_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING LAWS RELATED TO SPECIAL EDUCATION; DEFINING "REGULAR HIGH SCHOOL DIPLOMA"; REQUIRING TRUSTEES TO ESTABLISH SPECIAL EDUCATION PROGRAMS TO SERVE STUDENTS WITH DISABILITIES UP TO AGE 22; ALLOWING STUDENTS WITH DISABILITIES UP TO AGE 22 TO BE INCLUDED IN ENROLLMENT COUNTS FOR ANB CALCULATIONS; AMENDING SECTIONS 20-1-101, 20-5-101, 20-7-411, 20-7-436, 20-9-311, AND 20-10-101, MCA; AND PROVIDING AN EFFECTIVE DATE.”

WHEREAS, in August 2025, a federal district court found that Montana state law violates federal law by failing to provide a free appropriate public education to students with disabilities up to age 22; and

WHEREAS, Montana school districts have been operating under this court order for the past 2 school years; and

WHEREAS, the court order will remain in effect until Montana statutes are updated to mandate that a free appropriate public education be made available to all qualifying students until they reach age 22.

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

Section 1. 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 a school of the district or an offsite instructional setting or receiving remote instruction 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) "Career coach" means a person who, pursuant to 20-7-335, provides career technical education or K-12 career and vocational/technical education postsecondary options to pupils in a district.

(9) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(10) "County superintendent" means the county government official who is the school officer of the county.

(11) "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.

(12) (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.

(13) "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 through advanced opportunities, work-based learning partnerships, and other experiential learning opportunities that contribute 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.

(14) (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 and includes time spent logging on and off when receiving remote instruction.

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

(15) "Offsite instructional setting" means an instructional setting that is an extension of a school of the district, located apart from the school, but within the boundaries of the district, where a school district provides in-person pupil instruction to a student who is enrolled in the district. A district shall comply with any rules adopted by the board of public education that specify standards for the provision of educational services at an offsite instructional setting.

(16) "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.

(17) "Pupil" means an individual who is admitted by the board of trustees pursuant to 20-5-101 and who is enrolled in a school established and maintained under the laws of the state at public expense. The

eligibility of pupils and calculations for average number belonging are governed by 20-9-311.

(18) "Pupil instruction" means the conduct of organized learning opportunities for pupils enrolled in public schools while under the supervision of a teacher. The term includes any directed, distributive, collaborative, or work-based or other experiential learning activity provided, supervised, guided, facilitated, or coordinated under the supervision of a teacher that is conducted purposely to achieve content proficiency and facilitate the acquisition of knowledge, skills, and abilities by pupils enrolled in public schools, and to otherwise fulfill their full educational potential.

(19) "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.

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

(21) (a) "Regular high school diploma" means a diploma that is recognized as a regular high school diploma under the Individuals with Disabilities Education Act and its implementing regulations, including 34 CFR 300.102(a)(3)(ii), as those provisions may be amended.

(b) The term does not include any credential, certificate, completion document, or alternative diploma that is not recognized as a regular high school diploma under federal law.

~~(21)~~ (22) "Regular school election" or "trustee election" means the election for school board members held on the day established in 20-20-105(1).

~~(22)~~ (23) "Remote instruction" means pupil instruction that occurs through virtual learning processes incorporating distance and online learning methods that best prepare pupils to meet desired learning outcomes as authorized in 20-7-118.

~~(23)~~ (24) "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.

~~(24)~~ (25) "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.

~~(25)~~ (26) "School of the district" or "school in the district" means an accredited school operated by the district that is located within the boundaries of the district operating the school.

~~(26)~~ (27) "Special school election" means an election held on a day other than the day of the regular school election, primary election, or general election.

~~(27)~~ (28) "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.

~~(28)~~ (29) "State university" means Montana state university-Bozeman.

~~(29)~~ (30) "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 in which the language of instruction is English; or

(iii) the opportunity to participate fully in society.

~~(30)~~ (31) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(31)~~ (32) "System" means the Montana university system.

~~(32)~~ (33) "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.

~~(33)~~ (34) "Textbook" means a book, digital resource, or manual used as a principal source of study material for a given class or group of students.

~~(34)~~ (35) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(35)~~ (36) "Trustees" means the governing board of a district.

~~(36)~~ (37) "University" means the university of Montana-Missoula.

~~(37)~~ (38) "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 2. 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) (i) 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; or

(ii) eligible for a special education program as required under the parameters established in 20-7-411(2) or (3);

(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) (a) The trustees may at their discretion assign and admit a child to a school in the district who is under 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.

(b) As used in this subsection (3), "exceptional circumstances" means any of the following:

(i) the child is being admitted into a preschool program established by the trustees pursuant to 20-7-117;

(ii) the child is determined by the trustees to be ready for kindergarten and the child's parents have requested early entry into the district's regular 1-year kindergarten program;

(iii) the child is being admitted into an early targeted intervention classroom or jumpstart program pursuant to Title 20, chapter 7, part 18; or

~~(iv) the child is a child with a disability and is being admitted into a special education program pursuant to 20-7-411; or~~

~~(v)~~ (iv) the adult is 19 years of age or older and in the trustees' determination would benefit from educational programs offered by a school of the district.

(c) The admittance of an individual under this subsection (3) does not in and of itself impact the ANB calculations governed by 20-9-311.

(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.

(5) The trustees shall assign and admit a child whose parent or guardian is being relocated to Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and apply for programs offered by the district prior to arrival and establishing residency.

(6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title.

(7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the assignment is final.

(8) The trustees shall assign and admit a child who is enrolled in a nonpublic or home school and who meets the requirements of subsection (1) as a part-time enrollee at the request of the child's parent or guardian.

(9) For the purposes of this part, "part-time enrollee" means a qualifying pupil who is enrolled and

admitted at one of the fractional levels that qualify for part-time ANB pursuant to 20-9-311(4)(a) or (4)(d)."

Section 3. Section 20-7-411, MCA, is amended to read:

"**20-7-411. Regular classes preferred -- obligation to establish special education program.** (1) A child with a disability in Montana is entitled to a free appropriate public education provided in the least restrictive environment. To the maximum extent appropriate, a child with a disability, including a child in a public or private institution or other care facility, must be educated with children who do not have disabilities. Separate schooling or other removal of a child with a disability from the regular educational environment may occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) The board of trustees of every school district or a state-operated adult health care facility providing special education services to its residents shall provide or establish and maintain a special education program for each child with a disability who is 5 years of age or older ~~and under 19 years of age~~ but is not yet 22 years of age on or before September 10 of the year in which the student will enroll and has not yet graduated with a regular high school diploma as defined in 20-1-101. A student otherwise eligible for special education services under this subsection remains eligible for special education services through the end of the school year in which the student turns 22 years of age.

(3) The board of trustees of each elementary and K-12 school district shall provide or establish and maintain a special education program for each preschool child with a disability who is 3 years of age or older and under 7 years of age.

(4) ~~(a)~~ The board of trustees of a school district ~~or a state-operated adult health care facility providing special education services to its residents~~ may provide or establish and maintain a special education program for a child with a disability who is 2 years of age or under ~~or who is 19 years of age or older and under 22 years of age~~.

~~(b) Programs established pursuant to subsection (4)(a) do not obligate the state, a school district, or a state-operated adult health care facility providing special education services to its residents to offer regular educational programs to a similar age group unless specifically provided by law.~~

(5) The board of trustees of a school district or a state-operated adult health care facility providing

special education services to its residents may meet its obligation to serve persons with disabilities by establishing its own special education program, by establishing a cooperative special education program, by participating in a regional services program, or by contracting for services from qualified providers. A state-operated adult health care facility providing special education services to its residents may also meet its obligation by coordinating appropriate services with the resident's school district of residence, the local high school district, or both.

(6) The trustees of a school district or a state-operated adult health care facility providing special education services to its residents shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education services, related services, or supplementary aids."

Section 4. Section 20-7-436, MCA, is amended to read:

"**20-7-436. Definitions.** For the purposes of 20-7-435 and this section, the following definitions apply:

(1) "Appropriate educational opportunity" means:

(a) for an eligible child without a disability:

(i) if provided by a nonpublic school, an education program provided in accordance with the requirements for a nonpublic school under the provisions of 20-5-109; and

(ii) if provided by a public school, an education program consistent with accreditation standards provided for in 20-7-111; and

(b) for an eligible child with a disability, a free appropriate public education consistent with state standards for the provision of special education and related services.

(2) (a) "Children's psychiatric hospital" means a freestanding hospital in Montana that:

(i) has the primary purpose of providing clinical care for children and youth whose clinical diagnosis and resulting treatment plan require in-house residential psychiatric care; and

(ii) is accredited by the joint commission on accreditation of ~~healthcare~~ health care organizations, the standards of the centers for medicare and medicaid services, or other comparable accreditation.

(b) The term does not include programs for children and youth for whom the treatment of chemical dependency is the primary reason for treatment.

(3) "Eligible child" means a Montana resident child or youth who is:

(a) (i) less than 19 years of age on September 10 of the school year; or

(ii) eligible for a special education program as required under the parameters established in 20-7-411(2) or (3); and

(b) who has a serious emotional disturbance that is so severe that the child or youth has been placed in a qualifying facility for treatment.

(4) "Qualifying facility" means a children's psychiatric hospital, a residential treatment facility, a residential treatment center as defined in 50-5-101, or a therapeutic group home located in Montana.

(5) (a) "Residential treatment facility" means a facility in the state that:

(i) provides services for children or youth with serious emotional disturbances;

(ii) operates for the primary purpose of providing residential psychiatric care to individuals under 21 years of age;

(iii) is licensed by the department of public health and human services; and

(iv) participates in the Montana medicaid program for psychiatric facilities or programs providing psychiatric services to individuals under 21 years of age; or

(v) notwithstanding the provisions of subsections (5)(a)(iii) and (5)(a)(iv), has received a certificate of need from the department of public health and human services pursuant to Title 50, chapter 5, part 3, prior to January 1, 1993.

(b) The term does not include programs for children and youth for whom the treatment of chemical dependency is the primary reason for treatment.

(6) "Therapeutic group home" means an in-state treatment facility providing therapeutic services licensed and under contract with the department of public health and human services as a youth care facility, as defined in 52-2-602."

Section 5. Section 20-9-311, MCA, is amended to read:

"**20-9-311. Calculation of ANB -- 3-year averaging.** (1) Average number belonging 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) (i) Except as provided in subsection (4)(e)(ii), a pupil 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. When a pupil is concurrently enrolled in more than one district, any fractional enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district.

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

(5) 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.

(6) (a) (i) The enrollment of preschool pupils in preschool programs created at the discretion of trustees as provided in 20-7-117 may not be included in the ANB calculations.

(ii) Preschool children with disabilities receiving special education services as required under 20-7-411(3) may be included in ANB calculations based on the aggregate hours of pupil instruction as provided in subsection (4) of this section.

(b) Except as provided in subsection (6)(c), a pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.

(c) A pupil with disabilities who is over 19 years of age ~~and has not yet reached 21 years of age by September 10 of the school year~~ and who is receiving special education services from a school district pursuant to ~~20-7-411(4)(a)~~ 20-7-411(2) may be included in the ANB calculations. ~~if:~~

~~(i) the student has not graduated;~~

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

~~(iii) the student's individualized education program has identified transition goals that focus on preparation for living and working in the community following high school graduation since age 16 or the~~

~~student's disability has increased in significance after age 16.~~

~~(d) A school district providing special education services pursuant to subsection (6)(c) is encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals of a student's transition plan.~~

(7) The ANB 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 geographic barriers exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, 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 reorganize 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 reorganization 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 ANB calculation purposes, nor will an ANB for the nonaccredited school be used in determining the BASE funding program for the district.

(8) 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.

(9) (a) Except as provided in subsections (9)(b) and (9)(c), enrollment in a basic education program provided by the district through any combination of in-person or remote 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 (9) 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.

(10) 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 or an offsite instructional setting 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 remote delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs. The pupil:

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

(ii) shall 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) must be enrolled in the educational program or course under a mandatory attendance agreement as provided in 20-5-321; or

(iv) must be receiving remote instruction under 20-7-118(1)(c).

(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.

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

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

(i) resided in the district;

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

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

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

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

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

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

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

(iii) a school theater production.

(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 5 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:

(i) a preschool child with a disability between the ages of 3 and 6; or

(ii) a student eligible for special education under the parameters established in 20-7-411(2);

(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) (a) "Individual transportation" means transportation by which a district is relieved of actually conveying a pupil.

(b) The term 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.

(4) "Passenger seating position" means, as defined in 49 CFR 571.222, the space on a school bus allocated for one passenger.

(5) (a) "School bus" means, except as provided in subsection (5)(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;

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

(v) a passenger vehicle as defined in 20-10-129.

(6) "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.

(7) "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. Transition.** The legislature intends that students with disabilities who are 19 to 22 years of age and served by school districts in the school year ending June 30, 2027, are included in enrollment counts for that school year for the purpose of ANB calculations.

NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2027.

1 - END -