



MONTANA LEGISLATIVE BRANCH

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Director
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DATE: July 1, 2021
TO: Legislative Finance Committee
FROM: Legislative Fiscal Division
RE: Update on Federal Guidance on Maintenance of Equity

The Department of Education interpretation of federal law reported in frequently asked questions (FAQ) regarding maintenance of equity are counter to the Montana statutory equity provisions. If unaltered, the FAQ will require additional state payments to districts that are inconsistent with state school funding equity. Montana's provision of the "soft landing" or three-year average budget for schools with declining enrollment is causing most of the discrepancy. The FAQ divides the higher total state payment (created by the "soft landing") by the lower actual enrollment and requires this temporarily high payment level to continue. The following discussion outlines the analysis.

Maintenance of Equity

The American Rescue Plan Act (ARPA) maintenance of equity provisions for FY 2022 and FY 2023 require that states may not reduce state school funding as calculated by the following tests:

- Test 1 High-Need: Reduce state funding per pupil for any high-need school district by an amount that exceeds the overall per pupil reduction in state funds (FY 2022 and FY 2023 compared to FY 2021)
- Test 2 High-Poverty: Reduce state funding per pupil for any high-poverty school district below the level of funding per pupil provided to that school district (FY 2022 and FY 2023 compared to FY 2019)

ARPA requirements¹ instruct states to maintain funding in designated high-need and high-poverty school districts for fiscal years 2022 and 2023, so funding ensures the following:

- Test 1 High-Need: Per pupil reductions to state funding for high-need school districts are less than the overall statewide reduction in state funding per pupil. (A "high-need" school district is defined as a school that is in the top 50.0% of schools in the district based on the percentage of economically disadvantaged students)

¹ Please note that there are additional maintenance of equity requirements for school districts in relation to the schools they serve, and there are several exceptions to those maintenance of equity requirements for school districts. However, those requirements and exceptions are not related to the calculations for state funding included in this document.

- Test 2 High-Poverty: High-poverty school districts receive at least as much state funding per student as they did in FY 2019. (In this case, a “high-poverty” district is defined as a school that is in the top 20.0% of schools in the district based on the percentage of economically disadvantaged students)

Montana’s school funding formula is an equitable and complex system developed and designed for a rural state with a boom and bust natural resource-based economy and multiple school funding lawsuits. The federal guidance on the implementation of the maintenance of equity does not consider the multiple ways that Montana recognizes equity but replaces it with two simple tests.

Montana’s equitable formula (20-9-309, MCA) defines a basic system of public education as the measuring stick for equity. Specific parameters include:

- Special needs education
- At-risk education
- Quality educators hired by the districts
- Isolated schools
- Urban and rural schools
- American Indian students
- Inflationary adjustments
- Other

In addition, the Montana formula recognizes that in order to meet the basic system of quality education, two additional provisions are needed:

- More equal access to a property tax base for the basic system, provided through a guaranteed tax base (GTB) aid payment that recognized the local taxpayer’s ability to pay for schools
- A “soft landing” for districts that experience declining enrollments in the Montana boom and bust economy. The “soft landing” is provided by funding at the higher of either the previous year’s adjusted enrollment—called current year average number belonging (ANB)—or the average of the previous three years ANB. The maximum of these two values is known as the “budget limit ANB”

Any of the funding factors above may run counter to the simplified maintenance of equity tests currently considered by the Department of Education.

The following summary recaps the preliminary calculations by the Office of Public Instruction using the previous year’s enrollment and an average growth for property tax values. The final numbers for enrollment and taxable values for FY 2022 are currently unknown and estimates are used. The estimates will ultimately be replaced with actual values for the measurement of federal maintenance of equity calculations and are expected to make significant differences in the final results, in comparison to these preliminary calculations.

In the preliminary calculations, of Montana’s 400 school districts, 216 are high-need (Test 1 against FY 2021) and 141 are high-poverty (Test 2 against FY 2019). Of the 216 high-need districts, 78 could fail to meet federal maintenance of equity requirements. Of the 141 high-poverty districts, 38 are calculated to fail to meet state maintenance of equity requirements. If we group together high-need and high-poverty districts, there are 105 districts who are calculated to fail to meet either one or both requirements (11 districts could potentially fail to meet both requirements). There are several reasons why these districts are preliminarily calculated to fail the federal test of equity while using Montana’s definition of equity.

A large portion of state aid to school districts is based on “budget limit ANB,” an enrollment metric, rather than on actual enrollment.² The primary difference between actual enrollment and ANB, mentioned above, is the use of the larger of either prior year enrollment or the “soft landing” three-year average (the maximum of these two value is called the “budget limit ANB”). This difference can impact a large number of Montana school districts that have very small numbers of students enrolled, so a small change in number of students for one of these districts could potentially be a large change in terms of percentage of students in that district.

Of the 105 Montana districts that are preliminarily calculated to fail the federal maintenance of equity requirements in FY 2022, 89 of them can be explained primarily by the difference between actual enrollment and “budget limit ANB” (including the use of the three-year average ANB and/or small size). The other 16 districts that are preliminarily calculated to fail federal maintenance of equity calculations can be explained by other factors in the school funding formula. There are a few large components of the school funding formula which are based on “budget limit ANB” and several that use other factors as follows:

- Direct state aid – a payment that includes two sub-components, only one of which is based on “budget limit ANB” (called the per-ANB entitlement) and the other of which is a per-district payment, based on whether it is an elementary district, middle school district, or high school district (called the basic entitlement)
- Quality educator component – a per-FTE payment for teachers and other licensed professionals hired by the district for the school year (which can vary from one year to the next and is based on FTE counts from the prior year)
- At-risk payment – a payment to schools to address at-risk students based on the distribution of Title I funds from the prior year
- American Indian achievement gap payment – a per-American Indian student payment to help close the performance gap that exists between American Indian students and non-Indian students
- Guaranteed tax base (GTB) funding – a payment to help equalize differences in revenue generating capacity between school districts with different property tax bases and is relative to the size of the direct state aid components
- Special education allowable cost payment – a per-ANB payment, regardless of the number of special education students, and a disproportionate cost payment, which varies based on the needs of the student in a district

² Per 20-9-311, MCA, ANB is calculated by averaging enrollment the count of regularly enrolled pupils on the first Monday in October of the prior school fiscal year and the count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year. The average count is then multiplied by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divided by 180. For districts that have been in existence for three years or more, a three-year average ANB is also calculated. For those districts, the district's budget for the ensuing school fiscal year is calculated using the current year ANB or the three-year average ANB, whichever generates the greatest maximum general fund budget. The three-year average ANB calculation is intended to help districts with declining enrollment adapt to a lower budget via a “soft landing.” Thus, the number of pupils in a district is not necessarily equal to the district's total.

A school district may have a reduction in any of the above components of the school funding formula without experiencing a drop in current year enrollment as measured by the federal definitions. Of the 16 districts that fail the preliminary maintenance of equity calculations for reasons other than ANB calculations, 9 of them can be explained by changes in the quality educator component payments, 5 by changes in the special education allowable cost payment, 4 by changes in the at-risk payment, 2 by changes in GTB funding, 1 by changes to the achievement gap payment, and 1 by the transition from being classified as an isolated school district to a non-isolated school district (which affects direct state aid). Note that there is some overlap between these different categories. Please see the attached appendix for detailed examples and explanations.

Appendix

Listed below are several examples of Montana school districts that fail preliminary calculations for maintenance of equity, both for high-need and for high-poverty requirements, due to a variety of different reasons.

Test 1 High-Need – ANB Calculation

Livingston Elementary School District – fails the calculation for a high-need school district in FY 2022 due to the budget limit ANB provision

0612 Livingston Elementary District	Fails preliminary calculation for high-need in FY 2022				
	FY 2019	FY 2020	FY 2021	FY 2022	Diff FY21 to FY22
District Enrollment (fall enrollment only)	946	943	819	819*	0
Current Year ANB	1,023	977	979	849	
3-Year ANB	1,034	1,017	993	936	
District Budget Limit ANB (max of CY & 3Y ANB)	1,034	1,017	993	936	(57)
Direct State Aid	2,791,514	2,775,382	2,765,877	2,658,884	(106,993)
Quality Educator Component	262,835	253,835	277,529	291,293	13,764
At Risk Student Payment	38,484	36,605	36,527	35,286	(1,241)
Indian Education For All	22,500	22,333	22,203	21,247	(956)
American Indian Achievement Gap	7,918	7,560	7,920	6,690	(1,230)
State Special Education Allowable Cost Payment	369,259	435,335	458,329	379,101	(79,228)
Data For Achievement	-	21,388	21,260	20,339	(921)
State Guaranteed Tax Base (GTB) Aid	1,435,183	1,330,480	1,359,530	1,315,702*	(43,828)
Total State Funding to the District	\$4,927,693	\$4,882,919	\$4,949,175	\$4,728,543	(\$220,632)
Funding per Budget Limit ANB	\$4,766	\$4,801	\$4,984	\$5,052	\$68
Funding per Pupil (enrollment)	\$5,209	\$5,178	\$6,043	\$5,774	(\$269)

*FY 2022 includes estimated values

The Livingston Elementary School District has been experiencing a decline in enrollment since 2019. Thus, the school funding formula has been using the three-year average ANB to fund the district. The inflated funding per student enrollment in FY 2021 used by the federal calculation of maintenance of equity is intended by Montana formula to provide a “soft landing” for districts experiencing declining enrollment.

There are three main areas experiencing a reduction in funding under the federal test that are all related to Montana’s equity funding of the budget components related to “budget limit ANB:”

- Direct state aid – a payment that includes two sub-components, the per-ANB entitlement (based on the number of ANB in a district) and the basic entitlement (a per-district payment, based on whether it is an elementary district, middle school district, or high school district)
- Special education allowable cost payment – a per-ANB payment, regardless of the number of special education students, and a disproportionate cost payment, which varies based on the needs of the student in a district
- Guaranteed tax base (GTB) funding – a payment to help equalize differences in revenue generating capacity between school districts with different property tax bases and which is relative to the size of the direct state aid

Depending on the enrollment counts that materialize in October, the Livingston Elementary School District may fail the federal Test 1 for maintenance of equity requirements for a high-need school. This may be the case for many other Montana school districts. It is also important to note that federal guidance for these preliminary maintenance of equity calculations dictates that FY 2021 enrollment should be used again for FY 2022 until the actual enrollment counts are available. It is possible that the Livingston Elementary School District will continue to experience a decline in actual enrollment and may not fail maintenance of equity requirements for calculations made after the October ANB counts are recorded. However, it is also possible that the Livingston Elementary School District will have an increase in enrollment due to students returning to public schools after the COVID-19 pandemic, and the district would continue to fail maintenance of equity requirements for calculations made after the October ANB counts are recorded.

Test 1 High-Need – Quality Educator Component & At-Risk Payment³

Yellowstone Academy Elementary School District – fails the calculation for a high-need school district in FY 2022 due to a reduction in the quality educator component and the at-risk payment

1196 Yellowstone Academy Elementary District	Fails preliminary calculation for high-need in FY 2022				
	FY 2019	FY 2020	FY 2021	FY 2022	Diff FY21 to FY22
District Enrollment (fall enrollment only)	49	50	49	49*	0
Current Year ANB	45	48	58	57	
3-Year ANB	38	43	54	57	
District Budget Limit ANB (max of CY & 3Y ANB)	45	48	58	57	(1)
Direct State Aid	216,781	230,086	245,960	246,333	373
Quality Educator Component	81,125	81,875	96,715	84,625	(12,090)
At Risk Student Payment	24,677	30,480	27,408	17,949	(9,459)
Indian Education For All	1,044	1,186	1,297	1,294	(3)
American Indian Achievement Gap	1,284	864	2,200	2,453	253
State Special Education Allowable Cost Payment	7,227	8,183	8,867	8,918	51
Data For Achievement	-	1,136	1,242	1,239	(3)
State Guaranteed Tax Base (GTB) Aid	163,300	183,535	195,871	196,227*	357
Total State Funding to the District	\$483,700	\$537,344	\$579,560	\$559,038	(\$20,522)
Funding per Budget Limit ANB	\$10,749	\$11,195	\$9,992	\$9,808	(\$185)
Funding per Pupil (enrollment)	\$9,871	\$10,747	\$11,828	\$11,409	(\$419)

*FY 2022 includes estimated values

For the Yellowstone Academy Elementary District, there are again multiple factors influencing the failure for the preliminary calculation for maintenance of equity. The reductions to funding largely occur in two categories:

- Quality educator component – a per-FTE payment for teachers and other licensed professionals, based on FTE counts from the prior year
- At-risk payment – a payment to schools to address at-risk students based on the distribution of Title I funds from the prior year

In this case, preliminary numbers indicate that the district is losing teachers or other professional staff members for the FY 2022 school year, and the resulting quality educator payment will be reduced. Additionally, preliminary number show that the at-risk payment will be reduced between FY 2021 and FY 2022 due to a reduction in the proportional share of the distribution of Title I funding from the prior year. Thus, even though the actual enrollment is not declining in this preliminary calculation (by design, since the federal FAQ indicates that states should use prior year enrollment until the current year enrollment is known) and “budget limit ANB” will have a small decrease (based on calculations from the state education agency), funding for the district will decline disproportionately due to the combined reduction of staff members and at-risk funding.

³Though it is not the case in this specific example, the same principle applies to changes in the American Indian achievement gap payment (a per-American Indian student payment to help close the performance gap that exists between American Indian students and non-Indian students). This payment can be reduced due to a reduction in American Indian students in the district, even if there is an increase in actual enrollment or “budget limit ANB.” Similarly, the same principle applies to changes to guaranteed tax base (GTB) aid. This payment can be reduced due to changes in the property tax base or base mills assessed or the statutory GTB multiplier, even if there is an increase in actual enrollment or “budget limit ANB.”

Test 2 High-Poverty – Isolated to Non-Isolated School District (Basic Entitlement)

Benton Lake Elementary School District – fails the calculation for a high-poverty school district and a high-need school district in FY 2022 due to a decrease in the basic entitlement portion of direct state aid

0171 Benton Lake Elementary District	Fails preliminary calculation for high-poverty and for high-need in FY 2022						Diff FY19 to FY22	Diff FY21 to FY22
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022		
District Enrollment (fall enrollment only)	10	10	7	6	9	9*	2	0
Current Year ANB	10	11	10	8	7	9		
3-Year ANB	8	10	11	10	9	8		
District Budget Limit ANB (max of CY & 3Y ANB)	10	11	11	10	9	9	(2)	0
Direct State Aid	47,081	49,760	50,688	48,638	46,969	23,837	(26,851)	(23,132)
Quality Educator Component	3,169	3,188	3,245	3,275	3,335	3,385	140	50
At Risk Student Payment	0	0	0	0	0	0	0	0
Indian Education For All	213	235	239	220	201	204	(35)	3
American Indian Achievement Gap	0	0	0	0	0	-	0	0
State Special Education Allowable Cost Payment	1,506	1,654	1,506	1,212	1,070	1,408	(98)	338
Data For Achievement	204	0	0	210	193	196	196	3
State Guaranteed Tax Base (GTB) Aid	0	0	0	0	0	0*	0	0
Total State Funding to the District	\$52,172	\$54,837	\$55,908	\$53,555	\$51,768	\$29,030	(\$26,878)	(\$22,738)
Funding per Budget Limit ANB	\$5,217	\$4,985	\$5,083	\$5,356	\$5,752	\$3,226	(\$1,857)	(\$2,526)
Funding per Pupil (enrollment)	\$5,217	\$5,484	\$7,987	\$8,926	\$5,752	\$3,226	(\$4,761)	(\$2,526)

*FY 2022 includes estimated values

Per 20-9-302, MCA, an elementary school with 9 or fewer ANB for two consecutive years can be classified as an isolated school, with the approval of the county commissioners and the superintendent of public instruction, if:

- Conditions affecting transportation (such as poor roads, mountains, rivers, or other obstacles)
- The distance the school is from the nearest open school which could accommodate its students
- Any other condition would result in an unusual hardship to the pupils of the school if they were transported to another school

When an elementary school that meets these conditions is approved as an isolated school, the county and state finance of the total amount of the direct state aid. An elementary school with 9 or fewer ANB for 2 consecutive years that does not meet these conditions is classified as non-isolated. Per 20-9-303, MCA, a non-isolated school receives half of its direct state aid, and the school district must finance the remaining half of the direct state aid via a property tax levy.

Benton Lake School, which is the only school in the Benton Lake Elementary District, was classified as an isolated school through FY 2021. However, based on preliminary calculations for FY 2022, the school will no longer be classified as isolated. Therefore, Benton Lake Elementary District is expected to receive half of direct state aid that it previously would have received even though there was minimal change in enrollment between FY 2019 and FY 2021 (the comparison years for high-poverty school districts) and no change in enrollment between FY 2021 and FY 2022 (the comparison years for high-need school districts).