

SPECIAL EDUCATION FUNDING

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex, and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary:

Special education funding has received quite a bit of legislative attention in recent years, and especially following the 2015-2016 School Funding Interim Commission. That commission surveyed education stakeholders around the state for areas of concern related to school funding; special education funding was one of the four top priorities that the commission investigated over the interim, eventually recommending four bills to the 2017 Legislature. Only one of these, a resolution requesting an interim study was enacted.

Montana's school funding formula is generally complicated, and the special education funding portion is no exception. The state special education allowable cost payment is distributed to school districts and special education cooperatives through four different allocations shown in the graphic on the following page. Special education is one component of districts' general fund budgets.

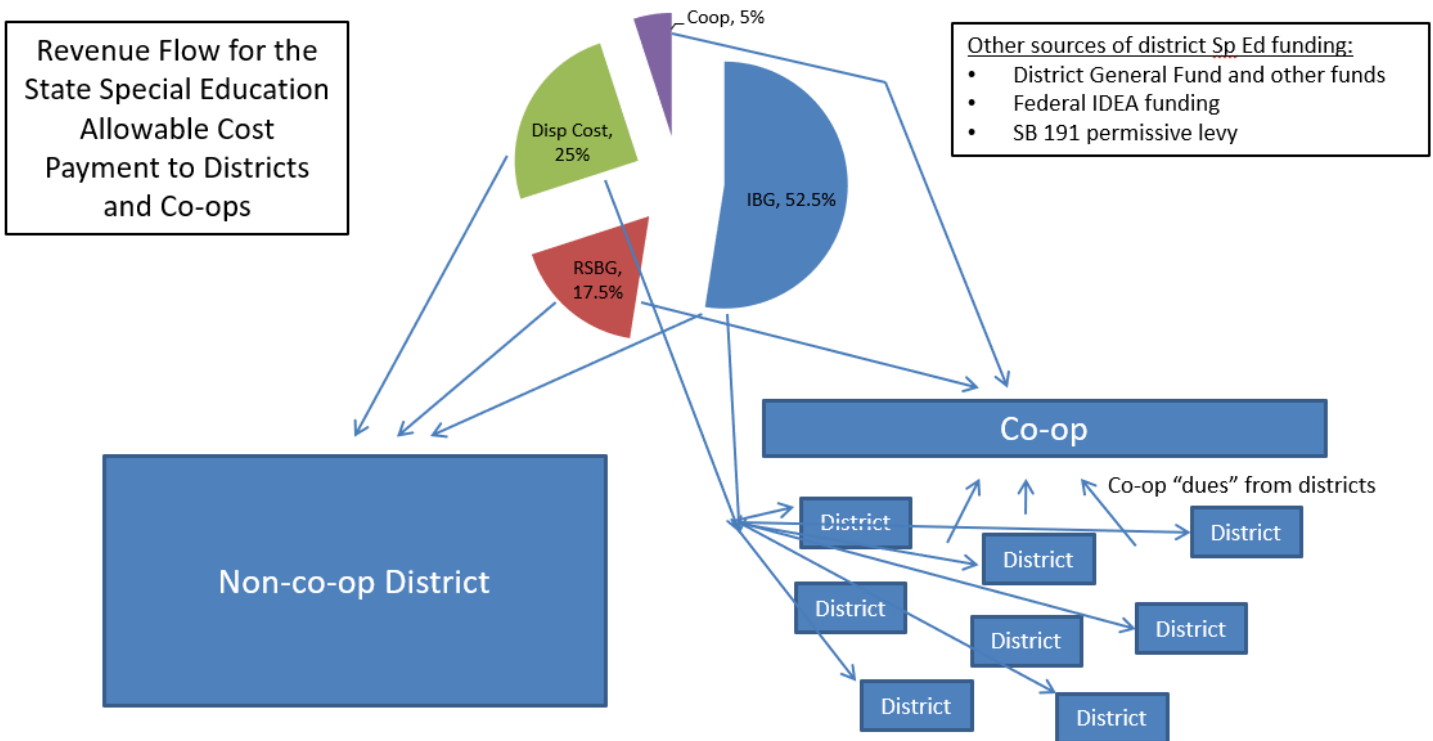
Montana's type of distribution is known as "capitation" as it is based largely on enrollment (ANB), but 25% of the total state appropriation is for reimbursements for districts that experience high costs. There are 21 special education cooperatives across the state that serve roughly one-third of Montana students. The vast majority of Montana school districts belong to a co-op, but the largest school districts generally do not. The cooperatives allow small, rural districts to pool their resources to ensure that their relatively small and highly variable number of special education students have access to specialists such as speech-language pathologists, occupational therapists, school psychologists, etc.

One concern that has been raised for a number of years is that the special education payment is the one component of district general fund budgets that does not receive a statutory inflationary increase.

Following two failed proposals to amend statute to include the special education payment with other funding components that receive an inflationary increase, the 2019 Legislature provided an inflationary increase to the special education payment for the 2021 biennium in HB 638 and created a subcommittee of the Legislative Finance Committee in HB 657 to study the issue during the 2019-2020 interim. This subcommittee and the full LFC recommended legislation to the 2021 Legislature to revise special education funding in several ways.

The 2021 Legislature enacted HB 46 (Bedey) which provides both an inflationary adjustment (identical to the other BASE aid components of school funding) and an enrollment adjustment to the state special education allocation which is then distributed by the formula that has been in existence for 20+ years and is described below. The special education allocation is not allowed to decrease below the prior year's allocation to meet federal "Maintenance of State Financial Support" requirements which are similar to the more widely known "Maintenance of Effort" requirements school districts must meet.

Component	Distribution	% of total Sp Ed approp	\$43,509,471
Instructional Block Grant (IBG)	ANB (about \$150/ANB)	52.5%	\$ 22,842,472
Related Services Block Grant (RSBG)	ANB (about \$50/ANB)	17.5%	\$ 7,614,157
Reimbursement for Disproportionate Costs	Complex; high-cost students	25%	\$ 10,877,368
Co-op Admin and Travel	ANB, FTE, mileage	5%	\$ 2,175,473.55
Total State Special Education Approp HB 2		100%	\$ 43,509,471



Legislative Services Division Materials:

[Final Report of the 2015-2016 School Funding Interim Commission](#) (see pages 30-39)

[Overview of previous study findings and court decisions related to funding for special needs](#)

[LFD/LSD K-12 Funding Basics – District General Fund brochure](#)

[Special Education Funding Basics](#) (storymap)

Other Materials:

[OPI Special Education funding handout](#)

[2019-2020 LFC Subcommittee on Education](#) (scroll down for Education Subcommittee)

[Special Education Funding](#) (LFD report, December 2019)

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2021

[House Bill No. 46](#) - Chapter Number Assigned -- AN ACT GENERALLY REVISING SPECIAL EDUCATION FUNDING LAWS; INCLUDING THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT IN THE DEFINITION OF "BASE AID"; ESTABLISHING A METHOD FOR CALCULATING THE TOTAL SPECIAL EDUCATION ALLOCATION; APPLYING THE INFLATION FACTOR CALCULATED UNDER 20-9-326 TO THE TOTAL SPECIAL EDUCATION ALLOCATION FOR DETERMINING THE PRESENT LAW BASE CALCULATED UNDER TITLE 17, CHAPTER 7, PART 1, MCA; AMENDING SECTIONS 20-9-306 AND 20-9-326, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

2019

[House Bill No. 27](#) - Died in Standing Committee -- AN ACT REVISING FUNDING FOR SPECIAL EDUCATION; INCREASING AND REVISING THE DISTRIBUTION OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; APPLYING THE INFLATION FACTOR CALCULATED UNDER 20-9-326, MCA, TO THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT FOR DETERMINING THE PRESENT LAW BASE CALCULATED UNDER TITLE 17, CHAPTER 7, PART 1, MCA; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 20-9-321 AND 20-9-326, MCA; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE BILL NO. 225](#) - Died in Standing Committee -- AN ACT GENERALLY REVISING PUBLIC SCHOOL FUNDING LAWS; ALIGNING THE MONTANA PUBLIC SCHOOL FUNDING FORMULA WITH THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AS REFERENCED IN THE MONTANA CONSTITUTION AND MONTANA STATUTES; REVISING THE DEFINITION OF PUPIL TO INCLUDE 4-YEAR-OLDS VOLUNTARILY ENROLLED BY THEIR PARENTS IN PRESCHOOL PROGRAMS ESTABLISHED AT THE DISCRETION OF TRUSTEES; TRANSFERRING ADMINISTRATION OF THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM FROM THE BOARD OF REGENTS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION; ALLOWING TRUSTEES TO ENROLL 4-YEAR-OLDS IN PRESCHOOL PROGRAMS AND GENERATE ANB FUNDING BASED ON A MAXIMUM OF HALF-TIME ENROLLMENT AND INCLUDING ENROLLED PRESCHOOL STUDENTS AS ELIGIBLE TRANSPORTEES; APPLYING INFLATIONARY ADJUSTMENTS TO SCHOOL FUNDING COMPONENTS AND ADDING THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT TO THOSE SCHOOL FUNDING COMPONENTS RECEIVING INFLATIONARY ADJUSTMENTS; PROVIDING AN APPROPRIATION; PROVIDING FOR

DISTRIBUTION OF FUNDS; AMENDING SECTIONS 20-1-101, 20-4-501, 20-4-505, 20-4-506, 20-5-101, 20-6-508, 20-7-117, 20-9-306, 20-9-311, 20-9-313, 20-9-326, AND 20-10-101, MCA; AND PROVIDING EFFECTIVE DATES.

[HOUSE BILL NO. 638](#) - Chapter Number Assigned -- AN ACT INCREASING THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; PROVIDING APPROPRIATIONS; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE BILL NO. 657](#) - Chapter Number Assigned -- AN ACT PROVIDING FOR A LEGISLATIVE STUDY OF EDUCATION-RELATED TOPICS TO BE CONDUCTED BY A BIPARTISAN SUBCOMMITTEE OF THE LEGISLATIVE FINANCE COMMITTEE; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

2017

[HOUSE BILL NO. 31](#) - Died in Standing Committee - AN ACT INCREASING THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE BILL NO. 32](#) - Died in Standing Committee - AN ACT REVISING FUNDING FOR SPECIAL EDUCATION; INCREASING AND REVISING THE DISTRIBUTION OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-321, MCA; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE BILL NO. 33](#) - Died in Standing Committee - AN ACT REVISING FUNDING FOR SPECIAL EDUCATION; INCREASING AND REVISING THE DISTRIBUTION OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-321, MCA; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE BILL NO. 253](#) - Died in Standing Committee - AN ACT TO APPLY THE INFLATION FACTOR CALCULATED UNDER 20-9-326, MCA, TO THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT FOR DETERMINING THE PRESENT LAW BASE CALCULATED UNDER TITLE 17, CHAPTER 7, PART 1, MCA; AMENDING SECTION 20-9-326, MCA; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE JOINT RESOLUTION NO. 1](#) - Filed with Secretary of State - A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE NEEDS AND COSTS OF PROGRAMS TO PROVIDE FOR STUDENTS WITH SPECIAL NEEDS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 66TH LEGISLATURE.

2015

[HOUSE BILL NO. 451](#) - Missed Deadline for Appropriation Bill Transmittal - AN ACT ALLOWING SPECIAL EDUCATION PUPILS UP TO 21 YEARS OF AGE TO BE INCLUDED IN AVERAGE NUMBER BELONGING CALCULATIONS; REVISING THE DEFINITION OF "PUPIL"; AMENDING SECTIONS 20-1-101 AND 20-9-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HOUSE BILL NO. 322](#) - Vetoed by Governor - AN ACT ESTABLISHING THE MONTANA SPECIAL NEEDS EDUCATION SAVINGS ACCOUNT PROGRAM; PROVIDING DEFINITIONS; ESTABLISHING REQUIREMENTS FOR ELIGIBILITY AND ALLOWABLE EXPENSES; PROVIDING RESPONSIBILITIES FOR PARENTS AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION; CLARIFYING THE AUTONOMY OF

PARTICIPATING PRIVATE SCHOOLS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION AND A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

2013

[SENATE BILL NO. 191](#) - Chapter Number Assigned - AN ACT PROVIDING FOR A LEVY TO PAY TUITION AND TRANSPORTATION FOR OUT-OF-DISTRICT ATTENDANCE OF A RESIDENT PUPIL; ALLOWING USE OF THE LEVY TO PROVIDE A FREE APPROPRIATE EDUCATION TO CHILDREN WITH DISABILITIES WHO RESIDE IN THE DISTRICT; PROVIDING LIMITATIONS ON THE AMOUNT OF THE LEVY; AMENDING SECTION 20-5-324, MCA; AND PROVIDING AN EFFECTIVE DATE.

[HOUSE BILL NO. 288](#) - Died in Standing Committee - AN ACT ESTABLISHING THE MONTANA SPECIAL EDUCATION SAVINGS ACCOUNT PROGRAM; PROVIDING DEFINITIONS; ESTABLISHING ELIGIBILITY REQUIREMENTS; PROVIDING RESPONSIBILITIES FOR PARENTS, STUDENTS, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE COMMISSIONER OF HIGHER EDUCATION, AND EDUCATION PROVIDERS; SUPERSEDING THE UNFUNDED MANDATE LAWS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[HOUSE BILL NO. 390](#) - Died in Standing Committee - AN ACT ESTABLISHING THE SPECIAL EDUCATION SCHOLARSHIP PROGRAM; ESTABLISHING ELIGIBILITY REQUIREMENTS FOR THE PROGRAM; REQUIRING RESPONSIBILITIES OF STUDENTS, PARENTS, EDUCATION PROVIDERS, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION; SUPERSEDING THE UNFUNDED MANDATE LAWS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 20-9-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

2011

[HOUSE BILL NO. 591](#) - Died in Standing Committee - AN ACT ESTABLISHING THE SPECIAL NEEDS SCHOLARSHIP PROGRAM; DESCRIBING THE STUDENTS AND SCHOOLS WHO MAY PARTICIPATE IN THE PROGRAM; REQUIRING RESPONSIBILITIES OF STUDENTS, PARENTS, SCHOOLS, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Prepared By:

Pad McCracken, Research Analyst
Office of Research and Policy Analysis
October 2018 (updated September 2020 and November 2022)