

SENATE BILL NO. 280
INTRODUCED BY E. BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE OFFERING OF REMEDIAL COURSES TO CERTAIN UNITS OF THE MONTANA UNIVERSITY SYSTEM; ALLOWING A STUDENT WHO HAS BEEN DENIED ADMISSION TO A UNIT OF THE MONTANA UNIVERSITY SYSTEM TO ENROLL IN A PUBLIC HIGH SCHOOL IN ORDER TO RETAKE CERTAIN COURSES; REQUIRING THE SCHOOL DISTRICT TO ADMIT THE STUDENT; ALLOWING THE STUDENT TO BE COUNTED AS ONE-FOURTH PUPIL FOR ANB PURPOSES; PROHIBITING THE SCHOOL DISTRICT FROM COUNTING THE STUDENT FOR ANB PURPOSES UNDER CERTAIN CIRCUMSTANCES; CLARIFYING THE DEFINITION OF PUPIL; AND AMENDING SECTIONS 20-1-101, 20-5-101, AND 20-9-311, MCA."

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

NEW SECTION. **Section 1. Remedial classes authorized at certain units.** (1) The board of regents of higher education may authorize the offering of remedial courses only at the following units of the Montana university system:

- (a) university of Montana-Helena college of technology;
- (b) Montana tech college of technology of the university of Montana;
- (c) university of Montana-Missoula college of technology;
- (d) Montana state university-Billings college of technology; and
- (e) Montana state university-Great Falls college of technology.

(2) For purposes of this section, the term "remedial courses" means any course for which credit may not be applied toward an academic degree.

NEW SECTION. **Section 2. Enrollment in public high school to retake courses.** (1) A student who has been denied admission to a unit of the Montana university system for academic reasons may apply at a public high school to retake the courses necessary to achieve admission. A student who applies must be accepted by the high school.

(2) If the student applies to the high school from which the student graduated and the student's academic record shows a passing grade in the course that the student needs to retake in order to be admitted to the

Montana university system, the school district may not count that student for ANB purposes.

Section 3. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(2) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils attending the public schools of a district.

(3) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(4) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(5) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(6) "County superintendent" means the county government official who is the school officer of the county.

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

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

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

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

(9) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as

a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

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

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

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

(13) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

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

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

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

(17) "System" means the Montana university system.

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

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

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

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

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

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

Section 4. Section 20-5-101, MCA, is amended to read:

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

(a) 6 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;

(b) a resident of the district; and

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

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

(3) (a) The trustees may at their discretion assign and admit a child to a school in the district who is under 6 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section.

(b) The trustees shall assign and admit an adult who is 19 years of age or older who seeks admission as provided in [section 2].

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

Section 5. Section 20-9-311, MCA, is amended to read:

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

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

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

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

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

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) In calculating the ANB for a student enrolled as provided in [section 2(1)], enrollment must be counted as one-fourth pupil for each course in which the student is enrolled up to four courses in each semester with no limit on the number of courses in which the student may enroll.

~~(6)(7)~~ When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

~~(7)(8)~~ The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

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

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

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

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

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

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

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

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

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

~~(9)~~(10) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent."

NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 20, chapter 25, part 3, and the provisions of Title 20, chapter 25, part 3, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1, apply to [section 2].

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