

1 \*\*\*\* BILL NO. \*\*\*\*

2 INTRODUCED BY \*\*\*\*

3 BY REQUEST OF THE \*\*\*\*

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EDUCATION LAWS RELATED TO ADMISSION TO  
6 PUBLIC SCHOOLS, KINDERGARTEN, AND ELIGIBILITY FOR INCLUSION IN ANB CALCULATIONS;  
7 ESTABLISHING UNDER WHAT EXCEPTIONAL CIRCUMSTANCES A SCHOOL DISTRICT MAY ADMIT  
8 STUDENTS OUTSIDE REGULAR AGE PARAMETERS; CLARIFYING THAT KINDERGARTEN IS A SINGLE-  
9 YEAR PROGRAM; CLARIFYING THAT 3- AND 4-YEAR-OLD CHILDREN WITH DISABILITIES  
10 PARTICIPATING IN SCHOOL DISTRICT SPECIAL EDUCATION PROGRAMS ARE ELIGIBLE FOR  
11 INCLUSION IN ANB CALCULATIONS; AMENDING SECTIONS 20-5-101, 20-7-117, AND 20-9-311, MCA."  
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14

15 **Section 1.** Section 20-5-101, MCA, is amended to read:

16 **"20-5-101. Admittance of child to school.** (1) The trustees shall assign and admit a child to a school  
17 in the district when the child is:

18 (a) 5 years of age or older on or before September 10 of the year in which the child is to enroll but is  
19 not yet 19 years of age;

20 (b) a resident of the district; and

21 (c) otherwise qualified under the provisions of this title to be admitted to the school.

22 (2) The trustees of a district may assign and admit any nonresident child to a school in the district  
23 under the tuition provisions of this title.

24 (3)(a) The trustees may at their discretion assign and admit a child to a school in the district who is  
25 under 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that  
26 merit waiving the age provision of this section. The trustees may also admit an individual who has graduated  
27 from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age  
28 provision of this section.

(b) As used in this subsection, "exceptional circumstances" means any of the following:

(i) the child is in a preschool program established by the trustees pursuant to 20-7-117;

(ii) the child is participating in a special education program of the district under 20-7-411;

(iii) the child is determined by the trustees to be ready for kindergarten and the child's parents have requested early entry into the district's regular 1-year kindergarten program; or

(iv) the adult is 19 years of age or older and in the trustees' determination would benefit from educational programs offered by a school of the district.

(c) The admittance of an individual under this subsection (3) does not in and of itself impact the ANB calculations governed by 20-9-311.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

(5) The trustees shall assign and admit a child whose parent or guardian is being relocated to Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and apply for programs offered by the district prior to arrival and establishing residency.

(6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title.

(7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the assignment is final."

**Section 2.** Section 20-7-117, MCA, is amended to read:

**"20-7-117. Kindergarten and preschool programs.** (1) The trustees of an elementary district shall establish or make available a kindergarten program capable of accommodating, at a minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for which the program is to be conducted or who have been enrolled by special permission of the board of trustees. The kindergarten program, which the trustees may designate as either a half-time or full-time program, must be an integral part of

1 the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion  
2 in the calculation of ANB pursuant to 20-9-311, a child must have reached 5 years of age on or before  
3 September 10 of the school year covered by the calculation or have been enrolled by special permission of the  
4 board of trustees under 20-5-101(3). A kindergarten program must meet the minimum aggregate hour  
5 requirements established in 20-1-301. A kindergarten program that is designated as a full-time program must  
6 allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided  
7 in 20-5-102, to enroll the child half-time.

8 (2) The trustees of an elementary school district may establish and operate a free preschool program  
9 for children between the ages of 3 and 5 years. When preschool programs are established, they must be an  
10 integral part of the elementary school and must be governed accordingly. Financing of preschool programs may  
11 not be supported by money available from state equalization aid.

12 (3) As used in this title the following definitions apply:

13 (a) "Kindergarten program" means a half-time or full-time 1-year program immediately preceding a  
14 child's entry into first grade with curriculum and instruction selected by the board of trustees and aligned to the  
15 content standards established by the board of public education.

16 (b) "Preschool program" means a half-time or full-time program to prepare children for entry into  
17 kindergarten and governed by the standards adopted by the board of public education."

18

19 **Section 3.** Section 20-9-311, MCA, is amended to read:

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

22 (a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled  
23 as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first  
24 Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school  
25 day, and divide the sum by two; and

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

28 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-

1 related days may be included in the calculation.

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

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

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

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

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

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

13 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than  
14 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

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

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

23 (e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public  
24 school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

25 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state  
26 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose  
27 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the  
28 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten

1 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for  
2 districts offering full-time kindergarten.

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

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

8 (b) Children with disabilities receiving special education services under 20-7-411(3) may be included  
9 in ANB calculations.

10 (b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September  
11 10 of the school year may not be included in the ANB calculations.

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

15 (i) the student has not graduated;

16 (ii) the student is eligible for special education services and is likely to be eligible for adult services for  
17 individuals with developmental disabilities due to the significance of the student's disability; and

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

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

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

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

28 (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town

1 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled  
2 pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must  
3 receive a basic entitlement for the school calculated separately from the other schools of the district;

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

8 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
9 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
10 other condition exists that would result in an unusual hardship to the pupils of the school if they were  
11 transported to another school, the number of regularly enrolled pupils of the school must be calculated  
12 separately for ANB purposes and the district must receive a basic entitlement for the school calculated  
13 separately from the other schools of the district; or

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

- 18 (A) 75% of the basic entitlement for the fourth year;
- 19 (B) 50% of the basic entitlement for the fifth year; and
- 20 (C) 25% of the basic entitlement for the sixth year.

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

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

27 (d) when a school has been designated as nonaccredited by the board of public education because of  
28 failure to meet the board of public education's assurance and performance standards, the regularly enrolled

1 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
2 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
3 program for the district.

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

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

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

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

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

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

22 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
23 agreement and who is attending a school of the district;

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

27 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention  
28 center, and who is receiving individualized educational services supervised by the district, at district expense, at

1 a home or facility that does not offer an educational program;

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

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

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

9 (g) enrolled in an educational program or course provided at district expense using electronic or  
10 offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and  
11 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite  
12 instructional setting with the approval of the trustees of the district. The pupil shall:

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

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

16 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

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

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

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

23 (i) resided in the district;

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

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

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



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

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

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

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

7 (iii) a school theater production.

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

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

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

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

18 (b) dividing the sum calculated under subsection (15)(a) by three."  
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20 - END -