

HOUSE BILL NO. 203

INTRODUCED BY D. BEDEY, M. BERTOGLIO

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO OUT-OF-DISTRICT ATTENDANCE; REVISING OUT-OF-DISTRICT AND TUITION LAWS TO INCREASE EDUCATIONAL CHOICE AND IMPROVE TAXPAYER EQUITY; PROVIDING LIMITED CIRCUMSTANCES UNDER WHICH AN OUT-OF-DISTRICT ATTENDANCE APPLICATION MAY BE DENIED; REQUIRING THAT DISTRICTS OF RESIDENCE PAY TUITION FOR RESIDENT CHILDREN WHO ATTEND OUT OF DISTRICT; REQUIRING THE SUBMISSION OF OUT-OF-DISTRICT ATTENDANCE AGREEMENTS TO THE OFFICE OF PUBLIC INSTRUCTION; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO PROVIDE AN ANNUAL REPORT; ENSURING THAT TUITION REVENUE RECEIVED BY A DISTRICT OF ATTENDANCE IS USED TO REDUCE LOCAL PROPERTY TAXES; AMENDING SECTIONS 20-5-320, 20-5-321, 20-5-322, 20-5-323, 20-5-324, AND 20-9-141, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 20-5-320, MCA, is amended to read:

**"20-5-320. ~~Attendance with discretionary approval~~ Out-of-district attendance by parent or guardian request with no extenuating circumstances.** (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence ~~or a public school in a district of another state or province that is adjacent to the county of the child's residence, subject to discretionary approval by the trustees of the resident district and the district of choice~~ at the request of the child's parent or guardian as described in this section. If the trustees ~~grant discretionary approval~~ of the district of attendance approve of the child's attendance in a school of the district, the parent or guardian may be ~~charged tuition and may be charged responsible~~ responsible for transportation.

(2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes

(a) provide copies of the approved or disapproved attendance agreement to the parent or guardian and to the child's district of residence. In the case of a disapproval, the trustees shall provide the specific allowable reason for the disapproval pursuant to 20-5-320(2)(e) or 20-5-321(4) and supporting documentation.

~~(4)(b) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the district of residence shall approve or disapprove the agreement under the provisions of this part and forward for an approved agreement, provide a copy of the completed agreement to the county superintendent of schools of the county of residence, the trustees of the district of choice, and the parent or guardian the county superintendent of schools of the county of attendance, and the superintendent of public instruction.~~

~~(5)(4)~~ If an out-of-district attendance agreement is disapproved or no action is taken, the parent or guardian may appeal the disapproval or lack of action to the county superintendent of the district of attendance and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies ~~in this title pursuant to 20-3-107 and 20-3-210.~~

~~(6)(5)~~ For purposes of payment under 20-5-324(2), a nonresident student who becomes a resident by reaching 18 years of age during the school year may continue to have tuition paid on the student's behalf for the duration of the student's enrollment in the district for that school year."

**Section 4.** Section 20-5-323, MCA, is amended to read:

**"20-5-323. Tuition and transportation -- rates.** (1) Except as provided in subsections (2) through (5), whenever a child ~~has approval to attend 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, the ~~rate of tuition charged for a Montana resident student may not exceed 20%~~ district of residence shall pay the district of attendance 40% 35.3% of the tuition per-ANB amount for the year of attendance as described in 20-5-324.

(2) Except for the tuition paid by the district of residence under 20-5-324(2)(b), the tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils. The rules must provide:

(a) that tuition amounts must be reduced by the funding generated by the district of attendance due to the child's attendance; and

(b) an option for tuition set at the actual unique costs of providing a free appropriate public

1 education.

2 (3) The state-paid tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) in  
3 addition to the tuition paid by the district of residence under 20-5-324(2)(b) for a student without disabilities who  
4 requires a program with costs that exceed the average district costs must be determined as the actual  
5 individual costs of providing that program according to the following:

6 (a) the district of attendance and the district, ~~person~~, or entity responsible for the tuition payments  
7 shall approve an agreement for the tuition cost;

8 (b) for a Montana resident student, 120% of the tuition per-ANB amount, received in the year for  
9 which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana  
10 resident student; and

11 (c) the maximum tuition rate paid to a district under this ~~section~~ subsection (3) may not exceed  
12 \$2,500 per student.

13 (4) When a child attends a public school of another state or province, the amount of daily tuition  
14 may not be greater than the average annual cost for each student in the child's district of residence. This  
15 calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted  
16 funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding  
17 school fiscal year. For the purposes of this subsection, the following do not apply:

18 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

19 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-  
20 314;

21 (c) an order issued under Title 40, chapter 4, part 2; or

22 (d) out-of-state placement by a state agency.

23 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency  
24 making the placement is responsible for the education costs resulting from the placement.

25 (6) The amount, if any, charged for transportation may not exceed the lesser of the average  
26 transportation cost for each student in the child's district of residence or 35 cents a mile. The average  
27 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by  
28 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

(7) As used in this section, "tuition per-ANB amount" means the applicable per-ANB maximum rate established in 20-9-306, plus the sum of:

- (a) the data for achievement payment rate under 20-9-306;
- (b) the Indian education for all payment rate under 20-9-306; and
- (c) the per-ANB amounts of the instructional block grant and related services block grant under 20-9-321."

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

**"20-5-324. Tuition report and 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