



AN ACT CLARIFYING LAWS RELATED TO SPECIAL EDUCATION COOPERATIVES AND JOINT BOARDS;  
REMOVING LANGUAGE RELATED TO SPECIAL EDUCATION FUNDING FOR JOINT BOARDS; AND  
AMENDING SECTIONS 20-3-361, 20-3-362, 20-7-457, AND 20-9-321, MCA.

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

**Section 1.** Section 20-3-361, MCA, is amended to read:

**"20-3-361. Joint board of trustees organization and voting membership.** (1) The board of trustees of two or more school districts may form a joint board of trustees for the purpose of coordinating any educational program or support service of the districts. A joint board of trustees may coordinate only those programs and services agreed to by the participating boards of trustees.

(2) When a joint board of trustees is formed, all of the members of the districts' trustees must be members of the joint board of trustees and each member must have the right to participate in the meetings, but voting on matters considered by the joint board is limited by the provisions of this section.

(3) At the first meeting of the joint board of trustees, a presiding officer of the joint board of trustees must be selected from among the membership. A secretary of the joint board must be selected from the membership. The presiding officer, when selected as a voting member, may not be disqualified from voting because of the position. The secretary may not be a voting member except that the secretary shall cast the deciding vote when three successive ballots have resulted in a tie vote of the joint board of trustees.

(4) The voting membership of the joint board of trustees must be equalized among the trustee membership of the participating districts. After the selection of the presiding officer and the secretary, if necessary, the voting membership is:

(a) all of the membership of the board of trustees of the smallest class of district, according to 20-6-201 or 20-6-301, unless one of its members is selected as secretary, in which case that member may not be a voting member; and

(b) the members of the board of trustees of the other district or districts who are selected by the trustees

as voting members of the joint board in a number equal to the number of voting members of the district as established under subsection (4)(a). The names of the voting membership selected by the trustees must be submitted in writing to the secretary of the board and are the only members of the district's trustees eligible to vote on joint board matters unless the list is revised in writing by the trustees.

(5) Each voting member is entitled to cast one vote, individually, upon every matter submitted to the joint board for a vote.

(6) A joint board shall remain in existence for at least 1 school year and may not be dissolved until the end of a school year.

(7) A school district that elects to participate in a joint board formed under this section for special education purposes shall confirm in writing to the joint board by October 1 of the current school fiscal year the district's intention to participate or to not participate in a joint board agreement for the next school fiscal year."

**Section 2.** Section 20-3-362, MCA, is amended to read:

**"20-3-362. Powers of joint board of trustees.** (1) When a joint board of trustees is formed as provided by 20-3-361, it shall have the power to:

- (a) jointly employ a district superintendent under the provisions of 20-4-401;
- (b) jointly employ teachers and specialists under the provisions of 20-4-201;
- (c) open a junior high school under the provisions of 20-6-505 if the trustees of a county high school and the trustees of an elementary district have formed a joint board of trustees;
- (d) prescribe and administer joint administrative policy;
- (e) jointly provide any program or service authorized under 20-3-324, including any joint provision of special education services ~~as provided in 20-7-457~~; and
- (f) prorate all items of joint expense among the school districts, provided that a controversy over any decision by the joint board to prorate joint costs may, within 30 days, be appealed by the trustees of any district to the superintendent of public instruction for a final decision as to what constitutes a fair and just proration of the cost.

(2) The joint board of trustees shall not have the power to transact business that is not specifically related to the joint administration of the districts."

**Section 3.** Section 20-7-457, MCA, is amended to read:

**"20-7-457. Funding provisions for special education ~~purposes of cooperatives or joint boards.~~**

(1) The superintendent of public instruction shall pay directly to a special education cooperative ~~or to a joint board formed under 20-3-361 prior to July 1, 1992, for special education purposes~~ the special education allowable cost payments determined pursuant to 20-9-321.

(2) A school district that elects to participate in a cooperative for special education purposes shall agree in the cooperative contract to participate for a period of at least 3 years.

~~(3) A school district that elects to participate in a joint board formed under 20-3-361 for special education purposes shall confirm in writing to the joint board by October 1 of the current school fiscal year the district's intention to participate or to not participate in a joint board agreement for the next school fiscal year.~~

~~(4)~~(3) A cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction. The superintendent shall adopt rules for approval of full service education cooperatives.

~~(5)~~(4) A full service education cooperative may establish a retirement fund, a miscellaneous programs fund, and a transportation fund, as provided for in 20-9-201, for the purposes of a full service education cooperative contract and the purposes allowed by law.

~~(6)~~(5) The superintendent of public instruction, after consulting with regional representatives, shall define boundaries for cooperatives established for special education programs that incorporate the territory of all public school districts.

~~(7)~~(6) Restructuring of cooperatives established for providing special education services must:

- (a) be limited to a statewide total of no more than 23;
- (b) include districts that are adjacent to each other and not overlapping into another cooperative's territory; and
- (c) provide that all districts located within a cooperative's boundary may voluntarily become a cooperative member."

**Section 4.** 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 20-3-364 prior to July 1, 1992, or special education cooperative~~ 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% through instructional block grants;
- (ii) 17.5% through related services block grants;
- (iii) 25% to reimbursement of local districts; and
- (iv) 5% 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.

(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 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 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."

- END -

I hereby certify that the within bill,  
SB 0016, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

SENATE BILL NO. 16  
INTRODUCED BY D. SALOMON  
BY REQUEST OF THE EDUCATION INTERIM COMMITTEE

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