

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL LAWS RELATED TO PARTICIPATION IN
5 EXTRACURRICULAR ACTIVITIES; ALLOWING CERTAIN STUDENTS WHO PARTICIPATE IN
6 EXTRACURRICULAR ACTIVITIES TO BE INCLUDED AS PARTIAL ENROLLMENT FOR ANB
7 CALCULATIONS; AMENDING SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 20-9-311, MCA, is amended to read:

12 **"20-9-311. Calculation of average number belonging (ANB) -- 3-year averaging.** (1) Average
13 number belonging (ANB) must be computed for each budget unit as follows:

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

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

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

22 (3) When a school district has approval to operate less than the minimum aggregate hours under 20-
23 9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

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

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

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

1 enrollment;

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

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

5 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than
6 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

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

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

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

17 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state
18 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
19 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the
20 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten
21 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for
22 districts offering full-time kindergarten.

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

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

28 (8) The average number belonging of the regularly enrolled pupils for the public schools of a district

1 must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except
2 that:

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

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

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

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

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

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

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

28 (c) when a middle school has been approved and accredited, all pupils below the 7th grade must be

1 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered
2 high school pupils for ANB purposes; or

3 (d) when a school has been designated as nonaccredited by the board of public education because of
4 failure to meet the board of public education's assurance and performance standards, the regularly enrolled
5 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
6 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
7 program for the district.

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

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

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

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

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

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

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

28 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving

1 individualized educational services supervised by the district, at district expense, at a home or facility that does
2 not offer an educational program;

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

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

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

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

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

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

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

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

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

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

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

27 (i) resided in the district;

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

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

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

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

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

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

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

11 (iii) a school theater production.

12 ~~(13)~~(14) (a) For an elementary or high school district that has been in existence for 3 years or more,
13 the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be
14 calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units,
15 whichever generates the greatest maximum general fund budget.

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

19 ~~(14)~~(15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated
20 by:

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

23 (b) dividing the sum calculated under subsection ~~(14)(a)~~ (15)(a) by three."
24

25 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 2021.

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