

HOUSE BILL NO. 540

INTRODUCED BY D. SALOMON

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A BILL FOR AN ACT ENTITLED: "AN ACT REDIRECTING THE NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT TO THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; REVISING DEFINITIONS; REVISING PROVISIONS REGARDING THE GUARANTEE ACCOUNT; AMENDING SECTIONS 20-9-141, 20-9-306, 20-9-344, 20-9-516, AND 20-9-622, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The

county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid, ~~the natural resource development K-12 funding payment,~~ and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;



- 1 (iii) anticipated oil and natural gas production taxes;
- 2 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and
- 3 (v) school district block grants distributed under 20-9-630.
- 4 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property
- 5 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund
- 6 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general
- 7 fund BASE budget levy requirement.
- 8 (d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any
- 9 tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except
- 10 the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a
- 11 pupil without disabilities, as calculated under 20-5-323(2).
- 12 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
- 13 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
- 14 provided in 20-9-353 to determine any additional general fund levy requirements.
- 15 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property
- 16 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget
- 17 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:
- 18 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified
- 19 by the superintendent of public instruction; and
- 20 (b) the current total taxable valuation of the district, as certified by the department of revenue under
- 21 15-10-202, divided by 1,000.
- 22 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported
- 23 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after
- 24 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the
- 25 district, and a levy must be set by the county commissioners in accordance with 20-9-142.
- 26 (4) For each school district, the department of revenue shall calculate and report to the county
- 27 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
- 28 proceeds under 15-23-703."

29

30 **Section 2.** Section 20-9-306, MCA, is amended to read:

1 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
2 definitions apply:

3 (1) "BASE" means base amount for school equity.

4 (2) "BASE aid" means:

5 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the
6 general fund budget of a district;

7 ~~(b) starting in fiscal year 2015, the natural resource development K-12 funding payment for a variable~~
8 ~~percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a~~
9 ~~district, as referenced in subsection (10);~~

10 ~~(e)(b)~~ guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,
11 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the
12 special education allowable cost payment;

13 ~~(d)(c)~~ the total quality educator payment;

14 ~~(e)(d)~~ the total at-risk student payment;

15 ~~(f)(e)~~ the total Indian education for all payment;

16 ~~(g)(f)~~ the total American Indian achievement gap payment; and

17 ~~(h)(g)~~ the total data-for-achievement payment.

18 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic
19 entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total
20 at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian
21 achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education
22 allowable cost payment.

23 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
24 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
25 20-9-369.

26 (5) "BASE funding program" means the state program for the equitable distribution of the state's share
27 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization
28 aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the
29 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

30 (6) "Basic entitlement" means:

- 1 (a) for each high school district:
- 2 (i) \$290,000 for fiscal years 2014 and 2015 and \$300,000 for each succeeding fiscal year for school
3 districts with an ANB of 800 or fewer; and
- 4 (ii) \$290,000 for fiscal years 2014 and 2015 and \$300,000 for each succeeding fiscal year for school
5 districts with an ANB of more than 800, plus \$12,000 for fiscal years 2014 and 2015 and \$15,000 for each
6 succeeding fiscal year for each additional 80 ANB over 800;
- 7 (b) for each elementary school district or K-12 district elementary program without an approved and
8 accredited junior high school, 7th and 8th grade program, or middle school:
- 9 (i) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
10 districts or K-12 district elementary programs with an ANB of 250 or fewer; and
- 11 (ii) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
12 districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,000 for fiscal years 2014
13 and 2015 and \$2,500 for each succeeding fiscal year for each additional 25 ANB over 250;
- 14 (c) for each elementary school district or K-12 district elementary program with an approved and
15 accredited junior high school, 7th and 8th grade program, or middle school:
- 16 (i) for the district's kindergarten through grade 6 elementary program:
- 17 (A) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
18 districts or K-12 district elementary programs with an ANB of 250 or fewer; and
- 19 (B) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
20 districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,000 for fiscal years 2014
21 and 2015 and \$2,500 for each succeeding fiscal year for each additional 25 ANB over 250; and
- 22 (ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle
23 school:
- 24 (A) \$80,000 for fiscal years 2014 and 2015 and \$100,000 for each succeeding fiscal year for school
25 districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and
- 26 (B) \$80,000 for fiscal years 2014 and 2015 and \$100,000 for each succeeding fiscal year for school
27 districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus
28 \$4,000 for fiscal years 2014 and 2015 and \$5,000 for each succeeding fiscal year for each additional 45 ANB
29 over 450.
- 30 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to

1 20-9-311.

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

4 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the
5 basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,
6 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement
7 gap payment, the total data-for-achievement payment, and the greater of:

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

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

12 (10) "Natural resource development K-12 funding payment" means the payment, starting in fiscal year
13 2015, of a variable percentage of the basic and per-ANB entitlements above the direct state aid ~~for the general~~
14 ~~fund budget of a district.~~ The total natural resource development K-12 funding payment ~~to school districts~~ may
15 not exceed the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the
16 general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the
17 general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year
18 in which the payment is provided, plus any excess interest and income revenue ~~appropriated by the legislature~~
19 ~~pursuant to as provided in~~ 20-9-622(2)(a). The amount of the natural resource development K-12 funding
20 payment must be ~~determined as follows:~~

21 ~~—— (a) for fiscal year 2015, \$3 million; and~~

22 ~~—— (b) for fiscal year 2016 and each subsequent year, the payment must be,~~ subject to the limitations of this
23 subsection ~~(40)~~, an amount sufficient to offset any estimated increase in statewide revenue from the general fund
24 BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB
25 entitlements plus any excess interest and income revenue ~~appropriated by the legislature pursuant to as provided~~
26 ~~in~~ 20-9-622(2)(a). The superintendent of public instruction shall incorporate a natural resource development K-12
27 funding payment calculated in compliance with this subsection ~~(40)~~(b) in preparing and submitting an agency
28 budget pursuant to 17-7-111 and 17-7-112.

29 (11) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
30 that is above the BASE budget and below the maximum general fund budget for a district.

1 (12) "Total American Indian achievement gap payment" means the payment resulting from multiplying
2 \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

3 (13) "Total at-risk student payment" means the payment resulting from the distribution of any funds
4 appropriated for the purposes of 20-9-328.

5 (14) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times
6 the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

7 (15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations
8 and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

9 (a) for a high school district or a K-12 district high school program, a maximum rate of \$6,555 for fiscal
10 year 2014 and \$6,691 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB
11 for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same
12 amount of entitlement as the 800th ANB;

13 (b) for an elementary school district or a K-12 district elementary program without an approved and
14 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,120 for fiscal
15 year 2014 and \$5,226 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB
16 for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the
17 same amount of entitlement as the 1,000th ANB; and

18 (c) for an elementary school district or a K-12 district elementary program with an approved and
19 accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

20 (i) a maximum rate of \$5,120 for fiscal year 2014 and \$5,226 for each succeeding fiscal year for the first
21 ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up
22 through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th
23 ANB; and

24 (ii) a maximum rate of \$6,555 for fiscal year 2014 and \$6,691 for each succeeding fiscal year for the first
25 ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8
26 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th
27 ANB.

28 (16) "Total data-for-achievement payment" means the payment calculated as provided in 20-9-325.

29 (17) "Total quality educator payment" means the payment resulting from multiplying \$3,042 by the
30 number of full-time equivalent educators as provided in 20-9-327."

1

2 **Section 3.** Section 20-9-344, MCA, is amended to read:

3 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
4 education shall administer and distribute the BASE aid and state advances for county equalization in the manner
5 and with the powers and duties provided by law. The board of public education:

6 (a) shall adopt policies for regulating the distribution of BASE aid and state advances for county
7 equalization in accordance with the provisions of law;

8 (b) may require reports from the county superintendents, county treasurers, and trustees that it considers
9 necessary; and

10 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each
11 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the
12 distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution
13 to any district on account of any difference that may occur during the school fiscal year between budgeted and
14 actual receipts from any other source of school revenue.

15 (2) The board of public education may order the superintendent of public instruction to withhold
16 distribution of BASE aid from a district when the district fails to:

17 (a) submit reports or budgets as required by law or rules adopted by the board of public education; or

18 (b) maintain accredited status because of failure to meet the board of public education's assurance and
19 performance standards.

20 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or
21 county equalization money, the district is entitled to a contested case hearing before the board of public
22 education, as provided under the Montana Administrative Procedure Act.

23 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return
24 the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed
25 by the superintendent of public instruction.

26 (5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the
27 following schedule:

28 (a) from August to October of the school fiscal year, to each district 10% of:

29 (i) direct state aid;

30 (ii) the total quality educator payment;

- 1 (iii) the total at-risk student payment;
- 2 (iv) the total Indian education for all payment;
- 3 (v) the total American Indian achievement gap payment; and
- 4 (vi) the total data-for-achievement payment; ~~and~~
- 5 ~~(vii) the total natural resource development K-12 funding payment;~~
- 6 (b) from December to April of the school fiscal year, to each district 10% of:
 - 7 (i) direct state aid;
 - 8 (ii) the total quality educator payment;
 - 9 (iii) the total at-risk student payment;
 - 10 (iv) the total Indian education for all payment;
 - 11 (v) the total American Indian achievement gap payment; and
 - 12 (vi) the total data-for-achievement payment; ~~and~~
 - 13 ~~(vii) the total natural resource development K-12 funding payment;~~
- 14 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each
- 15 district or county that has submitted a final budget to the superintendent of public instruction in accordance with
- 16 the provisions of 20-9-134;
- 17 (d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district
- 18 or county; and
- 19 (e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total
- 20 quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total
- 21 American Indian achievement gap payment, and the total data-for-achievement payment, ~~and the total natural~~
- 22 ~~resource development K-12 funding payment.~~
- 23 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."
- 24

Section 4. Section 20-9-516, MCA, is amended to read:

"20-9-516. School facility and technology account. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools for:

- 29 (a) major deferred maintenance;
- 30 (b) improving energy efficiency in school facilities;

- 1 (c) critical infrastructure in school districts;
 2 (d) emergency facility needs;
 3 (e) technological improvements; and
 4 (f) state reimbursement for school facilities as provided in 20-9-371.

5 (2) There must be deposited in the account:

- 6 (a) an amount of money equal to the income attributable to the difference between the average sale
 7 value of 18 million board feet and the total income produced from the annual timber harvest on common school
 8 trust lands during the fiscal year; ~~and~~
 9 (b) the income received from certain lands and riverbeds as provided in 17-3-1003(5); and
 10 (c) the natural resource development K-12 funding payment provided for in 20-9-306."
 11

12 **Section 5.** Section 20-9-622, MCA, is amended to read:

13 **"20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The
 14 guarantee account is intended to:

- 15 (a) stabilize the long-term growth of the permanent fund; and
 16 (b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all
 17 distributable revenue must be deposited in the guarantee account. ~~The~~ Except as provided in subsection (2), the
 18 guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through
 19 school equalization aid as provided in 20-9-343.

20 (2) Any excess interest and income revenue deposited in the guarantee account for distribution under
 21 this section must be allocated as follows:

- 22 (a) 50% of the excess interest and income revenue must be reserved ~~for an appropriation in the next~~
 23 ~~regular session of the legislature~~ as part of the natural resource development K-12 funding payment referred to
 24 in 20-9-306; and

- 25 (b) 50% of the excess interest and income revenue must be distributed to schools on a
 26 per-quality-educator basis, with the amount to be distributed to each district calculated by dividing the total funds
 27 available for distribution under this subsection (2)(b) by the total number of quality educators, as defined in
 28 20-4-502, employed by each school district in the state in the immediately preceding school fiscal year. A school
 29 district receiving funds under this section shall deposit the funds in its miscellaneous programs fund provided for
 30 in 20-9-507 and shall use the funds in the following order:

1 (i) to address any repairs categorized as "safety", "damage/wear out", or "codes and standards" in the
2 facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility
3 condition and needs assessment prepared by the Montana department of administration pursuant to section 1,
4 Chapter 1, Special Laws of December 2005; and
5 (ii) if repairs under subsection (2)(b)(i) have been completed, to any other purpose authorized by
6 20-9-543."

7

8 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2015.

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