



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0206

Title: Revise education laws related to tuition and in-state treatment

Primary Sponsor: Bedey, David

Status: As Amended in House Committee

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	(\$41,261)	(\$10,401)	\$11,521	\$34,703
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$41,261</u>	<u>\$10,401</u>	<u>(\$11,521)</u>	<u>(\$34,703)</u>

Description of fiscal impact: HB 206 modifies sections of law that establish the rate to be paid for education services for a child at a children's psychiatric hospital (CPH) or residential treatment facility (RTF) and the tuition rates paid by the district of residence for a child placed in another district. In addition, the bill changes the funding for education services provided to a child at a CPH or RTF to allocate a portion of the costs to the district of residence for the child. The bill also changes the amount of tuition paid by the district of residence for out of district placements. Finally, the bill modifies 20-7-403(13), MCA, to eliminate a clause that has caused children who are at a CPH or RTF and are covered by Medicaid from receiving state support for the education services provided to them. HB 206 would save the state \$51,662 in the 2023 biennium for state tuition and in-state treatment costs.

FISCAL ANALYSIS

Assumptions:

State Tuition

1. HB 206 provides a definition for *tuition per-ANB amount* to be used to calculate tuition amounts to be paid by the district of residence or the Superintendent of Public Instruction (superintendent) for Montana resident students who have discretionary approval or mandatory approval to attend a school outside of the student's district of residence under provisions of 20-5-320 and 321, MCA.

2. HB 206 also provides a definition for education costs for students at in-state children’s psychiatric hospitals (CPH) and in-state residential treatment facilities (RTF) to be paid by the superintendent and districts of residence.
3. There are two different tuition calculations: 1) for students with disabilities, and 2) for students without disabilities. HB 206 does not change the calculation for students with disabilities as statute leaves that determination of funding to the Superintendent to adopt rules for the calculation.
4. The bill defines the term *tuition per-ANB amount* as the applicable per-ANB maximum rate plus the sum of the data for achievement payment rate, the Indian education for all payment rate defined in 20-9-306, MCA, and the per-ANB amounts of the instructional block grant (IBG) and related services block grant (RSBG) under 20-9-321, MCA. The following table displays the rates per 20-9-306, MCA.

	FY 2022	FY 2023	FY 2024	FY 2025
Elementary Per-ANB	\$5,813	\$5,962	\$6,069	\$6,181
High School Per-ANB	\$7,443	\$7,634	\$7,771	\$7,914
Data for Achievement	\$21.73	\$22.29	\$22.69	\$23.11
Indian Education for All	\$22.70	\$23.28	\$23.70	\$24.14

5. The appropriation request for special education allowable cost in the Executive Budget is \$44,702,880. The IBG is 52.5% and the RSBG is 17.5% of the special education allowable cost appropriation each divided by the current ANB. The following table reflects the current ANB and per-ANB amounts for IBGs and RSBGs.

	FY 2022	FY 2023	FY 2024	FY 2025
Current ANB	155,258	156,295	157,334	157,949
Instructional block grant (52.5% SPED Allowable Cost / 180 days)	\$151.16	\$150.16	\$149.17	\$148.59
Related services block grant (17.5% SPED Allowable Cost / 180 days)	\$50.39	\$50.05	\$49.72	\$49.53

6. The calculated *tuition per-ANB amount* would be as follows:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary <i>tuition per-ANB amount</i>	\$6,059	\$6,208	\$6,314	\$6,426
High School <i>tuition per-ANB amount</i>	\$7,689	\$7,880	\$8,016	\$8,159

7. Current law mandates that the maximum tuition rate that can be charged for a student with or without disabilities who has discretionary or mandatory approval to attend a school outside of the student’s district of residence under provisions of 20-5-320 and 321, MCA, cannot exceed 20% of the per-ANB maximum rate for the year of attendance. The Superintendent of Public Instruction was to pay these rates.
8. HB 206, as amended, directs the district of residence to pay an amount not to exceed two times 20% of the *tuition per-ANB amount* thus reducing the amount paid by the superintendent. The district of attendance would receive the additional rates. The following table displays these rates and the differences:

Daily Rate	FY 2022	FY 2023	FY 2024	FY 2025
Twice 20% of <i>Tuition per-ANB Amount</i> Elementary	\$13.46	\$13.80	\$14.03	\$14.28
20% per ANB Entitlement Elementary (current law)	<u>\$6.46</u>	<u>\$6.62</u>	<u>\$6.74</u>	<u>\$6.87</u>
Difference	\$7.01	\$7.17	\$7.29	\$7.41
Twice 20% of <i>Tuition per-ANB Amount</i> High School	\$26.93	\$27.59	\$28.06	\$28.56
20% per ANB Entitlement High School (current law)	<u>\$8.27</u>	<u>\$8.48</u>	<u>\$8.63</u>	<u>\$8.79</u>
Difference	\$18.66	\$19.11	\$19.43	\$19.77

9. The district of residence is responsible to pay twice the maximum *tuition per-ANB amount* per day enrolled for students reported to the Superintendent of Public Instruction by June 30 who attended a school under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d), MCA, “the child is under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, as defined in 41-5-103,” or 20-5-321(1)(e), MCA, “the child is required to attend school outside of the district of residence as the result of a placement in foster care or a group home licensed by the state.”
10. The Superintendent of Public Instruction is responsible for tuition amounts for a child with a disability as determined by administrative rules set by the superintendent. HB 206, as amended, requires that the rules provide that tuition amounts must be reduced by funding generated by the district of attendance due to the child’s attendance and that an option for tuition be set at the actual unique costs of providing a free appropriate public education. Current law does not provide said reductions. It is estimated tuition costs to the state for these students has been \$421,000 and that cost would be reduced to \$325,130 a savings of \$95,870.
11. HB 206, Section 2, as amended, subsection 2(b) also clarifies that the only tuition responsibility of the superintendent is for students with a disability where the tuition rate is determined by rules adopted by the superintendent and for tuition for out-of-district placement for a student without disabilities who requires a program with costs that exceed the average district costs. The costs are determined and agreed upon by all parties involved. If the student is a Montana resident student, 120% of the *tuition per-ANB amount* received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs. The maximum tuition rate paid to a district under this section may not exceed \$2,500 per student.
12. The bill clarifies that the district of attendance is to notify the district of residence of a tuition payment obligation by August 15 of the year following attendance. HB 206 also specifies that the district of residence would pay at least one-half of the obligation from the district tuition fund levy by December 31 and the remaining obligation must be paid by June 15.
13. The Office of Public Instruction (OPI) found that an average of 19 schools requested tuition reimbursement for 300 students with and without disabilities who attended 27,559 days of education programming. Per HB 206 as amended, the district of residence would pay the district of attendance twice 20% of the *tuition per-ANB amount* for each student. OPI also determined that 181 students for which tuition is paid are elementary students and 119 are high school students. The follow table reflects the resident district costs per HB 206, as amended:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Resident District Tuition Cost - Elementary	\$203,206	\$208,197	\$211,769	\$215,528
Resident District Tuition Cost - High School	\$294,840	\$302,081	\$307,263	\$312,717
Total Resident District Tuition Cost	\$498,046	\$510,278	\$519,032	\$528,245

14. The reduction for tuition obligation of the superintendent as reduced by HB 206 as amended, would be \$188,026 in FY 2022, \$192,848 in FY 2023, \$196,309 in FY 2024, and \$199,926 in FY 2025. The Executive Budget requests \$480,575 each year of the 2023 biennium.
15. Correctly funding tuition and in-state treatment for Yellowstone Boys and Girls Ranch and Yellowstone Academy School District will also reduce annual state tuition costs by \$109,000.

In-State Treatment

16. Per HB 206 as amended, 40% of the *tuition per-ANB amount* is to be paid to the district of attendance by the district of residence for all students with or without disabilities who have discretionary approval or mandatory approval to attend a school outside of the student’s district of residence under provisions of 20-5-320 and 321, MCA.

17. Section 3 of the bill strikes the language in 20-7-403(13), MCA, that currently excepts payment for education programs for children who qualify for residential service under the Montana public mental health program pursuant to Title 53, chapter 6 relating to Medicaid students and allows that the superintendent contract with CPHs or RTFs to provide appropriate educational opportunity for these students. This allows the superintendent to pay for education programs for Medicaid students not previously included in these payments. This would increase by 362 the number of students for which In-State Treatment would legally be paid bringing the total number of students for which In-State Treatment is paid to 465.
18. The OPI had not contracted for these Medicaid students' services since this law was implemented in the mid-1990s. In July 2020, OPI made the decision that the educational component should be paid and contracted with three in-state treatment facilities to pay for these students on a prorated basis given their \$787,801 per year appropriation for FY 2020 and FY 2021.
19. The superintendent currently contracts for \$71.14 per day, prorated to appropriation, for education services provided to Montana children at a CPH or RTF.
20. Approximately, half-day education services provided to these students by the facilities are provided to students whose treatment is covered by Medicaid. A standard day is six hours. Medicaid does not pay for education services, only the cost of treatment.
21. Section 4 of HB 206 clarifies residency requirements and financial responsibility for special education. Current law states that the superintendent is financially responsible for tuition and transportation for a child with a disability who attends a school outside the district and county of residence because the student has been placed in a foster care or group home licensed by the state. This bill changes that statement to say that "a portion of" tuition is the superintendent's responsibility and removes the county distinction for residence.
22. Historically, the legislature has appropriated \$787,000 per year for payments of In-State Treatment in HB 2. HB 2 has also historically included a language appropriation that allowed, "The Office of Public Instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing educational costs of children with significant behavioral or physical needs." Currently the Executive Budget requests \$787,801 for each year of the 2023 biennium for In-State Treatment payments.
23. The bill, as amended, defines the daily rate per eligible child to be paid by the superintendent for education program services for students in in-state treatment will reflect actual documented costs of providing appropriate education opportunity at the CPH or RTF and excludes the costs that are eligible for reimbursement under any provision of state or federal law or an insurance policy and may not exceed 100% of the *tuition per-ANB amount* divided by 180 days. The following table shows what those rates would be.

<u>State Daily Treatment Costs</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary daily rate (100% of <i>tuition per-ANB amount</i> / 180 days)	\$33.66	\$34.49	\$35.08	\$35.70
High School daily rate (100% of <i>tuition per-ANB amount</i> / 180 days)	\$42.72	\$43.78	\$44.53	\$45.33

24. In addition, the district of residence would pay the provider a daily rate equal to 40% of the *tuition per-ANB amount* divided by 180 days. The following table represents those values.

<u>District of Residence</u> <u>Daily Treatment Costs</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary daily rate (40% of <i>tuition per-ANB amount</i> / 180 days)	\$13.46	\$13.80	\$14.03	\$14.28
High School daily rate (40% of <i>tuition per-ANB amount</i> / 180 days)	\$17.09	\$17.51	\$17.81	\$18.13

25. OPI determined that 48% of the students in treatment are high school students and 52% are elementary students and a total of 24,051 days of attendance. The annual state payment and resident district payments are shown in the table below:

	FY 2022	FY 2023	FY 2024	FY 2025
State In-State Treatment Payment	\$1,052,219	\$1,078,257	\$1,096,718	\$1,116,283
Resident District In-State Treatment Payment	<u>\$420,874</u>	<u>\$431,271</u>	<u>\$438,711</u>	<u>\$446,523</u>
Total Payments to CPHs or RTFs	\$1,473,092	\$1,509,528	\$1,535,428	\$1,562,806

26. Districts of residence would be able to pay their tuition costs from their tuition fund which is funded with taxpayer levies or from any other legally available fund at the discretion of the school trustees.
27. There are three CPHs or RTFs in Montana: The School at Shodair, Intermountain Children’s Home, and the Yellowstone Boys and Girls Ranch (YBGR). Currently, all have the same master contract with the OPI for the provision of education services to patients at their facilities. This master contract provides for a payment of \$71.14 per day of education provided to a student paid by the Superintendent prorated to the \$787,801 appropriated to OPI for this purpose. HB 206 would provide \$47 to \$60 per day paid by the superintendent and the resident district in FY 2022.
28. The education programs at these facilities are accredited by an outside institution and provide education aligned with Montana content standards by Montana certified instructors.
29. The following table shows the total state general fund cost for In-State Treatment less the amount of funding requested in the Executive Budget with a balance of the cost of HB 206 for In-State Treatment.

	FY 2022	FY 2023	FY 2024	FY 2025
State In-State Treatment Payment per HB 206	\$1,052,219	\$1,078,257	\$1,096,718	\$1,116,283
Appropriation requested in Executive Budget	<u>(\$787,801)</u>	<u>(\$787,801)</u>	<u>(\$787,801)</u>	<u>(\$787,801)</u>
Added In-State Treatment HB 206, as amended	\$264,418	\$290,456	\$308,917	\$328,482

30. The three CPH or RTF institutions have provided the following estimates of annual activity:

In-State Treatment Statistics
Annual Child Count of Montana Residents Only

Description	YBGR	Shodair	Intermountain	Total
Number of students treated	215	228	22	465
Days of education services provided	14,890	7,977	4,620	27,487
Average days of education per child	70	35	210	58
Percent high school students	55%	65%	0%	48%
# of Medicaid students	200	162	0	362
Percent Medicaid students	93%	71%	0%	
Average Education Costs Provided	\$75.28	\$45.95	\$186.12	

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Local Assistance (In-State Treatment)	\$264,418	\$290,456	\$308,917	\$328,482
Local Assistance (State Tuition)	(\$305,679)	(\$300,857)	(\$297,396)	(\$293,779)
TOTAL Expenditures	(\$41,261)	(\$10,401)	\$11,521	\$34,703
<u>Funding of Expenditures:</u>				
General Fund (01)	(\$41,261)	(\$10,401)	\$11,521	\$34,703
TOTAL Funding of Exp.	(\$41,261)	(\$10,401)	\$11,521	\$34,703
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	\$41,261	\$10,401	(\$11,521)	(\$34,703)
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Effect on County or Other Local Revenues or Expenditures:

- Districts of residence would be able to pay their tuition and treatment costs for Montana resident students who have discretionary approval or mandatory approval to attend a school outside of the student’s district of residence under provisions of 20-5-320 and 321, MCA, from the district tuition fund which is funded from taxpayer levies or from any other legally available fund at the discretion of the school trustees. The increased costs to districts of residence is shown in the following table:

District Costs	FY 2022	FY 2023	FY 2024	FY 2025
In-State Treatment per HB 206	\$498,046	\$510,278	\$519,032	\$528,245
Tuition per HB 206	\$420,874	\$431,271	\$438,711	\$446,523
	\$918,920	\$941,549	\$957,743	\$974,768

Technical Notes:

- Neither Yellowstone Boys and Girls Ranch nor Yellowstone Academy (YBGR) are a licensed foster care or group home. YBGR is a licensed Residential Treatment Facility per DPHHS, the licensing agency. Per assumption #21, YBGR would not be eligible to receive tuition and transportation for a child with a disability who attends a school outside the district and county of residence because the student has not been placed in a foster care or group home licensed by the state. The costs for this fiscal note could vary depending on how those students are currently funded and how they should be funded.
- The accuracy of this fiscal note is dependent upon the OPI determination of students considered In-State Treatment students or State Tuition students. Clarification of student count for each of these payment types and certainty of correct classification assuring there is no double counting. This needs to be clarified and verified to make a more accurate cost analysis.

OTL

Sponsor's Initials

2/23/2021

Date

KA

Budget Director's Initials

2/23/21

Date