



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 Introduced

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| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> 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	\$94,163	\$115,627	\$130,967	\$147,191
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$94,163)</u>	<u>(\$115,627)</u>	<u>(\$130,967)</u>	<u>(\$147,191)</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. The increased state general fund cost of HB 206 would be \$0.2 million in the 2023 biennium.

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:

	FY 2022	FY 2023	FY 2024	FY 2025
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. Per HB 206, 20% of the *tuition per-ANB amount* is to be paid 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. Current law mandates that 20% of the per-ANB maximum rate be paid. There is a \$0.27 difference per day between these two rates.
8. Section 2 of HB 206 states that to be eligible to receive a tuition payment per 20-5-324(2), MCA, a district shall report to the superintendent the required information by June 30 of each fiscal year. This information would include student names, districts of residence, days of enrollment, annual tuition rate, districts of attendance and amount of tuition paid to public schools attended and information for students attending day-treatment programs under individualized education programs (IEP) at private, nonsectarian schools in the previous year.
9. HB 206, Section 2, 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, 80% 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-ANB. This is not a change in law per HB 206. These costs do not change in HB 206.

10. 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.
11. The Office of Public Instruction (OPI) found that an average of 19 schools requested tuition reimbursement for 300 students with and students without disabilities who attended 27,559 days of education programming. Per HB 206, the district of residence would pay the district of attendance 20% of the *tuition per-ANB amount*.

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
20% Elementary <i>tuition per-ANB amount</i>	\$1,212	\$1,242	\$1,263	\$1,285
Daily 20% Elementary <i>tuition per-ANB amount</i>	\$6.73	\$6.90	\$7.02	\$7.14
20% High School <i>tuition per-ANB amount</i>	\$1,538	\$1,576	\$1,603	\$1,632
Daily 20% High School <i>tuition per-ANB amount</i>	\$8.54	\$8.76	\$8.91	\$9.07

12. OPI also determined that 26% of the students for which tuition is paid are elementary students and 74% are high school students. The follow table reflects the resident district costs:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Resident District Tuition Cost - Elementary	\$48,220	\$49,439	\$50,298	\$51,158
Resident District Tuition Cost - High School	<u>\$174,165</u>	<u>\$178,651</u>	<u>\$181,711</u>	<u>\$184,974</u>
Total Resident District Tuition Cost	\$222,385	\$228,090	\$232,009	\$236,132

13. The costs for resident districts per HB 206 are currently paid at a rate of 20% of the per-ANB maximum rate by the superintendent which is \$0.27 less than the *tuition per-ANB amount*. The redirection of these costs to the district of residence would reduce the state obligation for State Tuition payments by \$214,944 in FY 2022, \$220,649 in FY 2023, \$224,568 in FY 2024, and \$228,691 in FY 2025.
14. Historical data shows that the average State Tuition for the last two years is \$468,000. OPI believes there will be continued need for that funding. The Executive Budget requests \$480,575 in each year of the 2023 biennium based on current law. HB 206 would allow for a reduction of the executive request of \$214,944 in FY 2022 and \$220,649 in FY 2023.

In-State Treatment

15. 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.
16. 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.
17. The superintendent currently contracts for \$71.14 per day for education services provided to Montana children at a CPH or RTF.

18. 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.
19. The OPI has determined through their prorated contracting in the 2021 biennium, that the additional cost for these students, if HB 206 is passed, would be an additional \$787,000 per year ongoing.
20. 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.
21. 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.
22. The bill defines the daily rate per eligible child to be paid by the superintendent for education program services for students in in-state treatment may not exceed 120% 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 (120% of <i>tuition per-ANB amount</i> / 180 days)	\$40.39	\$41.39	\$42.09	\$42.84
High School daily rate (120% of <i>tuition per-ANB amount</i> / 180 days)	\$51.26	\$52.53	\$53.44	\$54.39

23. In addition, the district of residence would pay the provider a daily rate equal to 20% of the *tuition per-ANB amount* divided by 180 days. The following table represents those values.

<u>District of Residence Daily Treatment Costs</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary daily rate (20% of <i>tuition per-ANB amount</i> / 180 days)	\$6.73	\$6.90	\$7.02	\$7.14
High School daily rate (20% of <i>tuition per-ANB amount</i> / 180 days)	\$8.54	\$8.76	\$8.91	\$9.07

24. 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:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
State In-State Treatment Payment	\$1,096,908	\$1,124,077	\$1,143,336	\$1,163,683
Resident District In-State Treatment Payment	<u>\$182,759</u>	<u>\$187,425</u>	<u>\$190,657</u>	<u>\$194,005</u>
Total Payments to CPHs or RTFs	\$1,279,667	\$1,311,502	\$1,333,993	\$1,357,688

25. Districts of residence would be able to pay their tuition costs from their tuition fund which is funded with taxpayer levies.
26. There are three CPHs or RTFs in Montana: The School at Shodair (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. HB 206 would provide \$47 to \$60 per day paid by the superintendent and the resident district in FY 2022.

27. The education programs at these facilities are accredited by an outside institution and provide education aligned with Montana content standards by Montana certified instructors.
28. 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	\$1,096,908	\$1,124,077	\$1,143,336	\$1,163,683
Appropriation requested in Executive Budget	<u>(\$787,801)</u>	<u>(\$787,801)</u>	<u>(\$787,801)</u>	<u>(\$787,801)</u>
Additional In-State Treatment per HB 206	\$309,107	\$336,276	\$355,535	\$375,882

29. 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	164	228	22	414
Days of education services provided	11,454	7,977	4,620	24,051
Average days of education per child	70	35	210	58
Percent high school students	55%	65%	0%	48%
# of Medicaid students	156	162	22	340
Percent Medicaid students	95%	71%	100%	82%
# of IEP students	41	80	16	137
Percent IEP students	25%	35%	73%	33%
Average Education Costs Provided	\$75.28	\$45.95	N/A	

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Local Assistance (In-State Treatment)	\$309,107	\$336,276	\$355,535	\$375,882
Local Assistance (State Tuition)	<u>(\$214,944)</u>	<u>(\$220,649)</u>	<u>(\$224,568)</u>	<u>(\$228,691)</u>
TOTAL Expenditures	<u>\$94,163</u>	<u>\$115,627</u>	<u>\$130,967</u>	<u>\$147,191</u>
Funding of Expenditures:				
General Fund (01)	<u>\$94,163</u>	<u>\$115,627</u>	<u>\$130,967</u>	<u>\$147,191</u>
TOTAL Funding of Exp.	<u>\$94,163</u>	<u>\$115,627</u>	<u>\$130,967</u>	<u>\$147,191</u>
Revenues:				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	(\$94,163)	(\$115,627)	(\$130,967)	(\$147,191)

Effect on County or Other Local Revenues or Expenditures:

1. 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. 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	\$182,759	\$187,425	\$190,657	\$194,005
Tuition per HB 206	<u>\$222,385</u>	<u>\$228,090</u>	<u>\$232,009</u>	<u>\$236,132</u>
	\$405,144	\$415,515	\$422,666	\$430,137

Technical Notes:

1. 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 #20, 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.
2. 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.



 Sponsor's Initials

2/3/2021

 Date

KA

 Budget Director's Initials

2/2/21

 Date