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As of: 2020/05/13 07:14:34

Drafter: Pad McCracken, 406-444-3595

PD 0005

67th Legislature

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

**THIS WORKING DRAFT RELATES TO THREE- AND FOUR-YEAR-OLDS RECEIVING SPECIAL
EDUCATION SERVICES AND ISSUE #7 OF THE SCHOOL FUNDING MEMO FROM THE APRIL 30 EDIC
MEETING**

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."

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.

(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 the minimum aggregate hours under 20-
9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

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

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

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

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

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

8 (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than
9 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

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

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

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

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

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

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

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

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

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

(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 pupils of the school must be calculated as a separate budget unit 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 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 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 districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, 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

Commented [MP1]: Districts are mandated under 20-7-411 to provide special education services to 3- and 4-year-olds with disabilities (as well as 5- to 19-year-olds) and there has been a perception among districts that these youngest children cannot be included in ANB calculations. They can, and this simply clarifies that. The existing prohibition in subsection (7) pertains only to preschool programs established at trustees' discretion under 20-7-117.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge

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1 program participant as half-time enrollment.

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

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

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

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

12 (b) dividing the sum calculated under subsection (14)(a) by three."
13

14 NEW SECTION. Section 2. {standard} Effective date. [This act] is effective on passage and
15 approval.
16

- END -