

EDUCATION

50th LEGISLATIVE SESSION -- 1987

Date _____

1-14-87

[illegible]

MINUTES OF THE MEETING
EDUCATION SUBCOMMITTEE
50TH LEGISLATURE

January 14, 1987

The meeting of the Education Subcommittee was called to order by Chairman Dennis Nathe at 8:00 a.m. on January 14, 1987, in Room 104 of the State Capitol.

ROLL CALL: All members were present. Also present were Dori Nielson and Jim Haubein of the Legislative Fiscal Analyst office, Norm Rostocki of the Office of Budget and Program Planning and Deb Thompson, Secretary.

(Continued) EXECUTIVE ACTION: VOCATIONAL TECHNICAL CENTERS

(Continued) Operating Expense Rates: (9-1-A-000) Summaries of the subcommittee executive action for instruction and for support were distributed for the Vo-Tech Centers (Exhibit 1, 1a). The adopted enrollment figures annually increase current level by \$3,799 in support, and \$51,476 in instruction.

Plant operating expense differences were discussed. Norm Rostocki indicated that the executive base expenditures were determined by removing mill levy from plant operating expenditures for FY 1986. Inflation was then applied.

Dori Nielson explained that the current level used the base year fiscal 1986 plant operating expense appropriation, removing any over expenditure. Section 20-7-325, MCA, states that plant operating expense will be determined by base year expenditures or appropriated amount, whichever is less. Since the centers have expanded expenditure authority due to the voted mill levy, the plant expenditures include local mill levy revenue. Both the Helena and Butte centers chose to use appropriated revenue for personal services first, leaving mill levy revenue to expend in operating expense. Expenditures using mill levy funds are not allowed to build the base, but should neither increase nor decrease the base. Ms. Nielson indicated that accounting practices at the two centers should not reduce the base, since the expenditures were appropriate. Current level plant operating expense uses 1986 appropriated level as the base.

Senator Jacobson moved to accept LFA current level which is at 95 percent for the plant program of the five Vo-Tech Centers. The motion PASSED unanimously. (420)

Dori Nielson indicated that the equipment budget had been approved but no funding level was indicated. Senator Jacobson moved to accept a 95 percent funding level of the equipment portion for the five Vo-Tech Centers. The motion PASSED unanimously.

The need for flexibility in use of federal funds in the program portion of the budget was discussed. If unrestricted funds from another source were available, the centers could use federal money for a match.

Chairman Nathe said that granting this authority could not be construed as expanding the base. More general fund cannot be approved, but the committee does not wish to restrict service to the community if there is a way to raise money outside the general fund for the match. This way the centers can maximize the use of existing federal funds.

(8-1-B-037) The funding scheme for the base budget of each center needs to be carefully defined to allow for budget amendment. Private funds or matching funds cannot be anticipated and therefore if additional funds become available they may be added by a budget amendment.

Budget amendments must be for funds that were unknown at the time of appropriation. Senator Hammond inquired about specific figures to safeguard the formula. Gene Christiaansen, of OPI, indicated that \$60,000 per center, or a total of \$300,000, could be set aside. Not more than \$100,000 would be available from part A funds, the adult category, and not more than \$200,000 from Part B. This flexibility would enable the centers to choose activities. If these amounts were budgeted here, a budget amendment would not be necessary.

Senator Jacobson moved to accept the same language that was used in the equipment section which stated that the centers have the ability to utilize more than budgeted federal funds that if they be allowed to do so using a budget amendment. The motion PASSED unanimously.

Funding: Norm Rostocki of the OBPP discussed the differences in funding between the executive and current level. The mill levy and coal tax revenues are based on projections that will be determined on a broader basis. The current level for FY 1989 for federal vo-ed funds is a continuation of the amount available to the centers, based on applications in fiscal 1986. The executive budget for fiscal 1988 and 1989 reflects actual fiscal 1986 receipts of federal vo-ed funds.

Senator Jacobson moved to accept current level for the millage and the educational trust fund revenue with the understanding that they will be changed as the revenue estimates are revised. The motion PASSED unanimously.

Discussion followed. Executive and current level use the suggested OPI tuition increase. Tuition is up 19.2 percent from the 1987 biennium and may be a problem for the centers. Financial aid is available at the schools for 60 to 85 percent of the student body. The tuition is reflective of the current market. Montana has been lower than surrounding states and will still be lower by about 4 percent.

Senator Jacobson moved to accept current level tuition with the increases for the accepted enrollment figures for the vo-tech centers. The motion PASSED with one NO vote by Representative Peck.

(378) Senator Jergeson moved to accept LFA current level for federal funding for FY 88 and FY 89 for the five vo-tech centers.

Discussion followed. A reduction in the use of federal funds would reduce the amount of funding level. Alex Capdeville from the Helena Vo-Tech Center said new and innovative was good but in order to use the federal money, programs had to be changed progressively to become more innovative. However, he felt the current level would require a major program change in Helena for 1989 which would obligate 25 percent of the budget to new and innovative programs. He explained that it was unreasonable to write proposals just changing the names of ongoing programs for a three-year commitment in order to spend the federal money. The state has a responsibility that cannot be supplanted by the federal money. He indicated his commitment to run the institution and maintain quality at the present funding level.

Dori Nielson of the LFA clarified that the Helena federal contribution for 1986 was 2.7 percent of their budget, and for 1989 is 15 percent.

Representative Peck pointed out the importance in the analysis book that the present use of federal funding by the centers has decreased from over \$1 million in 1984 to \$600,000 in 1986. Since there is a shortage of funds at the state level and there is money available at the federal level, the centers should work at utilizing this source.

The importance of support for HB39 was discussed. The centers would be transferred to the Board of Regents. Assuming that the regents grant associate degree level

privileges to the vo-tech centers, the centers could use half of the cost of the programs that qualify for associate degrees for the Carl Perkins money. This is a one time situation of a three year duration.

Senator Jacobson suggested voting on Senator Jergeson's motion and if HB39 passes or is amended this committee may have to revise the funding levels.

(8-2-A-000)

Chairman Nathe appointed Senator Hammond, Representative Peck and Senator Jergeson as a subcommittee to work with the centers and Gene Christiaansen of OPI to assess the federal funding issue.

The committee discussed accepting current level funding in FY88 and FY89 with the full understanding that the figure may have to be adjusted. The motion PASSED with one NO vote by Representative Iverson.

SUPPLEMENTALS: (250)

MONTANA UNIVERSITY SYSTEM - BOARD OF REGENTS

Norm Rostocki supports the content of this budget amendment. Jane Hamman explained that (Exhibit 3) the Board of Regents has requested \$4,500 to provide per diem at \$50 dollars per day which had been approved in HB394 during the 1985 session but the budget had not been adjusted to include funding for the Board of Regents. The amendment also provides for eight more meeting dates than there were in FY86.

Mr. Jack Noble from the office of the Commissioner of Higher Education distributed information concerning the current status of the regent's budget (Exhibit 4), explaining the need for the statutory per diem.

Senator Jergeson moved to approve the budget amendment of \$4,500 in general fund for the Board of Regents in order to provide per diem as set out in the statutes. The motion PASSED unanimously.

Montana State University - Mandatory Waivers:

Dori Nielson explained that the request for \$207,657 of general fund as a supplemental appropriation was to correct an error in the scholarship and fellowships program. Mandatory fee waiver funding was not included in MSU's appropriation for either FY 86 or FY 87. MSU is requesting an appropriated amount for fiscal 1987 only.

Discussion followed concerning the mandatory waivers. They include veterans, Native Americans, senior citizens, and others and are listed on page F-82 of the analysis book. (9-2-A-394)

President Tietz, Montana State University, (429) testified that the amount requested is a reasonable amount. The figure had dropped out of the calculations. A fiscal note in the Special Session III accepted this issue but when the 5 percent reduction was adopted the mandatory waiver amount again did not appear.

Dori Nielson clarified that MSU was the only one that did not receive this allocation of the six units.

Senator Hammond moved to accept the \$207,657 supplemental for Montana State University for fee waivers which had been inadvertently left out of the budgeting process in 1985. The motion PASSED unanimously.

Board of Public Education - legal expense:

Norm Rostocki explained that this supplemental is for legal fees involving both the Board of Public Education and OPI. The Board of Public Education requested \$7,525.

Claudette Morton, Executive Secretary for the Board of Public Education, explained that the board was served with a court summons to answer a complaint from the foundation funding lawsuit. The board was forced to respond to the summons or it would have been liable for default and damages. The board budget cannot absorb the additional cost. (623)

Senator Hammond moved to pay the supplemental of \$7,525 that has been requested by the Board of Public Education for legal expenses. The motion PASSED unanimously.

Office of Public Instruction - legal expense

Mr. Richard Bartos, legal counsel for OPI clarified the amounts expended and listed witnesses for the legal expenses of the school foundation program lawsuit. (Exhibits 6 and 7).

Senator Jacobson moved to accept the supplemental for \$234,313 of general fund to pay the request for OPI for the funding of the lawsuit concerning the underfunding of the school foundation programs of the state of Montana. The motion PASSED unanimously.

Richard Bartos explained (Exhibit 8) the orders from the district judge directing that OPI pay a set percentage of the cost of the American Civil Liberty Union attorney fees for bringing the civil action against the state of Montana relative to the Title IX lawsuit. After the trial the ACLU petitioned the federal court for costs involved in the case. The Montana High School Association took the position that the Office of Public Instruction should bear half of the cost. This was disputed and OPI was assessed 20 percent of the cost and the MHSA 80 percent of the cost. The federal judge appointed a special master (Exhibit 9) to review schools and athletic programs in the state. This cost of \$65,000 will be shared by OPI and the MSHA. Representative Peck moved to accept the \$100,609 of general fund be approved for the supplemental request in order to pay the expenses incurred of the Title IX sex equity lawsuit. The motion PASSED. unanimously.

Office of Public Instruction - transportation: This issue was not on the governor's list but is a supplemental request of \$612,000 for the transportation.

The executive position is not denying the responsibility for school transportation. However, this appears to be a request to receive funding to replace the budget cuts of fiscal 1986 and 1987 that were voluntarily taken from transportation.

The information for this request was not available until late yesterday and has not been researched by the LFA.

Senator Hammond pointed out that this expense would fall back on the county and the local district if the state money is not available.

Mr. Shackelford (220) handed out information explaining two issues (Exhibit 10). The transportation supplemental request was needed to increase the 1987 biennium appropriation to the statutory levels. The Legislative Finance Committee had requested that OPI submit the needed supplemental. Reduction due to cutbacks have been removed from the request.

Discussion followed. The state does not meet its full 1/3 obligation. A statutory amount is set and the amount of appropriations was less than that. The difference has to be made up at the state level or it will go to the local taxpayer. The division is supposed to be 1/3 state, 1/3 county and 1/3 district. About 22 percent is received from the state at present. The statute originally intended that one-third of the transportation cost be distributed to the schools. The state has never funded that level.

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Further clarification is necessary and the LFA will work with Mr. Shackelford and return on Friday. The committee will not meet Thursday. The Friday meeting will begin at 8:00 a.m.

Discussion was held concerning the contingency plans for cutbacks from the President's of the six units of the University System. Senator Jergeson requested that a uniform format be developed for the six units of the University System. The present format does not allow comparison. Chairman Nathe directed that a letter be sent to the Commissioner of Higher Education requesting a uniform format for the presentation of the reduction information for the six units of the University System.

The audiology program will be discussed on Friday along with the report on the FTE position requested for the Board of Public Education and the OPI supplemental request on the transportation issue. The transportation issue for the School for the Deaf and Blind will be resolved next week sometime.

ADJOURNMENT: The meeting adjourned at 11:25 a.m.


DENNIS NATHE, Chairman

dt/1-14

SUB COMMITTEE

Date 1-14-87

[illegible]

SUBCOMMITTEE EXECUTIVE ACTION				Program: Support	
01/13/87					
FISCAL 1988				FISCAL 1989	
Executive*	Committee	Executive*	Committee	Current Level	Committee
60.05	61.71	60.05	61.82	61.71	61.82
\$1,634,727	\$1,633,038	\$1,634,727	\$1,636,279	\$1,633,038	\$1,636,279
\$418,947	\$401,642	\$318,947	\$402,200	\$313,818	\$314,376
\$2,053,674	\$2,034,680	\$1,953,674	\$2,038,479	\$1,946,856	\$1,950,655
=====	=====	=====	=====	=====	=====
Total Exp.					

Executive budget revised January 1987

Committee Action Difference from LFA

Fiscal 1988	Fiscal 1989
\$3,799	\$3,799

1-14
- Vet Tech Centers

1A
1-14-37

SUBCOMMITTEE EXECUTIVE ACTION

Agency: Postsecondary Vocational-Technical Centers

01/13/87

Program: Instruction

-FISCAL 1988-

Executive*

SCAL 1988-----
Current Level

Committee

Executive*

SCAL 1989-----
Current Level

Committee

FTE

Instruction

Personal Services
Operating Expenses

\$4,099,714
\$538,463

\$4,435,107
\$571,807

\$4,480,704
\$577,686

\$4,099,714
\$538,463

\$4,435,107
\$571,807

\$4,480,704
\$577,686

Total Exp.

*Executive budget revised January 1987

Committee Action Difference from LFA

Fiscal 1988

Fiscal 1989

Fiscal 1989

Fiscal 1989

VOCATIONAL-TECHNICAL CENTERS -- PLANT OPERATIONS AND MAINTENANCE

B U T T E

Spending Authority - Fiscal Year 1986

Staff FTE	Comp. Level	Total	H8500	Mill Levy	H8500 + Levy
3.75 times	\$20,261 =	Personal Serv	Total Plant	Authority	Plant
		Operating Exp	2% Reduction		
		\$75,979 +	\$164,577	\$47,965	\$212,542
		\$88,598 =			

Expenditures - Fiscal Year 1986

Personal Serv	Operating Exp	Total Exp	Spending Authority
\$111,056	\$98,561	\$209,617	Remaining
			\$2,925
			(\$428 in current
			unrestricted)

H E L E N A

Spending Authority - Fiscal Year 1986

Staff FTE	Comp. Level	Total	H8500	Mill Levy	H8500 + Levy
4.25 times	\$20,261 =	Personal Serv	Total Plant	Authority	Plant
		Operating Exp	2% Reduction		
		\$86,109 +	\$317,543	\$34,500	\$337,038
		\$231,434 =	(\$15,005)		

Expenditures - Fiscal Year 1986

Personal Serv	Operating Exp	Total Exp	Spending Authority
\$82,745	\$239,303	\$322,048	Remaining
			\$14,990

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1-14-87
Vo Tech

Ex. 1-14-87

Ex. 1-14-87 3

1-14-87
- Supplementals

<u>Agency and Program</u>	<u>Fiscal Year</u>	<u>Amount</u>	<u>Fund</u>
OFFICE OF PUBLIC INSTRUCTION			
Title IX Suit	1987	100,609	General Fund
Foundation Suit	1987	234,313	General Fund
DEPARTMENT OF JUSTICE			
County Attorney Payroll	1987	57,200	General Fund
Forensic Science Lab	1987	56,520	State Special
Law Enforcement Academy	1987	10,500	State Special
BOARD OF PUBLIC EDUCATION	1987	7,525	General Fund
MONTANA UNIVERSITY SYSTEM			
Board of Regents	1987	4,500	General Fund
MSU - Fee Waiver	1987	207,657	General Fund
HEALTH AND ENVIRONMENTAL SCIENCES			
Certificate of Need	1987	35,713	General Fund
STATE LANDS			
Central Administration	1987	11,800	General Fund
Forestry	1987	557,462	General Fund
REVENUE			
Railroad Litigation	1987	70,870	General Fund
Beneficial Use Litigation	1987	3,864	General Fund
ADMINISTRATION			
Reappraisals	1987	402,541	General Fund
Manual Disparity	1987	33,750	General Fund
INSTITUTIONS			
Corrections Medical	1987	680,000	General Fund

<u>Agency and Program</u>	<u>Fiscal Year</u>	<u>Amount</u>	<u>Fund</u>
Worker's Compensation	1987	1,669,777	General Fund
MOUNTAIN VIEW SCHOOL			
Care and Custody	1987	4,000	State Special
PINE HILLS SCHOOL			
Care and Custody	1987	15,000	State Special
MONTANA STATE PRISON			
Prison Lawsuit	1987	351,291	General Fund
MSP Canteen	1987	244,998	State Special
SWAN RIVER FOREST CAMP			
Canteen Fund	1987	15,000	State Special
MONTANA STATE HOSPITAL			
Canteen Fund	1987	12,162	State Special
YOUTH TREATMENT CENTER			
Treatment Services	1987	140,000	General Fund
DEPARTMENT OF LABOR AND INDUSTRY			
Worker's Compensation Social Security Offset	1987	20,702	General Fund
Worker's Compensation Workload Increase	1987	313,064	State Special
	1987	23,223	State Special
DEPARTMENT OF SOCIAL & REHABILITATION SERVICES			
Foster Care	1987	1,727,008	General Fund
	1987	(107,922)	Federal Special
	1987	378,377	Other Special
AFDC	1987	2,378,109	General Fund
	1987	5,915,012	Federal Special
	1987	196,745	Other Special
Day Care	1987	48,203	General Fund
	1987	94,563	Federal Special

<u>Agency and Program</u>	<u>Fiscal Year</u>	<u>Amount</u>	<u>Fund</u>
General Assistance	1987	155,318	General Fund
Medical Assistance			
Administration	1987	2,500	General Fund
	1987	7,500	Federal Special
Medicaid Other	1987	488,400	General Fund
	1987	1,011,600	Federal Special
State Medical	1987	60,000	General Fund
	1987	(20,000)	Federal Special

STATEWIDE TOTAL

Section 5. Effective Date. This act is effective on passage and approval.

-END-

SUPLEM89.Nar

The following narrative explains briefly the supplementals being requested by state agencies for fiscal year 1987. The narrative is presented in the same order as the supplemental bill.

SECRETARY OF STATE

\$108,117 State Special Revenue - This supplemental provides for systems development and conversion costs to meet the requirements of section 1324 of the federal food security act of 1985. Fee revenues from users of the central notice system will pay for this service.

COMMISSIONER OF POLITICAL PRACTICES

\$2,500 General Fund - The funds provided in this request pay the termination pay for the previous commissioner.

STATE AUDITOR

\$20,162 State Special Revenue - This supplemental for the Central Payroll Program provides funds to replace a position lost during the budget reductions. Most of the funds come from federally funded programs.

\$35,000 State Special Revenue - This increase provides central payroll with funds to account for Medicare Tax Report and Comp Time modifications to the payroll system.

\$11,400 General Fund - The communications budget for the Audit Division is augmented to compensate for a 6% increase in the number of warrants being mailed. This increase pays for the cost of postage.

\$6,000 State Special Revenue - This increase provides for expansion in the long distance telephone expenditures for the Insurance Division. This division has experienced increases in the number of questions and complaints being registered due to the current uncertainties in the insurance industry.

OFFICE OF PUBLIC INSTRUCTION

\$100,609 General Fund - This supplemental provides funds to pay for expenses incurred by the Office of Public Instruction in its defense in the Title IX Sex Equity Lawsuit. This suit involves athletic programs in Montana's Public Schools.

\$234,313 General Fund - This request helps pay for expenses incurred in the Foundation Lawsuit brought against the state by various school districts. The suit challenges Montana's system and level of funding k-12 education.

DEPARTMENT OF JUSTICE

\$57,200 General Fund - This increase provides funds for the county attorney payroll costs that had to be paid in fiscal year

1986. The anticipated cost was lowered due to the passage of HB11 during the June Special Session. This bill allows a freeze of certain salaries at the county level. Because some salaries were frozen, less is needed in the supplemental request.

\$56,520 State Special Revenue - This request provides funding for the Forensic Science lab's rent payment. Due to inadequate facilities, the lab was moved to better quarters which costs more than the previous facility.

\$10,500 State Special Revenue - This supplemental provides additional funding for the Law Enforcement Academy Division to include an Emergency Vehicle Operations and First Responder component in their basic curriculum.

BOARD OF PUBLIC EDUCATION

\$7,525 General Fund - This request provides funding for expenses incurred because of added legal costs. These added costs stem from the Board's involvement in two lawsuits involving Title IX and the Foundation Program funding system.

MONTANA UNIVERSITY SYSTEM

\$4,500 General Fund - Supplemental funding is requested to provide per diem compensation at statutory compensation levels for Board of Regent members. The current budget contains only \$25 allowances despite the current law calling for \$50 allowances. Board members had to serve about 50% of FY86 without per diem reimbursement because of the inaccurate funding level.

\$207,657 General Fund - Montana State University is requesting a supplemental appropriation to correct an error in the Scholarship and Fellowships appropriation. Mandatory fee waiver funding was not included in MSU's appropriation for either fiscal 86 or 87. The fact that funds for mandatory waivers were not included in the appropriation does not relieve the University of its responsibility to grant fee waivers to those students who qualify for them.

HEALTH AND ENVIRONMENTAL SCIENCES

\$35,713 General Fund - This supplemental provides funding for the department to continue certificate of need operations in fiscal year 1987.

DEPARTMENT OF STATE LANDS

\$11,800 General Fund - State Lands requests funding to maintain minimal caretaking services at the Children's Center at Twin Bridges. The department had to repossess the property in August of 86. Funding is needed for a contract for caretaking and utilities.

(State Lands Continued)

\$557,462 General Fund - This request is for fire suppression costs in the Forestry Division. Because of the difficulty in estimating what kind of fire season we will have, the legislature has adopted the policy of paying for past fire costs by supplemental funding. This request covers the 1986 fire season and one carryover bill from the 1985 season.

DEPARTMENT OF REVENUE

\$70,870 General Fund - The department requests funding to continue railroad litigation. Railroads have filed both valuation and classification/equalization appeals at the federal district court level. Approximately \$12 million in property tax is at dispute in 1986.

\$3,864 General Fund - These funds will be used to contest an appeal made on the Beneficial Use Tax for powerlines used by the Coal Strip consortium for tax years 1984-85. There is approximately \$3 million in protested taxes.

DEPARTMENT OF ADMINISTRATION

\$402,541 General Fund - This supplemental provides funding to replace money transferred to the State Tax Appeals Board to cover the substantial increase in workload stemming from property tax appeals because of the completion of reappraisal. County appeal costs account for \$378,900 of the increased cost.

\$33,750 General Fund - This supplemental is also for the State Tax Appeals Board. After the reappraisal of 1978 an issue known as manual disparity or the "34%" issue arose. Nearly 2,000 appeals to STAB are affected by the potential ruling. The ruling is expected at anytime.

DEPARTMENT OF INSTITUTIONS

\$680,000 General Fund - This request is for augmentation of the corrections medical budget. The supplemental is needed due to two reasons. First, the average daily population has increased substantially over the 1984 population on which the appropriation was based. Second, the cost per resident has escalated beyond the 1984 base cost. The appropriation was based on an average cost of \$575.94 per year. Actual costs in FY 85 was \$738.82.

\$1,869,777 General Fund - This supplemental is to cover increased Workers' Comp costs for all of the institutions. A breakdown by institution is:

Montana State Hospital	-	\$1,096,370
Montana Developmental Center	-	397,403
Montana State Prison	-	315,516
Eastmont	-	31,800

(Inst. Continued)

Center for the Aged	-	20,588
Youth Treatment	-	5,754
Vets Home	-	10,157
Pine Hills	-	(4,923)
Mountain View	-	(3,028)
Others	-	130

Total

\$1,869,777

MOUNTAIN VIEW SCHOOL

\$4,000 State Special - Mountain View School is requesting additional authority for its Canteen operation. The canteen sells goods to residents and needs extra authority to continue current services.

PINE HILLS SCHOOL

\$15,000 State Special - This request is for canteen authority similar to the request at Mountain View.

MONTANA STATE PRISON

\$251,291 General Fund - This supplemental provides funding for payment of damages incurred at the Prison because of a law suit involving a malpractice settlement incurred by a local physician and his insurance company. Apparently the doctor's contract had a hold harmless clause leaving the state liable under the original lawsuit by a former inmate.

\$244,998 State Special - The prison needs added canteen spending authority because of the large increase in population. This program provides goods such as cigarettes and personal items to inmates.

SWAN RIVER FOREST CAMP

\$15,000 State Special - Like the prison, this request is for the canteen operating fund which does not have adequate authority to continue providing goods to inmates at the facility.

MONTANA STATE HOSPITAL

\$12,162 State Special - Canteen operations needs additional authority at the state hospital for continued service to residents.

YOUTH TREATMENT CENTER

\$140,000 General Fund - Sale of the Youth Treatment Center to a private provider (Rivendale) was delayed one month. This supplemental is for operations of the facility for this time



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59620-2602
(406) 444-6570

COMMISSIONER OF HIGHER EDUCATION

4
1-14-87
- MT Univ. System
Supplemental

TO: Dennis Lind
Chairman, Board of Regents

FROM: Jack Noble *JN*
Deputy Commissioner of Higher Education

DATE: January 13, 1987

SUBJECT: Supplemental Budget Request and Current Status of
Regent Budget

As of January 1, 1987 the status of the Regent budget is as follows:

Beginning Amount	\$ 21,723	100%
Expended as of 12/31/86	\$ 15,455.59	
Accrued (Estimated)	<u>737.71</u>	
TOTAL Expended	<u>16,193</u>	<u>74%</u>
Remaining	<u>\$ 5,530</u>	<u>26%</u>

The supplemental request of \$4,500 may not be sufficient to make it through June 30, 1987. As it stands now, the Regent's budget will not be able to meet per diem or reimburse board members for expenses through June 30. This will be especially true if we move into retrenchment procedures between April and June. The cost of a two day meeting in Helena is approximately \$1,900.

I will keep you informed.

JHN/11t

878T



Board of Public Education

33 South Last Chance Gulch
Helena, Montana 59620-0601
(408) 444-6576

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1-14-87
Board of Public Education Supplemental

Claudette Morton
Executive Secretary

BOARD MEMBERS

EX OFFICIO MEMBERS:

Ted Schwinden, Governor

Ed Argenbright, Superintendent
of Public Instruction

Carrol Krause, Commissioner
of Higher Education

APPOINTED MEMBERS:

Ted Hazelbaker, Chairman
Dillon

Alan Nicholson, Vice-Chairman
Helena

James Graham
Ismay

Sarah "Sally" Listerud
Wolf Point

Arthur "Rocky" Schauer
Libby

Bill Thomas
Great Falls

Thomas A. Thompson
Browning

TESTIMONY FOR THE BOARD OF PUBLIC EDUCATION'S SUPPLEMENTAL REQUEST

On April 18, 1985, the Board of Public Education was served with a court summons to answer a complaint from the Elementary School District #1 and other parties. The Board was forced to respond to the summons or otherwise it would have been liable to default and damages. However, the Board's budget has been too limited to absorb the legal fees resulting from answering the summons and attendant interrogatories, investigation and preparation for trial.

While the Board has pared its budget down as much as possible in concert with your and the Governor's request, it has incurred legal fee expenditures which exceed its appropriation. The money was requested and received for this past year's budget. However, because this lawsuit has initially developed more slowly, the expenses did not reach this figure in the past year and the money was returned to the general fund. This year, the expenses are occurring at a rather rapid rate and it will be necessary to have a supplemental of \$7525 to cover the incurred legal fees.

At this time the Board is anticipating a year end deficit of \$7525. The Board hereby submits a supplemental request for that amount.

On behalf of the Board,

A handwritten signature in cursive script that reads "Claudette Morton".

Claudette Morton
Executive Secretary

1-14-87
PI - 3281422

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF LEWIS & CLARK

* * * * *

HELENA ELEMENTARY SCHOOL)
DISTRICT NO. 1 AND HIGH SCHOOL)
DISTRICT NO. 1 OF LEWIS & CLARK)
COUNTY; BILLINGS ELEMENTARY)
SCHOOL DISTRICT NO. 2 AND HIGH)
SCHOOL DISTRICT NO. 2 OF)
YELLOWSTONE COUNTY; et al.)

No. ADV-85-370

SCHEDULING ORDER

Plaintiffs,)

and)

MONTANA EDUCATION ASSOCIATION;)
et al.)

Intervenors-Plaintiffs,)

vs.)

THE STATE OF MONTANA; and)
THE MONTANA BOARD OF PUBLIC)
EDUCATION; and the MONTANA)
SUPERINTENDENT OF PUBLIC)
INSTRUCTION,)

Defendants,)

and)

C.J. HOLJE, BERNT WARD and)
ROBERT FREDERICH on behalf of)
the residents and taxpayers of)
Sheridan County, Montana, and)
all others similarly situated,)

Intervenors-Defendants,)

and)

HAYS-LODGE POLE ELEMENTARY SCHOOL)
DISTRICT NO. 50 AND HIGH SCHOOL)
DISTRICT NO. 50, BLAINE COUNTY;)
et al.)

Intervenors-Defendants.)

SCHEDULING ORDER

Upon motion, the Scheduling Order entered by this Court on January 30, 1986, and modified by order of July 8, 1986, is hereby further modified and the following dates shall supersede those of the previous Scheduling Order:

November 1, 1986	All discovery shall be completed except that parties may have until the 30th day of January, 1987, to complete discovery by deposition and requests for production. All presently-scheduled expert witness depositions shall take place as presently scheduled.
November 14, 1986	Lists of witnesses shall be exchanged.
January 5, 1987	All pre-trial motions with supporting briefs must be filed, except motions for summary judgment.
January 30, 1987	Discovery by deposition and requests for production must be complete.
February 2, 1987	All answer briefs to pre-trial motions must be filed, except motions for summary judgment.
February 10, 1987	All summary judgment motions must be filed, together with briefs in support thereof.
February 12, 1987	All reply briefs concerning pre-trial motions, except motions for summary judgment, must be filed.
February 25, 1987	All answer briefs to briefs in support of motions for summary judgment must be filed.
March 4, 1987	All reply briefs in support of motions for summary judgment must be filed.
March 9, 1987	9:00 A.M. Oral argument on all pre-trial motions, including all motions for summary judgment.
April 6, 1987	1:30 P.M. Pre-trial conference with the Court. Pre-trial briefs are to be filed and served at least five days prior to the pre-trial conference (on or before March 30,

1987) in accordance with Rule I, Sub. 4 of the Uniform District Court Rules. Subjects to be discussed will include those listed in Rule 16(c), M. R. Civ. P., and participating attorneys shall have the authority required by that rule. Plaintiffs shall, at that time, present a proposed pre-trial order to Court and counsel. At that pre-trial conference, the subject of the trial schedule will be discussed, including any requests that separate issues be set for trial separately or at separate time periods during the trial. Such trial schedule issues will be decided at that time.

April 20, 1987

The pre-trial order, which shall have been prepared by Plaintiffs and approved in form and substance by the attorneys for all parties, must be filed. In the event of a dispute as to the content of such order, such dispute shall be presented by Plaintiffs to the Judge for settlement. If, through any fault of Plaintiffs, the pre-trial order is not signed and filed by the above date, the trial setting will be vacated. The Court will consider the imposition of sanctions against any party failing to cooperate.

April 27, 1987

An attorneys' conference, without the Court, will be held at which time all exhibits shall be exchanged.

May 4, 1987

Trial memoranda must be served and filed. There will be a final pre-trial conference with the Court at 1:30 P.M.

May 11, 1987

Non-jury trial at 9:00 A.M. through June 19, 1987.

Except as modified herein, all previous Scheduling Orders entered by the Court in this action shall remain fully effective.

This schedule shall not be modified except by leave of the Judge upon a showing of good cause. Sanctions, when required, will be imposed by the Court in accordance with Rules 16(f) and

37(g), M. R. Civ. P.

DATED this 22nd day of October 1986.


HENRY LOBLE, District Judge

cc: James Goetz, 35 No. Grand, Bozeman, MT ~~59715~~
John Larson, 111 No. Higgins, Missoula, MT 59801
Rick Bartos, OPI, Room 106, State Capitol, Helena, MT 59601
Don Garrity, 1313 Eleventh Ave., Helena, MT 59601
Loren J. O'Toole, 209 No. Main, Plentywood, MT 59254
John North, Governor's Office, State Capitol, Helena 59620
Ben Hilley, 121 4th St. No., Great Falls, MT 59401
W. William Leaphart, 1 No. Last Chance Gulch, Helena 59601
Terry Spear, P.O. Box 2529, Billings, MT 59103



OFFICE OF PUBLIC INSTRUCTION

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

Ed Argenbright
Superintendent

7
1-17-87
CPI supplemental

November 14, 1986

Ms. Clara Gilreath
Clerk of District Court
Lewis & Clark County Courthouse
228 Broadway
Helena, Montana 59601

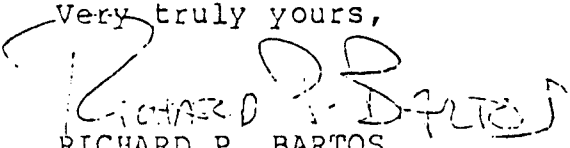
RE: Helena Elementary School District No. 1 and High School
District No. 1 of Lewis & Clark County; Billings Elementary
School District No. 2 and High School District No. 2 of
Yellowstone County; et al. vs. The State of Montana, et al.
ADV-85-370

Dear Ms. Gilreath:

Enclosed is Defendants' Amended Rule 26 Disclosure and List of
Witnesses in the above entitled case. Please file the same.

Thank you for your assistance in this matter.

Very truly yours,


RICHARD P. BARTOS
Special Assistant
Attorney General

RPB:lab

Enclosure

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF MONTANA, IN AND FOR THE
COUNTY OF LEWIS AND CLARK

* * * * *

HELENA ELEMENTARY SCHOOL DISTRICT
NO. 1 and HIGH SCHOOL DISTRICT NO. 1
OF LEWIS AND CLARK COUNTY; BILLINGS
ELEMENTARY SCHOOL DISTRICT NO. 2 and
HIGH SCHOOL DISTRICT NO. 2 and
YELLOWSTONE COUNTY, et al.,

Plaintiffs,

-vs-

THE STATE OF MONTANA; and the MONTANA
BOARD OF PUBLIC EDUCATION; and the
MONTANA SUPERINTENDENT OF PUBLIC
INSTRUCTION,

Defendants,

and

HAYS-LODGE POLE ELEMENTARY SCHOOL
DISTRICT NO. 50, and HIGH SCHOOL
DISTRICT NO. 50, BLAINE COUNTY,
et al., and the ASSOCIATION OF
INDIAN IMPACT SCHOOLS OF MONTANA, and
Unincorporated Association,

Intervening Defendants.

NO. ADV-85-370

AMENDED RULE 26
DISCLOSURE

and

LIST OF WITNESSES

Rule 26 4B Rule

Comes now, Defendants State of Montana and Montana Office of
Public Instruction pursuant to Montana Rules of Civil Procedure,
Rule 26(b)(4)(A)(i), and this Court's Scheduling Order and amend
the Disclosure of expert witnesses, who may be called upon at

trial in the above entitled matter.

1 1. Dr. John Pincus, Economic Consultant, Los Angeles,
2 California.

3 Dr. Pincus will review the literature in professional
4 journals regarding economics and education. He will testify
5 about the relationship between the level of educational resources
6 and educational outcomes as measured by standardized test scores.

7 Dr. Pincus will describe several studies conducted in nearby
8 surrounding states that show how increases in spending levels
9 affect student outcomes. Dr. Pincus will testify that research
10 indicates no general association between increased school
11 spending and student outcome. Rather, research indicates that
12 student outcomes are affected by three elements:

- 13 a. Community and family background
14 b. Peer group
15 c. School

16 Dr. Pincus' methodology is based on a similar study he
17 conducted in the state of Washington. Dr. Pincus will also rely
18 upon updated professional journals and a review of the literature
19 in the area.

20 Dr. Pincus is prepared to undertake a statistical study for
21 Montana, which would include:

- 22 a. A brief review of existing statistical research on
23 educational effectiveness including studies completed
24 since 1983.
25

1 b. An ongoing statistical study on spending--outcome,
2 relations in Montana's elementary and secondary
3 schools. The study analyzes community background
4 factors taken from the 1980 census data, peer group
5 data taken from census and Chapter 1 data, school and
6 school district budget data taken from the Montana
7 Office of Public Instruction, teacher data taken from
8 the Montana Office of Public Instruction, and test
9 score data taken from the Montana Office of Public
 Instruction and various testing agencies.

10 The data will be used to compute regression equations which
11 show the degree of association between the explanatory variables
12 (test scores). The test scores from a sample of 80 nonplaintiff
13 districts, plus all plaintiff districts will be gathered from si
14 different testing companies and analyzed by school district, 12th
15 grade, 4th or 6th grade for two years, where possible. Since
16 all testing data has not been received, the projected time of
17 completion cannot be given.

18 2. Dr. Roderick Little, Professor of Economics, UCLA, Los
19 Angeles, California.

20 Dr. Little will testify about the reliability and
21 verification of the analysis conducted by Dr. John Pincus,
22 supporting Dr. Pincus' assumption that resource increases do not
23 affect student outcome. This will dispel the common belief that
24
25

1 increases in spending result in better education and improved
2 student outcomes. Dr. Little will rely upon Dr. Pincus' study
3 conducted in the state of Washington.

4 Dr. Little will discuss the sample design for Montana.

5 3. Mr. Ira Perkins, retired teacher, Bynum School, Bynum,
6 Montana.

7 Mr. Perkins will describe the rural school setting and trace
8 the historical development of education in the 50 years of his
9 teaching experience. His testimony will also support the
10 contention that increases in resource availability do not result
11 in better educational outcomes for students. Mr. Perkins will
12 testify as to a basic quality education in a rural school setting
13 in Montana and will illustrate the nature of this basic quality
14 education by specifically outlining and illustrating the course
15 of activities conducted in his school throughout the last five
16 decades.

17 Mr. Perkins will testify that Montana's present school
18 funding system provides rural school students an equal
19 opportunity to receive a basic quality education. He will rely
20 upon his own experience and observations as a certified teacher
21 in the Bynum Public School District for 50 years.

22 4. Mr. Robert Anderson, Assistant Superintendent, Basic
23 Instructional Services, Office of Public Instruction, Helena,
24 Montana.

25 Mr. Robert Anderson will testify as to the status of both

1 elementary and high school districts in meeting accreditation
2 standards for Montana schools. Mr. Anderson will describe the
3 accreditation process and standards. He will testify that
4 elementary and secondary schools in Montana have met the
5 accreditation standards and do provide a basic quality education
6 to students in Montana.

7 Mr. Anderson will also testify as to the status of
8 elementary and high school districts which participate in
9 reviews by the Northwest Accreditation Association of Schools and
10 Colleges. Mr. Anderson will describe accreditation visits
11 conducted by this accrediting agency and accreditation status of
12 schools (i.e., advice, probation, nonaccreditation status).
13 Mr. Anderson will review the quality of Montana education in the
14 1970s and 1980s. His testimony will indicate that Montana's
15 educational system is an excellent system on a statewide basis,
16 applying the accreditation standards of the Montana Board of
17 Public Education and the Northwest Accreditation Association of
18 Schools and Colleges. He will indicate that Montana elementary
19 and secondary schools provide a basic quality education and that
20 such education is historically sound based on accreditation
21 reviews.

22 5. Mr. Raymond Shackelford, Deputy Superintendent for
23 Operations and Administrative Services, Office of Public
24 Instruction, Helena, Montana.

25 Mr. Shackelford has been an administrator in Montana in the
Bozeman Public School District. Mr. Shackelford will testify to

1 the quality of education provided to Montana students. He will
2 also address allegations of the tax disparity in Montana schools,
3 based on taxable valuation and its effects on school budgets.

4 Mr. Shackelford will describe disparities in Montana's
5 system of financing public schools. He will indicate that the
6 existing disparities do not constitute a violation of Montana's
7 Constitution. He will testify that the funding system currently
8 provided by the Montana Legislature is a workable system for
9 financing the state's public schools. Further, Mr. Shackelford
10 will testify that the current funding system is a dependable and
11 reliable source of revenue with which school districts can
12 operate reasonable and responsible general fund budgets.

13 Mr. Shackelford will testify as to the historical success
14 and/or failure of the voted levies, general fund levies, and
15 building reserve levies in Montana. He will examine the general
16 fund, the building reserve, transportation fund, and a variety of
17 other school funds defined in Title 20, Montana Codes Annotated.
18 He will also testify as to the bonding capacity of school
19 districts. He will examine school budgets, testify as to
20 level of spending and level of staffing in excess of
21 accreditation standards found in those budgets, cash reserves,
22 and the nonmandatory areas of budgeting.

23 Mr. Shackelford will also present a profile analysis of
24 Montana school districts, which will demonstrate that students in
25 the Plaintiff districts are being provided equal educational

1 opportunity and that the system developed under the local control
2 of 550 school boards is meeting the needs of Montana students.
3 He will further testify about his experience as Assistant
4 Superintendent of Bozeman Public Schools through 1980.

5 Mr. Shackelford will indicate that the allegations raised in
6 the complaint are unwarranted; that Montana's school financing
7 system is sound; that the voted levy is not a burden on local
8 taxpayers in a historical perspective; and that the voted levy
9 has been a dependable and reliable source of funds.

10 Mr. Shackelford will analyze 1985-86 budget expenditure data
11 and apply it to the school profile in the areas of teacher
12 staffing, curriculum offerings, student/teacher ratio and
13 expenditure analysis. He will also discuss 1987 Legislative
14 changes and impacts of Initiative 105.

15 6. State Superintendent of Public Instruction Ed
16 Argenbright, Helena, Montana.

17 State Superintendent Argenbright will testify as to the
18 overall status of schools in Montana, based on his observations,
19 experience, and perspective as the State Superintendent of Public
20 Instruction. His testimony will indicate that Montana school
21 systems are sound and that a basic quality education is being
22 offered to all individuals in Montana. Mr. Argenbright will
23 describe in his testimony disequalizing factors in funding as
24 well as trends and expenditures and the importance of local
25 control in Montana's school system. He will describe his
previous position on funding presented to the Montan

1 Legislature. He will testify that the Legislature has in the
2 past accepted some of his recommendations and rejected others,
3 consistent with the constitutional framework of separation of
4 powers.

5 Mr. Argenbright will also describe the nature of local
6 control and the need to preserve that local control and rely less
7 on the State. His observations will be made as a former school
8 superintendent, parent, teacher and, at present, State
9 Superintendent of Public Instruction.

10 7. Mr. Ron Sundsted, Chief, Labor Relations and Employee
11 Benefits Bureau, State Department of Administration, Helena,
12 Montana.

13 Mr. Sundsted is the chief collective bargaining negotiator
14 for the State of Montana on all major public employee contracts.
15 He will describe collective bargaining and the adequacy of
16 Montana teachers'/administrators' pay compared to like
17 positions in state government.

18 Mr. Sundsted will testify regarding his opinion on the
19 collective bargaining system (i.e., teachers'/administrators'
20 salaries) is reasonable and adequate compared to same and/or
21 comparable positions of employment in other public sectors.
22 Further, Mr. Sundsted will review the nature of the collective
23 bargaining process and its effect on school district budgets.

24 8. Dr. Richard Rossmiller, Professor of Economics and
25 Education Administration and Chairman of the Department of

Education, University of Wisconsin, Madison, Wisconsin.

As a professor of school administration and school funding, Dr. Rossmiller will testify as to the adequacy of funding for public schools in Montana. He will give his observations of school systems in Montana, Wisconsin, Maryland, Colorado and West Virginia. Dr. Rossmiller was a consultant to the Doyle Task Force, but did not participate in the preparation of the report.

Dr. Rossmiller will testify as to the current literature in the area of education and financing. He will further testify as to the financial equity formula that has been developed over the years, based on his analysis of school finance cases. Dr. Rossmiller will underline the importance of the local control portion of the Montana Constitution as it relates to school districts and equal opportunity in particular. Dr. Rossmiller will testify that the additional costs of programs for handicapped students should be considered in this formula.

Dr. Rossmiller evaluated Montana schools for financial equity within the following categories:

Size (ANE)	Equity Ratio
Elementary	
1 to 25	3.185
26 to 100	3.16
101 to 400	2.68
401 and over	2.02
Secondary	
1 to 150	3.368
151 to 500	2.61
501 and over	1.3

1 1985-86 school year and used those districts between the 5th and
2 95th percentile in each group. Dr. Rossmiller will conclude
3 that financial equity does exist within the largest groupings of
4 elementary (401 ANB and over) and in secondary (501 ANB and
5 over). He will further discuss the impact of P.L. 874 funds upon
6 the financial equity of the smaller districts as well as the
7 difficulty in analyzing the reasons for the greater disparities
8 in a smaller size schools.

9 Further, Dr. Rossmiller will testify as to the general
10 agreement of scholars in the area of school finance and the
11 definition of equality of educational opportunity. He will
12 testify that there is universal agreement that equality of
13 educational opportunity does not mean the availability of the
14 same educational spending capacity or the same number of dollars
15 for each child. Dr. Rossmiller will further testify as to what
16 is required to achieve equality of educational opportunity.

17 Dr. Rossmiller's testimony and opinion will be based upon a
18 review of the school funding system in Montana and his
19 experience in similar studies at the University of Wisconsin and
20 New York State, Maryland, Colorado, and West Virginia.

21 9. Ms. Linda Steele and Dr. Kenneth Tiahrt. Ms. Steele,
22 Doctoral Candidate, Montana State University, Bozeman, Montana.
23 Dr. Tiahrt, Professor of Mathematics, Montana State University,
24 Bozeman, Montana.
25

Ms. Steele and Dr. Tiahrt have cooperated in an analysis of the correlation between the taxable valuation of a district and teacher salaries, foundation program support and school budgets. Dr. Tiahrt and Ms. Steele have further analyzed results from math tests given to entering students at several units of the Montana University System over the last three years. This analysis indicates that students from Plaintiff schools perform the same as or better on these tests than students from nonplaintiff schools. Further, students from lower or from "poorer" taxable valuations perform better than students from higher or "wealthier" taxable valuation. The analysis further shows that students from larger schools performed better than students from smaller schools. Dr. Tiahrt and Ms. Steele will discuss the nature of the math tests and the aspects of achievement and knowledge which are studied and measured.

The conclusions reached by Dr. Tiahrt and Ms. Steele relative to the budget, teacher salaries and foundation support indicate no relationship between those issues and taxable valuation. Dr. Tiahrt and Ms. Steele analyzed various groups of schools with similar numbers of ANB in their study.

10. Mr. Ralph Kroon, Professor of Rural Education, Western Montana College, Dillon, Montana.

Mr. Kroon is the rural education specialist for the State of Montana. He will testify as to the overall system of rural education (i.e., elementary and high school districts) throughout

Montana. Mr Kroon will identify various studies and analyses of providing education in rural schools in Montana. He will testify that education does not depend entirely upon the amount of money spent; rather the teacher and his/her performance in the classroom is more important when comparing schools.

Mr. Kroon will testify that a school district providing fewer course offerings does not necessarily deny quality education or equality of educational opportunity and that such education provides a greater opportunity for rural school students. He will further testify that, as a participant in a study of rural students attending city schools, conducted by Brigham Young University, Provo, Utah, he concludes that rural students in a district offering a minimum of course offerings have as good an opportunity, if not better, to attend a city school and compete in a city school setting than would a "city school" student.

Mr. Kroon will also testify about the comparison of various factors and components Class "C" schools that he has made in the past three or four years.

11. Ms. Pat Price, Superintendent, Judith Gap Public Schools, Judith Gap, Montana.

Ms. Price will testify as to the realities of budgeting and program offerings in a small Montana school district; that she can operate a school district with little or no financial reserves; that her school district anticipated the recent

legislative cuts and reduced its budget substantially even before
1 the Legislature met; and that consolidation will neither save any
2 money nor improve educational opportunities for the children in
3 her district.

4 12. Dr. Everett Edington, Professor, Department of
5 Educational Management, New Mexico State University, Las Cruces,
6 New Mexico.

7 Dr. Edington will testify about his studies of outcomes
8 and achievement in small school systems, including Montana and
9 New Mexico which analyze the student performance in relation to
10 many variables. Dr. Edington will conclude that his data
11 analysis supports the ability of small schools to meet the needs
12 of students and produce students who are able to achieve in
13 today's society.

14 Dr. Edington will further analyze and testify about a study
15 currently underway at Kansas State University under the direction
16 of one of the Plaintiff's experts, Dr. Paul Nachtigal. Dr.
17 Edington will offer his observations, conclusions and reaction to
18 the data, findings and conclusion of the study states (North
19 Dakota, South Dakota, Wyoming, Colorado, Kansas, Nebraska).

20 13. Mr. David Hunter, Budget Director, Governor's Office,
21 State Capitol, Helena, Montana.

22 Mr. Hunter will compare the growth of school budgets and
23 teachers' salaries during the past several bienniums to the
24 growth of the Montana economy and its ability to produce state
25

1 revenue for teachers and to growth in Montana's other public and
2 private sectors.

3 14. Mr. Greg Groepper, Administrator, Real Property
4 Assessment, Department of Revenue, Helena, Montana.

5 Mr. Groepper will testify about the uniformity and
6 implementation of Montana's constitutional mandate on the
7 Montana property tax system. He will testify that this system
8 has been implemented and provides a uniform, fair, and reliable
9 source of revenue for the public sector.

10 15. Ms. Judith A. Johnson, Assistant Superintendent for
11 Special Services, Office of Public Instruction, Helena, Montana.

12 Ms. Johnson will testify about the impact of recent
13 legislative cuts on special education programs in Montana,
14 specifically that such programs are in compliance with state and
15 federal law and that recent cuts by the Montana Legislature have
16 resulted in imperceptible changes or decreases in actual funding
17 available to districts for special education programs. Ms.
18 Johnson will also testify about the growth and variety available
19 to Montana students through gifted and talented programs. She
20 will testify that the recent cuts in the State Foundation Program
21 have not dramatically affected the availability of gifted and
22 talented programs to Montana students.

23 16. Dr. Francis Olson, Superintendent of Harrison Public
24 Schools, Harrison, Idaho. Former Budget Analyst for the
25 Governor's Office, Budget and Program Planning, Helena, Montana,

former Superintendent and Assistant Superintendent of Bozeman
Public Schools.

Dr. Olson will testify as to overall review of school
budgets; that Montana's educational system is a basic quality
education; and that the present school funding system provides
equal educational opportunity for students in Montana. This
testimony will give a historical analysis of the foundation
program and comparative studies among school districts in Montana
and Idaho.

ADVERSE EXPERT WITNESSES:

The Defendant, State of Montana, and Office of Public
Instruction note below several adverse witnesses who they will
call and/or cross-examine on the issues presented by this case.
They include:

1. Mr. Bill Cooper, Superintendent, Kalispell Public
Schools, Kalispell, Montana.

2. Dr. Jacob Block, Superintendent, Missoula Elementary
School District, Missoula, Montana.

3. Mr. Don Pettit, Business Manager, Missoula Elementary
School District, Missoula, Montana.

4. Mr. John Campbell, Business Manager, Helena School District
No. 1, Helena, Montana.

5. Dr. Gary Steuerwald, Business Manager, Billings Public
Schools, Billings, Montana.

8. Dr. Roger Eble, Superintendent, Helena Public Schools,
Helena, Montana.

9. Sister Mary Editha Brown, B.V.M., Superintendent of the
elementary and highs schools of the Eastern Diocese of Great
Falls/Billings, Roman Catholic Church, Great Falls, Montana.

10. Ms. Webb Taylor, County Superintendent of schools,
Powell County, Deer Lodge, Montana.

LIST OF WITNESSES

Further, Defendants list Fact Witnesses who may be called to testify at trial pursuant to the Court's revised SCHEDULING ORDER of October 22, 1986. Witnesses from state agencies are identified by agency in general area of responsibility.

Ms. Judy Rippengale
Legislative Fiscal Analyst
State Capitol
Helena, Montana 59620

Representative Ray Peck
620 4th Avenue (D)
Havre, Montana 59501

Mr. Wallace D. Vinnedge
County Superintendent
Flathead County
Kalispell, Montana 59901

Mr. Richard Seitz
Math Department
Helena Middle School
Helena, Montana 59601

Mr. Tom Bilodeau
Researcher
Montana Education Association
Helena, Montana 59601

Mr. Jeff Minckler
Montana Management Network
P.O. Box 9102
Helena, Montana 59604

Mr. Steve Bender
Bureau Chief
Department of Revenue
Research Division
Helena, Montana 59601

OPI Specialists

1 Ms. Sue Dandiliker, Specialist, Accreditation
2 Mr. Jay McCallum, Director, Chapter 1
3 Mr. Bob Parsley, Specialist, Indian Ed./Bilingual/Nat'l. Origin
4 Mr. Brisbin Skiles, Director, School Foods
5 Dr. John Voorhis, Director, Cert. Teacher Ed.

6 Mr. Herman Moeller
7 Contracted Accountant (Auditor)
8 Local Government Services Division
9 Audit Bureau (Billings)
10 Helena, Montana 59601

11 Donald L. Dooley
12 Bureau Chief
13 Local Government Services Bureau
14 Audit Bureau
15 Helena, Montana 59601

ASSISTANT SUPERINTENDENTS

16 Dr. W. R. Anderson, Deputy Superintendent
17 Robert W. Anderson, Assistant Superintendent, Basic Skills
18 Gene Christiaansen, Assistant Superintendent, Vo-Ed
19 Judith A. Johnson, Assistant Superintendent, Special Services
20 Raymond Shackelford, Deputy Superintendent, Operations/Adm. Serv.

SCHOOL DISTRICT WITNESSES

21 Dr. William Poston
22 Superintendent
23 Billings Public Schools
24 Billings, Montana 59102

25 Dr. Gary Knox
Assistant Superintendent
Billings School District
Billings, Montana 59102

26 Dr. John Deeney
27 Business Manager
28 Yellowstone Boys & Girls Ranch
29 1300 N 27th
30 Billings, Montana 59102

31 Ervin W. Winslow
32 Curriculum Director
33 Helena Public Schools
34 Helena, Montana 59601

- 1 Mike Vance
Assistant Superintendent
Missoula Elementary Schools
Missoula, Montana 59801
- 2 Dr. Dennis Kraft
3 Superintendent
Missoula High Schools
4 Missoula, Montana 59801
- 5 Mr. Joe Roberts
Business Manager
6 Missoula Public Schools
Missoula, Montana 59801
- 7 Mr. Tom Trumbull
8 Business Manager
Kalispell Public Schools
9 233 1st Avenue East
Kalispell, Montana 59901
- 10 Ms. Carol Santa
11 Kalispell Public Schools
Kalispell, Montana 59901
- 12 Mr. Gene A. Ostwald
13 Superintendent
Thompson Falls Public Schools
14 P.O. Box 129
Thompson Falls, Montana 59873
- 15 Mr. Una Schlaebitz
16 Business Manager
Thompson Falls Public Schools
17 P.O. Box 129
Thompson Falls, Montana 59873
- 18 Mr. Robert Lukes
19 Superintendent
Florence-Carlton Public Schools
20 5540 Old Hiway 93
Florence, Montana 59833
- 21 Mr. James L. Palmer
22 Superintendent
Lone Rock School
23 994 Three Mile Creek Road
Stevensville, Montana 59870
- 24
25

Ms. Penny Majesko
Business Manager
1 Lone Rock School
994 Three Mile Creek Road
2 Stevensville, Montana 59870

3 Mr. Tony Tognetti
Superintendent
4 Stevensville Public Schools
300 Park Street
5 Stevensville, Montana 59870

6 Mr. Al McMilin
Superintendent
7 Victor Public Schools
P.O. Box 87
8 Victor, Montana 59875

9 Ms. Jean Peters
Business Manager
10 Victor Public Schools
P.O. Box 87
11 Victor, Montana 59875

12 Mr. Dale E. Huhtanen
Superintendent
13 Darby Public Schools
No. Main
14 Darby, Montana 59829

15 Ms. Donna Mello
Business Manager
16 Darby Public Schools
No. Main
17 Darby, Montana 59829

18 Mr. Richard Heath
Superintendent
19 Lolo Public Schools
Highway 93 South
20 Lolo, Montana 59847

21 Ms. Bobbie Frank
Lolo Public Schools
22 Lolo, Montana 59847

23 Mr. Roy E. Williams
Principal
24 Will James Junior High
1200 30th Street West
25 Billings, Montana 59102

- Mr. Ronald Nistler
Principal
1 Billings West High
2201 St. Johns Avenue
2 Billings, Montana 59102
- 3 Mr. John Alonzo
Principal
4 Russell School
3216 Russell Street
5 Missoula, Montana 59801
- 6 Mr. Rodney Svec
Superintendent
7 Hardin Public Schools
Hardin, Montana 59034
8
- 9 Mr. James L. Stanton
Superintendent
Baker Public Schools
10 Baker, Montana 59313
- 11 Mr. Jack Adkins
Superintendent
12 Sidney Public Schools
Sidney, Montana 59270
13
- 14 Mr. Calvin Moore
Superintendent
Medicine Lake Public Schools
15 Medicine Lake, Montana 59247
- 16 Mr. Robert Richards
Superintendent
17 Plentywood Public Schools
Plentywood, Montana 59254
18
- 19 Mr. Robert Otheim
Superintendent
Westby Public Schools
20 Westby, Montana 59275
- 21 Mr. Bert Corcoran
Superintendent
22 Poplar Public Schools
Poplar, Montana 59255
23
- 24 Mr. Robert Kinna
Superintendent
Wolf Point Public Schools
25 Wolf Point, Montana 59201

1 Mr. Harold Tokerud
Superintendent
Colstrip Public Schools
Colstrip, Montana 59323

2

3 Mr. Tom Everett
Assistant Superintendent
Colstrip Public Schools
Colstrip, Montana 59323

4

5 Mr. Ed White
Superintendent
St Regis Public Schools
St. Regis, Montana 59866

6

7

8 Mr. Wendell G. Rafter
Superintendent
Hobson Public Schools
Hobson, Montana 59452

9

10 Mr. Richard Hughes
Superintendent
Moore Public Schools
Moore, Montana 59464

11

12

13 Mr. Jim Turner
Superintendent
Lewistown Public Schools
Lewistown, Montana 59457

14

15 Mr. Morris Van Campen
Superintendent
Bridger Public Schools
Bridger, Montana 59014

16

17

18 Mr. Conrad Robertson
Superintendent
Columbus Public Schools
Columbus, Montana 59019

19

20 Mr. Gary Harkness
Superintendent
Big Timber Elementary
Big Timber, Montana 59011

21

22

23 Ms. Marilyn Thomas
Supervising Teacher
Squirrel Creek Elementary
Decker, Montana 59025

24

25

1 Ms. Mary Dolan
Supervising Teacher
Cow Island Trail Elementary
Lloyd, Montana 59535

2

3 Ms. H. Theresa Reiser
Supervising Teacher
Cottonwood Elementary
Bozeman, Montana 59715

4

5 Ms. Janet Davidson
Supervising Teacher
Molt Elementary
Molt, Montana 59057

6

7

8 Ms. Lynette Betlach
Supervising Teacher
Trinity Elementary
Canyon Creek, Montana 59633

9

10 Mr. Robert L. Olson
Supervising Teacher
Hiawatha Elementary
Dagmar, Montana 59219

11

12

13 Mr. Glen Beecher
Chairperson
Cohagen Elementary
Cohagen, Montana 59322

14

15 Mr. Michael Rollings
Supervising Teacher
Belle Creek Elementary
Belle Creek, Montana 59317

16

17

18 Mr. Keith Cable
Supervising Teacher
Dixon Elementary
Dixon, Montana 59831

19

20

21 Mr. Ken Miller
Superintendent
Roy Public Schools
Roy, Montana 59471

22

23 Mr. Steve Gaub
Superintendent
Outlook Public Schools
Outlook, Montana 59252

24

25

1 Mr. David Konecny
Superintendent
Lavina Public Schools
Lavina, Montana 59046

2

3 Mr. Roger Britton
Superintendent
Whitewater Public Schools
Whitewater, Montana 59544

4

5 Mr. Dennis Williams
Superintendent
Conrad Public Schools
Conrad, Montana 59425

6

7 Mr. Harold Knodel
Superintendent
Hinsdale Public Schools
Hinsdale, Montana 59241

8

9

10 Mr. Dan Haugen
Superintendent
Lambert Public Schools
Lambert, Montana 59243

11

12

13 Mr. Robert McLean
Superintendent
Wyola Elementary
Wyola, Montana 59089

14

15 Mr. David Huether
Superintendent
Plevna Public Schools
Plevna, Montana 59344

16

17 Mr. James Smith
Superintendent
Blue Sky Public Schools
Rudyard, Montana 59540

18

19

20 Mr. Stanley Perkins
Superintendent
Broadview Public Schools
Broadview, Montana 59015

21

22 Mr. Ed Zabrocki
Superintendent
Geraldine Public Schools
Geraldine, Montana 59446

23

24

25

- 1 Mr. Lynn Mavencamp
Superintendent
Gardiner Public Schools
Gardiner, Montana 59030
- 2
- 3 Mr. Dwight Gunnare
Ms. Addie Goodwin
Supervising Teachers
Ashland Elementary
Ashland, Montana 59003
- 4
- 5
- 6 Mr. John McNeil
Superintendent
Savage Public Schools
Savage, Montana 59262
- 7
- 8 Mr. Leo McDermott
Superintendent
Hysham Public Schools
Hysham, Montana 59038
- 9
- 10
- 11 Mr. Michael Button
Superintendent
Vaughn Elementary
Vaughn, Montana 59487
- 12
- 13 Mr. Richard A. Sirokman
Superintendent
Valier Public Schools
Valier, Montana 59486
- 14
- 15
- 16 Mr. Clinton Collins
Principal
Helena Flats Elementary
Kalispell, Montana 59901
- 17
- 18 Mr. John Hebnes
Superintendent
Seeley Lake Elementary
Seeley Lake, Montana 59868
- 19
- 20
- 21 Mr. Gerald Sowden
Superintendent
Hot Springs Public Schools
Hot Springs, Montana 59845
- 22
- 23 Mr. Michael Nicosia
Superintendent
Wibaux Public Schools
Wibaux, Montana 59353
- 24
- 25

Dr. Patrick Stuber
Superintendent
1 Culbertson Public Schools
2 Culbertson, Montana 59218

Mr. James Foster
3 Superintendent
4 Chester Public Schools
4 Chester, Montana 59522

5 Mr. Zara D. Frank
Principal
6 Canyon Creek Elementary
7 Billings, Montana 59101

8 Mr. Charles Ansley
Superintendent
9 Three Forks Public Schools
9 Three Forks, Montana 59752

10 Mr. Walter (Pete) Scott
Superintendent
11 Chinook Public Schools
12 Chinook, Montana 59523

13 Mr. Marvin Trask
Superintendent
14 Arlee Public Schools
14 Arlee, Montana 59821

15 Mr. Jack L. Demmons
Superintendent
16 Bonner Elementary
17 Missoula, Montana 59823

18 Mr. Kenneth Avison
Superintendent
19 Fairview Public Schools
19 Fairview, Montana 59221

20 Mr. Larry LaCount
Superintendent
21 Lodge Grass Public Schools
22 Lodge Grass, Montana 59050

23 Mr. C. L. Robinett
Superintendent
24 Lame Deer Public Schools
24 Lame Deer, Montana 59043

25

- 1 Mr. John Ryan
Superintendent
Towsend Public Schools
Townsend, Montana 59644
- 2
- 3 Mr. C. D. Beagle
Superintendent
Target Range Elementary
Missoula, Montana 59801
- 4
- 5 Robert M. Banks
Superintendent
Frenchtown Public Schools
Frenchtown, Montana 59834
- 6
- 7
- 8 Mr. Robert Rust
Superintendent
Malta Public Schools
Malta, Montana 59538
- 9
- 10 Mr. Dennis Williams
Superintendent
Conrad Public Schools
Conrad, Montana 59425
- 11
- 12
- 13 Mr. Dave Lloyd
Superintendent
Forsyth Public Schools
Forsyth, Montana 59327
- 14
- 15 Mr. Robert D. Krogh
Superintendent
Roundup Public Schools
Roundup, Montana 59072
- 16
- 17
- 18 Mr. T. C. Mattocks
Superintendent
Cut Bank Public Schools
Cut Bank, Montana 59427
- 19
- 20 Mr. Gary F. Martin
Superintendent
Glasgow Public Schools
Glasgow, Montana 59230
- 21
- 22
- 23 Mr. Clifford P. Johnson
Superintendent
Hamilton Public Schools
Hamilton, Montana 59840
- 24
- 25

- 1 Mr. George T. Delaney
Superintendent
Dillon Public Schools
Dillon, Montana 59725
- 2
- 3 Dr. Lee Christensen
Superintendent
Polson Public Schools
Polson, Montana 59860
- 4
- 5 Mr. Bob Halgren
Superintendent
Ronan Public Schools
Ronan, Montana 59864
- 6
- 7
- 8 Mr. Harry D. Erickson
Superintendent
Belgrade Public Schools
Belgrade, Montana 59714
- 9
- 10 Mr. Ivan Hernandez
Superintendent
Whitefish Public School
Whitefish, Montana 59034
- 11
- 12
- 13 Mr. Gaylord Lasher
Superintendent
Livingston Public Schools
Livingston, Montana 59047
- 14
- 15 Mr. Joe McCracken
Superintendent
Lockwood Elementary
Billings, Montana 59101
- 16
- 17
- 18 Mr. Thomas Thompson
Superintendent
Browning Public Schools
Browning, Montana 59417
- 19
- 20 Mr. Calvin McRae
Superintendent
Glendive Public Schools
Glendive, Montana 59330
- 21
- 22
- 23 Mr. Robert Windel
Superintendent
Havre Public Schools
Havre, Montana 59501
- 24
- 25

- 1 Dr. Keith Chambers
Superintendent
Bozeman Public Schools
Bozeman, Montana 59715
- 2
- 3 Mr. Jeff Satterly
Superintendent
Butte Public Schools
Butte, Montana 59701
- 4
- 5 Dr. Jerry Weast
Superintendent
Great Falls Public Schools
Great Falls, Montana 59403
- 6
- 7
- 8 Mr. Donald Wetzel
Superintendent
Corvallis Public Schools
Corvallis, Montana 59828
- 9
- 10 Mr. Ivan Small
Superintendent
Pryor Public Schools
Pryor, Montana 59066
- 11
- 12
- 13 Mr. Priscilla Nezperce
Business Manager
Pryor Public Schools
Pryor, Montana 59066
- 14
- 15 Ms. Carrol Elliot
Supervising Teacher
North Harlem Colony School
Harlem, Montana 59526
- 16
- 17
- 18 Mr. Eli Hofer
Business Manager
North Harlem Colony School
Harlem, Montana 59526
- 19
- 20 Mr. Mary Pat Muellner
Supervising Teacher
Toston Public School
Toston, Montana 59643
- 21
- 22
- 23 Mr. Linda Davis
Business Manager
Toston Public School
Toston, Montana 59643
- 24
- 25

1 Mr. Laurene Murphy
Supervising Teacher
Swan River School
Bigfork, Montana 59911

2 Ms. Sandy House
3 Business Manager
4 Swan River School
Bigfork, Montana 59911

5 Mr. Clinton W. Collins
Principal
6 Helena Flats School
Kalispell, Montana 59901

7 Mr. Ruth Steenson
8 Business Manager
9 Helena Flats School
Kalispell, Montana 59901

10 Ms. Berma Weatherly
Supervising Teacher
11 Kila School
12 Kila, Montana 59920

13 Ms. Martha Hodges
Business Manager
14 Kila School
Kila, Montana 59920

15 Mr. James Oberembt
Business Manager
16 Whitefish Public Schools
17 Whitefish, Montana 59937

18 Mr. Frank T. DeKort
Principal
19 West Valley Elementary
Kalispell, Montana 59901

20 Ms. Janice McMillan
21 Business Manager
22 West Valley Elementary
Kalispell, Montana 59901

23 Mr. Dale Moore
Superintendent
24 Manhattan Public Schools
Manhattan, Montana 59741

- 1 Ms. Jennie Douma
Business Manager
Manhattan Public Schools
Manhattan, Montana 59741
- 2
- 3 Mr. Steve Johnson
Business Manager
Bozeman Public Schools
Bozeman, Montana 59715
- 4
- 5 Mr. J. Glenn Sorensen
Superintendent
West Yellowstone Public Schools
West Yellowstone, Montana 59758
- 6
- 7
- 8 Mr. Frances Kawkami
Business Manager
West Yellowstone Public Schools
West Yellowstone, Montana 59758
- 9
- 10 Mr. Loretta Puyear
Business Manager
Stevensville Public Schools
Stevensville, Montana 59870
- 11
- 12
- 13 Mr. Robert Laumeyer
Superintendent
Boulder Public Schools
Boulder, Montana 59632
- 14
- 15 Mr. Kim Harris
Business Manager
Boulder Public Schools
Boulder, Montana 59632
- 16
- 17
- 18 Ms. Penny Koke
Superintendent
Montana City School
Clancy, Montana 59634
- 19
- 20 Ms. Diane Smith
Business Manager
Montana City School
Clancy, Montana 59634
- 21
- 22
- 23 Mr. Bill Spratt
Business Manager
Hobson Public Schools
Hobson, Montana 59452
- 24
- 25

1 Mr. Thomas Stetzner
Former Business Manager
Butte Public Schools
Butte, Montana 59701

2
3 Ms. Rose Mary Mitchell
Business Manager
Judith Gap Public Schools
4 Judith Gap, Montana 59453

5 Mr. Calvin Spangler
Superintendent
6 Shepherd Public Schools
7 Shepherd, Montana 59079

8 Ms. Karen Cook
Business Manager
9 Shepherd Public Schools
Shepherd, Montana 59079

10 Father Robert Goebel
Principal
11 Loyola Sacred Heart High School
320 Edith
12 Missoula, Montana 59801

13 Sister Mary Patricia Lenahan
Principal
14 Butte Central High School
Idaho at Park
15 Butte, Montana 59701

16 Dale Shupe
Superintendent
17 Sacred Heart High School
519 North Center
18 Miles City, Montana 59301

19 Mr. Jim Eschler
Principal
20 Billings Central Catholic High School
3 Broadwater Avenue
21 Billings, Montana 59102

22 Mr. Lyman Morin
Superintendent
23 St. Labre Indian Catholic School
24 Ashland, Montana 59003

- 1 Mr. Pat Conroy
Principal
St. Leo's High School
208 1st Avenue North
2 Lewistown, Montana 59457
- 3 Mr. Joanne Abrams
Principal
4 Holy Family School
2820 Central Avenue
5 Great Falls, Montana 59401
- 6 Sister Florence Copp
Our Lady of the Lourdes School
7 Cascade County
Great Falls, Montana 59401
- 8 Mr. Earl Reimer
9 Valley Christian School
2526 Sunset Lane
10 Missoula, Montana 59801
- 11 John Boll
Trinity Lutheran School
12 2802 Belvedere
Billings, Montana 59102
- 13 Mr. Garrett Franks
14 Superintendent
Wilsall Public Schools
15 Wilsall, Montana 59086
- 16 Mr. Larry Blades
Superintendent
17 Joliet Public Schools
Joliet, Montana 59041
- 18 Mr. Ron Marshall
19 Superintendent
Roberts Public School
20 Roberts, Montana 59070
- 21 Mr. Mike Lowe
Superintendent
22 Saco Public Schools
Saco, Montana 59261
- 23
24
25

1 The Office of Public Instruction and the State of Montana reserve
2 the right to substitute the Business Manager or Clerk or newly
appointed Superintendent or Acting Superintendent in the event of
administrative changes prior to the time of trial.

3 All witnesses listed by the Plaintiffs.

4 All witnesses listed by Intervenors-Plaintiffs, Montana Education
5 Association.

6 All witnesses listed by Defendants, Montana Board of Public of
Education.

7 All witnesses listed by Intervenors-Defendants, Sheridan County.

8 All witnesses listed by Intervenors-Defendants, Indian Impact
9 Aid Association and Indian Impact Aid Schools.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

KARYN RIDGEWAY, et al.,

Plaintiffs,

v.

MONTANA HIGH SCHOOL
ASSOCIATION, et al.,

Defendants.

CV 82-59-M-CCL

ORDER

The Court having ruled that a Special Master would be appointed to assist the Court in implementation of the Court's order and facilitation of achievement of equity in the Montana secondary athletics program, and having considered the nominations submitted by the parties, pursuant to Rule 53(a), Fed. R. Civ. P.,

IT IS HEREBY ORDERED:

1. The Honorable Frank I. Haswell, retired Chief Justice of the Supreme Court of Montana, is appointed to serve as Special Master herein, to commence September 1, 1986, and to serve until further order of the Court.

2. The duties of the Special Master shall include, but are not limited to, the following:

(A) Prior to commencing any "field work" investigation, he shall review the parties' Settlement Agreement, the results of the two Self-Assessment Surveys, the Court's Opinion and Order of May 8, 1986, and other materials within the Court files which may be relevant to his service.

8
1-14-87
CPI Supplemental
FILED
AUG 27 1986
LOU ALEKSICH, JR., CLERK
By
Deputy Clerk

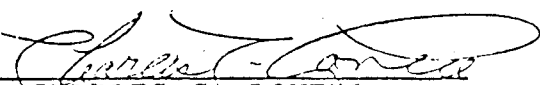
(B) The Special Master shall conduct an on-site investigation, within the approaching school year, of those high schools in Montana he or the Court determines are in need of assistance or examination. In his discretion, he may utilize the Self-Assessment Surveys or any other appropriate material in gauging the schools' compliance with federal and state law, as well as with the terms of the Settlement Agreement.

(C) The Special Master shall work as an independent investigator responsible only to the Court, and not as the instrumentality of any party. He shall be free in his discretion to meet with any students, educators, administrators, parents, or any of the parties to the action if in his opinion such conferences will facilitate the performance of his service.

3. The Special Master shall work closely with the Court and confer with the Court on particular matters as needed. He shall report thereon to the Court periodically and shall submit a final report after the close of the school year. He shall be authorized to do all acts and take all measures necessary or proper for the efficient performance of his duties, and shall have broad discretion in the nature and scope of his investigation.

4. The Master shall receive appropriate and reasonable compensation for his services. The Court is investigating potential sources for compensation, and the amount and manner in which compensation will be made shall be ordered at a future date.

Done and dated this 27 day of August, 1986.



CHARLES C. LOVELL
United States District Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

KARYN RIDGEWAY, et al.,

Plaintiffs,

v.

MONTANA HIGH SCHOOL
ASSOCIATION, et al.,

Defendants.

CV 82-59-M-CCL

DEC 14 1986
LCU ALEXANDER, JR. CLERK
By _____
Deputy Clerk

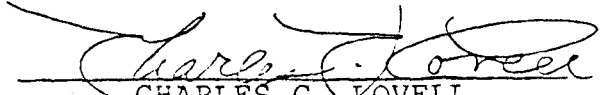
ORDER

The Court having reviewed the statement for services and expenses for the month of November 1986, for Special Master Frank I. Haswell, and the same appearing to be reasonable, the said expenses and charges for services are hereby approved and allowed.

Accordingly, it is hereby ORDERED that the Montana High School Association shall, on or before December 23, 1986, deliver to the clerk of this court its check in the amount of \$3,465.26 payable to Frank I. Haswell, Special Master, and the State of Montana, Office of Public Instruction, on or before said date shall deliver to the clerk its check in the amount of \$3,465.25 likewise payable to Frank I. Haswell, Special Master.

IT IS FURTHER ORDERED that upon motion of K. Paul Stahl and representations made by him, and confirmed by affidavits filed with the court, that previous nonpayment of the Special Master's expenses and fees for services by MHSA was unintentional, and will not happen again, and good cause appearing, the Court hereby vacates its order of December 8, 1986, directed to the said MHSA.

Done and dated this 17 day of December, 1986.


CHARLES C. LOVELL
United States District Judge

RECEIVED

NOV - 5 1986

SUPERINTENDENT
OF PUBLIC INSTRUCTION

35
1-14-87
CPZ Supply/Account

FILED

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

LCU AMERSON, JR. CLERK
By CAYLE AMERSON, JR.
Deputy Clerk

KARYN RIDGEWAY, et al.,

Plaintiffs,

CV 82-59-M-CCL

v.

MONTANA HIGH SCHOOL
ASSOCIATION, et al.,

Defendants.

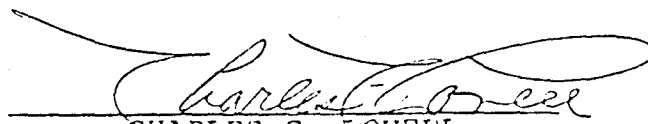
ORDER

The Court having reviewed the statement of Special Master Frank I. Haswell for the month of October 1986, and finding the same to be reasonable, the statement is approved, and pursuant to the Court's previous telephone conference with counsel, pending the outcome of the Court's request for partial federal funding,

IT IS ORDERED that the Montana High School Association and the Office of Public Instruction shall each pay 50 per cent of the master's services and expenses for October 1986, as shown on the attached statement, i.e. \$1,741.90 each.

For ease of handling, each check should be made payable to "Special Master, Frank I. Haswell," and delivered to the Clerk of this Court, Helena, Montana, within 10 days hereafter.

Done and dated this 4 day of November 1986.


CHARLES C. LOVELL
United States District Judge

9
1-14-87
OPI supplemental

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

DEC 14 1986

LOU ANDERSON, JR. CLERK
By _____
Deputy Clerk

KARYN RIDGEWAY, et al.,

Plaintiffs,

CV 82-59-M-CCL

v.

MONTANA HIGH SCHOOL
ASSOCIATION, et al.,

Defendants.

ORDER

This cause is now before the Court upon motion of the Office of Public Instruction for apportionment of fees and costs between the OPI and the Montana High School Association. Counsel for all parties appeared in open court for argument on their respective positions.

The Office of Public Instruction concedes liability for 50 percent of all costs and fees incident to settlement, or those incurred prior to January 1, 1986. The OPI further indicates its willingness to accept responsibility for 50 percent of the fees and expenses of Special Master Frank I. Haswell. Exception is taken, however, to equal division of costs and fees incident to the March 1986 hearing in this matter. The OPI contends that, because the MHSA exclusively had the authority to request trial, and because the MHSA unilaterally made that decision, the MHSA should be required to bear the lion's share of that expense.

The MHSA argues that OPI has participated on an equal basis throughout the litigation and has legal culpability equal to that of the MHSA. Both organizations, it is submitted, have equal responsibility to achieve equity.

The Court's Opinion and Order of May 8, 1986, held that the secondary athletics program in Montana was not equitable with respect to provision of opportunities for male and female high school students, but did not attribute sole responsibility for the inequities to either defendant. See Ridgeway v. Montana High School Association, 633 F. Supp. 1564, 1582-83. It is clear that

both defendants have some degree of legal culpability and thus that both should share in the expense. Arkansas Community Organizations v. Arkansas State Board of Optometry, 468 F. Supp. 1254 (E.D. Ark. 1979).

The law concerning apportionment of fee assessments remains relatively unsettled. Grendel's Den, Inc. v. Larkin, 749 F.2d 945, 959 (1st Cir. 1984) (discussing various theories which have been advanced). The approaches range from a simple equal division among principal defendants to apportionment by relative time spent litigating against each defendant. Id. Other courts measure liability for fees according to the degree of culpability of each defendant. Jose P. v. Ambach, 679 F.2d 865, 871 (2d Cir. 1982); Mendoza v. Blum, 602 F. Supp. 200, 203-04 (S.D. N.Y. 1985). See also Southeast Legal Defense Group v. Adams, 657 F.2d 1118, 1125-26 (9th Cir. 1981).

Regardless of the particular approach taken, the ultimate determination should reflect "the most fair and sensible solution that is possible." Grendel's Den, 749 F.2d at 960. Factors drawn from all theories should enter into the Court's consideration, and the fact that each defendant has participated in the litigation is but one to be examined. Id.

In this case, the Court allowed the MHSA to seek to avoid a change in seasonal placement of girls' basketball and volleyball by initiating a review process to determine whether overall equity had been achieved. See Ridgeway, 633 F. Supp. at 1567. The decision to commence the review process, reached by a vote of the MHSA membership at its annual meeting, was a decision made unilaterally by the MHSA. The OPI was neither given a vote nor consulted in any manner before this decision was made.

Additionally, although the Court did not determine the degree of culpability of either defendant, it has never been argued that the OPI plays a greater, or even equal, role in the administration of high school athletic programs. The OPI generally oversees the educational needs of Montana's high schools, but it is the MHSA's province to establish and enforce regulations governing extracurricular activities. See Ridgeway, 633 F. Supp. at 1571, Findings of Fact Numbers 4 and 6.

This case is not unlike others in which courts have approved a fee apportionment requiring 75 to 80 percent of the expense to be borne by the defendant chiefly responsible for administering the subject programs, and 20 to 25 percent to be borne by the defendant acting in a financial or supervisory capacity only.

Mendoza, 602 F. Supp. at 204; Jose P., 669 F.2d at 871; Adams, 657 F.2d at 1126. MHSA's administration of the athletic programs challenged in this action, coupled with the fact that MHSA alone initiated the review process, compel the conclusion that the two defendants ought not bear equal responsibility for that portion of the expense.

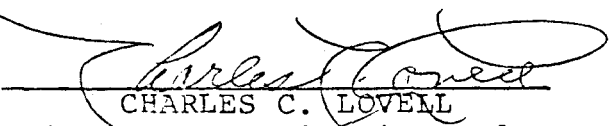
Therefore, IT IS HEREBY ORDERED:

1. OPI and MHSA shall each bear 50 percent of all costs and fees which they have been ordered to pay or have agreed to pay, incurred prior to January 1, 1986, or otherwise not incident to the March, 1986 review process.

2. OPI and MHSA shall each bear 50 percent of the fees and expenses of Special Master Frank I. Haswell unless otherwise ordered by the Court.

3. OPI shall bear 20 percent, and the MHSA shall bear 80 percent, of all costs and fees incident to the March, 1986 review process.

Done and dated this 17 day of December, 1986.


CHARLES C. LOVELL
United States District Judge

Transportation Sub
E.M.P.T.

10
1-14-87
OPI

TRANSPORTATION SUPPLEMENTAL

Introduction:

During the 1985 legislative session a supplemental for School District transportation was requested and approved. This supplemental request was needed to increase the 1983 biennium appropriation to the level required by the statutory schedules. This supplemental amount was not included in the 1985 appropriation level thus making the 1985 appropriation less than known statutory schedules would require. The 1985 Legislative Finance Committee was aware of this situation and requested the OPI to request the needed supplemental from the 1987 legislature.

Computations:

Original 1985 Appropriation	\$6,086,000
1/1/86 Budget Reduction	<u>121,720</u>
	\$5,964,280
Transportation Actual Entitlement	\$6,228,078
Less 2% Reduction	<u>121,720</u>
	\$6,106,358
DIFFERENCE	\$ 142,078
Original 1986 Appropriation	\$6,086,000
12/19/86 Gov. Budget Reduction	<u>115,634</u>
	\$5,970,366
Transportation Actual Ent.	\$6,352,017
Less Reduction	<u>115,634</u>
	\$6,236,383
DIFFERENCE	\$ 266,017
TOTAL DIFF.	408,095

VISITORS' REGISTER

Education Sub COMMITTEE

AGENCY

~~BILL NO.~~

VotTech Centers

DATE _____

1-14-87

SPONSOR Supplementals - OPI, Board of Public Education, MT University,
system

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.