

## 1 SENATE BILL NO. 92

2 INTRODUCED BY D. RYAN

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT MINIMIZING THE EFFECT OF DECLINING ENROLLMENT ON A  
6 SCHOOL DISTRICT'S GENERAL FUND BUDGET BY CALCULATING A DISTRICT'S BASIC AND TOTAL  
7 PER-ANB ENTITLEMENTS USING EITHER THE CURRENT AVERAGE NUMBER BELONGING OR THE  
8 AVERAGE NUMBER BELONGING CALCULATED OVER A 3-YEAR PERIOD; AMENDING SECTIONS  
9 20-5-323, 20-7-102, 20-9-306, 20-9-311, AND 20-9-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
10 DATE AND A DELAYED APPLICABILITY DATE."  
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13

14 **Section 1.** Section 20-5-323, MCA, is amended to read:

15 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5),  
16 whenever a child has approval to attend a school outside of the child's district of residence under the provisions  
17 of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the  
18 per-ANB maximum rate established in 20-9-306 for the year of attendance.

19 (2) The tuition for a child with a disability must be determined under rules adopted by the superintendent  
20 of public instruction for the calculation of tuition for special education pupils.

21 (3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student  
22 without disabilities who requires a program with costs that exceed the average district costs must be determined  
23 as the actual individual costs of providing that program according to the following:

24 (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall  
25 approve an agreement with the district of attendance for the tuition cost;

26 (b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306~~(10)~~(11),  
27 received in the year for which the tuition charges are calculated must be subtracted from the per-student  
28 program costs for a Montana resident student; and

29 (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

30 (4) When a child attends a public school of another state or province, the amount of daily tuition may

1 not be greater than the average annual cost for each student in the child's district of residence. This calculation  
 2 for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the  
 3 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal  
 4 year. For the purposes of this subsection, the following do not apply:

- 5 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;
- 6 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;
- 7 (c) an order issued under Title 40, chapter 4, part 2; or
- 8 (d) out-of-state placement by a state agency.
- 9 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency  
 10 making the placement is responsible for the education costs resulting from the placement.

11 (6) The amount, if any, charged for transportation may not exceed the lesser of the average  
 12 transportation cost for each student in the child's district of residence or 25 cents a mile. The average  
 13 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by  
 14 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."  
 15

16 **Section 2.** Section 20-7-102, MCA, is amended to read:

17 **"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each  
 18 middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school  
 19 operates must be reviewed by the superintendent of public instruction to determine compliance with the  
 20 standards of accreditation. The accreditation status of every school must then be established by the board of  
 21 public education upon the recommendation of the superintendent of public instruction. Notification of the  
 22 accreditation status for the applicable school year or years must be given to each district by the superintendent  
 23 of public instruction.

24 (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that  
 25 multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.

26 (3) A nonpublic school may, through its governing body, request that the board of public education  
 27 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

28 (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary  
 29 school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in  
 30 20-9-306(10)(e)(i)(11)(c)(ii)."

- 1
- 2       **Section 3.** Section 20-9-306, MCA, is amended to read:
- 3       **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
- 4 definitions apply:
- 5       (1) "BASE" means base amount for school equity.
- 6       (2) "BASE aid" means:
- 7       (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the
- 8 general fund budget of a district; and
- 9       (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,
- 10 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and up to 40%
- 11 of the special education allowable cost payment.
- 12       (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the
- 13 basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost
- 14 payment.
- 15       (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
- 16 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
- 17 20-9-369.
- 18       (5) "BASE funding program" means the state program for the equitable distribution of the state's share
- 19 of the cost of Montana's basic system of public elementary schools and high schools, through county
- 20 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in
- 21 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.
- 22       (6) "Basic entitlement" means:
- 23       (a) \$213,819 for each high school district;
- 24       (b) \$19,244 for each elementary school district or K-12 district elementary program without an approved
- 25 and accredited junior high school or middle school; and
- 26       (c) the prorated entitlement for each elementary school district or K-12 district elementary program with
- 27 an approved and accredited junior high school or middle school, calculated as follows, using either ANB or
- 28 3-year ANB, as provided in 20-9-311, whichever results in the greater entitlement:
- 29       (i) \$19,244 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten
- 30 through grade 8; plus

1 (ii) \$213,819 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade  
2 8.

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

5 ~~(7)~~(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB  
6 entitlement for the general fund budget of a district and funded with state and county equalization aid.

7 ~~(8)~~(9) "Maximum general fund budget" means a district's general fund budget amount calculated from  
8 the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

9 (a) 175% of special education allowable cost payments; or

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

13 ~~(9)~~(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted  
14 that is above the BASE budget and below the maximum general fund budget for a district.

15 ~~(10)~~(11) "Total per-ANB entitlement" means the district entitlement resulting from the following  
16 calculations, using either ANB or 3-year ANB, as provided in 20-9-311, whichever results in the greater  
17 entitlement:

18 (a) for a high school district or a K-12 district high school program, a maximum rate of \$5,205 for the  
19 first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800  
20 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

21 (b) for an elementary school district or a K-12 district elementary program without an approved and  
22 accredited junior high school or middle school, a maximum rate of \$3,906 for the first ANB is decreased at the  
23 rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess  
24 of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

25 (c) for an elementary school district or a K-12 district elementary program with an approved and  
26 accredited junior high school or middle school, the sum of:

27 (i) a maximum rate of \$3,906 for the first ANB for kindergarten through grade 6 is decreased at the rate  
28 of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving  
29 the same amount of entitlement as the 1,000th ANB; and

30 (ii) a maximum rate of \$5,205 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents

1 per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800  
 2 receiving the same amount of entitlement as the 800th ANB."

3

4 **Section 4.** Section 20-9-311, MCA, is amended to read:

5 **"20-9-311. Calculation of average number belonging (ANB) and three-year ANB.** (1) Average  
 6 number belonging (ANB) must be computed for each budget unit as follows:

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

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

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

15 (3) When a school district has approval to operate less than 180 school days under 20-9-806, the total  
 16 ANB must be calculated in accordance with the provisions of 20-9-805.

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

19 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment  
 20 at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be  
 21 counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for  
 22 each kindergarten pupil.

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

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

28 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
 29 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
 30 district, except that the ANB is calculated as a separate budget unit when:

1 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or  
2 town located in the district and at least 20 miles from any other school of the district, the number of regularly  
3 enrolled, full-time pupils of the school must be calculated ~~separately~~ as a separate budget unit for ANB purposes  
4 and the district must receive a basic entitlement for the school calculated separately from the other schools of  
5 the district;

6 (ii) a school of the district is located more than 20 miles from any other school of the district and  
7 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school  
8 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
9 calculated separately from the other schools of the district;

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

16 (iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205,  
17 or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317,  
18 or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic  
19 entitlements of the component districts must be calculated separately for a period of 3 years following the  
20 consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years  
21 as follows:

- 22 (A) 75% of the basic entitlement for the fourth year;  
23 (B) 50% of the basic entitlement for the fifth year; and  
24 (C) 25% of the basic entitlement for the sixth year.

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

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

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

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

8 (10) The term "3-year ANB" means an average of ANB over the most recent 3-year period, calculated  
9 for each budget unit by:

10 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the  
11 previous 2 school fiscal years; and

12 (b) dividing the sum calculated under subsection (10)(a) by three.

13 (11) After calculating and comparing a district's basic entitlement and total per-ANB entitlement using  
14 the current year ANB and the 3-year ANB, the method of ANB calculation that results in the greater entitlement  
15 must be used for general fund budgeting and funding purposes."

16

17 **Section 5.** Section 20-9-314, MCA, is amended to read:

18 **"20-9-314. Procedures for determining eligibility and amount of increased average number**  
19 **belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment  
20 in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its basic entitlement and total  
21 per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

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

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

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

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

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

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

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

4 (3) The superintendent of public instruction shall immediately review all the factors of the application  
5 and shall approve or disapprove the application or adjust the estimated average number belonging for the  
6 ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of  
7 public instruction shall:

8 (a) determine the percentage increase by which the estimated enrollment ~~increase~~ exceeds the ~~current~~  
9 enrollment used for determining the 3-year ANB, as provided in 20-9-311; and

10 (b) approve an increase of the average number belonging used to establish the ensuing year's basic  
11 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a)  
12 is at least 6%.

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

15 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,  
16 the ~~increase of the~~ average number belonging used to establish the basic entitlement and total per-ANB  
17 entitlement for the ensuing ANB calculation period is ~~the difference between the~~ determined using the estimated  
18 enrollment for the ensuing school fiscal year and ~~106% of the current enrollment. The amount determined is the~~  
19 ~~maximum allowable increase added to the average number belonging for the purpose of establishing the~~  
20 ~~ensuing year's basic entitlement and total per-ANB entitlement~~ 6% of the enrollment for the 3-year ANB, as  
21 provided in 20-9-311.

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

24 (b) If the actual enrollment is less than ~~the average number belonging used for BASE funding program~~  
25 ~~and entitlement calculations~~ the estimated enrollment under subsection (2)(d), the superintendent of public  
26 instruction shall revise the ANB used to establish the total per-ANB entitlement and basic entitlement  
27 calculations, using the actual average number belonging enrollment for the ensuing school fiscal year minus 6%  
28 of the enrollment used to calculate the 3-year ANB, as provided in 20-9-311.

29 (c) All total per-ANB entitlements and basic entitlements received by the district in excess of the revised  
30 entitlements calculated in subsection (6)(b) are overpayments subject to the refund provisions of 20-9-344(4)."

