

HOUSE BILL NO. 16

INTRODUCED BY F. ANDERSON

BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL FUNDING LAWS TO CLARIFY THAT 3- AND 4-YEAR-OLD CHILDREN WITH DISABILITIES PARTICIPATING IN SCHOOL DISTRICT SPECIAL EDUCATION PROGRAMS ARE ELIGIBLE FOR INCLUSION IN ANB CALCULATIONS; AMENDING SECTION 20-9-311, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, Montana law at 20-7-411(3), MCA, obligates school districts to provide a special education program for each child with a disability beginning at age 3;

WHEREAS, the prohibition on including preschool pupils in annual number belonging (ANB) counts under 20-9-311(7) applies specifically to preschool programs created at trustees' discretion under 20-7-117(2); and

WHEREAS, if preschool-aged children with disabilities receiving special education from a school district are not included in ANB counts, there is no mechanism for state financial support for their education.

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

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

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

(a) compute an average enrollment by adding a count of regularly enrolled 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 the first Monday in February 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 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

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

3 (3) When a school district has approval to operate less than the minimum aggregate hours under 20-
4 9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

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

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

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

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

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

14 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than
15 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

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

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

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

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

1 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten
2 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for
3 districts offering full-time kindergarten.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (13) (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 (13)(a) and then combined.

15 (14) 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 (14)(a) by three."
19

20 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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