

SENATE BILL NO. 9

INTRODUCED BY D. SALOMON

BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO OVERPAYMENTS OF SCHOOL  
6 DISTRICT BASE PROPERTY TAXES; ENSURING THAT OVERPAYMENTS OF SCHOOL DISTRICT BASE  
7 PROPERTY TAXES RESULTING FROM ANTICIPATED UNUSUAL ENROLLMENT INCREASES THAT ARE  
8 NOT REALIZED ARE FULLY RETURNED TO LOCAL TAXPAYERS AND THAT GENERAL FUND BUDGET  
9 LIMITS IN THE SUBSEQUENT YEAR ARE RECALCULATED TO REFLECT ACTUAL ANB; AMENDING  
10 SECTIONS 20-9-141, 20-9-308, AND 20-9-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13  
14 **Section 1.** Section 20-9-141, MCA, is amended to read:

15 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The  
16 county superintendent shall compute the levy requirement for each district's general fund on the basis of the  
17 following procedure:

18 (a) Determine the funding required for the district's final general fund budget less the sum of direct state  
19 aid and the special education allowable cost payment for the district by totaling:

20 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in  
21 20-9-303; and

22 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of  
23 20-9-308 and 20-9-353.

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

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

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

29 (A) interest earned by the investment of general fund cash in accordance with the provisions of  
30 20-9-213(4); and

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

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

12 (d) Determine the sum of:

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

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

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

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

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

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

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

28 (ii) the current total taxable valuation of the district, as certified by the department of revenue under  
 29 15-10-202, divided by 1,000; and

30 (b) if applicable, subtracting the result of dividing any overpayment of the BASE budget levy in the prior

1 year calculated as provided in 20-9-314(6)(b)(ii) that is available for reduction of the district's BASE budget levy  
 2 by the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202,  
 3 divided by 1,000.

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

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

11

12 **SECTION 2.** SECTION 20-9-308, MCA, IS AMENDED TO READ:

13 **"20-9-308. BASE budgets and maximum general fund budgets budget limits.** (1) (a) The trustees  
 14 of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district.  
 15 ~~The~~ Except as provided in subsection (1)(b), the trustees of a district may adopt a general fund budget up to the  
 16 greater of:

17 (i) the current year maximum general fund budget; or

18 (ii) the previous year's general fund budget, ~~which ever is greater~~ plus any increase in direct state aid for  
 19 the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement payment  
 20 under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330.

21 (b) When anticipated enrollment increases under 20-9-314 are not realized in the previous year, the  
 22 trustees may adopt a general fund budget up to the greater of:

23 (i) the current year maximum general fund budget; or

24 (ii) the previous year's adopted general fund budget recalculated to reflect the previous year's actual  
 25 enrollment pursuant to 20-9-314(6)(b) plus any increase in direct state aid for the basic and per-ANB entitlements  
 26 and any increases in state funding of the data-for-achievement payment under 20-9-325 and in the general fund  
 27 payments in 20-9-327 through 20-9-330.

28 (b) ~~For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in direct~~  
 29 ~~state aid for the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement~~  
 30 ~~payment under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330 to the district's previous~~

1 ~~year's general fund budget.~~

2 (2) (a) Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a  
3 general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE budget  
4 levy over the highest revenue previously authorized by the electors of the district or imposed by the district in any  
5 of the previous 5 years to support the general fund budget, the trustees shall submit a proposition to the electors  
6 of the district, as provided in 20-9-353.

7 (b) The intent of this section is to increase the flexibility and efficiency of elected school boards without  
8 increasing school district property taxes. In furtherance of this intent and provided that budget limitations  
9 otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-BASE  
10 budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be  
11 imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE  
12 budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed  
13 under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the district impose  
14 any increase in other nonvoted property tax levies.

15 (3) The BASE budget for the district must be financed by the following sources of revenue:

16 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the  
17 district may be eligible, as provided in 20-9-366 through 20-9-369;

18 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

19 (c) a district levy for support of a school not approved as an isolated school under the provisions of  
20 20-9-302;

21 (d) payments in support of special education programs under the provisions of 20-9-321;

22 (e) nonlevy revenue, as provided in 20-9-141; and

23 (f) a BASE budget levy on the taxable value of all property within the district.

24 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all  
25 property within the district or other revenue available to the district, as provided in 20-9-141."

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27 **Section 3.** Section 20-9-314, MCA, is amended to read:

28 **"20-9-314. Procedures for determining eligibility and amount of increased average number**  
29 **belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment  
30 in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its basic entitlement and total

1 per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

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

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

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

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

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

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

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

15 (3) The superintendent of public instruction shall immediately review all the factors of the application and  
16 shall approve or disapprove the application or adjust the enrollment used to calculate the budgeted average  
17 number belonging for the ensuing school fiscal year. After approving an estimate, with or without adjustment, the  
18 superintendent of public instruction shall:

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

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

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

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

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

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

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

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

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

10 (ii) any revenue received by the district from BASE budget and over-BASE budget levies increased by  
11 the difference between the adjusted enrollment and the actual enrollment is an overpayment and must be used  
12 for reducing BASE budget and over-BASE budget levies to reduce the BASE budget levy calculated as provided  
13 in 20-9-141 to the extent of any BASE budget levy revenue overpayment and to reduce the over-BASE budget  
14 levy to the extent of any over-BASE budget levy revenue overpayment in the ensuing school fiscal year. In order  
15 to return the full amount of the overpayment to local taxpayers, the amount of the reduction in the BASE budget  
16 mills levied as a result of any overpayment must be calculated as a final step in computing the district's general  
17 fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed  
18 tax base aid must be calculated prior to the reduction in BASE mills."

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

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