

HOUSE BILL NO. 292

INTRODUCED BY K. KELKER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CALCULATIONS RELATED TO SCHOOL BUDGETS;  
5 PROVIDING FOR AN INCREASE IN THE BASIC ENTITLEMENT, THE TOTAL PER-ANB ENTITLEMENT, THE  
6 TOTAL AMERICAN INDIAN ACHIEVEMENT GAP PAYMENT, THE TOTAL INDIAN EDUCATION FOR ALL  
7 PAYMENT, THE TOTAL DATA-FOR-ACHIEVEMENT PAYMENT, AND THE TOTAL QUALITY EDUCATOR  
8 PAYMENT; ALLOWING 6TH GRADERS IN AN ACCREDITED MIDDLE SCHOOL PROGRAM TO RECEIVE THE  
9 HIGH SCHOOL PER-ANB ENTITLEMENT AMOUNT; AMENDING SECTIONS 20-9-306 AND 20-9-311, MCA;  
10 AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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14 **Section 1.** Section 20-9-306, MCA, is amended to read:

15 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following  
16 definitions apply:

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

18 (2) "BASE aid" means:

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

21 (b) the natural resource development K-12 funding payment for a variable percentage of the basic and  
22 per-ANB entitlements above the direct state aid for the general fund budget of a district, as referenced in  
23 subsection (10);

24 (c) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,  
25 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the  
26 special education allowable cost payment;

27 (d) the total quality educator payment;

28 (e) the total at-risk student payment;

29 (f) the total Indian education for all payment;

30 (g) the total American Indian achievement gap payment; and

1 (h) the total data-for-achievement payment.

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

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

10 (5) "BASE funding program" means the state program for the equitable distribution of the state's share  
11 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization  
12 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  
13 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

14 (6) "Basic entitlement" means:

15 (a) for each high school district:

16 (i) ~~\$300,000 for fiscal year 2016 and \$305,370~~ \$309,554 for fiscal year 2018 and \$312,650 for each  
17 succeeding fiscal year for school districts with an ANB of 800 or fewer; and

18 (ii) ~~\$300,000 for fiscal year 2016 and \$305,370~~ \$309,554 for fiscal year 2018 and \$312,650 for each  
19 succeeding fiscal year for school districts with an ANB of more than 800, plus ~~\$15,000 for fiscal year 2016 and~~  
20 ~~\$15,269~~ \$15,478 for fiscal year 2018 and \$15,633 for each succeeding fiscal year for each additional 80 ANB  
21 over 800;

22 (b) for each elementary school district or K-12 district elementary program without an approved and  
23 accredited junior high school, 7th and 8th grade program, or middle school:

24 (i) ~~\$50,000 for fiscal year 2016 and \$50,895~~ \$51,592 for fiscal year 2018 and \$52,108 for each  
25 succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

26 (ii) ~~\$50,000 for fiscal year 2016 and \$50,895~~ \$51,592 for fiscal year 2018 and \$52,108 for each  
27 succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250,  
28 plus ~~\$2,500 for fiscal year 2016 and \$2,545~~ \$2,580 for fiscal year 2018 and \$2,606 for each succeeding fiscal  
29 year for each additional 25 ANB over 250;

30 (c) for each elementary school district or K-12 district elementary program with an approved and

1 accredited junior high school, 7th and 8th grade program, or middle school:

2 (i) for the district's kindergarten through grade 6 elementary program:

3 (A) ~~\$50,000 for fiscal year 2016 and \$50,895~~ \$51,592 for fiscal year 2018 and \$52,108 for each  
4 succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

5 (B) ~~\$50,000 for fiscal year 2016 and \$50,895~~ \$51,592 for fiscal year 2018 and \$52,108 for each  
6 succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250,  
7 plus ~~\$2,500 for fiscal year 2016 and \$2,545~~ \$2,580 for fiscal year 2018 and \$2,606 for each succeeding fiscal  
8 year for each additional 25 ANB over 250; and

9 (ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle  
10 school:

11 (A) ~~\$100,000 for fiscal year 2016 and \$101,790~~ \$103,185 for fiscal year 2018 and \$104,217 for each  
12 succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with  
13 an ANB of 450 or fewer; and

14 (B) ~~\$100,000 for fiscal year 2016 and \$101,790~~ \$103,185 for fiscal year 2018 and \$104,217 for each  
15 succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with  
16 an ANB of more than 450, plus ~~\$5,000 for fiscal year 2016 and \$5,090~~ \$5,160 for fiscal year 2018 and \$5,212  
17 for each succeeding fiscal year for each additional 45 ANB over 450.

18 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to  
19 20-9-311.

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

22 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the  
23 basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,  
24 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement  
25 gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable  
26 cost payment multiplied by:

27 (a) 175%; or

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

1 (10) "Natural resource development K-12 funding payment" means the payment of a variable percentage  
 2 of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district. The total  
 3 payment to school districts may not exceed the greater of 50% of the fiscal year 2012 oil and natural gas  
 4 production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas  
 5 production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal  
 6 years prior to the school fiscal year in which the payment is provided, plus any excess interest and income  
 7 revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The amount of the natural resource  
 8 development K-12 funding payment must be, subject to the limitations of this subsection (10), an amount sufficient  
 9 to offset any estimated increase in statewide revenue from the general fund BASE budget levy provided for in  
 10 20-9-141 that is anticipated to result from increases in the basic or per-ANB entitlements plus any excess interest  
 11 and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The superintendent of public  
 12 instruction shall incorporate a natural resource development K-12 funding payment calculated in compliance with  
 13 this subsection (10) in preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112.

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

16 (12) "Total American Indian achievement gap payment" means the payment resulting from multiplying  
 17 ~~\$205 in fiscal year 2016 and \$209~~ \$212 for fiscal year 2018 and \$214 for each succeeding fiscal year times the  
 18 number of American Indian students enrolled in the district as provided in 20-9-330.

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

21 (14) "Total Indian education for all payment" means the payment resulting from multiplying ~~\$20.88 in fiscal~~  
 22 ~~year 2016 and \$21.25~~ \$21.54 for fiscal year 2018 and \$21.76 for each succeeding fiscal year times the ANB of  
 23 the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

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

26 (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$6,847 for fiscal~~  
 27 ~~year 2016 and \$6,970~~ \$7,065 for fiscal year 2018 and \$7,136 for each succeeding fiscal year for the first ANB,  
 28 decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each  
 29 ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

30 (b) for an elementary school district or a K-12 district elementary program without an approved and

1 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$5,348 for fiscal~~  
 2 ~~year 2016 and \$5,444~~ \$5,519 for fiscal year 2018 and \$5,574 for each succeeding fiscal year for the first ANB,  
 3 decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each  
 4 ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; ~~and~~

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

7 (i) a maximum rate of ~~\$5,348 for fiscal year 2016 and \$5,444~~ \$5,519 for fiscal year 2018 and \$5,574 for  
 8 each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents  
 9 per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same  
 10 amount of entitlement as the 1,000th ANB; and

11 (ii) a maximum rate of ~~\$6,847 for fiscal year 2016 and \$6,970~~ \$7,065 for fiscal year 2018 and \$7,136 for  
 12 each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for  
 13 each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same  
 14 amount of entitlement as the 800th ANB; and

15 (d) for an elementary school district or a K-12 district elementary program with an approved and  
 16 accredited middle school, the sum of:

17 (i) a maximum rate of \$5,519 for fiscal year 2018 and \$5,574 for each succeeding fiscal year for the first  
 18 ANB for kindergarten through grade 5, decreased at the rate of 20 cents per ANB for each additional ANB up  
 19 through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th  
 20 ANB; and

21 (ii) a maximum rate of \$7,065 for fiscal year 2018 and \$7,136 for each succeeding fiscal year for the first  
 22 ANB for grades 6, 7, and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 6, 7,  
 23 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the  
 24 800th ANB.

25 (16) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from  
 26 multiplying ~~\$20 for fiscal year 2016 and \$20.36~~ \$20.64 for fiscal year 2018 and \$20.85 for each succeeding fiscal  
 27 year by the district's ANB calculated in accordance with 20-9-311.

28 (17) "Total quality educator payment" means the payment resulting from multiplying ~~\$3,143 in fiscal year~~  
 29 ~~2016 and \$3,169~~ \$3,212 for fiscal year 2018 and \$3,244 for each succeeding fiscal year by the number of  
 30 full-time equivalent educators as provided in 20-9-327."

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2           **Section 2.** Section 20-9-311, MCA, is amended to read:

3           **"20-9-311. Calculation of average number belonging (ANB)-- 3-year averaging.** (1) Average number

4 belonging (ANB) must be computed for each budget unit as follows:

5           (a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as

6 of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first

7 Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day,

8 and divide the sum by two; and

9           (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved

10 pupil-instruction-related days for the current school fiscal year and divide by 180.

11           (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related

12 days may be included in the calculation.

13           (3) When a school district has approval to operate less than the minimum aggregate hours under

14 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

15           (4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an

16 education program:

17           (i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time

18 enrollment;

19           (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time

20 enrollment;

21           (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time

22 enrollment; and

23           (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

24           (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180

25 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

26           (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on

27 the hours necessary and appropriate to provide the course within a regular classroom schedule.

28           (d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing

29 fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil

30 has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school

1 board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly  
2 equivalent based on the hours of instruction ordinarily provided for the content over which the student has  
3 demonstrated proficiency.

4 (e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school,  
5 program, or district may not be counted as more than one full-time pupil for ANB purposes.

6 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state  
7 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose  
8 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the  
9 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten  
10 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for  
11 districts offering full-time kindergarten.

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

15 (7) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB  
16 calculations.

17 (8) The average number belonging of the regularly enrolled pupils for the public schools of a district must  
18 be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

19 (a) the ANB is calculated as a separate budget unit when:

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

24 (ii) a school of the district is located more than 20 miles from any other school of the district and  
25 incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be  
26 calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated  
27 separately from the other schools of the district;

28 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
29 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
30 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported

1 to another school, the number of regularly enrolled pupils of the school must be calculated separately for ANB  
 2 purposes and the district must receive a basic entitlement for the school calculated separately from the other  
 3 schools of the district; or

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

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

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

10 (C) 25% of the basic entitlement for the sixth year.

11 ~~(b) when a junior high school has been approved and accredited as a junior high school, all of the~~  
 12 ~~regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB~~  
 13 ~~purposes;~~

14 ~~——(c) when a middle school has been approved and accredited, all pupils below the 7th grade must be~~  
 15 ~~considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high~~  
 16 ~~school pupils for ANB purposes; or~~

17 ~~(d)~~(b) when a school has been designated as nonaccredited by the board of public education because  
 18 of failure to meet the board of public education's assurance and performance standards, the regularly enrolled  
 19 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
 20 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
 21 program for the district.

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

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

29 (b) Access to school programs and services for a student placed by the trustees in a private program  
 30 for special education may be limited to the programs and services specified in an approved individual education



1 plan supervised by the district.

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

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

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

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

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

15 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention  
16 center, and who is receiving individualized educational services supervised by the district, at district expense, at  
17 a home or facility that does not offer an educational program;

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

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

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

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

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

30 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities

1 Education Act or under 29 U.S.C. 794; or

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

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

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

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

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

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

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

17 (b) dividing the sum calculated under subsection (14)(a) by three."  
18

19 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2017.

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21 **NEW SECTION. Section 4. Applicability.** [This act] applies to school budgets for school years  
22 beginning on or after July 1, 2017.

23 - END -