

SENATE BILL NO. 9

INTRODUCED BY D. SALOMON

BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO OVERPAYMENTS OF SCHOOL DISTRICT BASE PROPERTY TAXES; ENSURING THAT OVERPAYMENTS OF SCHOOL DISTRICT BASE PROPERTY TAXES RESULTING FROM ANTICIPATED UNUSUAL ENROLLMENT INCREASES THAT ARE NOT REALIZED ARE FULLY RETURNED TO LOCAL TAXPAYERS; AMENDING SECTIONS 20-9-141 AND 20-9-314, MCA; AND PROVIDING AN IMMEDIATE 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 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

1 fund, excluding any guaranteed tax base aid;
 2 (iii) anticipated oil and natural gas production taxes;
 3 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;
 4 (v) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and
 5 (vi) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE
 6 levy budget.

7 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property
 8 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund
 9 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general
 10 fund BASE budget levy requirement.

11 (d) Determine the sum of:

12 (i) any amount remaining after the determination in subsection (1)(c);

13 (ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the
 14 over-BASE budget levy; and

15 (iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through
 16 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount
 17 received for a pupil without disabilities, as calculated under 20-5-323(2).

18 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
 19 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
 20 provided in 20-9-353 to determine any additional general fund levy requirements.

21 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property
 22 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget
 23 amount for the district by:

24 (a) dividing the amount determined in subsection (1)(c) by the sum of:

25 ~~(a)~~(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified
 26 by the superintendent of public instruction; and

27 ~~(b)~~(ii) the current total taxable valuation of the district, as certified by the department of revenue under
 28 15-10-202, divided by 1,000; and

29 (b) if applicable, subtracting the result of dividing any overpayment of the BASE budget levy in the prior
 30 year calculated as provided in 20-9-314(6)(b)(ii) that is available for reduction of the district's BASE budget levy

1 by the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202,
 2 divided by 1,000.

3 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported
 4 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after
 5 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the
 6 district, and a levy must be set by the county commissioners in accordance with 20-9-142.

7 (4) For each school district, the department of revenue shall calculate and report to the county
 8 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
 9 proceeds under 15-23-703."

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11 **Section 2.** Section 20-9-314, MCA, is amended to read:

12 **"20-9-314. Procedures for determining eligibility and amount of increased average number**
 13 **belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment
 14 in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its basic entitlement and total
 15 per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

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

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

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

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

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

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

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

29 (3) The superintendent of public instruction shall immediately review all the factors of the application and
 30 shall approve or disapprove the application or adjust the enrollment used to calculate the budgeted average

1 number belonging for the ensuing school fiscal year. After approving an estimate, with or without adjustment, the
2 superintendent of public instruction shall:

3 (a) determine the percentage by which the adjusted enrollment exceeds the enrollment used for the
4 budgeted average number belonging; and

5 (b) approve an increase of the average number belonging used to establish the ensuing year's basic
6 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a)
7 is at least 4% or 40 students, whichever is less.

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

10 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,
11 the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as
12 determined by the superintendent of public instruction in subsection (3) minus the sum of:

13 (a) the enrollment used to calculate the budgeted average number belonging for the ensuing school
14 fiscal year; and

15 (b) the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number
16 belonging for the ensuing school fiscal year.

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

19 (b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the
20 superintendent of public instruction shall recalculate the district's BASE budget and maximum budget limitations
21 and BASE aid using the actual enrollment in place of the adjusted enrollment and:

22 (i) any BASE aid received by the district in excess of the amount recalculated is an overpayment subject
23 to the refund provisions of 20-9-344(4); and

24 (ii) any revenue received by the district from BASE budget and over-BASE budget levies increased by
25 the difference between the adjusted enrollment and the actual enrollment is an overpayment and must be used
26 for reducing BASE budget and over-BASE budget levies to reduce the BASE budget levy calculated as provided
27 in 20-9-141 to the extent of any BASE budget levy revenue overpayment and to reduce the over-BASE budget
28 levy to the extent of any over-BASE budget levy revenue overpayment in the ensuing school fiscal year. In order
29 to return the full amount of the overpayment to local taxpayers, the amount of the reduction in the BASE budget
30 mills levied as a result of any overpayment must be calculated as a final step in computing the district's general

1 fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed
2 tax base aid must be calculated prior to the reduction in BASE mills."

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4 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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