

## Findings and Recommendations from Previous K-12 Funding Studies and Court Decisions related to Educational Programs Serving Students with Special Needs

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- [Governor’s K-12 School Funding Advisory Council 2001](#)—Provide an annual inflator tied to the CPI for the basic entitlement, per-ANB entitlement, and special education payment (page 8 of Council section)
- [2003 Renewal Commission](#)
  - The Commission supports legislation which would begin to “phase in” increased state support for Special Education for such programs as services for “high cost” students with disabilities, preschool services, extended school year services, and professional development activities. Increased state support for special education should be provided in a balanced manner with the goal of offsetting local expenditures for special education.
  - The Commission supports legislation which would restore the position of Gifted and Talented Specialist in the Office of Public Instruction with an appropriate budget for an advisory council, professional development, liaison activities with post-secondary teacher preparation programs, and other outreach services.
  - The Commission recommends that all districts must receive adequate funding to cover the costs of operating and maintaining quality public elementary and secondary schools. This includes funding adequate to assure the following:
    - Educational services that directly address the unique needs of all children, which includes at-risk, special needs, cultural differences, limited English proficient, and gifted and talented students. (page 6)
- [2004 District Court decision](#)—This decision found that Montana’s K-12 funding formula at that time was unconstitutional and provided a timeline for the Legislature to make changes.
  - Although both state and federal governments mandate school districts to provide the sometime considerable [special education] services necessary for each individual child, neither government provides the necessary funds to fully pay the costs of providing the required services. As will be noted elsewhere, there is a significantly increasing reliance upon local school districts to cover the costs of necessary services. This creates a competition for dollars between regular and special education programs. (P 99)
- [2005 QSIC](#)—the Quality Schools Interim Committee was tasked with revising Montana’s K-12 funding formula following the 2004 court ruling. The committee drafted a new formula but ultimately did not agree to recommend it to the December 2005 Special Session which instead made adjustments to the existing formula. Here are QSIC’s proposals related to special needs funding:
  - The QSIC adopted a procedure to provide additional funding to school districts to cover any additional resources, such as supplies and textbooks, necessary to address the needs of at-risk students. The risk categories included:
    - the percentage of students who were American Indian;
    - the percentage of students who were eligible for free or reduced-price lunch;
    - the percentage of migrant students;
    - the percentage of students identified as limited English proficient;
    - the educational attainment of women; and
    - the per capita income. (page 21)

- In order to reflect the additional instruction time necessary for certain students, the classroom calculation [a new classroom component of QSIC’s draft funding formula] included an ANB weighting factor for gifted and talented students and an ANB weighting factor for at-risk students. (page 22)
- The QSIC adopted the current funding formula and level of support [for special education]. In addition, the QSIC added a per-educator entitlement of \$4,000, \$6,378 per educator for health insurance, and \$800 per educator for professional development. (page 25)
- [2008 District Court decision](#)—Plaintiffs from the previous lawsuit sought supplemental relief, arguing that despite legislative changes, the formula still did not provide adequate funding. After considering several additions to the formula, including components for at-risk students and to address the American Indian achievement gap, the court concluded that “the State is in the process of making a good faith effort to preserve and protect Montana’s constitutional commitment to a sound public education system.” (P 167) The decision acknowledged the state’s \$1 million increase in grants for gifted and talented programs for the 2009 biennium, but also reiterated plaintiff’s concerns that this increase was simply a line item in the budget and outside the formula. (P 137)
- The court also had this to say about special education:
  - The costs of special education need to be addressed. This Court noted in Finding of Fact 72, above, that Exhibit 549 shows that State appropriations for special education have fallen far short of the growth in costs. The increased competition for general fund dollars between special and general education continues. (P 149)
- [OPI Special Education Cooperative Task Force 2016](#)—proposed providing an inflationary adjustment to the state special education payment and an additional \$2 million in each year of the biennium earmarked to the cooperatives by adjusting the statutory percentage allocations for the special education payment
- [2015-2016 School Funding Commission](#)—This commission fulfilled the statutory requirement for a decennial review of the Montana’s K-12 funding formula. The commission identified four areas of concern, one of which was funding for special education and special needs.

Findings:

1. Special education cooperatives are struggling to cover costs in providing basic services and state support has been flat.
2. Flat state support for special education has led to greater local share of special education expenditures.
3. Needs and costs for special education are increasing and changing.
4. Gifted and talented programs are locally determined by school districts.
5. Gifted and talented education has not been an educational priority (ex. lack of teacher training, inconsistent or no identification of students, variability of programs if they exist at all).

Recommendations:

1. LCs SE01, SE02, and SE03—options for increasing the state special education payment
2. LC TBD—increase the appropriation for grants for gifted and talented programs by \$1.25 million in each year of the 2019 biennium
3. LC SNSY—requesting study of costs of special needs and exploration of different special needs funding mechanisms [this draft became HJ 1]
4. OPI, BPE, and teacher preparation programs should ensure that prospective and practicing teachers are able to identify and serve gifted and talented students (page 38)