

HOUSE BILL 800

Introduced by Swysgood

2/13	Introduced
2/13	Referred to Education & Cultural Resources
2/13	First Reading
2/13	Fiscal Note Requested
2/19	Fiscal Note Received
2/20	Fiscal Note Printed
2/22	Hearing
2/23	Committee Report--Bill Passed
2/26	2nd Reading Passed
2/26	Taken From Engrossing and Rereferred to Appropriations
3/19	Hearing
3/27	Tabled in Committee

1 HOUSE BILL NO. 800
2 INTRODUCED BY Sungood
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A STATE
5 AGENCY OR PARENT WHO PLACES A CHILD IN A GROUP HOME OR A
6 PRIVATE RESIDENTIAL FACILITY BE RESPONSIBLE FOR ANY TUITION
7 REQUIRED BY THE DISTRICT IN WHICH THE CHILD WILL ATTEND
8 SCHOOL OR FOR ANY EDUCATIONAL FEES CHARGED BY THE
9 RESIDENTIAL FACILITY; AMENDING SECTIONS 20-5-301 AND
10 20-5-311, MCA; AND PROVIDING AN EFFECTIVE DATE."
11

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

13 **Section 1.** Section 20-5-301, MCA, is amended to read:

14 "20-5-301. (Temporary) Elementary tuition with
15 mandatory approval. (1) Any child may be enrolled in and
16 attend an elementary school outside of the elementary
17 district in which the child resides when the elementary
18 school is located in:

19 (a) any other district of the county of the child's
20 residence;

21 (b) a county adjoining the child's county of residence;
22 or

23 (c) a district of another state that is adjacent to the
24 county of the child's residence.

25 (2) When a parent or guardian of a child wishes to have

1 the child attend a school under the provisions of this
2 section, the parent or guardian shall apply to the county
3 superintendent of the county of the parent or guardian's
4 residence before July 1 of the school fiscal year for which
5 approval is sought except in those cases when substantial
6 changes in circumstances occurred subsequently to justify
7 later application. The application must be made on a tuition
8 agreement form supplied by the county superintendent and
9 must be approved, before permission to enroll in and attend
10 school outside of the district under the provisions of this
11 section may be granted, by:

12 (a) the trustees of the elementary district in which
13 the child resides;

14 (b) the trustees of the district where the child wishes
15 to attend school; and

16 (c) the county superintendent of the county of the
17 child's residence.

18 (3) In considering the approval of a tuition
19 application, the tuition approval agents prescribed in this
20 section shall approve the application for a resident child
21 when:

22 (a) the child resides more than 3 miles from any school
23 of his resident elementary district and the school the pupil
24 wishes to attend is less distant than the nearest school of
25 the resident elementary district;



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1 (b) the child resides more than 3 miles from any school
2 of his resident elementary district and the district does
3 not provide transportation under the provisions of this
4 title;

5 (c) the child resides more than 3 miles from any school
6 of his resident elementary district, the resident district
7 does not provide transportation under the provisions of this
8 title, and school bus transportation is furnished by the
9 district operating the school which he wishes to attend; or

10 (d) the child is a member of a family who must send
11 another child outside of the elementary district to attend
12 high school and the child of elementary age may more
13 conveniently attend an elementary school where the high
14 school is located, provided the child resides more than 3
15 miles from an elementary school of the resident district or
16 the parent must move to the elementary district where the
17 high school is located in order to enroll the other child in
18 high school; or

19 ~~(e)~~(4) If the child has been declared adjudicated by a
20 court of competent jurisdiction to be an abused, neglected,
21 or dependent child, as defined in 41-3-102, or a youth in
22 need of supervision or a delinquent youth, as defined in
23 41-5-103, and has been ordered to be placed in a licensed
24 youth care facility which that is approved by the department
25 of family services or is placed by a parent in a licensed

1 group home or residential facility and as a result of the
2 order or placement the child is required to attend
3 elementary school outside of the district of his residence
4 ~~{for--purposes-of-this-subsection,--the-prescribed-geographic~~
5 ~~relationship-of-the-receiving-district-to--the--district--of~~
6 ~~residence--does--not--apply};--or~~

7 ~~{f}--the--child--is--required--to--attend--elementary--school~~
8 ~~outside--the--district--of--residence--as--the--result--of--an--order~~
9 ~~of--a--court--of--competent--jurisdiction,--the--state--agency--or~~
10 ~~parent--who--makes--the--placement--shall--pay--any--tuition--amount~~
11 ~~required--under--the--provisions--of--20-5-305--by--the--school~~
12 ~~district--in--which--the--child--will--attend--or--pay--any~~
13 ~~educational--fees--charged--by--a--residential--facility. For the~~
14 purposes of this subsection ~~{f}~~, the following do not apply:

15 ~~{i}{a}~~ the prescribed-geographic--relationship--of--the
16 receiving--district--to--the--district--of--residence--in--this
17 subsection--~~{3}~~ placement of a child pursuant to Title 20,
18 chapter 7, part 4; or

19 ~~{i}{b}~~ an order issued under Title 40, chapter 4, part
20 2.

21 ~~{i}{5}~~ The trustees of the district where the school to
22 be attended is located may disapprove a tuition agreement
23 that satisfies any of the mandatory approval conditions
24 specified in subsection (3) when they find that, due to
25 insufficient room and overcrowding, the accreditation of the

1 school would be adversely affected by the acceptance of the
 2 child. In the event of disapproval, the trustees shall
 3 notify the parent in writing within 15 days of the first
 4 receipt of the application. (Terminates June 30, 1992--sec.
 5 3, Ch. 492, L. 1989.)

6 20-5-301. (Effective July 1, 1992) Elementary tuition
 7 with mandatory approval. (1) Any child may be enrolled in
 8 and attend an elementary school outside of the elementary
 9 district in which he resides when such elementary school is
 10 located in:

- 11 (a) any other district of the county of his residence;
- 12 (b) a county adjoining his county of residence; or
- 13 (c) a district of another state that is adjacent to the
 14 county of his residence.

15 (2) When a parent or guardian of a child wishes to have
 16 his child attend a school under the provisions of this
 17 section, he shall apply to the county superintendent of the
 18 county of his residence before July 1 of the school fiscal
 19 year for which he seeks approval except in those cases when
 20 substantial changes in circumstances occurred subsequently
 21 to justify later application. The application shall be made
 22 on a tuition agreement form supplied by the county
 23 superintendent and shall be approved, before permission to
 24 enroll in and attend school outside of the district under
 25 the provisions of this section may be granted, by:

1 (a) the trustees of the elementary district in which
 2 the child resides;

3 (b) the trustees of the district where the child wishes
 4 to attend school; and

5 (c) the county superintendent of the child's residence.

6 (3) In considering the approval of a tuition
 7 application, the tuition approval agents prescribed in this
 8 section shall approve such application for a resident child
 9 when:

10 (a) the child resides less than 3 miles from the school
 11 which he wishes to attend and more than 3 miles from any
 12 school of his resident elementary district;

13 (b) the child resides more than 3 miles from any school
 14 of his resident elementary district and such district does
 15 not provide transportation under the provisions of this
 16 title;

17 (c) the child resides more than 3 miles from any school
 18 of his resident elementary district, the resident district
 19 does not provide transportation under the provisions of this
 20 title, and school bus transportation is furnished by the
 21 district operating the school which he wishes to attend; or

22 (d) the child is a member of a family who must send
 23 another child outside of the elementary district to attend
 24 high school and the child of elementary age may more
 25 conveniently attend an elementary school where the high

1 school is located, provided the child resides more than 3
2 miles from an elementary school of the resident district or
3 the parent must move to the elementary district where the
4 high school is located in order to enroll the other child in
5 high school.

6 ~~(e)~~(4) If the child has been declared adjudicated by a
7 court of competent jurisdiction to be an abused, neglected,
8 or dependent child, as defined in 41-3-102, or a youth in
9 need of supervision or a delinquent youth, as defined in
10 41-5-103, and has been ordered to be placed in a licensed
11 youth care facility which that is approved by the department
12 of family services or is placed by a parent in a licensed
13 group home or residential facility and as a result of the
14 order or placement the child is required to attend
15 elementary school outside of the district of his residence,
16 ~~for purposes of this subsection, the prescribed geographic~~
17 ~~relationship of the receiving district to the district of~~
18 ~~residence does not apply; or~~

19 ~~(f) the child is required to attend elementary school~~
20 ~~outside the district of residence as the result of an order~~
21 ~~of a court of competent jurisdiction, the state agency or~~
22 ~~parent who makes the placement shall pay any tuition amount~~
23 ~~required under the provisions of 20-5-305 by the school~~
24 ~~district in which the child will attend or pay any~~
25 ~~educational fees charged by a residential facility.~~ For the

1 purposes of this subsection ~~(f)~~, the following do not apply:

2 ~~(+)(a) the prescribed geographic relationship of the~~
3 ~~receiving district to the district of residence in this~~
4 ~~subsection--(3) placement of a child pursuant to Title 20,~~
5 ~~chapter 7, part 4; or~~

6 ~~(+)(b) an order issued under Title 40, chapter 4, part~~
7 ~~2.~~

8 ~~(+)(5) The trustees of the district where the school to~~
9 ~~be attended is located may disapprove a tuition agreement~~
10 ~~that satisfies any of the mandatory approval conditions~~
11 ~~specified in subsection (3) above when they find that, due~~
12 ~~to insufficient room and overcrowding, the accreditation of~~
13 ~~the school would be adversely affected by the acceptance of~~
14 ~~the child. In the event of disapproval, the trustees shall~~
15 ~~so notify the parent in writing within 15 days of the first~~
16 ~~receipt of the application."~~

17 **Section 2.** Section 20-5-311, MCA, is amended to read:

18 "20-5-311. High school tuition. (1) Any child may be
19 enrolled in and attend a high school outside of the high
20 school district in which he resides when such the high
21 school is located in Montana or in a county of another state
22 that is adjacent to the state of Montana. When a parent or
23 guardian of a child wishes to have his the child attend a
24 school under the provisions of this section, he the parent
25 or guardian shall apply to the county superintendent of the

1 county of his residence before July 1 of the school fiscal
 2 year for which ~~he seeks~~ approval is sought except in those
 3 cases when substantial changes in circumstances occurred
 4 subsequently to justify later application. Such The
 5 application ~~shall~~ must be made on a tuition agreement form
 6 supplied by the county superintendent. The trustees of the
 7 district of residence, the trustees of the district in which
 8 the child wishes to attend school, and the county
 9 superintendent are the approval agents for tuition to
 10 another high school within the county. The county
 11 superintendent of the county of residence and the trustees
 12 of the district in which the child wishes to attend school
 13 are the approval agents for attendance outside the county.

14 (2) ~~(a)-(i)~~ The approval agents shall approve a tuition
 15 application when a child lives closer to a high school of
 16 another district than any high school located within his
 17 resident district or when, due to road or geographic
 18 conditions, it is impractical to attend the high school
 19 nearest his residence.

20 ~~(ii)~~ However, the approval agents are not required to
 21 approve a tuition application for a student seeking to
 22 attend a high school outside the state of Montana or the
 23 resident district if the resident district provides
 24 transportation. This exception does not apply when:

25 ~~(A)~~ the child resides in a county different from the

1 county ~~wherein~~ in which the school he wishes to attend is
 2 located, ~~or~~

3 ~~(B)--the child has enrolled in a high school outside his~~
 4 ~~resident district and has received an approved tuition~~
 5 ~~agreement on or before April 30, 1985. For the purposes of~~
 6 ~~this subsection (2)(a)(ii)(B), the child has the right to~~
 7 ~~continue his high school education in the receiving high~~
 8 ~~school outside his resident district on an approved tuition~~
 9 ~~agreement, subject to the provisions of this section.~~

10 ~~(b)--The approval agents shall approve a tuition~~
 11 ~~application when a child, as a result of a court order, is~~
 12 ~~required to attend high school outside the district of~~
 13 ~~residence.~~

14 ~~(i)--but within the state of Montana or another state~~
 15 ~~that maintains a reciprocal tuition agreement under~~
 16 ~~20-5-314, or~~

17 ~~(ii)--in a state that does not have a reciprocal tuition~~
 18 ~~agreement pursuant to 20-5-314. The amount of daily tuition~~
 19 ~~may not be greater than the average daily cost per student~~
 20 ~~in the district of residence. The amount of annual tuition~~
 21 ~~may not be greater than the average annual cost per student~~
 22 ~~in the district of residence. The county superintendent~~
 23 ~~shall calculate the average annual and the average daily~~
 24 ~~cost per student.~~

25 (3) If a child has been adjudicated by a court of

1 competent jurisdiction to be an abused, neglected, or
 2 dependent child, as defined in 41-3-102, or a youth in need
 3 of supervision or a delinquent youth, as defined in
 4 41-5-103, and has been ordered to be placed in a licensed
 5 youth care facility that is approved by the department of
 6 family services or is placed by a parent in a licensed group
 7 home or residential facility and as a result of the order or
 8 placement the child is required to attend high school
 9 outside of the district of his residence, the state agency
 10 or parent who makes the placement shall pay any tuition
 11 amount required under the provisions of 20-5-312 by the
 12 school district in which the child will attend or pay any
 13 educational fees charged by a residential facility. For
 14 purposes of this subsection (b), the following do not apply:
 15 (A)(a) an order issued under Title 40, chapter 4, part
 16 2; or
 17 (B)(b) placement of a child pursuant to Title 20,
 18 chapter 7, part 4.
 19 (c)(4) In approving a tuition agreement under this
 20 provision section, the approval agents may require the child
 21 to attend the high school closest to his residence. The
 22 approval agents may approve any other tuition application
 23 that satisfies the geographic requirements of this section.
 24 (3)(5) The trustees of the district where the child
 25 wishes to attend school shall approve or disapprove any

1 tuition application submitted to them under the provisions
 2 of this section within 15 days after the receipt of the
 3 application.

4 ~~(4)~~(6) The county superintendent shall notify the
 5 parent or guardian and the trustees of the district where
 6 the child wishes to attend school of the tuition agreement
 7 approval or disapproval. If a tuition agreement is
 8 disapproved by one or more approval agents, the parent may
 9 appeal such the disapproval to the county superintendent
 10 and, subsequently, to the superintendent of public
 11 instruction under the provision for the appeal of
 12 controversies in this title.

13 ~~(5)~~(7) The approval of any a tuition agreement by all
 14 of the applicable approval agents or upon appeal shall
 15 authorize authorizes the child named in such the agreement
 16 to enroll in and attend the school named in such the
 17 agreement for the ensuing school fiscal year."

18 NEW SECTION. Section 3. Effective date. [This act] is
 19 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0800, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require that a state agency or parent who places a child in a group home or a private facility be responsible for any tuition required by the district in which the child will attend school or for any educational fees charged by the residential facility.

ASSUMPTIONS:

1. The Department of Family Services will have to pay for placements under the provisions of 20-5-305.
2. The Department of Family Services will have to pay for 180 out of district placements.
3. The average tuition charge to the Department of Family Services will be \$1919 per placement.


FISCAL IMPACT:

Department of Family Services:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Benefits and Claims	0	345,420	345,420	0	345,420	345,420
<u>Funding:</u>						
General Fund	0	345,420	345,420	0	345,420	345,420
Impact to General Fund			(345,420)			(345,420)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

School districts which are required to pay these costs now will no have to pay for out-of-district costs.



 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning



 CHARLES SWYSGOOD, PRIMARY SPONSOR DATE
 2-20-91

Fiscal Note for HB0800, as introduced

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APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

1 HOUSE BILL NO. 800
2 INTRODUCED BY Sungyond
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A STATE
5 AGENCY OR PARENT WHO PLACES A CHILD IN A GROUP HOME OR A
6 PRIVATE RESIDENTIAL FACILITY BE RESPONSIBLE FOR ANY TUITION
7 REQUIRED BY THE DISTRICT IN WHICH THE CHILD WILL ATTEND
8 SCHOOL OR FOR ANY EDUCATIONAL FEES CHARGED BY THE
9 RESIDENTIAL FACILITY; AMENDING SECTIONS 20-5-301 AND
10 20-5-311, MCA; AND PROVIDING AN EFFECTIVE DATE."
11

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

13 **Section 1.** Section 20-5-301, MCA, is amended to read:

14 "20-5-301. (Temporary) Elementary tuition with
15 mandatory approval. (1) Any child may be enrolled in and
16 attend an elementary school outside of the elementary
17 district in which the child resides when the elementary
18 school is located in:

- 19 (a) any other district of the county of the child's
20 residence;
- 21 (b) a county adjoining the child's county of residence;
- 22 or
- 23 (c) a district of another state that is adjacent to the
24 county of the child's residence.

25 (2) When a parent or guardian of a child wishes to have

1 the child attend a school under the provisions of this
2 section, the parent or guardian shall apply to the county
3 superintendent of the county of the parent or guardian's
4 residence before July 1 of the school fiscal year for which
5 approval is sought except in those cases when substantial
6 changes in circumstances occurred subsequently to justify
7 later application. The application must be made on a tuition
8 agreement form supplied by the county superintendent and
9 must be approved, before permission to enroll in and attend
10 school outside of the district under the provisions of this
11 section may be granted, by:

- 12 (a) the trustees of the elementary district in which
13 the child resides;
- 14 (b) the trustees of the district where the child wishes
15 to attend school; and
- 16 (c) the county superintendent of the county of the
17 child's residence.
- 18 (3) In considering the approval of a tuition
19 application, the tuition approval agents prescribed in this
20 section shall approve the application for a resident child
21 when:

22 (a) the child resides more than 3 miles from any school
23 of his resident elementary district and the school the pupil
24 wishes to attend is less distant than the nearest school of
25 the resident elementary district;

SECOND READING

1 (b) the child resides more than 3 miles from any school
2 of his resident elementary district and the district does
3 not provide transportation under the provisions of this
4 title;

5 (c) the child resides more than 3 miles from any school
6 of his resident elementary district, the resident district
7 does not provide transportation under the provisions of this
8 title, and school bus transportation is furnished by the
9 district operating the school which he wishes to attend; or

10 (d) the child is a member of a family who must send
11 another child outside of the elementary district to attend
12 high school and the child of elementary age may more
13 conveniently attend an elementary school where the high
14 school is located, provided the child resides more than 3
15 miles from an elementary school of the resident district or
16 the parent must move to the elementary district where the
17 high school is located in order to enroll the other child in
18 high school;

19 ~~(e)~~(4) If the child has been declared adjudicated by a
20 court of competent jurisdiction to be an abused, neglected,
21 or dependent child, as defined in 41-3-102, or a youth in
22 need of supervision or a delinquent youth, as defined in
23 41-5-103, and has been ordered to be placed in a licensed
24 youth care facility which that is approved by the department
25 of family services or is placed by a parent in a licensed

1 group home or residential facility and as a result of the
2 order or placement the child is required to attend
3 elementary school outside of the district of his residence
4 ~~(for purposes of this subsection, the prescribed geographic~~
5 ~~relationship of the receiving district to the district of~~
6 ~~residence does not apply); or~~

7 ~~(f) the child is required to attend elementary school~~
8 ~~outside the district of residence as the result of an order~~
9 ~~of a court of competent jurisdiction, the state agency or~~
10 ~~parent who makes the placement shall pay any tuition amount~~
11 ~~required under the provisions of 20-5-305 by the school~~
12 ~~district in which the child will attend or pay any~~
13 ~~educational fees charged by a residential facility. For the~~
14 ~~purposes of this subsection (f), the following do not apply:~~

15 ~~(i)(a) the prescribed geographic relationship of the~~
16 ~~receiving district to the district of residence in this~~
17 ~~subsection (f) placement of a child pursuant to Title 20,~~
18 ~~chapter 7, part 4; or~~

19 ~~(ii)(b) an order issued under Title 40, chapter 4, part~~
20 ~~2.~~

21 ~~(4)(5) The trustees of the district where the school to~~
22 ~~be attended is located may disapprove a tuition agreement~~
23 ~~that satisfies any of the mandatory approval conditions~~
24 ~~specified in subsection (3) when they find that, due to~~
25 ~~insufficient room and overcrowding, the accreditation of the~~

1 school would be adversely affected by the acceptance of the
 2 child. In the event of disapproval, the trustees shall
 3 notify the parent in writing within 15 days of the first
 4 receipt of the application. (Terminates June 30, 1992--sec.
 5 3, Ch. 492, L. 1989.)

6 20-5-301. (Effective July 1, 1992) Elementary tuition
 7 with mandatory approval. (1) Any child may be enrolled in
 8 and attend an elementary school outside of the elementary
 9 district in which he resides when such elementary school is
 10 located in:

- 11 (a) any other district of the county of his residence;
- 12 (b) a county adjoining his county of residence; or
- 13 (c) a district of another state that is adjacent to the
 14 county of his residence.

15 (2) When a parent or guardian of a child wishes to have
 16 his child attend a school under the provisions of this
 17 section, he shall apply to the county superintendent of the
 18 county of his residence before July 1 of the school fiscal
 19 year for which he seeks approval except in those cases when
 20 substantial changes in circumstances occurred subsequently
 21 to justify later application. The application shall be made
 22 on a tuition agreement form supplied by the county
 23 superintendent and shall be approved, before permission to
 24 enroll in and attend school outside of the district under
 25 the provisions of this section may be granted, by:

1 (a) the trustees of the elementary district in which
 2 the child resides;

3 (b) the trustees of the district where the child wishes
 4 to attend school; and

5 (c) the county superintendent of the child's residence.

6 (3) In considering the approval of a tuition
 7 application, the tuition approval agents prescribed in this
 8 section shall approve such application for a resident child
 9 when:

10 (a) the child resides less than 3 miles from the school
 11 which he wishes to attend and more than 3 miles from any
 12 school of his resident elementary district;

13 (b) the child resides more than 3 miles from any school
 14 of his resident elementary district and such district does
 15 not provide transportation under the provisions of this
 16 title;

17 (c) the child resides more than 3 miles from any school
 18 of his resident elementary district, the resident district
 19 does not provide transportation under the provisions of this
 20 title, and school bus transportation is furnished by the
 21 district operating the school which he wishes to attend; or

22 (d) the child is a member of a family who must send
 23 another child outside of the elementary district to attend
 24 high school and the child of elementary age may more
 25 conveniently attend an elementary school where the high

1 school is located, provided the child resides more than 3
2 miles from an elementary school of the resident district or
3 the parent must move to the elementary district where the
4 high school is located in order to enroll the other child in
5 high school.

6 ~~(e)~~(4) If the child has been declared adjudicated by a
7 court of competent jurisdiction to be an abused, neglected,
8 or dependent child, as defined in 41-3-102, or a youth in
9 need of supervision or a delinquent youth, as defined in
10 41-5-103, and has been ordered to be placed in a licensed
11 youth care facility ~~which that~~ is approved by the department
12 of family services or is placed by a parent in a licensed
13 group home or residential facility and as a result of the
14 order or placement the child is required to attend
15 elementary school outside of the district of his residence
16 ~~for purposes of this subsection, the prescribed geographic~~
17 ~~relationship of the receiving district to the district of~~
18 ~~residence does not apply; or~~

19 ~~(f) the child is required to attend elementary school~~
20 ~~outside the district of residence as the result of an order~~
21 ~~of a court of competent jurisdiction, the state agency or~~
22 parent who makes the placement shall pay any tuition amount
23 required under the provisions of 20-5-305 by the school
24 district in which the child will attend or pay any
25 educational fees charged by a residential facility. For the

1 purposes of this subsection ~~(f)~~, the following do not apply:

2 ~~(i)(a) the prescribed geographic relationship of the~~
3 ~~receiving district to the district of residence in this~~
4 ~~subsection (3) placement of a child pursuant to Title 20,~~
5 chapter 7, part 4; or

6 ~~(ii)(b) an order issued under Title 40, chapter 4, part~~
7 2.

8 ~~(4)(5) The trustees of the district where the school to~~
9 ~~be attended is located may disapprove a tuition agreement~~
10 ~~that satisfies any of the mandatory approval conditions~~
11 ~~specified in subsection (3) above when they find that, due~~
12 ~~to insufficient room and overcrowding, the accreditation of~~
13 ~~the school would be adversely affected by the acceptance of~~
14 ~~the child. In the event of disapproval, the trustees shall~~
15 ~~so notify the parent in writing within 15 days of the first~~
16 ~~receipt of the application."~~

17 **Section 2.** Section 20-5-311, MCA, is amended to read:

18 "20-5-311. High school tuition. (1) Any child may be
19 enrolled in and attend a high school outside of the high
20 school district in which he resides when such the high
21 school is located in Montana or in a county of another state
22 that is adjacent to the state of Montana. When a parent or
23 guardian of a child wishes to have ~~his~~ the child attend a
24 school under the provisions of this section, ~~he~~ the parent
25 or guardian shall apply to the county superintendent of the

1 county of his residence before July 1 of the school fiscal
 2 year for which he seeks approval is sought except in those
 3 cases when substantial changes in circumstances occurred
 4 subsequently to justify later application. Such The
 5 application ~~shall~~ must be made on a tuition agreement form
 6 supplied by the county superintendent. The trustees of the
 7 district of residence, the trustees of the district in which
 8 the child wishes to attend school, and the county
 9 superintendent are the approval agents for tuition to
 10 another high school within the county. The county
 11 superintendent of the county of residence and the trustees
 12 of the district in which the child wishes to attend school
 13 are the approval agents for attendance outside the county.

14 (2) ~~fa)-{i}~~ The approval agents shall approve a tuition
 15 application when a child lives closer to a high school of
 16 another district than any high school located within his
 17 resident district or when, due to road or geographic
 18 conditions, it is impractical to attend the high school
 19 nearest his residence.

20 ~~{ii}~~ However, the approval agents are not required to
 21 approve a tuition application for a student seeking to
 22 attend a high school outside the state of Montana or the
 23 resident district if the resident district provides
 24 transportation. This exception does not apply when:

25 ~~{A}~~ the child resides in a county different from the

1 county wherein in which the school he wishes to attend is
 2 located, ~~7~~ or

3 ~~{B}~~ the child has enrolled in a high school outside his
 4 resident district and has received an approved tuition
 5 agreement on or before April 30, 1985. For the purposes of
 6 this subsection ~~{2}{a}{ii}{B}~~, the child has the right to
 7 continue his high school education in the receiving high
 8 school outside his resident district on an approved tuition
 9 agreement, subject to the provisions of this section:

10 ~~{b}~~ The approval agents shall approve a tuition
 11 application when a child, as a result of a court order, is
 12 required to attend high school outside the district of
 13 residence:

14 ~~{i}~~ but within the state of Montana or another state
 15 that maintains a reciprocal tuition agreement under
 16 20-5-314; or

17 ~~{ii}~~ in a state that does not have a reciprocal tuition
 18 agreement pursuant to 20-5-314. The amount of daily tuition
 19 may not be greater than the average daily cost per student
 20 in the district of residence. The amount of annual tuition
 21 may not be greater than the average annual cost per student
 22 in the district of residence. The county superintendent
 23 shall calculate the average annual and the average daily
 24 cost per student.

25 {3} If a child has been adjudicated by a court of

1 competent jurisdiction to be an abused, neglected, or
 2 dependent child, as defined in 41-3-102, or a youth in need
 3 of supervision or a delinquent youth, as defined in
 4 41-5-103, and has been ordered to be placed in a licensed
 5 youth care facility that is approved by the department of
 6 family services or is placed by a parent in a licensed group
 7 home or residential facility and as a result of the order or
 8 placement the child is required to attend high school
 9 outside of the district of his residence, the state agency
 10 or parent who makes the placement shall pay any tuition
 11 amount required under the provisions of 20-5-312 by the
 12 school district in which the child will attend or pay any
 13 educational fees charged by a residential facility. For
 14 purposes of this subsection (b), the following do not apply:
 15 (a) an order issued under Title 40, chapter 4, part
 16 2; or
 17 (b) placement of a child pursuant to Title 20,
 18 chapter 7, part 4.
 19 (c)(4) In approving a tuition agreement under this
 20 provision section, the approval agents may require the child
 21 to attend the high school closest to his residence. The
 22 approval agents may approve any other tuition application
 23 that satisfies the geographic requirements of this section.
 24 (3)(5) The trustees of the district where the child
 25 wishes to attend school shall approve or disapprove any

1 tuition application submitted to them under the provisions
 2 of this section within 15 days after the receipt of the
 3 application.

4 (4)(6) The county superintendent shall notify the
 5 parent or guardian and the trustees of the district where
 6 the child wishes to attend school of the tuition agreement
 7 approval or disapproval. If a tuition agreement is
 8 disapproved by one or more approval agents, the parent may
 9 appeal such the disapproval to the county superintendent
 10 and, subsequently, to the superintendent of public
 11 instruction under the provision for the appeal of
 12 controversies in this title.

13 (5)(7) The approval of any a tuition agreement by all
 14 of the applicable approval agents or upon appeal shall
 15 authorize authorizes the child named in such the agreement
 16 to enroll in and attend the school named in such the
 17 agreement for the ensuing school fiscal year."

18 **NEW SECTION. Section 3.** Effective date. [This act] is
 19 effective July 1, 1991.

-End-

1 House BILL NO. 800
 2 INTRODUCED BY Sung-yeon
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A STATE
 5 AGENCY OR PARENT WHO PLACES A CHILD IN A GROUP HOME OR A
 6 PRIVATE RESIDENTIAL FACILITY BE RESPONSIBLE FOR ANY TUITION
 7 REQUIRED BY THE DISTRICT IN WHICH THE CHILD WILL ATTEND
 8 SCHOOL OR FOR ANY EDUCATIONAL FEES CHARGED BY THE
 9 RESIDENTIAL FACILITY; AMENDING SECTIONS 20-5-301 AND
 10 20-5-311, MCA; AND PROVIDING AN EFFECTIVE DATE."
 11

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

13 **Section 1.** Section 20-5-301, MCA, is amended to read:

14 "20-5-301. (Temporary) Elementary tuition with
 15 mandatory approval. (1) Any child may be enrolled in and
 16 attend an elementary school outside of the elementary
 17 district in which the child resides when the elementary
 18 school is located in:

- 19 (a) any other district of the county of the child's
- 20 residence;
- 21 (b) a county adjoining the child's county of residence;
- 22 or
- 23 (c) a district of another state that is adjacent to the
- 24 county of the child's residence.

25 (2) When a parent or guardian of a child wishes to have

1 the child attend a school under the provisions of this
 2 section, the parent or guardian shall apply to the county
 3 superintendent of the county of the parent or guardian's
 4 residence before July 1 of the school fiscal year for which
 5 approval is sought except in those cases when substantial
 6 changes in circumstances occurred subsequently to justify
 7 later application. The application must be made on a tuition
 8 agreement form supplied by the county superintendent and
 9 must be approved, before permission to enroll in and attend
 10 school outside of the district under the provisions of this
 11 section may be granted, by:

- 12 (a) the trustees of the elementary district in which
- 13 the child resides;
- 14 (b) the trustees of the district where the child wishes
- 15 to attend school; and
- 16 (c) the county superintendent of the county of the
- 17 child's residence.
- 18 (3) In considering the approval of a tuition
- 19 application, the tuition approval agents prescribed in this
- 20 section shall approve the application for a resident child
- 21 when:

- 22 (a) the child resides more than 3 miles from any school
- 23 of his resident elementary district and the school the pupil
- 24 wishes to attend is less distant than the nearest school of
- 25 the resident elementary district;

THIRD READING
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1 (b) the child resides more than 3 miles from any school
2 of his resident elementary district and the district does
3 not provide transportation under the provisions of this
4 title;

5 (c) the child resides more than 3 miles from any school
6 of his resident elementary district, the resident district
7 does not provide transportation under the provisions of this
8 title, and school bus transportation is furnished by the
9 district operating the school which he wishes to attend; or

10 (d) the child is a member of a family who must send
11 another child outside of the elementary district to attend
12 high school and the child of elementary age may more
13 conveniently attend an elementary school where the high
14 school is located, provided the child resides more than 3
15 miles from an elementary school of the resident district or
16 the parent must move to the elementary district where the
17 high school is located in order to enroll the other child in
18 high school;

19 ~~fe~~(4) If the child has been declared adjudicated by a
20 court of competent jurisdiction to be an abused, neglected,
21 or dependent child, as defined in 41-3-102, or a youth in
22 need of supervision or a delinquent youth, as defined in
23 41-5-103, and has been ordered to be placed in a licensed
24 youth care facility which that is approved by the department
25 of family services or is placed by a parent in a licensed

1 group home or residential facility and as a result of the
2 order or placement the child is required to attend
3 elementary school outside of the district of his residence
4 ~~{for--purposes-of-this-subsection,--the-prescribed-geographic~~
5 ~~relationship-of-the-receiving-district-to--the--district--of~~
6 ~~residence--does-not-apply}~~; or

7 ~~{f}--the--child--is--required--to--attend--elementary--school~~
8 ~~outside--the--district--of--residence--as--the--result--of--an--order~~
9 ~~of--a--court--of--competent--jurisdiction, the state agency or~~
10 ~~parent who makes the placement shall pay any tuition amount~~
11 ~~required under the provisions of 20-5-305 by the school~~
12 ~~district in which the child will attend or pay any~~
13 ~~educational fees charged by a residential facility. For the~~
14 purposes of this subsection ~~{f}~~, the following do not apply:

15 ~~{f}{a}~~ the ~~prescribed-geographic--relationship--of--the~~
16 ~~receiving--district--to--the--district--of--residence--in--this~~
17 ~~subsection--{3}~~ placement of a child pursuant to Title 20,
18 chapter 7, part 4; or

19 ~~{f}{b}~~ an order issued under Title 40, chapter 4, part
20 2.

21 ~~{4}{5}~~ The trustees of the district where the school to
22 be attended is located may disapprove a tuition agreement
23 that satisfies any of the mandatory approval conditions
24 specified in subsection (3) when they find that, due to
25 insufficient room and overcrowding, the accreditation of the

1 school would be adversely affected by the acceptance of the
 2 child. In the event of disapproval, the trustees shall
 3 notify the parent in writing within 15 days of the first
 4 receipt of the application. (Terminates June 30, 1992--sec.
 5 3, Ch. 492, L. 1989.)

6 **20-5-301. (Effective July 1, 1992) Elementary tuition**
 7 **with mandatory approval.** (1) Any child may be enrolled in
 8 and attend an elementary school outside of the elementary
 9 district in which he resides when such elementary school is
 10 located in:

11 (a) any other district of the county of his residence;

12 (b) a county adjoining his county of residence; or

13 (c) a district of another state that is adjacent to the
 14 county of his residence.

15 (2) When a parent or guardian of a child wishes to have
 16 his child attend a school under the provisions of this
 17 section, he shall apply to the county superintendent of the
 18 county of his residence before July 1 of the school fiscal
 19 year for which he seeks approval except in those cases when
 20 substantial changes in circumstances occurred subsequently
 21 to justify later application. The application shall be made
 22 on a tuition agreement form supplied by the county
 23 superintendent and shall be approved, before permission to
 24 enroll in and attend school outside of the district under
 25 the provisions of this section may be granted, by:

1 (a) the trustees of the elementary district in which
 2 the child resides;

3 (b) the trustees of the district where the child wishes
 4 to attend school; and

5 (c) the county superintendent of the child's residence.

6 (3) In considering the approval of a tuition
 7 application, the tuition approval agents prescribed in this
 8 section shall approve such application for a resident child
 9 when:

10 (a) the child resides less than 3 miles from the school
 11 which he wishes to attend and more than 3 miles from any
 12 school of his resident elementary district;

13 (b) the child resides more than 3 miles from any school
 14 of his resident elementary district and such district does
 15 not provide transportation under the provisions of this
 16 title;

17 (c) the child resides more than 3 miles from any school
 18 of his resident elementary district, the resident district
 19 does not provide transportation under the provisions of this
 20 title, and school bus transportation is furnished by the
 21 district operating the school which he wishes to attend; or

22 (d) the child is a member of a family who must send
 23 another child outside of the elementary district to attend
 24 high school and the child of elementary age may more
 25 conveniently attend an elementary school where the high

1 school is located, provided the child resides more than 3
2 miles from an elementary school of the resident district or
3 the parent must move to the elementary district where the
4 high school is located in order to enroll the other child in
5 high school;.

6 ~~(e)(4)~~ If the child has been declared adjudicated by a
7 court of competent jurisdiction to be an abused, neglected,
8 or dependent child, as defined in 41-3-102, or a youth in
9 need of supervision or a delinquent youth, as defined in
10 41-5-103, and has been ordered to be placed in a licensed
11 youth care facility which that is approved by the department
12 of family services or is placed by a parent in a licensed
13 group home or residential facility and as a result of the
14 order or placement the child is required to attend
15 elementary school outside of the district of his residence;
16 ~~for purposes of this subsection, the prescribed geographic~~
17 ~~relationship of the receiving district to the district of~~
18 ~~residence does not apply; or~~

19 ~~(f) the child is required to attend elementary school~~
20 ~~outside the district of residence as the result of an order~~
21 ~~of a court of competent jurisdiction, the state agency or~~
22 ~~parent who makes the placement shall pay any tuition amount~~
23 ~~required under the provisions of 20-5-305 by the school~~
24 ~~district in which the child will attend or pay any~~
25 ~~educational fees charged by a residential facility. For the~~

1 purposes of this subsection ~~(f)~~, the following do not apply:

2 ~~(i)(a) the prescribed geographic relationship of the~~
3 ~~receiving district to the district of residence in this~~
4 ~~subsection--(3) placement of a child pursuant to Title 20,~~
5 ~~chapter 7, part 4; or~~

6 ~~(ii)(b) an order issued under Title 40, chapter 4, part~~
7 ~~2.~~

8 ~~(4)(5)~~ The trustees of the district where the school to
9 be attended is located may disapprove a tuition agreement
10 that satisfies any of the mandatory approval conditions
11 specified in subsection (3) above when they find that, due
12 to insufficient room and overcrowding, the accreditation of
13 the school would be adversely affected by the acceptance of
14 the child. In the event of disapproval, the trustees shall
15 so notify the parent in writing within 15 days of the first
16 receipt of the application."

17 **Section 2.** Section 20-5-311, MCA, is amended to read:

18 "20-5-311. High school tuition. (1) Any child may be
19 enrolled in and attend a high school outside of the high
20 school district in which he resides when such the high
21 school is located in Montana or in a county of another state
22 that is adjacent to the state of Montana. When a parent or
23 guardian of a child wishes to have his the child attend a
24 school under the provisions of this section, he the parent
25 or guardian shall apply to the county superintendent of the

1 county of his residence before July 1 of the school fiscal
 2 year for which he seeks approval is sought except in those
 3 cases when substantial changes in circumstances occurred
 4 subsequently to justify later application. Such The
 5 application shall must be made on a tuition agreement form
 6 supplied by the county superintendent. The trustees of the
 7 district of residence, the trustees of the district in which
 8 the child wishes to attend school, and the county
 9 superintendent are the approval agents for tuition to
 10 another high school within the county. The county
 11 superintendent of the county of residence and the trustees
 12 of the district in which the child wishes to attend school
 13 are the approval agents for attendance outside the county.

14 (2) (a)-(i) The approval agents shall approve a tuition
 15 application when a child lives closer to a high school of
 16 another district than any high school located within his
 17 resident district or when, due to road or geographic
 18 conditions, it is impractical to attend the high school
 19 nearest his residence.

20 (ii) However, the approval agents are not required to
 21 approve a tuition application for a student seeking to
 22 attend a high school outside the state of Montana or the
 23 resident district if the resident district provides
 24 transportation. This exception does not apply when:

25 (A) the child resides in a county different from the

1 county wherein in which the school he wishes to attend is
 2 located, or

3 (B) ~~the child has enrolled in a high school outside his~~
 4 ~~resident district and has received an approved tuition~~
 5 ~~agreement on or before April 30, 1985. For the purposes of~~
 6 ~~this subsection (2)(a)(ii)(B), the child has the right to~~
 7 ~~continue his high school education in the receiving high~~
 8 ~~school outside his resident district on an approved tuition~~
 9 ~~agreement, subject to the provisions of this section.~~

10 (b) ~~The approval agents shall approve a tuition~~
 11 ~~application when a child, as a result of a court order, is~~
 12 ~~required to attend high school outside the district of~~
 13 ~~residence.~~

14 (i) ~~but within the state of Montana or another state~~
 15 ~~that maintains a reciprocal tuition agreement under~~
 16 ~~20-5-314, or~~

17 (ii) ~~in a state that does not have a reciprocal tuition~~
 18 ~~agreement pursuant to 20-5-314. The amount of daily tuition~~
 19 ~~may not be greater than the average daily cost per student~~
 20 ~~in the district of residence. The amount of annual tuition~~
 21 ~~may not be greater than the average annual cost per student~~
 22 ~~in the district of residence. The county superintendent~~
 23 ~~shall calculate the average annual and the average daily~~
 24 ~~cost per student.~~

25 (3) If a child has been adjudicated by a court of

1 competent jurisdiction to be an abused, neglected, or
 2 dependent child, as defined in 41-3-102, or a youth in need
 3 of supervision or a delinquent youth, as defined in
 4 41-5-103, and has been ordered to be placed in a licensed
 5 youth care facility that is approved by the department of
 6 family services or is placed by a parent in a licensed group
 7 home or residential facility and as a result of the order or
 8 placement the child is required to attend high school
 9 outside of the district of his residence, the state agency
 10 or parent who makes the placement shall pay any tuition
 11 amount required under the provisions of 20-5-312 by the
 12 school district in which the child will attend or pay any
 13 educational fees charged by a residential facility. For
 14 purposes of this subsection (b), the following do not apply:

15 †A) (a) an order issued under Title 40, chapter 4, part
 16 2; or

17 †B) (b) placement of a child pursuant to Title 20,
 18 chapter 7, part 4.

19 †C) (4) In approving a tuition agreement under this
 20 provision section, the approval agents may require the child
 21 to attend the high school closest to his residence. The
 22 approval agents may approve any other tuition application
 23 that satisfies the geographic requirements of this section.

24 †3) (5) The trustees of the district where the child
 25 wishes to attend school shall approve or disapprove any

1 tuition application submitted to them under the provisions
 2 of this section within 15 days after the receipt of the
 3 application.

4 †4) (6) The county superintendent shall notify the
 5 parent or guardian and the trustees of the district where
 6 the child wishes to attend school of the tuition agreement
 7 approval or disapproval. If a tuition agreement is
 8 disapproved by one or more approval agents, the parent may
 9 appeal such the disapproval to the county superintendent
 10 and, subsequently, to the superintendent of public
 11 instruction under the provision for the appeal of
 12 controversies in this title.

13 †5) (7) The approval of any a tuition agreement by all
 14 of the applicable approval agents or upon appeal shall
 15 ~~authorize~~ authorizes the child named in such the agreement
 16 to enroll in and attend the school named in such the
 17 agreement for the ensuing school fiscal year."

18 NEW SECTION. Section 3. Effective date. [This act] is
 19 effective July 1, 1991.

-End-