



AN ACT REVISING EDUCATION LAWS TO CLARIFY PROVISIONS RELATED TO KINDERGARTEN AND SPECIFIC TYPES OF ENROLLMENT INCREASES; AMENDING SECTIONS 20-1-301, 20-3-205, 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)."

**Section 2.** Section 20-3-205, MCA, is amended to read:

**"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

- (a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;
- (b) administer and file the oaths of members of the boards of trustees of the districts in the county in accordance with the provisions of 20-3-307;
- (c) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;
- (d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;
- (e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;
- (f) keep a transcript of the district boundaries of the county;
- (g) fulfill all responsibilities assigned under the provisions of this title regulating the organization, alteration, or abandonment of districts;
- (h) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;
- (i) estimate the ~~average number belonging (ANB)~~ ANB of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;
- (j) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;
- (k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned under the provisions of this title;
- (l) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;
- (m) ~~act on any request to transfer~~ estimate increases in average number belonging (ANB) ANB in

accordance with the provisions of 20-9-313(1)(e);

(n) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title;

(o) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(p) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(q) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(r) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(s) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(t) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(u) administer the oath of office to trustees without the receipt of pay for administering the oath;

(v) keep a record of official acts, preserve all reports submitted to the superintendent under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to the next superintendent;

(w) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(ii) the total receipts that were realized in each fund maintained by the district;

- (iii) the total expenditures that were made from each fund maintained by the district; and
  - (iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and
  - (x) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed.
- (2) (a) When a district in one county annexes a district in another county, the county superintendent of the county where the annexing district is located shall perform the duties required by this section.
- (b) When two or more districts in more than one county consolidate, the duties required by this section must be performed by the county superintendent designated in the same manner as other county officials in 20-9-202."

**Section 3.** 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 pursuant to 20-7-1506;
  - (j) career and technical education pursuant to Title 20, chapter 7, part 3, including the attainment of industry-recognized credentials and work-based learning, pursuant to 20-7-1510;
  - (k) early college, dual enrollment, and running start opportunities, pursuant to 20-9-706; and
  - (l) other opportunities for school-age children through Montana public schools that:
    - (i) support the development of a child's full educational potential;
    - (ii) assist in reducing the costs of postsecondary education and workforce preparation; and
    - (iii) foster life success.
- (3) The legislature intends that boards of trustees and organizations of boards of trustees communicate and collaborate with the education interim committee to demonstrate the implementation of the requirements of this section and to identify additional opportunities following legislative sessions."

**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 admitted through the exceptional circumstances provision under 20-5-101 by

the board of trustees. The kindergarten program, ~~which the trustees may designate as either a half-time or full-time program,~~ must:

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

(b) 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 admitted to the district's kindergarten program by the board of trustees through the exceptional circumstances provision under 20-5-101. 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; and

(c) if offered full-time, 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) As used in this title, the following definitions apply:

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

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

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

**"20-9-311. Calculation of average number belonging (ANB) 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) (i) Except as provided in subsection (4)(e)(ii), 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. 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 shall add one-quarter enrollment for a pupil who participated in an early literacy 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) 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)~~(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.

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

(b) Except as provided in subsection ~~(7)(e)~~ ~~(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) 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 ~~(7)(c)~~ (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.

~~(8)(7)~~ The average number belonging 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 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 ANB~~ calculation purposes, nor will an ~~average number belonging ANB~~ for the nonaccredited school be used in determining the BASE funding program for the district.

~~(9)(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.

~~(10)(9)~~ (a) Except as provided in subsections ~~(10)(b)~~ ~~(9)(b)~~ and ~~(10)(c)~~ ~~(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 ~~(10)(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.

~~(11)~~(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.

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

~~(13)(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 ~~(13)(b)(ii)~~ ~~(12)(b)(ii)~~, each completed extracurricular activity under subsection ~~(13)(a)~~ ~~(12)(a)~~ may be counted as one-sixteenth enrollment for the individual, but under this subsection ~~(13)~~ ~~(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.

~~(14)(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 ~~(14)(a)~~ ~~(13)(a)~~ and then combined.

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

- (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 ~~(15)(a)~~ ~~(14)(a)~~ by three."

**Section 6.** Section 20-9-313, MCA, is amended to read:

**"20-9-313. Circumstances under which regular average number belonging ANB may be increased.** (1) The average number belonging of a school budget unit of a school district, calculated in accordance with the ANB formula prescribed in 20-9-311, may be increased when:

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

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

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

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

~~(i)~~ — one half the number of 5-year-old children residing in the district as of September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten program as provided in 20-1-304 ; or

~~(ii)~~ — the number of 5-year-old children residing in the district as of September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved

by the superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided in 20-1-301 ; or

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

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

**Section 7. Effective date.** [This act] is effective July 1, 2025.

**Section 8. Applicability.** [This act] applies to school fiscal years beginning on or after July 1, 2025.

- END -

I hereby certify that the within bill,  
HB 24, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2025.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2025.

HOUSE BILL NO. 24

INTRODUCED BY M. ROMANO

BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

AN ACT REVISING EDUCATION LAWS TO CLARIFY PROVISIONS RELATED TO KINDERGARTEN AND SPECIFIC TYPES OF ENROLLMENT INCREASES; AMENDING SECTIONS 20-1-301, 20-3-205, 20-3-326, 20-7-117, 20-9-311, AND 20-9-313, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.”