools at district expense.

MCA 20-5-324(1), (2), & (6)

**Disposition of other tuition receipts:** Out-of-district tuition revenues must be budgeted in and credited to the General Fund.

**Exceptions are as follows:**

- a. Any tuition receipts received (~~effective 7/1/2024: “for the current school fiscal year for a pupil who is a child with a disability”~~) (effective 7/1/2024) under 20-5-323(2) or for a student without disabilities who requires a program with costs that exceed the average district costs under 20-5-323(3) that exceed the tuition amount received for a pupil without disabilities Effective 7/1/2024: must be deposited in the district Miscellaneous Programs Fund and must be used (~~effective 7/1/2024: “for that year in the manner provided for in MCA 20-9-507, to support the costs of the program for which the tuition was received”~~).
- b. ~~Effective 7/1/2024:~~ Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district Miscellaneous Programs Fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district General Fund budget.

MCA 20-5-324(5)

A child may be enrolled in and attend a school in a Montana district that is outside of the child's district of residence at the request of the child's parent or guardian. -of-district attendance agreements (Form FP-14, “Student Attendance Agreement”) must be prepared for each out-of-district attendance that occurs. (~~Effective 7/1/2024:~~ Out-of-district attendance is either discretionary or mandatory). (~~Effective 7/1/2025:~~ If district trustees grant (~~effective 7/1/2024:~~ “discretionary approval, the parent or guardian may be charged tuition and/or”

responsible for transportation. Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of 20-5-320, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The attendance agreement must set forth the financial obligations, if any, for costs incurred for transporting the child as provided in 20-5-323 and Title 20, chapter 10. A parent of a child, a state agency, or a court may request mandatory out-of-district attendance. **Deleted effective 7/1/2024:** The trustees may waive any or all the tuition rate, but the waiver must be applied equally to all students whose tuition is paid by the same type of entity.

MCA 20-5-320 & 321

## **RETIREMENT FUND BUDGET**

Only the amount of the employer's contributions to the Teachers' Retirement System (TRS), the Public Employees' Retirement System (PERS), the Social Security Administration (FICA), and the Unemployment Compensation Division are to be included in the retirement fund budget. The employees' contributions must not be included.

MCA 20-9-501(2)

Payments to employees, such as early retirement incentives, cannot be made from the retirement fund.

The retirement fund cannot be used to "buy years of service" for an employee as a benefit. These additional employee contributions to TRS and PERS may be funded either through payroll deductions or charges to the general fund or another fund used to pay the normal payroll of the employee.

A district may pay the above employer's contributions from the retirement fund only if the employee's salary and health-related benefits (insurance), if any, are paid from (1) state or local funding sources, (2) the school food services fund, and (3) the district impact aid fund. A cooperative may pay the employer's contributions from the retirement fund for an employee that is paid from the interlocal cooperative fund, if the fund is supported solely from districts' general funds and state special education allowable cost payments, or are paid from the miscellaneous programs fund, from money received from the Medicaid program.

MCA 20-9-501(2)(a)

Except as provided above, districts may not charge the employers' share of the above costs for employees paid using federal money (except employees paid from the food services fund or from Medicaid and Impact Aid funds) to the retirement fund. The retirement costs for federally paid employees (except as noted) must be charged to the grant that pays the salary.

MCA 20-9-501(2)(b)

### **County-wide tax levy**

The district Retirement Fund is funded by an allocation from a county-wide tax levy. The county school superintendent shall establish the county-wide tax levy requirement according to the

provisions of 20-9-501(4) & (5). The district retirement fund operating reserve must not exceed **20%** of the final retirement fund budget for the ensuing school fiscal year.  
MCA 20-9-501(4) to (6)

**Note:** OPI monitors the accuracy of the county reimbursement and compliance with the reserve limitation.

### **ADULT EDUCATION FUND BUDGET**

A separate Adult Education Fund must be established by the district when an adult education program is operated by the district. The fund must be the depository for all district money received by the district in support of the adult education program, including tuition and fees. Federal and state adult education program money must be deposited in the miscellaneous programs fund.  
MCA 20-7-705(2)

Adult education programs are only for students 16 years of age or older who are not regularly enrolled, full-time pupils for the purposes of ANB computation and the provision of advanced opportunities to qualified pupils pursuant to Title 20, chapter 7, part 15.  
MCA 20-7-701(2), See section titled “Montana Advanced Opportunity Act” below.

#### **Tax levy- adult education program:**

The trustees of a district may authorize the levy of a tax on the taxable value of all taxable property within the district for the operation of an adult education program.  
MCA 20-7-705(3)

Property taxes levied to support the adult education and transportation funds may be transferred to the school flexibility fund, but the transfer must be within or directly related to the purposes for which the property taxes were raised, i.e., adult education programming and transportation services. A transfer of property taxes for any other purpose is invalid. (issued 2/2012)  
AGO #6, Vol. 54 2012 (20-9-Part 2)

The adult education fund operating reserve must not exceed 35% of the final adult education fund budget for the ensuing school fiscal year.  
MCA 20-7-713

**Note:** OPI monitors compliance with budget calculations and reserve limitations.

### **NONOPERATING FUND BUDGET**

**Note:** OPI monitors non-operating schools for compliance with legal requirements. The following is presented for your information only.

The purpose of the nonoperating fund is to centralize the financing and budgeting for the limited functions of a district not operating a school. The functions include:

- a. elementary tuition obligations to other districts
- b. transportation of the resident pupils.
- c. maintenance of district-owned property; and
- d. any other nonoperating school function considered necessary by the trustees or required by law.

The trustees of a district that will not operate a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the end-of-the-year fund balance of each fund maintained by the district during the immediately preceding school fiscal year to the nonoperating fund. However, fund balances of the debt service fund and the miscellaneous programs fund, if any, must be maintained in their individual funds.

MCA 20-9-505(1)

The trustees of a district establishing a nonoperating fund for the first year of nonoperation may earmark a portion of the nonoperating fund balance as a nonoperating fund operating reserve when they anticipate the reopening of a school in the following school fiscal year. The operating reserve may not be more than the general fund operating reserve designated for the immediately preceding school fiscal year.

MCA 20-9-505(2)

If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a nonoperating fund operating reserve terminates and the money earmarked as an operating reserve must be used to reduce the levy requirement of the nonoperating fund.

MCA 20-9-505(2)

The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget. Such nonoperating budget shall contain the nonoperating fund and, when appropriate, a debt service fund. The net levy requirement is calculated by subtracting from the amount authorized by such budget the sum of:

- a. the end-of-the-year cash balance of the nonoperating fund or, if it is the first year of nonoperation, the cash balance determined under the transfer provisions of 20-9-505.
- b. the estimated state and county transportation reimbursements; and
- c. any other money that may become available during the ensuing school fiscal year.

MCA 20-9-506

## **TECHNOLOGY ACQUISITION AND DEPRECIATION FUND BUDGET**

### **Allowable Expenditures:**

The trustees of a district may establish a technology acquisition and depreciation fund for school district expenditures incurred for

- (a) the purchase, rental, repair, and maintenance of technological equipment, including computers and computer network access.

(b) cloud computing services for technology infrastructure, platform, software, network, storage, security, data, database, test environment, curriculum, or desktop virtualization purposes, including any subscription or any license-based or pay-per-use service that is accessed over the internet or other remote network to meet the district's information technology and other needs; and

(c) associated technical training for school district personnel.

MCA 20-9-533(1)

Any expenditures from the fund must be made in accordance with the financial administration requirements for a budgeted fund pursuant to MCA Title 20. Any expenditure must be within the limitations of the fund budget and the school financial administration provisions of MCA Title 20.

MCA 20-9-533(2) & (5)

The trustees of a district may not use revenue in the technology acquisition and depreciation fund to finance contributions to the teachers' retirement system, the public employees' retirement system, or the federal social security system or for unemployment compensation insurance.

MCA 20-9-533(9)

OPI interprets the purpose of the Technology Fund to include the payment of salaries and benefits for employees who maintain computers and facilitate access to the Internet and local networks, and employees who train district staff in use of technology. It would not include salaries and benefits for classroom teachers for district students.

**Funding:**

The trustees of a district shall fund the technology acquisition and depreciation fund with (a) the state money received (effective 7/1/2025) for school technology purposes under 20-9-516 and (b) other local state, private, and federal funds received for the purpose of funding technology or technology-associated training.

MCA 20-9-533(2)

In addition to the funds received as discussed above, the trustees of a school district may submit a proposition to the qualified electors of the district to approve an additional levy to fund cost of providing the technologies included in subsection (1). The election must be called and conducted in the manner prescribed in Title 20 for school elections and in the manner prescribed by 15-10-425 (i.e., voted levies). A technology levy authorization approved after July 1, 2013, may not exceed 10 years.

MCA 20-9-533(6)

In depreciating the technological equipment of a school district for levies approved prior to July 1, 2013, the trustees may include in the district's budget, contingent upon voter approval of a levy (see above), an amount each fiscal year that does not exceed 20% of the original cost of any technological equipment, including computers and computer network access, that is owned by the district. The amount budgeted pursuant to levies approved prior to July 1, 2013, may not, over time, exceed 150% of the original cost of the equipment.

MCA 20-9-533(3)

The district may levy up to the 20% limitation each year, supported by appropriate capital assets records, after having obtained voter approval. Voter approval allows the district to levy each subsequent year, or the number of years may be limited if so stated on the original ballot.

A district whose qualified electors have previously approved a technology levy of perpetual duration prior to July 1, 2013, may submit a proposition to the qualified electors on or after July 1, 2013, for an increase in the amount of the levy to cover the costs of providing technologies under subsections (1)(b) and (1)(c) or to seek relief from the obligation of tracking depreciation of equipment under a levy approved prior to July 1, 2013. In seeking approval of the proposition, the district shall specify a proposed revised duration of the underlying perpetual levy previously approved and a proposed duration for the proposed increase in the amount of the levy, neither of which may exceed 10 years.

MCA 20-9-533(8)

### **SCHOOL FLEXIBILITY FUND BUDGET**

The flexibility fund may be used for a wide range of purposes, as provided for in MCA 20-9-543(1). Generally, OPI doesn't expect the auditor to determine if expenditures made from the flexibility fund comply with State law, except:

Property taxes levied to support the adult education and transportation funds may be transferred to the school flexibility fund, but the transfer must be within or directly related to the purposes for which the property taxes were raised, i.e., adult education programming and transportation services. A transfer of property taxes for any other purpose is invalid. (issued 2/2012)

AGO #6, Vol. 54 2012 (20-9-Part 2)

**Note:** OPI monitors the school flexibility fund budget for compliance.

If tax revenue were transferred into the flexibility fund from the adult education or transportation funds, verify that related expenditures were directly related to adult education programming or transportation services.

### **DEBT SERVICE FUND BUDGET**

The debt service fund budget must include an amount necessary to pay the interest and principal (and associated fees) coming due during the ensuing fiscal year. It should also include the amount necessary to (1) pay the special improvement district assessments levied against the school district that become due during the ensuing fiscal year; (2) a limited operating reserve, as described below; and (3) an amount to satisfy the reserve requirement for oil and natural gas (O&G) revenue bonds, if applicable.

MCA 20-9-438 (1) to (3)

If a school district issues O&G revenue bonds, the district shall establish and maintain an O&G revenue bond debt service reserve account, to which there must be deposited or transferred an

amount from bond proceeds or O&G production taxes received by the district or other legally available funds sufficient to satisfy the reserve requirement. All money held in this reserve account must be used solely for the debt service of the bonds secured by the account.

MCA 20-9-474

When the debt service fund of a school district contains a deficit from the previous school year, the deficit should be included in the budget and the levy for the ensuing school fiscal year. In addition, anticipated delinquencies in tax payments may be included in the computations in preparing a school's debt service fund in the preliminary budget and in setting the levy for the ensuing school fiscal year.

AGO #21, Vol. 43 (1989)

**Operating Reserve:** At the end of the fiscal year, the trustees may designate a portion of the end-of-the-year fund balance of the debt service fund to be earmarked as a limited operating reserve for the purpose of paying, whenever a cash flow shortage occurs, any debt service fund obligations that must be paid from July 1 through November 30 of the fiscal year following the ensuing fiscal year. **Note:** The district should not hold a reserve for the July 1 payment if the payment was budgeted and paid in the previous year. Any portion that is not earmarked must be reappropriated to be used for property tax reduction.

MCA 20-9-438(4)

**Exception -** If a district incurs a legal bonded debt payment after the final debt service fund budget for the current fiscal year has been adopted and if payment on the debt is required for the current fiscal year, payment on the debt in the current school fiscal year is allowed if money is available.

MCA 20-9-133(3)

**Excess debt service fund resources:**

When all of the bond principal, interest, and special improvement district obligations of a school district have been fully paid, all money remaining in the debt service fund and all money that may come into the debt service fund from the payment of the delinquent taxes must be transferred by the county treasurer to the building reserve levy fund, the technology acquisition and depreciation fund, or the general fund as designated by the school district. The transferred money must be expended for constructing, equipping, or enlarging school buildings or purchasing land, using a separate project reporter code. **Exception:** Any federal impact aid funding remaining in the debt service fund must revert to the district's impact aid fund.

MCA 20-9-443; ARM 10.10.319(3)

## **BUILDING RESERVE FUND BUDGET**

(1) The trustees of any district may establish a building reserve fund to budget for and expend funds for any of the purposes set forth in 20-9-502. Appropriate subfunds must be created to ensure separate tracking of the expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

MCA 20-9-502(1)

**Subfund - Purpose: School Buildings or Land**

(2) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of school buildings, or for the purpose of purchasing land needed for school purposes in the district.

MCA 20-9-502(2)(a)

In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve fund, the trustees shall pass a resolution that specifies:

- (i) the purpose or purposes for which the new or addition to the building reserve fund will be used.
- (ii) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments.
- (iii) the total amount of money that will be raised during the duration of time specified for the levy; and
- (iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

MCA 20-9-502(2)(a)

Except as provided in subsection (4)(b) [*transition costs – see below*], a building reserve tax authorization may not be for more than 20 years.

MCA 20-9-502(2)(b)

**Subfund – Purpose: Permissive Levy for School Facility Maintenance and Repairs**

**NOTE:** Effective May 19, 2017, the legislature established state support for school major maintenance aid for school facility projects which are also funded by “local effort”. "Local effort" means an amount of money raised by levying no more than 10 mills pursuant to 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or transferred by trustees to the subfund pursuant to 20-9-502(3).

MCA 20-9-525(6)

See MCA 20-9-525 for projects that qualify for this funding.

A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). The trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified improvements or projects meeting the requirements of 20-9-525. The 10-mill limit under this subsection must be calculated using the district's total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525 may not exceed the district's school major maintenance amount. For the purposes of this section, the term "school major maintenance amount" means the sum of \$15,000 and the product of \$110 multiplied by the district's budgeted ANB for the prior fiscal year

MCA 20-9-502(3)(a)

To authorize and impose a levy under this subsection (3), the trustees shall: (i) following public notice requirements pursuant to 20-9-116, adopt no later than March 31 of each fiscal year a resolution: (A) identifying the anticipated improvements or projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) will be used; and (B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525(3), and the resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by the department of revenue under 15-10-202; and (ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in compliance with 20-9-131.

MCA 20-9-502(3)(a)

Proceeds from the levy may be expended only for the purposes under MCA 20-9-525(2), and the expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

MCA 20-9-502(3)(b)

A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3).

MCA 20-9-502(3)(c)

If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional funds from any lawfully available revenue source and may transfer additional funds from any lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant to 20-9-525 consists of the combined total of funds raised from the imposition of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

MCA 20-9-502(3)(f)

#### **Subfund - Purpose: Transition Costs**

A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:

- (i) open a new school under the provisions of Title 20, chapter 6;
- (ii) close a school.
- (iii) replace a school building
- (iv) (effective 7/1/2025) reorganize with or annex another district under the provisions of Title 20, chapter 6; or
- (v) receive approval from voters to expand an elementary district into a K-12 pursuant to 20-6-326.

MCA 20-9-502(4)(a)

The duration of the levy for transition costs may not exceed 6 years.

MCA 20-9-502(4)(b)

**Subfund - Purpose: School Safety and Security**

A subfund in the building reserve fund must be created for the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236.

MCA 20-9-502(5)

**Authorized Expenditures:**

The trustees of any district maintaining a Building Reserve Fund may:

- (a) Pledge the revenue from the building reserve fund levy for up to 15 years to repay loans used only for projects authorized by the electors of the district pursuant to 20-9-502.
- (b) Expend money from the fund for the purpose or purposes for which it was authorized without the specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to begin the authorized projects.

MCA 20-9-503(2)

**School Major Maintenance Account Payments**

- (1) There is a school major maintenance aid account in the state special revenue fund provided for in 17-2-102.
- (2) The purpose of the account is to provide, contingent on appropriation from the legislature, funding for school major maintenance aid as provided in subsection (3) for school facility projects including the payment of principal and interest on obligations issued pursuant to 20-9-471 for school facility projects that support a basic system of free quality public elementary and secondary schools under 20-9-309, including but not limited to maintenance projects as listed in 20-9-525(2).
- (3) In any year in which the legislature has appropriated funds for distribution from the school major maintenance aid account, the superintendent of public instruction shall administer the distribution of school major maintenance aid from the school major maintenance aid account for deposit in the subfund of the building reserve fund provided for in 20-9-502(3)(e).

MCA 20-9-525(1), (2), & (3)

**Natural resource development K-12 school facilities payment**

(1) The natural resource development K-12 school facilities payment replaces the former natural resource development K-12 funding payment as a means to provide local property tax relief by supporting school district facility needs. (Effective 7/1/2025: ~~deletes~~ “The legislature intends for the new payment to grow in a manner similar to the previous payment as described in subsection (2) through fiscal year 2022 until other revenue to support school facilities has increased”). (2) The legislature intends the natural resource development K-12 school facilities payment to be a general fund appropriation to support school major maintenance aid pursuant to 20-9-525 (effective 7/1/2025) and debt service assistance pursuant to 20-9-371 that is (effective 7/1/2025: ~~deletes~~ “for fiscal years 2020, 2021, 2022, and 2023” (effective 7/1/2025) calculated as the greater of:

- (a) \$10 million increased by an inflationary adjustment calculated as provided in 20-9-326 applied in fiscal year 2024 and in each succeeding fiscal year; or

(b) 5% of the oil and natural gas production taxes deposited in the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the fiscal year of the payment.

MCA 20-9-635

## **MONTANA ADVANCED OPPORTUNITY ACT**

**Purposes** – see SD02 page 11

MCA 20-7-1502

**Definitions** -- see SD02 page 11

MCA 20-7-1503

- (4) The superintendent of public instruction shall provide advanced opportunity aid to each district qualified by the board of public education under subsection (3) by October 1. The aid under this section must be distributed directly to the school district's flexibility fund under 20-9-543.
- (5) Advanced opportunity aid may be expended on any qualifying pupil by the district subject to the following conditions:
- (a) at least **Effective 7/1/2023**: 75% of a district's annual distribution of advanced opportunity aid must be spent or encumbered to address out-of-pocket costs that would otherwise, in the absence of such expenditure, be assumed by a qualifying pupil or the pupil's family as a result of participation in an advanced opportunity.

**Permissible expenditures** include **Effective 7/1/2023**: but are not limited to:

- (i) dual credit tuition at any institution under authority of the board of regents.
- (ii) exam fees used for postsecondary advancement, placement, or credit, including but not limited to exam fees associated with the ACT, SAT, CLEP, career advancement, international baccalaureate, and advanced placement.
- (iii) fees charged by and any out-of-pocket costs of any business providing work-based learning opportunities to a qualifying pupil of the district, including the cost of workers' compensation insurance for work-based learning opportunities.
- (iv) exam and other fees of any industry-recognized credential or license for which a qualifying pupil is eligible as a result of participation in an advanced opportunity.
- (v) **Effective 7/1/2023** the costs of participation for qualifying pupils in out-of-school enrichment activities that, in the discretion of the trustees, advance the pupil's opportunity for postsecondary career and educational success; and
- (vi) the costs of participation for qualifying pupils that are identified as necessary, in the discretion of the district and upon request of a qualifying pupil, to maximize the benefit of an advanced opportunity for a qualifying pupil.
- (b) advanced opportunity aid remaining that is not expended or carried forward for the purposes of subsection (5)(a) may be spent by the district to provide any K-12 career and vocational/technical education course offered by the district.
- (6) A district qualified for funding under subsection (3) may supplement state funding of advanced opportunity aid with matched expenditures from its adopted adult education

budget, not to exceed 25% of the district's advanced opportunity aid. The conditions under subsection (5) apply to any matched expenditures funded under this subsection (6).

(7) (Effective 5/8/2025) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include advanced opportunity aid in an amount estimated to be sufficient to provide advanced opportunity aid to all districts of the state based on prior demand. Any shortfalls must be addressed in the same manner as funding deficiencies in BASE aid under 20-9-351. **Deleted effective 7/1/2023:** (7) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include advanced opportunity aid as follows:

- (a) for fiscal year 2022, an amount sufficient to provide advanced opportunity aid to:
  - (i) 50% of all elementary districts.
  - (ii) 50% of all high school districts; and
  - (iii) 50% of all K-12 districts.
- (b) for fiscal year 2023, an amount sufficient to provide advanced opportunity aid to:
  - (i) 75% of all elementary districts.
  - (ii) 75% of all high school districts; and
  - (iii) 75% of all K-12 districts.
- (c) for fiscal year 2024 and subsequent fiscal years, an amount sufficient to provide advanced opportunity aid to:
  - (i) 100% of all elementary districts.
  - (ii) 100% of all high school districts; and
  - (iii) 100% of all K-12 districts.

MCA 20-7-1506

## **TRANSFORMATIONAL LEARNING**

**Legislative intent.** (1) The legislature finds and declares pursuant to Article X, section 1, of the 1972 Montana constitution that forms of personalized learning authorized under Montana law, including but not limited to work-based learning pursuant to 20-7-510, **Effective 7/1/2023:** proficiency-based learning as defined in subsection (2) of this section, determinations of course equivalency by an elected board of trustees under 20-3-324(18), **Effective 7/1/2023:** remote instruction under 20-7-118, and transformational learning are an appropriate means of fulfilling the people's goal of developing the full educational potential of each person.

(2) **Effective 7/1/2023:** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (a) "Proficiency" means a measure of competence that is demonstrated through application in a performance assessment.
- (b) "Proficiency-based learning" means an education system in which student progress is based on a student's demonstration of competence rather than on the basis of seat time or the age or grade level of the student.
- (c) **Effective 7/1/2025:** "Transformational learning" means a flexible system of pupil-centered and proficiency-based learning that is designed to develop the full educational potential of each pupil that: (i) is customized to address each pupil's strengths, needs, and interests; and (ii) actively engages each pupil in determining what, how, when, and where each pupil learns."

MCA 20-7-1601

**(Effective 7/1/2025: “Temporary”) Incentives for creation of transformational learning programs:**

- (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (4) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (5) and (6).
- (b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.
- (2) To qualify for the transitional funding and flexibilities in subsections (5) and (6), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. See SD02 page 12 for application details.

**Transformational learning aid payment:**

- (5) (a) For a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on **Effective 7/1/2023:** satisfying the annual reporting requirements under subsection (3), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator **and qualified staff** payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.
- (b) The payment under this subsection 5) must be distributed directly to the school district's flexibility fund established under 20-9-543 by October 1 of each year of funding by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program: **and within (effective 7/1/2025) 6 years of the first year of funding.**
- (c) A school district may not receive more than 25% of the total amount of payments made under this subsection.

**Ability to levy an annual permissive property tax:**

- (6) During each year that a school district remains qualified for funding under subsection (5), the district's trustees may:
  - (a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection (5). Proceeds of the levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.
  - (b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.
- (7) (a) Any funds transferred pursuant to subsection (6)(b) may be expended by the district solely for the purposes of implementing the district's approved transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

- (b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.
- (c) If transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

MCA 20-7-1602

### **GROW YOUR OWN GRANT PROGRAM**

- (1) There is a grow your own grant program administered by the commissioner of higher education. The purpose of the grant program is to develop teacher pipelines aimed at serving rural and reservation school districts.
- (2) (a) The grow your own grant program must involve:
  - (i) the opportunity for students to take dual credit courses in education while in high school.
  - (ii) the opportunity for students to engage in work-based learning opportunities in the field of education; and
  - (iii) collaboration between school districts and institutions of higher education in developing a career pathway for education.
- (b) The grant program must allow and encourage small and proximate districts to collaborate in developing their grow your own grant programs.
- (c) A school district is eligible for the program if the district has one or more schools impacted by a quality educator shortage.
- (d) A (effective 7/1/2025) postsecondary institution is eligible for a grant under this section.
- (3) Contingent on appropriation by the legislature, the commissioner shall create and administer:
  - (a) a grant program for eligible (effective 7/1/2025) postsecondary institutions, in partnership with at least one eligible school district, to develop or expand a grow your own grant program that encourages students to pursue a career in teaching; and
  - (b) a grow your own grant scholarship program that provides a last-dollar grant of up to \$5,000 a year, not to exceed the cost of attendance, and not to exceed \$10,000 total for any student, to students who:
    - (i) have participated or are participating in a grow your own grant program, as described in subsection (3)(a).
    - (ii) are currently enrolled in a teacher preparation program in a licensure or endorsement area identified as most impacted by quality educator shortages.
    - (iii) commit to teaching in a school impacted by a quality educator shortage; and
    - (iv) if participation in a grow your own grant program occurred solely during high school, earned at least 6 postsecondary credits toward an education degree.
- (4) The legislature intends that grants made to postsecondary institutions pursuant to subsection (3)(a) are one-time startup grants that include:
  - (a) a matching component provided by either a participating school district or the postsecondary institution; and

- (b) a plan by the school district or postsecondary institution to sustain programs beyond the term of the grant.
- (5) in accordance with 5-11-210, the commissioner shall report annually to the education interim committee on the status and impacts of the grant programs described in this section. The report must include:
- (a) the number of students currently participating in a grow your own grant program.
  - (b) the number of former participants who hold a Montana teacher certificate; and
  - (c) the number of former participants who are teaching in the district where they participated in the grow your own grant program.
6. For purposes of this section, the following definitions apply:
- (a) "Postsecondary institution" means a unit of the Montana university system or tribal college or community college located in the state.
  - (b) "Quality educator shortage" means a shortage identified by the board of public education pursuant to 20-4-503 (Terminates June 30, 2029)."

MCA 20-4-601

## **PUBLIC CHARTER SCHOOLS**

**Effective 7/1/2023: Funding for public charter schools.** (1) It is the intent of the legislature that a public charter school receive operational funding on a per-pupil basis that is equitable with the per-pupil funding of the located school district.

- (2) (a) (Effective 4/7/2025) This subsection (2) applies to the budgeting and funding of a public charter school operated by a local school board. (b) A public charter school must be considered a separate budget unit of the located school district and must have its ANB calculated separately from other budget units of the district. Except as provided in subsection (2)(c), a public charter school must receive a basic entitlement calculated separately from other budget units of the district when its ANB is greater than:
- (i) 70 for an elementary school or program.
  - (ii) 20 for a middle school or program; or
  - (iii) 40 for a high school or program.
- (c) For the first operating year of a public charter school:
- (i) the public charter school is not eligible for the per-ANB entitlement, and the public charter school's eligibility for a separate basic entitlement under subsection (2)(a) of this section must be based on the planned enrollment provided in the public charter school's application as required in 20-6-805(3) and converted to ANB: and (ii) if, after the October enrollment count, the public charter school's actual enrollment converted to ANB does not meet the eligibility requirements for a separate basic entitlement under subsection (2)(b) of this section, the basic entitlement of the public charter school is subject to the return of overpayment provisions under 20-9-344.
  - (d) For the second and third operating years of a public charter school, a public charter school's 3-year-average ANB is equal to its current year ANB.
- (3)(a) This subsection (3) applies to the budgeting and funding of a public charter school district.
- (3)(b) The funding of the public charter school district must be distributed as BASE aid, except as provided in this subsection (3)(b), at 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student

payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment. The total amount of funding received by a public charter school district under this subsection (3)(b) is both the minimum amount and the maximum amount of state funding for the public charter school district.

3(c) Except as provided in subsection (3)(d), a public charter school district is not eligible for a basic entitlement unless its ANB is greater than:

- (i) 70 for an elementary school or program.
- (ii) 20 for a middle school or program; or
- (iii) 40 for a high school or program.

(3)(d) For the first operating year of a public charter school district: (i) the public charter school district's per-ANB entitlement, Indian education for all payment, data for-achievement payment, special education allowable cost payment, and eligibility for a basic entitlement must be based on the planned enrollment provided in the public charter school district's application as required in 206-805(3) and converted to ANB; and (ii) if, after the October enrollment count, the public charter school district's actual enrollment converted to ANB is less than its planned enrollment converted to ANB or does not meet the eligibility requirements for a basic entitlement pursuant to subsection (3)(c) of this section, the public charter school district is subject to the return of overpayment provisions under 20-9-344.

(4) Students attending a public charter school governed by a local school board who are not residents of the located school district generate funding in the same manner as other nonresident students attending a school of the located district under an out-of-district attendance agreement pursuant to Title 20, chapter 5, part 3.

(5) Except as provided in this section, a public charter school district is prohibited from charging tuition and fees, and the provisions for out-of-district attendance under Title 20, chapter 5, part 3, do not apply to a public charter school district.

(b) The provisions for out-of-district attendance for a child with a disability under Title 20, chapter 5, part 3, apply to a public charter school district, including the resident school district's obligation to support a portion of the costs of the child's education.

(6) For a public charter school that is not governed by the local school board, the county treasurer of the county in which a public charter school is located shall establish funds for the public charter school separate from the funds of the located school district.

(7) The governing board of a public charter school shall report annually on the financial activities of the public charter school in the manner prescribed in 20-9-213(6).

(8) A public charter school district may obligate the public charter school district to indebtedness and is solely responsible for those debts. A public charter school district is not responsible for any debt service obligations that exist in the located school district.

(9) (a) Nothing in this part may be construed to prohibit any person or organization from providing funding or other assistance for the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts or donations of any kind made to the public charter school and to expend or use the gifts or donations in accordance with the conditions prescribed by the donor. A gift or donation may not be accepted if the gift or donation is subject to a condition that is contrary to any provision of law or term of the charter contract.

(b) A public charter school district may receive donations for innovative educational programs as provided for in 15-30-2334, 15-30-3110, and 15-31-158.

(10) Money received by a public charter school from any source and remaining in the public charter school's accounts at the end of a budget year must remain in the public charter school's accounts for use by the public charter school in subsequent years.

MCA 20-6-812



# COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

## REVENUES

REVISED DECEMBER 2025

REF: SD02

### **INFORMATION CONTACTS:**

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## **REVENUES/RECEIPTS – GENERAL**

See OPI's Montana School Accounting Manual -- **Chart of Accounts** for a description of revenues received by Montana school districts. In addition, the Chart of Accounts provides a brief definition of each school fund, the statutory reference for more detailed information, and in some cases, the types of revenues and expenditures to be accounted for within the fund.

The Chart of Accounts is available electronically at: <https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Accounting#104974916-guidance--manuals>

Scroll to Section 3.6 for "School Fund Definitions"

Scroll to Section 3.15 for "Operating Statement Revenue Account Definitions"

## **REVENUE CODING**

Per ARM 10.10.406, School districts are required to use the standard Chart of Accounts established by OPI. Because revenue coding errors affect many aspects of school funding, auditors are asked to check revenue coding, especially for non-levy revenues reported in the general fund.

**If revenues are being incorrectly coded by a district, OPI asks that the situation be reported in an audit finding.**

Revenue codes can be found at the Chart of Accounts.

## **PRIOR PERIOD ADJUSTMENTS**

Material prior year revenue adjustments are credited to Revenue Code 6100. Code 6100 is also used to record material prior year expenditure adjustments *if the adjustment would **reduce** prior year expenditures*.

**Note:** This adjustment is made to a revenue code, because a credit to expenditure Code 892 would artificially inflate the expenditure authority of the district by reducing expenditures of the current year.

Material prior year expenditure adjustments are debited to Expenditure Code 892 *if the adjustment would **increase** prior year expenditures*. **Charges to Code 892 are subject to the total budget limitations of the fund for the current year.**

Immaterial prior year expenditure adjustments are debited to a current expenditure account (for increased expenditures) or are credited to Code 1900 Miscellaneous Revenue (for decreased expenditures). Immaterial prior year revenue adjustments are credited to either an appropriate current year revenue account or to Code 1900 Miscellaneous Revenue.

## **FEDERAL CFDA NUMBERS**

Catalog of Federal Domestic Assistance (CFDA) numbers assigned to most federal grants distributed to Montana school districts can be found in OPI's Montana State and Federal Grants Handbook – Appendix H

Available electronically at <https://opi.mt.gov/Portals/182/Page%20Files/E-Grants/Instructions/MTStateFederalGrantsHandbook.pdf>

## **FEDERAL COMMODITIES PROGRAM**

Donated food commodities will not be reported on the school district's Trustees' Financial Summary (TFS), which is reported under a regulatory basis of accounting.

**Auditors should propose an adjustment to report the value of commodities used during the year as both a revenue and expenditure in the school food fund, as required by GAAP. See GASB Codification N50 – Nonexchange Transactions & GASB Q&A #Z.33.4**

A listing of commodity values received by each school district is available at the OPI website: <https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Auditing>

**Note 1:** The value of unused commodities should not be reported on a school district's balance sheet. Commodities inventories are the property of OPI until used by a school district.

**Note 2:** School districts and auditors must identify commodity assistance by the CFDA numbers of the categorical programs under which the USDA donated the commodities. Those categorical programs are the National School Lunch Program (10.555), the Child and Adult Care Food Program (10.558), the Summer Food Service Program (10.559), the Commodity Supplemental Food Program (10.565), and the Food Distribution Program on Indian Reservations (10.567). There is no award of commodities under the School Breakfast Program (10.553). Commodities used in that program should be deemed to be awarded under the National School Lunch Program (10.555).

## **TAX LEVIES**

Tax levies are authorized for all school district budgeted funds, as provided in the following statutes. See also SD01-Budgets for detailed information.

General Fund: BASE and Over-BASE budget: MCA 20-9-141, MCA 20-9-308 & 353

Transportation Fund: MCA 20-10-144

Bus Depreciation Fund: MCA 20-10-147

Tuition Fund: MCA 20-5-324

Retirement Fund: County-wide tax levy: MCA 20-9-501

Adult Education Fund: MCA 20-7-705  
Non-Operating Fund: MCA 20-9-506  
Technology Fund: MCA 20-9-533  
Debt Service Fund: MCA 20-9-439  
Building Reserve Fund: MCA 20-9-502 & 503

By the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values, the county superintendent shall present the final adopted budget of the district to the board of county commissioners, who will then fix and levy on all the taxable value of all property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget.

MCA 20-9-142

### **Temporarily Required Fund Transfers**

For fiscal years 2018, 2019, 2020, and 2021 only, a school district shall transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its transportation fund in a total amount not to exceed an amount estimated by the district to be necessary to eliminate an increase in school district property taxes resulting from Senate Bill 2 of the November 2017 Special Session of the Legislature.  
SB 2, Section 10 - Special Session, November 2017

## **ENTITLEMENT PAYMENTS FROM OPI TO INDIVIDUAL SCHOOL DISTRICTS**

See information regarding Entitlement payments at the OPI website:

<https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Payments>

The OPI website includes a schedule for state payments to schools and cooperatives, and the specific payments made:

- (1) Direct State Aid (Basic & Per-ANB Entitlements) – see SD01-Budgets;
- (2) Guaranteed Tax Base Aid – see SD01-Budgets;
- (3) General Fund payments for Quality Educator, At Risk Student, Indian Education for All, Data for Achievement, and American Indian Student Achievement Gap – see SD01-Budgets;
- (4) State Special Education Allowable Costs Payments – see SD01-Budgets;
- (5) State Block Grants – see below;
- (6) Transportation payments – see SD01-Budgets;
- (7) Tuition payments – see SD01-Budgets;
- (8) Facility Reimbursements – see below; and
- (9) Technology grants – see SD01-Budgets.

## **FACILITY ENTITLEMENT PAYMENTS - ADVANCES/REIMBURSEMENTS**

If the district mill value per elementary or high school ANB is less than the corresponding statewide mill value per elementary or high school ANB, the district may receive debt service assistance in the form of a state advance or reimbursement for school facilities in support of the debt service fund.

MCA 20-9-367(3)

The school facility entitlement is \$300 per ANB for an elementary school district, \$450 per ANB for a high school district, or \$370 per ANB for junior high school or middle school. The state advance for school facilities is the amount of state equalization aid distributed to an eligible district to pay the debt service obligation for a bond in the first fiscal year in which a debt service payment is due for the bond. The state reimbursement for school facilities means the amount of state equalization aid distributed to a district that (a) has a district mill value per ANB that is less than the corresponding facility guaranteed mill value per ANB; and (b) has a debt service obligation in the ensuing school year on bonds.

MCA 20-9-370

The state advance and state reimbursement for school facilities is calculated as provided in MCA 20-9-371. Within the available appropriation, OPI shall first distribute to eligible districts the state advance for school facilities. From the remaining appropriation, the superintendent shall distribute to eligible districts the state reimbursement for school facilities. The trustees of a district may apply the state reimbursement to reduce the levy requirement in the ensuing school fiscal year for all outstanding bonded indebtedness on general obligation bonds sold in the debt service fund of the district. The trustees may apply the state advance to reduce the levy requirement in the current school fiscal year for debt service payments on general obligation bonds to which the state advance for school facilities applies.

MCA 20-9-371

Both the state advance and reimbursement for school facilities should be deposited in the debt service fund. (Revenue code #3120)

## **E-RATE RECEIPTS**

The Federal government (Federal Communications Commission) makes E-rate subsidies to vendors for telecommunication and Internet services provided to school districts. The vendors must apply for the subsidies, and then reimburse school districts for the initial expenditures for those services. These E-rate receipts are considered to be procurement contracts, rather than federal financial assistance, and are therefore not subject to the provisions of OMB Circular A-133/UGG.

Accounting for E-rate funds depends on the year of expenditure (current or prior) to which the payment applies.

### **HOUSING OF PUPILS AND TEACHERS (LEASE-RENTAL AGREEMENT FUND)**

Any district may establish a lease or rental agreement fund if the district (1) provides pupil or teacher housing in district-owned buildings under a lease or rental agreement with pupils or teachers and receives money or (2) rents, leases, or lets buildings, land, or facilities of the district under 20-6-607.

MCA 20-9-509

All moneys received from such lease or rental agreements may be deposited with the county treasurer to the credit of the lease or rental agreement fund, general fund, debt service fund, or any other appropriate fund.

MCA 20-9-509

Whenever the end-of-the-year cash balance of the lease or rental agreement fund is more than \$10,000 for an elementary or high school district or \$20,000 for a K-12 district, the cash balance in excess of this limit must be transferred to the general fund of the district.

MCA 20-9-509

Any expenditure of money from a lease or rental agreement fund must be made for the maintenance and operation of the district-owned buildings to which the lease or rental agreements apply or for the acquisition of additional housing or dormitory facilities.

MCA 20-9-509

### **RENT OR LEASE OF SCHOOL PROPERTY**

Trustees may rent, lease, or let any buildings, land, facilities or personal property of the district under the terms specified by the trustees. Any money collected may, in the discretion of the trustees, be used for any proper school purpose and deposited in any fund as the trustees consider appropriate.

MCA 20-6-607

### **SALE OF ABANDONED, OBSOLETE, UNDESIRABLE PROPERTY**

The trustees may sell a site, building, or any other real or personal property of the district that is, or is about to become, abandoned, obsolete, undesirable, or unsuitable for the school purposes of the district. Before sale of the property, the trustees must adopt a resolution. The resolution is not effective until 14 days after the notice of the resolution is published in a newspaper of general circulation in the district. If there is no newspaper of general circulation, the trustees shall post notices of the resolution in the manner required for school elections in 20-20-204. The money from the sale or disposal of property must be credited to the debt service, building, general, or other appropriate fund, at the discretion of the trustees.

MCA 20-6-604

## **STUDENT FEES FOR OTHER THAN EXTRACURRICULAR ACTIVITIES**

The trustees of a district may charge pupils reasonable fees as follows:

- (a) for pupils in commercial, industrial arts, music, domestic science, scientific, or agricultural courses, to cover the actual cost of breakage and of excessive supplies used; and
- (b) for courses or activities not reasonably related to a recognized academic and educational goal of the school or a course or activity held outside normal school functions. The trustees may waive the fee in cases of financial hardship.

The fees under (a) must be deposited in the general fund and the fees collected under (b) must be deposited in a nonbudgeted fund.

MCA 20-9-214

## **ONE-TIME-ONLY (OTO) FUNDING – ALL PAYMENTS DEPOSITED IN THE MISCELLANEOUS PROGRAMS FUND (15)**

**Indian Education for All:** Three OTO payments paid in FY2007, FY2008 and FY2009. The money may not be transferred to any other fund. FY2007 funds may be spent on curriculum materials, travel for staff training, substitutes for staff on training, or any item related to Indian Education for All. FY2008 and FY2009 funds may be spent on curriculum development, providing curriculum materials to students, and providing training to teachers. **There is no time limit on the expenditure of the funds.**

**Note:** These OTO payments are in addition to the ongoing Indian Education for All payments (MCA 20-9-329), which are to be deposited to the general fund. These OTO payments are deposited in the Miscellaneous Programs Funds and expenditures should be tracked using program 365.

**Capital Investment and Deferred Maintenance:** This OTO payment was paid in FY2008 and may be retained by the district and spent for capital investment and deferred maintenance purposes **for a period of ten years**, after which unspent funds will be reverted to the State. This payment should have been deposited in the Miscellaneous Programs Funds and expenditures should be tracked using program 366.

## **ADVANCING AGRICULTURE EDUCATION PROGRAM**

Each agricultural education program in the state that completes the national quality program standard evaluation as adopted by rule and submits a plan of improvement to OPI's agricultural education specialist may receive a payment of \$1,000 prorated per full-time equivalent teacher endorsed in agricultural education who teaches approved agricultural education courses through the local agricultural education program.

**MCA 20-7-334(3)(a)**

Each agricultural education program in the state that submits a detailed budget to increase the quality of its agricultural education program based on the plan of improvement may receive a payment of up to \$1,000 prorated per full-time equivalent teacher endorsed in agricultural education who teaches approved agricultural education courses through the local agricultural education program.

**MCA 20-7-334(3)(b)**

Each school that adds agricultural education to its curriculum and recruits and retains an endorsed agricultural education teacher must receive a payment of up to \$7,500. A school with an existing agricultural education program is eligible for an additional payment of up to \$7,500 each time the school expands the program's teaching staff by adding a full-time equivalent teacher endorsed in agricultural education.

**MCA 20-7-334(3)(c)**

The money should be deposited into the Miscellaneous Programs Fund (15) using revenue source 3270, and expenditures should be tracked using program 327.

**OIL AND NATURAL GAS PRODUCTION TAX DISTRIBUTIONS**

**Oil and Natural Gas Production Tax Limitations:** The maximum amount of oil and natural gas (O&G) production taxes that a school district may retain is 130% of the district's maximum budget.

**MCA 20-9-310(1)**

The limit that a school district may retain per above must be increased for any school district Effective 4/25/2023: that was eligible for a significant enrollment increase payment pursuant to 20-9-166.

**MCA 20-9-310(5)(a)**

**Department of Revenue Distribution of Excess:** The Department of Revenue shall make the full quarterly distribution of O&G production taxes as required under 15-36-332(6) until the amount distributed reaches the above limitations. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the guarantee account provided for in 20-9-622.

**MCA 20-9-310(3)**

See Oil & Gas Distribution at <https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/FinancialDataFiles>

See also SD01-Budgets; General Fund Budget

## **IMPACT AID PROGRAM**

The Department of Education's Memorandum #2010-4 is related to the Impact Aid Program and emphasizes that Sections 8002 and 8003(b) funds are NOT subject to OMB UGG/Circulars A-87 and the A-102 Common Rule, and that "auditors are not expected to perform any tests with respect to the expenditure of these funds". Please note however, that Section 8003(d) and Section 8007 funds are subject to audit tests and the OMB UGG/Circulars A-87 & A-102.

**Note:** CFDA #84.041 – Impact Aid – includes all of the Sections discussed above. School districts receive Impact Aid funding directly from the federal Department of Education and receive payment vouchers that describe the Section(s) of Impact Aid that relate to the payment(s) received.

The following link describes the components of Impact Aid: <https://www.ed.gov/grants-and-programs/formula-grants/impact-aid-grants>

Section 8002 – Payments for Federal Property - not a common funding source for Montana school districts

Section 8003(b) – Basic Support Payments

Section 8003(d) – Children with Disabilities Payments

Section 8007 – Construction Grants

## **MONTANA ADVANCED OPPORTUNITY ACT**

This part may be cited as the "Montana Advanced Opportunity Act."  
MCA 20-7-1501

**Purpose** of this part are to: See SD01 page 49 for purposes.  
MCA 20-7-1502

### **Definitions:**

- (1) "Advanced opportunity" means any course, exam, or experiential, online, or other learning opportunity that is incorporated in a district's advanced opportunity plan and that is designed to advance each qualifying pupil's opportunity for postsecondary career and educational success.
- (2) "Advanced opportunity aid" means, for each fiscal year, the following percentages of a district's total quality educator and qualified staff payment under 20-9-306 in the prior year after subtracting any adjustments to the district's total quality educator and qualified staff payment made under 20-9-324 and {section 16}:
  - (a) for an elementary district, 4.5%;
  - (b) for a high school district, 30%; and
  - (c) for a K-12 district, 18%.
- (3) (Effective 7/1/2025): "Advanced opportunity facilitator" means an individual employed by a school district who coordinates between the school district, a qualifying pupil and the pupil's family, postsecondary institutions, employers, industry associations,

community organizations, or any other individual or entity that provides an advanced opportunity.

(4) "Advanced opportunity plan" means a plan adopted by a board of trustees of a district that provides advanced opportunities for the pupils of the district.

(5) "District" means a school district as defined in 20-6-101.

(6) "Qualifying pupil" means a pupil, as defined in 20-1-101, that is enrolled and admitted by a district qualified for advanced opportunity aid under 20-7-1506(3) who is in grades 6 through 12.

MCA 20-7-1503

### **Application to qualify.**

(1) A district that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (3) is eligible for the funding and flexibilities in subsections (4) and (5).

(2)(a) To qualify for the funding and flexibilities in subsections (4) and (5), the board of trustees of a district shall submit an application that has been approved by motion of the board and signed by the presiding officer to the board of public education for approval of an advanced opportunity program on a form provided by the superintendent of public instruction.

(4) **(Deleted effective 7/1/2023):** Beginning in fiscal year 2021, The superintendent of public instruction shall provide advanced opportunity aid to each district qualified by the board of public education under subsection (3) by October 1. The aid under this section must be distributed directly to the school district's flexibility fund under 20-9-543.

**Deleted effective 7/1/2023: The present law base** calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include advanced opportunity aid as follows:

(a) for fiscal year 2022, an amount sufficient to provide advanced opportunity aid to:

- (i) 50% of all elementary districts;
- (ii) 50% of all high school districts; and
- (iii) 50% of all K-12 districts;

(b) for fiscal year 2023, an amount sufficient to provide advanced opportunity aid to:

- (i) 75% of all elementary districts;
- (ii) 75% of all high school districts; and
- (iii) 75% of all K-12 districts;

(c) for fiscal year 2024 and subsequent fiscal years, an amount sufficient to provide advanced opportunity aid to:

- (i) 100% of all elementary districts;
- (ii) 100% of all high school districts; and
- (iii) 100% of all K-12 districts.

MCA 20-7-1506

## **TRANSFORMATIONAL LEARNING**

**Incentives for creation of transformational learning programs:** (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of

public education pursuant to subsection (4) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (5) and (6).

**Qualifications:** A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

**Submit an application for approval of a transformational learning program**

- (2) To qualify for the transitional funding and flexibilities in subsections (5) and (6), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction.
- (5)(a) For a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on **Effective 7/1/2023:** satisfying the annual reporting requirements under subsection (4), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator (**effective 5/8/2025**) and **qualified staff** payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.
- (b) The payment under this subsection (5) must be distributed directly to the school district's flexibility fund established under 20-9-543 by October 1 of each year of funding by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program **Effective 7/1/2023:** and within 2 years of the date of distribution.
- (c) A school district may not receive more than 25% of the total amount of payments made under this subsection (5).

**Law base**

- (8) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (9).
- (9) For the purposes of this title, the following definitions apply:
- (a) "Transformational learning" means a flexible system of pupil-centered **Effective 7/1/2023:** and proficiency-based learning that is designed to develop the full educational potential of each pupil that:
- (i) is customized to address each pupil's strengths, needs, and interests;  
**Deleted effective 7/1/2023:** includes continued focus on each pupil's proficiency over content; and
- (ii) actively engages each pupil in determining what, how, when, and where each pupil learns.
- (b) "Transformational learning aid" means 50% of the quality educator (**effective 5/8/2025**) and **qualified staff** payment defined in 20-9-306 multiplied by 10% of the statewide number of full-time equivalent educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327 (**Terminates June 30, 2026 –sec.7, Ch. 402, L. 2019**).

MCA 20-7-1602

## **SPECIAL NEEDS EQUAL OPPORTUNITY EDUCATION SAVINGS ACCOUNT PROGRAM**

(1) Following receipt of a signed contract pursuant to 20-7-1705, the superintendent of public instruction shall notify the resident school district of the qualifying student's participation in the program and the amount calculated by dividing the student's ESA student amount by 10.

(2) Effective 7/1/2025: (a) Beginning with the next distribution of BASE aid payments pursuant to 20-9-344 for the months of August through May, the resident school district shall remit to the office of public instruction the amount calculated in subsection (1) for each participating student by no later than the 10th of the month following the BASE aid distribution.

(2) (b) A school district may elect to have the office of public instruction provide the amount calculated under subsection (1) in the first year of a student's participation in the program in the school district. In this circumstance:

i) the office of public instruction shall use money from the BASE aid appropriation and account for the money as provided in subsection (4); and

(ii) in the first year in which the student is no longer participating in the program in the school district, the office of public instruction shall reduce the school district's BASE aid payment by an amount equivalent to the amount provided by the office of public instruction under this subsection (2)(b), increased by the same inflationary adjustment provided by the legislature for the basic and per-ANB entitlement amounts calculated as provided in 20-9-306 since the student's first year of participation in the program in the school district.

(3) The money remitted under subsection (2):

(a) must be from the district's general fund;

(b) may not include revenue from the guarantee account described in 20-9-622; and

(c) must be accounted for under rules adopted by the superintendent of public instruction.

MCA 20-7-1709

## **EARLY LITERACY TARGETED INTERVENTIONS**

(1) An eligible child participating in a classroom-based program pursuant to 20-7-1803(5) must be included in enrollment counts for the purpose of ANB calculations in the manner described in 20-9-311.

(3) An eligible child participating in a jumpstart program pursuant to 20-7-1803(7) must be counted as quarter-time enrollment (effective 7/1/2025) by the school district providing the jumpstart program to the child for the purpose of ANB calculations pursuant to 20-9-311. An eligible child participating in a jumpstart program provided by a district other than the child's resident school district does not require an out-of-district attendance agreement and is not subject to the tuition laws under 20-5-320 through 20-5-324.

MCA 20-7-1804

**INNOVATIVE EDUCATIONAL PROGRAM**

(1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing supplemental funding to the school district for innovative educational programs. The amount of the credit allowed is equal to the amount of the donation, not to exceed \$200,000.

(7) (a) A school district may not retain donations under this section that exceed either:

(i) the greater of \$50,000 or 15% of the school district's maximum general fund budget;

or

(ii) 20% of the total aggregate amount provided for in subsection (4).

(b) If a school district receives donations that exceed the amounts provided for in subsection (7)(a), the school district shall remit the excess funds within 30 days to the superintendent of public instruction for deposit in the account provided for in 20-9-250.

(c) The superintendent of public instruction shall distribute funds received under subsection (7)(b) to school districts as described in 20-9-250. A school district shall deposit funds received under this subsection (7)(c) into the school district flexibility fund and use them for out-of-pocket pupil costs provided for in 20-7-1506(5)(a).

(8) A school district shall deposit retained donations into the school district's miscellaneous programs fund and shall limit the expenditure of the donation to expenditures for innovative educational programs of the school district.

MCA 15-30-3110



**COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL  
GOVERNMENT ENTITIES**

**CASH & INVESTMENTS**

REVISED DECEMBER 2025

REF: SD03

**INFORMATION CONTACTS:**

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## **DEPOSITORIES OF SCHOOL MONIES**

The county treasurer shall keep all school money in a separate fund and keep a separate account of its disbursement to the several school districts that are entitled to receive it, according to the apportionment of the county superintendent of schools.

MCA 7-6-2801(1)

The county treasurer must receive and shall hold all school money subject to apportionment; shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund; must receive all revenue collected by and for each district and shall deposit these receipts in the fund designated by law or by the district if a fund is not designated by law; and each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance.

MCA 20-9-212

Except as noted below, the county treasurer shall be the custodian for all other school district monies, including gifts, donations, endowments, interlocal agreements, direct federal or state revenues and district administered self-insurance program. Bank accounts or depositories outside the control of the county treasurer shall be limited to:

- a. student extracurricular funds (MCA 20-9-504)
- b. accounts with the state Board of Investments or investment firms maintaining a unified investment program (ARM 10.10.625);
- c. petty cash accounts;
- d. interim depository accounts for school lunch or driver's education fees;
- e. money held by the district in investment accounts (MCA 20-9-235) and
- f. gifts or endowments if such accounts are required by the donor.

ARM 10.10.306

## **METHODS OF INVESTING DISTRICT MONIES**

School district trustees are responsible for the proper administration and utilization of all moneys of their district and have a fiduciary responsibility to obtain an investment with terms most advantageous to the district.

MCA 20-3-332

The trustees of the district shall invest any money of the district, whenever in the judgment of the trustees the investment would be advantageous to the district, either by directing the county treasurer to invest any money of the district or by directly investing the money of the district in eligible securities, as authorized in MCA 7-6-202 and 7-6-213, and other investments as authorized in MCA 20-9-213 and as disclosed below.

MCA 20-9-213

A district may invest money under the State unified investment program established in MCA Title 17, Chapter 6 (i.e., STIP) or in a unified investment program with the county treasurer, with

other school districts, or with any other political subdivision if the unified investment program is limited to investments that meet the requirements listed below.

MCA 20-9-213(4)

**Note:** For unified investment programs with another school district or political subdivision other than the State, see below.

A school district that enters into a unified investment program with another school district or political subdivision other than the State shall do so under the auspices of and by complying with the provisions governing interlocal cooperative agreements authorized under MCA Title 7, Chapter 11 and educational cooperative agreements authorized under MCA Title 20, Chapter 9, Part 7.

MCA 20-9-213(4)

The following items should be included in a written agreement for such an investment program:

- a. The manner in which participants will share gains, losses, interest distributions and fees;
- b. A statement that only the types of investments allowed by MCA 20-9-213(4), 7-6-202, and 7-6-213, will be purchased;
- c. The procedures for dissolving the pool and distributing the ending balance to participants;
- d. Details specific to procedures necessary when more than one county treasurer is involved in funds combined in the investment pool;
- e. The party authorized to direct the purchase and redemption of investments (i.e., a representative of the host entity, investment pool committee or board, school district official, etc.); and
- f. A statement that all elected officials, school district employees and investment pool employees with duties related to the investment pool must be bonded. The pool participants shall determine the amount of bonding required, based on the amount of assets handled and the opportunity for defalcation. The bond may either be for an individual or may be a blanket bond.

ARM 10.10.625(2)

**Note:** These items are in addition to those required by MCA 7-11-105 (Interlocal Agreements).

A school district shall either contract for investment services with any company complying with the provisions of MCA Title 30, Chapter 10, or shall contract with the State Board of Investments for investment services.

MCA 20-9-213(4)

A school district may establish an investment account(s) as described in MCA 20-9-235.

**Note:** An “investment account” does not include a countywide investment pool or an investment pool formed by a combination of schools and/or other local governments.

ARM 10.10.610(2)

Before establishing a school district investment account, the trustees must enter into a written agreement with the county treasurer. The agreement must:

- a. establish specific procedures and reporting dates to comply with the requirements of subsection MCA 20-9-235(3);
- b. be binding upon the district and the county treasurer for a negotiated period of time;
- c. be signed by the presiding officer of the board of trustees and the county treasurer; and
- d. coincide with fiscal years beginning on July 1 and ending on June 30. To be effective for the ensuing school year, the agreement must be entered into no later than June 30 of the year before the investment accounts are established.

MCA 20-9-235(4); ARM 10.10.613(3)

**Note:** A separate agreement must be used for each elementary, high school or K-12 district.  
ARM 10.10.613(4)

## **AUTHORIZED DEPOSITS AND INVESTMENTS**

School district moneys may be invested in the following types of investments:

- a. eligible securities, as authorized in 7-6-202;
  1. United States government treasury bills, notes, and bonds, and United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations.
  2. United States treasury receipts in a form evidencing the holder's ownership of future interest or principal payments on specific United States treasury obligations that, in the absence of payment default by the United States, are held in a special custody account by an independent trust company in a certificate or book-entry form with the federal reserve bank of New York.
  3. obligations of the following agencies of the United States:
    - i. Federal Home Loan Bank;
    - ii. Federal National Mortgage Association;
    - iii. Federal Home Mortgage Corporation; and
    - iv. Federal Farm Credit Bank.(Note: An investment in an agency of the United States must be a general obligation of the agency and have a fixed or zero-coupon rate and must not have prepayments that are based on underlying assets or collateral, including but not limited to residential or commercial mortgages, farm loans, multifamily housing loans, or student loans.)
  4. a United States government security money market fund if:
    - i. the fund is sold and managed by a management-type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be amended;
    - ii. the fund consists only of eligible securities as described above;
    - iii. the use of repurchase agreements is limited to agreements that are fully collateralized by the eligible securities, as described in this section, and the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;

- iv. the fund is listed in a national financial publication under the category of “money market mutual funds”, showing the fund’s average maturity, yield, and asset size; and
  - v. the fund’s average maturity does not exceed 397 days.
  - b. savings or time deposits in a state or national bank, building or loan association, savings and loan association, or credit union insured by the FDIC or NCUA located in the state;
  - c. repurchase agreements meeting the criteria in MCA 7-6-213;
  - d. the State Short-Term Investment Pool (STIP), as provided in 17-6-204;
  - e. a unified investment program with the county treasurer, with other school districts, or with any other political subdivision, as long as the investment program is limited to investments that meet the requirements of 20-9-213(4) (a. through d. above); or
  - f. the various investment pools or other investments offered by the board of investments not otherwise prohibited by law as provided by 17-6-205.
- MCA 20-9-213(4), MCA 7-6-202(2) through (4)

Investments may not have a maturity date exceeding 5 years, except:

- a. when the investment is used in an escrow account to refund an outstanding bond issue in advance.
- b. An investment in zero-coupon United States government treasury bills, notes, and bonds purchased as a sinking fund investment for a balloon payment on qualified construction bonds described in 17-5-116(1) may have a maturity date exceeding 5 years if:
  - 1. the maturity date of the United States government treasury bills, notes, and bonds is on or before the date of the balloon payment; and
  - 2. the school district trustees provide written consent.

Deleted effective 10/1/2023: that an investment of the assets of a local government group self-insurance program established pursuant to MCA 2-9-211 or 39-71-2103 may not have a maturity date exceeding 10 years, and the average maturity of all those authorized investments may not exceed 6 years.

MCA 7-6-202(5) & (6)

**Note:** Revisions made to MCA 7-6-202 by the 1995 Legislature were effective on April 13, 1995. An applicability clause in the legislation specified that these revisions do not apply to and do not require the sale of securities that were legal investments before this effective date. However, upon liquidation of such investments, the proceeds must be invested pursuant to the revised MCA 7-6-202. This applicability clause has been interpreted to mean that mutual fund dividends may not be reinvested after the effective date unless the mutual fund is a United States government security money market fund meeting the criteria specified in MCA 7-6-202(3), as revised.

### **Long-term Investment of Local Government Funds**

- (1) The governing body of any city, county, school district, or other local government unit or political subdivision may participate in the various investment pools or other investments offered by the board of investments not otherwise prohibited by law.
- (2) A local government may invest with the board of investments under this section if:

- a. the source of the original principal for investment with the board is from an identifiable action or event such as a legal settlement, judgment, bequest, insurance settlement, trust fund, or other one-time source of funds;
  - b. the local government does not anticipate the need to expend 50% or more of the original principal for investment within 5 years from the initial investment with the board;
  - c. the initial investment is at least \$10 million; and
  - d. the local government agrees to the board's investment policies, including those addressing liquidity needs, risk and return considerations, asset allocation, permissible investments, and any other necessary investment considerations or limits.
- (3) The board of investments is not obligated to accept any funds for investment under this section. No local government is obligated to invest with the board under this section.

MCA 17-6-205

### **UNIFIED INVESTMENT PROGRAM WITH OTHER LOCAL GOVERNMENTS**

**Note:** Compliance Requirements below are applicable to only those school districts participating in a unified investment program with another school district or political subdivision other than the State. These requirements do not apply to the State unified investment program (i.e., STIP) or in a unified investment program with the county treasurer (i.e., a countywide investment pool.)

MCA 20-9-213(4)

Before participating in a unified investment program (referred to here as an “investment pool”), a school district must have written documentation that the investment firm or entity contracted to administer the pool:

- a. complies with MCA 20-9-204, Article VIII, Section 13, Montana Constitution; and is qualified and competent to provide investment services to the school districts;
- b. is either the State Board of Investments or an investment firm that is either registered with or has filed notice with the State Auditor under the provisions of MCA Title 30, Chapter 10;
- c. acquires pledged securities in the same manner and amount as required in MCA 7-6-202 and 7-6-213, for investments which are not guaranteed or for uninsured investments; and
- d. provides each investment pool participant and associated county treasurer with a monthly report detailing:
  - i. investment and redemption dates;
  - ii. investment and redemption amount, by school district fund;
  - iii. fees charged for administering the investment pool;
  - iv. the amount of interest accrued, reinvested and distributed, by fund;
  - v. the balance of the district’s investments, by fund; and
  - vi. at fiscal year end, the amount of interest accrued as of June 30 and the fair value of the district’s share of pooled investments as of June 30 as prescribed by GASBS No. 31.

ARM 10.10.625(3)

The school district shall reconcile the district's records of investment balances and interest income to the county treasurer's reports and the investment firm's reports each month.

ARM 10.10.625(4)

When directed by a school district, a county treasurer shall invest the district's money within 3 days in an investment pool by issuing a treasurer's check, warrant, or wire transfer of funds to the State Board of Investments or investment firm administering the investment pool. When directing investments, the school district must provide written notification to the county treasurer stating the amount to invest and the fund making the investment.

MCA 20-9-212 & 213; ARM 10.10.625(5)

A school district shall not purchase investments using district warrants.

ARM 10.10.625(5)

The school district shall not pay operating expenses from an investment pool without first returning the funds to the county treasurer. Operating expenses include but are not limited to salaries, service or construction contracts, and supplies and equipment.

ARM 10.10.625(6)(b)

**Note:** Fees charged for administration of the investment pool may be deducted directly from the investment pool.

ARM 10.10.625(3)(d)

Each school district participating in an investment pool will monitor its cash balances maintained with the county treasurer and will promptly redeem investments to pay district warrants and bond and principal and interest in a timely manner.

ARM 10.10.625(6) & (7)

### **30 HOUR NOTICE FOR CASH WITHDRAWAL**

School district clerks shall provide a minimum of 30 hours notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000. If a district clerk fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds.

MCA 20-9-212(12)

### **INVESTMENT ACCOUNTS**

The trustees of a school district may establish investment accounts and may temporarily transfer into the accounts all or a portion of any of its budgeted or nonbudgeted funds, except for debt service funds.

MCA 20-9-235(1); ARM 10.10.611

Before establishing investment accounts, a school district must obtain written documentation that the investment firm or entity being contracted to administer the investment accounts:

- a) complies with MCA 20-9-204, Article VIII, section 13 of the Montana Constitution and is qualified and competent to provide investment services to school districts;
- b) is either registered with or has filed notice with the state auditor;
- c) acquires pledged securities in the same manner and amount as required in MCA 7-6-202 and 7-6-213 for investments which are not guaranteed or uninsured investments,
- d) agrees to purchase only the types of investments allowed for schools by law;
- e) provides the district with a monthly report detailing:
  - a. investment and redemption dates
  - b. investment and redemption amounts, by school district fund;
  - c. fees charged for administering the investment accounts;
  - d. the amount of interest accrued, reinvested and distributed by fund;
  - e. the balance of the district's investments, by fund;
  - f. for a spending investment account, a list of checks, if applicable, and a detailed report of electronic payments made; and
  - g. at fiscal year-end, the amount of interest accrued, and the fair value of the district's share of pooled investments, as of June 30 per GASBS 31.

#### ARM 10.10.611(4)

All elected officials, district employees, and investment firm employees with duties related to the investment accounts must be bonded. The district shall determine the amount of bonding required, based on the amount of assets handled and the opportunity for defalcation. The bond may either be for an individual or may be a blanket bond.

#### ARM 10.10.611(3)

Unless otherwise provided by law, all other revenue may be sent directly to a participating district's investment account.

#### MCA 20-9-235(5)

A non-spending investment account is an investment account from which monies are transferred back to the county treasurer to cover district warrants drawn on the district's fund. No payments can be made by the district from a non-spending investment account. The district must ensure that sufficient money is reverted to the school funds maintained by the county treasurer in sufficient time to pay all claims presented against the applicable funds. The district shall direct the investment firm to deposit redeemed investments and interest income to the credit of the specific district fund held by the county treasurer.

#### MCA 20-9-235; ARM 10.10.610 & .615

A spending investment account is an investment account from which the district makes payments for district expenditures using electronic payments, either to vendors or to a subsidiary checking account used to issue checks from the investment accounts. District warrants are not written on a district fund for which a spending investment account has been established (i.e., warrants are only issued for funds maintained by the county treasurer.) Checks may be written on, or electronic payments may be made from, the account if:

- a. the payments made from the accounts representing budgeted funds are in compliance

- with the budget adopted by the trustees;
- b. the accounts are subject to the audit of district finances completed for compliance with MCA 2-7-503 and 20-9-213; and
  - c. the district complies with all accounting system requirements required by OPI.
- MCA 20-9-235; ARM 10.10.610 & .612

The county treasurer or, if a district has established an investment account and subsidiary checking account for the district's debt service fund under 20-9-235, the school district shall pay from the debt service fund all amounts of interest and principal on school district bonds as the interest or principal becomes due when the coupons or bonds are presented and surrendered for payment and shall pay all special improvement district assessments as they become due. If the bonds are held by the state of Montana, then all payments must be remitted to the state treasurer who shall cancel the coupons or bonds and return the coupons or bonds to the county treasurer with the state treasurer's receipt. If the bonds are not held by the state of Montana and the interest or principal is made payable at some designated bank or financial institution, the county treasurer shall remit the amount due for interest or principal to the bank or financial institution for payment against the surrender of the canceled coupons or bonds.

ARM 10.10.612(2)

A district shall pay the automated clearinghouse system charges for all automated clearinghouse transfers made by the office of public instruction to the district's accounts.

MCA 20-9-235(9)

**Note:** A school district may apply in writing to OPI to distribute any payments by direct electronic transfer of funds into an investment account. This will only occur if OPI has approved the request using criteria in ARM 10.10.615.

ARM 10.10.614

The trustees shall provide and enforce a system of internal controls to safeguard the district's money by providing the following procedural checks and balances:

- a. The district shall perform monthly reconcilements of the district's investment records, including transfers to and from the investment accounts, cleared checks, and interest income, to the investment account statements.
- b. A person other than the district employee responsible for payments by check or electronic transfer (i.e., another district employee, a county employee, a trustee, or a contracted accounting professional) shall review the monthly reconciliation to verify the validity of changes to account routing numbers, appropriate payees, proper sequence of check numbers, and authorization of expenditures by the appropriate school district official.
- c. No single person may control an accounting transaction from beginning to end, meaning the same person shall not be responsible for initiating a payment or transfer, authorizing the payment or transfer, recording of accounting transactions for payments and transfers, and reconcilements.

ARM 10.10.615

Other controls are as follows:

- a. When directing investments, the school district shall provide written notification to the county treasurer stating the amount to deposit and the fund making the investment. The county treasurer shall deposit the district's money directly into the investment account via a treasurer's check or wire transfer. A county treasurer may not direct payments to a subsidiary checking account.
- b. A school district shall not purchase investments using district warrants.
- c. The school district shall require the investment firm, when transferring money to funds maintained by the county treasurer, to inform the county treasurer in writing as to which fund the proceeds should be deposited. Interest earnings, redeemed principal, and losses should be reported separately, and by fund.
- d. Before transferring money from one fund to another fund of the district, trustees shall return the money from the investment account to the fund held by the county treasurer. Trustees may then direct the county treasurer to transfer the money to the receiving fund.

ARM 10.10.615

## **INTEREST ALLOCATION**

All interest collected on the deposits or investments of school district funds must be credited to the fund from which the money was withdrawn. An exception to this is that interest earned on the investment of bond proceeds must be credited to the debt service fund or the building fund, at the discretion of the board of trustees.

MCA 20-9-213(4)

Unified Investment Program - If the school district participates in an investment pool, other than a countywide investment pool, it must direct the investment firm or the State Board of Investments to deposit redeemed investments and interest income with the county treasurer, to the credit of the specific and appropriate school district fund. The school district shall require that the investment firm or the State Board of Investments inform the county treasurer in writing stating the funds to which the proceeds should be deposited and the amount of the interest earnings and principal contained in the proceeds.

ARM 10.10.625(6)

Investment Accounts - School districts maintaining investment accounts shall ensure that the principal and interest is allocated to the budgeted or non-budgeted fund from which the deposit was originally made.

MCA 20-9-235

**Note:** All interest earned on the district's general fund deposits must be allocated Prior to 7/1/2026: for district property tax reduction After 7/1/2026: to reduce the district's BASE funding revenue requirement as required by MCA 20-9-141.

## **EXTRACURRICULAR FUND MONEY**

All extracurricular money must be deposited and expended by check from a bank account maintained for the extracurricular fund. (MCA 20-9-504(1)) Alternatively, extracurricular money may be maintained in an account held in the custody of the county treasurer, as authorized in ARM 10.10.304.

It is not a proper purpose of extracurricular activities to accumulate funds for investment. However, in some cases, such as when a class accumulates money to be expended by that class in a subsequent year for a trip or some other group activity, an investment of funds may be appropriate. In such a case, the interest from the investments should be distributed on a pro rata basis to each of the funds which contributed to the purchase of the investment.

AGO #44, Vol. 28 1959

The trustees may invest any excess money in the extracurricular fund in accordance with the provisions of 20-9-213(4).

## **MONTHLY RECONCILIATIONS**

Every month, each school district shall reconcile ending cash, investments (including investment accounts), cash receipts and cash disbursements reported by the county treasurer, and by an investment firm if applicable, with the district's records for all funds. Any differences shall be documented and adjustments to the school district's, investment pool's, or county treasurer's records made as necessary.

ARM 10.10.501, .615, & .625

## **INTEREST RATES ON DEPOSITS OF PUBLIC MONEY**

**Note:** The following statute does not specifically refer to school districts. It appears, however, that since school finance laws refer to the cash and investment laws that govern a county, these same laws would be applicable to a school district.

The rate of interest paid to the school district must be the same as that paid on money from private sources on the same terms. Refusal of any bank, building and loan association, savings and loan association, or credit union to pay that same interest rate shall constitute a waiver of that institution's right to participate in the deposit of public funds.

MCA 7-6-203

## **PLEGGED SECURITIES**

**Note:** The following statutes do not specifically refer to school districts. It appears, however, that since school finance laws refer to the cash and investment laws that govern a county, these same laws would be applicable to a school district.

The treasurer or town clerk shall take from the bank, building and loan association, savings and loan association, or credit union security that the local governing body may prescribe, approve, and consider fully sufficient and necessary to ensure the safety and prompt payment of all deposits, together with the interest on any time or savings deposits.

MCA 7-6-201(3)

The local governing body may require security only for that portion of the deposits in financial institutions that is not guaranteed or insured according to law. The local government can require security to the extent of:

- a. 50% of the deposits if the financial institution has a net worth to total assets ratio of 6% or more; or
- b. 100% of the deposits if the financial institution has a net worth to total assets ratio of less than 6%.

MCA 7-6-207

Pledged securities for uninsured balances, as discussed above, must consist of those specified in MCA Title 17, Chapter 6, Part 1.

MCA 20-9-235(8)



# COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

## EXPENDITURES

REVISED DECEMBER 2025

REF: SD04

### **INFORMATION CONTACTS:**

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**Note to Auditor:** We strongly recommend that, as part of expenditure testing, the auditor review the redeemed warrants of the school district at the County offices. The redeemed warrants are typically maintained in the Clerk and Recorder’s office. Several embezzlements have been detected when auditors discovered that the name on the redeemed warrant did not match the duplicate warrant and accounting records maintained by the school district.

**CLAIMS APPROVAL**

The expenditure of district money, other than employee contract payments, may be authorized by the trustees when (a) payee-signed claims, in which the payee attests to the accuracy of the claim and that the payee has not received the claimed amount, have been issued to the district; or (b) the payee has provided the district with an invoice or other document identifying the quantity and total cost per item included on the invoice.

MCA 20-9-207 & 213(2)

**WARRANTS SIGNED**

The district’s warrants must be countersigned by the presiding officer of the trustees and the clerk of the district before the warrants are negotiable.

MCA 20-9-221(2)

Warrants may be signed by a facsimile signature device. If such a device is used, it may not be available to the other countersigner of the warrant, or the device must have a nonresettable metering control that can provide a positive reconciliation between the number of warrants issued and the number of signatures applied. Either split signature plates or a double signature plate may be used according to the requirements of the district. The signature plates and device keys must be kept secure by the district clerk under the supervision of the board of trustees.

MCA 20-9-221(2)

**WARRANTS ISSUED**

Goods or services must be received prior to the issuance of warrants.

AGO #27, Vol. 30 (1964)

**Note:** School districts will occasionally approve claims or purchase orders and prepare the warrants prior to receiving the goods or services in order to obligate the remaining budget. This practice should be discouraged. School districts may, however, legally encumber funds as permitted by Montana statutes.

The trustees may issue warrants in multiple copies. If multiple copies are issued, the copies must be identified on the face of the warrant as "Not Negotiable - Copy of Original."

MCA 20-9-221(3)

### **EXPENDITURE LIMITATIONS**

The trustees and all officers and employees of the district are limited in making expenditures or incurring liabilities to the total amount of each fund's budget. That is to say, money of the district may not be used to pay expenditures made, liabilities incurred, or warrants issued in excess of the final budget established for each budgeted fund. The only exception is if a district incurs a legal bonded debt payment after the final debt service fund budget for the current fiscal year has been adopted and if payment on the debt is required for the current fiscal year, payment on the debt in the current year is allowed if money is available.

MCA 20-9-133 & 213(3)

The expenditure limitation at any time during the school fiscal year for a nonbudgeted fund is the amount of cash balance of the nonbudgeted fund.

MCA 20-9-210

Transactions recorded to correct expenditures reported in a prior year shall be charged against the current year's budget as provided in MCA 20-9-209(2).

ARM 10.10.307

### **TRAVEL EXPENSES**

School district officials and employees should be reimbursed for actual mileage traveled in accordance with the provisions of MCA 2-18-503. When a privately-owned vehicle is used on school district business, a mileage rate equal to the mileage allotment allowed by the United States Internal Revenue Service (IRS) for the current year shall be paid for the first 1,000 miles traveled in a given calendar month. Any miles traveled thereafter within the same month are reimbursed at 3 cents per mile less. If an airplane is used, reimbursement is allowed for nautical air miles traveled at a rate of twice the automobile mileage allotment.

MCA 2-18-503

Reimbursement rates and policies for meal and lodging expenses while traveling on official district business should be in accordance with a policy formally adopted by the board of trustees.

Every person engaged in travel shall periodically submit a claim containing a schedule of expenses and amounts claimed for said period. Said schedule shall show in what capacity such person was engaged each day while away from the department in which said daily duties arose and shall show expense items of each day in detail, such as the amount of per diem allowance claimed, transportation fare, mileage, and other such items.

MCA 2-18-511

## **OUTSTANDING & DUPLICATE WARRANTS**

Warrants that are outstanding for more than one year may be canceled by the trustees of the school district.

MCA 20-9-223

The contractual obligation of the district that has been satisfied by the issuance of the warrant shall not be terminated until the time specified by MCA 27-2-202(1), which is 8 years.

MCA 20-9-223

When a warrant has been canceled and the contractual obligation (as discussed above) has not terminated, the district may issue a duplicate warrant without the completion of an indemnity bond by the payee.

MCA 20-9-223

## **REGISTERED WARRANTS**

School district warrants drawn on budgeted funds are required by MCA 20-9-212(8) to be registered only if there is insufficient money in all funds of the district. From the date of presentation and thereafter the warrant bears interest at a rate fixed by the board of trustees.

MCA 20-9-212(8), MCA 7-6-2604

## **ENCUMBRANCES**

All appropriations for a budgeted fund lapse on the last day of the school fiscal year except the appropriations for (a) uncompleted improvements in progress of construction; and (b) an obligation for the purchase of personal property ordered but not paid for during the current fiscal year.

MCA 20-9-209(1)

The district may encumber current year appropriations for valid obligations existing as of June 30<sup>th</sup>. Criteria for determining whether a valid obligation exists are as follows:

- a. The cost of personal property, including materials, supplies and equipment, ordered but not received may be encumbered if a valid purchase order for the items was issued prior to June 30<sup>th</sup>.
- b. The cost of commitments related to construction in progress may be encumbered if a legally binding contract was signed and effective or a valid purchase order was issued prior to June 30<sup>th</sup>. (If performance under the contract is complete, or virtually complete, the cost of the entire contract should be accrued as an expenditure, rather than being encumbered.)

ARM 10.10.101

**Encumbrances do not meet the definition of an expenditure or a liability for GAAP purposes.** Because the trustees' financial summary (TFS) is prepared on the budgetary basis of accounting (not GAAP), the school district must add encumbrances outstanding at year end to current year expenditures to arrive at the budgetary basis expenditures reported on the TFS.  
ARM 10.10.101

**Effective for periods after June 30, 2010:** Encumbrances should no longer be reported separately in the governmental fund Balance Sheet but should be disclosed. GASB 54

**Note to auditor:** To assist the school district in preparing a GAAP operating statement, the following calculation must be made:

Budget basis expenditures per TFS (by function)  
+ Encumbrances outstanding at prior fiscal year-end (by function)  
- Encumbrances outstanding at current fiscal year-end (by function)  
= GAAP basis expenditures (by function)

**Note:** Encumbrances are not normally recorded in non-budgeted funds, since the non-budgeted funds do not, by definition, have a formally adopted budget that lapses at year-end. However, OPI allows encumbrances to be reported for obligations for grant funding on an award which lapses on a certain date.

## **EXPENDITURE CODING**

School districts are required to use the standard Chart of Accounts established by OPI.

ARM 10.10.406

Expenditure coding errors can affect many aspects of school funding. Of particular concern to OPI is special education expenditure coding.

## **COST ALLOCATIONS BETWEEN FUNDS/DISTRICTS**

In the event certain shared costs, such as administrative costs, curriculum coordinator salaries, school psychologist salaries, etc., cannot reasonably be identified directly to either the elementary district or the high school district or between funds within a district, the school district administration shall prepare a cost allocation plan for approval by the board of trustees prior to adoption of the final budget. The cost allocation plan should reasonably distribute such costs between districts and funds within a district, consistently from year to year. Shared costs shall be budgeted and accounted for in accordance with the cost allocation plan approved by the board of trustees.

ARM 10.10.303(1)

The following allocation bases shall be used to allocate shared costs:

- (a) ANB or enrollment per district;
- (b) full time equivalent (FTE) staff per district;
- (c) FTE teaching staff per district;

- (d) floor space occupied or space occupied over time per district;
- (e) miles driven, student miles driven, driver hours per district;
- (f) students served per district;
- (g) taxable valuation per district; or
- (h) time spent providing services.

ARM 10.10.303(2)

The cost of operating a junior high school must be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment of the junior high school.

ARM 10.10.303(3); MCA 20-6-506

Whenever a joint board of trustees employs a person as the district superintendent, the districts shall prorate the compensation provided by the contract of employment on the basis of the number of teachers employed by each district.

ARM 10.10.303(4); MCA 20-4-401

### **BIDDING REQUIREMENTS AND ADVERTISEMENT FOR BIDS**

Whenever any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district is necessary, and if the sum exceeds **\$80,000**, the work done or the purchase made must be made by contract. Except as provided in Title 18, chapter 2, part 5, each contract must be let to the lowest responsible bidder after advertisement for bids. The advertisement must be published in the newspaper that will give notice to the largest number of people of the district as determined by the trustees. The advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids.

MCA 20-9-204(3)

The following are the exceptions to the bidding requirements:

1. An unforeseen emergency as defined in 20-3-322(6);
2. Services performed for the benefit of the district by:
  - a. a registered professional engineer, surveyor, real estate appraiser, or registered architect (**Note:** See below for bidding requirements for architectural services);
  - b. a physician, dentist, pharmacist, or other medical, dental, or health care provider;
  - c. an attorney;
  - d. a consulting actuary;
  - e. a private investigator licensed by any jurisdiction;
  - f. a claims adjuster;
  - g. an accountant licensed under Title 37, chapter 50 (i.e., certified public accountants);  
or
  - h. a project for which a school district enters into an alternative project delivery contract pursuant to Title 18, chapter 2, part 5;

MCA 20-9-204(3)

3. The solicitation or award of a contract for an investment grade energy audit or an energy performance contract pursuant to Title 90, chapter 4, part 11, including construction and installation of conservation measures pursuant to the energy performance contract.  
MCA 20-9-204(6)
4. Employer-provided employee health insurance plans (AGO #37, Vol. 40 1984);
5. Purchase of a school bus (MCA 20-10-110);
6. Cooperative purchasing contracts, if certain conditions are met.  
MCA 20-9-204(4)

A district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of MCA 20-9-204(3) if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list.

MCA 20-9-204(4)

### **BIDDING – LEASE/PURCHASE AGREEMENTS**

The trustees of a district may acquire real and personal property by an agreement to lease for up to 7 years for personal property and for up to 15 years for real property" for "3 years with an option to purchase. The terms of the lease must comply with 20-6-625 ("Authorization to lease buildings or land for school purposes"). If real property is acquired, the trustees shall comply with 20-6-603 ("Trustees' authority to acquire or dispose of sites and buildings – when election required").

MCA 20-6-609

A lease contract with a purchase option is subject to bidding requirements if the total amount of the lease payments, together with the purchase option price, exceeds the statutory dollar threshold for bidding (in this case, \$80,000).

AGO #101, Vol. 38 (1980)

**Note:** Although this AGO, pertaining to a county lease contract, does not specifically mention school districts, it appears that the same would apply to school lease purchase agreements.

### **DIVIDING PROJECTS TO CIRCUMVENT BIDDING REQUIREMENTS**

Whenever any law of this state provides a limitation upon the amount of money that a school district can expend upon any public work or construction project without letting such public work or construction project to contract under competitive bidding procedures, a school district shall not circumvent such provision by dividing a public work or construction project or quantum of work to be performed there under which by its nature or character is integral to such public

work or construction project, or serves to accomplish one of the basic purposes or functions thereof, into several contracts, separate work orders, or by any similar device.

MCA 20-9-205

The above shall apply not only where the public work or construction project is divided into several projects which are constructed at approximately the same period of time but also where the public work or construction project is divided into several projects which are constructed in different time periods or over an extended period of time.

MCA 20-9-205

### **BID SECURITY DEPOSIT**

All bids for public contracts must include a bid security of not less than 10%.

MCA 18-1-202(2)

The bid security deposit must be in the form of cash; cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state-chartered bank insured by the federal deposit insurance corporation; or a bid bond, guaranty bond, or surety bond executed by a surety corporation authorized to do business in Montana.

MCA 18-1-201 to 203

### **AWARDING PUBLIC CONTRACTS**

Any letting of contracts related to the construction or furnishing of a new, enlarged, remodeled, or repaired building must be conducted under the provisions of 20-9-204 or Title 18, Chapter 2, Part 5.

MCA 20-6-606

Public contracts for construction, repair, or public works must be awarded to the lowest responsible bidder without regard to residency. However, a resident bidder must be allowed a preference on a contract against the bid of any nonresident bidder from any state or country that enforces a preference for resident bidders. The preference given to resident bidders of this state must be equal to the preference given in the other state or country.

MCA 18-1-102

A public contract for the purchase of goods must be let to the lowest responsible bidder without regard to residency. However, a resident must be allowed a preference on a contract against the bid of a nonresident if the state or country of the nonresident enforces a preference for residents. The preference must be equal to the preference given in the other state or country.

MCA 18-1-102

**Note:** *The Common Rule*, Section \_36(c)(2) and the UGG, §200.319(b) prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the

evaluation of bids or proposals for federally funded contracts, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference.

**Financial Industry Nondiscrimination:** Effective 10/1/2023: (1) The provisions of this section apply only to a contract that:

- (a) Is between a governmental entity and a company with at least 10 full-time employees; and
- (b) has a value of at least \$100,000 that is paid wholly or partly from public funds of the governmental entity.

(2) Except as provided in subsection (3), a governmental entity may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it:

- (a) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (b) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

(3) The provisions of subsection (2) do not apply to a governmental entity that:

- (a) contracts with a sole-source provider; or
- (b) does not receive a bid from a company that is able to provide the written verification required by subsection (2).

MCA 30-20-301

## **INSTALLMENT CONTRACTS – SCHOOL BUS PURCHASES**

When a district purchases a school bus, the trustees may purchase such school bus under an installment contract which will be completely executed within 3 years from the date of the purchase. The trustees also may purchase a school bus without advertising for bids under the provisions of 20-9-204.

MCA 20-10-110

## **CONFLICT OF INTEREST**

No trustee may have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while acting in that official capacity or by the board of trustees of which the trustee is a member, nor may a trustee be employed in any capacity by the trustee's own school district, with the exception of officiating at athletic competitions under the auspices of the Montana Officials Association.

MCA 20-9-204(1)

**Note:** "Pecuniary interest" does not include holding an interest of 10% or less in a corporation.

The meaning of "contract", as used above, does not include contracts for professional services, other than salaried services, or for maintenance or repair services, or supplies when the services or supplies are not reasonably available from other sources if the interest of any board member

and a determination of the lack of availability are entered in the minutes of the board meeting at which the contract is considered. In addition, “contract” does not include merchandise sold to the highest bidder at public auctions, nor does it include investment or deposits in financial institutions when the investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community.

MCA 20-9-204(2)

A district employee shall not act as an agent or solicitor in the sale or supply of goods or services to a district. No such person shall assist or receive a reward from an agent or solicitor of goods or services for a district. A trustee or school employee may not accept any emolument or other inducement from a textbook dealer or agent of the dealer for the use of the official’s or employee’s influence in the selection, adoption, or purchase of textbooks.

MCA 20-1-201, MCA 20-7-608(2)

### **RETAINAGE FEE FOR PUBLIC CONTRACTS**

The maximum retainage (means the ratio, in percent, of funds retained to the total amount to be paid to the contractor by the government entity) applied to construction contracts may not exceed 5% if the contractor is performing by the terms of the contract.

MCA 18-2-316

A government entity that enters into a contract for the construction of a building shall, unless otherwise provided by law or the contract and within 10 days after a request by the construction contractor for final acceptance, decide whether or not to make final acceptance. Within 30 days after final acceptance by the government entity, the government entity shall make the final payment of the contract price specified in the contract to the other party to the contract. (“Final acceptance” means the government entity’s acceptance of the construction of a building by the contractor upon certification by the architect, project engineer, or other representative of the government entity of final completion of the building.)

MCA 18-2-306

### **ARCHITECTURAL SERVICES**

Whenever the trustees of a school district determine that the building, furnishing, repairing or other work for the benefit of a school district exceeds \$150,000 and requires architectural services under Title 37, Chapter 65, MCA, the trustees of the school district shall contract for those services.

MCA 20-6-631

## **TRANSPORTATION CONTRACTS**

Before any school bus transportation contract with a private party can be awarded, the trustees must publish three calls for bids for a period of 21 days. The contract must be let to the lowest responsible bidder, although the trustees shall have the right to reject any and all bids.

MCA 20-10-125

As an alternative, the trustees can negotiate a new contract with the current school bus contractor, provided that the negotiated contract costs do not exceed by more than 12% per year the basic costs of the previous year's contract. **Note:** "12% of the basic costs of the previous year's contract" is subject to various interpretations.) The negotiated contract may only be entered into at a public meeting. Notice of the meeting must be published at least one week prior to the meeting.

MCA 20-10-125

## **INDIRECT COST RATES**

A school district may charge indirect costs to federal and state grant awards only if it has requested an indirect cost rate for the fiscal year from OPI. Information and examples related to indirect cost rates and the application to OPI for the indirect cost rates can be found at OPI's website: <https://opi.mt.gov/Leadership/Finance-Grants/School-Finance/School-Finance-Accounting#104974917-indirect-cost-rates>

## **BUS DEPRECIATION RESERVE FUND**

Expenditures from the bus depreciation reserve fund may be made only:

- a. to convert, remodel, or rebuild buses, or to replace the buses or communication systems and safety devices installed on the bus that are used for the purposes of transportation as defined in 20-10-101 (i.e., "home-to-school" transportation only) or for purposes of conveying pupils to and from school functions or extracurricular activities. These purposes would include both yellow school buses and over-the-road passenger coaches.
- b. to purchase an additional bus for purposes of transportation, as defined in MCA 20-10-101. This would apply to only yellow school buses.

MCA 20-10-147(3)

**Note:** According to OPI interpretation, the purpose of the fund does not allow the purchase of non-bus vehicles but does allow the purchase of surveillance cameras and global positioning systems for buses.

## **TECHNOLOGY ACQUISITION AND DEPRECIATION FUND**

The trustees of a district may establish a technology acquisition and depreciation fund for school district expenditures incurred for the purchase, rental, repair, and maintenance of technological

equipment, including computers and computer network access; cloud computing services for technology infrastructure, platform, software, network, storage, security, data, database, test environment, curriculum, or desktop virtualization purposes, including any subscription or any license-based or pay-per-use service that is accessed over the internet or other remote network to meet the district's information technology and other needs; and associated technical training for school district personnel.

MCA 20-9-533(1)

The trustees of a district may not use revenue in the technology acquisition fund to finance contributions to the Teachers' Retirement System, the Public Employees' Retirement System, or the federal Social Security system, or for unemployment compensation insurance.

MCA 20-9-533(9)

According to OPI interpretation, this fund may be used for the payment of salaries and benefits for staff who maintain computers, ensure software/equipment compatibility, facilitate access to the Internet and local networks, and train district staff in the use of computers/software. Payment of salaries and benefits for classroom teachers is not allowed.

### **SCHOOL FLEXIBILITY FUND**

The trustees of a district may establish a school flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

- (a) technological equipment enhancements and expansions considered by the trustees to support enhanced educational programs in the classroom;
- (b) facility expansion and remodeling considered by the trustees to support the delivery of educational programs or the removal and replacement of obsolete facilities;
- (c) supplies and materials considered by the trustees to support the delivery of enhanced educational programs;
- (d) student assessment and evaluation;
- (e) the development of curriculum materials;
- (f) training for classroom staff considered by the trustees to support the delivery of enhanced educational programs;
- (g) purchase, lease, or rental of real property that must be used to provide free or reduced price housing for classroom teachers;
- (h) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom teachers and other certified staff, subject to collective bargaining when applicable; or
- (i) increases in energy costs caused by an increase in energy rates from the rates paid by the district in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other resources of the district.

MCA 20-9-543

### **MONTANA ADVANCED OPPORTUNITY ACT**

- (4) The superintendent of public instruction shall provide advanced opportunity aid to each district qualified by the board of public education under subsection (3) by October 1. The aid under this section must be distributed directly to the school district's flexibility fund under 20-9-543.
- (5) Advanced opportunity aid may be expended on any qualifying pupil by the district subject to the following conditions:
- (a) at least Effective 7/1/2023: 75% of a district's annual distribution of advanced opportunity aid must be spent or encumbered to address out-of-pocket costs that would otherwise, in the absence of such expenditure, be assumed by a qualifying pupil or the pupil's family as a result of participation in an advanced opportunity. The trustees have full discretion to allocate expenditures among all pupils of the district or any select group of pupils, using any reasonable method they consider appropriate in their full discretion to meet the individual needs of each pupil who pursues an advanced opportunity. The trustees may create free district initiatives of their own that satisfy the conditions of this subsection (5)(a). Permissible expenditures include Effective 7/1/2023: but are not limited to:
- (i) dual credit tuition at any institution under authority of the board of regents;
  - (ii) exam fees used for postsecondary advancement, placement, or credit, including but not limited to exam fees associated with the ACT, SAT, CLEP, career advancement, international baccalaureate, and advanced placement;
  - (iii) fees charged by and any out-of-pocket costs of any business providing work-based learning opportunities to a qualifying pupil of the district, including the cost of workers' compensation insurance for work-based learning opportunities;
  - (iv) exam and other fees of any industry-recognized credential or license for which a qualifying pupil is eligible as a result of participation in an advanced opportunity;
  - (v) Effective 7/1/2023: the costs of participation for qualifying pupils in out-of-school enrichment activities that, in the discretion of the trustees, advance the pupil's opportunity for postsecondary career and educational success; and
  - (vi) the costs of participation for qualifying pupils that are identified as necessary, in the discretion of the district and upon request of a qualifying pupil, to maximize the benefit of an advanced opportunity for a qualifying pupil; and
- (b) advanced opportunity aid remaining that is not expended or carried forward for the purposes of subsection (5)(a) may be spent by the district to provide any K-12 career and vocational/technical education course offered by the district to
- (i) (effective 7/1/2025) provide any K-12 career and vocational/technical education course offered by the district; or
  - (ii) (effective 7/1/2025) pay for the costs of employing an advanced opportunity facilitator as defined in 20-7-1053.
- (6) A district qualified for funding under subsection (3) may supplement state funding of advanced opportunity aid with matched expenditures from its adopted adult education budget, not to exceed 25% of the district's advanced opportunity aid. The conditions under subsection (5) apply to any matched expenditures funded under this subsection (6).
- (7) Effective 5/8/2025: The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include advanced opportunity aid in an amount estimated to be sufficient to provide advanced opportunity aid to all districts of the state based on prior demand. Any shortfalls must be addressed in the same manner as funding of deficiencies in BASE aid under 20-9-351.

MCA 20-7-1506(4) through (7)

### **TRANSFORMATIONAL LEARNING**

The payment under this subsection (5) must be distributed directly to the school district's flexibility fund established under 20-9-543 by October 1 of each year of funding by the superintendent of public instruction.

**Expenditures** – Any transformational learning aid must be expended by the district only for the purposes of the district's approved transformational learning plan and within (effective 7/1/2025) 6 years of the first year of funding. See SD02 for more information on the transformational learning plan.

MCA 20-7-1602(5)(b)



# COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

## PAYROLL & EMPLOYEE BENEFITS

REVISED DECEMBER 2025

REF: SD05

### **INFORMATION CONTACTS:**

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**Note to Auditor:** We strongly recommend that, as part of expenditure testing, the auditor review the redeemed warrants of the school district at the County offices. The redeemed warrants are typically maintained in the Clerk and Recorder's office. Several embezzlements have been detected when auditors discovered that the name on the redeemed warrant did not match the duplicate warrant and accounting records maintained by the school district.

## **HOLIDAY BENEFITS**

Only the following school holidays are permitted:

- (a) New Year's Day (January 1)
- (b) Memorial Day (last Monday in May)
- (c) Independence Day (July 4)
- (d) Labor Day (first Monday in September)
- (e) Thanksgiving Day (fourth Thursday in November)
- (f) Christmas Day (December 25)
- (g) State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process.

When these holidays fall on a Saturday or Sunday, the preceding Friday or the succeeding Monday shall not be a school holiday.

MCA 20-1-305

Non-teaching employees are entitled to the above school holidays rather than the legal holidays specified in MCA 1-1-216.

AGO #150, Vol. 37 1978

A school district may have negotiated agreements or policies that specify other days off in addition to the holidays enumerated above.

## **RETIREMENT SYSTEMS**

Except as otherwise provided in MCA 19-20-302, the following must be active members of the Teacher's Retirement System (TRS):

- a. a person who is a teacher, principal, or district superintendent, as defined in MCA 20-1-101;
- b. a person employed as a speech-language pathologist, school nurse, professionally qualified person as defined in 20-7-901 (i.e., one with special training who is qualified to appraise pupils' special competencies.), paraprofessional who provides instructional support, or school psychologist;
- c. a person employed in a teaching or an educational services capacity by an education cooperative or a school district; and
- d. a person employed in a nonclerical position and who is reported on an employer's annual data collection report submitted to the office of public instruction.

MCA 19-20-302(1)

A substitute teacher or a part-time teacher's aide (effective 7/1/2025) or paraprofessional who is not already an active, inactive, or retired member of the retirement system shall make an irrevocable written election to become an active member of the retirement system on the first day of employment or to defer membership in the retirement system until the individual has completed 210 hours of services in any fiscal year. ~~(shall (a) file an irrevocable written election whether to become an active member of TRS on the first day of employment, OR (b) is required to become an active member of TRS after completing 210 hours of employment in any fiscal year if that person has not elected membership as indicated in a., above").~~

Effective 7/1/2025: Upon completing 210 hours of service in a fiscal year for one employer or in aggregate for two or more employers, the individual shall become an active member of the retirement system. Active membership is effective the first day of the month following the month in which aggregate service reported by all employers equals or exceeds 210 hours. After a substitute teacher, part-time teacher's aide, or paraprofessional becomes a member, the individual shall remain an active or inactive member until the individual meets the requirements to withdraw from the retirement system or become a retired member.

MCA 19-20-302(4)(a) & MCA 19-20-302 (4)(b)

Effective 7/1/2025: An employer shall provide an election form to an eligible substitute teacher, part-time teacher's aid, or paraprofessional on the first day of employment. The employer shall require submission of the election form back to the employer and shall maintain the election form permanently.

MCA 19-20-302(4)(c)

**Deleted Effective July 1, 2025:** The school district shall give written notification to a substitute teacher or to a part-time teacher's aide on the first day of employment of the option to elect membership in TRS. If these individuals decline to elect membership during the election period, they shall file a written statement with the district, waiving membership, and the district shall retain the statement.

MCA 19-20-302 (4)(d)

Effective 7/1/2024: **Independent Contractors:** (1) (a) An individual working in a position reportable to the retirement system is presumed to be a common law employee of the employer and not an independent contractor.

(b) Until the status of an individual working in a position reportable to the retirement system is conclusively established to be that of an independent contractor, the individual must be reported to the retirement system as an active member or working retiree, as appropriate, not as an independent contractor.

(2) (a) An employer who asserts that an individual working in a position reportable to the retirement system is an independent contractor shall conclusively establish that the individual is an independent contractor and not a common law employee of the employer by:

- (i) a written determination prepared by an attorney, an employment or human resources professional, or another individual who is qualified to make worker status determinations;
- (ii) an order of a court of competent jurisdiction; or

- (iii) internal revenue service form SS-8.
  - (b) (i) An individual making the determination must provide with their written determination their full name, professional designations, business name, business address, and business telephone number.
  - (ii) The written determination or order must comprehensively address the internal revenue service criteria related to the facts and circumstances of the specific worker in the specific position at issue and must provide a reasoned discussion of each criterion and its application to the specific facts and circumstances of the work and the position, not merely provide a conclusory statement of finding.
  - (iii) An independent contractor exemption certificate by the Montana department of labor and industry must meet all of the requirements of this subsection (2).
- (3) Any costs incurred to conclusively establish the independent contractor status of an individual working in a position reportable to the retirement system, as specified in this section, must be the sole responsibility of the employer.
- MCA 19-20-307

**Effective 5/5/2025 and Terminating 6/30/2031: Reemployment of certain retirees by superintendent of public instruction**

(1) Subject to the provisions of this section:

- (a) a retired member of the teachers' retirement system who has been receiving a retirement allowance for no less than 2 months, except for a disability retirement allowance pursuant to Title 19, chapter 20, part 6, may be employed in a position reportable to the teachers' retirement system on a full-time basis by the superintendent of public instruction for a maximum of 5 years during the lifetime of the retired member without the loss or interruption of any payments or benefits if:
  - (i) the retired member completed 27 or more years of creditable service prior to retirement; and
  - (ii) each year, prior to employing a retired member, the superintendent of public instruction certifies to the teachers' retirement system board that after having advertised the position, the employer has been unable to fill the position because the employer has either received no qualified applicants or has not received an acceptance of an offer of employment made to a nonretired member of the teachers' retirement system;
- (b) the employer certification required by this section must include the retired member's name and social security number and a copy of the proposed contract of employment for the retired member;
- (c) on receipt of the employer's certification and the proposed contract of employment, the teachers' retirement system board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall notify the employer and the retired member of its findings;
- (d) a retired member reemployed under this section is ineligible for active membership under 1920-302 and is ineligible to receive service credit under any retirement system identified in Title 19; and
- (e) the board shall report biennially to the education interim committee and the state administration and veterans' affairs interim committee in accordance with 5-11-210 regarding the implementation of and results arising from this section.

(2) An employer employing a retired member pursuant to this section shall contribute monthly to the teachers' retirement system an amount equal to the sum of the contribution rates provided in 19-20-602, 19-20-604, 19-20-605, 19-20-608, and 19-20-609.

(3) A retired member reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-731.

(4) The board may adopt rules to implement this section.

(5) As used in this section, the following definitions apply:

(a) "Employer" means the superintendent of public instruction as described in 20-3-101 that employs a retired member of the teachers' retirement system.

(b) "System" means the teachers' retirement system.

(c) "Year" means all or any part of a fiscal year running July 1 through June 30.

MCA 19-20-735

The school district may also provide coverage under the Public Employees Retirement System (PERS) for full-time non-teaching employees. Non-teaching employees who work no more than 960 hours in any fiscal year are also eligible to join PERS.

MCA 19-3-411, MCA 19-3-201

The following chart summarizes required contributions for the employee, the employer, and the State for the PERS and TRS.

<b>CONTRIBUTIONS TO RETIREMENT SYSTEMS</b>			
<b>EFFECTIVE DATE</b>	<b>EMPLOYEE CONTRIBUTION**</b>	<b>EMPLOYER (DISTRICT) CONTRIBUTION</b>	<b>STATE CONTRIBUTION</b>
<b>PERS</b>			
	MCA 19-3-315	MCA 19-3-316 & 319	MCA 19-3-319
7/1/25	7.9%	FY2025: 9.17% (6.9% + 2.27%) Additional employer contribution rate increases 0.1% every year for fiscal years 2028 through FY2047.  FY2025: 9.17% FY2026: 9.17% FY2027: 9.17% FY2028: 9.17%	
7/1/13	All members - 7.9%*	6.9%, less State contribution (0.37%), plus additional contribution of 1.27%, increasing by 0.1% per year through FY2024:  FY2014: 7.8% FY2015: 7.9% FY2016: 8.0% FY2017: 8.1% FY2018: 8.2% FY2019: 8.3% FY2020: 8.4% FY2021: 8.5% FY2022: 8.6% FY2023: 8.7% FY2024 and later: 8.8%	.37%
<b>TRS</b>			
	MCA 19-20-602 & 608	MCA 19-20-605 & 609	MCA 19-20-604 & 607
7/1/2025		FY2025: 9.47% + 0.1% . For fiscal years beginning after June 30, 2027, 0.1% increase each fiscal year through June 30, 2047.  For fiscal years beginning after June 30, 2047, the % contributed is 4%.	

<p>7/1/13</p>	<p>Tier 1 member*: 7.15% + 1% supplemental = 8.15% Tier 2 member*: 8.15%</p>	<p>7.47% plus a supplemental contribution of 1%, increasing by 0.1% each year through FY2024:</p> <p>FY2014: 8.47% FY2015: 8.57% FY2016: 8.67% FY2017: 8.77% FY2018: 8.87% FY2019: 8.97% FY2020: 9.07% FY2021: 9.17% FY2022: 9.27% FY2023: 9.37% FY2024 and later: 9.47%</p> <p>For each retired member who returns to covered employment: 9.85% plus the supplemental contribution above, resulting in a rate that is 2.38% greater each year than the amounts in the above list.</p>	<p>.11% + 2.38% supplemental = 2.49%</p>
<p>*A “tier one member” is a person who became a member before 7/1/13 and who has not withdrawn his/her account balance. A “tier two member” is a person who became a member on or after 7/1/13 or who, after withdrawing his/her account balance, became a member again on or after 7/1/2013.</p>			
<p>The Tier 1 member supplemental contribution may be decreased, and a Tier 2 member may be required to contribute a supplemental contribution, under circumstances described in MCA 19-20-608. Also, the employer supplemental contribution may be decreased under circumstances described in MCA 19-20-609.</p>			
<p style="text-align: center;"><b>NOTES:</b></p> <p style="text-align: center;">Contributions are expressed as a percentage of the employee’s gross pay.</p> <p style="text-align: center;">*Employee contribution must be payable from the same source as is used to pay the compensation.</p>			

**“Compensation” Defined:** (Applicable to PERS) For purposes of retirement systems, "compensation" means remuneration paid ... before any pretax deductions allowed by state or federal law are made.  
MCA 19-3-108(1)

In addition, MCA 19-3-108(1) specifically states that compensation does not include the following:

- Contributions to group insurance, such as that provided under 2-18-701 through 2-18-704.
- Bonuses that are one-time or temporary payments in addition to and not considered part of base pay.
- Effective 7/1/2023: Remuneration paid to a member to reimburse the member for what would normally be the employer's costs of doing business, such as for workstation equipment or telecom services to facilitate telework.
- Per diems, maintenance, allowances, or volunteer stipends.

Pre-tax deductions, including elective contributions under an IRC section 125 (Section 125) cafeteria plan, may be considered compensation for purposes of these retirement systems, but only if the following conditions are met:

- a. If an employer increases a member's compensation to account for health, dental, vision, life or disability costs, the amount of the increase can be included in compensation for retirement system purposes only if the employer includes that amount, to the extent required by applicable federal and state law, in its calculation of the member's compensation for all purposes, including but not limited to federal and state income taxes, FICA, unemployment insurance, overtime, shift differentials, workers' compensation, and benefits based on compensation, such as life or disability benefits based on a multiple or percentage of annual pay.
- b. The cafeteria plan must be a bona fide cafeteria plan that is operated in compliance with requirements of Section 125. See details at <https://mpera.mt.gov/docs/BoardPolicies/BdPolicyAdmin05.pdf>

## **ANNUAL VACATION LEAVE**

Noncertified permanent full-time employees earn annual vacation leave credits based on total years of employment, as follows:

- a. 1 day through 10 years - 15 working days per year
- b. 10 years through 15 years - 18 working days per year
- c. 15 years through 20 years - 21 working days per year
- d. 20 years on - 24 working days per year.

MCA 2-18-612

Noncertified full-time employees earn vacation leave from the first day of employment, but must be continuously employed for six calendar months before they are eligible to take any vacation leave.

MCA 2-18-611(1)

No vacation leave shall accrue while a noncertified employee is in a leave-without-pay status.

MCA 2-18-611(4)

Permanent part-time noncertified employees receive prorated annual vacation leave credits if they have worked for the qualifying period.

MCA 2-18-611(3)

To calculate vacation leave credits for a pay period, multiply the total number hours paid (regular, holiday, vacation, and sick leave hours, excluding overtime hours) by the rate appropriate for the total years of employment (i.e., 15, 18, 21, or 24):

15 days X 8 hrs = 120 hrs/2080 hrs = .058 X hours paid

18 days X 8 hrs = 144 hrs/2080 hrs = .069 X hours paid

21 days X 8 hrs = 168 hrs/2080 hrs = .081 X hours paid

24 days X 8 hrs = 192 hrs/2080 hrs = .092 X hours paid

Section 5-1840.30 of the School Accounting Manual

Noncertified employees may accumulate annual vacation leave to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is forfeited if not taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.

MCA 2-18-617

If an employee (noncertified) makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited and the local government denies the request, the excess vacation leave is not forfeited and the local government shall ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited.

MCA 2-18-617

If the employee has contributed vacation leave to the sick leave fund, provided for in MCA, 2-18-618, the amount of the contribution is nonrefundable and not eligible for cash compensation upon termination.

MCA 2-18-617(2)(b)

MCA 2-18-617 does not prohibit a school district from providing cash compensation for unused vacation leave in lieu of the accumulation of the leave, either through a collective bargaining agreement or, in the absence of a collective bargaining agreement, through a policy.

MCA 2-18-617(5)

Seasonal (noncertified) employees may receive lump-sum settlements for accrued credits at the end of each season or the credits may be carried over to the next season.

## **SICK LEAVE**

Permanent full-time employees (noncertified) earn 12 days of sick leave per year and there is no restriction on the number of hours that may be accumulated.

MCA 2-18-618(1)

Employees (noncertified) earn sick leave from the first day of employment, but must be continuously employed for 90 days before they are eligible to use any sick leave.

MCA 2-18-618(1)

An employee (noncertified) may not earn sick leave while in a leave-without-pay status.

MCA 2-18-618(2)

Permanent part-time employees (noncertified) receive prorated sick leave credits if they have worked for the qualifying period of 90 days.

MCA 2-18-618(3)

Full-time temporary and seasonal employees (noncertified) are entitled to sick leave benefits if they have worked the qualifying period of 90 days.

**MCA 2-18-618(4)**

A short-term worker (noncertified) may not earn sick leave credits. A short-term worker is a person who may be hired by an agency without using a competitive hiring process for an hourly wage established by the agency; may not work for the agency for more than 90 days in a continuous 12-month period; is not eligible for permanent status; may not be hired into a permanent position by the agency without a competitive selection process; is not eligible to earn the leave and holiday benefits provided in Title 2, Chapter 18, Part 6; and may be discharged without cause.

MCA 2-18-101(25), MCA 2-18-618(5)

To calculate sick leave credits for a pay period, multiply the total number hours paid (regular, holiday, vacation, and sick leave hours, excluding overtime hours) by the following rate:

$$12 \text{ days} \times 8 \text{ hrs} = 96 \text{ hrs} / 2080 \text{ hrs} = .046 \times \text{hours paid}$$

Except as discussed below (VEBA) and except as otherwise provided in 2-18-1311 or subsection (6)(c) of this section, upon termination of employment, a noncertified employee is entitled to a lump-sum payment equal to  $\frac{1}{4}$  of the pay attributed to the accumulated sick leave. The pay must be computed on the basis of the employee's salary or wage at the time of termination.

MCA 2-18-618(6)

A noncertified employee may not be paid upon termination for any remaining sick leave credits that were accrued prior to July 1, 1971.

MCA 2-18-618(6)

For noncertified employees, abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments for accumulated sick leave.

MCA 2-18-618(8)

A school district may establish and administer, through local rule, a sick leave fund into which its non-certified employees may contribute a portion of their accumulated sick leave or accumulated vacation leave.

MCA 2-18-618(10)

**COMPENSATED ABSENCES LIABILITY FUND TRANSFER**

The trustees of a school district may establish a compensated absence liability fund for the purpose of paying (a) any accumulated amount of sick leave that a nonteaching or administrative school district employee is entitled to upon termination of employment with the district in accordance with the provisions of 2-18-618; and (b) any accumulated amount of vacation leave that a nonteaching or administrative school district employee is entitled to upon termination of employment with the district

MCA 20-9-512

**Note:** The fund may not be used to pay the employee severance pay, retirement bonuses, or any amount paid in lieu of employee contributions.

The trustees may transfer money from the general fund, within the adopted budget, to establish and maintain the compensated absence liability fund. The maximum amount may not exceed 30% of (a) the total school district liability for accumulated sick leave of nonteaching and administrative school district employees on June 30 of the current school fiscal year; and (b) the total school district liability for accumulated vacation leave of nonteaching and administrative school district employees on June 30 of the current school fiscal year.

MCA, 20-9-512

**Note:** Excess balances in the compensated absence liability fund must be transferred back to the general fund. The transfer should be made during closing. An excess balance in the compensated absence liability fund at year-end means the general fund was shorted by the excess amount in budgeting for the next year.

ARM 10.10.312

Special Education Cooperatives may not establish a compensated absences liability fund at this time. Section 20-9-512, MCA, provides that transfers are only authorized from a school district's general fund. Cooperatives use a non-budgeted interlocal agreement fund. This law would have to be amended for cooperatives to establish such a fund

## **JURY/WITNESS DUTY AND MILITARY LEAVE**

Any employee that serves as a juror or is subpoenaed to serve as a witness must either (a) pay to the district the juror or witness fees and receive his or her normal compensation from the school district, or (b) charge the time spent as annual vacation leave and retain the juror/witness fees.

**Note:** Either way, the employee is not required to remit any expense or mileage allowance paid by the court.

MCA 2-18-604 & 619

An employee (certified or noncertified) who is a member of the national guard of Montana or any other state or of the reserve corps or military forces of the United States and who has been an employee for a period of 6 months must be given leave of absence with pay at a rate of 120 hours in a calendar year or academic year if applicable for attending military service. The full 120 hours of leave must be credited in full to an employee after 6 months of employment and in each successive calendar year, or academic year if applicable. This leave may not be charged against the employee's annual vacation time. Unused military leave must be carried over to the next calendar year, or academic year if applicable, but may not exceed a total of 240 hours in any calendar or academic year.

AGO #35, Vol. 36 1975; MCA 10-1-1009

## **COMPENSATION OF OFFICIALS AND EMPLOYEES**

Trustees shall not receive compensation for their services as trustees, except that the secretary of the trustees of a high school district operating a county high school or the secretary of a joint board of trustees may be compensated for services as the secretary.

MCA 20-3-311

**Note:** A trustee that resides over 3 miles from the trustees' meeting place shall be reimbursed at the rate as provided in 2-18-503 for every mile necessarily traveled in attending regular and special meetings, and all trustees shall be similarly reimbursed for meetings called by the county superintendent. See SD04 for compliance requirement related to travel expenses.

Each teacher or specialist must be employed under written contract, and each contract of employment must be authorized by a resolution of the trustees.

MCA 20-4-201

Each district superintendent or county high school principal must be employed under written contract, and each contract must be authorized by a resolution of the trustees.

An individual holding a class 3 teacher certificate with a district superintendent endorsement may be employed as the county high school principal in lieu of a district superintendent. The contract must be for a term of not more than 3 years, and after the second successive contract, the contract is considered to be renewed for a further term of 1 year from year to year.

MCA 20-4-401

If any appropriation item of a school district's final budget provides for the payment of wages or salary to more than one person, the district shall attach to the budget a separate listing of each position of employment, with the budgeted amount of compensation for each position.

MCA 20-9-132

## **OVERTIME**

**General Rule:** Except as noted below, an employer may not employ any employee (noncertified) for a workweek longer than 40 hours unless the employee receives compensation for employment in excess of 40 hours in a workweek at a rate of not less than 1 ½ times the hourly wage rate at which the employee is employed.

MCA 39-3-405

**Note:** This provision generally agrees to the overtime provisions of the Federal Fair Labor Standards Act (FLSA), which covers virtually all local government employees.  
29 CFR §553.3

Currently under federal injunction, the DOL amended the FLSA in 2016 by increasing its salary threshold from \$455 a week (\$23,660 for a full-year worker) to \$913 a week (\$47,476 for a full-year worker). Under this final rule, most employees not passing the duties test (bona fide executive, administrative, or professional (EAP) employees) who also make less than \$47,476 a

year will be entitled to overtime pay or comp time. The other exemptions noted above also apply. Click here for more information: <https://www.federalregister.gov/articles/2016/05/23/2016-11754/defining-and-delimiting-the-exemptions-for-executive-administrative-professional-outside-sales-and> or here for application to local governments: <https://www.dol.gov/agencies/whd/flsa>

**Exclusions from General Overtime Provisions:** The overtime provisions of MCA 39-3-405 do not apply to the following:

1. An individual employed in a bona fide executive, administrative, or professional capacity (as these terms are defined in ARM 24.16.3007), a computer systems analyst, computer programmer, software engineer, network administrator or other similarly skilled computer employee who earns not less than \$27.63 an hour.  
MCA 39-3-406(1)(j)
2. A school district employee employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation. Only the hours that the employee works in this occasional or sporadic capacity may be excluded from the calculation of hours to determine overtime compensation. MCA 39-3-406(2)(x)

MCA 39-3-406

**Compensatory Time in Lieu of Overtime:** School district employees who are covered by the FLSA may reach agreement with their employers to receive compensatory time in lieu of cash overtime. Compensatory time in lieu of cash must be at the rate of not less than 1 ½ hours of compensatory time for each hour of overtime worked.

29 CFR §553.20; AGO #58 1986, Vol. 41

**Note:** State and federal law do not require the local government to make the accrual or use of compensatory time available to “exempt” employees (i.e., individuals employed in a bona fide executive, administrative, or professional capacity as discussed above). However, the local government may establish a policy of permitting compensatory time to be earned by “exempt employees” on an “hour-for-hour” basis for time in a pay status in excess of 40 hours in a workweek. Accrued time may be taken as approved time off at a later date.

As a condition for use of compensatory time in lieu of overtime payment in cash, an agreement or understanding must be reached prior to the performance of work. A copy of this agreement or understanding should be kept on file, or if not in writing, a record of its existence should be kept. 29 CFR §553.23(a) & .50

Generally, no more than 240 hours of compensatory time may be accrued. This 240 hour limit is based on 160 hours actual overtime worked. Any additional overtime hours worked over this limit must be paid in cash overtime.

29 CFR §553.21 & .22

Any employee who has accrued compensatory time and requested use of it must be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt school district operations. An employee must not be coerced to accept more compensatory time than an employer can realistically expect to be able to grant.

## 29 CFR §553.25(a) & (b)

Upon termination of employment, an employee must be paid for unused compensatory time at a rate not less than the average regular rate received by the employee during the last 3 years of employment, or the final regular rate received by the employee, whichever is higher.

29 CFR §553.21 & .27(b)(1) & (2)

The school district should keep a record of compensatory time earned each workweek, compensatory time used each workweek, and the number of hours of compensatory time compensated in cash and the total amount and date paid, for each employee subject to compensatory time provisions.

29 CFR §553.50

**Note:** For additional information:

- a. State overtime laws, see the website for the Department of Labor & Industry, Employment Relations Division at <https://erd.dli.mt.gov/>
- b. FLSA see the website for the U.S. Department of Labor, Wage and Hour Division at <https://www.dol.gov/agencies/whd/flsa>
- c. Regarding definitions of “bona fide executive, administrative, or professional capacity,” see the Secretary of State’s website at <https://sosmt.gov/>

Compensatory time accumulated by an employee of a state agency as defined in 2-2-102 who dies in an accident while on the job and before being able to use the compensatory time must be converted at 100% of its value to a death benefit to be paid to the employee's beneficiary or estate.

MCA 2-18-623

## **GROUP INSURANCE**

Upon approval by two-thirds vote of officers and employees, the school district shall enter into group hospitalization, medical, health, including long-term disability, accident or group life insurance contracts or plans for the benefit of the officers and employees and their dependents.

MCA 2-18-702(1)(a)

For this purpose, an employee is defined at 2-18-701 as including a permanent, seasonal, or temporary, full-time or part-time employee.

The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents.

MCA 2-18-702(1)(a) & 703(7)

The school district’s contributions for each employee may exceed but may not be less than \$10 a month.

MCA 2-18-703(3)

Unused employer contributions for any employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group or to increase the reserves of the group.

MCA 2-18-703(6)

### **SELF-FUNDED HEALTH BENEFIT PLAN**

- (1) Effective 7/1/2023: To provide the district, trustees, and employees with liability insurance pursuant to 2-9-211 and group health and life insurance pursuant to 2-18-702, the trustees of a district may:
  - (a) purchase insurance coverage;
  - (b) Effective 7/1/2023: participate in a district health insurance trust as defined in 20-3-366 for group health insurance; or
  - (c) establish a self-insurance plan for the district, trustees, and employees for liability as provided in 2-9-211 and for group health and life insurance as provided in 2-18-702.
- (2) The trustees shall include the cost of coverage in the Effective 7/1/2023: district's general fund or in any other legally available fund, including the internal service fund referenced in subsection (3).
- (3) Whenever the trustees of a district establish a self-insurance plan Effective 7/1/2023: or participate in a district health insurance trust as defined in 20-3-366, the trustees shall establish an internal service fund to account for the activities of the self-insurance plan.

MCA 20-3-331

The trustees of a school district with a self-insured health benefit plan holding reserve funds shall use these funds to pay claims and other liabilities of the district's health benefit plan.

MCA 20-3-330

Upon dissolution of a district's self-insured health benefit plan, all remaining reserves must be maintained by the district under the provisions of MCA 20-3-331 and must be used to pay for employee benefit costs as determined by a collective bargaining agreement or an employer policy or as required by applicable state or federal law.

MCA 20-3-330

### **AFFORDABLE CARE ACT (ACA)**

Provisions of ACA are being continually amended. Please go to <https://www.healthcare.gov/small-businesses/> for updated and additional information.

## **VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION (VEBA)**

The VEBA, which is centrally administered by the Montana Department of Administration, provides members with individual health care expense trust accounts to pay qualified health care expenses of members, their dependents, and their beneficiaries. Under the plan, employer contributions, investment earnings, and payments for qualified health care expenses are tax-exempt. A local government, however, is not prohibited from establishing a similar program as an alternative or in addition to participation in the State VEBA plan discussed here. For more information on VEBA see <https://montanaveba.mt.gov/>.

As either initiated by the local government, or at the request of at least 25% of its employees, the local government may hold an election to determine whether all the employees, or a specified group of employees, will form an association for the purpose of participating in the plan. If a majority of employees vote to form an association, all current and subsequently-hired employees must become plan members. The local government shall enter into a contract with the Department of Administration, and shall operate the association in a manner prescribed by that Department.

MCA 2-18-1310

When the member's employment is terminated, the member's unused sick leave balance may be converted to a tax-free employer contribution to the participant account pursuant to this section.

MCA 2-18-1311(1)

The amount of the employer contribution to a participant's account for hours converted under this section must be equal to one-fourth of the pay attributed to the accumulated sick leave. The attributable pay must be computed on the basis of the employee's salary or wage at the time that the sick leave is converted. A participant may not later receive as sick leave credit or as a lump-sum payment amounts contributed to the participant account pursuant to this section.

MCA 2-18-1311(2)

At termination of employment, the member's unused vacation leave balance may be converted to a tax-free employer contribution to the participant account as provided for in 2-18-617.

MCA 2-18-1311(3)

## **PAYROLL WITHHOLDINGS AND EMPLOYER PAYMENTS**

### **State and Federal Tax Withholdings**

For additional information:

State tax withholding laws, see the website for the State Department of Revenue Withholding Tax Guide at <https://mtrevenue.gov/publications/montana-employer-and-information-agent-guide/>

Federal tax withholding laws, see the website for the IRS at <https://www.irs.gov/publications/p15>

The amount of state and federal taxes withheld from an employee's wages is based on the marital status and withholding allowances indicated on the employee's federal Form W-4. An employee can have a separate W-4 for state purposes, and may elect to have a different number of allowances for federal and state purposes. If line 5 of the Form W-4 is left blank, the employee is deemed to be claiming zero withholding allowances. Withholdings may not be based on a fixed dollar amount or percentage, although the employee may specify an additional dollar amount to be withheld.

Although an employee may claim exemption from federal income tax withholding, there is no such provision for exemption from Montana state income tax withholding. If a federal exemption is claimed, wages for that employee are still subject to social security and Medicare taxes.

### **State and Federal Tax Withholdings**

The local government is required to remit its withholding payments to the State on a schedule (quarterly, monthly, or accelerated) determined by the State. The most common remittance schedules are quarterly or monthly.

Payments to employees that are not subject to federal or state income tax withholding include:

1. Employee business expense reimbursements, as long as each reimbursement is entered separately in the school district's records and there is documentation that the expenses were incurred while conducting business. Reimbursements must be based upon actual, receipted expenses, or on meal, lodging and mileage amounts allowed to State employees. (**Note:** See SD04 for compliance requirements related to travel expenses.)
2. Employer payments or contributions for employee benefit group plans, such as retirement, sickness or accident disability, medical, hospitalization or death.
3. Employee contributions to qualifying annuity contracts, such as annuity plans or deferred compensation plans, Teachers Retirement System (TRS) or Public Employees Retirement Systems (PERS).
4. Employee contributions to flexible spending accounts for medical and/or dependent care and health, dental and/or vision insurance premiums that exceed the employer's contribution.

**Note:** Technically, these employee "contributions" are actually payments deducted from an employee's gross pay for cafeteria (aka Section 125) plans. Typically, the payroll records will show "gross wages", "Medicare wages", "Social Security wages", etc. to show the amount of applicable wages to which the tax rate is applied.

### **State Unemployment Insurance**

**Note:** Local governments are exempt from Federal unemployment insurance.

The following is summarized from the "Employer Handbook", which can be found at <https://uid.dli.mt.gov/employer-handbook.pdf>.

State law related to Unemployment Insurance: MCA Title 39, Chapter 51.

All state and local governmental entities must be covered by Unemployment Insurance. Governmental entities may be assigned a governmental experience rate or may elect to become a reimbursable employer. (Page 2)

**Tax on Total Wages:** Governmental and reimbursable accounts do not have a taxable wage base and must pay tax on total wages. (Page 3)

**Administrative Fund Tax** - is an assessment paid by all employers subject to Montana Unemployment Insurance and is due and payable with the quarterly wage reports. Governmental rated employers are assessed at 0.09% and reimbursable employers are assessed at 0.08% on total wages. (Page 3)

The following are considered to be taxable for purposes of unemployment insurance (please see Handbook for additional payments): (Pages 4-7)

1. Bonuses
2. Cafeteria plan deductions under IRC Section 125
3. Deferred compensation
4. Dependent care assistance programs under IRC Section 129
5. Holiday, Sick and Vacation Pay
6. Income tax withholding
7. Retirement and Pension Plans: Elective *employee* contributions, salary reductions or deferrals to a 401(k) or any other type of retirement plan.
8. Vehicles – personal use of a company vehicle.

The following are not considered to be taxable for purposes of unemployment insurance: (please see Handbook for additional payments)

1. Employee business expense reimbursement: actual expenses, if documented and entered separately in business records a flat rate for meals not exceeding the meal per diem rate allowed by the IRS for the year.
2. Insurance: Accident, health & life insurance premiums paid by the employer for the employee or the employee's immediate family.
3. Mileage reimbursement (at IRS mileage rate).
4. Retirement and pension plans – employer contributions to a qualified plan.
5. Payments into a VEBA. (Pages 4-7)

**Quarterly reporting:** Wage reports and payments must be made quarterly and must be postmarked by April 30, July 31, October 31, and January 31 for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Quarters respectively. (Page 16)

Failure to file the quarterly report by the due date results in a late filing penalty of \$25. In addition, interest is assessed monthly at 1.5% on tax not paid when due (18% interest rate per annum). (Page 17)

### **Workers' Compensation**

For the Workers' Compensation Regulations Bureau of the State of Montana, go to <http://erd.dli.mt.gov/work-comp-regulations>.

The Workers' Compensation Act of Montana, with limited exceptions, requires all employers to cover their full-time, part-time, seasonal, or occasional employees with workers' compensation insurance. All workers' compensation insurance premiums are to be paid by the employer. Employers may not deduct any part of the premiums from employees' pay.  
MCA 39-71-406

An employer has three options for coverage: Plan 1 - self-insured, Plan 2 – private insurance companies, and Plan 3 – Montana State Fund. The premium that an employer pays is based on a percentage of the employees' payroll, which is in turn based on a class code rate and an experience modification factor. The payment schedule is spelled out in the individual employer's insurance policy.  
Title 39, Chapter 71, Parts 21, 22, & 23

All elected and appointed paid public officers are considered to be employees for purposes of workers' compensation coverage.  
MCA 39-71-118(1)(a)

Generally, a volunteer is not considered to be an employee for purposes of workers' compensation coverage (unless otherwise entitled to coverage under Montana law). For this purpose, a volunteer is defined as a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.  
MCA 39-71-118(2)(b)

## **SOCIAL SECURITY AND MEDICARE**

More detailed information on Social Security and Medicare coverage for local government employees can be obtained from the following:

<b>State Social Security Administrator</b>	<b>Social Security Administration</b>
Department of Administration	10 West 15th Street, Suite 1600
State Financial Services Division	Helena, MT 59626
125 No. Roberts St., Rm. 255	
PO Box 200102	<b>Internal Revenue Service</b>
Helena, MT 59620-0102	10 West 15th Street, Suite 2300
(406) 444-0081	Helena, MT 59626
<a href="mailto:mtsssa@mt.gov">mtsssa@mt.gov</a>	

The *State and Local Coverage Handbook* can be found at: <http://www.ssa.gov/slge/slch.htm>  
FAQ can be found at: <https://www.ssa.gov/slge/faqs.htm>

Section 218 Agreements for a local government should be on file with the local government entity. In addition, a copy should be available from the State Social Security Administrator (SSSA): call 444-0081 to determine if a Section 218 Agreement (a.k.a. Modification) is on file.

Local government employees may be covered by Social Security and must be covered for Medicare in one of three ways.

1. Voluntary Coverage through a federal-state agreement called a Section 218 Agreement (authorized under Section 218 of the Social Security Act) - These agreements should specify the Social Security and Medicare coverage for local government employees as a coverage group. Employees covered for social security under a Section 218 Agreement are automatically covered for Medicare.

If the employees participate in a retirement system, concurrent Social Security coverage is allowed, provided a Section 218 Agreement is in place to permit it. If the employees are in a retirement system, paying the Social Security portion of FICA tax, and do not have a Section 218 Agreement in place, the local government is likely making erroneous payments for employees.

There may be exclusions for certain groups of employees. See the following for services that are mandatorily excluded from Section 218 coverage at <https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001356>

See the following for certain services and positions within a coverage group that may be excluded from Section 218 coverage at <https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001357>

2. Mandatory Social Security Coverage – Local Government employees, who are not covered under a retirement system or a Section 218 Agreement, must participate in the Social Security Insurance program through Section 210 mandatory coverage provisions of the Social Security Act. Per item three below, this provides Medicare coverage as well.

As political subdivisions are required to have a Section 218 Agreement in place to allow participation in the Social Security Insurance program, it is advised that the entity contact the State Social Security Administrator for assistance in correcting the administrative error.

3. Mandatory Medicare Coverage - Local government employees hired (or rehired) after March 31, 1986, are subject to mandatory Medicare coverage. Public employees covered for Social Security under a Section 218 Agreement are already covered for Medicare. Employees whose services are not covered for Social Security but who are required to pay the Medicare-only portion of FICA are referred to as Medicare Qualified Government Employees (MQGE). Employees who have been in continuous employment with the employer since March 31, 1986, who are not covered under a Section 218 Agreement nor subject to the mandatory Social Security and Medicare provisions, remain exempt from both Social Security and Medicare taxes, provided they are members of a public retirement system.

For more information: [https://www.ssa.gov/slge/mand\\_med\\_cov.htm](https://www.ssa.gov/slge/mand_med_cov.htm)

The employer and employee tax rates for Social Security are both 6.2% (12.4% total). The employer and employee tax rates for Medicare are both 1.45% (2.9% total).

The wage base limit (i.e., the maximum wage that is subject to tax) for Social Security changes periodically. <https://www.ssa.gov/OACT/COLA/cbb.html>

2020: \$137,700

2021: \$142,800

2022: \$147,000

2023: \$160,200

2024: \$168,600

2025: \$176,100

2026: \$184,500

There is no wage base limit for Medicare.

Payments deducted from an employee's gross pay for cafeteria plans (aka, Section 125 plans) are not subject to social security and Medicare withholdings.

**Suggested Audit Procedure:**

Is the local government entity covered by a Section 218 Agreement?

If YES - Obtain and review a copy of the Section 218 Agreement to verify that employee coverage for Social Security and Medicare is in accordance with the entity's Section 218 Agreement.

If NO – Determine whether the entity pays its taxes through another entity's Federal Employer Identification Number (FEIN). If so, determine whether the entity whose FEIN is used in employer tax filings has a Section 218 Agreement in place.

If YES – Ensure the paying entity has a Section 218 Agreement in place.

If NO – Move to next step.

If NO – Is the entity a participant in a public retirement system?

If YES – Please Notify the SSSA. An entity in a public retirement system may also voluntarily provide Social Security and Medicare coverage, but it requires a Section 218 agreement to properly effectuate the concurrent coverage.

If NO – Verify that the entity is providing mandatory Social Security and Medicare coverage under Section 210. Please Notify the SSSA as a Section 218 Agreement should be put into effect to allow coverage in the proper administrative manner.

If YES – Verify that the entity is providing Medicare coverage to its employees.

If YES and if the entity has employees hired prior to 4/1/86 – Are employees hired prior to 4/1/86 covered by a Section 218 Agreement that provides Medicare-only coverage?

If YES – Verify that the entity is providing Medicare-only coverage for those employees.

If NO – Determine whether the Medicare Continuing Employment Exception applies.

If this exception doesn't apply, verify that the entity is providing Medicare-only coverage for those employees.

If the Exception does apply – there is no requirement that the entity provide Social Security or Medicare coverage for employees, who are retirement system participants hired prior to 4/1/86.

For employees covered by social security and/or Medicare under either a Section 218 Agreement or mandatory federal laws and regulations, test to determine that employee withholdings and employer contributions are in accordance with applicable federal laws and regulations. For selected individuals whose wages exceed the social security wage base limit, verify that no social security tax was withheld for the portion of the wages that exceeded the wage base limit. Also, verify that Medicare tax was withheld on the portion of the wages that exceeded the social security wage base limit.

If a local government has recently consolidated, verify that a new Section 218 Agreement has been obtained, if necessary. **The State Social Security Administrator should be contacted for this information.** Section 218 Agreements of the two “pre-consolidation” entities may no longer be applicable to the consolidated government.

### **Historical Background and Additional Information**

See also: <https://www.ssa.gov/pubs/EN-05-10051.pdf>

When the Social Security Act was enacted in 1935, public employees were not eligible for social security coverage. In 1950 Congress created Section 218 of the Social Security Act, which allows states to enter into voluntary agreements for social security coverage with the Social Security Administration. After a state has a Modification in place, it can then enter into voluntary agreements with political subdivisions within their state.

A Section 218 Agreement is a written agreement voluntarily entered into between a state and the Social Security Administration, to provide Social Security and Medicare or Medicare-only coverage to employees of state and/or local governments. Local government employees covered under the Agreement have the same coverage and benefit rights as employees in the private sector. All states have a Section 218 Agreement, but the extent of coverage varies.

Section 218 Agreements are permanent and cannot be terminated.

For governments that only provide coverage under Section 210, when a Section 218 Agreement is sought, the employees are afforded coverage as an Absolute Coverage Group (ACG). Once this is in effect, even if the government were to later join a retirement system, the ACG modification remains and no other Section 218 Agreements are necessary.

For governments that cover employees within a retirement system and Social Security in Montana, a referendum must be held and the majority (over 50%) of all eligible employees within the local government retirement system must vote to approve the Agreement. If an eligible employee chooses not to vote for the Agreement, it is considered a ‘no’ vote. Once referendum is held with the requesting group, the SSSA coordinates paperwork and relays to the federal partners (SSA and IRS).

If the government has a Section 218 Agreement that covers a specific retirement system (referred to as a Section 218 (d)(4) coverage group) and the entity joins another system, a new modification will likely need created. Please contact the SSSA for guidance.

If a local government consolidates (i.e., a city with a county or an elementary school with a high school) the entity may need to obtain a new Section 218 Agreement. Prior to any consolidation, entities should contact the SSSA for guidance.

### **IRS FORM 1099-MISC**

For instructions to Form 1099-MISC, go to <https://www.irs.gov/instructions/i1099mec>.

The entity must report on a Federal Information Return, Form 1099-MISC, all “nonemployee compensation” that meets the following four conditions:

1. You made the payment to someone who is not your employee;
2. You made the payment for services in the course of your trade or business (including government agencies and nonprofit organizations);
3. You made the payment to an individual, partnership, estate, or, in some cases, a corporation; and
4. You made payments to the payee of at least \$600 during the year.

U.S. Internal Revenue Service Codes

The following are some examples of payments to be reported on Form 1099-MISC: (For a complete list, contact the IRS):

- (a) Professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, subcontractors, engineers, etc.
- (b) Payments by attorneys to witnesses or experts in legal adjudication.)

### **IMMIGRATION AND NATURALIZATION SERVICE (INS) FORM I-9**

All employers must complete and retain a Form I-9 for each individual they hire for employment – both citizens and non-citizens. Both employees and employers must complete the form.

The employer must examine the employment eligibility and identity document(s) an employee presents to determine whether the document(s) reasonably appear to be genuine and relate to the individual and record the document information on the Form I-9.

Employers must retain an employee’s complete Form I-9 for as long as the individual works for the employer. Once the individual’s employment has terminated, the employer must retain the Form I-9 for either three years after the date of hire or for one year after employment is terminated, whichever is later. The form must be available for inspection by authorized U.S. Government officials.

For further information, go to <https://www.uscis.gov/i-9>.

## **RECORDKEEPING**

**Repealed effective 3/9/2024:** OMB Circular A-87/UGG and ARM 24.16.6102 require employers to keep payroll (time and effort) records. These records are required to be preserved for three years. For a listing of items required to be included in payroll records, go to the following link at the Secretary of State's webpage (Administrative Rules):

<https://rules.mt.gov/gateway/RuleNo.asp?RN=24%2E16%2E6102>

**Employee Pay Stub:** All employers in this state when making payment to employees for salaries or wages shall, upon making such payment, give to the employee an itemized statement setting forth moneys deducted because of state and federal income taxes, social security, or any other deductions together with the amount of each deduction. Where no deduction is made, the employer shall give to the employee a statement that the payment does not include any such deductions.

MCA 39-3-101(1) & (2)

## **PROFESSIONAL STIPENDS**

- (1) Pursuant to subsection (5), an annual stipend of up to (effective 7/1/2025) an amount equivalent to 50% of the quality educator payment amount provided in 20-9-306 for the applicable year must be provided to each teacher who holds a current certificate from the national board for professional teaching standards if the teacher meets the requirements of MCA 20-4-134(1).
- (2) An annual stipend of up to (effective 7/1/2025) an amount equivalent to 85% of the quality educator payment amount provided in 20-9-306 for the applicable year must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an instructional assignment in a school identified as: (a) a school in a high poverty area eligible to participate in the community eligibility provision under Public Law 111-296; or (b) an impacted school as defined in 20-4-502.
- (5) The obligation for funding a portion of the professional stipends is an obligation of the state. This section may not be construed to require a school district to provide its matching portion of a stipend to a qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of the stipends.
- (6) (a) For a stipend under subsection (1), (effective July, 1, 2025) the state shall pay 50% of the maximum stipend amount under subsection (1) and another 1% of the amount for each 1% of the amount contributed by the teacher's school district, up to a maximum state contribution of 75% of the amount.  
(b) For a stipend under subsection (2), the state shall pay 55% of the maximum stipend amount under subsection (2) and another 2% of the amount for each 1% of the amount

contributed by the teacher's school district, up to a maximum state contribution of 85% of the amount.

MCA 20-4-134

## **NEW HIRE REPORTING**

For more information regarding this Federal law see

<https://www.acf.hhs.gov/css/employers/employer-responsibilities/new-hire-reporting>

For a copy of the Montana Employer Guide to New Hire Reporting see

<https://dphhs.mt.gov/assets/cssd/Newhireemployerreportingguide.pdf>

An employer doing business in the state shall report to the Department of Public Health and Human Services (DPHHS) the hiring or rehiring of an employee to whom the employer anticipates paying income, either by submitting a copy of the employee's completed W-4 form or, at the option of the employer, its informational equivalent or any other format agreed to by DPHHS. The report must include the employee's name, date of hire, social security number, and residential and mailing addresses, and the name, address, and federal identification number of the employer.

The report may include the employee's date of birth. Written reports must be submitted within 20 days of the employee's date of hire or rehire. Reports transmitted electronically or magnetically may be made by two transmissions monthly, if necessary, not less than 12 or more than 16 days apart.

MCA 40-5-922

## **PROHIBITION ON DIVERSITY STATEMENT OR PREFERENTIAL TREATMENT**

Effective 10/1/2025: (1) A state or local government agency may not require, request, solicit, or compel a person to provide a diversity statement. (2) A state or local government agency may not grant any form of preferential consideration or treatment to a person who, with or without solicitation from the state or local government agency, provides a diversity statement. (3) If federal law requires a state or local government agency to accept or require a diversity statement, then the state or local government agency: (a) (b) may accept the diversity statement only to the extent required under federal law; and shall limit consideration of the information contained in the diversity statement to the extent necessary to satisfy the requirement under federal law. (4) Nothing in this section limits or prohibits a state or local government agency from establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination and harassment.

“Diversity statement” means a submission, statement, or document that promotes or is intended to promote differential treatment based on an individual’s race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.

MCA 49-5-101 and 102



**COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL  
GOVERNMENT ENTITIES  
LONG-TERM DEBT**

REVISED DECEMBER 2025

REF: SD06

**INFORMATION CONTACTS:**

Montana Office of Public Instruction

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## **MAXIMUM AMOUNT OF GENERAL OBLIGATION DEBT**

Generally, the bonding capacity of a school district is the greater of 100 percent of the district's taxable valuation (200 percent in the case of K-12 districts) or the amount determined by applying the facility guaranteed mill value. General obligation debt includes general obligation bonds, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district.

MCA 20-9-406

## **ALLOWABLE PURPOSES OF BOND ISSUES**

The trustees of a school district may issue and negotiate general obligation bonds, oil and natural gas revenue bonds, or impact aid revenue bonds for the following purposes:

- a. Building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of buildings for school purposes;
- b. Buying a school bus or buses;
- c. Providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;
- d. Providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds;
- e. Funding a judgment against the district, including the repayment of tax protests lost by the district; or
- f. Funding a debt service reserve account that may be required for oil and natural gas revenue bonds or impact aid revenue bonds.

MCA 20-9-403(1)

Money realized from the sale of bonds issued on the credit of a high school district may not be used for any of the purposes listed above in an elementary school district, and the money may be used for any of the purposes above for a junior high school but only to the extent that the 9th grade of the high school is served.

MCA 20-9-403(2)

If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in 17-5-116(1) or tax credit bonds as provided in 17-5-117.

MCA 20-9-403(3)

**"General obligation bonds"** means bonds that pledge the full faith and credit and the taxing power of a school district. **"Impact aid revenue bonds"** means bonds that pledge and are payable solely from federal impact aid basic support payments received and deposited to the credit of the fund established in 20-9-514. **"Oil and natural gas revenue bonds"** means bonds that pledge and are payable from a first lien on oil and natural gas production taxes received by a school district pursuant to 20-9-310. Oil and natural gas revenue bonds to which a tax deficiency is pledged are not considered general obligation bonds that are eligible to receive guaranteed tax base aid

pursuant to 20-9-367 but are to be considered in determining the debt limit of a school district for the purposes of 20-9-406.

MCA 20-9-408(2) to (4)

### **IMPACT AID REVENUE BONDS**

The maximum amount of impact aid revenue bonds that a school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual federal impact aid basic support payments\* for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments\* of the school district for the current year.

MCA 20-9-406(3)

\* As used here, "federal impact aid basic support payment" means the annual impact aid revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707.

MCA 20-9-406(7)

Impact aid revenue bonds must be payable solely from the federal impact aid basic support payment received by the school district and deposited to the credit of the impact aid fund established in 20-9-514 and do not constitute a general obligation of the school district.

MCA 20-9-437(3)

### **OIL & NATURAL GAS (O&G) REVENUE BONDS**

**Maximum Amount Issued:** The maximum amount of oil and natural gas (O&G) revenue bonds that a school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual O&G production taxes received pursuant to 15-36-331, 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of the issuance of the bonds, the average annual payment of principal of and interest on the O&G revenue bonds each year may not exceed 35% of the total O&G production taxes received by the school district under the limitations in 20-9-310 for the immediately preceding fiscal year.

MCA 20-9-406(4)

**Debt Service Reserve Account:** If a school district issues O&G revenue bonds, the district shall establish and maintain an O&G revenue bond debt service reserve account, to which there must be deposited or transferred an amount from bond proceeds or O&G production taxes received by a district or other legally available funds sufficient to satisfy the reserve requirement.

MCA 20-9-474(1)

All money held in this reserve account must be used solely for the payment of debt service requirements of the bonds, as detailed at MCA 20-9-474(2).

**Bonds Payable From O&G Production Taxes Received:** O&G revenue bonds must be payable from the O&G production taxes received by the school district under the limitations in 20-9-310 and deposited in the debt service fund.

MCA 20-9-437(4)(a)

The trustees, by resolution or indenture of trust, may provide that O&G revenue bonds are secured by a first lien on O&G production revenue received pursuant to 20-9-310 and pledge to the holders of the O&G revenue bonds all of the O&G revenue deposited in the district's debt service fund.

MCA 20-9-473(1)

Upon receipt of O&G revenue, the county treasurer shall deposit in the district's debt service fund the amount that is required to pay the principal and interest on the O&G revenue bonds due in the next 12-month period and to restore any deficiency in the O&G revenue debt service reserve account up to reserve requirements. Any remaining O&G revenue must be deposited as directed by the trustees as provided in 20-9-310.

MCA 20-9-473(2)

**Deficiency Tax Levy:** A school district, as long as it has specified that its O&G revenue bonds are further secured by a deficiency tax levy in the bond election question and notice under 20-9-426 and 20-9-427, may additionally provide that if for any reason the O&G production taxes received by the school district and the amounts in the debt service reserve account are inadequate to pay the principal of or interest on the bonds as they become due, payment will be made from a deficiency tax levy.

MCA 20-9-437(4)(b)

If it becomes necessary for a district to levy a deficiency tax as discussed above, the district and county shall follow the procedures in MCA 20-9-437(5) to (7). A deficiency tax shall be levied for the payment of the principal of or interest on the bonded debt as it becomes due and to replenish the debt service reserve account.

If the O&G revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation provided in 20-9-406(1) applies to the bonds.

MCA 20-9-406(4)

## **ISSUING BONDS**

### **Bond Election**

Except as noted below, a school district shall not issue bonds for any purpose unless the issuance of the bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue the bonds.

MCA 20-9-421

**Exceptions:** A school district may issue bonds by an adopted resolution of the trustees without an election for the following purposes:

1. Refunding bonds – The resolution must state the reasons for issuing the new bonds, and setting forth the facts regarding the outstanding bonds that are to be redeemed and the terms and details of the new bond issue. (MCA 20-9-412(1))
2. Intermediate Term Capital Program (INTERCAP) (MCA 20-9-471)
3. Bonds issued by the district for the purpose of deriving revenue for the repayment of tax protests lost by the district. (MCA 15-1-402(7)(c))

A bond election must be called by a resolution when (1) the trustees adopt a resolution to that effect; or (2) the trustees have received a petition that asks for an election to be held to consider a bond proposition and that has been validated under the provisions of 20-9-425\*\*.

MCA 20-9-421

\*\*Any petition for the calling of an election must be signed by not less than 20% of the qualified voters within the school district, and must be validated by the county election administrator.

MCA 20-9-425

The trustees' resolution calling a school district bond election must include the information provided for in MCA 20-9-422. Prior to the adoption of the resolution, the trustees may request from OPI the estimated amount of state advance for school facilities that the district will receive for debt service payment on the proposed bonds in the first year in which a debt service payment is due.

MCA 20-9-422

The form of the bond election ballot and the bond election notice should be substantially in the forms provided at 20-9-426 and 20-9-427, respectively.

If the school district bond election is held at a regular school election or at a special election called by the trustees, the school bond proposition shall be deemed to have been approved if:

- a. 40% or more of the qualified electors vote on the bond issue and a majority of the votes are in favor of the proposition, or
- b. more than 30% but less than 40% of the qualified electors vote on the bond issue and 60% or more of the votes are in favor of the proposition.

MCA 20-9-428(1)(a) & (b)

Otherwise, the proposition shall be deemed to have been rejected.

If the school district bond election is held in conjunction with an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or in conjunction with a general or primary election, the determination of the approval or rejection of the bond proposition is made by a majority of the votes cast on the issue.

MCA 20-9-428(1)(c)

### **Bond Resolution and Notification of Sale**

If the voters approve the issuance of the bonds (and the trustees conduct a public sale), a resolution must be adopted by the trustees that sets forth the specific terms of the bonds, as detailed at 20-9-429.

MCA 20-9-429

The trustees may sell school district bonds at public or private sale pursuant to 17-5-107. If the trustees conduct a public sale, they shall give notice of the sale in the form as provided in 20-9-430. Notice of the sale of the bonds must be published once a week for two consecutive weeks preceding the sale.

MCA 20-9-430 & 431

### **Bond Minimum Price**

The school district may fix the minimum price for the bonds in an amount not less than 97% of the face value if the board of trustees determines that the sale is in the best interests of the district.

MCA 20-9-429

The bonds must be sold at not less than the minimum bid price with accrued interest to date of delivery. The trustees shall accept the bid that they judge most advantageous to the school district. The trustees are authorized to reject any bids and to sell the bonds at private sale if they consider it in the best interests of the school district, except that the bonds may not be sold at less than the minimum sale price with accrued interest to date of delivery.

MCA 20-9-432

### **Bond Interest Rates**

The interest rate of the bonds is to be determined by the trustees and must be paid semiannually. (See below for the rate of refunding bonds.)

MCA 20-9-410, MCA 17-5-102

### **Term of Bonds**

(1) School district bonds may not be issued for a term longer than 30 years, except that bonds issued to refund or redeem outstanding bonds may not be issued for a term longer than 10 years unless the unexpired term of the bonds to be refunded or redeemed is in excess of 10 years, in which case the refunding or redeeming bonds may be issued for the unexpired term. Other than refunding or redeeming bonds, all bonds issued for a longer term than 5 years must be redeemable at the option of the school district on any interest payment date after one-half of the term for which they were issued has expired, and the redemption option must be stated on the face of the bonds. The interest must be as provided under 17-5-102 and must be payable semiannually.

(2) For purposes of this section, the term of a bond issue commences on July 1 of the fiscal year in which the school district first levies taxes to pay the principal and interest on the bonds.

(See below for the term of refunding bonds.)

MCA 20-9-410

## **BOND PROCEEDS**

All money realized from the sale of the bonds must be paid to the county treasurer, who shall credit the money to the building fund of the school district. However, money realized for accrued interest should be deposited in the school district's debt service fund. Also, if the bonds were issued to redeem matured bonds or coupons, or if refunding bonds were issued, bond proceeds should be deposited in the debt service fund. If the bonds were issued to fund a judgment against the district, including the repayment of tax protests lost by the district, bond proceeds should be deposited into a separate fund.

MCA 20-9-435(3)

The trustees may expend the bond proceeds without budget authorization, but may expend the money only for the purposes for which the bonds were authorized by the bond election.

MCA 20-9-435(3)

Any money realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the bonds were sold must be transferred to the debt service fund to be used for the redemption of the bonds.

MCA 20-9-508(3)

## **REDEMPTION/ PAYMENT OF BONDS**

Other than refunding or redeeming bonds, all bonds issued for a longer term than 5 years must be redeemable at the option of the school district on any interest payment date after one-half of the term for which they were issued has expired, and the redemption option must be stated on the face of the bonds.

MCA 20-9-410(1)

In order that the dates of payment of installments on school district bond issues may coincide as nearly as possible with the largest monthly tax collections, all school district bonds shall preferably bear a date of some day in June or December. For this reason, the bonds may be dated back not more than 5 months from the time of the actual sale, but no interest shall be charged on these bonds before they have been delivered to the purchaser and payment has been made by the purchaser. Interest accrued on such bonds according to their terms at the time of delivery shall either be refunded by the purchaser or deducted from the first interest payments. The failure to date such bonds in June or December shall not affect their validity.

MCA 20-9-411

The school district shall provide the county treasurer with a general obligation bond, oil and natural gas revenue bond, or impact aid revenue bond debt services schedule.

MCA 20-9-440

The county treasurer shall promptly notify the clerk of the school district when interest and principal payments have been made on bond issues.

MCA 20-9-442

Whenever there is a sufficient amount of money in the debt service fund available to pay and redeem one or more bonds which are redeemable on the next interest due date, the county treasurer is to give notice to the holder of the bonds, or to any bank or financial institution at which the bonds are payable, that the bonds will be paid and redeemed on such date. This notice is to be given at least 30 days before the next interest due date, and if the bonds are not presented for payment and redemption on the interest due date, the accrual of interest shall cease.  
MCA 20-9-441(1) & (2)

Whenever there is a sufficient amount of money in the debt service fund available to pay and redeem one or more bonds which are **not** yet due or redeemable, the trustees may direct the county treasurer to purchase such bonds if this can be done at not more than par and accrued interest, or at a reasonable premium not exceeding 6%. If this cannot be done, the excess money must be invested until required for the payment of the bonds.  
MCA 20-9-441(3) & (4)

**Federal Impact Aid Funds:** A school district may use up to 25% of its federal impact aid funds received pursuant to 20-9-514 for repayment of general obligation bonds.  
MCA 20-9-437(2)

### **CLOSING ACCOUNTS & TRANSFERS TO OTHER FUNDS**

When all of the bonds, bond interest and special improvement district obligations of a school district have been fully paid, all money remaining in the debt service fund for the school district and all money that may come into the debt service fund from the payment of the delinquent taxes must be transferred to the building reserve levy fund, the technology acquisition and depreciation fund, or the general fund as designated by the school district, provided that the subsequent use of the funds by the school district is limited to constructing, equipping, or enlarging school buildings or purchasing land needed for school purposes in the district.

**Note:** Any federal impact aid funding remaining in the debt service fund of a school district that has fully repaid the bonds and bond interest must revert to the district's impact aid account.  
MCA 20-9-443

### **REFUNDING BONDS**

**Term of Bonds:** Bonds issued to refund or redeem outstanding bonds may not be issued for a term longer than 10 years unless the unexpired terms of the bonds to be refunded or redeemed is in excess of 10 years, in which case the refunding or redeeming bonds may be issued for the unexpired term.  
MCA 20-9-410(1)

**Interest Rate:** The interest rate on refunding bonds must be at least ½ of 1% less than the refunded bonds.  
MCA 20-9-412(3)

If a refunding bond issue refunds only a portion of an outstanding bond issue, the unrefunded portion of the outstanding bond issue and the refunding bond issue must be treated as a single bond issue.

MCA 20-9-412(4)

Refunding bonds may be issued in a principal amount greater than the principal amount of the outstanding bonds if there is a reduction of total debt service cost to the district.

MCA 20-9-412(5)

Refunding bonds may be issued to refund outstanding bonds in advance of the date on which the bonds mature or are subject to redemption, provided the proceeds from the refunding bonds, less any accrued interest or premium received upon the sale of the bonds, are deposited with other funds appropriated to the payment of the outstanding bonds in escrow with a suitable banking institution in or outside of the state.

MCA 20-9-412(6)(a)

Except as noted in(6)(c), below, the funds deposited must be invested in securities that are general obligations of the United States or the principal and interest of which are guaranteed by the United States. The securities should mature or be callable at the option of the holder on the dates and bear interest at the rates and payable on the dates required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each refunded bond to its maturity or redemption date, if called for redemption, to pay the principal of the bond at maturity or upon the redemption date, and to pay any redemption premium.

MCA 20-9-412(6)(b)

If the funds initially deposited in escrow are sufficient, without regard to any investment income on those funds, to redeem in full the bonds being refunded as of their redemption date and to pay the principal of and interest and premium on the bonds being refunded at their stated maturities, the funds may be invested in the securities described above or in a money market fund that is composed exclusively of eligible securities described in MCA 7-6-202 (i.e., direct obligations of the U.S.).

MCA 20-9-412(6)(c)

The escrow account must be irrevocably appropriated to the payment of the principal of and interest and redemption premium, if any, on the refunded bonds.

MCA 20-9-412(6)(d)

## **MAXIMUM BONDED INDEBTEDNESS**

**Notes to auditor:** (1) Generally, the determination of whether or not a district is in compliance with the debt limitations should be made prior to the time the new indebtedness is incurred. A subsequent drop in taxable value in later years would not place the district in noncompliance. (2) For legal compliance testing, the debt limitation determination should be based on the laws in effect when the district last incurred new bonded debt.

- (1) Elementary Or High School District – Except as discussed in (3), below:** The maximum amount for which an elementary or high school district may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 (i.e., INTERCAP obligations), oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is **100% of the taxable valuation** of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness. (MCA 20-9-406(1)(a))
- (2) K-12 School District – Except as discussed in (3), below:** The maximum amount for which a K-12 district may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 (i.e., INTERCAP obligations), oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district regardless of whether the general obligation bonds finance elementary program improvements or high school program improvements, is the sum of 100% of the taxable value of the property in its elementary program subject to taxation and 100% of the taxable value of the property in its high school program subject to taxation as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness. (MCA 20-9-406(1)(b))
- (3) Elementary District Or A High School District – Exception:** The maximum amount for which an elementary district or high school district with a district mill value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 (i.e., INTERCAP obligations), oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. **K-12 School District -** The maximum amount for which a K-12 district may become indebted is 50% of the sum of the facility guaranteed value per elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times the high school ANB of the district. (MCA 20-9-406(1)(c)(i))

For the purpose of calculating ANB under this subsection (1)(c), a district may use the greater of the current year ANB or the 3-year ANB calculated under MCA 20-9-311.

MCA 20-9-406(1)(c)(i) & (ii)

If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement.

### MCA 20-9-406(1)(c)(ii)

If oil and natural gas revenue bonds issued are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation provided in subsection (1), above, applies to the bonds. (MCA 20-9-406(4)) See above for the maximum amount of oil and natural gas revenue bonds that a school district may issue.

The maximum amounts of indebtedness determined by the above compliance requirements do not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to general obligation bonds issued for the repayment of tax protests lost by the district.

### MCA 20-9-406(2)

The maximum amount for which a district may become indebted by the issuance of general obligation bonds, as discussed above, does not include indebtedness represented by impact aid revenue bonds. See above for the maximum amount of impact aid revenue bonds that a school district may issue.

Also, these debt limitations do not apply to:

- a. bonds or notes issued for purposes of funding a self-insurance or deductible reserve fund (MCA 2-9-211(5)),
- b. gross proceeds obligations or short-term obligations issued in anticipation of taxes or revenues (MCA 7-6-1102 & 1115), and
- c. a levy for transition costs (MCA 20-9-502(4))

Deleted effective 10/1/2023: In a school district within which a new major industrial facility that seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school may require, as a precondition, that the owners of the proposed facility enter into an agreement with the school district concerning the issuance of bonds in excess of the limitation prescribed in 20-9-406 (see discussion above).

### MCA 20-9-407

## **INTERMEDIATE TERM CAPITAL PROGRAM (INTERCAP) OBLIGATIONS**

The trustees may, without a vote of the electorate, issue and sell to the State Board of Investments or, as provided in subsection (2), a bank, building and loan association, savings and loan association, or credit union that is a regulated lender, as defined in 31-1-111, obligations for the purpose of financing all or a portion of the following:

- a. the costs of vehicles and equipment and construction of buildings used primarily for the storage and maintenance of vehicles and equipment;
- b. the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, and electrical systems, and cost-saving measures as defined in 90-4-1102;

- c. the costs of nonpermanent modular classrooms necessary for student instruction when existing buildings of the district are determined to be inadequate by the trustees;
- d. Any other expenditure the district is otherwise authorized to make, including the payment of settlements of legal claims and judgments. However, the proceeds of these obligations may **not** be used to acquire real property or construct a facility unless:
  - a. the acquisition or construction project does not constitute more than 20% of the square footage of the existing real property improvements made to a facility containing classrooms;
  - b. the 20% square footage limitation may not be exceeded within any 5-year period; and
  - c. the electors of the district approve a proposition authorizing the trustees to apply for funds through the State Board of Investments or as provided in subsection (2), a bank, building and loan association, savings and loan association, or credit union that is a regulated lender, as defined in 31-1-111, for the construction project.
- e. the costs associated with the issuance and sale of the obligations.

MCA 20-9-471(1) & (4)

The term of the obligation, including the obligation for a qualified energy project, may not exceed 15 fiscal years.

MCA 20-9-471(2)

At the time of issuing the obligation, there must exist an amount in the budget of an applicable budgeted fund of the district for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget of an applicable budgeted fund of the district for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of that principal and interest.

MCA 20-9-471(4)(a)

For an obligation sold under subsection (1)(d) for the purposes of paying a tax protest refund, a district may pledge revenue from a special tax protest refund levy for the repayment of the obligation, pursuant to 15-1-402(7).

MCA 20-9-471(4)(b)

The obligation constitutes a general obligation of the district, and the principal amount, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406.

MCA 20-9-471(10)

The school district may not submit for a vote of the district electors a proposition to impose a levy to pay the principal or interest on an obligation that is payable from the guaranteed cost savings under energy performance contracts as defined in 90-4-1102. Except as provided in subsection (4)(b), the obligation must state clearly on its face that the obligation is not secured by a pledge of the school district's taxing power but is payable from amounts in its general fund or other legally available funds.

MCA 20-9-471(6) & (7)

## **DEBT SERVICE FUND BUDGET**

(See also SD01-Budgets)

The trustees of each school district having outstanding general obligation bonds shall include in the debt service fund budget:

1. an amount necessary to pay the interest and principal becoming due during the ensuing fiscal year for each series or installment of general obligation bonds;
2. an amount necessary to pay any special improvement district assessments levied against the school district which become due during the ensuing fiscal year;
3. a limited operating reserve for the purpose of paying debt service fund warrants and bond obligations that must be paid from July 1 through November 30 of the fiscal year following the ensuing fiscal year; and
4. an amount to satisfy the reserve requirement for oil and natural gas revenue bonds.

MCA 20-9-438

**Exception:** If a district incurs a legal bonded debt payment after the final debt service fund budget for the current fiscal year has been adopted and if payment on the debt is required for the current fiscal year, payment on the debt in the current school fiscal year is allowed if money is available.

MCA 20-9-133(3)

## **SCHOOL BUS INSTALLMENT CONTRACT**

When a district purchases a school bus, the trustees may purchase such school bus under an installment contract which will be completely executed within 3 years from the date of the purchase. The trustees also may purchase a school bus without advertising for bids under the provisions of 20-9-204.

MCA 20-10-110

## **TAX, REVENUE, OR BOND ANTICIPATION NOTES (SHORT-TERM DEBT)**

### **Issuance and sale of short-term obligations**

For purposes of this discussion, short-term obligations are tax or revenue anticipation notes that mature at a time not to exceed 13 months from the date issued. Gross proceeds obligations are tax or revenue anticipation notes that mature at a time not to exceed 5 years from the date issued and are secured by the collection of certain coal gross proceeds taxes, interest, and penalties pursuant to 15-23-708.

MCA 7-6-1101

Districts may issue and sell gross proceeds obligations or short-term obligations in anticipation of taxes or revenues budgeted to be received and appropriated for expenditure during the fiscal year in which the obligations are issued. The proceeds may be expended solely for the purposes for which the taxes or revenues were appropriated and for costs and expenses incident to the issuance and sale. Pending expenditure, the proceeds may be invested as provided by law.

MCA 7-6-1102

The principal and interest on short-term obligations must be repaid from the money derived from taxes and revenues in anticipation of which they were issued, income from investment of the proceeds of the obligations, and any money otherwise legally available for this purpose.

MCA 7-6-1102

The issuance of gross proceeds obligations or short-term obligations must be authorized by an ordinance or resolution that fixes the maximum amount of the obligation, the maximum amounts that may be outstanding, the maximum term and interest rate or rates, the manner of the sale the maximum price, the form of the obligations including bearer or registered, the terms, the conditions and the covenants of the obligations.

MCA 7-6-1103

### **Refunding and renewal**

Gross proceeds obligations may, from time to time, be renewed or refunded by the issuance of gross proceeds obligations. Gross proceeds obligations may not be renewed or refunded to a date later than 5 years from the end of the fiscal year in which the original short-term obligation was issued. Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations. Short-term obligations may not be renewed or refunded to a date later than 6 months from the end of the fiscal year in which the original short-term obligation was issued.

MCA 7-6-1105

### **Sale of Notes in Anticipation of Grants, Loans, or Sale of Bonds**

The board of trustees may by resolution issue and sell notes in anticipation of the receipt of a state or federal grant or loan, or the sale of bonds. The amount of the notes may not exceed the total amount of bonds authorized and maturing within not more than 3 years from the date on which the notes are issued. Before the notes are issued, the district must receive a written commitment for a grant, loan, or bond purchase in an amount that is not less than the principal amount of the notes.

MCA 7-7-109(2)

The proceeds of the grant, loan, or bonds must be credited to the debt service fund for the notes as may be needed for their payment, with interest, when due.

MCA 7-7-109(3)

## **TAX CREDIT (INCLUDING DIRECT SUBSIDY) BONDS**

**Tax Credit Bonds** are bonds the Federal Government subsidizes by allowing bondholders to receive tax credits that are approximately equal to the interest that would typically be paid to the holder of taxable bonds. As a result, issuers are generally responsible for repayment of the principal only. The rate of the tax credit and the maximum term of the bond are set by the U.S. Treasury Department on a monthly basis. An approved tax credit bond request **does not result in any payment** from OPI to an applicant school district. An approved allocation request allows a school district to designate a future bond issuance as a tax credit bond, which allows the school district to benefit from the reduced interest costs. With **Direct Subsidy Bonds**, the issuer pays the investor a taxable interest coupon and receives a rebate from the U.S. Treasury.

Two types of tax credit and direct subsidy bonds have been authorized for Montana school districts – **Qualified Zone Academy Bonds (QZAB)** and **Qualified School Construction Bonds (QSCB)**.

MCA 17-5-116 & 117

### **Qualified Zone Academy Bonds (QZAB)**

**Spending Limitations:** QZABs may be used for renovating and repairing school facilities, purchasing equipment, developing curricula, and training school personnel, but not for new construction.

Construction/renovation projects must comply with Davis Bacon prevailing wage requirements.

100% of the proceeds (net up to 2% cost of issuance) plus investment earnings must be spent on qualified expenditures within 3 years.

**Eligibility:** A public school must meet the following criteria to be eligible for QZABs:

1. The school must have at least 35 percent of its students eligible for free or reduced-price lunches under the federal lunch program (National School Lunch), OR Must be located in either an Empowerment Zone or an Enterprise Community;
2. The school must receive a private contribution (which may be in-kind), the net present value of which is not less than 10% of the proceeds of the bond\*\*;
3. The school must have an education plan that is approved by a local education agency (LEA);
4. The school must have an education program designed in cooperation with a business; and
5. Students of the school or academic program must be subject to the same academic standards and assessments as other students educated in the local school system.

**Matching Requirement:** The 10 percent match of the business partner may take many forms including those noted below:

1. Cash,
2. Goods, including equipment and technology,
3. Services, including help developing curriculum or using technology,
4. Training for teachers and professional staff,
5. Internships or field trips that provide opportunities for students to learn outside a traditional classroom setting, and/or

6. Other property or services specified by the local education agency.

**Sinking Fund Yield:** The “permitted sinking fund yield (PSFY)” is the maximum interest rate, set by the federal government, that may be earned on tax credit sinking funds (see discussion on Recommended Accounting, below). The Bureau of Public Debt publishes the PSFY each month at: <https://www.treasurydirect.gov/government/interest-rates-and-prices/irs-tax-credit-bond-rates/>. The applicable interest rate is the one set for the month in which the bonds are sold. The school district is responsible for monitoring this PSFY, to ensure that this maximum is not exceeded.

### **Qualified School Construction Bonds (QSCBs)**

100% of QSCB proceeds must be used for (a) construction, rehabilitation, or repair of a public-school facility (including costs of equipment to be used in portions of a public school facility being constructed, rehabilitated, or repaired); and/or (b) land acquisition for the public school facility.

Construction/renovation projects must comply with Davis Bacon prevailing wage requirements.

100% of the proceeds (net up to 2% cost of issuance) plus investment earnings must be spent on qualified expenditures within 3 years.

**Sinking Fund Yield:** The “permitted sinking fund yield (PSFY)” is the maximum interest rate, set by the federal government, that may be earned on tax credit sinking funds (see discussion on Recommended Accounting, below). The Bureau of Public Debt publishes the PSFY each month at: <https://www.treasurydirect.gov/government/interest-rates-and-prices/irs-tax-credit-bond-rates/>. The applicable interest rate is the one set for the month in which the bonds are sold. The school district is responsible for monitoring this PSFY, to ensure that this maximum is not exceeded.

### **Allowable Debt Service Fund Expenditures**

**Agent Fees** are an allowable expenditure of the Debt Service Fund. Agent fees are specifically identified in the bond agreement and are charged by the Registrar and Paying Agent. The annual agent fee is \$300 (per bond issue, per year) for both QZAB & QSCB bond issues.

OPI’s Audit Letter

**Filing Fees** – Districts receiving **direct subsidies** (versus the pure tax credit) on the QZAB and QSCB bonds will also pay a filing fee of \$100 to the Paying Agent for submitting the paperwork to receive the subsidy from the Federal government. The filing fee is \$100 per interest payment processing and, because all of the sinking fund bonds issued have semi-annual interest payment due dates, the annual allowable expenditure of the Debt Service Fund for filing fees is \$200.

OPI’s 2011 Audit Letter

**Verification of Sinking Fund Yield** – According to the sinking fund bond agreement, school districts must hire an accounting firm annually to verify that the Sinking Fund Yield is less than or equal to the Permitted Sinking Fund Yield. Districts may hire their auditor to provide this service. These annual charges are *contracted services, not agent fees*, and should **not** be

expended from the Debt Service Fund. Depending on the project, these charges should be expended from the General, Building Flexibility, or other appropriate fund.  
OPI's 2011 Audit Letter

**Recommended Accounting:**

In basic terms, periodic payments are made into an escrow account and those payments, together with accumulated interest earnings, are generally adequate to pay the total bond issue at maturity of the bonds. The interest rate must be a rate that will result in an amount of interest necessary to repay the bond issue, but no more than the necessary amount. This unique financing situation should be fully disclosed in the notes to the financial statements. Accounting for these bonds generally follows two scenarios, as follows:

**BOI Method:** Prior to 2009, the QZABs issued by school districts were “purchased” by the Montana Board of Investments (BOI). These bond issues are accounted for essentially the same as any other bond issue: Debt service fund expenditures are budgeted and recognized each year, when principal payments (and interest payments, if applicable) are made to the BOI, and the long-term liability is reduced with each principal payment until paid in full.

**“Sinking Fund” Method:** Beginning 2009, school districts have two options. They can either (1) issue these bonds through the BOI, as discussed above, OR (2) they can account for these bonds through a “sinking fund” method. Under the sinking fund method, the total amount of the bonds is accounted for as a long-term liability, with no reduction, for the full term of the bond issue. The school district makes annual payments into an escrow account with a financial institution – this is handled as a directed investment through the county treasurer. Debt service payments are budgeted annually, but only the interest and agent fees are actually reported as expenditures each year. OPI has designated a Sinking Fund Schedule as the reporting vehicle for all principal payments, and for interest that has accrued on the balance of funds held in the escrow account. Interest is recognized as revenue as it is earned in the escrow account. Although the principal payments are not reported as expenditures for the year, the budget authority for these payments is used, as documented in the Sinking Fund Schedule. At the end of the bond term, the cash in the escrow account is disbursed to the bond holder, an expenditure for the full bond principal amount is recognized, and the long-term liability is reduced to zero.

**Note:** The recognition of an expenditure for the full bond principal amount at the end of the bond term is GAAP basis. For the school district's budgetary basis, the expenditure is recognized through the Sinking Fund Schedule each year.



**COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL  
GOVERNMENT ENTITIES**

**MEETINGS OF THE BOARD OF TRUSTEES**

REVISED DECEMBER 2025

REF: SD07

**INFORMATION CONTACTS:**

Montana Office of Public Instruction

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## **BOARD MEETING TIME & PLACE**

The trustees shall hold at least the following number of regular meetings:

- a. an organization meeting as prescribed by 20-3-321 - after the regular election day and after the issuance of election certificates to the newly elected trustees, but not later than 25 days after the election;
- b. a final budget meeting as prescribed by 20-9-131 - on or before August 20. (The meeting may be continued from day to day, but the final budget shall be adopted not later than August 25<sup>th</sup>.);
- c. in first-class elementary districts, not less than one regular meeting each month; in any other district, regular meetings at least quarterly.

MCA 20-3-322(1)

**Effective 10/1/2023:** The trustees shall provide advance notice for the meeting in compliance with 2-3-103 and shall provide an agenda to the public in advance of the meeting.

MCA 20-3-322(2)

The trustees shall adopt a policy setting the day and time for the minimum number of regular school meetings as prescribed in item (1)(c), above, and, in addition, any other regular meeting days the trustees wish to establish. Except for an emergency, meetings must be conducted in school buildings, or upon the unanimous vote of the trustees, in a publicly accessible building located within the district. This does not prohibit the trustees from meeting outside the boundaries of the school district for collaboration or cooperation on education issues with other school boards, educational agencies, or cooperatives. Decision making may occur only at a properly noticed meeting held within the school district's boundaries.

**Deleted effective 10/1/2023:** Adequate notice of the meeting as well as an agenda must be provided to the public in advance.

MCA 20-3-322(3)

Special meetings may be called by the presiding officer or any two members of the board by giving each member a 48-hour written notice. This notice is waived in an unforeseen emergency or to consider a violation of the student code of conduct, as define in accordance with district policy, within a week of graduation.

MCA 20-3-322(4)

## **QUORUM NECESSARY TO CONDUCT BUSINESS**

Business may not be transacted by the trustees unless it is transacted at a regular or properly called special meeting. A quorum for any meeting is a majority of the trustees' membership.

MCA 20-3-322(5)

## **PUBLIC MEETINGS**

All meetings of governmental bodies, boards, bureaus, commissions or any political subdivision

of the state or organizations or agencies supported in whole or in part by public funds or expending public funds must be open to the public.

MCA 2-3-201 & 203(1)

Meetings may be closed only for the following reasons:

1. If the discussion relates to a matter of individual privacy and if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.
2. To discuss strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the school district. However, a meeting may not be closed for this reason if the only parties to the litigation are public bodies or associations.

MCA 2-3-203(3) & (4), MCA 20-3-322(5)

Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall ensure that minutes taken in compliance with 2-3-212(2) are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a court order.

MCA 2-3-212(4)

### **MINUTES AVAILABLE FOR PUBLIC INSPECTION/COPYING**

Minutes of all meetings required by 2-3-203 to be open (see above) shall be kept and shall be available for inspection by the public.

MCA 2-3-212(1), MCA 20-3-323(2)

If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified below. If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

MCA 2-3-212(1) & (3)

A written copy of the minutes shall be made available within 5 working days following the approval of the minutes by the board at a cost of no more than 15 cents a page to be paid by those who request such a copy. One free copy of the minutes shall be provided to the local press within 5 working days following the approval of the minutes by the board.

MCA 20-3-323(2)

### **APPROVAL OF MINUTES**

The board shall approve the minutes of each special and regular meeting no later than 1 month following the meeting if it meets on a regular monthly basis. If a board does not regularly meet

on a monthly basis, it shall approve the minutes of each special and regular meeting at the next regular or special meeting. The approval of the minutes of a prior meeting shall not occur more than 40 days after the meeting, except that no board shall be required to meet to approve the minutes of a meeting at which no substantive business was conducted.

MCA 20-3-323(2)

### **REQUIRED ELEMENTS OF MINUTES**

The trustees shall keep a full and permanent record of all adopted policies and all other acts of the trustees. Minutes of each regular and special board meeting shall include wording of motions, voting records of each trustee present, and all other pertinent information, including a detailed statement of all expenditures of money with the name of any person or business to whom payment is made and showing the service rendered or goods furnished.

MCA 20-3-323(2)

Minutes of all open meetings shall include without limitation:

- a. date, time, and place of meeting;
- b. a list of individual Board members in attendance;
- c. the substance of all matters proposed, discussed or decided; and
- d. at the request of any member, a record by individual members of any votes taken.

MCA 2-3-212

The above list is not all-inclusive. The main compliance requirement, as noted above and contained in MCA 2-3-212, is that the minutes must contain the substance of all matters proposed, discussed, or decided, without exception.



**COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL  
GOVERNMENT ENTITIES**

**MISCELLANEOUS**

REVISED DECEMBER 2025

REF: SD08

**INFORMATION CONTACTS:**

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**RECORDS RETENTION & DISPOSITION**

For more information on records retention schedules and records disposal procedures, go to: <https://sosmt.gov/records/local/>

Any claim, warrant, voucher, bond, or treasurer's general receipt may be destroyed by any county or school district officer after a period of 5 years.  
MCA 20-9-215

Upon the order of the board of trustees, a school officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and, with written approval of the local government records destruction subcommittee provided for in 2-6-1202, any records not referenced in the retention and disposition schedule that are no longer needed by the office.  
MCA 20-1-212(1)

Each student's permanent file, as defined by the board of public education, must be permanently kept in a secure location. Other student records must be maintained and destroyed as provided in subsection (1), above. Personnel files must be kept for 10 years after termination.  
MCA 20-1-212(2)

The local government records committee provided for in Title 2, Chapter 6, Part 12, MCA, has established retention and disposition schedules for certain categories of records. Although not specifically stated in MCA 20-9-215 or MCA 20-1-212 (see above), it appears that the local government must complete a “Request and Authorization for Records Disposal or Destruction” form and receive written authorization prior to the disposal of any public records, whether or not included on the retention and disposition schedules.

No local government public record that is more than (effective 10/1/2023) 50 years old may be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public. Notice must be provided to these entities at least (effective 10/1/2023) 30 days prior to disposal of the public record.  
MCA 2-6-1205(1) & (2)

The local government records committee, established in 2-6-1201 has established procedures by

which public records must be offered and claimed as discussed above. The committee maintains a central registry of the entities described above who are interested in receiving notice of the potential destruction of public records. The local government must complete a “Request and Authorization for Records Disposal or Destruction” form, from which records more (effective 10/1/2023) 50 years old are posted on this central registry. The 60-day period begins the day that this information is posted. If an interested party contacts the local government within the (effective 10/1/2023) 30 days, claimed records must be given to entities in the order of priority as listed above. All expenses for the removal of claimed records must be paid by the entity claiming the records. Effective 10/1/2023: A local government entity shall ensure that any record that contains confidential information or is otherwise protected from disclosure is not added to the central registry.

MCA 2-6-1205

## **COST ALLOCATIONS**

In the event certain shared costs, such as administrative costs, curriculum coordinator salaries, school psychologist salaries, etc., cannot reasonably be identified directly to either the elementary district or the high school district or between funds within a district, the school district administration shall prepare a cost allocation plan for approval by the board of trustees prior to adoption of the final budget. The cost allocation plan should reasonably distribute such costs between districts and funds within a district, consistently from year to year. Shared costs shall be budgeted and accounted for in accordance with the cost allocation plan approved by the board of trustees.

ARM 10.10.303(1)

The following allocation bases shall be used to allocate shared costs:

- a. ANB or enrollment per district;
- b. full time equivalent (FTE) staff per district;
- c. FTE teaching staff per district;
- d. floor space occupied or space occupied over time per district;
- e. miles driven, student miles driven, driver hours per district;
- f. students served per district;
- g. taxable valuation per district; or
- h. time spent providing services.

ARM 10.10.303(2)

The cost of operating a junior high school must be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment of the junior high school.

MCA 20-6-506(2); ARM 10.10.303(3)

Whenever a joint board of trustees employs a person as the district superintendent, the districts shall prorate the compensation provided by the contract of employment on the basis of the number of teachers employed by each district.

ARM 10.10.303(4)

## **UNCLAIMED PROPERTY**

Title 70, Chapter 9, Part 8, pertaining to the Uniform Unclaimed Property Act provides that any property that is presumed abandoned, whether located in this or another state, is subject to the custody of the State of Montana. Property is presumed to be abandoned if it is unclaimed by the apparent owner during the time specified in MCA 70-9-803. Local governments that are holders of property presumed abandoned must make a report to the Department of Revenue and that report shall include all the elements listed in MCA 70-9-808.

MCA 70-9-802(16)(b) provides that these provisions of the Uniform Unclaimed Property Act are not applicable to (i) property held by a local government entity as defined by MCA 2-7-501, **Effective 10/1/2023:** (ii) property held in state and local government sponsored retirement plans governed by Title 19; and (iii) property held in a plan as described in section 529A of the Internal Revenue Code, 26 U.S.C. 529A, as amended.

## **CITIZENS' RIGHT TO KNOW**

### **Access to public information -- safety and security exceptions—(effective 10/1/2025) additional exceptions.**

- (1) Except as provided in subsections (2), every person has a right to examine and obtain a copy of any public information of this state.
- (2) A public officer may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.
- (4) **Effective 10/1/2025:** Except as provided in 87-1-213, the department of fish, wildlife, and parks, and any party with whom the department has shared the information under a data-sharing agreement pursuant to 87-1-213, may not release wildlife location data or telemetry frequencies of hunted or trapped animals.
- (5) A public agency may not refuse to disclose public information because the requested public information is part of litigation or may be part of litigation unless the information is protected from disclosure under another applicable law.

MCA 2-6-1003

## **USE OF PUBLIC RESOURCES FOR POLITICAL PURPOSES**

**Effective 10/1/2023:** (1) Except as provided in this section, a judicial officer, public officer, legislator, or public employee may not use or permit the use of public time, facilities, equipment, state letterhead, supplies, personnel, or funds to solicit support for or opposition to any political

committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

- (a) authorized by law;
- (b) properly incidental to another activity required or authorized by law, such as the function of a judicial officer, public officer, legislator, or public employee in the normal course of duties; or
- (c) reasonably considered to be also available to the public.

(2) As used in subsection (1), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

- (a) the activities of a judicial officer, public officer, legislator, or public employee related to determining the impact of passage or failure of a ballot issue on state or local government operations;
- (b) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

(4) Subsection (1) is not intended to restrict the right of a judicial officer, public officer, legislator, or public employee to express personal political views.

(6) A judicial officer, public officer, legislator, or public employee that violates this section may also be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401.

MCA 2-2-122

## **DEDUCTIBILITY OF CONTRIBUTIONS TO SCHOOL DISTRICTS**

Public school districts in Montana are **not** required to apply for 501(c) status in order to receive contributions for which a donor plans to claim a tax deduction. Montana school districts are considered, by definition, to be qualifying organizations for deductibility of contributions. A school district is considered to be a "50% limit organization" as described in IRS Publication 526.

## **LATE REPORT PENALTY**

The Local Government Services Bureau has the authority to impose a \$75 penalty on local governments, and to provide public notice, if audit reports are delinquent by more than 180 days. MCA 2-7-517; ARM 2.4.403

## **FINANCIAL REPORTING**

**Failure to file reports and audits or resolve findings:** If a local government entity fails to file an annual financial report with the department as required by 2-7-503(1), to complete and submit an audit or financial review to the department as required by 2-7-503(3), or to resolve significant audit findings or implement corrective measures as required by 2-7-515(3) within 2 years of the applicable deadlines, a person identified in subsection (2) of this section who has received a written determination from the department under 2-7-524(3)(c) or (4)(b) may bring a cause of action against the local government entity for failure to comply with the local government entity's fiduciary requirements.

MCA 2-7-523(1)

## **PARENTAL INVOLVEMENT IN EDUCATION**

Effective 7/1/2023: (1) The board of trustees of a school district, in consultation with parents, teachers, and administrators, shall develop and adopt a policy to promote the involvement of parents of children enrolled in the school district, including:

- (a) a plan for parent participation in the school district, which must be designed to improve parent and teacher cooperation in homework, attendance, and discipline;
- (b) a plan to provide parents with information about how to participate in the governance of the school district through the locally elected board of trustees;
- (c) procedures by which a parent may learn about the course of study for the parent's child;
- (d) procedures by which a parent may withdraw the parent's child from instruction or presentations, assemblies, guest lectures, or other educational events facilitated by a school's faculty or staff, including those conducted by outside individuals or organizations, that offend the parent's beliefs or practices;
- (e) procedures by which a parent may learn about the nature and purpose of clubs and extracurricular activities that have been approved by the school or that the school is required to allow under the provisions of the federal Equal Access Act of 1984 and may withdraw the parent's child from any club or extracurricular activity. A student shall provide a signed parental permission form prior to participating in any school-sponsored club or extracurricular activity.
- (f) procedures by which a parent shall provide written consent before the parent's child uses a pronoun that does not align with the child's sex. If a parent provides written consent under this subsection (1)(f), a person may not be compelled to use pronouns that do not align with the child's sex.
- (g) procedures by which a parent may learn about parental rights and responsibilities under the laws of this state.

(2) The board of trustees of a school district may adopt a policy providing that parents may submit and receive the information required by this section in electronic form.

MCA 40-6-703

## **INFORMATION ON EDUCATIONAL OPPORTUNITIES**

Effective 7/1/2023: (1) The board of trustees of a school district shall develop, update, and annually provide to students and families of the district information on the educational

opportunities available through the schools of the district. The information must align to the legislative intent of preserving and protecting the right to access personalized learning as set forth in 20-7-1601 and must be designed to empower families in understanding the options available to them in partnering with schools to develop their child's full educational potential. A school board may satisfy its obligation through the use of model resources developed by an organization of school boards of which the school board is a member.

(2) The information provided under subsection (1) must include, at a minimum, the educational and extracurricular opportunities listed in subsection (2).

MCA 20-3-326

### **PATHWAY TO EXCELLENCE PROGRAM**

The **Pathway to Excellence Program** requires OPI to develop on its website an educational data profile for each district and requires each school district to annually report to the OPI and post on the website certain required information for the preceding school year. In addition, each school district shall post on the school district's website a copy of every working agreement the district has with any organized labor organization and the district's costs, if any, associated with employee union representation, collective bargaining, and union grievance procedures and litigation resulting from union employee grievances.

MCA 20-7-104(4)(a)

If a school district does not have an internet website, the school district shall publish the information required under Effective 7/1/2023: subsection (4)(a) in printed form and provide a copy of the information upon request at the cost incurred by the school district for printing only.

MCA 20-7-104(b)

### **WORK-BASED LEARNING PROGRAM**

Effective 7/1/2023: (1) A work-based learning program operated in compliance with 20-7-1510 must include a written agreement executed by the pupil and the pupil's parent or guardian, the school in which the pupil is enrolled, and the work-based learning partner. The agreement must include:

- (a) a provision prioritizing accommodation of the pupil's academic commitments by corresponding to the academic calendar and the pupil's course schedule;
- (b) a provision for periodic assessment to ensure ongoing beneficial learning and to complete the work-based learning experience when beneficial learning is complete;
- (c) a description of how the pupil's classroom activities and on-the-job experiences will be planned and supervised to ensure that both activities are structured as an educational environment; and
- (d) a designation of the academic credit that will be awarded to the pupil through the pupil's participation in the work-based learning experience.

(2) To qualify for exclusion under 39-3-406(1)(a), the agreement must contain the following in addition to the requirements in subsection (1) of this section:

- (a) a clear statement that there is no expectation of compensation;

(b) a confirmation that the pupil's involvement in the work-based learning experience complements, rather than displaces, the work of paid employees while providing significant educational benefits to the pupil; and

(c) a provision confirming that the work-based learning experience is conducted without entitlement to a paid job at the conclusion of the experience.

MCA 20-7-307

### **Effective 7/1/2023: SPECIAL NEEDS EQUAL OPPORTUNITY EDUCATION SAVINGS ACCOUNT PROGRAM**

A public school or school district that previously enrolled a qualified student participating in the Montana special needs equal opportunity education savings account program shall provide a qualified school that has enrolled a participating student with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

MCA 12-7-1707

(1) The superintendent of public instruction shall require qualified schools who enroll students who are participating in the Montana special needs equal opportunity education savings account program to submit quarterly reports of services provided to qualified students as required under the program.

(4) The creation of the Montana special needs equal opportunity education savings account program does not expand the regulatory authority of the state, its officers, or a school district to impose additional regulation on providers of educational services under the program beyond that reasonably necessary to enforce the requirements of the Montana special needs equal opportunity education savings account program.

MCA 12-7-1708

### **: EARLY TARGETED INTERVENTIONS (effective 7/1/2023)**

(1) The trustees of a school district may provide eligible children with any of the interventions described in this section. This part may not be construed to limit the duty or authority of trustees to provide educational opportunities described elsewhere in this title.

(3) The superintendent of public instruction shall provide school districts with access to and technical support for the evaluation (effective 5/5/2025) methodologies determined by the board of public education.

(4) A child may not be evaluated for the purposes of this part unless requested by the child's parent or guardian. The trustees may administer (effective 5/5/2025) an evaluation methodology (deleted "in April, May, or June") to a child who will be 4 years of age or older on or before the following September 10 and who has not yet entered 3rd grade. A child who is evaluated to be below trajectory for 3rd-grade reading (effective 5/5/2025) or math proficiency for the child's age or grade level is an eligible child (deleted "for the subsequent school year"). .

- (5) (a) For an eligible child who is 4 years of age or older on or before September 10 of the year in which the child is to participate in the program and who is not entering and who has not completed kindergarten, the trustees may offer a classroom-based program, which may be a half-time or full-time program. A full-time program must allow a parent or guardian to enroll the child half-time.
- (b) The classroom-based program must align with developmentally appropriate early education learning standards as determined by the board of public education. The standards must include a requirement for ongoing evaluation of student progress used to tailor instruction to specific student needs.
- (6) (a) For an eligible child who is 4 years of age or older on or before September 10 of the year in which the child is to participate in the program and who has not yet completed 2nd grade, the trustees may offer a home-based program.
- (b) The home-based program must be selected by the board of public education and must:
- (i) be operated by a nonprofit entity;
  - (ii) be research-based and proven effective at developing early literacy (effective 5/5/2025) or numeracy skills in populations at risk of not being (deleted 5/5/2025: “reading”) proficient (effective 5/5/2025) in reading or math at the end of 3rd grade;
  - (iii) foster parental engagement; and
  - (iv) have a cost of no more than \$1,000 a year for each child.
- (c) The superintendent of public instruction shall provide school districts with access to and technical support for the home-based (deleted 5/5/2025: “early literacy”) program.
- (7) (a) For an eligible child who is 5 years of age or older on or before September 10 of the year in which the child is to participate in the program and who has not yet completed 3rd grade, the trustees may offer a jumpstart program.
- (b) The jumpstart program must:
- (i) take place during the time between the end of one school calendar year and the start of the next school calendar year, as determined by the trustees, preceding a child's entry into kindergarten, 1st grade, 2nd grade, or 3rd grade;
  - (ii) be at least 4 weeks in duration and provide at least 120 instructional hours;
  - (iii) be aligned to a framework determined by the board of public education;
  - (iv) be designed in a manner to increase the likelihood of a child being evaluated at the end of the ensuing school year to be at or above a trajectory leading to reading proficiency at the end of 3rd grade.

MCA 20-7-1803

**Reporting:** Trustees offering an early literacy targeted intervention shall closely monitor the program and report annually to the superintendent of public instruction on the efficacy of the program no later than July 15. The superintendent shall collaborate with trustees in maximizing the efficiency of fulfilling this reporting requirement. The report must include anonymized information on student progress, including the student's performance on:

- (a) the evaluation methodology that led to eligibility for the program;
- (b) any formative assessments administered;
- (c) if administered, the evaluation methodology at the end of the school year in which intervention was provided; and
- (d) any statewide reading assessments administered in grades 4 through 6.

MCA 20-7-1804(4)

## **K-12 DATA TASK FORCE**

OPI has established a K-12 data task force, which shall serve in an advisory capacity to enhance the statewide K-12 data system pursuant to 20-7-104. In addition to members of the State Legislature, the task force includes school board trustees, school administrators, teachers, technology staff, parents, and district clerks.

MCA 20-7-105

Unless otherwise provided by law, each member is entitled to be paid \$50 for each day in which the member is engaged in the performance of duties under this section and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of task force duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their task force duties outside their regular working hours or during hours charged against their leave time, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

MCA 20-7-105(4)

## **GROW YOUR OWN GRANT PROGRAM**

- (1) There is a grow your own grant program administered by the commissioner of higher education. The purpose of the grant program is to develop teacher pipelines aimed at serving rural and reservation school districts.
  - (2) (a) The grow your own grant program must involve:
    - (i) the opportunity for students to take dual credit courses in education while in high school;
    - (ii) the opportunity for students to engage in work-based learning opportunities in the field of education; and
    - (iii) collaboration between school districts and institutions of higher education in developing a career pathway for education.
  - (b) The grant program must allow and encourage small and proximate districts to collaborate in developing their grow your own grant programs.
  - (c) A school district is eligible for the program if the district has one or more schools impacted by a quality educator shortage.
  - (d) A (effective 7/1/2025) postsecondary institution is eligible for a grant under this section. Deleted 7/1/2025: “may be awarded a grant for up to 2 years to develop a grow your own grant program”.
- (3) Contingent on appropriation by the legislature, the commissioner shall create and administer:
    - (a) a grant program for eligible (effective 7/1/2025) postsecondary institutions, in partnership with at least one eligible school district, to develop or expand to develop or expand a grow your own grant program that encourages students to pursue a career in teaching; and

- (b) (effective 7/1/2025) a grow your own grant scholarship program that provides a last-dollar grant of up to \$5,000 a year, not to exceed the cost of attendance, and not to exceed \$10,000 total for any student, to students who:
- (i) have participated or are participating in a grow your own grant program, as described in subsection (3)(a);
  - (ii) are currently enrolled in a teacher preparation program in a licensure or endorsement area identified as most impacted by quality educator shortages;
  - (iii) commit to teaching in a school impacted by a quality educator shortage; and
    - a. if participation in a grow your own grant program occurred solely during high school, earned at least 6 postsecondary credits toward an education degree.
- (4) The legislature intends that grants made to (deleted 7/1/2025: “school districts and”) postsecondary institutions pursuant to subsection (3)(a) are one-time startup grants that include:
- (a) a matching component provided by either a participating school district or the postsecondary institution; and
  - (b) a plan by the school district or postsecondary institution to sustain programs beyond the term of the grant.
- (5) (effective 7/1/2025) in accordance with 5-11-210, the commissioner shall report annually to the education interim committee on the status and impacts of the grant programs described in this section. The report must include:
- (a) the number of students currently participating in a grow your own grant program;
  - (b) the number of former participants who hold a Montana teacher certificate; and
  - (c) the number of former participants who are teaching in the district where they participated in the grow your own grant program.
- (6) For purposes of this section, the following definitions apply:
- (a) “Postsecondary institution” means a unit of the Montana university system or tribal college or community college located in the state.
  - (b) “Quality educator shortage” means a shortage identified by the board of public education pursuant to 20-4-503 (Terminates June 30, 2029).”

MCA 20-4-601

## **SEXUALLY ORIENTED PERFORMANCES PROHIBITED**

- (1) A library that receives any form of funding from the state may not allow a sexually oriented performance as defined in 45-8-117 on its premises.
- (2) A school or library that receives any form of funding from the state may not allow a sexually oriented performance or drag story hour, as defined in 45-8-117, on its premises during regular operating hours or at any school-sanctioned extracurricular activity.
- (3) A sexually oriented performance is prohibited:
- (a) on public property in any location where the performance is in the presence of an individual under the age of 18; and
  - (b) in a location owned by an entity that receives any form of funding from the state.
- (4) A library, a school, or library or school personnel, a public employee, or an entity described in subsection (3)(b) or an employee of the entity convicted of violating the prohibition under this

section shall be fined \$5,000 and, if applicable, proceedings must be initiated to suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1 year. If an offender's certificate has previously been suspended pursuant to this subsection (4), proceedings must be initiated to permanently revoke the teacher, administrator, or specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.

MCA 20-7-135

## **SCHOOL MARSHAL PROGRAM**

- Qualifications.** (1) The board of trustees may appoint an independent contractor or a school district employee to be certified as a school marshal. The appointed employee must be a full-time employee of the district.
- (2) A school marshal may be:
- (a) employed full-time as a school marshal; or
  - (b) retained on a full-time or part-time basis and may have other assigned duties in the discretion of the board of trustees.
- (3) To be eligible to serve as a school marshal, the independent contractor or school district employee must:
- (a) have a permit to carry a concealed weapon pursuant to 45-8-321;
  - (b) meet the qualifications required for peace officers pursuant to 7-32-303; and
  - (c) be an active or retired peace officer as defined in 46-1-202.
- (4) If an applicant for a school marshal position is an active or retired public safety officer from another state, the applicant must be certified by the Montana public safety officer standards and training council.
- (5) For the purposes of 20-7-1335 through 20-7-1338, the following definitions apply:
- (a) "Montana public safety officer standards and training council" means the council established in 2-15-2029.
  - (b) "Public school property" has the meaning provided in 20-1-220.
  - (c) "School marshal" means a person who is appointed by the board of trustees and employed or retained by a school district to protect the health and safety of persons and to maintain order on public school property.

MCA 20-7-1335

- School marshal duties and responsibilities.** (1) A school marshal may act only as necessary to prevent or stop the commission of an offense that threatens serious bodily injury or death of persons on public school property.
- (2) Pursuant to 45-8-361, with the consent of the trustees, a school marshal may possess, carry, and store a firearm on public school property.
- (3) The trustees shall adopt a policy describing the school marshal's duties and responsibilities. The policy must:
- (a) provide procedures for how a school marshal may possess, carry, and store a firearm on public school property as authorized pursuant to 45-8-361 and subsection (2) of this section;

- (b) provide alternate procedures regarding the possession, carrying, and storage of a firearm by a school marshal based on the amount of time the school marshal has regular, direct contact with students;
- (c) specify the types of firearms, ammunition, and other related equipment that a school marshal is authorized to possess, carry, and store on public school property; and
- (d) specify requirements regarding the subject matter and frequency of additional professional development and training.

MCA 20-7-1336

**Trustees' duties.** (1) To implement a school marshal program, the trustees shall:

- (a) ensure that a school district employee who is appointed as a school marshal satisfies the qualifications required under 20-7-1335; and
  - (b) adopt a written school marshal program policy as required under 20-7-1336(3).
- (2) An individual's status as a school marshal ends if:
- (a) the individual's license to carry a concealed weapon is suspended or revoked;
  - (b) the school marshal is an employee of the school district and the employee's employment with the school district ends; or
  - (c) the board of trustees sends written notice to the individual that the individual's services as a school marshal are no longer required.

MCA 20-7-1337

**Law enforcement notification.** The trustees shall submit the school marshal's name, date of birth, and address of the school marshal's place of employment to:

- (1) the Montana public safety officer standards and training council; and
- (2) all applicable law enforcement agencies with jurisdiction and emergency response authority in the school district, including:
  - (a) the chief law enforcement officer of the local municipal law enforcement agency, if the school district is located within a municipality;
  - (b) the sheriff of a county where a school district is located; and
  - (c) in the case of a district located within the boundaries of a reservation, the chief tribal law enforcement officer and area federal law enforcement authorities.

MCA 20-7-1338

## **TEACHER RESIDENCY PROGRAM**

Effective 7/1/2023: (1) The superintendent of public instruction shall administer a teacher residency program in collaboration with school districts and professional educator preparation programs.

(2) The teacher residency program must involve:

- (g) financial and other compensation for residents and teacher-leaders including:
  - (i) housing for the resident or a housing allowance provided to the resident by the host school district;
  - (ii) for a resident in a professional educator preparation program accredited by the board of public education, a last-dollar tuition grant to eliminate tuition costs for the resident for the year of the residency;

- (iii) a stipend for the teacher-leader; and
- (iv) compensation for the resident, a portion of which may be conditioned on completion of the program and the signing of a teaching contract in a Montana public school for the following year.

MCA 20-4-702

### **PROHIBITIONS ON LAWSUITS RELATED TO FIREARMS OR MANUFACTURERS**

Effective 10/1/2023: (1) Except as provided in subsection (2), a government entity may not bring suit against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public.

(2) Nothing in this section prohibits a government entity from bringing an action against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages for:

- (a) breach of contract or warranty as to firearms or ammunition purchased by a government entity; or
- (b) damage or harm to property owned or leased by the government entity caused by a defective firearm or ammunition.

MCA 2-9-319

### **(EFFECTIVE 5/5/2025): PROHIBITIONS AGAINST ENFORCEMENT OF OR RELIANCE ON REQUIREMENTS OR MANDATES ISSUED BY CERTAIN INTERGOVERNMENTAL ENTITIES**

(1) The world health organization, the United Nations, and the world economic forum have no jurisdiction in this state. The state and its political subdivisions, including but not limited to any county, city, municipal corporation, consolidated city-county, school district, special improvement or taxing district, or other political subdivision or public corporation, or any entity created by agreement between two or more political subdivisions, may not be compelled to engage in the enforcement of, or any collaboration with the enforcement of, any requirements or mandates issued by the world health organization, the united nations, or the world economic forum. (2) The state and its political subdivisions may not expend public funds or allocate public resources for the enforcement of any requirement or mandates issued by the world health organization, the United Nations, or the world economic forum.

MCA 2-1-701

### **DISCLOSURE OF LOCAL GOVERNMENT LOBBYING CONTRACT**

Effective 5/8/2023: (1) A local government shall prominently display on the local government's website the following information regarding contracts for services that would require a person to register as a lobbyist under Title 5, chapter 7:

- (a) the contract execution date;
  - (b) the duration of the contract, including any extension options;
  - (c) the effective date;
  - (d) the total amount of money the local government paid in the previous fiscal year;
  - (e) the identity of all parties to the contract;
  - (f) the identity of any subcontractor to the contract; and
  - (g) a list of all legislation advocated for or against by all parties and subcontractors to the contract, including the position taken on each piece of legislation in the prior fiscal year.
- (2) In lieu of posting the information required under subsections (1)(a) through (1)(g), the local government may post the contract for lobbying services on the local government's website as long as the contract contains the information specified in subsection (1)(g).
- (3) The information required under subsections (1) and (2) must be posted and made available within 60 days after the end of the fiscal year in which the contract is signed. The information must remain posted to the website until the information is required to be updated under this section.
- (4) If the local government does not maintain a website, the local government shall provide public notice that contract for lobbying services is available for review by the public at the office of the local government.
- (5) At least once a month while the legislature is meeting during each regular session, a local government shall provide a report providing the information required under subsection (1)(g) that is included on the agenda of a regularly scheduled meeting of the local government.
- (6) (a) Except as provided in subsection (6)(b), a contract between a local government and an organization or association of local government officials of which the local government is a member and to which the local government pays dues for services in addition to lobbying services is not subject to the disclosure requirements under this section.
- (b) If a local government pays or donates money in excess of the normal dues for services to the organization or association and the excess money is used to support lobbying services, the excess money is subject to the disclosure requirements under this section.
- (7) For the purposes of this section, "local government" has the same meaning as provided in 2-6-1002.

MCA 5-7-106

### **PROHIBITION ON RANKED-CHOICE VOTING METHODS**

Effective 4/26/2023: (1) An election conducted under Title 13 or under Title 20 may not use a ranked-choice voting method to determine the election or nomination of a candidate to a local, state, or federal office.

(2) For the purposes of this section, "ranked-choice voting method" means a voting method that allows voters to rank candidates for an office in order of preference and has ballots cast to be tabulated in multiple rounds following the elimination of a candidate until one candidate reaches a majority of the votes.

MCA 13-1-125

## **CERTAIN DISTRICT POLICIES PROHIBITED**

Effective 4/25/2023: The trustees of a school district may not adopt a policy that subjects a student to disciplinary action for behavior that is not considered an unlawful discriminatory practice pursuant to 49-2-307(2), if the behavior does not rise to the definition of bullying as provided in 20-5-208.

MCA 20-1-233

## **Effective 7/1/2023: PUBLIC CHARTER SCHOOLS**

A public charter school may not commence operations without a charter contract executed in accordance with this section and approved in an open meeting of the board of public education.  
MCA 20-6-806(5)

**Governing Board.** (1) Subsections (2) through (5) apply to a public charter school not governed by the local school board.

(2) The governing board of a public charter school district must be composed of 7 members. The boundaries of the charter school district consist of the legal description of the campus of the charter school. A majority of the governing board members must be qualified electors of the county in which the public charter school is located. Members must:

- (a) be qualified electors in the county in which the public charter school is located or a contiguous county but need not be qualified electors of the located school district; and
- (b) possess documented knowledge or experience in the mission or focus of the public charter school.

(3) An applicant for a proposed public charter school shall identify the members of the initial governing board of the charter school district of which the charter school is a part in the proposal submitted to the board of public education. The initial governing board is responsible for preoperation of and initial operation of the public charter school.

(4) At the regular school election in the first year of operation of a public charter school, members must be elected by the qualified electors of the located school district in the same manner as local school boards, except as provided in subsections (2) and (5), in an election conducted by the local school board in the school district in which the public charter school is located. Any elector qualified to vote in the located school district under the provisions of 20-20-301 may vote.

(5) Members of governing boards serve for terms of 5 years, and the terms of members must be staggered to ensure continuity on the governing board.

(6) If the governing board of a public charter school is the local school board, the governing board shall establish and appoint members of an advisory board to provide recommendations and insight regarding the public charter school's operations. Members of the advisory board must include members with knowledge or experience in the mission or focus of the public charter school.

MCA 20-6-807

**Enrollment.** (1) (a) A public charter school must be open to any student residing in the state.

- (b) A school district may not require a student enrolled in the school district to attend a public charter school.

- (c) A public charter school may limit admission to students within a given age group or grade level.
  - (d) A public charter school may be organized for a special emphasis, theme, or concept as stated in the school's proposal.
  - (e) A public charter school shall enroll all students who wish to attend the school unless the number of students exceeds the capacity of a program, class, grade level, or building.
  - (f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.
- (2) (a) A public charter school shall give enrollment preference to students who are residents of the located school district.
- (b) A public charter school may give enrollment preference to:
- (i) students who were enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. An enrollment preference for returning students excludes those students from entering a lottery.
  - (ii) children of members of a public charter school's governing board and full-time employees, limited to no more than 10% of the school's total student population.
- (3) This section does not preclude the formation of a public charter school for the purpose of serving students with disabilities, students of the same gender, students who pose a sufficiently severe disciplinary problem to warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend such a school, the public charter school shall select students through a lottery.
- (4) If a student who was previously enrolled in a public charter school enrolls in any other public school in this state, the student's new school shall accept credits earned by the student in courses or instructional programs at the public charter school.
- (5) A school district shall provide or publicize to parents and the general public information about public charter schools as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about noncharter public schools in the district.
- (6) The board of public education may not restrict the number of students a public charter school may enroll. The capacity of the public charter school must be determined annually by the governing board in consideration of the public charter school's ability to facilitate the academic success of its students, to achieve the objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

MCA 20-6-808

**Charter school performance and renewal.** (2) Each public charter school shall set annual performance targets designed to help each school meet applicable federal, state, and board of public education expectations.

(3) (a) The contract performance framework must allow the inclusion, with the board of public education's approval, of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance that are consistent with the purposes of this part.

(c) Multiple schools operating under a single charter contract or overseen by a single governing board of a charter school district shall report their performance as separate, individual schools. Each school must be held independently accountable for its performance.

(5) (b) No later than June 30 of each year, the board of public education shall issue a public charter school performance report and charter renewal application guide to the governing board of any public charter school whose charter will expire the following year. The performance report must summarize the public charter school's performance record to date, based on the data required by this part and the charter contract, and must provide notice of any weaknesses or concerns perceived by the board concerning the public charter school that may jeopardize renewal if not promptly rectified. The public charter school shall respond to the performance report and submit any corrections or clarifications within 90 business days.

(8) (a) No later than February 1, the governing board of a public charter school seeking renewal shall submit a renewal application to the board of public education no later than 30 business days pursuant to the renewal application guide.

MCA 20-6-809

**Public charter school operation and autonomy.** (1) (a) A public charter school must be a public education organization.

(b) A public charter school is subject to all federal laws and authorities as provided in this part or arranged by charter contract with the board of public education consistent with applicable laws, rules, and regulations.

(c) Except as provided in this part (deleted effective 7/1/2025: “and in the public charter school's charter contract”), a public charter school is subject to the provisions of Title 20 and any state or local rule, regulation, policy, or procedure relating to noncharter public schools within the located school district.

(d) A single governing board may hold one or more charter contracts. A charter contract may consist of one or more schools, to the extent approved by the board of public education and consistent with applicable law. Each public charter school that is part of a charter school district must be under the supervision and control of the governing board of the charter school district.

(2) A public charter school district or public charter school may not be created within the geographical boundaries of a third-class elementary district, as defined in 20-6-201, or a third-class high school district, as defined in 20-6-301, unless the applicant is the local school board.

(3) The governing board of a public charter school shall function as a local educational agency. A public charter school is responsible for meeting the requirements of a local educational agency under applicable federal, state, and local laws, including those relating to special education.

(4) The governing board of a public charter school is responsible for special education at the school, including identification and service provisions, and is responsible for meeting the needs of enrolled students with disabilities.

(5) The governing board of a public charter school district has all the powers necessary for carrying out the terms of its charter contract, including the following powers:

(a) to receive and disburse funds for school purposes;

(b) to secure appropriate insurance and to enter into contracts and leases, free from prevailing wage laws;

(c) to incur debt in reasonable anticipation of the receipt of public or private funds;

(d) to pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(e) to solicit and accept gifts or grants for school purposes subject to applicable laws and the terms of its charter contract;

- (f) to acquire real property, for use as its facility or facilities, from public or private sources;  
and
- (g) to sue and be sued in its own name.
- (6) (a) A public charter school may not engage in any sectarian practices in its educational program, admissions policies, employment policies or practices, or operations.  
(b) The powers, obligations, and responsibilities set forth in the charter contract may not be delegated or assigned by either party except as otherwise specifically provided in this part.
- (7) (a) A public charter school is subject to the same civil rights, health, and safety requirements applicable to other public schools in the state except as otherwise specifically provided in this part.  
(b) The governing board shall establish graduation requirements and may award degrees and issue diplomas.  
(c) A governing board is subject to and shall comply with state open meeting and public records laws pursuant to Title 2, chapters 3 and 6.  
(d) A public charter school shall establish purchasing procedures that include a competitive bidding process for purchases or contracts exceeding \$80,000.
- (8) (a) Employees in public charter schools have the same rights and privileges as other public school employees except as otherwise provided in this part.  
(b) Teachers and other school personnel, as well as governing board members, are subject to criminal history record checks and fingerprinting requirements.  
(c) Public charter school employees may not be required to be members of any existing collective bargaining agreement between a school district and its employees. However, a public charter school may not interfere with laws and other applicable rules protecting the rights of employees to organize and to be free from discrimination.

MCA 20-6-811

**Public charter school access to district facilities and land.** (1) A public charter school district has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or an unused portion of a public school facility or property within the located school district.

(2) A public charter school district may negotiate and contract at or below fair market value with a school district, the governing body of a college or university or community college, or any other public entity or for-profit or nonprofit private entity for the use of a facility for a school building.

(3) All applicable laws governing the sale or disposition of property of a school district under 20-6-604 apply to this section.

MCA 20-6-813

## **ACCEPTANCE OF UNITED STATES CURRENCY**

Effective 10/1/2023: The state or any political subdivision of the state shall accept United States currency, including federal reserve notes, from any member of the public.

MCA 30-14-228(1)(b)

**Effective 4/16/2025: CAREER AND TECHNICAL EDUCATION PROGRAMS IN MIDDLE GRADES**

(1) The superintendent of public instruction shall annually distribute money from the appropriation for middle grades career and technical education. The money must be allocated to elementary and K-12 school districts with accredited and approved junior high, middle school, or 7th and 8th grade programs.

(2) The superintendent of public instruction shall by rule prescribe the method for distribution, the form of the application, budget procedures, and accounting rules for the funds. The legislature intends that the state money be used to enhance distributions of federal funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006 to support middle grades career and technical education in line with the plan developed under 20-7-330, except that the state money may not be limited by school size and that the distribution method adopted by the superintendent of public instruction be equitable. The superintendent of public instruction may prescribe other requirements for the receipt of funding consistent with Title 20, chapter 7, part 3.

MCA 20-7-309



**COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL  
GOVERNMENT ENTITIES**

**EXTRACURRICULAR FUNDS**

REVISED DECEMBER 2025

REF: SD09

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## **OVERVIEW**

The student extracurricular fund is used to account for the various student activities, such as: athletics, clubs, classes, student government organizations, student publications and similar activities. Separate fund accounts within the extracurricular fund are maintained to account for these various activities. Unlike other district funds, money for these activities may be maintained in bank accounts outside the control of the county treasurer. The fund is administered by school district administrators, faculty members, and student organizations under the policies and guidelines established by the Board of Trustees.

### **Extracurricular Fund for Pupil Functions.**

- (1) The trustees of a district may establish an extracurricular fund for the purposes of receiving and expending money collected for pupil extracurricular functions. All extracurricular money of a pupil organization of the school must be deposited and expended by check from a bank account maintained for the extracurricular fund.
- (2) An accounting system for the extracurricular fund recommended by the superintendent of public instruction must be implemented by the trustees. The accounting system must provide for:
  - (a) the internal control of the cash receipts and expenditures of the money; and
  - (b) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function.
- (3) The trustees may invest any excess money in the extracurricular fund in accordance with the provisions of 20-9-213(4) (see SD04 for Methods of Investing District Moneys). Interest earned as a result of the investments may either be: (a) credited to a general operating account within the fund to be used to offset expenses incurred in administering the fund; or (b) distributed to the fund from which the money was withdrawn for investment.

MCA 20-9-504

### **Student Extracurricular Activity Funds**

- (1) School districts maintaining student extracurricular activity funds may use a separate checking account or the county treasurer as a depository for student funds.
- (2) To allow OPI to comply with reporting requirements by the U.S. Department of Education, districts shall report all the financial activity relating to student extracurricular activity funds on the trustees' financial summary provided OPI. **(Note: OPI has designated Fund 84 (a trust fund) for this purpose.)**
- (3) The student extracurricular fund must not be used as a petty cash fund for district expenditures.
- (4) Cash balances in the student extracurricular fund may not be loaned to other district funds, may not be used to finance district expenditures for purposes other than student extracurricular activities, and may not be used as a convenience to pay the district's liabilities pending reimbursement from the appropriate district fund, except when student extracurricular expenditures are subsidized by the general fund.
- (5) Student extracurricular expenditures subsidized by the district general fund may be paid from the student extracurricular fund and later reimbursed from the general fund. The claim against the general fund must be properly authorized, completely documented and

easily traced into the extracurricular fund records. For example, meal and motel costs for students and advisors may be paid from the student extracurricular fund and later reimbursed from the general fund upon filing a properly authorized claim.

ARM 10.10.304

### **MASBO Handbook:**

The Montana Association of School Business Officials (MASBO) has published a handbook, *Student Activity Fund Accounting*. This handbook has been endorsed by the Office of Public Instruction and is considered state policy for school extracurricular accounting and procedures. This manual can be obtained at MASBO's website:

<http://www.masbo.com/files/PUBLICATIONS/Student%20Activity%20Fund%20Accounting%20June%202013.pdf>

In addition, MASBO now has a Student Activity Forms Manual, which may be accessed at <https://www.masbo.com/i4a/pages/index.cfm?pageid=3357>.

Unless otherwise indicated, the following compliance requirements are based on guidance in *Student Activity Fund Accounting*, and the page number of that manual is indicated. Following are definitions of certain terms used in this compliance supplement and in *Student Activity Fund Accounting* (Page 29):

**Fund Accounts** - Clubs or activities of the extracurricular fund that collectively make up the financial operation and position of the extracurricular fund.

**Fund Administrator** - The individual designated by the board of trustees to administer the extracurricular fund.

**Fund Custodian** - The individual appointed by the board of trustees to receipt, disburse and maintain the records of the extracurricular fund.

## **ADMINISTRATIVE RESPONSIBILITIES – BOARD OF TRUSTEES**

Pages 5-7 of *Student Activity Fund Accounting*

**Written Policies:** The board of trustees should develop written policies for the administration of extracurricular activity funds. The policies developed must conform to the recommendations contained in MASBO's *Student Activity Fund Accounting*. Once established, the written policies should be subject to constant review and expanded where necessary. (The *Student Activity Fund Accounting* contains examples of Board Policy, on Pages 39 & 40.)

The establishment of a student extra-curricular fund and all its subsidiary student organization and activity accounts and any subsequent changes or transfers are subject to the approval of the board of trustees. All transactions made in the student extra-curricular funds are subject to the approval of the board of trustees. (Pg. 6)

An accounting system for the extracurricular fund recommended by OPI must be implemented by the trustees. The accounting system must provide for:

- (a) the internal control of the cash receipts and expenditures of the money; and
- (b) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function.

MCA 20-9-504

Other administrative responsibilities of the board of trustees are listed on page 7 of the *Student Activity Fund Accounting Manual*, as follows: (**Note:** The board may designate another individual to be responsible for many of these duties.)

**New Activities:** The admission of new clubs or activities to the extracurricular fund must be submitted to and approved by the board.

**Check Cancellation:** The cancellation of extracurricular fund checks will require prior approval from the board.

**NSF Checks:** Non-sufficient fund checks cannot be written off without first obtaining approval of the board.

**Inactive Funds:** Inactive fund accounts should be reviewed by the board each June, and those determined to be discontinued should have any remaining balance transferred to a related account.

**Overdrawn Accounts:** Fund accounts should not be permitted to become overdrawn, in that the overdraft becomes a liability to other funds and to future classes. Whenever a fund account becomes nearly depleted, remedial action should be ordered immediately by the board.

**Individual Club Fund Balances:** The board should direct the individual clubs to maintain separate financial records and see that each club's fund balance is in agreement with the general control records maintained by the fund custodian.

**Insurance Coverage:** The board should review the adequacy of insurance policies regarding burglary coverage, messenger and forcible seizure coverage and verify that the coverage includes extracurricular fund moneys.

**Bond Coverage:** The board should review existing official bond coverage to verify that the extracurricular fund is included.

**Senior Class Balance:** Each May, the board should direct the senior class to dispose of any money remaining in the senior class fund account. The senior class may either (1) designate the balance remaining in the fund for a specific purpose and authorize the expenditure immediately, or (2) authorize the balance remaining to be transferred to a designated fund account.

**Cash Overages/Shortages:** The board should develop a policy in regard to the handling of cash overages and shortages that may occur through ticket sales and concessions at athletic events, dances, or from the sale of subscriptions and other fund-raising activities. Corrective action should be taken whenever large discrepancies occur.

## **STUDENT INVOLVEMENT**

Page 6 of *Student Activity Fund Accounting*

The purpose of student extracurricular funds shall be to account for revenues and disbursements of those funds raised by students through recognized student body organizations and activities. The use of the student extra-curricular funds is limited to the benefit of the students. Students shall be involved in the decision-making process related to the use of the funds.

No building principal or sponsor may obligate monies without student approval and no student may obligate monies without the building principal or sponsor's approval.

## **GENERAL PROCEDURES**

Page 6 of *Student Activity Fund Accounting*

It is the responsibility of the building administrator or sponsor of a group or activity to see that all monies of said group are collected and deposited with the fund custodian at the business office. Furthermore, the building principal and sponsor will be knowledgeable of all debts incurred through the operation of said organization or activity and will be responsible to ensure that incurred debts are by purchase order and signed by the sponsor and building principal or other form of authorization.

The Fund Custodian shall be responsible to see that accurate records are kept of all approved expenditures, that the expenditures are also approved by the sponsor and forwarded to the building principal in the form of a purchase or requisition for final approval.

The Fund Custodian will be responsible for depositing all extracurricular monies in a bank account, for writing checks for requested payments of said monies, for keeping accurate records of all deposits and withdrawals, for disbursing earned interest to accounts and for publishing monthly statements as to the status of all extracurricular accounts. The monthly statement should be included in the board agenda for review.

## **RECEIPTS NOT DEPOSITED IN EXTRACURRICULAR ACCOUNTS**

Pages 8-9 of *Student Activity Fund Accounting*

Since an extracurricular fund is established for student functions, all receipts should be related to organized student activities or student assessments. The following is a listing of receipts that should not be deposited into the extracurricular fund:

1. **Faculty flower or coffee funds, or faculty lounge receipts that are for faculty use only** - These moneys should be kept in a separate bank account;
2. **Booster club and parent teacher organization funds** - These moneys should be kept in a separate bank account;
3. **Rentals of school district facilities and equipment** - These receipts should be deposited directly to a district fund in compliance with MCA 20-9-509 and 20-6-607;
4. **Book fines and fines for lost school equipment;**
5. **Driver education class fees** - These receipts should be deposited to the driver education fund of the district. (ARM 10.10.306 does, however, allow these receipts to first be deposited to an interim depository account.);
6. **Petty cash funds for district use** (ARM 10.10.304(3)) - (ARM 10.10.306 allows a district petty cash account to be held in a depository outside the control of the county treasurer.);
7. **Sale of district supplies or equipment;**
8. **Lunch Monies** (ARM 10.10.306 does, however, allow these receipts to first be deposited to an interim depository account.);
9. **Reimbursements from insurance companies** – (vehicle glass repairs, district-owned housing, etc.)

A school district may not levy fees or charges for a course or activity for which credit may be applied toward graduation.

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However, if such collections are for fees or project supplies not required for graduation, then reasonable charges may be imposed. The nature of these fees or charges must be determined and collected in accordance with the provision of the AGO.

If any fees or charges originated from district sources, these collections must be deposited to the proper district fund.

**Transfers from District Funds:** The practice of making direct or lump sum payments to the extracurricular fund from the school district funds should be restricted – such transfers weaken internal control. A direct payment, rather than a transfer, will be permitted to reimburse the student activity fund if the claim against the general fund is properly authorized, completely documented and easily traced into the extracurricular fund records. For example, meal and motel costs for students and advisors may be paid from the student extracurricular fund and later reimbursed from the general fund upon filing a properly authorized claim.

ARM 10.10.304(6)

**Note:** All interim depository accounts should have -0- balances at fiscal year end. The activity of the interim account (receipts and disbursements) should NOT be reported in the extracurricular fund for year-end GAAP financial reporting. This overstates additions and deductions of the fiduciary funds. If the school district is audited, these interim depository accounts should be

removed from the supplemental schedule of extracurricular accounts, OR the extracurricular accounts may be reported intact, with the interim depository accounts subtracted from the total, to reconcile to the GAAP financial statement.

## **DEPOSITS AND INVESTMENTS**

Page 9 of *Student Activity Fund Accounting*

School districts maintaining student extracurricular activity funds may use a separate checking account or the county treasurer as a depository for student funds.

ARM 10.10.304(1)

**Investments:** Extracurricular funds are accumulated by students' assessments and activities and should be used for the specific purpose or purposes for which the charge was made. Except in rare instances, therefore, surplus moneys should not be allowed to accumulate. However, there is no reason why a fund account, being accumulated for a specific purpose, could not be invested until the money is needed.

Interest earned on such an investment may be either credited to a general operating account with the extracurricular fund to be used to offset expenses incurred in administering the fund OR distributed to the account from which the money was withdrawn for investment. Such distribution may be accomplished in several ways, so long as reasonable equity is achieved. For simplification, such distribution may be based on the cash balance in each contributing fund at the time the interest is received.

MCA 20-9-504

## **INVENTORY/CAPITAL ASSETS**

Pages 9 & 10 of *Student Activity Fund Accounting*

### **Capital Assets**

Items purchased by student activity clubs or functions that meet the district's capitalization policy should NOT be included in the district's capital assets but should instead be recorded in the extracurricular capital assets inventory, by extracurricular account.

If an organization outside the school system, such as a Booster Club, purchases a piece of equipment and donates it to the school, this becomes school district property and is subject the district's Inventory/Capital Asset Policy.

All pertinent information for tracking a particular item should be noted on the inventory - capital items should be numbered or tagged for identification, and cost, date of purchase, specific extracurricular account, etc. should be documented.

The fund custodian should have an inventory of all equipment on file and all such equipment should be accounted for periodically.

### **Supplies Held for Resale**

See “Concession Inventory” form in the Student Activity Forms Manual at <https://www.masbo.com/i4a/pages/index.cfm?pageid=3357>

Inventory records should be maintained for supplies held for resale (food for concessions, school supplies for sale to students, special tools, etc.). The Board of Trustees should place the responsibility for maintaining accurate supply records to specific individuals.

Each fund account sponsor and president and/or treasurer should maintain a running account of supplies at all times.

Each fund account sponsor should be responsible for conducting the inventory and forwarding copies of the inventory records to the fund custodian. The fund custodian should retain the copies of inventory records.

## **ACCOUNTABILITY FOR ADMISSION CHARGES**

Page 10 of *Student Activity Fund Accounting*

See “Ticket Taking Activity Form” in the Student Activity Forms Manual at <https://www.masbo.com/i4a/pages/index.cfm?pageid=3357>

The board of trustees must initiate and enforce a policy that will provide accountability for student activities in which admission is charged. To ensure accountability:

1. Pre-numbered colored strip tickets should be purchased and included in the stationery control. Each series of colored tickets should represent a price class and be sold only for that price.
2. Ticket numbers should be charged out to the sellers responsible for admission collections.
3. Each seller should be required to turn in a report containing the following information:
  - a. Number of tickets sold for each price class.
  - b. Amount of money collected for each class of ticket sold.
  - c. A reconciliation of the number of tickets sold with the amount of money collected.
  - d. Signature of the official approving the report.
4. Unused tickets should be turned back in and accounted for.
5. Tickets should not be torn off at the end of the event.

## **STUDENT/ADULT/FAMILY ACTIVITY PASSES**

Page 11 of *Student Activity Fund Accounting*

The board of trustees should develop a policy for the handling of activity pass sales. Approval should be made by the board by a formal minute entry every year to determine price and policies concerning these activity passes, and any adjustments to the original approval must be presented and approved by the board.

Pre-numbered activity passes must be acquired through the activities director's office, school business office or financial office at each school.

Pre-numbered activity passes must be accounted for through the financial stationery control records.

The selling and issuing of activity passes should be the responsibility of the fund custodian.

## **SCHOOL FUNDRAISERS (RAFFLES, BINGO, ETC.)**

### **Raffles**

**Note:** Per the Gambling Control Division of the Montana Department of Justice, Split Pot (50-50) drawings are a form of raffle.

See *Student Activity Fund Accounting*, pages 11 & 12, for laws related to Raffles, and see the *Student Activities Forms Manual* for a form for 50/50 Cash Prize Drawings -

<http://www.masbo.com/files/PUBLICATIONS/Student%20Activity%20Fund%20Accounting%20June%202013.pdf> and <https://www.masbo.com/i4a/pages/index.cfm?pageid=3357>

The proceeds from the sale of tickets for a raffle conducted by a school district may be used only for charitable purposes or to pay for prizes and may not be used for the administrative costs of conducting the raffle.

MCA 23-5-413(2)(c)

The sale of raffle tickets is restricted to events and participants within the geographic confines of the state. Nonprofit organizations may sell raffle tickets outside the state of Montana if the purchase is not prohibited in the jurisdiction in which the purchaser resides. Except raffles sponsored by nonprofit organizations, the sale of raffle tickets may not be conducted over the internet. All raffle announcements or advertisements conducted over the internet must include this sale restriction, the name of the organization offering the raffle, and all raffle terms.

Effective June 1, 2025: Except for a raffle sponsored by a nonprofit organization, college, university, or school district, the sale of raffle ticket may not be purchased with a credit card.

MCA 23-5-413(3)

A raffle sponsor must make all raffle terms available to the public prior to the sale of any raffle tickets. In all cases a raffle sponsor must establish and make available the date of the raffle drawing. Other raffle terms may include:

- (a) the name and contact information of the raffle sponsor;
- (b) persons eligible or ineligible to purchase tickets;

- (c) locations where sales are known to be prohibited;
- (d) cost of raffle tickets;
- (e) a complete description of the prize(s) and its value;
- (f) an estimated number of tickets to be sold which may be unlimited;
- (g) the date ticket sales close; and
- (h) the method of drawing winning ticket(s).

ARM 23.16.2602(1)

The following random selection processes are authorized for use in determining a winner of a raffle as defined in MCA 23-5-112:

- (a) a drawing from a drum or other receptacle containing raffle ticket stubs or other suitable indicators of the ticket purchaser's identity that have been thoroughly mixed before the drawing;
- (b) an approved 50/50 raffle electronic processing system containing a random number generator; and
- (c) selection by any other process if:
  - (i) the process is reasonably assured of being random and is not connected to an event that has its own intrinsic significance (e.g., a sports event, game of chance, contest); and
  - (ii) the indicator of the raffle ticket purchaser's identity reasonably assures the random selection of a winner.

ARM 23.16.2602(2)

Any raffle conducted by a public-school district must be publicly identified as a charitable raffle.

ARM 23.16.2602(3)

For each raffle conducted, the entity conducting the raffle shall maintain for a period of 12 months from the date of the raffle drawing, and provide to the Department of Justice (Gambling Control Division) upon request:

- a. a record of the total proceeds collected;
- b. a detailed description of the prize(s) awarded;
- c. a description of the selection process used to determine the winner(s);
- d. a record reflecting the source of the prize(s), including any money paid to purchase prizes;
- e. a record of any administrative costs paid with raffle proceeds;
- f. a description of how the raffle was publicly identified as a charitable raffle, where applicable;
- g. the name and address of the person(s) awarded raffle prize(s); and
- h. a detailed record of the distribution of the charitable raffle proceeds, where applicable.

ARM 23.16.2602(6)

### **Bingo – “Casino Night”**

If players have to pay to play bingo, it is a form of gambling that requires a license or permit from the State Department of Justice. Generally, the only places bingo can be played for money is a casino, bar, or senior citizens center. If a group wants to have a one-time fundraiser, they can apply for a “casino night” permit from the Gambling Control Division. A “casino night” is a fundraising event involving gambling activities (live card games, live bingo & keno, and raffles)

using imitation money. (**Note:** If the bingo is for entertainment and no money is paid to play, the game is considered a promotional game and can be conducted without a permit or a license.) Title 23, Chapter 5, Part 7; ARM 23.16.3101 to 3104

An application for a casino night permit must be received by the Gambling Control Division at least 10 working days before the proposed start of the event and must be accompanied by a \$25 permit fee.

ARM 23.16.3102

Application forms can be found at: <https://doj.mt.gov/gaming/forms/>

Within 30 days after a casino night is held, the school district shall submit to the Gambling Control Division a report (Form 12). Information to be included in the report can be found at ARM 23.16.3104.

## **STUDENT TRAVEL**

Pages 13-16 of *Student Activity Fund Accounting*

**Travel Authorization:** A request for travel authorization and funding must be prepared well in advance of the time the funds are needed.

The request should be submitted by the teacher, coach, faculty advisor or other person responsible for the activity trip and should be approved by the school principal and/or superintendent in accordance with policy established by the board.

Travel authorization forms should contain at least the following: date of request; date funds needed; destination and purpose of trip; estimated departure and return times; number of persons making trip; estimate of cash required; estimate of expenses; signature of person requesting authorization; signature approval of principal, superintendent, or designee; check number and date of payment; credit card or checkbooks issued; and signature of fund custodian.

The approved travel authorizations are to be submitted to the fund custodian to ascertain that sufficient funds are available and to prepare necessary financial arrangements.

Approved travel authorization forms should remain in a pending file until final accountability for the trip has been completed.

**Payment Options for Student Travel:** There is no single prescribed policy for the handling and recording of student travel expenditures. The policy adopted by the board should specify the method or methods to be used to pay travel expenses. Options include (1) credit cards; (2) procurement cards (P-cards); (3) open accounts with motels and restaurants, who will then bill the school directly; (4) per diem; and (5) cash advances. (**Note:** Another possible option is the use of a school checkbook.) These five options, and the procedures and suggested internal controls are discussed on pages 14 & 15 of *Student Activity Fund Accounting*.

**Final Accountability:** Regardless of the payment option used, a statement of final accountability must be submitted by the authorized trip sponsor promptly after the completion of the trip. Final accountability statements should include at least the following: date of final accountability; notation of advance funds received, if applicable (amount, date, & check number); complete listing of itemized expenditures paid, together with documentary evidence of payment; totals of cash or checks expended; notation and totals of credit card or open account expenses (if applicable); the amount returned to the fund custodian if advances received exceed documented expenditures (verified by fund custodian receipt number); the amount of additional reimbursement requested if travel expenses incurred exceed travel advances received (verified by fund custodian check number); signature of person completing final accountability statement (teacher, coach, faculty advisor, or other person responsible for trip); and signature of fund custodian to indicate that there has been an acceptable final accountability.

## **CONTROL OVER FINANCIAL STATIONERY**

Page 16 of *Student Activity Fund Accounting*

The board should designate an individual to maintain the financial stationery control over pre-numbered forms. The individual designated should not be involved in any other accounting function of the extracurricular fund.

The following pre-numbered forms should be entered in the stationery control when received from the printer: (1) fund custodian receipts, (2) subsidiary receipts issued by other than the fund custodian, (3) activity tickets, (4) gate admission tickets, (5) checks, and (6) any other pre-numbered financial form.

These pre-numbered forms will be issued to the fund custodian, teachers, or sponsors by the person designated to control stationery. The stationery control record will contain the numerical sequence of all forms (receipts, tickets, checks, etc.) issued to the individual. All prior stationery issued must be numerically accounted for before additional stationery is issued. (**Note:** All voided forms (damaged or otherwise) should be marked as voided in the register, and all copies retained for audit.

The individual receiving financial stationery must be required to sign or initial a withdrawal slip in order to verify the issuance of the forms.

## **CHANGE FUND**

Page 17 of *Student Activity Fund Accounting*

The board of trustees may authorize the establishment and use of a change fund for the making of change at athletic events, concessions, and other student activities. The board or its designee should determine the amount of change needed at the start of the school year. The preferred

method of establishing a change fund would be to issue a check against the bank control account, thereby reducing the cash in the bank account, and increasing the cash on hand account.

The cash in the change fund will be retained throughout the year and would then be redeposited to the bank account or county treasurer at the end of the school year.

The change fund will not be needed for reconciliation to the bank statement but will be needed for reconciliation of total cash (total cash = checking accounts, investments, and cash on hand) to the total of all individual fund account balances.

A receipt should NOT be issued for the redeposit of a change fund, as this overstates “revenue”. The establishment and redeposit of a change fund should not affect revenues or expenditures of the extracurricular fund.

## **RECEIPTING & DEPOSITING**

Pages 18-22 of *Student Activity Fund Accounting*

### **Receipts**

Fund custodian receipts and subsidiary receipts (pre-numbered) must be issued immediately upon each collection. Checks should be endorsed with a “for deposit only” stamp immediately upon receipt.

#### **Fund Custodian Receipts:**

The pre-numbered receipts must consist of the original and one copy. The duplicate copy should be retained by the fund custodian in numerical order and used as a source document for posting to the register.

Receipts should contain (1) date receipt issued; (2) payer (sponsor or student paying money to fund custodian); (3) dollar amount received; (4) purpose or source of collection; (5) designated fund or funds to which the cash is to be deposited; and (6) fund custodian’s signature. If the receipt is being written for a subsidiary deposit, the report form prepared by the subsidiary depositor (see below) should be attached.

#### **Subsidiary Receipts:**

Each collector must be issued pre-numbered receipts and be held responsible for these receipts through established stationery control procedures

These receipts should contain the same information as the fund custodian receipts, above (with the exception of the fund custodian’s signature).

A report form of some type should accompany each deposit of subsidiary collections to the fund custodian. The report form should contain (1) the subsidiary receipt numbers included in the deposit; (2) the total money collected, and (3) the signature of person making the deposit.

Collections must be deposited promptly with the fund custodian. A policy should be established for the timing of deposits (i.e., weekly, or the day after the day of collection).

### **Deposits**

Fund custodian collections should be deposited regularly to the bank account - the frequency of the deposits should be determined and set by policy. The frequency of deposits will be dependent on certain conditions (see page 19 of *Student Activity Fund Accounting*), but on the closing day of each month, all cash remaining on the hand should be deposited (with the exception of the change fund, which will usually remain on hand until the end of the school year).

Receipts should be deposited intact. (Deposit slips must show the receipt numbers that, when totaled, correlate with the deposited amount.)

### **Cashing Checks from Cash on Hand**

The cashing of personal checks, extracurricular fund checks, or school district warrants from undeposited cash on hand (including the change fund) should be *absolutely prohibited*.

### **Entering Receipts to Register**

The entering of receipt documents to the register may be performed by one of two methods:

- (1) Each receipt number is entered individually to the register in numerical sequence. The amount of each receipt document is entered to the receipt columns of both the individual fund account and the cash control account. OR
- (2) The receipt documents may be “batched” for entry to the register. However, each “batch” must coincide with a receipt entry to the cash control column and be deposited intact. The amounts of each “batch” will also be entered to the appropriate columns of the individual fund accounts.

A summary must be prepared and attached to the receipt documents showing the receipt numbers included, a breakdown of individual fund accounts and the amount for each fund.

Voided receipt documents should be listed, marked as “void” in the register, and all copies retained for audit.

Canceled or voided checks, which have been previously recorded in the register, should be reflected by an adjusting entry of the fund custodian. The check number and reason for cancellation or voiding should be noted. The adjustment should be entered to the individual account or accounts that the check was originally drawn against and to the bank control account. The canceled or voided checks will then be deleted from the listing of outstanding checks.

**Monthly:** Receipt documents must be entered to the register on a timely basis, at least monthly. All receipt columns of the register must be totaled monthly. Totals of individual fund account receipts are to be entered to the appropriate receipt column of the monthly report to the board of trustees.

Receipts deposited to the extracurricular fund bank account should be entered to the register by recording: (1) the date of the deposit and (2) the inclusive number of receipts being deposited.

The amount of money deposited should be recorded as an entry increasing the bank control account and decreasing the cash control account.

### **NSF Checks**

It is strongly recommended that the board have a policy dealing with NSF checks. (See sample NSF policy in *Student Activity Fund Accounting*, page 22)

Checks which have been deposited by the fund custodian and are later returned by the bank as being NSF are to be carried as cash items on hand, for reconciling purposes, until accepted by the bank, replaced, or written off.

The fund custodian should notify the author of the check and attempt to make collection – preferably require the check to be paid in cash. (If the check is denied twice by the bank, the only remedy is to go to collection.) The cash should be re-deposited on a separate deposit slip.

If NSF checks are determined to be uncollectible, the fund custodian should seek collection assistance from the county attorney.

If all collection attempts fail, the fund custodian should notify the board of trustees and request authorization for cancellation. The notification should include: (1) date of check; (2) author of check; (3) \$ amount; (4) purpose of check; (5) fund account check was received into; and (6) cancellation authorization by the board.

If the board authorizes cancellation of an NSF check, entries should be made in the bookkeeping register to reduce the cash control receipt balance and the receipt balance of the individual fund account(s) involved.

The record of cancellation authorization must be maintained by the fund custodian.

## **INTRA-FUND TRANSFERS**

Pages 20 & 21 of *Student Activity Fund Accounting*

A transfer of money from one student fund account to another is allowed only when such transfer is justifiable and supported by proper authorization.

All transfers made must be recorded on a transfer request form. The transfer form should contain provisions for the following:

1. Name of school, date, and space for transfer number
2. Reason for transfer
3. Amount of funds to be transferred
4. Name of fund accounts affected
5. Approval of fund account sponsor, president or treasurer
6. Approval by the designee of the board (Normally the fund administrator, who would be the school principal or superintendent)

## 7. Posting verification and reference by the fund custodian

See a sample “Transfer Request and Authorization” form in the *Student Activities Forms Manual* at: <https://www.masbo.com/i4a/pages/index.cfm?pageid=3357>

Approved transfer requests should be submitted to the fund custodian who will then assign a number to the transfer request.

The fund custodian will enter the approved transfer in the register by entering (1) the date of transfer; (2) a brief description of reason for the transfer; and (3) the transfer number. Appropriate entries should be made to increase and decrease the amounts of the individual fund accounts involved. After entering the transfer document to the register, the fund custodian should retain and file the original transfer requests in numerical order.

## **DISBURSING**

Pages 23-25 of *Student Activity Fund Accounting*

### **Disbursement Method**

All extracurricular fund disbursements must initiate with and be authorized by representatives of the fund account to which the disbursement will be charged.

The board of trustees must include in the extracurricular fund policy guidelines the disbursement method which the district will adopt. Two acceptable methods are discussed in *Student Activity Fund Accounting*:

Method “A” for smaller districts - involves the use of a single-copy disbursement authorization. Following payment, the fund custodian should indicate the check number and date of payment on the disbursement authorization and file it with the invoice attached.

Method “B” for larger districts - involves the use of a triplicate-copy requisition/purchase order (PO). The original copy is distributed to the vendor while the duplicate and triplicate copies are distributed to the fund custodian and fund account treasurer, respectively. Following payment, the fund custodian should indicate the check number and date of payment on the duplicate copy of requisition/PO and file it with the invoice attached.

Both of these methods involve essentially the same process. Both methods require that expenditures be authorized with signatures of the fund account sponsor and the fund account president or treasurer, and both require that the fund custodian verify that funds are available for the disbursement.

### **Invoices and Checks**

**Invoices:** (1) All invoices must be matched up and attached to the disbursement authorization or requisition/PO; (2) Receipt of goods must be verified and documented; and (3) All invoices must be checked for arithmetic accuracy by the fund custodian before payment is made.

**Checks:** All checks must contain the information listed on page 24 of *Student Activity Fund Accounting* – including **dual signature** (fund custodian, superintendent, principal, board chair, or secretary clerk – per board of trustees’ disbursement policy). The check or check stub should indicate the fund account(s) to which disbursement is to be charged.

The check number and date of check should be entered on the lower portion of the disbursement authorization or requisition/PO retained by the fund custodian.

No checks should be made payable to cash or to those people who are in charge of the fund accounts.

No checks should be issued from one fund account to another fund account. Such transactions should be handled as intra-fund transfers.

All disbursements should be made by check. No disbursements should be made from available cash on hand.

### **Entering Checks to Register**

All checks issued must be entered, on a regular basis, to the register individually and in numerical sequence. The amount of each check should be entered to the disbursement column of both the individual fund account and bank control account.

All voided checks must be accounted for and available for audit.

**Monthly:** All disbursement columns of the register must be totaled monthly. Totals of individual fund account disbursements should be entered to the appropriate disbursement columns of the monthly report to the board of trustees.

Bank service charges, check printing costs and bank overdraft charges must be entered as disbursements in the register by means of adjusting entries (reducing both the bank control account and designated individual fund account). The fund account(s) charged for the costs should be pre-determined and designated by the fund administrator.

### **District Expenditures**

Cash balances in the extracurricular fund may not be loaned to other district funds, may not be used to finance district expenditures for purposes other than student extracurricular activities, and may not be used as a convenience to pay the district’s liabilities pending reimbursement from the appropriate district fund, except when student extracurricular expenditures are subsidized by the general fund.

ARM 10.10.304(4)

### **Cancellation of Checks**

The board of trustees must approve all cancelled or voided checks.

If a check, previously recorded as a disbursement in the register, is cancelled or voided for any reason, that fact should be reflected by an adjusting entry to the register (both the general register and the individual account or accounts that the check was originally drawn against.) The check number and reason for cancellation or voiding should be noted, and the canceled or voided check should be deleted from the listing of outstanding checks.

Outstanding checks can be cancelled after one year of date of issue. Although the warrant may be canceled after one year, it appears the obligation is not terminated until after 6 years, the time (statute of limitations) specified by MCA 27-2-202(1).  
AGO #1, Vol. 21 1945

## **PAYROLL**

Page 8 of *Student Activity Fund Accounting*

The board of trustees should have a policy to handle payroll expenses paid from the extracurricular fund. *Student Activity Fund Accounting* recommends that all payroll costs be handled through the general funds. Most schools incur some costs for the extracurricular programs in the general fund, and payroll costs would be a logical expense because districts are set up for payroll and payroll deductions.

As an option, districts may establish a Student Extracurricular Fund (84) in the district's computer system. Instead of issuing district warrants, student activity fund checks are issued by the business office or at each school building for later input into the district's computer system. During the month, the student activity fund payroll is charged against Fund 84 like any other fund. At the end of the month, a check is drawn on the student activity fund and deposited to the Payroll Fund to cover the student activity fund payroll for the month. This method allows the district to prepare 1099's and W-2's easily, including payments from both district and student activity funds."

1099's should not be issued to district employees who perform work related to student activities. W-2's should include all wages paid to employees of the district.

## **FILING OF DOCUMENTS**

Pages 25 & 26 of *Student Activity Fund Accounting*

**Invoices and disbursement authorizations or requisitions/POs** should be attached together and filed by one of the following methods:

**By Fund Account:** An individual file folder may be made for each fund account, containing all disbursement documentation for that fund for the fiscal year in chronological order.

**By Check Number:** All disbursement documentation may be filed in the numerical order of checks issued.

**By Vendor:** A file folder may be established for each vendor, containing all disbursement documentation for that vendor for the fiscal year in chronological order.

**Intra-fund Transfers and Receipts** should be filed in numerical order by fiscal year.

**Monthly reports to the board** should be filed by month, by fiscal year.

All other documentation should be filed together by fiscal year.

## **MONTHLY RECONCILIATION AND REPORT TO BOARD**

Pages 26 & 27 of *Student Activity Fund Accounting*

Each month-end, the fund custodian will have the responsibility of reconciling the combined total of all individual fund account balances to the combined total of the cash and bank control account balances. Reports of this reconciliation and fund activity must be presented to the board of trustees for their review.

The monthly report to the trustees should consist of the following:

**Statement of receipts, disbursements & fund balance** for the extracurricular fund in total and for each fund account. This statement should include the beginning monthly balance, receipts, disbursements, inter-fund transfers, and ending monthly balance of each fund account. The report should include the initials of each fund account sponsor and president and/or treasurer acknowledging that the report for each fund account is correct. The report should also be signed by the fund custodian and approved by the board chair.

**Monthly bank and fund reconciliation.** This reconciliation should include (1) the name of the bank and amount shown on the bank statement, (2) a listing of investments, if applicable, (3) deposits in transit, outstanding checks, bank service charges not yet entered in the register, and the reconciled bank balance, (4) cash on hand, and (5) the total fund reconciliation.

**Schedule of transfers between fund accounts.** This schedule should include, for each inter-fund transfer made during the month, the transfer number, the amount, the paying account, the receiving account, and the authorization.

## **DESTRUCTION OF RECORDS**

Page 28 of *Student Activity Fund Accounting*

For more information on records retention schedules and records disposal procedures, go to:  
<https://sosmt.gov/records/local/>

Upon the order of the board of trustees, a school officer may destroy records that have met the retention period, per the local government records retention and disposition schedules, and, with written approval of the local government records destruction subcommittee provided for in 2-6-403, any records not referenced in the retention and disposition schedule that are no longer needed by the office.

MCA 20-1-212

A records retention and disposition schedule adopted for school districts can be found on page 33 of *Student Activity Fund Accounting*.

### **ANNUAL REPORTING – TRUSTEES’ FINANCIAL SUMMARY (TFS)**

School districts should report all the financial activity relating to student extracurricular activity funds on the Trustees’ Financial Summary, within Fund 84, a trust fund.

ARM 10.10.304

**Note:** All interim depository accounts should have -0- balances at fiscal yearend. The activity of the interim account (receipts and disbursements) should NOT be reported in the extracurricular fund for GAAP yearend financial reporting. This overstates additions and deductions of the fiduciary funds.