

1 SENATE BILL NO. 425

2 INTRODUCED BY J. ESSMANN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FUNDING AND
 5 ADMINISTRATION LAWS; REQUIRING DISTRICTS THAT ARE CONSIDERING CONSOLIDATION TO
 6 COMPLETE 2 SCHOOL FISCAL YEARS OF JOINT OPERATION BEFORE INITIATING A CONSOLIDATION
 7 PROPOSITION; REQUIRING THAT A SCHOOL DISTRICT CONSOLIDATION PROPOSITION THAT IS
 8 APPROVED BE ACCOMPANIED BY AN AGREEMENT THAT IS BINDING FOR UP TO 20 YEARS;
 9 ESTABLISHING CRITERIA FOR REMOTE HIGH SCHOOL STATUS; REQUIRING THAT A DISTRICT THAT
 10 SUCCESSFULLY APPLIES FOR REMOTE STATUS FOR A HIGH SCHOOL RECEIVE AN INCREASE IN ITS
 11 BASE BUDGET AND THE AUTHORITY TO EXCEED ITS OVER-BASE BUDGET; ALLOWING DISTRICTS
 12 WITH HIGH SCHOOLS THAT ATTAIN REMOTE HIGH SCHOOL STATUS AS A RESULT OF CONSOLIDATION
 13 TO PERMANENTLY RETAIN 25% OF THE BASIC ENTITLEMENT BEGINNING THE SIXTH YEAR AFTER
 14 CONSOLIDATING; AMENDING SECTIONS 20-6-423, 20-9-302, 20-9-303, AND 20-9-311, MCA; AND
 15 PROVIDING AN EFFECTIVE DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
 19 **Section 1.** Section 20-6-423, MCA, is amended to read:
 20 **"20-6-423. District consolidation.** (1) Any two or more contiguous elementary school districts may
 21 consolidate to organize an elementary district. Any two or more contiguous high school districts may be
 22 consolidated to organize a high school district. Any two or more contiguous K-12 school districts may be
 23 consolidated to organize a K-12 school district. The consolidation must be conducted as provided in this section.
 24 A consolidation proposition that is approved must be accompanied by a binding agreement addressing the terms
 25 and conditions of the consolidation negotiated between the school districts participating in the consolidation. The
 26 agreement is binding on all participating school districts for a period of up to 20 years. A consolidation proposition
 27 may not be considered further without an agreement.
 28 (2) (a) Before a consolidation can occur under this section, the districts considering consolidation shall
 29 enter into a multi-district agreement to jointly operate and maintain the participating school districts pursuant to
 30 the requirements of 20-3-363. Upon completion of 2 full school fiscal years of operation under the agreement,

1 a consolidation proposition may be introduced, individually, in each of the districts by either of the two following
2 methods:

3 (i) the trustees may pass a resolution requesting the county superintendent of the county where the
4 district is located to order an election to consider a consolidation proposition involving their district; or

5 (ii) not less than 20% of the electors of an individual district who are qualified to vote under the provisions
6 of 20-20-301 may petition the county superintendent of the county where the district is located requesting an
7 election to consider a consolidation proposition involving their district.

8 (b) The resolution or petition must state whether the consolidation is to be made with or without the joint
9 assumption of the bonded indebtedness of each district by all districts included in the consolidation. The
10 resolution or petition from each district must agree on whether or not there will be joint assumption of bonded
11 indebtedness. Without agreement, the consolidation proposition may not be considered further.

12 (3) When a county superintendent has received a resolution or a valid petition from each of the districts
13 included in the consolidation proposition, the county superintendent shall, within 10 days after the receipt of the
14 last resolution or petition and as provided by 20-20-201, order the trustees of each district included in the
15 consolidation proposition to call a consolidation election to be held no later than December 31 preceding the
16 school year in which the consolidation is to become effective. If the districts involved in the consolidation
17 proposition are located in more than one county, the county superintendents in both counties shall jointly order
18 the district to call a consolidation election.

19 (4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for
20 school elections and subject to additional requirements of subsections (5) and (6). Any elector qualified to vote
21 under the provisions of 20-20-301 may vote.

22 (5) (a) If the districts to be consolidated are to jointly assume the bonded indebtedness of each district
23 involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR consolidation
24 with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded
25 indebtedness".

26 (b) When the trustees in each district conducting an election canvass the vote under the provisions of
27 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

28 (c) The proposition is approved in the district if a majority of those voting approve the proposition.

29 (6) If the districts to be consolidated are not to jointly assume the bonded indebtedness of each district
30 involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR consolidation

1 without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded
 2 indebtedness". The consolidation proposition is approved by a district if a majority of those voting in a district
 3 approve the proposition. Otherwise it is disapproved.

4 (7) (a) After the county superintendent of each county where a district involved in the consolidation
 5 proposition is located has received the election certification provided for in 20-20-416 from the trustees of each
 6 district included in a consolidation proposition, the appropriate county superintendent shall determine if the
 7 consolidation proposition has been approved in each district. If each district has approved the consolidation
 8 proposition, each county superintendent shall, within 10 days after the receipt of the last election certificate, order
 9 the consolidation of the districts effective July 1 of the ensuing school fiscal year. The order must:

10 (i) for consolidation with the joint assumption of bonded indebtedness, specify that there will be joint
 11 assumption of bonded indebtedness between the owners of all taxable real and personal property in each district
 12 forming the consolidated district;

13 (ii) specify the number of the consolidated district; and

14 (iii) establish an interim board of trustees for the consolidated district as provided in 20-6-424. The
 15 trustees shall serve until their successors are elected at the next succeeding regular school election and qualified.

16 (b) Each county superintendent shall send a copy of the order to the board of county commissioners of
 17 each county where a district involved in the consolidation proposition is located and to the trustees of each district
 18 incorporated in the consolidation order.

19 (8) If any district included in the consolidation proposition disapproves the consolidation proposition, the
 20 consolidation of all districts fails and the appropriate county superintendent shall notify each district of the
 21 disapproval of the consolidation proposition."

22

23 **Section 2.** Section 20-9-302, MCA, is amended to read:

24 **"20-9-302. ~~School isolation~~ ANB criteria for isolated elementary and high school -- distance**
 25 **criteria for remote high school -- increase in BASE budget elements -- authority to exceed over-BASE**

26 **budget.** (1) Except as provided in 20-6-502(4)(b), the trustees of any district operating an elementary school of
 27 less than 10 ANB or a high school of less than 25 ANB for 2 consecutive years shall apply to have the school
 28 classified as an isolated school. The application must be submitted by the trustees to the county superintendent
 29 by May 1 of the second consecutive year that enrollment falls below the amount specified in this subsection. The
 30 application must include:

1 (a) the name of each pupil who will attend the school during the ensuing school fiscal year with the
2 distance the pupil resides from the nearest county road or highway;

3 (b) a description of conditions affecting transportation such as poor roads, mountains, rivers, or other
4 obstacles to travel, the distance the school is from the nearest open school having room and facilities for the
5 pupils of the school, or any other condition that would result in an unusual hardship to the pupils of the school
6 if they were transported to another school; and

7 (c) any other information prescribed by the superintendent of public instruction.

8 (2) The county superintendent shall submit the ~~applications~~ application to the board of county
9 commissioners for their consideration on or before May 15. The board shall approve or disapprove the application
10 on the basis of the criteria established by the superintendent of public instruction. The board may approve an
11 application because of the existence of other conditions which would result in an unusual hardship to the pupils
12 of the school if they were transported to another school.

13 (3) When an application is approved, the county superintendent shall submit the application to the
14 superintendent of public instruction before June 1. The superintendent of public instruction shall approve or
15 disapprove the application for isolated classification by the fourth Monday of June on the basis of the information
16 supplied by the application or objective information the superintendent of public instruction may collect on the
17 superintendent's own initiative. An elementary or high school may not be considered an isolated school until the
18 approval of the superintendent of public instruction has been received.

19 (4) (a) The trustees of a district operating a high school that qualifies under the provisions of subsection
20 (4)(b) may apply to have the school classified as a remote high school.

21 (b) A remote high school is a high school:

22 (i) that is more than 30 miles by all-weather road from the nearest high school; and

23 (ii) that, if closed, would require more than 50% of its students to travel more than 1 hour by bus to reach
24 the alternative school closest to their homes; and

25 (iii) that is more than 1 hour, driving at 5 miles per hour below the posted speed limit, from a community
26 with a population of 30,000 or more.

27 (c) The trustees' application for a remote high school designation must document the distances and
28 times required in subsection (4)(b) and the application must be approved through the process provided in
29 subsections (1) through (3).

30 (d) A district that obtains a remote high school designation for a high school and that does not have

1 access to nonlevy revenue in excess of 25% of its maximum general fund budget must receive:
 2 (i) a 25% increase in its BASE budget as defined in 20-9-306(3); and
 3 (ii) permanent authority to exceed its over-BASE budget subject to the approval of the qualified voters
 4 of the district as provided in 20-9-353."

5
 6 **Section 3.** Section 20-9-303, MCA, is amended to read:
 7 **"20-9-303. Nonisolated school BASE budget funding -- special education funds.** (1) An elementary
 8 school that has an ANB of nine or fewer pupils for 2 consecutive years and that is not approved as an isolated
 9 school under the provisions of 20-9-302(1) through (3) may budget and spend the BASE budget amount, but the
 10 county and state shall provide one-half of the direct state aid, and the district shall finance the remaining one-half
 11 of the direct state aid by a tax levied on the property of the district. When a school of nine or fewer pupils is
 12 approved as isolated under the provisions of 20-9-302(1) through (3), the county and state shall participate in the
 13 financing of the total amount of the direct state aid.

14 (2) Funds provided to support the special education program may be expended only for special
 15 education purposes as approved by the superintendent of public instruction in accordance with the special
 16 education budgeting provisions of this title. Expenditures for special education must be accounted for separately
 17 from and in addition to the balance of the school district general fund budgeting requirements provided in
 18 20-9-308. The amount of the special education allowable cost payments that is not matched with district funds,
 19 as required in 20-9-321, will reduce by a like amount the district's ensuing year's allowable cost payment for
 20 special education."

21
 22 **Section 4.** Section 20-9-311, MCA, is amended to read:
 23 **"20-9-311. Calculation of average number belonging (ANB) -- ~~three-year~~ 3-year averaging.** (1)
 24 Average number belonging (ANB) must be computed for each budget unit as follows:
 25 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
 26 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
 27 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
 28 divide the sum by two; and
 29 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
 30 pupil-instruction-related days for the current school fiscal year and divide by 180.

- 1 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related
2 days may be included in the calculation.
- 3 (3) When a school district has approval to operate less than the minimum aggregate hours under
4 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.
- 5 (4) (a) For the purpose of calculating ANB, enrollment in an education program:
6 (i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time
7 enrollment;
8 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
9 enrollment;
10 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
11 enrollment; and
12 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.
- 13 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
14 school year may not be included for purposes of ANB.
- 15 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
16 the hours necessary and appropriate to provide the course within a regular classroom schedule.
- 17 (d) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school,
18 program, or district may not be counted as more than one full-time pupil for ANB purposes.
- 19 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state
20 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
21 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the
22 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten
23 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for
24 districts offering full-time kindergarten.
- 25 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
26 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
27 attendance prior to the day of the enrollment count.
- 28 (7) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB
29 calculations.
- 30 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a

1 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
2 district, except that the ANB is calculated as a separate budget unit when:

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

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

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

17 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB
18 and the basic entitlements of the component districts must be calculated separately for a period of 3 years
19 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3
20 additional years as follows:

21 (A) 75% of the basic entitlement for the fourth year;

22 (B) 50% of the basic entitlement for the fifth year; and

23 (C) 25% of the basic entitlement for the sixth year, except that districts that contain a high school that
24 qualifies as a remote high school under 20-9-302(4) as a result of consolidation must receive 25% of the basic
25 entitlement for the sixth year and each subsequent school year.

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

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

1 school pupils for ANB purposes; or

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

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

9 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
10 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
11 only if the pupil is offered access to the complete range of educational services for the basic education program
12 required by the accreditation standards adopted by the board of public education.

13 (b) Access to school programs and services for a student placed by the trustees in a private program
14 for special education may be limited to the programs and services specified in an approved individual education
15 plan supervised by the district.

16 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
17 youth detention center, may be limited to the programs and services provided by the district at district expense
18 under an agreement with the incarcerating facility.

19 (d) This subsection (10) may not be construed to require a school district to offer access to activities
20 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
21 pupil who is not otherwise eligible under the rules of the organization.

22 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this
23 title and who is:

24 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
25 agreement and who is attending a school of the district;

26 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
27 individualized educational services supervised by the district, at district expense, at a home or facility that does
28 not offer an educational program;

29 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
30 center, and who is receiving individualized educational services supervised by the district, at district expense, at

1 a home or facility that does not offer an educational program;

2 (d) receiving special education and related services, other than day treatment, under a placement by the
3 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
4 expense under an approved individual education plan supervised by the district;

5 (e) participating in the running start program at district expense under 20-9-706;

6 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
7 a private residential program or private residential facility licensed by the department of public health and human
8 services;

9 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
10 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
11 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
12 instructional setting with the approval of the trustees of the district. The pupil shall:

13 (i) meet the residency requirements for that district as provided in 1-1-215;

14 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
15 Education Act or under 29 U.S.C. 794; or

16 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

17 (h) a resident of the district attending the Montana youth challenge program or a Montana job corps
18 program under an interlocal agreement with the district under 20-9-707.

19 (12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge
20 program participant as half-time enrollment.

21 (13) (a) For an elementary or high school district that has been in existence for 3 years or more, the
22 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
23 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
24 generates the greatest maximum general fund budget.

25 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
26 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
27 high school programs pursuant to subsection (13)(a) and then combined.

28 (14) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

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

1 (b) dividing the sum calculated under subsection (14)(a) by three."

2

3 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2011.

4 - END -