

House BILL NO. 282

INTRODUCED BY

Anderson Griffith

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT APPROVE AN OUT-OF-DISTRICT AGREEMENT THAT ALLOWS A CHILD TO ENROLL IN AND ATTEND AN ELEMENTARY SCHOOL LOCATED OUTSIDE THE DISTRICT OF RESIDENCE WHEN THE CHILD IS A MEMBER OF A FAMILY THAT HAS ANOTHER CHILD ENROLLED IN A HIGH SCHOOL LOCATED OUTSIDE THE ELEMENTARY DISTRICT; AND AMENDING SECTIONS 20-5-321 AND 20-5-323, MCA."

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

Section 1. Section 20-5-321, MCA, is amended to read:

"20-5-321. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and:

- (i) the resident district does not provide transportation; or
- (ii) the district of residence provides transportation and is not within the same county as the child's school district of choice;

(b) the child resides in a location where, due to road or geographic conditions, it is impractical to attend the school nearest the child's residence;

~~(c) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school;~~

(d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected



1 child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in
2 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
3 health and human services and, as a result of the placement, is required to attend school outside of the
4 child's district of residence; or

5 ~~(e)~~(d) the child is required to attend school outside of the district of residence as the result of a
6 placement by a state agency or parent in a group home licensed by the state or an order of a court of
7 competent jurisdiction.

8 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have
9 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
10 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
11 the child will attend.

12 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for
13 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

14 (c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver
15 must be applied equally to all students.

16 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
17 the district of choice shall approve the out-of-district attendance agreement and notify the county
18 superintendent of schools of the county of the child's residence of the approval of the agreement within
19 10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).

20 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district
21 where the school to be attended is located may disapprove an out-of-district attendance agreement
22 whenever they find that, due to insufficient room and overcrowding, the accreditation of the school would
23 be adversely affected by the acceptance of the child."
24

25 **Section 2.** Section 20-5-323, MCA, is amended to read:

26 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (3) and (4),
27 whenever a child has approval to attend a school outside of the child's district of residence under the
28 provisions of 20-5-320 or 20-5-321, the basis of the rate of tuition is a flat rate for each of the 15
29 district-size groupings determined by rule by the superintendent of public instruction by March 15 of each
30 year, using statewide district expenditure and revenue data for the general fund, debt service fund, and

1 retirement fund to determine the average district contribution.

2 (2) The tuition for children with disabilities must be determined under rules adopted by the
3 superintendent of public instruction for the calculation of tuition for special education pupils.

4 (3) The tuition rate for out-of-district placement pursuant to 20-5-321~~(1)(d)~~ (1)(c) and ~~(1)(e)~~ (1)(d)
5 for a student without disabilities who requires a program with costs that exceed the average district costs
6 must be determined as the actual individual costs of providing that program according to the following:

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

9 (b) for a Montana resident student, the average district per-ANB foundation payment amount
10 received in the year for which the tuition charges are calculated must be subtracted from the per-student
11 program costs for a Montana resident student.

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

18 (a) placement of a child with disabilities 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 20-5-314; or

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

22 (5) The amount, if any, charged for transportation may not exceed the lesser of the average
23 transportation cost per student in the child's district of residence or 21.25 cents ~~per~~ a mile. The average
24 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by
25 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

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(b) the child resides in a location where, due to road or geographic conditions, it is impractical to attend the school nearest the child's residence;

~~(c) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school;~~

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2 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
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9 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
10 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
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13 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

14 (c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver
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1 retirement fund to determine the average district contribution.

2 (2) The tuition for children with disabilities must be determined under rules adopted by the
3 superintendent of public instruction for the calculation of tuition for special education pupils.

4 (3) The tuition rate for out-of-district placement pursuant to 20-5-321~~(1)(d)~~ (1)(c) and ~~(1)(e)~~ (1)(d)
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