

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PUBLIC AND PRIVATE PRESCHOOL OPTIONS FOR AT RISK STUDENTS AND CHILDREN WITH SPECIAL NEEDS; PROVIDING STATE FUNDING FOR PRESCHOOL PROVIDED BY A QUALIFYING HEAD START AGENCY; AUTHORIZING THE ENROLLMENT OF A CHILD AT LEAST 4 YEARS OLD BUT UNDER THE AGE OF 5 IN A PUBLIC PRESCHOOL PROGRAM UNDER EXCEPTIONAL CIRCUMSTANCES; PROVIDING THAT A PUPIL SERVED IN A PUBLIC PRESCHOOL PROGRAM UNDER EXCEPTIONAL CIRCUMSTANCES MAY BE FUNDED THROUGH ANB AND STATE EQUALIZATION AID; AND AMENDING SECTIONS 20-1-101, 20-5-101 and 20-7-117, MCA."

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

NEW SECTION. Section 1. State Support of Preschool Programs of Qualified Head Start

Agencies. (1) The superintendent of public instruction shall distribute funding as specified in this section to any qualified head start agency that satisfies the conditions of this section.

(2) To be eligible for funding, a qualified head start agency shall submit an annual application to the superintendent of public instruction at such time and in such manner as the superintendent of public instruction may require by rule, but no later than August 1. Such application must, at a minimum, include:

(a) for a qualified head start agency that has previously received a renewal of its agency status from the federal secretary of the department of public health and welfare, a true and correct copy of the qualified head start agency's last completed head start designation renewal application submitted to the federal secretary of the department of public health and welfare;

(b) for a qualified head start agency that has not yet received approval of a renewal of its agency status, a true and correct copy of the qualified head start agency's initial application approved by the federal secretary of the department of public health and welfare.

(b) for all qualified head start agency applicants, a report of the number of children enrolled and served in the qualified head start agency's preschool program in the last completed fiscal year who were 4 years of age on or before September 10 of such year but not yet 5 years of age on September 10 and to whom the qualified head start agency provided at least 360 hours of preschool instruction during such fiscal year.

(3) Upon completed review of such application and receipt of such verification as the superintendent of public instruction may require by rule, the superintendent of public instruction shall distribute funding to a qualified head start agency equivalent to a dollar amount calculated from 44.7% of 50% of the total per-ANB entitlement for an elementary pupil for the first ANB as defined in 20-9-306(15)(b), MCA, multiplied times the number of children reported by the qualified head start agency under subsection (2)(b) of this section.

(4) If, after receiving funding under this section from the superintendent of public instruction, a head start agency loses its qualification status from the federal secretary of public health and welfare, the head start program shall immediately notify the superintendent of public instruction and further distribution of funding for such program shall cease beginning in the month following the superintendent of public instruction's receipt of such notice.

(5) The superintendent of public instruction shall distribute total annual funding to a qualified head start agency that has been approved for funding under this section on the same schedule and at the same monthly percentages used for distribution of BASE aid under 20-9-344, MCA.

(6) As used in this section, "qualified head start agency" means any head start agency as defined in 42 U.S. Code § 9836 that is located within the state of Montana and that is nonsectarian.

Section 2. 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) "Accreditation standards" means the body of administrative rules governing standards such as:

- (a) school leadership;
- (b) educational opportunity;
- (c) academic requirements;
- (d) program area standards;
- (e) content and performance standards;
- (f) school facilities and records;
- (g) student assessment; and
- (h) general provisions.

(2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is offered or for which a pupil is enrolled.

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

(4) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

(5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

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

- (7) "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.
- (8) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.
- (9) "County superintendent" means the county government official who is the school officer of the county.
- (10) "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.
- (11) (a) "Educational program" means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.
- (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.
- (12) "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.
- (13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

(b) The term does not include lunch time and periods of unstructured recess.

(14) "Offsite instructional setting" means an instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.

(15) "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.

(16) "Pupil" means a child who is **6 5** 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 who **is at least 4 years of age on or before September 10 of such year but** has not yet reached **19 5** years of age and who is enrolled in a **preschool or kindergarten class in 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. **In the case of enrollment of a child in a preschool class under 20-5-101(3), ANB shall be limited to children who have reached 4 years of age on or before September 10 of the school year covered by the calculation but who have not yet reached 5 years of age by such date, not to exceed one-half-time enrollment pursuant to 20-9-311(4).**

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

(18) "Qualified and effective teacher or administrator" means an educator who is licensed and

endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established by the board of public education.

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

(20) "Regular school election" or "trustee election" means the election for school board members held on the day established in 20-20-105(1).

(21) "School election" means a regular school election or any election conducted by a district or community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this title.

(22) "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.

(23) "Special school election" means an election held on a day other than the day of the regular school election, primary election, or general election.

(24) "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.

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

(26) "Student with limited English proficiency" means any student:

(a) (i) who was not born in the United States or whose native language is a language other than English;

(ii) who is an American Indian and who comes from an environment in which a language other than English has had a significant impact on the individual's level of English proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

(b) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

(i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

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

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

(29) "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.

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

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

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

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

(34) "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 3. Section 20-5-101, MCA, is amended to read:

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

(a) **6 5** 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) The trustees may at their discretion assign and admit a child to a school in the district who is under **6 5** 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. The trustees may also admit an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section. As used in this

subsection, authorized "exceptional circumstances" shall consist of circumstances present regarding:

(a) any at risk student as defined in 20-1-101(4), MCA;

(b) any children with special needs as referenced in 20-9-309(2)(b); or

(b) any educationally relevant factors as referenced in 20-9-309(3)(b) through 20-9-309(3)(e).

(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.

Section 4. Section 20-7-117, MCA, is amended to read:

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

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

(3) In the initial year of operation of a preschool program, the increase in average number belonging to be used for budget purposes, calculated pursuant to 20-9-311, must be based on the district's report to the superintendent of public instruction no later than June 1 of the number of preschool children to be admitted under 20-5-101(3) and registered in the district as of May 31 of the year prior to the start of the program and the aggregate hours of instruction planned

for the district's preschool program in its initial year of operation, with a preschool student not counting for more than half-time enrollment for ANB purposes. If the actual preschool enrollment is less than the enrollment used to determine the budgeted ANB, the provisions of 20-9-314(6)(b) apply."

Section 5. 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:

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

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

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

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

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

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

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

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

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half

enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) 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) The enrollment of preschool pupils, as provided in 20-7-117, may ~~not~~ be included in the ANB calculations pursuant to the limits set forth in 20-1-101(16) when a child who is 4 years of age on or before September 10 but not yet 5 years of age on September 10 is assigned and admitted to a school in the district under exceptional circumstances as referenced in 20-5-101(3).

(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
- (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.

(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 program participant as half-time enrollment.
- (13) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year

average ANB for all budget units, whichever generates the greatest maximum general fund budget.

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

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

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

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

Section 6. Section 20-10-101, MCA, is amended to read:

"20-10-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Bus route" means a route approved by the board of trustees of a school district and by the county transportation committee.

(2) "Eligible transportee" means a public school pupil who:

(a) is 54 years of age or older and has not reached the age of 21 on or before September 10 of the current school year or who is a preschool child with a disability between the ages of 3 and 6 or who has been assigned and admitted pursuant to 20-5-101(3);

(b) is a resident of the state of Montana;

(c) regardless of district and county boundaries:

(i) resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; or

(ii) has transportation identified as a related service in an individualized education program as developed and implemented in accordance with the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.; and (d) is considered to reside with a parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

(3) "Passenger seating position" means, as defined in 49 CFR 571.222, the space on a school bus

allocated for one passenger.

(4) (a) "School bus" means, except as provided in subsection (4)(b), any motor vehicle that complies with the bus standards established by the board of public education as verified by the department of justice's semiannual inspection of school buses and the superintendent of public instruction and:

(i) is owned by a district or other public agency and operated for the transportation of pupils to or from school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to or from school; or

(ii) is district-owned, is designed to carry 10 or fewer passengers, has an overall safety rating of five stars

from the national highway traffic safety administration at the time of purchase, and is insured in accordance with minimum coverage requirements set forth in 20-10-109.

(b) A school bus does not include a vehicle that is:

(i) privately owned and not operated for compensation under this title;

(ii) privately owned and operated for reimbursement under 20-10-142;

(iii) either district-owned or privately owned, designed to carry not more than nine passengers, and used to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other emergency situations and that was purchased prior to July 1,

2017; or

(iv) an over-the-road passenger coach used only to transport pupils to activity events.

(5) "Transportation" means:

(a) a district's conveyance of a pupil by a school bus between the pupil's legal residence or an officially designated bus stop and the school designated by the trustees for the pupil's attendance; or

(b) "individual transportation" by which a district is relieved of actually conveying a pupil. Individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

(6) "Transportation service area" means the geographic area of responsibility for school bus transportation for each district that operates a school bus transportation program."

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2020.