

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 11, 1985

The 19th meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:05 p.m. in Room 402, State Capitol Building.

ROLL CALL: All members of the committee were present.

Bob Gibson, Principal, East Helena Schools, made a brief presentation on the Chapter 1 reading program. He was assisted by Pat Jens, Chapter 1 teacher, and two students, Kenyon Huddleston and Bobby Duke.

CONSIDERATION OF HOUSE BILL 432: REPRESENTATIVE GILBERT, District 32, sponsor, said the bill allows the Superintendent of Public Instruction to pay special education cooperatives directly from the state special revenue fund for state equalization aid.

PROPOSERS:

BOB STOCKTON, Office of Public Instruction, presented his written testimony to the committee in support of the bill (Exhibit #1).

LARRY HOLMQUIST, Director, Gallatin-Madison Special Education Co-p, and representing the School Administrators of Montana, supported the bill as being the best procedure for each cooperative set-up.

There were no further proponents and no opponents to the bill.

CONSIDERATION OF HOUSE BILL 471: REPRESENTATIVE HAMMOND, District 52, sponsor of the bill, said the bill is the result of a study of special education cooperatives by the Office of Public Instruction before the 1983 session. He said the bill grants OPI the authority to establish special education service areas with contracts of no less than four years duration. He noted the fiscal agent and board appointees are left open and unique local conditions can be excepted by OPI. Representative Hammond says the bill gives much needed stability to special education co-ops.

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PROPONENTS:

PHIL CAMPBELL, Montana Education Association, said the bill would relieve a great deal of uncertainty and grant stability in areas of staff employment and co-op composition. He noted efficiency would improve and cost savings would result from the reorganization as stated in the bill. He quoted as an example the Lolo school district which has been in and out of the co-op three times with resultant staff disruptions and extra administrative burdens. He presented a copy of the Special Education Cooperative study to the committee (Exhibit #2) and noted the recommendations on pages 3 and 4 of the study are the basis for this bill. He noted the bill will allow for provision of economical services mandated by the state to small districts.

MICHAEL IKARD, Big Sky Co-op, Conrad, said he supports the bill with the house amendments. He said the bill doesn't cost any money and provides continuity of services to all districts. He said small districts just cannot afford all the necessary support services such as speech therapy, school psychologists, and masters degree therapists in other areas.

He noted 90% of all class B and C districts belong to special education co-ops. He again cautioned against districts being able to withdraw from co-ops at will with the resultant staff uncertainty and lack of continuity in program.

LARRY HOLMQUIST, Director, Gallatin-Madison Cooperative, and representing the School Administrators of Montana, presented his testimony in support of the bill (Exhibit #3).

GAIL GRAY, Director of Special Education, Office of Public Instruction, presented "neutral" testimony to the committee including a proposed amendment for a July 1, 1986 effective date (Exhibit #4).

WAYNE BUCHANEN, representing the Montana School Boards Association, spoke as a "ponent". He said he agreed with Phil Campbell's testimony and noted middle sized schools have some legitimate concerns. He said the bill does all good things at the expense of middle sized schools who could lose some quality control.

OPPONENTS:

HARRY ERICKSON, Principal, Belgrade School District, said theirs is a middle size district and that he supports fully the co-ops as they now exist. He said the bill as it is written does not address better education, better services, or better finances. He felt the four year contract locks the districts and staff in unfairly and results in a loss of local control. He said the main proponents are self-serving: MEA wants more members and the co-ops want to take over. He felt that districts can work things out on a voluntary basis but if they are forced into joining, the co-op will rule. He cited questionable employee status and previously voiced concerns re finances. He felt benefits would be to the co-op not to students locally. He said the bill is permissive on the surface but really is mandatory.

JACK PARKER, Special Education, Belgrade, said he felt rather than spending money on duplicative administrative costs and travel in the co-op, the dollars could be better utilized in direct services to students. He objected to the 2000 student limit saying larger districts will lose local control.

VALERIE OLSON, Speech and Hearing Therapist, Belgrade, objected on a programmatic basis saying the bill would result in decreased services to children and increased costs to districts. She felt Child Study Team members should be part of the districts on a daily basis.

FRED RANNEY, Elementary Principal, Belgrade, opposed the bill as they currently provide quality comprehensive services to 180 resource students. He felt he would have less control over a student's program and provision of services to him under the bill. He noted Belgrade had been in a co-op but opted out.

BOB SLONIKER, Therapist and Special Services Coordinator, Ronan, said he agreed with the previous testimony. He said he is not talking about turf control but rather provision of services to kids. He said co-ops are necessary, but not for middle size schools.

LINDA ADELSON, Belgrade Special Education Teacher, said she feared the consequences of support services being provided

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on an itinerant basis. She feels co-ops are administratively top heavy. She noted co-ops in Alaska are fading for the same reasons as have been stated here.

DORIS PARKER, Belgrade, said the bill has been touted as "voluntary" about the language, "must", in Section 4, contradicts that assumption.

WILBUR SPRING, Belgrade District Trustee, said he has been a member of the school board for 13 years. He said they have been in and out of a co-op and out is better. He feared losing an exceptional staff.

CAROL LINDBURG, Belgrade District Trustee, opposed the bill for the previously stated reasons.

There being no further opponents the hearing was opened for discussion.

SENATOR McCALLUM asked if Plains and Hot Springs would have to join a co-op if they wanted services under the bill. He noted Plains saved \$25,000 by getting out of a co-op in the past.

SENATOR BLAYLOCK said the bill is voluntary but the schools couldn't get federal funds for mandated services if they didn't join.

REPRESENTATIVE HAMMOND closed by saying under provisions of the bill school districts will rule the co-ops and OPI will not be moving staff all over. He said he is looking at the good of the whole state by proposing the bill.

CONSIDERATION OF HOUSE BILL 480: REPRESENTATIVE DONALDSON, District 43, sponsor, said the bill allows for any unexpended balance from the first year of a biennial appropriation for special education to be expended in the second year. It also clarifies the approval process for special education allowable costs. He said there is contradictory language on page 5, lines 13-16, and lines 19-22 which is being changed. He said the new language page 5, lines 15-18, is the heart of the bill. He noted the bill will allow special education monies to be used to the maximum.

PROPOSERS:

Gail Gray, Director of Special Education, Office of Public Instruction, presented her testimony to the committee (Exhibit #5).

LARRY HOLMQUIST, Director, Gallatin-Madison Co-op, and representing the School Administrators of Montana, supported the bill. He said they had \$28,000 budgeted for a student who moved. The money is now frozen in the system. He said a redistribution vehicle is sorely needed.

ROBERT STOCKTON, Office of Public Instruction, supported the bill.

WAYNE BUCHANEN, Montana School Boards Association, supported the bill.

MICHAEL IKARD, Big Sky Co-op, Conrad, said they had an employee leave at mid-term which left the balance of his salary frozen. The funds had to be reverted and looked like surplus.

As there were no further proponents and no opponents to the bill, the hearing was opened for discussion.

DISCUSSION:

SENATOR McCALLUM asked what happens when the money is reverted.

MR. STOCKTON answered the allowable costs are deducted and the remaining amount is deducted from the following year's allotment. Basically, he said, it reverts to the general fund and the district can't get it back.

SENATOR DONALDSON closed by saying the current operation can have a severe impact on small districts. This bill allows for better utilization of those dollars. He said many districts are only 65%-80% state funded, not 100%.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 432:

SENATOR PINSONEAULT moved House Bill 432 BE CONCURRED IN. The motion carried unanimously.

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ADJOURN:

There being no further business to come before the committee,
the meeting was adjourned.



Senator Chet Blaylock, Chairman

jdr

DATE

3/11/85

COMMITTEE ON

Education & Cultural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Frank Ramsey	School Dist #44	471		X
Ed Jay	OPA ^{471- amendment offered}	480	X	
Bob Slatiker	Dist 30, Ponca Mt	471		X
Harry D. Erath	Belgrade	471		X
Pat Ray	Belgrade	471	X	
Ed Olson	Belgrade ^{School District #44}	471		X
Wilbur Sprung	Belgrade trustee	471		X
Frank Hill	sup	471		X
Carol M. Lintburg	Belgrade School District ^{Trustee} #44	471		X
Donis E. Zacher	Belgrade	471		X
Jack Zacher	Belgrade	471		X
Harry Lehmgast	Belgrade Coop	471	X	
"	"	480	X	
Linda J. Adelson	Belgrade, Mt.	471		X
Mike Bernier	Dist #30 Ponca Mt	471		X
Larry Lehmgast	Belgrade	432	X	
Phil Campbell	MEA	471	X	
Wayne Buchanan	MSBA	471		X
Tom Menard	MFT	471		
Michael Shurd	Big Sky Co-op - Conrad	471	X	
Bob Slatiker	Ponca Schools	480	X	

Ed Gilbert
EXHIBIT #1



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

February 4, 1985

TO: Representative Bob Gilbert
FROM: Bob Stockton, OPI *[Signature]*
RE: H.B. 432

The present method for paying the Special Education Cooperatives directly requires us to add an amount of allowable costs to each school district's budget that is a member of the cooperative. We then process the budgets and determine the amount of State Equalization each would receive. We then deduct from that State Equalization amount the amount each school district needs to pay the cooperative and pay this amount to the cooperative. We must then inform each school district to show income they did not receive on the books and also show a payment to the cooperative they did not make. This is necessary so that their books will balance.

This would not increase costs in any way. It would cut down on the juggling of books to make everything balance.

RWS:lab

SPECIAL EDUCATION COOPERATIVE COMMITTEE

FINAL REPORT

In May of 1981, a select Study Committee was appointed by Ed Argenbright, Superintendent of Public Instruction, to review statewide special education service delivery patterns as provided by existing special education cooperatives. Specifically, the Committee was charged with investigating and offering recommendations regarding the following cooperative issues:

1. Funding of Cooperatives - Specifically, how to best distribute available appropriations to ensure comprehensive, cost-effective special education services for all handicapped children in Montana.
2. Boundaries - Given the existing cooperatives, and in light of specific districts not currently included in cooperatives, how best the state could be sectioned into efficient cooperative service units.
3. Function and Organization - In the absence of specific regulations and/or guidelines, cooperatives have developed in a variety of forms. The task of the Committee was to review current cooperative structures and to formulate general guidelines for the effective organization of cooperatives.
4. Regulations and Specific Legal Issues - The Committee was to address specific issues that have been raised regarding the legal status of cooperatives, limits of responsibility, applicability of standard meeting and conduct of business regulations, tenure issues, collective bargaining, etc.

A final report on these and related issues was requested by the fall of 1982 to allow legislative consideration of any proposed recommendations.

This document represents a final report of deliberations of the Cooperative Study Committee.

The Committee, as appointed, was composed of 14 members representing a variety of local school districts and current cooperative and state office personnel. (A list of the Committee membership is appended hereto as Appendix A.)

Since the Committee's inception in May of 1981, seven meetings have been held. Included among the topics discussed were: (1) current cooperative structures and a history of their development, (2) a review of alternative service delivery systems utilized throughout the United States, (3) a statewide cost-per-student analysis of all special education services, (4) legal issues impacting cooperatives (e.g., tenure, responsibility, contracts, collective bargaining, ownership, etc.), and (5) current and alternative cooperative funding patterns.

In addition to input from Committee members, information was requested and received from the Office of Public Instruction counsel, the Office of the Attorney General, the Interim Legislative Education Finance Committee and numerous public school and cooperative personnel.

For the purposes of soliciting public input and publicizing the work of the Committee, a discussion draft of proposed recommendations was distributed to all school officials, county superintendents, special education directors and selected other interested persons. This draft was mailed during the week of May 24, 1982 with a specific request for comments and suggestions.

Approximately 53 written responses and 20 phone messages were received by the Committee. In general, the responses indicated that the respondents were satisfied with the current system of cooperatives and did not favor any radical changes in the organization, administration or funding system currently in use. Specifically, opposition was voiced concerning: (1) an apparent loss of local district independence if cooperatives were expanded, (2) an unwillingness of Class A districts to become participating members of a cooperative, (3) the expansion of cooperatives into larger service districts (opposed primarily by cooperatives who would lose their identity by absorption into larger units), and (4) opposition by specific school districts who did not want to become members of a particular cooperative.

However, in spite of the negative responses received, many respondents supported the concepts underlying the committee's suggestions, i.e., the need to increase the efficiency and effectiveness of the cooperative system, the need to develop more equitable funding distribution and the necessity of ensuring the availability of special education services throughout the state.

COMMITTEE RECOMMENDATIONS

The Committee, following lengthy discussion and the consideration of information including studies of other states' experiences, an indepth review of the present and historical structure and funding patterns in Montana, adopted the following position statements:

- A) An interdistrict cooperative structure is the most viable mechanism for providing comprehensive special education services in Montana.
- B) The current system should be organized in such a way so as to ensure the availability of special education services to all children in Montana.
- C) In order to maximize the efficiency and effectiveness of the service delivery system, cooperatives should, unless contraindicated, encompass service districts enrolling from 3,000 to 6,000 students.
- D) To the maximum extent possible, present district and cooperative boundaries should be maintained.
- E) The current funding system used by the Office of Public Instruction should be maintained to allow flexibility to equitably meet the diverse needs of all sections of Montana.

SPECIFIC RECOMMENDATIONS:

1. A special education cooperative structure similar to the one that has developed in Montana appears to be the most appropriate one for Montana and should be continued and strengthened.
2. For purposes of planning, the state should be divided into service districts (i.e., either a stand-alone district program or a cooperative service district) based upon current school district and cooperative boundaries. Unless there is evidence to indicate that an existing arrangement is preferable, the service districts should encompass a minimum of 3,000 student enrollment. Exceptions may be made because of population density, geographic factors or unique local conditions. Such exceptions could be negotiated by the Office of Public Instruction.

All school districts shall be included in a planning service district. School districts of sufficient size (i.e. 3,000 enrollment or as negotiated by the Office of Public Instruction) may constitute a stand-alone service district; however, they will be included in any adjacent cooperative service unit(s) as an affiliate member to facilitate planning for low-incidence children and to encourage cooperation.

3. Membership (participation) in a cooperative service district shall be voluntary, but state funds for administration, clerical, speech therapists, psychologists and other support staff within a service district shall be budgeted with the cooperative unit, unless it is clearly preferable to maintain such staff within existing district programs. Individual districts may continue to budget for self-contained and resource teachers and aides. Normally, itinerant/consultive teachers will be funded through the cooperative.

A variety of organizational structures for cooperatives has developed throughout the state including: (a) the host district model where an individual school district (generally the largest district in the cooperative) has assumed the fiscal administration for the cooperative, (b) the county superintendent model where a county superintendent has assumed the fiscal responsibility, and (c) a no-host model where the cooperative board assumes the fiscal responsibility. Although each of these models has specific advantages, and each has proven to be operational, the Committee recommends consideration of the county superintendent model for cooperatives if they are being newly developed or are considering reorganization. The most obvious advantage of the county superintendent model is in reducing the potential legal liability currently assumed by a school district host (i.e., tenure, fiscal accountability). A copy of the Attorney General's opinion of March 10, 1982, which addresses some specific legal issues raised by the Committee, is appended as Appendix D for your consideration.

In order to help visualize the potential impact of implementing the Committee's recommendations regarding minimum cooperative size, creation of new cooperatives in areas not currently served by a cooperative and combining cooperatives to increase efficiency, the Committee developed a draft statewide cooperative organizational plan. A list of the resulting cooperatives, and their enrollments, is included here as Appendix B. Also included is an outline map (Appendix C) showing the location and geographical coverage of the resulting cooperatives. Please be advised that these plans are simply one application of the recommendations of the Committee. In the event of actual reorganization the Office of Public Instruction would need to conduct an indepth review of alternative cooperative arrangements.

COOPERATIVE COMMITTEE DISCUSSION PROPOSAL

EXPANSION OF COOPERATIVE STRUCTURE

CO-OP/COUNTIES SERVED	CURRENT ENROLLMENT	TO INCLUDE (Not Presently a Member)	TOTAL ENROLLMENT
1. DANIELS-SHERIDAN			
Daniels	552	All New	
Sheridan	1,091		
Roosevelt	2,674		4,317
2. PRAIRIE VIEW			
Richland	2,888	Sidney	
McCone	588	Glendive	
Dawson	2,378		
Prairie	393		
Wibaux	358		6,605
3. MILES CITY			
Garfield	296		
Rosebud (Rock Springs)	8		
Custer	2,142	Valleys	
Fallon	807		
Carter (North)	277		3,530
4. BROADUS			
Powder River	522		
Carter (South)	16		
Rosebud (South)	2,629	Colstrip Forsyth	3,167
5. PHILLIPS-VALLEY			
Phillips	1,065	All New	
Valley	2,208		3,273
6. EAST YELLOWSTONE			
Yellowstone (East)	2,513		
Treasure	216		
Big Horn	2,179	Big Horn	4,908
7. YELLOWSTONE WEST/CARBON			
Yellowstone (West)	2,399	YBGR	
Carbon	1,580		
Stillwater	1,179		5,028

WORKING DRAFT

CO-OP/COUNTIES SERVED	CURRENT ENROLLMENT	TO INCLUDE (Not Presently a Member)	TOTAL ENROLLMENT
8. CENTRAL MT L.C.			
Fergus	2,261	Lewistown	
Judith Basin	501		
Petroleum	125		
Musselshell	870		
Golden Valley	202		
Wheatland	414		4,373
9. BEAR PAW			
Blaine	1,548	Havre	
Liberty	418		
Hill	3,463		5,429
10. PARK/SWEET GRASS			
Park	479		
Sweet Grass	610		
Meagher	420		3,504
11. GALLATIN/MADISON			
Gallatin	2,735		
Madison	1,025		
Jefferson (South)	709		4,469
12. BELLEVILLE VALLEY			
Lewis & Clark	2,059		
Broadwater	655		
Jefferson	922		3,636
13. SOUTHWESTERN MT			
Beaverhead	1,590		
Silver Bow	31		
Deer Lodge	2,334	Anaconda	
Granite	571		
Powell	1,265		5,791
14. BITTERROOT VALLEY			
Ravalli	5,011	Hamilton	5,011
15. MISSOULA AREA			
Missoula	4,394	Target Range	
Mineral	889		5,283
16. SANDERS/LAKE			
Sanders	1,935		
Lake	4,013		5,948

CO-OP/COUNTIES SERVED	CURRENT ENROLLMENT	TO INCLUDE (Not Presently a Member)	TOTAL ENROLLMENT
17. LINCOLN COUNTY			
Lincoln	3,975		3,975
18. FLATHEAD COUNTY			
Flathead	6,745		6,745
19. NORTH CENTRAL LRC			
Cascade	1,673		
Chouteau	1,164		
Lewis & Clark (Augusta)	122	Augusta	2,959
20. BIG SKY			
Teton	1,260		
Pondera	1,453		
Toole	997		
Glacier	2,775		6,485
TOTAL CO-OPS			= 94,435

WORKING DRAFT

61.72% of State Enrollment

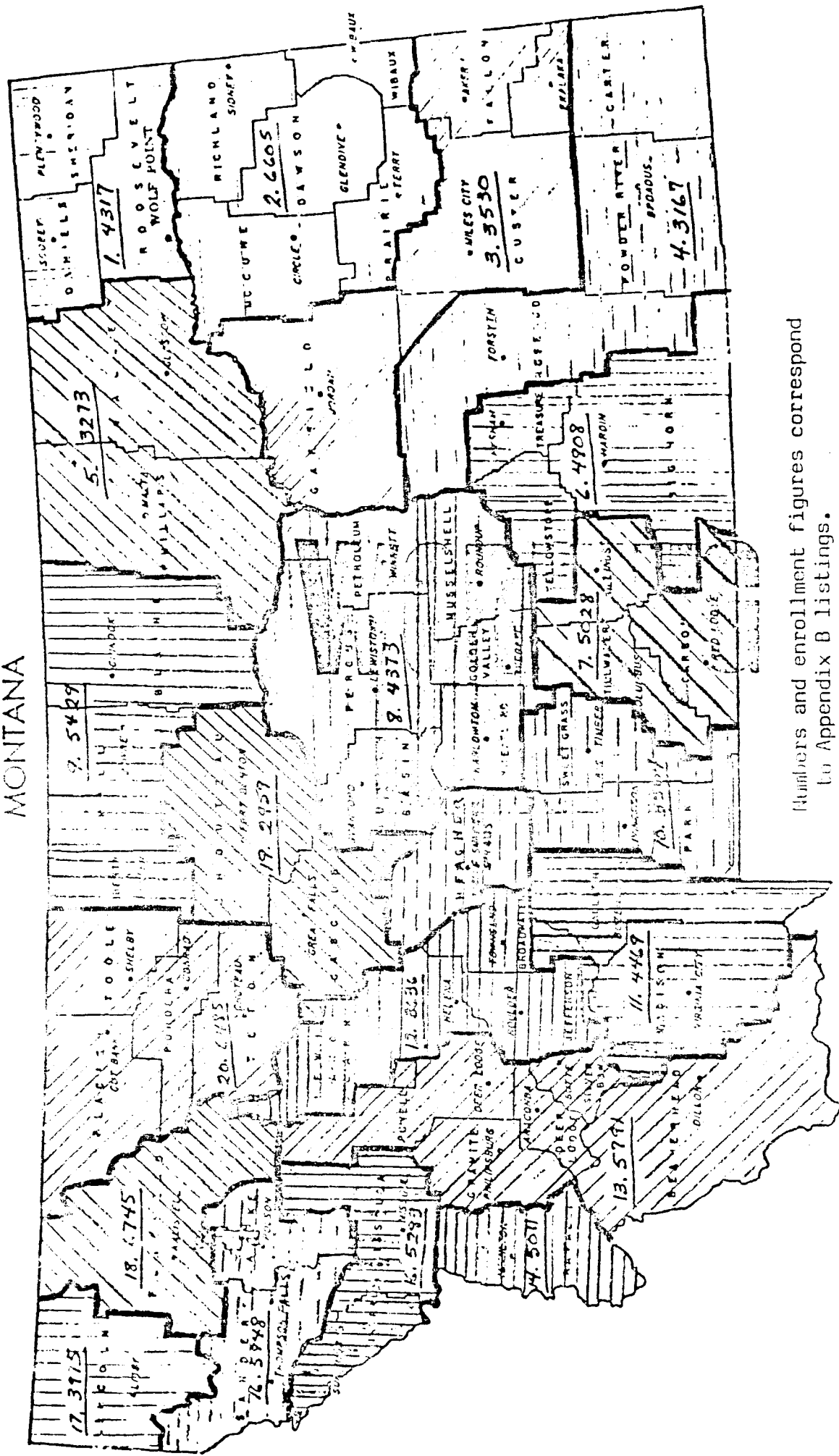
DISTRICTS MAINTAINING SEPARATE SPECIAL EDUCATION PROGRAMS

DISTRICT	ENROLLMENT
1. Great Falls	12,762
2. Kalispell	4,110
3. Bozeman	4,117
4. Helena	6,689
5. Missoula Elementary	4,751
6. Missoula County High School	3,617
7. Butte Elementary	3,700
8. Butte High School	3,094
9. Billings	15,716
<hr/>	
TOTAL AA DISTRICTS	= 58,559

38.28% of State Enrollment

Cooperative Realignment (boundaries approximate)

MONTANA



Numbers and enrollment figures correspond to Appendix B listings.

Distributed by:
 Office of Public Instruction
 Ed Argenbright, Superintendent
 State Capitol
 Helena, Montana 59620

Judy

STATE
OF
MONTANA

ATTORNEY GENERAL
MIKE GREELY

STATE CAPITOL, HELENA, MONTANA 59620 TELEPHONE (406) 449-2026

10 March 1982

Mr. Ed Argenbright
Superintendent
Office of Public Instruction
State Capitol
Helena, Montana 59620

Dear Mr. Argenbright:

You have requested my opinion on a number of questions concerning special education cooperatives. These questions are as follows:

1. Under what conditions is a special education cooperative considered a separate legal entity?
2. If the special education cooperative is established as a separate legal entity, who is liable for actions of the special education cooperative?
3. Is the governing authority established by a special education cooperative contract subject to the requirements of the open meeting law?
4. How is the composition of the special education cooperative board to be determined?
5. How are the authority, powers and responsibilities of special education cooperatives to be established?
6. If a policy or financial decision must be made, must all school boards participating in a cooperative grant authority to make the decision, or is the power delegated to the special education cooperative board?
7. Section 20-7-452(6), MCA, provides for an "administrator" or a "joint board" responsible for administering the cooperative. If the contract provides for a sole administrator of the special education cooperative, then is that administrator the sole governing authority for all decisions regarding the cooperative?

8. To whom is the governing entity of the special education cooperative responsible?

9. Can county superintendents, in their official capacity as elected officials, act as independent fiscal agents for special education cooperatives if that is provided for in the special education cooperative contract?

10. If a special education cooperative is dissolved and the contract is silent on the question of disposition of real and personal property, how and to whom, is the property disposed?

These questions all deal with the statutes that govern the creation and management of special education cooperatives, sections 20-7-451 through 20-7-456, MCA. These statutes are patterned closely after the general interlocal cooperation agreement statutes, sections 7-11-101 through 7-11-108, MCA. The special education cooperation statutes grant school districts broad powers to join together to provide special education services to students in need of these services. For the most part the answers to your questions must be derived from the terms of the agreements themselves because of the broad discretionary powers granted by the statutes.

Your first question regarding section 20-7-452(2), MCA, is as follows:

The contract authorized in 20-7-451 may include all necessary and proper matters but must specify the following:

* * *

(2) the precise organization, composition and nature of the cooperative.

That statute is virtually identical to the general interlocal agreement provisions contained in section 7-11-105, MCA. However in the special education cooperative statute, the word cooperative has replaced the words "any separate legal entity created thereby." The logical interpretation of the change is that the cooperative should be a separate legal entity created by contract.

Your second question, concerning the liability of a special education cooperative cannot be answered without a specific factual situation. Questions of liability often depend on minor facts and without facts, no opinion I could render would ever cover all types of liability in all fact situations.

Your third question concerns the applicability of the open meeting law to proceedings of the cooperatives. The cooperatives operate with public money and they provide service that if not provided by them would be provided by a school district. Further a cooperative owes its existence entirely to a contract between the member school districts. Each of these facts indicate that the cooperatives are public agencies subject to the open meeting law.

Your fourth question concerns the internal operating structure of the cooperatives. The special education cooperative statutes grant broad discretionary powers to the contracting parties. The composition of the cooperative board is discretionary and should be set forth in the contract creating the cooperative.

Your fifth question again concerns the powers and responsibilities of cooperatives. The statutes grant great flexibility. The contracting parties establish, through the contract, the cooperatives' powers and responsibilities. The only limiting language on the functions conveyed by an interlocal agreement is that one of the contracting parties must be authorized by law to perform the function conveyed. § 7-1-104, MCA. The cooperatives cannot perform a function that the member school districts cannot perform.

Your sixth question concerns who in the cooperative can make a financial decision. This again is determined by the cooperative agreement. The statutes do not mandate who has particular types of financial control. The statutes do require that the manner of financing be stated in the cooperative agreement.

Your seventh question concerns the power of an administrator. Again, the statutes do not require that an administrator have certain powers. It is possible to give an administrator sole governing authority, but this is not required. Again, the powers of an administrator are established by the contracting parties in the cooperative agreement.

Your eighth question concerns to whom the governing agent of the cooperative is responsible. The answer again must be determined from the cooperative agreement. The participating school districts, however, have the ultimate power to withdraw from the cooperative.

Your ninth question concerns who may serve as fiscal agent for a cooperative. This question is resolved by examining the statute governing financial affairs of cooperatives. §§ 20-9-701 through 20-9-704, MCA. Section 20-9-701, MCA, only

Mr. Ed Argenbright

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requires that the fiscal agent be a public agency. The county superintendent of schools is a public agent and may be used by a cooperative as a fiscal agent. However, the statutes do not require the county superintendent to accept this added responsibility.

Your tenth question concerns the distribution of cooperative property upon termination of the cooperative. The cooperative agreement is required to contain a plan for distribution of cooperative property upon termination. § 20-7-452(5), MCA. A cooperative agreement that does not contain this provision should not have been approved by this office. If you are aware of a cooperative agreement that does not contain such a provision please let us know. The best way to handle a situation in which the cooperative agreement does not contain a provision for distribution of cooperation property upon termination is to amend the agreement adding a provision for distribution prior to termination.

Very truly yours,



MIKE GREELY
Attorney General

(406)388-6508

Gallatin-Madison Co. Special Education Cooperative

P.O. BOX 162 - 11 EAST MAIN

BELGRADE, MT 59714

EXHIBIT #3

March 11, 1985

TO: Senator Blaylock, Chairman
Senate Education Committee

Senate Education Committee Members

FROM: Larry Holmquist, Director of Special Education
Gallatin-Madison Co. Cooperative
President of Council for Administrators of Special-Ed

RE: H.B. 471 - An Act Requiring the Creation of
Special Education Service Areas

I would like to request the Senate Education Committee's support of H.B. 471 as amended by the House. The need for defined service areas has been necessary since the legislature discontinued the Regional Services Program under the Office of Public Instruction. Since that time, requests have been made to three different State Superintendents to establish these areas in order to coordinate services and guarantee service to local districts. Each time this issue is addressed, it appears too political for the Superintendent to make the decisions necessary. Because of the lack of decision at this level, it is very important this bill be enacted.

One issue that may be raised in opposition to this bill is that it takes away local control. I strongly disagree with that issue. This is not a state run program and all the decisions are made locally. It does demand cooperation between districts which takes away "sole" authority and puts it into cooperative authority at the local level.

While you look at the population of this state and how important the medium size and the larger schools are and their relationship to the smaller schools, how can we do anything but cooperate for service. It does not make sense to have a speech clinician from Chinook drive through Malta to provide service to Whitewater when the service pattern could be built around the larger school. If the larger school doesn't belong to the cooperative it makes distances even more unreasonable for the smaller districts.

Both state and federal dollars maintain their identity with the districts receiving service so that they do not get penalized financially just because they are a member of the cooperative. If there are issues with how services are provided or how dollars are distributed, the resolution is made at the local level by all parties concerned.

With limited dollars coming from the State of Montana we cannot afford the luxury of doing our own thing. Cooperation is the name of the game in providing service to a low incidence population such as handicapped children.

Your support is essential.



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

March 11, 1985

TO: Senator Chet Blaylock
Chairman, Education and Resources Committee

FROM: Gail Gray
Director of Special Education
Office of Public Instruction

RE: Proposed Amendment to HB 471

The Office of Public Instruction has taken a neutral position on HB 471. If it were to be adopted, we feel it is necessary to add an amendment delaying the effective date. This extension would provide an additional year to work out the mechanics of the service patterns. We are most anxious not to commit districts to a specific pattern of services for four years without extensive study. In addition, the employment status of some special education support staff appears to necessitate an amendment of this type.

Proposed Amendment
Inserted on page 4 under New Section at line 22.

Section 5 Effective Date

The effective date of this bill is July 1, 1986.

GG/bjs

207151



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

March 11, 1985

TO: Senator Chet Blaylock, Chairman
Education and Cultural Resources Committee

FROM: Gail Gray
Director of Special Education

RE: Testimony on HB 480

The Office of Public Instruction supports this bill which would 1) clarify the process for approving special education allowable costs, and 2) allow the unexpended balance of the special education appropriation of the first year of the biennium to be carried over and expended in the second year of the biennium.

The first modification is necessary to clarify the approval process for special education allowable costs. We consider this a housekeeping-type of modification request. It is a situation which was called to our attention by personnel of the Montana Legislative Council. As the law presently reads, the Superintendent of Public Instruction, in section 6(a) of 20-7-431 MCA, cannot approve a maximum-budget-without-a-vote for special education which exceeds legislative appropriations. In 6(b) it states that if the Superintendent of Public Instruction does approve allowable costs beyond legislative appropriations for special education, then each district shall receive a pro rata share. The requested change would indicate that if the allowable costs do exceed the legislative appropriation, then the costs should be pro rated.

The second modification would allow the use of unexpended funds allocated for special education costs approved in the first year of the biennium to be reallocated for special education by the Superintendent of Public Instruction for use during the second year of the biennium. The specialized and dynamic nature of special education programs contribute to many changes within individual districts each year. The change of one student can vary the need for funding by as much as \$30,000 in one year. I have enclosed an example of a less dramatic change with this testimony. As a result of these changes, significant reversions to the State of Montana can occur. We would very much like to see unexpended special education funds utilized for the purpose for which they were appropriated. Allowing the flexibility to use unexpended funds from the first year of the biennium in the second one would be of great assistance.

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STANDING COMMITTEE REPORT

March 11, 1985

MR. PRESIDENT

We, your committee on **EDUCATION AND CULTURAL RESOURCES**

having had under consideration **HOUSE BILL** No. **432**

third reading copy (blue)

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(Senator Pinsonneault will carry the bill.)

ALLOW OPI TO PAY SPECIAL EDUCATION CO-OPS FROM EQUALISATION FUNDS

Respectfully report as follows: That **HOUSE BILL** No. **432**

BE CONCURRED IN

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Senator Chet Blaylock,

Chairman.