SB 175 by Senator Llew Jones, Conrad
Section by Section Analysis, Enrolled Version of Bill
Updated May 9, 2013

1. SECTION 1: Creates a K-12 Data Task Force with trustees, administrators, tech staff, parents, school business officials and legislators to work with OPI to ensure that the statewide data system can be used by classroom educators, administrators, and parents to collaborate in supporting students' academic needs.
    a. The work of the Task Force is supported by a $13,522 appropriation under Section 37 of the bill.
2. SECTION 2: Provides for the new Data for Achievement payment. The payment is phased in over three years as follows:
    a. $10 per ANB for fiscal year 2014;
    b. $15 per ANB for fiscal year 2015; and
    c. $20 per ANB for fiscal year 2016 (which is the first year of the next biennium after this one) and subsequent fiscal years.
3. SECTION 3: Minor change in accreditation of schools section (20-7-102) to update a statutory reference.
4. SECTION 4: Amends the law on data systems to ensure that there is a focus on bringing useful data to educators and parents to use to enhance instruction and academic performance of students. The intent is to ensure that OPI and the K-12 Data Task Force work to make sure the data system has a module or other capability of "talking to" and/or automatically converting data from other systems already in use in school districts (e.g., Power Schools) and/or by OPI, both so that districts using systems that have all the components sought in this bill will not have to reinvent the wheel and so that districts do not have to repeatedly input the same data multiple times for different elements of the statewide data system as it has existed in the past. There is also a contemplation that OPI and the K-12 Data Task Force will review options available through private companies that may satisfy the specifications and needs for a statewide data system.
5. SECTION 5: A minor amendment to ensure that the Natural Resource Development K-12 Funding Payment is included in the calculation of the net levy requirement for a school district's general fund.
6. SECTION 6:
    a. Provides for statutory calculated inflation for the per-ANB entitlements (0.89% in FY14 and 2.08% in FY15).
    b. Implements the K-12 Vision Group's basic entitlement concept, phased in over three years (FY14-16) and addresses both smaller

school districts' concerns by increasing the first entitlement and addresses the concerns of larger school systems with the one size basic entitlement under current law by providing second and subsequent basic entitlements based on educationally-relevant student groupings.

c. Creates the "Data for Achievement payment" as a new school district general fund component, funded entirely by the state with no local property tax share.
d. Creates a new Natural Resource Development K-12 Funding Payment (NRD Payment) that will be used starting in FY15 to implement a freeze in nonvoted school district general fund BASE property taxes. The NRD Payment is set at an amount that will ensure against an increase in statewide BASE property tax revenue caused by increases in the funding formula. The NRD Payment is indexed and capped at half of the oil and natural gas production revenues in the state general fund. The revenue will be distributed as a percentage of BASE funding costs of the Basic and per-ANB entitlements, much in the same manner as currently used to fund direct state aid (DSA). The property tax freeze will begin in FY15 and would continue until state aid grows by at least $49 million per year. The effect of this provision will be to mitigate and partially reverse a multi-decade trend of above-inflation increases in property taxes and provide relief to property taxpayers whose BASE property taxes would otherwise increase from year to year through automatic operation of the funding formula.

7. SECTION 7:
    a. Ensures that school districts that are over maximum can add increases in direct state aid support for the basic and the per-ANB entitlements. This basically ensures that over max districts will have increased spending authority to improve academic achievement when the Legislature passes increases in the formula.
    b. Clarifies that a school district can impose an over-base levy amount that is equal to the highest annual amount either authorized or imposed in the immediate preceding 5 years.
    c. Allows a school district to increase its over-base budget levy without a vote to the extent that the school district decreases other non-voted levies imposed by action of the board of trustees by a like amount. The authority to maintain the non-voted increase in the over-base levy in future years is decreased to the extent of any subsequent increase in other non-voted levies. It is important to note that the board must reduce other non-voted levies under its control in order to increase its over BASE levy without a vote. Examples of nonvoted levies authorized by action of the trustees include but are not limited to the bus depreciation, transportation, tuition, and adult education levies.
8. SECTION 8: Both section 8 and 9 of the bill address the same section of existing law, 20-9-310. Section 8 changes are effective from July 1, 2013 until

July 1, 2016, at which point this version of the amendments terminate.
Section 8:

a. Provides for a three-year period of time during which oil and gas revenues will be shared in concentric circles emanating from the originating source of revenue and impacts, first to the other half of unified districts, then to immediate adjoining districts, then to districts throughout the county, then to districts in contiguous counties, then to all schools statewide through the guarantee account and state school oil and natural gas impact account.
b. Requires that districts budget at least 25% of their oil and gas revenues in their general fund to provide for BASE and over BASE property tax relief. The remaining 75% of such funds may be allocated to any budgeted fund to address impacts, in the discretion of the elected trustees.
c. Exempts certain school districts from the obligation to budget in the general fund at all (e.g., districts under $1 million, districts with low spending, districts with unusual enrollment increases, etc.).
d. Temporarily (FY14-16) expands the 130% cap on oil and gas revenues to 150% for districts with maximum budgets of less than $1 million.
e. Expands the 130% cap on oil and gas revenues for any district with an unusual enrollment increase approved by OPI, by $45,000 for each additional ANB (150 square feet per pupil times $300 per square foot build cost). This will help ensure that local taxpayers do not have to pick up the tab for development impacts, particularly those related to school construction.

9. SECTION 9: Section 9 specifies a new version of 20-9-310 that becomes effective upon the termination of Section 8 on July 1, 2016. The version of 20-9-310 that becomes effective on July 1, 2016 does away with the concentric circle language and also does away with the temporary 150% retention limit on oil and gas revenues for smaller districts. Under section 9, which creates a permanent (until and unless otherwise amended) version of 20-9-310, MCA, districts that have oil and natural gas revenues as a nonlevy revenue source will be allowed to continue to retain up to 130% of their maximum general fund budget in oil and gas revenues. The obligation to budget 25% in the general fund is also retained, as are all other provisions of the law as specified in Section 8 with the exceptions of the concentric circles and the 150% temporary retention limit. In a nutshell, this means that any oil and natural gas revenues that are above 130% of the originating district’s maximum general fund budget will go 70% to the guarantee account, 25% to the county school oil and natural gas impact fund (for a per quality educator distribution to districts located in whole or in part in the county) and 5% to the state school oil and natural gas impact account.

10. SECTION 10:
    a. Adds a new count in December to the existing enrollment counts in October and February to gain an additional data point for calculating ANB.
    b. Adds a new provision that allows a district to count students who achieve proficiency on particular classes in fewer hours than what would otherwise be required by the law. This is the "learning is the constant, time is the variable" concept which has been discussed in the K-12 Vision Group in innovating and customizing learning for each student.
    c. Aligns the existing power under current law for the Board of Public Education to be able to pull funding for a school district that loses accreditation with the new blended accreditation model under Chapter 55.
11. SECTION 11: Reduces the threshold for when a school district is entitled to an immediate increase for an unusual enrollment from 6% under current law to the lesser of an increase of 4% or 40 ANB. This change retains the current law trigger mechanism that allows increased funding only for those students above the trigger of 4% or 40 students.
12. SECTION 12: Extends the date for when ending fund balance and flex fund limits kick in from 2016 to 2020. This changes the law that was created last session in SB 329.
13. SECTION 13: Aligns the definition of the basic system of free quality schools in 20-9-309 with the mechanism for inflation-adjusting the formula. The amendment has the effect of providing for the future calculation of inflation on all general fund entitlements as required by 20-9-309, rather than for just the Basic and Per-ANB entitlements as provided under current law. There is no cost in the current biennium from this provision and the cost in future biennia will be relatively small while improving defensibility of the state's funding formula.
14. SECTION 14: Changes the law so that excess interest and income in state land revenues during an interim, defined as anything over $56 million annually, gets split 50%-50% tax relief and increased spending for schools (distributed using the Quality Educator Payment from excess interest and income in the Guarantee account at the end of each year). To give you an idea regarding how this works, this change, had it been in effect a couple of years ago, would have brought school districts $40 million in increased spending and $40 million in district property tax relief when Otter Creek bonus payments were received by the state.
15. SECTION 15: Amends 20-9-344 to coordinate funding with the Board of Public Education's accreditation standards and to address the distribution of the natural resource development K-12 funding payment and data for achievement payment, which will be distributed in the same manner as other general fund payments.
16. SECTIONS 16 through 28 are all about adding oil and natural gas revenues as a source of bonding capacity. This is the same conceptual change upon which

Senator Jones and education advocates collaborated in SB 403 last session. These changes have been reviewed and approved by the state's bond counsel as workable and sound. The provisions also retain a requirement of voter approval for such bonds.

17. SECTION 29: Creates temporary amendments (in FY13-16) to 20-9-517 that allows districts with small or no oil and gas revenues, in insufficient amounts to address impacts, to qualify for funds out of the state oil and gas impact account. This section also changes the law so that amounts over $7.5 million go to the guarantee account for distribution as part of the natural gas K-12 payment rather than to the state general fund.
18. SECTION 30: Creates a version of 20-9-517 that will become effective July 1, 2016 to broaden the eligibility of districts to apply for money based on oil and natural gas development impacts. The minor differences between the temporary and permanent version of 20-9-517 are designed to coordinate with the elimination of concentric circles provisions in law, so that districts previously receiving money under the concentric circle provisions would become eligible to apply for such funds when the automatic distribution based on concentric circles terminates on July 1, 2016.
19. SECTION 31: Minor changes to the County Oil and Natural Gas Impact Fund statute to update coordinating statutory references. This section is also amended to provide for a distribution method for funds available in this account. The distribution would be via a per quality educator payment, which is a method of distribution found to be educationally relevant by the courts.
20. SECTION 32: Purpose of the Guarantee Account is expanded beyond use as BASE aid. As amended in Senate Education, SB 175 proposes to reserve funds in the guarantee account from excess revenue from state lands so that it can be used to further reduce property taxes as appropriated by the next Legislature. This section also captures and distributes excess interest and income from state lands as referenced earlier in this overview. This money gets split 50%-50%, part for tax relief and part to use for facilities repairs and other items. The portion for increased expenditures is distributed on a per quality educator basis and schools must first use the funds they receive to address any key deficiencies in the school facilities study by the Department of Administration and, once those deficiencies have been addressed, for any other purpose allowed for Flex funds (which provides flexibility that is comparable to any general fund expenditure).
21. SECTION 33: This purpose provision specifies that the amounts in this bill that allow school districts to increase their previous year's budget authority above inflation are to be used by school districts to implement changes to administrative rules adopted by the Board of Public Education during 2012 and 2013 and to otherwise enhance efforts at improving academic achievement for students in our public schools.
22. SECTION 34: This section provides for the distribution of oil and gas revenues from OPI to school districts from the state school oil and natural gas distribution account under the concentric circles provisions in the bill.

23. SECTION 35: This section creates a special revenue account to hold the transfer of FY13 funds into the guarantee account to pay for the FY14 and 15 costs of the restructured basic entitlement under the bill.
24. SECTION 36: This section provides for a transfer of funds as needed to fund the costs of restructuring the basic entitlement under the bill in FY14 and FY15.
25. SECTION 37: This is the appropriation for the bill to allow for the distribution of funds specified in the bill above those appropriated in HB 2.
26. SECTION 38: Extends termination dates from sections 1 and 7 from SB 329, 2011 Session, from 2016 to 2020.
27. Remaining provisions are standard codification instructions, applicability clauses, and effective dates.