

HOUSE BILL NO. 388

INTRODUCED BY M. CAFERRO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE EDUCATION OF STUDENTS WITH EXCEPTIONAL NEEDS; REQUIRING THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION DISTRIBUTE FUNDS TO SUPPORT EDUCATIONAL PROGRAMS FOR STUDENTS WITH SIGNIFICANT NEEDS; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-7-435, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 20-7-435, MCA, is amended to read:

**"20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and in-state residential treatment programs for eligible children.** (1) It is the intent of the legislature that eligible children in in-state children's psychiatric hospitals and residential treatment facilities be provided with an appropriate educational opportunity in a cost-effective manner, including the provision of a free appropriate public education for an eligible child with a disability that is consistent with state standards for the provision of special education and related services. General education programs for eligible children without disabilities must be provided in accordance with the requirements for a nonpublic school under the provisions of 20-5-109.

(2) The superintendent of public instruction may contract with an in-state children's psychiatric hospital or residential treatment facility for provision of an educational program for an eligible child in the hospital or treatment facility.

(3) Whenever the superintendent of public instruction contracts with an in-state children's psychiatric hospital or residential treatment facility for provision of an educational program for an eligible child in the children's psychiatric hospital or residential treatment facility, the superintendent of public instruction shall:

(a) ensure the provision of a free appropriate public education and an education that is consistent with the requirements for a nonpublic school in 20-5-109 for children attending the hospital or residential treatment facility;

(b) negotiate the approval of allowable costs under the provisions of 20-7-431 for allowable costs for providing special education, including the costs of retirement benefits, federal social security system contributions,



1 and unemployment compensation insurance;

2 (c) from appropriations provided for this purpose, fund any approved allowable costs under this section,  
3 with the exception of services for which reimbursement is made under any provision of state or federal law or an  
4 insurance policy;

5 (d) provide funding for allowable costs according to a proration based on average daily membership.

6 (4) A supplemental education fee or tuition may not be charged for an eligible Montana child who  
7 receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital or  
8 residential treatment facility.

9 (5) If a children's psychiatric hospital or residential treatment facility fails to provide an education in  
10 accordance with 20-5-109 or a free appropriate public education under the provisions of this part for an eligible  
11 child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a contract under the  
12 provisions of subsection (2), the superintendent of public instruction shall negotiate with the school district in  
13 which the children's psychiatric hospital or residential treatment facility is located for the supervision and  
14 implementation of an appropriate educational program that is consistent with accreditation standards provided  
15 for in 20-7-111 and with the provisions of 20-7-402 for children attending the children's psychiatric hospital or  
16 residential treatment facility. The amount negotiated with the school district must include all education and related  
17 services costs that may be negotiated under the provisions of subsection (3) and all education and related  
18 services costs necessary to fulfill the requirements of providing the child with an education.

19 (6) Funds provided to a district under this section, including funds received under the provisions of  
20 20-7-420:

21 (a) must be deposited in the miscellaneous programs fund of the district that provides the education  
22 program for an eligible child, regardless of the age or grade placement of the child who is served under a  
23 negotiated contract; and

24 (b) are not subject to the budget limitations in 20-9-308.

25 (7) The superintendent of public instruction shall distribute at least 30% of the funds appropriated for  
26 contracts with in-state children's psychiatric hospitals or residential treatment facilities under subsection (2) to  
27 public school districts for the purpose of supporting educational programs for children with significant behavioral  
28 or physical needs."

29

30 NEW SECTION. Section 2. Appropriation. (1) There is appropriated \$212,200 from the general fund

1 in each fiscal year of the biennium beginning July 1, 2019, to the office of public instruction for the purpose of  
2 increasing the appropriation for in-state treatment to \$1 million per year.

3 (2) The legislature intends that the increases to the appropriation be considered as part of the ongoing  
4 base for the next legislative session.

5  
6 COORDINATION SECTION. **Section 3. Coordination instruction.** If both House Bill No. 2 and [this  
7 act] are passed and approved and if House Bill No. 2 includes an appropriation for in-state treatment that is \$1  
8 million or more in each fiscal year of the biennium beginning July 1, 2019, then [section 2 of this act] is void.

9  
10 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2019.

11 - END -