

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

**** Bill No. ****

Introduced By *****

By Request of the *****

FOR DISCUSSION PURPOSES

A Bill for an Act entitled: "An Act creating an English learner payment to be included in school district general fund budgets and BASE aid payments to school districts; amending sections 20-7-102, 20-9-306, 20-9-308, 20-9-326, 20-9-344, and 20-9-366, MCA; and providing an effective date and an applicability date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. English learner payment.** (1) The state shall provide an English learner payment to public school districts, as defined in 20-6-101 and 20-6-701, for students with limited English proficiency, as defined in 20-1-101 and referred to in 20-9-309.

(2) The English learner payment must be distributed to public school districts as provided in 20-9-306 by the office of public instruction in the amount of one dollar for every dollar that the office of public instruction allocated as subgrants to districts under 20 U.S.C. 6825 in the prior year.

Section 2. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306~~(15)~~(16)(c)(ii)."

{*Internal References to 20-7-102:*

15-70-425 20-2-121 20-3-106 20-6-501
20-6-501 20-26-603 all OK}

Section 3. Section 20-9-306, MCA, is amended to read:

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

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

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

(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; ~~and~~

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

(h) the total English learner 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, 100% of the English learner 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

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

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) \$306,897 for fiscal year 2018 and \$312,636 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$306,897 for fiscal year 2018 and \$312,636 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$15,345 for fiscal year 2018 and \$15,632 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) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,558 for

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

fiscal year 2018 and \$2,606 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, 7th and 8th grade program, or middle school:

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

(A) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$51,149 for fiscal year 2018 and \$52,105 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,558 for fiscal year 2018 and \$2,606 for each succeeding fiscal year for each additional 25 ANB over 250; and

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

(A) \$102,299 for fiscal year 2018 and \$104,212 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) \$102,299 for fiscal year 2018 and \$104,212 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 \$5,115 for fiscal year 2018 and \$5,211 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

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, the total English learner 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 below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$210 for fiscal year 2018 and \$214 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

20-9-330.

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

(13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$20.46 for fiscal year 2018 and \$20.84 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total English learner payment" means the payment resulting from the distribution of funds pursuant to [section 1].

~~(14)~~(15) "Total Indian education for all payment" means the payment resulting from multiplying \$21.36 for fiscal year 2018 and \$21.76 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

~~(15)~~(16) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,005 for fiscal year 2018 and \$7,136 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

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

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

school, 7th and 8th grade program, or middle school, a maximum rate of \$5,471 for fiscal year 2018 and \$5,573 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district 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

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

(i) a maximum rate of \$5,471 for fiscal year 2018 and \$5,573 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, 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 \$7,005 for fiscal year 2018 and \$7,136 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.

~~(16)~~(17) "Total quality educator payment" means the payment resulting from multiplying \$3,185 for fiscal year 2018 and \$3,245 for each succeeding fiscal year by the number of full-time equivalent educators as provided in 20-9-327."

{*Internal References to 20-9-306:*

20-5-323 ok 20-5-323 ok 20-6-326 ok 20-7-102 a
20-7-1404 ok 20-7-1404 ok 20-7-1404 ok 20-9-325 ok

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

20-9-327 ok 20-9-329 ok 20-9-330 ok 20-9-376 ok }

Section 4. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets.

(1) (a) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's general fund budget, whichever is greater.

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

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

(b) The intent of this section is to increase the flexibility and efficiency of elected school boards without increasing school district property taxes. In furtherance of this

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

intent and provided that budget limitations otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-BASE budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the district impose any increase in other nonvoted property tax levies.

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

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

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

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

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

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

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

(4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

the district or other revenue available to the district, as provided in 20-9-141."

{*Internal References to 20-9-308:*

20-6-703 20-6-704 20-7-435 20-9-141

20-9-303 20-9-310 20-9-353 20-9-353

20-9-353 all ok}

Section 5. Section 20-9-326, MCA, is amended to read:

"20-9-326. Annual inflation-related adjustments to basic entitlements and per-ANB entitlements. (1) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent of public instruction shall determine the inflation factor for the basic and per-ANB entitlements, the data-for-achievement payment, ~~and~~ the general fund payments in 20-9-327 through 20-9-330, and the English learner payment under [section 1] in each fiscal year of the ensuing biennium. The inflation factor is calculated as follows:

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio to the power of one-third; and

(b) for the second year of the biennium, divide the consumer price index for July 1 of the current calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the current calendar year and raise the resulting ratio to the power of one-third.

(2) The present law base for the entitlements referenced in

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

subsection (1), calculated under Title 17, chapter 7, part 1, must consist of any enrollment increases or decreases plus the inflation factor calculated pursuant to this section, not to exceed 3% in each year, applied to both years of the biennium.

(3) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

{*Internal References to 20-9-326:*

20-9-376 20-9-635 20-9-635 53-6-125 all ok}

Section 6. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status because of failure to meet the board of public education's assurance and performance standards.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, to each district 10% of:

(i) direct state aid;

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

- (ii) the total quality educator payment;
- (iii) the total at-risk student payment;
- (iv) the total Indian education for all payment;
- (v) the total American Indian achievement gap payment; ~~and~~
- (vi) the total data-for-achievement payment; and
- (vii) the total English learner payment;

(b) from December to April of the school fiscal year, to each district 10% of:

- (i) direct state aid;
- (ii) the total quality educator payment;
- (iii) the total at-risk student payment;
- (iv) the total Indian education for all payment;
- (v) the total American Indian achievement gap payment; and
- (vi) the total data-for-achievement payment; and
- (vii) the total English learner payment;

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid, 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, ~~and~~ the total data-for-achievement payment, and the total English learner payment.

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

{*Internal References to 20-9-344:*

20-2-121 20-9-314 20-9-347 20-9-347
20-9-347 20-9-368 all ok }

Section 7. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326, divided by the district's prior year GTBA budget area.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCCELGF

by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's prior year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(4) "Guaranteed tax base aid budget area" or "GTBA budget area" means the portion of a district's BASE budget after the following payments are subtracted:

- (a) direct state aid;
- (b) the total data-for-achievement 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 English learner payment; and
- ~~(g)~~(h) the state special education allowable cost payment.

(5) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 193% for fiscal year

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

2018, 216% for fiscal year 2019, 224% for fiscal year 2020, and 232% for fiscal year 2021 and each succeeding fiscal year and divided by the prior year statewide GTBA budget area for the state elementary school districts or the state high school districts.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts."

{Internal References to 20-9-366:

15-1-409 20-3-106 * 20-3-106 * 20-6-326 *
20-6-702 20-9-306 * 20-9-308 * 20-9-310 *
20-9-346 * 20-9-346 * 20-9-351 * 20-9-369 *
20-9-406 all ok}

NEW SECTION. Section 8. {standard} Codification

instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1].

NEW SECTION. Section 9. {standard} Effective date --

applicability. [This act] is effective July 1, 2019 and applies to school fiscal years beginning on or after July 1, 2019.

- END -

Unofficial Draft Copy

As of: June 11, 2018 (2:41pm)

LCELGF

{Name : Padraic McCracken
Title : Legislative Research Analyst
Agency : Legislative Services Division
Phone : 406-444-3595
E-Mail : padmccracken@mt.gov }