

HOUSE BILL NO. 116

INTRODUCED BY CODY, SQUIRES, PETERSON, GOULD,
VAUGHN, WILLIAMS, THAYER
BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE HOUSE

JANUARY 9, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

FEBRUARY 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 25, 1991 PRINTING REPORT.

FEBRUARY 26, 1991 SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

FEBRUARY 27, 1991 THIRD READING, PASSED.
AYES, 70; NOES, 30.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

MARCH 26, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 28, 1991 SECOND READING, CONCURRED IN.

APRIL 1, 1991 THIRD READING, CONCURRED IN.
AYES, 26; NOES, 24.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 116
 2 INTRODUCED BY Cady Spivey Peterson Ed Vaughn
 3 By Request of the Administrative Code Committee
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING AN
 6 ADMINISTRATIVE RULE, ADOPTED BY THE BOARD OF PUBLIC
 7 EDUCATION, THAT REQUIRES EACH SCHOOL TO HAVE A GIFTED AND
 8 TALENTED CHILDREN PROGRAM; REPEALING RULE 10.55.804,
 9 ADMINISTRATIVE RULES OF MONTANA; AND PROVIDING AN EFFECTIVE
 10 DATE."
 11

12 WHEREAS, the Legislature, not the Executive Branch, is
 13 the lawmaking branch of the state government under the
 14 Montana Constitution; and

15 WHEREAS, the Legislature may delegate its power to pass
 16 laws to the Executive Branch, which may then, within certain
 17 limits, adopt administrative rules that have the force and
 18 effect of law; and

19 WHEREAS, a rule may not conflict with a statute and is
 20 invalid if it does; and

21 WHEREAS, Section 20-7-902(1), MCA, provides that "a
 22 school district may identify gifted and talented children
 23 and devise programs to serve them" and Rule 10.55.804,
 24 Administrative Rules of Montana, mandates a gifted and
 25 talented children program in each school, thereby directly

1 and clearly conflicting with the statute; and
 2 WHEREAS, the Legislature has made a gifted and talented
 3 children program discretionary, at the choice of each local
 4 school board.

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

6 NEW SECTION. Section 1. Repealer. Rule 10.55.804,
 7 Administrative Rules of Montana, is repealed.

8 NEW SECTION. Section 2. Effective date. [This act] is
 9 effective July 1, 1991.
 10

-End-



INTRODUCED BILL
 HB 116
 -2-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0116, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill repeals an administrative rule, adopted by the Board of Public Education, that requires each school to have a gifted and talented children program; repealing rule 10.55.804, Administrative Rules of Montana.

ASSUMPTIONS:

1. Rule 10.55.804, A.R.M., has an effective date of 7-01-92.
2. Currently there is \$100,000 general fund appropriated to OPI for the Gifted and Talented Program each year of the 1991 biennium and this would be unchanged in the 1993 biennium even if the rule is repealed.
3. No additional funds have been appropriated to fund this rule and the executive budget does not recommend an increase.
4. School districts which presently have a gifted and talented program will continue to provide this program.

FISCAL IMPACT:


No state fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

No change from the present.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Because no fiscal note was prepared by OPI for the Board of Public Education public hearings on this administrative rule (20-2-115, MCA), it is impossible to project the amount of long-term savings which may result from this act or the cost to the state if this rule is not repealed.



ROD SUNDSTED, BUDGET DIRECTOR 1-12-91 DATE
Office of Budget and Program Planning



DOROTHY A. CODY, PRIMARY SPONSOR 1-14-91 DATE

Fiscal Note for HB0116, as introduced

HB 116

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

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2 INTRODUCED BY Cady Louise Peterson Rep. Vaughn
3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
4 W. Blain

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-End-

SECOND READING



HB 116

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 7 LOCAL SCHOOL DISTRICTS TO IDENTIFY GIFTED AND TALENTED
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