

1 HOUSE BILL NO. 339

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7
8 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL FUNDING LAWS TO PROVIDE THAT 6TH
9 GRADERS IN ACCREDITED MIDDLE SCHOOLS ARE FUNDED AT THE HIGH SCHOOL ANB RATES
10 ALONG WITH 7TH AND 8TH GRADERS; AMENDING SECTIONS 20-9-306 AND 20-9-311, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

12
13 WHEREAS, nearly all Montana school districts have embraced the middle school model and 98% of
14 Montana 6th graders attend a middle school; and

15 WHEREAS, currently 6th graders in a middle school are funded at the lower elementary per-ANB rate,
16 while their 7th and 8th grade schoolmates are funded at the high school ANB rates; and

17 WHEREAS, there is no educationally relevant justification for this disparity in funding; and

18 WHEREAS, if 6th graders were funded on par with 7th and 8th graders, middle schools would be able
19 to offer more robust program offerings as required in the accreditation standards for middle schools, including
20 career and technical education courses and pathways.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 **Section 1.** Section 20-9-306, MCA, is amended to read:

25 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
26 following definitions apply:

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

28 (2) "BASE aid" means:

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

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

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment;

(f) the total American Indian achievement gap payment;

(g) the total data-for-achievement payment; and

(h) the special education allowable cost payment.

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

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

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

(6) "Basic entitlement" means:

(a) for each high school district:

(i) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$17,175 for fiscal year 2024 and \$17,690 for each succeeding fiscal year for each additional 80 ANB over 800;

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

(i) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, or 7th and 8th grade program, or middle school:

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

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

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

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450; and

(d) for each elementary school district or K-12 district elementary program with an approved and accredited middle school program:

(i) for the district's kindergarten through grade 5 elementary program:

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited middle school program:

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 6, 7, and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 6, 7, and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450.

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

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

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

(a) 175%; or

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

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and within the general fund budget limits established in 20-9-308 and calculated as provided in 20-9-141.

(11) "Total American Indian achievement gap payment" means the payment resulting from

1 multiplying \$235 for fiscal year 2024 and \$242 for each succeeding fiscal year times the number of American
2 Indian students enrolled in the district as provided in 20-9-330.

3 (12) "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 (13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from
6 multiplying \$22.89 for fiscal year 2024 and \$23.58 for each succeeding fiscal year by the district's ANB
7 calculated in accordance with 20-9-311.

8 (14) "Total Indian education for all payment" means the payment resulting from multiplying \$23.91
9 for fiscal year 2024 and \$24.63 for each succeeding fiscal year times the ANB of the district or \$100 for each
10 district, whichever is greater, as provided for in 20-9-329.

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

13 (a) for a high school district or a K-12 district high school program, a maximum rate of \$7,840 for
14 fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents
15 per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving
16 the same amount of entitlement as the 800th ANB;

17 (b) for an elementary school district or a K-12 district elementary program without an approved and
18 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$6,123 for fiscal
19 year 2024 and \$6,307 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per
20 ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving
21 the same amount of entitlement as the 1,000th ANB; and

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

24 (i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for
25 the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional
26 ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the
27 1,000th ANB; and

28 (ii) a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for

the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB; and

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

(i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB for kindergarten through grade 5, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB for grades 6, 7, and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 6, 7, and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) "Total quality educator payment" means the payment resulting from multiplying \$3,566 for fiscal year 2024 and \$3,673 for each succeeding fiscal year by the sum of:

(a) the number of full-time equivalent educators as provided in 20-9-327; and

(b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher's teaching career in the previous year.

(17) "Total special education allocation" means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$293.74 for fiscal year 2024 and \$302.55 for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year's total special education allocation."

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

"20-9-311. Calculation of average number belonging (ANB) -- 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

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

1 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
2 the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a
3 school day, and divide the sum by two; and

4 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the
5 approved pupil-instruction-related days for the current school fiscal year and divide by 180.

6 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-
7 related days may be included in the calculation.

8 (3) When a school district has approval to operate less than the minimum aggregate hours under
9 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

10 (4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in
11 an education program:

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

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

16 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-
17 quarter-time enrollment; and

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

20 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than
21 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

22 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based
23 on the hours necessary and appropriate to provide the course within a regular classroom schedule.

24 (d) A school district may include in its calculation of ANB a pupil who is enrolled in a program
25 providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b)
26 if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by
27 the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted
28 to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the

1 student has demonstrated proficiency.

2 (e) (i) Except as provided in subsection (4)(e)(ii), a pupil in kindergarten through grade 12 who is
3 concurrently enrolled in more than one public school, program, or district may not be counted as more than one
4 full-time pupil for ANB purposes. When a pupil is concurrently enrolled in more than one district, any fractional
5 enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district.

6 (ii) A pupil who participates in a jumpstart program under Title 20, chapter 7, part 18, may be
7 counted as up to 1 1/4 enrollment for ANB purposes. A district shall add one-quarter enrollment for a pupil who
8 participated in an early literacy jumpstart program to the pupil's regular enrollment count under this subsection
9 (4) in both the October and February enrollment counts following the student's participation in the jumpstart
10 program.

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

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

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

22 (b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by
23 September 10 of the school year may not be included in the ANB calculations.

24 (c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by
25 September 10 of the school year and who is receiving special education services from a school district pursuant
26 to 20-7-411(4)(a) may be included in the ANB calculations if:

27 (i) the student has not graduated;

28 (ii) the student is eligible for special education services and is likely to be eligible for adult services

1 for individuals with developmental disabilities due to the significance of the student's disability; and

2 (iii) the student's individualized education program has identified transition goals that focus on
3 preparation for living and working in the community following high school graduation since age 16 or the
4 student's disability has increased in significance after age 16.

5 (d) A school district providing special education services pursuant to subsection (7)(c) is
6 encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in
7 meeting the goals of a student's transition plan.

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

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

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

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

20 (iii) the superintendent of public instruction approves an application not to aggregate when
21 geographic barriers exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to
22 travel, that would result in an unusual hardship to the pupils of the school if they were transported to another
23 school, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes
24 and the district must receive a basic entitlement for the school calculated separately from the other schools of
25 the district; or

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

1 additional years as follows:

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

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

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

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

8 (c) when a middle school has been approved and accredited, all pupils below the ~~7th~~6th grade
9 must be considered elementary school pupils for ANB purposes and the 6th, 7th, and 8th grade pupils must be
10 considered high school pupils for ANB purposes; or

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

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

19 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education
20 program provided by the district through any combination of in-person or remote instruction may be included for
21 ANB purposes only if the pupil is offered access to the complete range of educational services for the basic
22 education program required by the accreditation standards adopted by the board of public education.

23 (b) Access to school programs and services for a student placed by the trustees in a private
24 program for special education may be limited to the programs and services specified in an approved individual
25 education plan supervised by the district.

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

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

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

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school or an offsite instructional setting of the district;

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

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

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

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

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

(g) enrolled in an educational program or course provided at district expense using remote delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs. The pupil:

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

(ii) shall live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) must be enrolled in the educational program or course under a mandatory attendance agreement as provided in 20-5-321; or

1 (iv) must be receiving remote instruction under 20-7-118(1)(c).

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

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

6 (13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an
7 individual who is otherwise eligible under this title and who during the prior school year:

8 (i) resided in the district;

9 (ii) was not enrolled in the district or was not enrolled full time; and

10 (iii) completed an extracurricular activity with a duration of at least 6 weeks.

11 (b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under
12 subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13)
13 the individual may not be counted as more than one full-time enrollment for ANB purposes.

14 (ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-
15 eighth enrollment.

16 (c) For the purposes of this section, "extracurricular activity" means:

17 (i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic
18 activities, contests, and tournaments;

19 (ii) an approved career and technical student organization, pursuant to 20-7-306; or

20 (iii) a school theater production.

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

25 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum
26 general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the
27 elementary and high school programs pursuant to subsection (14)(a) and then combined.

28 (15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated

1 by:

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

4 (b) dividing the sum calculated under subsection (15)(a) by three."
5

6 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.
7

8 NEW SECTION. **Section 4. Applicability.** [This act] applies to the school budgeting process
9 applicable to school fiscal years beginning July 1, 2025.

10 - END -