

SENATE BILL NO. 359

INTRODUCED BY STORY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN STATUTES RELATED TO SCHOOL
5 DISTRICT ENROLLMENT; ALLOWING TUITION TO BE PAID FOR A NONRESIDENT PUBLIC SCHOOL
6 STUDENT WHO REACHES THE AGE OF 18 DURING THE SCHOOL YEAR; MEASURING ENROLLMENT
7 IN AGGREGATE HOURS TO DETERMINE PORTIONS OF FULL-TIME ENROLLMENT AND SETTING THE
8 CONDITIONS UNDER WHICH ENROLLMENT IS INCLUDED IN THE CALCULATION OF AVERAGE NUMBER
9 BELONGING FOR A SCHOOL DISTRICT; DEFINING "AGGREGATE HOURS"; AMENDING SECTIONS
10 20-1-101, 20-5-322, AND 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
11 DATE."

12

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

14

15 **Section 1.** Section 20-1-101, MCA, is amended to read:16 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
17 definitions apply:18 (1) "Aggregate hours" means the hours of pupil instruction for which a school course or program is
19 offered or for which a pupil is enrolled.20 ~~(1)~~(2) "Agricultural experiment station" means the agricultural experiment station established at Montana
21 state university-Bozeman.22 ~~(2)~~(3) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time
23 pupils attending the public schools of a district.24 ~~(3)~~(4) "Board of public education" means the board created by Article X, section 9, subsection (3), of
25 the Montana constitution and 2-15-1507.26 ~~(4)~~(5) "Board of regents" means the board of regents of higher education created by Article X, section
27 9, subsection (2), of the Montana constitution and 2-15-1505.28 ~~(5)~~(6) "Commissioner" means the commissioner of higher education created by Article X, section 9,
29 subsection (2), of the Montana constitution and 2-15-1506.30 ~~(6)~~(7) "County superintendent" means the county government official who is the school officer of the

1 county.

2 ~~(7)~~(8) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate
3 with a superintendent's endorsement that has been issued by the superintendent of public instruction under the
4 provisions of this title and the policies adopted by the board of public education and who has been employed
5 by a district as a district superintendent.

6 ~~(8)~~(9) "K-12 career and vocational/technical education" means organized educational activities that have
7 been approved by the office of public instruction and that:

8 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and
9 skills that the pupil needs to prepare for further education and for careers in the current or emerging employment
10 sectors; and

11 (b) include competency-based applied learning that contributes to the academic knowledge,
12 higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills,
13 and occupation-specific skills of the pupil.

14 ~~(9)~~(10) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an
15 applicable principal's endorsement that has been issued by the superintendent of public instruction under the
16 provisions of this title and the policies adopted by the board of public education and who has been employed
17 by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as
18 including a principal.

19 ~~(10)~~(11) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in
20 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3)
21 but has not yet reached 19 years of age and who is enrolled in a school established and maintained under the
22 laws of the state at public expense. For purposes of calculating the average number belonging pursuant to
23 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10
24 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state
25 at public expense.

26 ~~(11)~~(12) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
27 schools while under the supervision of a teacher.

28 ~~(12)~~(13) "Regents" means the board of regents of higher education.

29 ~~(13)~~(14) "School food services" means a service of providing food for the pupils of a district on a
30 nonprofit basis and includes any food service financially assisted through funds or commodities provided by the

1 United States government.

2 ~~(14)~~(15) "State board of education" means the board composed of the board of public education and
3 the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

4 ~~(15)~~(16) "State university" means Montana state university-Bozeman.

5 ~~(16)~~(17) "Superintendent of public instruction" means that state government official designated as a
6 member of the executive branch by the Montana constitution.

7 ~~(17)~~(18) "System" means the Montana university system.

8 ~~(18)~~(19) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher
9 certificate that has been issued by the superintendent of public instruction under the provisions of this title and
10 the policies adopted by the board of public education and who is employed by a district as a member of its
11 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
12 emergency authorization of employment has been issued under the provisions of 20-4-111.

13 ~~(19)~~(20) "Textbook" means a book or manual used as a principal source of study material for a given
14 class or group of students.

15 ~~(20)~~(21) "Textbook dealer" means a party, company, corporation, or other organization selling, offering
16 to sell, or offering for adoption textbooks to districts in the state.

17 ~~(21)~~(22) "Trustees" means the governing board of a district.

18 ~~(22)~~(23) "University" means the university of Montana-Missoula.

19 ~~(23)~~(24) "Vocational-technical education" means vocational-technical education of vocational-technical
20 students that is conducted by a unit of the Montana university system, a community college, or a tribally
21 controlled community college, as designated by the board of regents."

22

23 **Section 2.** Section 20-5-322, MCA, is amended to read:

24 **"20-5-322. Residency determination -- notification -- appeal for attendance agreement.** (1) In
25 considering an out-of-district attendance agreement, the trustees shall determine the child's district of residence
26 on the basis of the provisions of 1-1-215.

27 (2) Within 10 days of the initial application for an agreement, the trustees of the district of choice shall
28 notify the parent or guardian of the child and the trustees of the district of residence involved in the out-of-district
29 attendance agreement of the anticipated date for approval or disapproval of the agreement.

30 (3) Within 10 days of approval or disapproval of an out-of-district attendance agreement, the trustees

1 shall provide copies of the approved or disapproved attendance agreement to the parent or guardian and to the
2 child's district of residence.

3 (4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the
4 district of residence shall approve or disapprove the agreement under the provisions of this part and forward the
5 completed agreement to the county superintendent of schools of the county of residence, the trustees of the
6 district of choice, and the parent or guardian.

7 (5) If an out-of-district attendance agreement is disapproved or no action is taken, the parent may
8 appeal the disapproval or lack of action to the county superintendent and, subsequently, to the superintendent
9 of public instruction under the provisions for the appeal of controversies in this title.

10 (6) For purposes of payment under 20-5-324(6), a nonresident student who becomes a resident by
11 reaching the age of 18 during the school year may continue to have tuition paid on the student's behalf for the
12 duration of the student's enrollment in the district for that school year."

13

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

15 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)
16 must be computed as follows:

17 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
18 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils
19 on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day,
20 and divide the sum by two; and

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

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

25 (3) When a school district has approval to operate less than 180 school days under 20-9-806, the total
26 ANB must be calculated in accordance with the provisions of 20-9-805.

27 (4) ~~Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be~~
28 ~~counted as enrollment for one-half day~~ (a) Except as provided in subsection (5), for the purpose of calculating
29 ANB, enrollment in an education program:

30 (i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time

1 enrollment;

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

3 enrollment;

4 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time

5 enrollment; and

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

7 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
8 school year may not be included for purposes of ANB.

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

11 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,
12 or district may not be counted as more than one full-time pupil for ANB purposes.

13 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment
14 ~~at in a regular session of the program for at least 2 hours of either a morning or an afternoon session that~~
15 provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for
16 ANB purposes. ~~The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.~~

17 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
18 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) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
21 calculations.

22 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
23 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
24 district, except that when:

25 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or
26 town located in the district and at least 20 miles from any other school of the district, the number of regularly
27 enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must
28 receive a basic entitlement for the school calculated separately from the other schools of the district;

29 (ii) a school of the district is located more than 20 miles from any other school of the district and
30 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school

1 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
2 calculated separately from the other schools of the district;

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

9 (iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205,
10 or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317,
11 or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic
12 entitlements of the component districts must be calculated separately for a period of 3 years following the
13 consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years
14 as follows:

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

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

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

18 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
19 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
20 purposes;

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

24 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
25 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
26 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
27 program for the district.

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

1 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
 2 provided by the district at a site other than a school of the district THROUGH ANY COMBINATION OF ONSITE OR
 3 OFFSITE INSTRUCTION may be included for ANB purposes only if the pupil is offered and is able to receive full
 4 access to the complete range of educational services for the basic education program required by the
 5 accreditation standards adopted by the board of public education.

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

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

12 (D) THIS SUBSECTION (10) MAY NOT BE CONSTRUED TO REQUIRE A SCHOOL DISTRICT TO OFFER ACCESS TO
 13 ACTIVITIES GOVERNED BY AN ORGANIZATION HAVING JURISDICTION OVER INTERSCHOLASTIC ACTIVITIES, CONTESTS, AND
 14 TOURNAMENTS TO A PUPIL WHO IS NOT OTHERWISE ELIGIBLE UNDER THE RULES OF THE ORGANIZATION.

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

17 (i)(A) a resident of the district or a nonresident student admitted by trustees under a student attendance
 18 agreement and who is attending a school of the district;

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

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

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

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

29 (vi)(F) receiving educational services, provided by the district, using appropriately licensed district staff
 30 at a private residential program or private residential facility licensed by the department of public health and

1 human services;

2 ~~(vii) a resident of the district (g) enrolled in an educational program or course provided at district~~
3 ~~expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning~~
4 ~~programs, online programs, and technology delivered learning programs, while attending a school of the district~~
5 ~~or any other nonsectarian attendance site OFFSITE INSTRUCTIONAL SETTING with the approval of the trustees of~~
6 ~~the district; or. THE PUPIL SHALL:~~

7 (i) MEET THE RESIDENCY REQUIREMENTS FOR THAT DISTRICT AS PROVIDED IN 1-1-215;

8 (ii) LIVE IN THE DISTRICT AND MUST BE ELIGIBLE FOR EDUCATIONAL SERVICES UNDER THE INDIVIDUALS WITH
9 DISABILITIES EDUCATION ACT OR UNDER 29 U.S.C. 794; OR

10 (iii) ATTEND SCHOOL IN THE DISTRICT UNDER A MANDATORY ATTENDANCE AGREEMENT AS PROVIDED IN 20-5-321.

11 ~~(viii)(H) a resident of the district attending a Montana job corps program under an interlocal agreement~~
12 ~~with the district under 20-9-707.~~

13 ~~—— (b) A district may not include for ANB purposes a nonresident student participating in courses or~~
14 ~~programs provided using electronic delivery methods at a site other than a public school site controlled and~~
15 ~~operated by the district."~~

16
17 **NEW SECTION. Section 4. Effective date -- applicability.** [This act] is effective July 1, 2005, and
18 applies to school budgets for the school fiscal years beginning on or after July 1, 2006.

19 - END -