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\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

BY REQUEST OF THE \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EDUCATION LAWS TO CLARIFY PROVISIONS RELATED TO KINDERGARTEN AND SPECIFIC TYPES OF ENROLLMENT INCREASES; AMENDING SECTIONS 20-1-301, 20-3-326, 20-7-117, 20-9-311, AND 20-9-313, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 20-1-301, MCA, is amended to read:

**"20-1-301. School fiscal year.** (1) The school fiscal year begins on July 1 and ends on June 30. At least the minimum aggregate hours required in subsection (2) must be conducted during each school fiscal year, except that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient. The minimum aggregate hours required in subsection (2) are not required for any pupil demonstrating proficiency pursuant to 20-9-311(4)(d).

(2) The minimum aggregate hours required by grade are:

(a) 360 hours for ~~a~~ half-time kindergarten ~~program~~ or 720 hours for ~~a~~ full-time kindergarten ~~program~~, as provided in 20-7-117;

(b) 720 hours for grades 1 through 3; and

(c) 1,080 hours for grades 4 through 12.

(3) Except for a circumstance related to an unforeseen emergency pursuant to Title 20, chapter 9, part 8, for any elementary or high school district that fails to provide for at least the minimum aggregate hours, as listed in subsections (1) and (2), to any pupil not demonstrating proficiency pursuant to 20-9-311(4)(d), the superintendent of public instruction shall reduce the BASE aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed by each pupil not demonstrating proficiency pursuant to 20-9-311(4)(d)."

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**Section 2.** Section 20-3-326, MCA, is amended to read:

**"20-3-326. Information on educational opportunities -- duties of trustees.** (1) The board of

trustees of a school district shall develop, update, and annually provide to students and families of the district information on the educational opportunities available through the schools of the district. The information must align to the legislative intent of preserving and protecting the right to access personalized learning as set forth in 20-7-1601 and must be designed to empower families in understanding the options available to them in partnering with schools to develop their child's full educational potential. A school board may satisfy its obligation through the use of model resources developed by an organization of school boards of which the school board is a member.

(2) The information provided under subsection (1) must include, at a minimum, the following educational and extracurricular opportunities:

- (a) evaluation and identification of children with disabilities and special education programs beginning at age 3 pursuant to 20-7-411;
- (b) early literacy targeted interventions pursuant to 20-7-1801 through 20-7-1804;
- (c) part-time enrollment of a student who is otherwise enrolled at a nonpublic or home school pursuant to 20-5-101;
- (d) admission to a school of a district beginning at age 5 pursuant to 20-5-101, and the option to enroll a child half-time in a ~~half-time~~ kindergarten program pursuant to 20-7-117;
- (e) proficiency-based learning and other forms of personalized learning pursuant to 20-7-1601, including options for obtaining course equivalency and course waiver determinations from the board of trustees pursuant to 20-3-324(18);
- (f) participation in extracurricular activities, including participation by nonpublic and home school students pursuant to 20-5-112;
- (g) access to remote instruction, including through the Montana digital academy pursuant to Title 20, chapter 7, part 12, and through other school districts as provided in 20-7-118;
- (h) out-of-district attendance pursuant to Title 20, chapter 5, part 3;
- (i) availability of funding to support student access to advanced opportunities, if applicable to a district

1 pursuant to 20-7-1506;

2 (j) career and technical education pursuant to Title 20, chapter 7, part 3, including the attainment of  
3 industry-recognized credentials and work-based learning, pursuant to 20-7-1510;

4 (k) early college, dual enrollment, and running start opportunities, pursuant to 20-9-706; and

5 (l) other opportunities for school-age children through Montana public schools that:

6 (i) support the development of a child's full educational potential;

7 (ii) assist in reducing the costs of postsecondary education and workforce preparation; and

8 (iii) foster life success.

9 (3) The legislature intends that boards of trustees and organizations of boards of trustees  
10 communicate and collaborate with the education interim committee to demonstrate the implementation of the  
11 requirements of this section and to identify additional opportunities following legislative sessions."  
12

13 **Section 3.** Section 20-7-117, MCA, is amended to read:

14 **"20-7-117. (Temporary) Kindergarten and preschool programs.** (1) The trustees of an elementary  
15 district shall establish or make available a kindergarten program capable of accommodating, at a minimum, all  
16 the children in the district who will be 5 years old on or before September 10 of the school year for which the  
17 program is to be conducted or who have been enrolled by special permission of the board of trustees. The  
18 kindergarten program, which the trustees may designate as either a half-time or full-time program, must be an  
19 integral part of the elementary school and must be financed and governed accordingly, provided that to be  
20 eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must have reached 5 years of age  
21 on or before September 10 of the school year covered by the calculation or have been enrolled by special  
22 permission of the board of trustees. A kindergarten program must meet the minimum aggregate hour  
23 requirements established in 20-1-301. A kindergarten program that is designated as a full-time program must  
24 allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided  
25 in 20-5-102, to enroll the child half-time.

26 (2) The trustees of an elementary school district may establish and operate a free preschool program  
27 for children between the ages of 3 and 5 years. When preschool programs are established, they must be an  
28 integral part of the elementary school and must be governed accordingly. Financing of preschool programs may

1 not be supported by money available from state equalization aid.

2 **20-7-117. (Effective July 1, 2024) Kindergarten and preschool programs.** (1) The trustees of an  
3 elementary district shall establish or make available a kindergarten program capable of accommodating, at a  
4 minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for  
5 which the program is to be conducted or who have been admitted through the exceptional circumstances  
6 provision under 20-5-101 by the board of trustees. The kindergarten program, ~~which the trustees may~~  
7 ~~designate as either a half-time or full-time program,~~ must:

8 (a) meet, at a minimum, the half-time aggregate hour requirements under 20-1-301;

9 (b) be an integral part of the elementary school and must be financed and governed accordingly,  
10 provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must have  
11 reached 5 years of age on or before September 10 of the school year covered by the calculation or have been  
12 admitted to the district's kindergarten program by the board of trustees through the exceptional circumstances  
13 provision under 20-5-101. ~~A kindergarten program must meet the minimum aggregate hour requirements~~

14 ~~established in 20-1-301. A kindergarten program that is designated as a full-time program must; and~~

15 (c) if offered full-time, allow a parent, guardian, or other person who is responsible for the  
16 enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.

17 (2) The trustees of an elementary school district may establish and operate a free preschool program  
18 for children between the ages of 3 and 5 years. When preschool programs are established, they must be an  
19 integral part of the elementary school and must be governed accordingly. Financing of preschool programs may  
20 not be supported by money available from state equalization aid.

21 (3) As used in this title, the following definitions apply:

22 (a) "Kindergarten program" means a ~~half-time or full-time~~ 1-year program immediately preceding a  
23 child's entry into 1st grade with curriculum and instruction selected by the board of trustees and aligned to the  
24 content standards established by the board of public education.

25 (b) "Preschool program" means a half-time or full-time program to prepare children for entry into  
26 kindergarten and governed by standards adopted by the board of public education."

27

28 **Section 4.** Section 20-9-311, MCA, is amended to read:

1           **"20-9-311. (Bracketed language effective July 1, 2024) Calculation of average number**

2 **belonging (ANB) -- 3-year averaging.** (1) Average number belonging (ANB) must be computed for each

3 budget unit as follows:

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

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

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

12           (3) When a school district has approval to operate less than the minimum aggregate hours under 20-  
13 9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

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

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

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

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

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

24           (b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than  
25 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

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

28           (d) A school district may include in its calculation of ANB a pupil who is enrolled in a program

1 providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b)  
 2 if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by  
 3 the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted  
 4 to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the  
 5 student has demonstrated proficiency.

6 (e) [(i) Except as provided in subsection (4)(e)(ii),] a pupil in kindergarten through grade 12 who is  
 7 concurrently enrolled in more than one public school, program, or district may not be counted as more than one  
 8 full-time pupil for ANB purposes. When a pupil is concurrently enrolled in more than one district, any fractional  
 9 enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district.

10 [(ii) A pupil who participates in a jumpstart program under Title 20, chapter 7, part 18, may be  
 11 counted as up to 1 1/4 enrollment for ANB purposes. A district shall add one-quarter enrollment for a pupil who  
 12 participated in an early literacy jumpstart program to the pupil's regular enrollment count under this subsection  
 13 (4) in both the October and February enrollment counts following the student's participation in the jumpstart  
 14 program.]

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

21 ~~(6)(5)~~ When a pupil has been absent, with or without excuse, for more than 10 consecutive school  
 22 days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil  
 23 resumes attendance prior to the day of the enrollment count.

24 ~~(7)(6)~~ (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the  
 25 ANB calculations.

26 (b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September  
 27 10 of the school year may not be included in the ANB calculations.

28 (c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by

1 September 10 of the school year and who is receiving special education services from a school district pursuant  
2 to 20-7-411(4)(a) may be included in the ANB calculations if:

3 (i) the student has not graduated;

4 (ii) the student is eligible for special education services and is likely to be eligible for adult services for  
5 individuals with developmental disabilities due to the significance of the student's disability; and

6 (iii) the student's individualized education program has identified transition goals that focus on  
7 preparation for living and working in the community following high school graduation since age 16 or the  
8 student's disability has increased in significance after age 16.

9 (d) A school district providing special education services pursuant to subsection (7)(c) is encouraged  
10 to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals  
11 of a student's transition plan.

12 ~~(8)(7)~~ The average number belonging of the regularly enrolled pupils for the public schools of a  
13 district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district,  
14 except that:

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

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

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

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

1 the district; or

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

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

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

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

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

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

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

20 ~~(9)(8)~~ The district shall provide the superintendent of public instruction with semiannual reports of  
21 school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
22 superintendent.

23 ~~(10)(9)~~ (a) Except as provided in subsections ~~(10)(9)(b)~~ and ~~(10)(9)(c)~~, enrollment in a basic  
24 education program provided by the district through any combination of in-person or remote instruction may be  
25 included for ANB purposes only if the pupil is offered access to the complete range of educational services for  
26 the basic education program required by the accreditation standards adopted by the board of public education.

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



1 plan supervised by the district.

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

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

8 ~~(11)~~(10) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible  
9 under this title and who is:

10 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
11 agreement and who is attending a school or an offsite instructional setting of the district;

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

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

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

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

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

25 (g) enrolled in an educational program or course provided at district expense using remote delivery  
26 methods, including but not limited to tutoring, distance learning programs, online programs, and technology  
27 delivered learning programs. The pupil:

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

- 1 (ii) shall 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) must be enrolled in the educational program or course under a mandatory attendance agreement
- 4 as provided in 20-5-321; or
- 5 (iv) must be receiving remote instruction under 20-7-118(1)(c).
- 6 (h) a resident of the district attending the Montana youth challenge program or a Montana job corps
- 7 program under an interlocal agreement with the district under 20-9-707.

8 ~~(12)(11)~~ A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth  
9 challenge program participant as half-time enrollment.

10 ~~(13)(12)~~ (a) A district may, for ANB purposes, include in the October and February enrollment counts  
11 an individual who is otherwise eligible under this title and who during the prior school year:

- 12 (i) resided in the district;
- 13 (ii) was not enrolled in the district or was not enrolled full time; and
- 14 (iii) completed an extracurricular activity with a duration of at least 6 weeks.

15 (b) (i) Except as provided in subsection ~~(13)(12)(b)(ii)~~, each completed extracurricular activity under  
16 subsection ~~(13)(12)(a)~~ may be counted as one-sixteenth enrollment for the individual, but under this subsection  
17 ~~(13)(12)~~ the individual may not be counted as more than one full-time enrollment for ANB purposes.

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

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

- 21 (i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities,  
22 contests, and tournaments;
- 23 (ii) an approved career and technical student organization, pursuant to 20-7-306; or
- 24 (iii) a school theater production.

25 ~~(14)(13)~~ (a) For an elementary or high school district that has been in existence for 3 years or more,  
26 the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be  
27 calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units,  
28 whichever generates the greatest maximum general fund budget.

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

4 ~~(15)(14)~~ The term "3-year ANB" means an average ANB over the most recent 3-year period,  
5 calculated by:

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

8 (b) dividing the sum calculated under subsection (15)(a) by three."  
9

10 **Section 5.** Section 20-9-313, MCA, is amended to read:

11 **"20-9-313. Circumstances under which regular average number belonging may be increased.**

12 ~~(1)~~The average number belonging of a ~~school budget unit of a school district~~, calculated in accordance with the  
13 ANB formula prescribed in 20-9-311, may be increased when:

14 ~~(a)(1)~~ the opening of a new elementary school or the reopening of an elementary school has been  
15 approved in accordance with 20-6-502. ~~The Any increase in the~~ average number belonging for the ~~school~~  
16 ~~appropriate budget unit resulting from the opening or reopening of the school~~ must be established by the county  
17 superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

18 ~~(b)(2)~~ the opening or reopening of a high school or a branch of the county high school has been  
19 approved in accordance with 20-6-503, 20-6-504, or 20-6-505. ~~The Any increase in the~~ average number  
20 belonging for the ~~high school appropriate budget unit~~ must be established by the county superintendent's  
21 estimate, after an investigation of the probable number of pupils that will attend the high school.

22 ~~(c)(3)~~ a district anticipates an increase in the average number belonging due to the closing of a  
23 private or public school in the district or a neighboring district. The estimated increase in average number  
24 belonging ~~for the appropriate budget unit~~ must be established by the trustees and the county superintendent  
25 and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth  
26 Monday in June.

27 ~~(d)~~ ~~for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB~~  
28 ~~to be used for budget purposes is:~~

1           ~~(i) one half the number of 5-year-old children residing in the district as of September 10 of the~~  
 2 ~~preceding school year, either as shown on the official school census or as determined by some other procedure~~  
 3 ~~approved by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten~~  
 4 ~~program as provided in 20-1-301; or~~

5           ~~(ii) the number of 5-year-old children residing in the district as of September 10 of the preceding~~  
 6 ~~school year, either as shown on the official school census or as determined by some other procedure approved~~  
 7 ~~by the superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as~~  
 8 ~~provided in 20-1-301; or~~

9           ~~(e)(4)~~ a high school district provides early graduation for a student who completes graduation  
 10 requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The  
 11 increase must be established by the trustees as though the student had attended to the end of the school fiscal  
 12 year and must be approved, disapproved, or adjusted by the superintendent of public instruction.

13           ~~(2) This section does not apply to the expansion of a half-time kindergarten program to a full-time~~  
 14 ~~kindergarten program."~~

16           NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2025.

18           NEW SECTION. **Section 7. Applicability.** [This act] applies to school years beginning on or after  
 19 July 1, 2025.

20           - END -