

**Unofficial Draft Copy**

As of: August 22, 2018 (1:02pm)

LCSPED

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "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."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 20-9-321, MCA, is amended to read:

**"20-9-321. Allowable cost payment for special education.**

(1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the

following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

(4) (a) The total special education allocation must be distributed according to the following formula:

(i) ~~52.5%~~ 50.2% through instructional block grants;

(ii) ~~17.5%~~ 16.7% through related services block grants;

(iii) ~~25%~~ 23.9% to reimbursement of local districts; and

(iv) ~~5%~~ 9.2% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection (4) (a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection (4) (a) (i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

**Unofficial Draft Copy**

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LCSPED

(ii) The special education-related services block grant limit prescribed in subsection (4) (a) (ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed ~~25% of the total special education allocation~~ the 23.9% limit established in subsection (4) (a) (iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection (4) (a) (iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of

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itinerant personnel under rules adopted by the superintendent of public instruction.

(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

(6) A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

{*Internal References to 20-9-321:*

20-7-431 ok 20-7-457 ok 20-9-303 ok 20-9-306 ok  
20-9-308 ok 20-9-501 ok}

**Section 2.** Section 20-9-326, MCA, is amended to read:

**"20-9-326. Annual inflation-related adjustments to basic entitlements, and per-ANB entitlements, and other payments. (1)**

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In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent of public instruction shall determine the inflation factor for the basic and per-ANB entitlements, the data-for-achievement payment, the special education allowable cost payment, and the general fund payments in 20-9-327 through 20-9-330 in each fiscal year of the ensuing biennium. The inflation factor is calculated as follows:

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio to the power of one-third; and

(b) for the second year of the biennium, divide the consumer price index for July 1 of the current calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the current calendar year and raise the resulting ratio to the power of one-third.

(2) The present law base for the entitlements referenced in subsection (1), calculated under Title 17, chapter 7, part 1, must consist of any enrollment increases or decreases plus the inflation factor calculated pursuant to this section, not to exceed 3% in each year, applied to both years of the biennium.

(3) For the purposes of this section, "consumer price index" means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor."

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{Internal References to 20-9-326:

20-9-376 ok 20-9-635 ok 20-9-635 ok 53-6-125 ok}

NEW SECTION. **Section 3. Appropriation.** (1) The following money is appropriated from the general fund to the office of public instruction for the purpose of increasing the special education allowable cost payment:

FY 2020 \$2,393,957

FY 2021 \$3,230,008

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

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

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