Potential Findings and Recommendations on Special Education Funding

SCHOOL FUNDING INTERIM COMMISSION
PAD MCCRACKEN, LSD, AND KATE JOHNSON, LFD – JUNE 2026

At the Commission's April meeting, staff presented a memo with potential findings and recommendations, including findings and recommendations on special education funding. Based on Commission discussion/direction, staff developed this paper for your June 17-18 meeting.

The excerpt below is slightly modified from the April memo.

POTENTIAL FINDINGS AND RECOMMENDATIONS

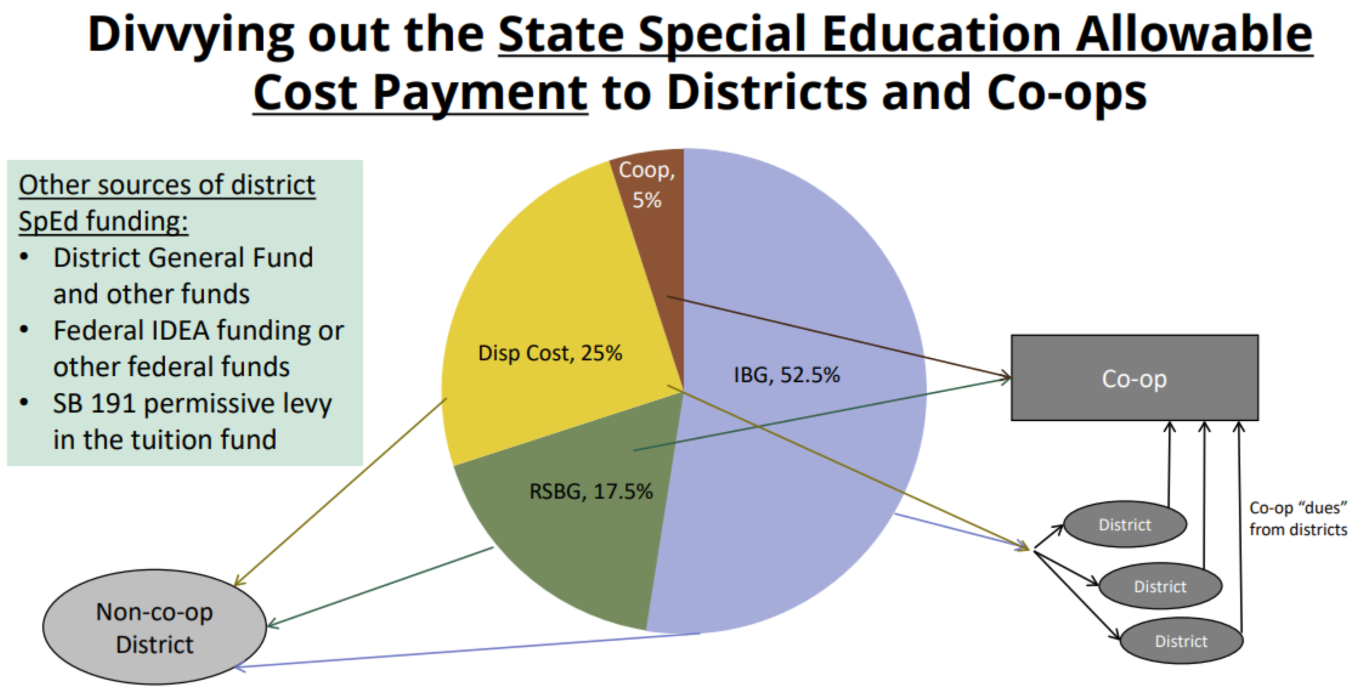
- In general, the state special education allowable cost payment has not kept pace with special education cost increases.
  - Increase the state special education allowable cost payment.

- The costs of students with high-cost IEPs are increasingly borne by non-equalized, permissive levies in the tuition fund, with some of this shift due to the erosion of the disproportionate cost reimbursement (DCR) component of the allowable cost payment. The two-year lag for the DCR is also problematic, especially for smaller districts.
  - Increase the allowable cost payment and adjust percentages to direct more money to disproportionate cost reimbursement.
  - Replace the DCR with a state-funded "high-cost pool" that is available to districts when they are providing special education services to a student with extraordinary IEP costs.
  - Create a high-cost pool and leave the current DCR mechanism as it is.

- The federal government has failed to meet its funding target for IDEA.
  - Encourage the federal government to meet its funding goals for IDEA.

This paper will provide more information and options for the Commission to consider.

Figure 1. This graphic may be a useful reminder of how the various components of the state special education allowable cost payment are allocated and distributed. IBG = Instructional Block Grant RSBG = Related Services Block Grant

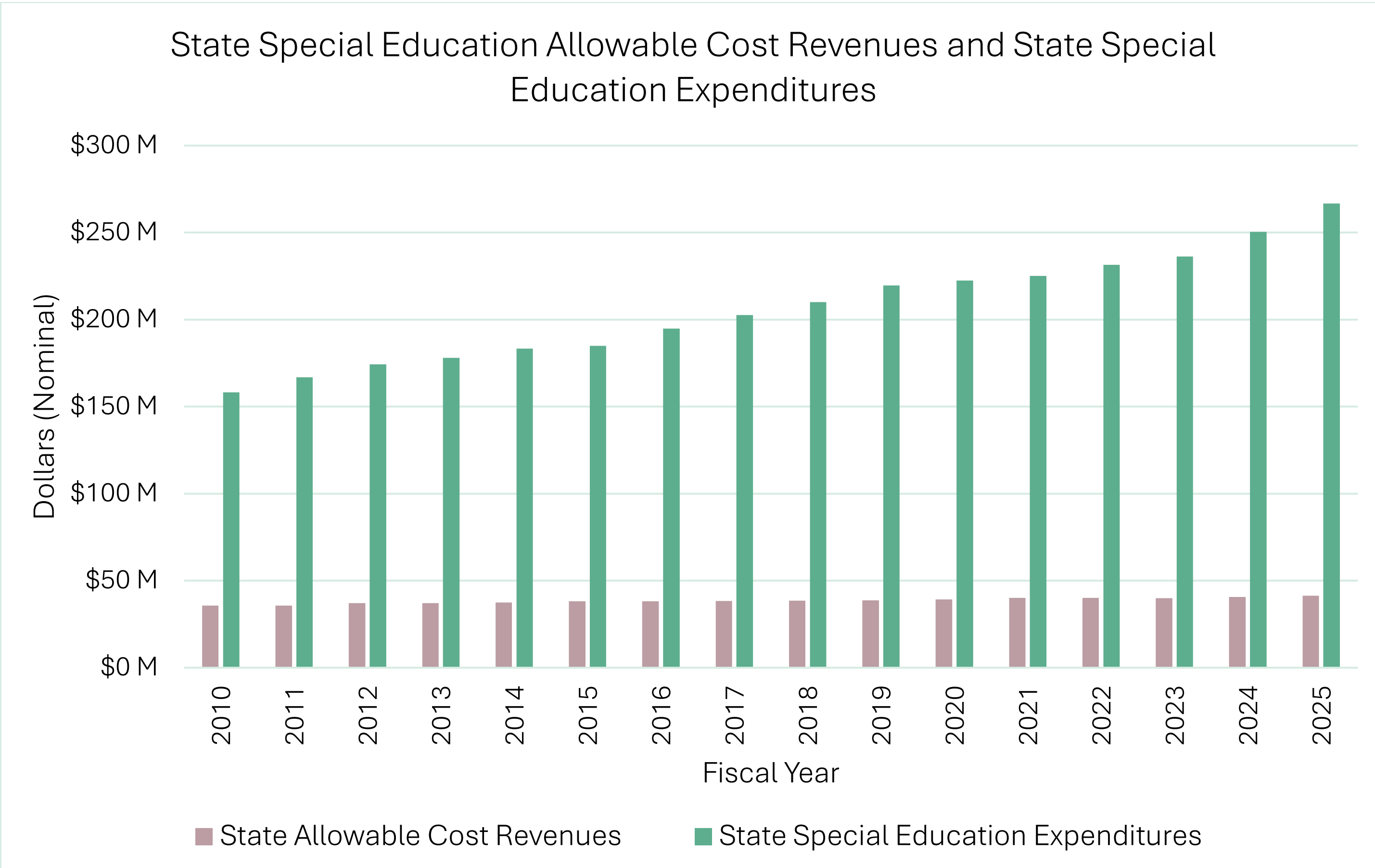


POSSIBLE REC – INCREASE THE ALLOWABLE COST PAYMENT

Increasing the special education allowable cost payment could be accomplished by amending subsection 19 of 20-9-306, MCA. The two dollar amounts bolded in the excerpt below will likely receive inflationary increases during the 2027 Legislative Session in House Bill No. 15 (aka "the school funding bill") pursuant to 20-9-326, but the Commission could recommend increases greater than those inflationary adjustments. Doing so would in essence "grow the total pie" and increase the size of each "slice" in Figure 1.

(19) "Total special education allocation" means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying ***$311.63*** *for fiscal year 2026 and* ***$320.98*** *for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year's total special education allocation.*

Figure 2. This bar graph shows how the state allowable cost payment has not kept pace with special education expenditures. While the payment received ad hoc increases from time-to-time, it was not included in the funding components receiving inflationary adjustments until 2021.



LEGISLATIVE SERVICES DIVISION

Figure 3. This line graph shows the nominal special education allowable cost revenues and real allowable cost revenues adjusted for inflation (2010 base year). That is, the real allowable cost revenues in each fiscal are the 2010 allowable cost revenues multiplied by an inflation index based on changes of the CPI-U. Therefore, the real allowable cost revenues in each successive fiscal year is of equal value to the purchasing power of the 2010 allowable cost revenues.

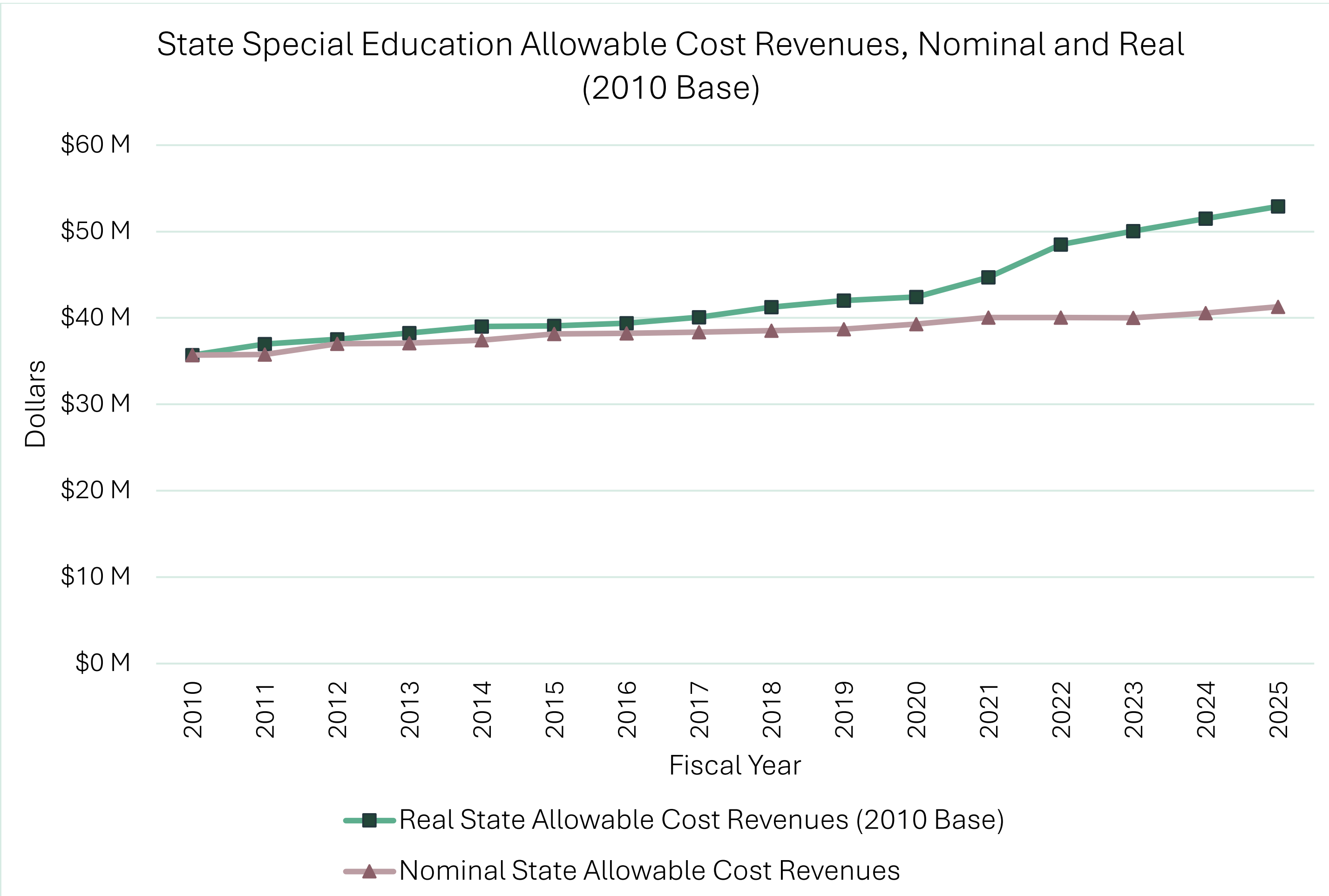


Figure 4. This chart shows nominal state special education allowable cost revenues, real state allowable cost revenues (2010 base year), and total state special education expenditures, and the percent change of each, from 2010 to 2025. Adjusting the state allowable cost revenues for inflation from the 2010 base year would have increased the dollar amounts dedicated to those revenues; however, the money spent on statewide special education expenditures, and the growth in those expenditures from 2010 to 2025, outpaced an inflationary adjustment to the state allowable cost payment.

Fiscal Year	Nominal State Allowable Cost Revenues	Real State Allowable Cost Revenues (2010 Base)	Total State Special Education Expenditures
2010	$35,700,642	$35,700,642	$158,232,429
2011	$35,765,455	$36,996,117	$166,905,500
2012	$37,027,662	$37,517,189	$174,368,678
2013	$37,093,026	$38,252,782	$178,060,690
2014	$37,431,656	$39,014,903	$183,407,792
2015	$38,147,663	$39,081,060	$184,991,918
2016	$38,229,224	$39,404,315	$194,812,004
2017	$38,368,202	$40,085,213	$202,715,115
2018	$38,548,748	$41,267,532	$210,091,321
2019	$38,715,450	$42,015,079	$219,589,187
2020	$39,277,584	$42,429,382	$222,497,982
2021	$40,051,759	$44,705,920	$225,054,866
2022	$40,066,839	$48,517,017	$231,533,652
2023	$40,026,712	$50,058,781	$236,317,849
2024	$40,584,685	$51,507,859	$250,362,378
2025	$41,296,273	$52,901,097	$266,802,023
Percent Change, 2010-2025	15.7%	48.2%	68.6%

Figure 5. This bar chart shows the state special education enrollment count from 2013 to 2026. Special education enrollment was 16,427 students in the 2012-13 school year and increased to 21,449 students in the 2025-26 school year.

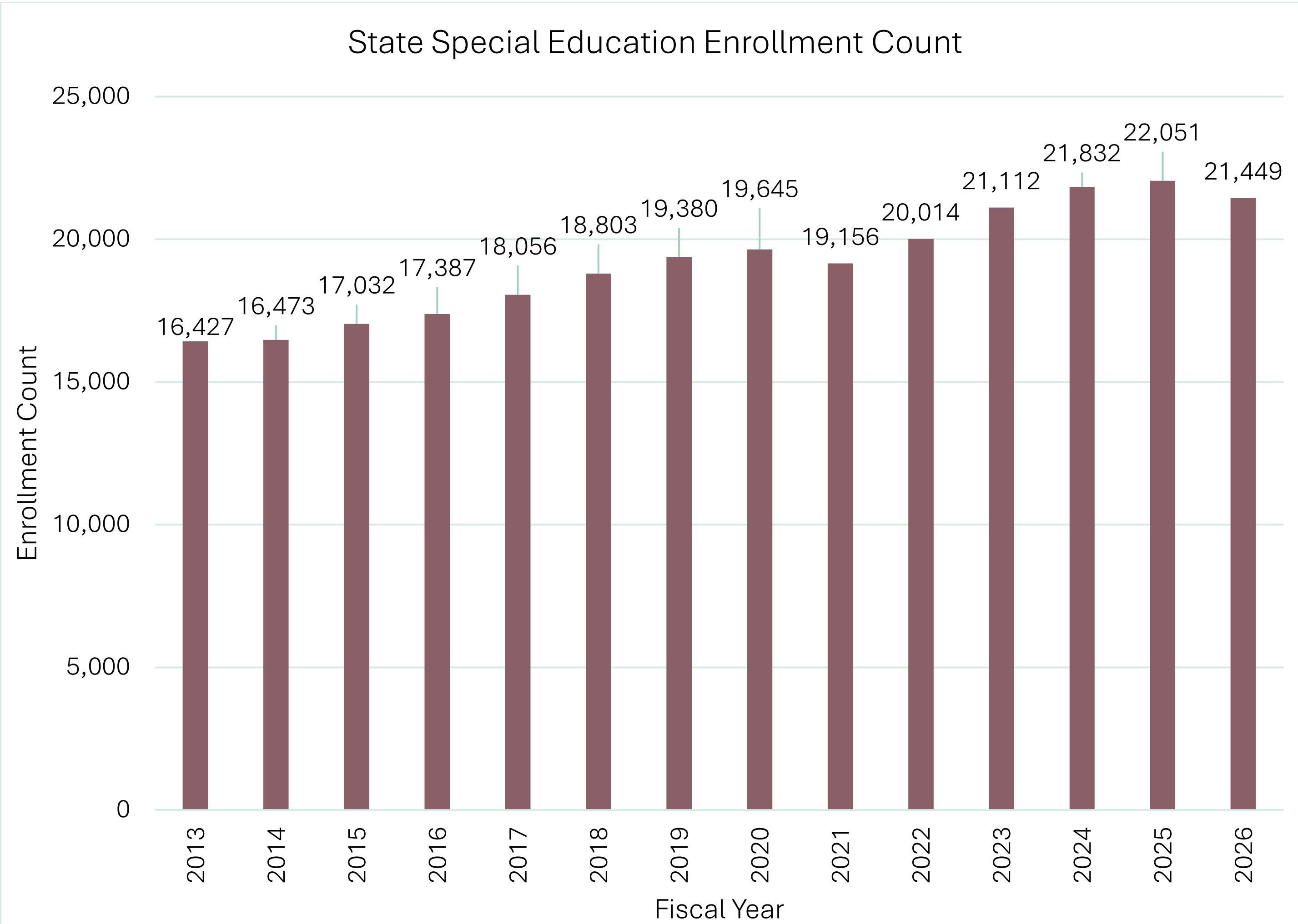


Figure 6. This table shows the state special education enrollment, total enrollment, and special education enrollment as a percent of total enrollment, and the percent change of each, from 2013 to 2026. The special education enrollment count grew 30.6% from 2013 to 2026, outpacing the state's enrollment count for ANB growth of 3.5% over the same period. Special education enrollment counts also grew to account for a larger proportion of the total statewide enrollment count – in the 2012-13 school year, special education students comprised 11.6% of statewide student enrollment; in the 2025-26 school year, they comprise 14.6% of statewide student enrollment.

Special education enrollment data for 2021-2026 was retrieved from the OPI GEMS Public Database; data for 2013-2020 was retrieved from the OPI Special Education Board of Public Education Annual Report 2023. State public school enrollment count for ANB data was retrieved from the OPI School Finance website.

Fiscal Year	State Special Education Enrollment Count	State Enrollment Count for ANB	Special Education Enrollment as Percent of Total Enrollment
2013	16,427	141,695	11.6%
2014	16,473	142,810	11.5%
2015	17,032	143,412	11.9%
2016	17,387	144,282	12.1%
2017	18,056	145,601	12.4%
2018	18,803	145,923	12.9%
2019	19,380	146,909	13.2%
2020	19,645	148,195	13.3%
2021	19,156	144,850	13.2%
2022	20,014	148,508	13.5%
2023	21,112	149,787	14.1%
2024	21,832	148,009	14.8%
2025	22,051	148,127	14.9%
2026	21,449	146,716	14.6%
Percent Change, 2013-2026	30.6%	3.5%	26.1%

POSSIBLE REC – INCREASE THE DISPROPORTIONATE COST REIMBURSEMENT

This recommendation could be accomplished by increasing the state special education allocation as described in the preceding possible recommendation, and additionally amending subsection (4(a) of 20-9-321, MCA, to increase (iii), the disproportionate cost reimbursement, and decrease the percentages of the other allocations in (i), (ii), and (iv).

(4) (a) The total special education allocation must be distributed according to the following formula:

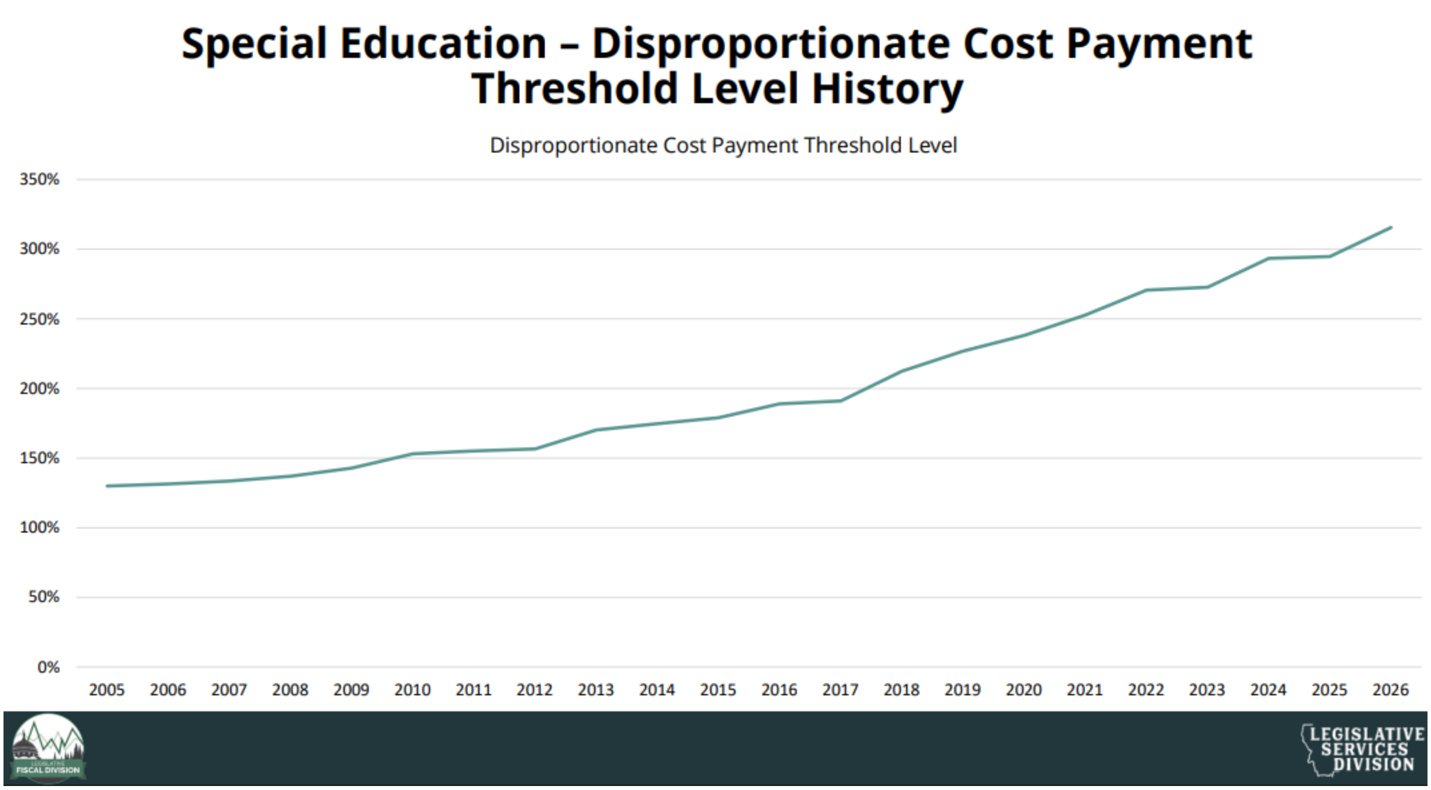
(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and [this is the disproportionate cost reimbursement]

(iv) 5% to special education cooperatives for administration and travel.

Figure 7. This slide was part of a larger presentation on special education funding at the Commission's October 14-15, 2025 meeting. It shows the steady and significant increase in the disproportionate cost threshold in the past two decades. This results in school districts absorbing a greater share of special education costs.



POSSIBLE REC – REPLACE THE DISPROPORTIONATE COST REIMBURSEMENT WITH A HIGH-COST POOL

The excerpted statute above shows what would need to be dismantled and the percentages that would need to be increased if the disproportionate cost reimbursement were eliminated. Considerations for designing a high-cost pool will be provided in the next section.

CREATING A HIGH-COST POOL

A number of states have high-cost pools for special education. Idaho just created one after wrestling with special education funding issues like what Montana is experiencing.[1] In a nutshell, these pools are designed so that extraordinarily high special education expenditures for an individual student (or for total special education program costs) are covered in whole or in large part by the state. Below is a list of policy considerations in designing a high-cost pool for individual student costs. Attached to this paper is a provisional bill draft, PD 10, with a barebones establishment of a high-cost pool. The manner in which PD 10 addressed the policy considerations is noted. All these decisions would need to be revisited by the Commission if this recommendation is pursued further.

1. How will the threshold amount be set? Will it be designed to change over time? Some states use a fixed dollar amount, like $30,000. While this is easily understandable, if the amount is never changed, as expenditures increase, the state will pay a larger portion. Other states use a multiple of per-pupil expenditures (for example 3X PPE) or of per-pupil funding provided to school districts. (PD 10 uses 100X the per-pupil amount of the state special education allocation, roughly $32,000 in FY 2027.)
2. Will the threshold amount be the same for all districts, or lower for smaller districts? (PD 10 uses the same threshold for all districts.)
3. Will there be any eligibility requirements (or prioritization) based on district characteristics or financial circumstances? For example, districts with more than a certain amount of IDEA carry-over would not be eligible. (PD 10 does not include eligibility requirements or prioritization.)
4. Will the state pay 100% of costs above the threshold or 90-10 or 80-20? Will this be the same for all districts or will it vary? (PD 10 has the state pay 100% of the costs above the threshold; some state programs subtract costs eligible for Medicaid reimbursement which the Commission may want to consider if the creation of a high-cost pool is pursued further.)
5. Will there be a cap amount on what the state will pay for an individual student? (PD 10 has no cap on payments for individual students.)

---

[1] Idaho Legislature website information on SB 1288: https://legislature.idaho.gov/sessioninfo/2026/legislation/S1288/

6. Will the total state program cost be capped (with a prorate or prioritization mechanism) or will there be no cap with a request for supplemental appropriation if necessary? (PD 10 has no cap and requires a request for supplemental appropriation when necessary.)
7. Will districts apply for the funding in the current year based on documented IEP cost estimates or will it be formula based on reported expenditures? The latter would result in a delay in payments, one of the issues with the existing DCR. (PD 10 has districts apply and receive funding in the same year they incur the extraordinary costs.)
8. Will there be an application review board or will the approval authority rest with the SPI? Some states utilize a review board when a student's costs exceed a certain amount. (PD 10 leaves approval authority solely to the SPI.)
9. Under Montana tuition laws, the district of residence is responsible for raising the full costs of a student's IEP (minus what the district of attendance generates for the student via the formula). Should the high-cost pool be available to the district of residence in these circumstances? (PD 10 allows the district of residence to utilize the pool.)
10. Should the permissive tuition levy be capped at the extraordinary cost threshold? (Because increased reliance on the permissive tuition levy is one of the issues the high-cost pool is trying to address <u>and</u> because costs above the threshold are 100% funded by the state, PD 10 could include a cap on the levy, but does not currently.)

POSSIBLE REC – CREATE A HIGH-COST POOL AND LEAVE THE DCR AS IS

The previous section walks through considerations for creating a high-cost pool. Despite its shortcomings, including a 2-year lag between expenditures and reimbursements, there may be good reasons to leave the existing DCR mechanism in place while adding a high-cost pool. The DCR does provide a steady flow of increased state special education funding for districts with consistently higher special education <u>program</u> expenditures out of their <u>general funds</u>. These are <u>typically</u> larger, urban districts that sometimes attract families of children with disabilities. A high-cost pool would benefit all districts, but particularly smaller districts with less ability to absorb the high costs associated with the occasional enrollment of a student with severe disabilities. Leaving the DCR in place would also be less disruptive to the current special education funding regime.

POSSIBLE REC – ENCOURAGE FULL FUNDING FOR IDEA

Encouraging Congress to meet its funding target for IDEA could be accomplished through a joint resolution of the Legislature. The Education Commission of the States provided an excellent response to a staff request for information on states that have done similar in the past five years. That response is posted and included in your printed materials. If the Commission wants to proceed with this, staff will prepare a provisional draft resolution modeled on other states' resolutions for your review in July.

ADDITIONAL CONSIDERATION – AN ARTIFACT OF PRIOR SPECIAL EDUCATION FUNDING

In reviewing current special education funding statutes, I noticed the following in 20-9-321:

(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.

This provision was added in HB 667 (1993) the very large bill that replaced the old "foundation" funding formula with the current "BASE" formula. It also radically changed special education funding, moving from a reimbursement-for-allowable-costs model to a capitation model with ANB-based block grants like what we have now. It also included something of a high-cost pool:

(7) If a district's allowable costs of special education, as verified by the trustees' reports, exceed by at least 10% the total of the special education instructional and special education related services block grant plus the required district match, the district is eligible for a 65% reimbursement of the costs that exceed the additional 10%. 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.

This was a formulaic disproportionate cost reimbursement with a lag like the one we have now, BUT it had no threshold. Over time, this reimbursement used more and more of the total special education allocation and drove the block grant amounts down.

Enter HB 160 (2001). This bill established the current percentage-based, pie-slice approach to the special education allocation with 25% devoted to the disproportionate cost reimbursement and established the threshold, basically a rationing mechanism. The first sentence of subsection (7) was removed but the second sentence was left intact and renumbered (8). This provision *may* have worked when the disproportionate cost reimbursement was in essence, guaranteed and uncapped, but the current mechanism, with the threshold, means that a district and OPI cannot know in the "year in which actual costs will be incurred" whether or how much of a reimbursement the district will be eligible for. The current provision under 20-9-321(8) appears inoperable and could be removed, especially if a functioning high-cost pool is created.

ADDITIONAL CONSIDERATION – REVISITING THE PERMISSIVE TUITION LEVY FOR SPECIAL EDUCATION

The permissive tuition levy for special education was added in SB 191 (2013) and is still often referred to as the SB 191 levy. It allows a district to impose a levy for the costs of a specific student's IEP that exceed the amount of revenue already being generated for that student. In reviewing the implementation of that statute and how it would interact with a high-cost pool, a couple questions arose:

1. Does the current method of determining a “student’s state special education payment” make sense? Same question for “student’s federal special education payment.”
2. Similarly, does it make sense to include “the prorated portion of the district's basic entitlement for each qualifying student”?

(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 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****:*

> ***(i) the student's state special education payment;***
> ***(ii) the student's federal special education payment;***
> *(iii) the student's per-ANB amount;*
> ***(iv) the prorated portion of the district's basic entitlement for each qualifying student; and***
> *(v) the prorated portion of the district's general fund payments in 20-9-327 through 20-9-330 for each qualifying student.*

The statute provides no guidance on what is meant by “the student's state special education payment” or “the student's federal special education payment” or how those payments should be calculated. The methodology used by OPI simply takes the sum of a district’s state special education payment and divides it by the total number of enrolled students. Same with the federal payment. The total number of enrolled students includes both students receiving special education and those who are not. Neither state nor federal special education dollars can be spent on regular education services, so allocating a portion of those dollars to non-special education students doesn’t make much sense. The effect of this methodology is to underestimate the amount of money available for the education of special education students and thereby increase the amount of money that can be levied to cover a student’s IEP costs.

Prorating the district’s basic entitlement has the opposite impact. If the purpose of the basic entitlement is at least in part to address the fixed costs of a district, allocating a portion of it to each student is counter to the purpose.

Considering the steep increase in the use of the SB 191 levy and the concern about property taxes, the Commission may wish to revisit the mechanics of how the levy is calculated, and especially if a high-cost pool is created.

This is a barebones provisional draft creating a special education high-cost pool. It is for discussion purposes only at the June 17-18, 2026 SFIC meeting.

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT."

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

NEW SECTION. **Section 1. Funding for extraordinary special education costs - district eligibility - rulemaking - definitions.** (1) 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 with extraordinary costs as described in this section.

(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 superintendent shall accept applications for a period of at least three weeks during the month of February, approve or reject applications by March 15, and distribute funds for approved applications to school districts by the last working day of March.

(3) (a) Except as provided in subsection (3)(b), a school district receiving funds under this section shall deposit the funds in the miscellaneous programs fund and expend the funds in the same fiscal year in which the funds were received to support the special education costs of the student for whom the funds were received.

(b) A school district receiving funds under this section for a child with a disability being educated by another school district under an out-of-district attendance agreement under Title 20, chapter 5, part 3, shall immediately remit to the school district providing the child's education all funds received under this section.

(4) 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.

(5) The superintendent of public instruction shall adopt rules necessary for the implementation of this section.

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

(a) "Extraordinary costs" means the full costs of providing a free appropriate public education, as defined in 20-7-401, to a child with a disability that exceed 100 times the of the per-pupil amount used to calculate the total state special education allocation for the current school fiscal year pursuant to 20-9-306.

- END -