HOUSE BILL NO. 31

INTRODUCED BY E. MATTHEWS

BY REQUEST OF THE SCHOOL FUNDING INTERIM COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SPECIAL EDUCATION FUNDING LAWS TO CREATE AN EXTRAORDINARY COSTS PROGRAM ADMINISTERED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; PROVIDING PROGRAM PARAMETERS AND DEFINITIONS; REVISING THE CALCULATION USED TO DETERMINE THE AMOUNT A DISTRICT CAN LEVY IN THE TUITION FUND FOR THE COSTS OF PROVIDING A FREE APPROPRIATE PUBLIC EDUCATION TO RESIDENT STUDENTS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-5-324, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Funding for extraordinary special education costs -- district eligibility -- duties of superintendent of public instruction -- rulemaking -- definitions.** (1) (a) The superintendent of public instruction shall administer a program to distribute funding appropriated by the legislature to school districts to support the provision of special education to students requiring services with extraordinary costs as described in this section.

(b) The legislature intends that the program be implemented to:

(i) reduce the need for school districts to use the tuition levy for special education costs of resident students;

(ii) reduce competition between special education and regular education costs in the school district general fund; and

(iii) function as a safety net to support districts with funding strains from students with low-incidence disabilities requiring services with extraordinary costs.

(2) A school district may apply to the superintendent of public instruction in a manner prescribed by the superintendent for state funding for extraordinary costs under this section. The application must include

detailed cost estimates of a student's instructional costs for the school year.

(3) The superintendent of public instruction shall:

(a) adopt rules necessary for the implementation of this section;

(b) accept applications from school districts on a rolling basis starting October 15 and continuing through April 30;

(c) approve, modify, or reject applications in a timely manner;

(d) distribute funds for approved applications on the last working day of the month in which an application is approved; and

(e) report, in accordance with 5-11-210, to the education interim budget committee no later than September 1 annually on the implementation of the program.

(4) A school district receiving funds under this section shall deposit the funds in the district's miscellaneous programs fund.

(5) The obligation for funding extraordinary costs under this section is an obligation of the state. If the money appropriated for extraordinary costs is not enough to provide the full funding to school districts approved by the superintendent of public instruction, the superintendent shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding for extraordinary costs.

(6) As used in this section, the following definitions apply:

(a) "Extraordinary costs" means the instructional costs of a student that exceed four times the high school maximum per-ANB amount under 20-9-306 for the applicable year.

(b) "Instructional costs" means costs directly attributable to providing the special education and related services pursuant to a student's individual education program.

Section 2. Section 20-5-324, MCA, is amended to read:

"**20-5-324. Tuition payment provisions -- state obligations -- district obligations -- financing -- reporting.** (1) In order to be eligible to receive state reimbursement or payment under subsection (2)(a), the trustees of a district shall report to the superintendent of public instruction by June 30 the following information for the concluding school fiscal year:

(a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e);

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

(d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state; and

(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools.

(2) (a) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

(i) except as provided in subsection (2)(b) of this section, pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c) of this section, prorated for the actual days of enrollment;

(ii) determine the total per-ANB entitlement for which the district of residence would have been eligible if the students reported in subsections (1)(d) and (1)(e) of this section had been enrolled in the resident district in the prior year; and

(iii) reimburse the district of residence for the state portion of the per-ANB entitlement for each student reported in subsections (1)(d) and (1)(e) of this section, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

(b) The district of residence for each child reported under the provisions of subsection (1)(a) of this section shall pay the district of attendance the tuition rate under 20-5-323(1) prorated for the actual days of enrollment. The superintendent of public instruction is only responsible for any additional tuition amount pursuant to 20-5-323(2) and (3).

(3) Whenever a child enrolls in and attends a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, by July 15 following the year of attendance, the district of attendance shall notify the district of residence of an obligation under 20-5-323.

(4) (a) (i) When a child attends a school outside the child's district of residence at the resident district's expense under the provisions of 20-5-320 or 20-5-321 or when a child has approval to attend a day-treatment program under an approved individualized education program at a private, nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance any tuition amount required under 20-5-323 from the levy authorized to support the district tuition fund or from the district's general fund or any other legally available fund in the discretion of the trustees and any transportation amount from the levy authorized to support the transportation fund or from the district's general fund or any other legally available fund in the discretion of the trustees. If the district of residence is a nonoperating school district, the district shall use the nonoperating fund and impose applicable levies required to satisfy any tuition and transportation obligations.

(ii) By December 31 of the school fiscal year following the year of attendance, the district of residence shall pay at least one-half of any tuition and transportation obligation established under this part. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

(b) In addition to use of a tuition levy to pay tuition for out-of-district attendance of a resident pupil, a school district may also include in its tuition levy an amount ~~necessary to pay for the full costs of providing a~~ to support the provision of a free appropriate public education, as defined in 20-7-401, in the district to any child with a disability who lives in the district. The amount of the levy imposed for the costs associated with educating each child with a disability under this subsection (4)(b) is limited to the ~~actual cost of service under the child's individualized education program minus~~ lesser of the child's instructional costs as defined in [section 1] or four times the high school maximum per-ANB amount under 20-9-306 for the applicable year, then subtracting:

(i) ~~the student's state special education payment~~ 140% of the instructional and related service per-ANB block grant amounts for the applicable year;

(ii) the student's federal special education payment, determined by dividing the district's federal IDEA-B allocation for the applicable year by the count of students receiving special education in the district;

(iii) the student's per-ANB amount; and

~~(iv) the prorated portion of the district's basic entitlement for each qualifying student; and~~

~~(v)~~ (iv) the prorated portion of the district's general fund payments in 20-9-327 through 20-9-330 for

each qualifying student.

(5) (a) Except as provided in subsection (5)(b), the district of attendance shall anticipate and credit tuition receipts to the district general fund over-BASE budget pursuant to 20-9-141 and transportation receipts to the transportation fund.

(b) Any tuition receipts received for a pupil who is a child with a disability under 20-5-323(2) or for a student without disabilities who requires a program with costs that exceed the average district costs under 20-5-323(3) that exceed the tuition amount received for a pupil without disabilities must be deposited in the district miscellaneous programs fund and must be used in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(6) The reimbursements paid under subsection (2)(a)(iii) must be deposited into the district tuition fund and must be used by the district to pay obligations for resident students attending public schools out of state or for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools at district expense.

(7) The provisions of this section do not apply to out-of-state placements made by a state agency pursuant to 20-7-422.

(8) (a) In accordance with 5-11-210, the superintendent of public instruction shall report annually to the education interim committee on out-of-district attendance under 20-5-320 through 20-5-324 in the prior school fiscal year. The report must include the following for each school district:

(i) the total enrollment of the district;

(ii) the number of nonresident students served by the district under out-of-district attendance agreements, broken down by district of residence; and

(iii) the number of resident students served by other school districts under out-of-district attendance agreements, broken down by district of attendance.

(b) School districts shall provide the superintendent of public instruction with the information necessary to comply with this subsection (8) in a manner prescribed by the superintendent that must minimize the reporting burden on school districts."

NEW SECTION. **Section 3. Appropriation.** (1) There is appropriated $20 million from the general

fund to the office of public instruction for each fiscal year of the biennium beginning July 1, 2027, for the purpose of distributing funding to school districts as described in [section 1].

(2) The legislature intends that the appropriation in this section be considered part of the ongoing base for the next legislative session.

NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 4, and the provisions of Title 20, chapter 7, part 4, apply to [section 1].

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2027.

- END -