

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on March 21, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Ted Schye, Chairman (D)
Ervin Davis, Vice-Chairman (D)
Steve Benedict (R)
Ernest Bergsagel (R)
Robert Clark (R)
Vicki Cocchiarella (D)
Fred "Fritz" Daily (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Gary Forrester (D)
Floyd "Bob" Gervais (D)
H.S. "Sonny" Hanson (R)
Dan Harrington (D)
Tom Kilpatrick (D)
Bea McCarthy (D)
Scott McCulloch (D)
Richard Simpkins (R)
Barry "Spook" Stang (D)
Norm Wallin (R)
Diana Wyatt (D)

Staff Present: Eddye McClure, Legislative Council
Dianne McKittrick, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HJR 44

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE HARRIET HAYNE, House District 10, Dupuyer, said HJR 44 requests an Interim Study of incentives to encourage Montana's higher education students to remain drug free. A Montana income tax exemption would be given to students meeting certain qualifications. The bill requires a report of the findings be given to the 53rd Legislature. This legislation encourages Montana's upcoming youth to abstain from the use of dangerous drugs and to remain drug free. Any attempt to counteract drug use will pay big dividends in the future.

Proponents' Testimony:

Norman Ballantyne, Instructor, Valier High School, said he and his class at Valier High School developed HJR 44 and strongly feel there is need for alternatives and incentives to combat drug use in Montana.

Melissa Heck, Senior, Valier High School, said the resolution provides a built-in incentive with a return on the dollar to make Montana's post-secondary population better able to meet the needs of the 21st Century. At the same time, it creates a society less dependent on drugs and alcohol. The problems associated with drug and alcohol use will not go away by pumping more federal and state dollars into programs that are not easily monitored for accountability. If young Montanans can be kept from drugs during the high peer pressure years, a more productive and competitive society will result.

Hugh Downen, Valier High School, said the program entices students to stay away from drugs and alcohol for the purpose of getting the tax exemption for college tuition. Most students need extra income to assist in paying for college tuition or to pay student loans more quickly.

Andria Briden, Valier High School, said this would be especially attractive to those who face limited funds for college.

Roy Vanden Bos, Valier High School, said this legislation gives many young people a good incentive to stay away from drugs since they receive higher education at a lower cost to themselves and their families.

Opponents' Testimony:

Monika McKaney, student representative, Associated Students - Montana State University, (ASMSU), said many college students feel this is an invasion of privacy. In order to receive federal financial aid a student must currently sign a statement saying they neither use or sell drugs. A serious college student would think twice before risking the loss of a loan or grant thus becoming ineligible to apply again. Students believe that a tax break here means an increase somewhere else.

Questions From Committee Members:

REP. ELLIS asked **Monika McKaney** how this could be an invasion of privacy if it is a voluntary program. **Ms. McKaney** said drug free also includes alcohol and college students do indulge in its use frequently.

Closing by Sponsor:

REP. HAYNE recommended favorable consideration of HJR 44 saying teachers, school counselors, local health and welfare workers,

police officers and many others spend a great deal of time, money and energy on drug problems. There are few rewards for young people that say no to drugs. They should be given a pat on the back for voluntary participation and be provided incentives to remain drug free.

HEARING ON HJR 46

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BOB BACHINI, House District 14, Havre, said HJR 46 urges the Governor to proclaim an appreciation day for the Northern Montana College Lights Wrestling Team.

Proponents' Testimony:

William Daehling, President, Northern Montana College, (NMC), Havre, said he is proud of the achievements of the wrestling program at NMC where 14 of the 16 wrestlers are Montanans. He said the wrestlers along with coach, Jason Lyles, who was named NAIA Coach of the Year, would be deeply honored.

VICKI COCCHIARELLA, House District 59, Missoula, said as a 25 year spectator of the sport she has great appreciation for what the young men go through to achieve what they have in the wrestling program at NMC. The University System has chosen to eliminate wrestling on other campuses and any recognition to keep the sport alive at NMC is wise and necessary.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

REP. BACHINI thanked the committee and recommended favorable consideration of the legislation.

HEARING ON SJR 21

Presentation and Opening Statement by Sponsor:

SENATOR GENE THAYER, Senate District 19, Great Falls, said SJR 21 urges Congress and the Secretary of Agriculture to establish the Lewis and Clark Interpretive Center, Giant Springs and Heritage State Park at Great Falls, Montana. There are currently two interpretive centers in Missouri and Oregon. Those states report greater visitor numbers each year largely as a result of the centers. The center will be one of the main tourist attractions in Montana and provide great economic benefit not only to Great Falls, but the entire state. It encourages extended vacations to visit other points of interests around the state. Vacations of eight to ten days instead of the normal two or three will have tremendous economic impact on Montana.

Proponents' Testimony:

Bob Bivens, Lewis & Clark Interpretive Center, Great Falls, presented the Report to Congress. EXHIBIT 1

Mike Labriola, Great Falls Chamber of Commerce, said Montana needs a niche in the marketplace to provide national and international attention. The Lewis & Clark Interpretive Center has the potential to be such a niche. Lewis & Clark belong to Montana in a way they are claimed by no other state. The Lewis and Clark Trail in Montana is still relatively unspoiled and has unique visitor appeal. It provides that visitor appeal across the entire breadth of the state. The center will stand out on thousands of recreational maps and be noted in countless travel books.

Marcia Staigmiller, Portage Route Chapter, Lewis & Clark Steering Committee, said the legislation asks for full funding for completion of the trail. It also provides an opportunity to draw people to Montana and keep them in the state for a much longer period of time.

Don Hyyppa, Department of Fish, Wildlife and Parks, presented written testimony. EXHIBIT 2

Opponents' Testimony: None

Questions From Committee Members:

REP. BENEDICT asked SEN. THAYER where the hang-up is in Congress. Is it with money or land acquisition? SEN. THAYER answered the problems are budgetary in nature. Marcia Staigmiller added Montana's congressional delegation is working very hard to get 4.5 million dollars of funding for FY 92, but part of the problem is the State of Montana has not contributed any cash to the project. The land has not yet been transferred and although the site has been selected, the actual size has yet to be determined.

REP. BENEDICT asked if maintenance and operation would be a problem in the future. Ms. Staigmiller said the project is federally funded and will be operated and maintained by the US Forest Service.

CHAIRMAN SCHYE asked Marcia Staigmiller how much state money is requested. Ms. Staigmiller said there is a request for 1 million dollars from the state, which will leverage 8.5 million dollars from the federal government.

Closing by Sponsor:

SEN. THAYER thanked the committee and recommended a favorable vote. The community effort that has gone into this project in terms of time is tremendous. The people in the Great Falls area have put in thousands of hours during the seven or eight years of

preparation. A good strong vote from the Montana Legislature will show Congress that Montana supports this project.

SEN. THAYER said in regard to a forthcoming amendment, everything is already in place. A name change should be provided for by the federal government, since that is where the funding is coming from.

HEARING ON SJR 17

Presentation and Opening Statement by Sponsor:

SENATOR CHET BLAYLOCK, Senate District 43, Laurel, said SJR 17 is a bill of happiness, joy and music. Square dancing has a long history in the United States. It was enjoyed easily on the plains as the people settled the west since all that was necessary was a fiddle, harmonica and willing participants.

Proponents' Testimony:

Harold Holmquist, Last Chance Squares, Helena, said square dancing is an activity the entire family can enjoy together. Square dancers fund themselves and aren't asking for money from the state. Many other states currently boast square and round dancing as the state dance. The original americans did round dancing long before the white man located here and then added square dancing as people arrived from the old country.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. BLAYLOCK said, "Just do si do and let her go."

EXECUTIVE ACTION ON HJR 46

Motion/Vote: REP. BERGSAGEL moved HJR DO PASS. Motion CARRIED unanimously.

HEARING ON HB 999

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE RAY PECK, House District 15, Havre, said HB 999 deals with a major cost item in the special education program. When a kid is placed in residential treatment medicaid costs will normally be involved unless the people can pay themselves. There are educational costs and generally speaking the residential providers have not been providing for these costs. Consequently, there is a big cost that attends those placements for the district. HB 999 takes the view that when this happens the funding responsibility should not fall totally on the local

districts. The attorney general ruled the county in which the court sits is the district responsible for educational costs. That is neither reasonable nor fair. HB 999 dictates that the district in which the treatment facility is located will be responsible for providing the educational program.

Proponents' Testimony:

Bob Runkel, Director, Special Education, Office of Public Instruction, (OPI), presented EXHIBIT 3. He said there is no single issue that results in more phone calls to the OPI than out of district placements. Why am I responsible? This is our effort in trying to rectify that problem. HB 999 represents significant changes in the financial responsibility for children that have been placed in residential treatment facilities. The fundamental change in this bill makes the state responsible for education costs for those placed in private residential facilities or children's psychiatric hospitals. It relieves the resident district of this responsibility and does so in the most cost effective method possible. HB 999 calls for (1) a significant shift in financial responsibility, (2) imposes cost control measures, (3) provides for payment to children's psychiatric hospitals and (4), provides for a greater fairness in access to services.

David Quinn, Rivendell Psychiatric Centers, Butte and Billings, presented written testimony. EXHIBITS 4 AND 5

Bob Halgren, Superintendent, Ronan, said HB 999 addresses concerns shared by many superintendents around the state. He presented EXHIBIT 6.

Steve Gaub, Superintendent, Charlo, said his district has a student placed in an in-state residential facility for \$13,200/year or 12 mills in tuition, which increases the local levy by 20%. This situation is going to become more and more prevalent given today's problems. The smaller districts with smaller mill values are going to be hurt significantly. Because districts have very little to say in terms of these placements, it puts an unequal burden on the local district and local taxpayer. Oftentimes students are placed due to problems that have nothing to do with school life. HB 999 is a start to help the school districts facing this problem.

Richard Trerise, Superintendent, Lincoln, Southwest Education Cooperative and the MACSS, said this is a serious situation. His district pays \$10,000/year or 6 mills for an out of district placement. The residential facility can send a bill for whatever amount for the education of the student and the district must pay it. School districts are bound by tuition statutes with tuition based on actual expenditures versus number of students. A program needs to be implemented making residential treatment facilities accountable in verifying their costs. School districts want students to receive the best education possible,

but is it imperative to consider fair and equitable accountability and control.

Jack Casey, Administrator, Shodair Hospital, presented written testimony. EXHIBIT 7

Bruce Moerer, Montana School Boards Association, (MSBA), stated support for the bill.

Linda Edelson, Rivendell America, Butte, said currently 65% of the students coming into Rivendell are regular education students that are very conscientious of their grade point average, conscientious of their transcripts, aspire to go to college and want to continue their educations while in the facility. Their education is very important regardless of why they are there. The Rivendell Hospitals in Montana are committed to providing the best inpatient treatment available anywhere to children. It is crucial they continue with their educational placement and progress while in the hospital.

Charlie McCarthy, Department of Family Services, stated support for HB 999.

Jesse Long, School Administrators of Montana, (SAM), said out of district placements have been the concern of administrators for many years.

Bob Olsen, Montana Hospital Association, said when a hospital is licensed to provide in patient psychiatric treatment there are two requirements. They must provide education as a component of their treatment for all the kids and secondly, while medicaid is the majority of the kids treated, in many cases it specifically excludes reimbursement for education costs. Therefore, this is the only source of payment available to those hospitals for their services.

Opponents' Testimony:

Ron Hatcher, Superintendent, Yellowstone Education Center, Billings, said HB 999 does not cover the costs of services and is helping hospitals in the business for profit. The Yellowstone Education Center is non-profit and would lose approximately \$400,000 in the next two years, amounting to approximately 23% of the total budget. There is not one school district in the state that could stand a 23% budget cut. The Yellowstone Education Center asks HB 999 be Tabled until further study.

Bob Duncan, Yellowstone Education Center, Billings, presented written testimony. EXHIBIT 8

Questions From Committee Members: None

Closing by Sponsor:

REP. PECK said HB 999 isn't intended to do damage to the Yellowstone Education Center that basically lives on tuition because they don't have the tax base. Educational costs, even though they aren't paid by medicaid, will be collectible. HB 999 may be a bill whose time has not yet come, but please pass it on, keep it alive so we can keep working on it. It is fundamentally unfair to bill local districts the tremendous costs that are associated with many of these placements. The current law provides for little or no participation by local school districts in those placements. Notification usually comes in the form of a bill.

HEARING ON SB 395

Presentation and Opening Statement by Sponsor:

SENATOR DICK PINSONEAULT, Senate District 27, St. Ignatius, said SB 395 addresses the transferring of properties between school districts.

Proponents' Testimony:

Doug Olson, Attorney at Law, Helena, presented written testimony.
EXHIBIT 9

Bruce Moerer, Montana School Boards Association, (MSBA), said the bill clarifies a great deal of ambiguity and allows both sides of an issue to be considered in the hearing. Under the old law there was no point in having a hearing when somebody petitioned to transfer territory because the applicant's side of the story was the only one heard.

Jesse Long, School Administrators of Montana, (SAM), said the county superintendents also support SB 395 since it gives them the chance to hear both sides of the issue and relate the information to both parties.

Opponents' Testimony: None

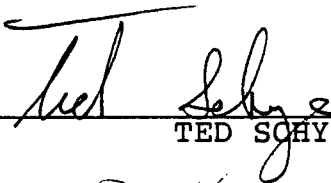
Questions From Committee Members: None

Closing by Sponsor:


SEN. PINSONEAULT thanked the committee and recommended favorable consideration of SB 395

ADJOURNMENT

Adjournment: 6:00 p.m.



TED SCHYE, Chair



DIANNE MCKITTRICK, Secretary

TS/dMcK

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE 3-21-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

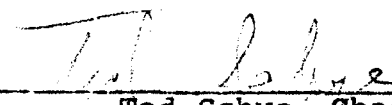
HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Joint Resolution 46 (first reading copy -- white) do pass.

Signed: _____


Ted Schye, Chairman

House Education

Ex. 1
3-21-91
5521

LEWIS AND CLARK

REPORT TO CONGRESS



NATIONAL HISTORIC
TRAIL INTERPRETIVE
CENTER • MONTANA

PUBLIC LAW 100-552

EXHIBIT

2

DATE

3-21-91

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SJR 21

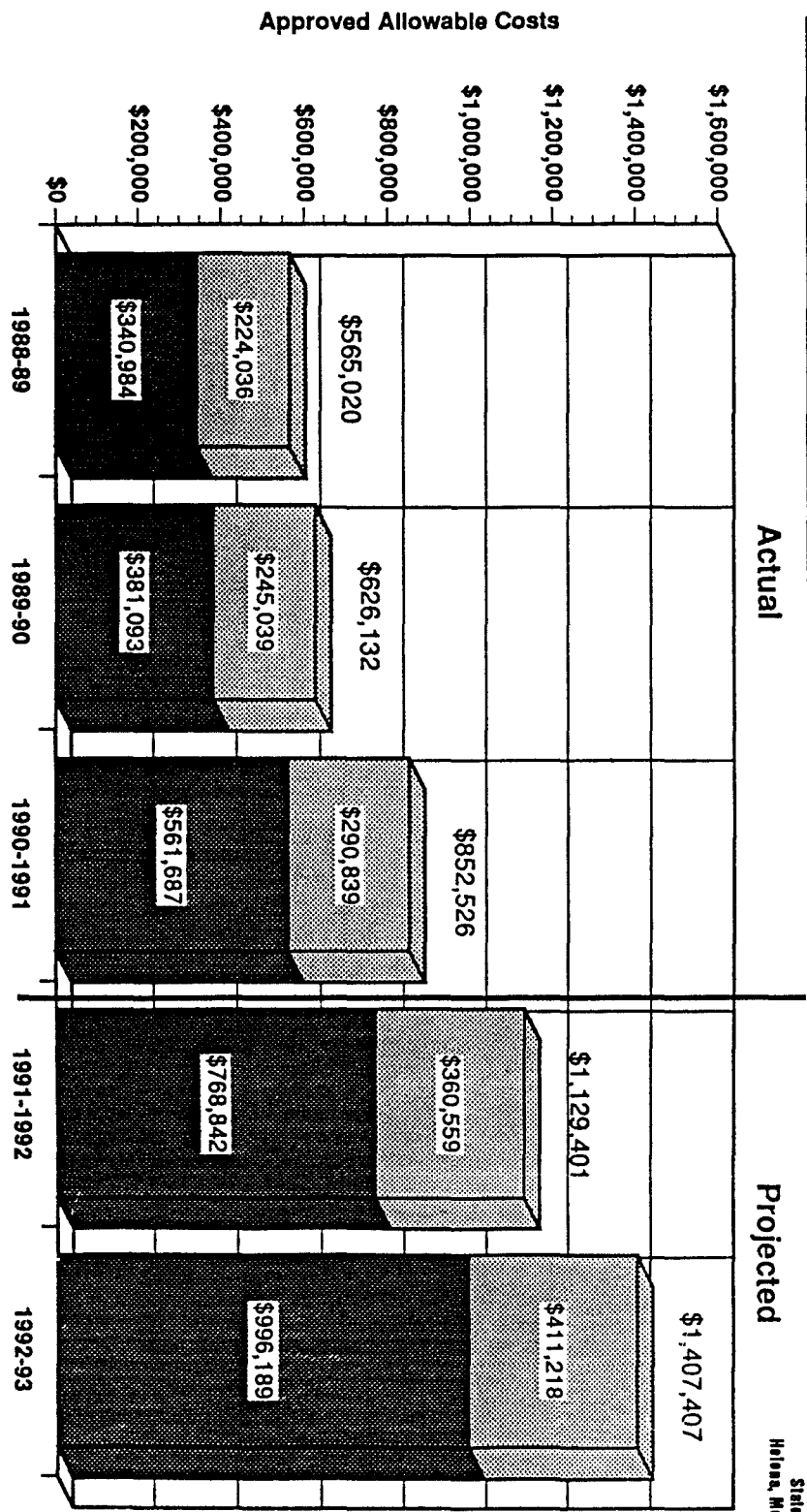
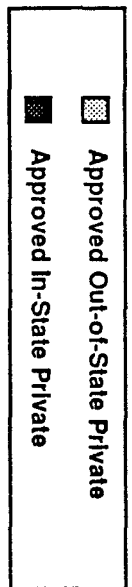
SJR 21
March 21, 1991

Testimony presented by Don Hyyppa, Dept. of Fish, Wildlife & Parks
to House Education & Cultural Resources Committee

The Department of Fish, Wildlife and Parks is pleased to speak in
support of SJR 21.

The Lewis and Clark Expedition and its encounters with American
Indian country are an important piece of American and Montana
history. This Interpretive Center will be a tremendous addition
for the visitors of Giant Springs and Heritage Parks and is a fine
example of how federal and state agencies can work together to
provide facilities for our guests.

Approved Allowable Cost for Out-of-District Placements School Years 1988-1992




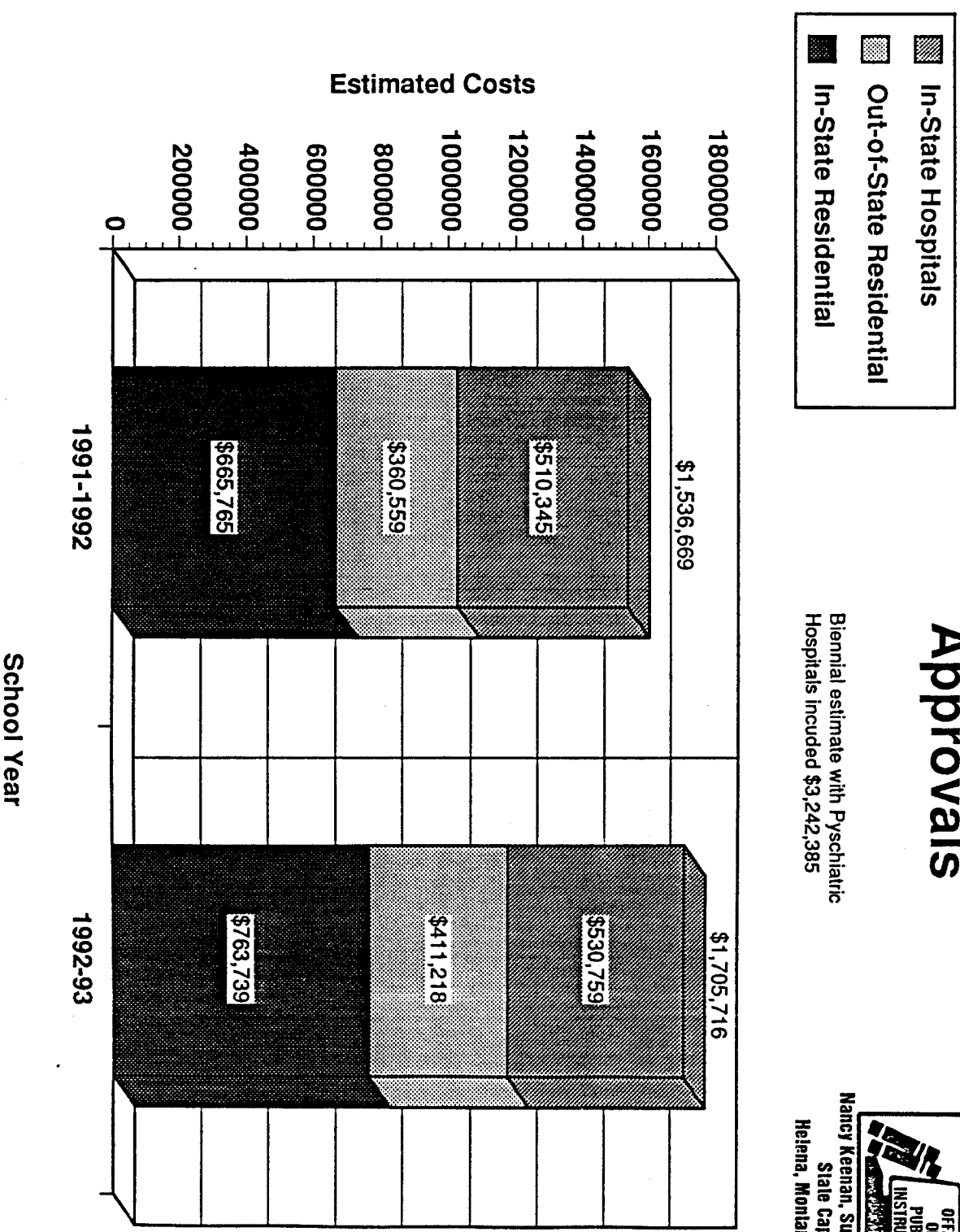
Note: Children's Psychiatric Hospitals
 Projected Costs not included in estimate.
 Current Approved Special Education Allowable Costs
 to Yellowstone of \$131,782 also are NOT included in
 estimates.

Projections based on growth rate average for previous 3 years including
 contingency awards.
 Percentage annual growth average for in-state private = 29.57%
 Percentage annual growth average for out-of-state residential = 14.05%

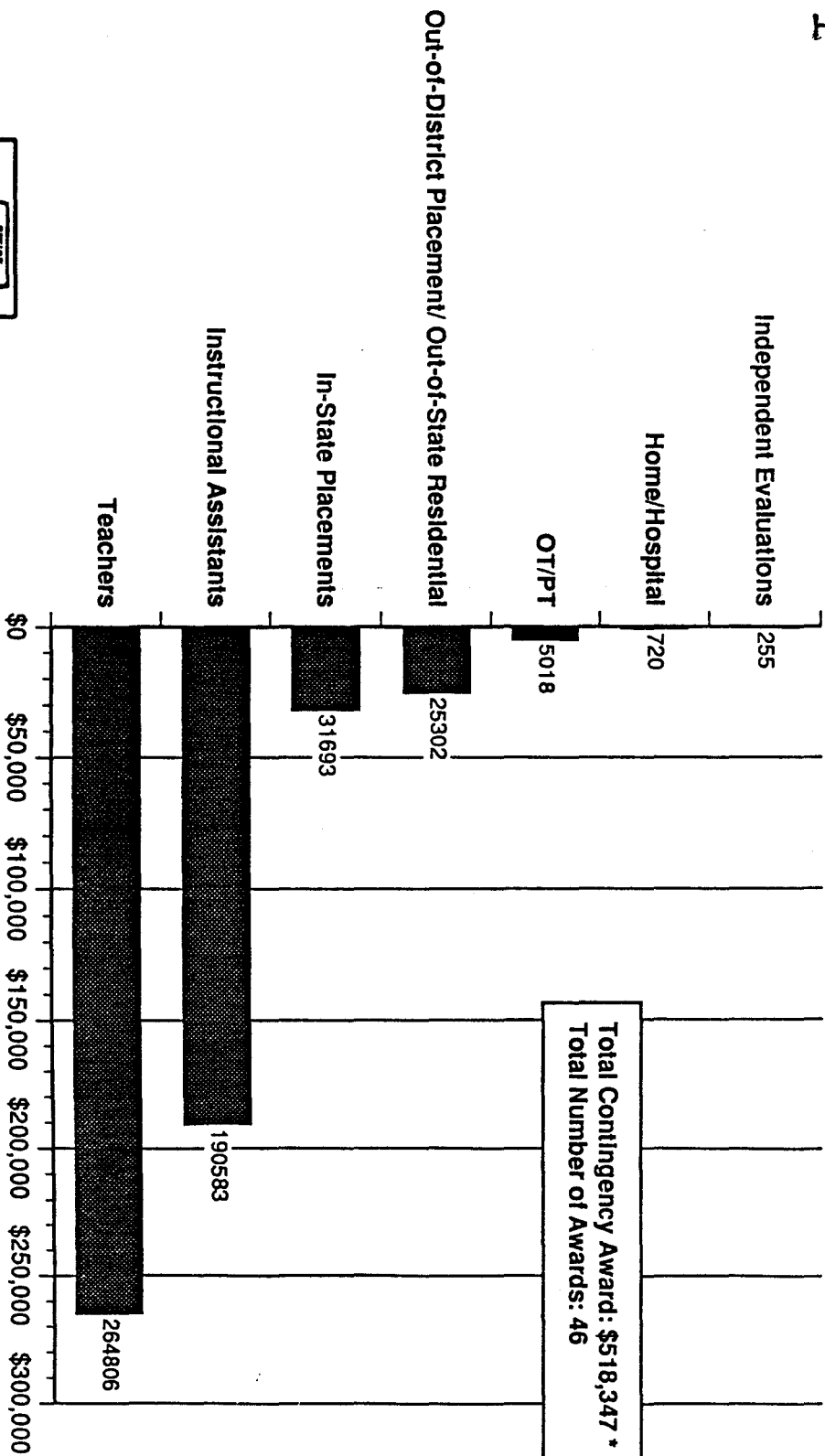
House Bill 999 Projected Approvals

Biennial estimate with Psychiatric
 Hospitals included \$3,242,385


 Nancy Keenan, Superintendent
 State Capitol
 Helena, Montana 59620



Special Education Contingency Funds School Year 1990-1991



Contingency Award



Nancy Keenan, Superintendent
 State Capitol
 Helena, Montana 59620

* \$18,347 represents refunded dollars from the first year of the biennium reallocated for the second year.

House Education

#4

3-21-91

HB 999

RIVENDELL
PSYCHIATRIC CENTER

A specialty hospital.

Report to

Our

Communities

Good afternoon Ladies and Gentlemen.

My name is David Quinn, I am here this afternoon as a native Montanan and a representative of Rivendell Psychiatric Centers in Butte and Billings to speak in strong favor of H.B.999.

First, as a representative of Rivendell, I support H.B.999 because it provides a very effective and efficient mechanism for funding the educational program we have historically provided at no cost to the children and adolescents hospitalized at our facilities.

We first met with the Office of Public Instruction and later with administrators of the local school district in 1990 to alert them that Rivendell is being required to find a mechanism to fund the specialized education program required by our special population.

This action was necessary because:

- 1) A federal ruling which prohibits medicaid from recognizing educational costs as allowable in the psychiatric hospital.
- 2) The rising cost of providing for the educational needs of our patients.
- 3) General revenue reduction pressures from both Medicaid and Commercial Insurance Companies.

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DATE 3-21-91
HB 999

The alternative facing us if we are unable to continue our own accredited educational program would most likely be turning the responsibility for providing for our patients educational needs over to the local school district. This alternative would require that the school district either send specially trained teachers to our hospital to teach class or that the patients somehow be transported to the school. Neither choice is very attractive. One thing remains certain, Rivendell is no longer able to accept the financial responsibility for providing for the educational needs of our patients.

As a native Montanan, I really like this bill because:

- 1) The logical and cooperative matter in which it can to be.
- 2) It clearly recognizes the State as being the responsible party for providing for the educational needs of the children and adolescents of Montana, even those in need of psychiatric care.
- 3) As a result of the cooperation early on, it provides for a very efficient and precise relationship between the State and those providing the educational programs.

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EXHIBIT

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HB

999

As I mentioned earlier we met with OPI last year to begin a discussion of the funding problem. OPI recognized the problem and began the process to find a solution. As a result of those efforts, the first draft of this bill was presented in January to the psychiatric hospitals and treatment centers as well as the school districts. As a cooperative group, ideas were exchanged and revisions were made to the draft. As in any such effort, not everyone came away with all their needs being fulfilled. However, every one did have the opportunity to express themselves and provide input.

This bill recognizes the State as being responsible for funding the educational programs. It establishes a direct tie between OPI and the providers by making the providers responsible to OPI who must monitor the educational programs. And finally, the bill provides assurances to the State of Montana, the Taxpayers and to OPI that our educational program costs may not exceed the cost for similar services had such programs been provided by the school district.

Economic conditions prevent us from continuing to provide educational services at no cost to the State. Passage of this bill provides for an efficient transfer of financial responsibility. Should this bill fail to pass, the financial responsibility will still be transferred, however the process will be much more complicated, costly and therefore painful for the local school districts, taxpayers and OPI.

Thank You

School District No. 30
Ronan/Pablo Schools

EXHIBIT #6
DATE 3-21-91
HB 999

ELEMENTARY TUITION FOR RESIDENTIAL TREATMENT

The following are examples of the impact of the \$13,200 annual tuition to Yellowstone Education Center on the elementary districts of Lake County.

District	Mill Value	No. of Mills	% Inc. in Levy	If Levied in GF
# 7 Charlo	\$ 1,094	12.1	20.5%	\$44,165
8 Arlee	1,001	13.2	54.8	74,435
23 Polson	13,557	1.0	1.3	13,557
28 St. Ignatius	1,599	8.3	16.2	62,997
30 Ronan	4,813	2.7	5.6	52,134
33 Dayton	2,251	5.9	25.9	13,281
35 Valley View	216	61.1	324.0	15,581
73 Salmon Prairie	695	19.0	80.0	13,205

Source: Lake County Superintendent of Schools Annual Report -
December 1990

**TESTIMONY OF SHODAIR CHILDREN'S HOSPITAL FOR THE EDUCATION AND
CULTURAL RESOURCES COMMITTEE**

(Regarding House Bill 999 - Out of District Placements)

Representative Ray Peck has introduced House Bill 999. The bill revises the laws related to out of district placement of children with disabilities. Shodair Hospital supports this legislation. Shodair Hospital is a 22-bed inpatient psychiatric facility located here in Helena. We serve a population of children under the age of 15 years old. These children are acutely ill and in need of intense psychiatric treatment. One of the major components of our program is our educational component. The educational component is not reimbursable by Medicaid. Presently at Shodair, we have a grant from Montana Children's Foundation to fund our school program. This funding is presently in jeopardy because of other hospital losses on our child psychiatric unit.

The children on our unit are too emotionally disturbed to be sent to the regular school system here in Helena. The present laws on reimbursement from other schools through this school district is very complicated and cumbersome. Most of the school districts throughout Montana do not have funds available for out of district placements. School districts are very reluctant to have their child study teams diagnose a child emotionally disturbed and in need of services because then the school district becomes

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DATE

3-21-91

HB

999

responsible for both the therapeutic component and the educational component. Schools are not funded for this. Passage of H.B. 999 would provide a funding mechanism for schools that are located in hospitals and residential treatment facilities. To try and send children who are this emotionally disturbed to a local school district would do nothing but disrupt the local school district and classrooms. The children who are emotionally disturbed and the children within the school district's classroom would both be losers. This is a fair and equitable way to see that these children are afforded a free and appropriate education.

We urge your support of House Bill 999. Thank you for your consideration.

Submitted by:

John P. Casey

Administrator

Shodair Children's Hospital

Helena, MT

TESTIMONY
AGAINST HB 999
Dr. Robert Duncan
Yellowstone Education Center

Yellowstone Treatment Centers have embarked upon a major and significant program alteration in order to address service needs of Emotionally Disturbed youth in Montana. Over 21,000 youth identified emotionally disturbed by the CASSP Program in the Department of Institutions currently will have a significant impact on education services. We've become medicaid eligible, CHAMPUS approved for the military services and JCAHO accredited as a psychiatric residential treatment center.

Education is a required service, stipulated by the accreditation standards. We provide Elementary and Secondary education services. As a non-profit service organization, our school district at the Center has no taxing ability to generate dollars for education as other districts in the State.

We receive a portion of dollars from the State for our regular education students, a large portion from Special Education Funds for Handicapped youth, and a significant dollar amount is generated from tuition charges specifically for education while the youth is in treatment.

A significant problem arises when consumers or school districts are concerned they have to pay for treatment costs in addition to education costs. Even though this is not required, the existing language in the law is nebulous.

1. The bill would clear up the language issues.
2. The bill would take the expense burden from the district and tie it to the youth's total treatment services.

This would relieve school districts and our center of significant fiscal and paperwork problems.

However, as you've heard, it would cost our organization nearly \$400,000

EXHIBIT # 8
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HB 999

dollars in education costs over the next two (2) years that cannot be recovered through treatment charges. This would put educational service requirements and additional expenditures on the Billings School District who cannot add nearly 1 million dollars of expenditures to budgets which have been cut back already.

We see the dollars taken from our program are dollars needed to pay for psychiatric hospital education programs. Psychiatric hospitals are required by accreditation standards to provide educational services. Having only been in our State for four years, it is felt they could work out educational services with local districts, the State or fund their own services, similar to what the Yellowstone Centers have done the past 34 years.

As we've talked and worked with Mr. Runkel and Mrs. Gray with this bill, it is still not the best product. The far reaching affects of the bill for years to come need to be thought through and drafted more carefully. We see a need for the bill to be tabled, re-drafted between legislative sessions and brought before you as a product of providers, districts, and the State. This way you, as legislators, can fully understand, feel comfortable with and back a bill where there is consensus and validity for all concerned.

9
EXHIBIT

DATE

3-21-91

SB

395

DOUGLAS B. OLSON
Attorney at Law
P.O. Box 1695
Helena, Mt. 59624

March 21, 1991

House Education & Cultural Resources
Committee
52nd Montana Legislature
State Capital
Helena, Montana 59620

re: Senate Bill 395

Dear Mr. Chairman and Committee Members:

My name is Doug Olson and I am an attorney residing in Helena, representing the Outlook School District, Outlook, Montana. I am testifying today in support of Senate Bill 395 which seeks to revise and clarify two statutes that regulate petitions to transfer the territory of one school district to another school district.

Territory of one school district may be transferred to another school district by two ways. Every three years, the county superintendent of schools has the responsibility to review elementary school district boundaries, to hold a public hearing, and to make the boundary changes he/she deems desirable. In addition, individual residents of a district whose property is contiguous to another school district may, at certain times during the year, file a petition with the county superintendent of schools requesting the transfer of their property (territory) to an adjoining school district.

In January, I was retained by the Outlook School District in northeastern Montana to represent it in an appeal that had been filed with the Office of the Superintendent of Public Instruction concerning the proposed transfer of a part of its territory to another district. While reviewing the applicable statutes (Sections 20-6-213 and 20-6-320, MCA), I discovered an apparent error in Section 20-6-320(3)(a), relating to disputes between the board of county commissioners and the county superintendent over the validity of petitions. I also concluded that both of these statutes were also difficult to read and understand, with the Montana Supreme Court already having had to clarify the legislative intent of one section.

This bill seeks to clarify the language and the process involved with proposed transfers of school territory that arise from resident petitions. Specifically, it would:

1. use the same language or terminology where possible in both statutes (those governing elementary (20-6-213, MCA) and high school districts (20-6-320, MCA). (The existing


statute governing high school districts was patterned after the elementary district statute but the language word choices are not consistent).

2. require petitioners to pay a \$50 filing fee to defray some of the costs associated with holding and transcribing each hearing. (These costs which are presently borne entirely by all taxpayers through the county general fund usually cost several hundred dollars per petition).
3. discourage frivolous and repetitive petitions by precluding unsuccessful petitioners from re-filing another petition until three (3) years later. (Under existing law, an unsuccessful applicant could re-file another petition time after time causing the county to expend unlimited funds to hold hearings).
4. clarify that individual school districts may appeal county superintendent of school decisions that they disagree with. (Under existing law, school boards are charged with participating in decisions governing transfers of territory, but sections 20-6-213 and 20-6-320 only expressly recognize the right of individual residents or taxpayers of the district to file appeals).
5. clarify that the county superintendent's decision to grant or deny a petition is to be based upon what is best not only for the petitioners but also for the school district. (The existing statutory language would seem to not permit the county superintendent of schools to consider the effect the proposed transfer would have on the school district that would lose the territory).
6. clarify existing appeal processes.

In drafting this bill, I sought the cooperation and input from: the Office of the Superintendent of Public Instruction (OPI); the Montana School Boards Association (MSBA); the School Administrators of Montana (SAM); and the County Superintendents of Schools. No representatives of these groups have expressed any opposition to drafts of this bill but rather they have acknowledged that the existing statutes need clarification.

Thank you for your consideration of this bill's intent and I hope that you will support clarifying these statutes. I would appreciate an opportunity to respond to any questions that you may have regarding SB 395 that you believe I may be able to answer.

Sincerely,


Douglas B. Olson
Attorney

Attachments

20-6-213. Transfer of territory from one elementary district to another. (1) A majority of the electors of any elementary district who are qualified to vote under the provisions of 20-20-301 and who reside in territory which is a part of an elementary district may petition the county superintendent to transfer such territory to another elementary district when:

(a) such territory is contiguous to the district to which it is to be attached;

(b) such territory is not located within 3 miles, over the shortest practical route, of an operating school of the district from which it is to be detached;

(c) the transfer of such territory will not reduce the taxable value of the district to less than \$100,000 unless the remaining territory of the district will contain not less than 50,000 acres of nontaxable Indian land; and

(d) the board of trustees of the school district that would receive the territory has approved the transfer.

(2) The petition shall be addressed to the county superintendent and shall:

(a) describe the territory that is requested to be transferred and to what district it is to be transferred;

(b) state the reasons why such transfer is requested; and

(c) state the number of elementary school-age children residing in such territory.

(3) On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) file such petition;

(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

(c) give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be transferred.

(4) The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of the affected districts shall be heard. If the county superintendent considers it advisable and in the best interests of the residents of such territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall, by order, deny the request. Either of the orders shall be final 30 days after its date unless it is appealed to the board of county commissioners by a resident or taxpayer of either district affected by the territory transfer. The decision of the board of county commissioners, after a hearing on such matter and consideration of the material presented at the county superintendent's hearing, shall be final 30 days after its date unless a petition to submit the question to a vote of the people in the district from which the land is to be transferred, which has been signed by a majority of the electors of the district who reside in the territory to be transferred and who are qualified to vote in elections for that district under 20-20-301, is presented prior to that time. When a petition is submitted under this subsection, the question of whether the land shall be transferred to another district shall be put before the voters at the next regular school election in the affected district.

(5) Whenever a petition to transfer territory from one elementary district to another elementary district would create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall be presented to the county superintendent of the county where the territory is located. Such county superintendent shall notify any other county superintendents of counties with districts affected by such petition, and the duties prescribed in this section for the county superintendent and the board of county commissioners shall be performed jointly by such county officials.

History: En. 75-6516 by Sec. 175, Ch. 5, L. 1971; amd. Sec. 6, Ch. 83, L. 1971; amd. Sec. 1, Ch. 256, L. 1975; R.C.M. 1947, 75-6516; amd. Sec. 1, Ch. 287, L. 1979.

Cross-References

Trustees of district affected by boundary change, 20-3-312.

20-6-320. Transfer of territory from one high school district to another. (1) A majority of electors of any high school district who are qualified to vote under the provisions of 20-20-301 and who reside in territory that is a part of a high school district may petition the county superintendent to transfer such territory to another high school district if:

- (a) the territory adjoins the district to which it is to be attached;
- (b) the territory is not located within 3 miles, over the shortest practical route, of an operating school of the district from which it is to be detached;
- (c) the transfer of such territory will not reduce the taxable value of the district to less than \$300,000 unless the remaining territory of the district contains not less than 50,000 acres of nontaxable Indian land; and
- (d) the board of trustees of the school district that would receive the territory has approved the transfer.

(2) The petition must be addressed to the county superintendent and shall:

(a) describe the territory that is requested to be transferred and to what district it is to be transferred;

(b) state the reasons why such transfer is requested; and

(c) state the number of high-school-age children residing in such territory.

(3) On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) present the petition to the board of county commissioners for certification that the criteria set forth in subsection (1) have been met. The board shall, within 10 days of receiving the petition, return it to the county superintendent with certification, signed by a majority of the board, that such criteria have been met or with a notation, signed by a majority of the board, that the criteria have not been met. The board's certification is binding on the county superintendent unless the county superintendent believes that the certification is in error. A dispute between the board and the county commissioners must be decided by the superintendent of public instruction and the decision of the superintendent of public instruction on the matter is final.

(b) file the petition as certified by the board of county commissioners;

(c) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

(d) give notice of the place, date, and time of the hearing. The notices must be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred.

(4) The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of either affected district must be heard. If the county superintendent considers it advisable and in the best interests of the residents of the territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall by order deny the request. Either of the orders shall be final 20 days after its date unless it is appealed to the superintendent of public instruction by a resident of either district affected by the territory transfer. The decision of the superintendent of public instruction, after consideration of the material presented at the county superintendent's hearing, is final 30 days after its date.

(5) If a petition to transfer territory from one high school district to another high school district would create a joint high school district or affect the boundary of any existing joint high school district, the petition must be presented to the county superintendent of the county where the territory is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly by such county officials.

History: En. Sec. 7, Ch. 617, L. 1983; amd. Sec. 1, Ch. 299, L. 1987.

Cross-References

Trustees of district affected by boundary change, 20-3-312.

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BILL NO.

HJR 44

DATE 3-21-91

SPONSOR(S) Hayne

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Norman Ballantyne	Valier High School	✓	
Andria Briden	Valier High School	✓	
Renee Christiaens	Valier High School	✓	
Hugh Douen	Valier High School	✓	
Janessa Guendipe	Valier High School	✓	
Karen Connelly	Valier High School	✓	
Traci Miller	Valier High School	✓	
Tami Christiaens	Valier High School	✓	
Geri Aaberg	Valier High School	✓	
Trecy Kynett	Valier High School	✓	
David J. Jara	Riverview of Alton	✓	
John Adkins	" " "	✓	
Roy Vanden Bos	Valier High School	✓	
June Heinz	Riverview of Mantua	✓	

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SPONSOR(S) Rep. Laine

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David Cottrell	Valier High School	✓	
Jeremy Krueger	Valier High School	✓	
Melissa Hede	Valier High School	✓	
Pat McCarthy	Valier High School	✓	
Douglas Connelly	Valier High School	✓	
David David Yeager	Valier High School	✓	
LAWRENCE M. KANEY	ASMSU		✓
Mark Miller	SELF (MSU Good student)		✓

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Die Waching</i>	<i>NMC</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JAMES TUTWILER	MTCHAMBER Com	✓	
Mark Miller	SELF	✓	
Don Knapp	FWD	✓	
MIKE LABRIOLA	GREAT FALLS AREA CHAMBER OF COMMERCE	✓	
Marcia Stangmiller	Portage Rte Chapter - LFC Steering Comm.	✓	
Bob Bivens	Lewis and Clark Steering Committee		

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Alice Holmquist	Last Chance Squares	✓	
Harold Holmquist	Last Chance Squares	✓	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ron Hatcher	Yellowstone Educ Center		✓
Bob DUNCAN	Yellowstone Ed Ctr.		✓
Richard Trerise	School Dist #38 Lincoln + S.W. Educ Co-Op	✓	
Robert Runkel	OPI	✓	
Steve Heinz	Rivendell of Montana	✓	
Dave Quinn	Rivendell of Montana	✓	
Linda Edelson	Rivendell of Montana	✓	
Steve Gault	Charlo Schools	✓	
Bob Hargren	Renan SD #30	✓	
H Kay McKenna	MACSS	✓	
Marion Evenson	Helena Public Schools	✓	
Jack Boy	Shodan Hosp.	✓	
Ann Givney	DFS	✓	
Charles McCarthy	DFS	✓	

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Jean Long

5 AM

✓

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Education & Cultural Resources

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert Olsen, Vice President	MT Hospital Association	X	
Bruce W. Greer	MSBA	X	
John Miller	O.C.D.	X	

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Ray McKern	MACSS	✓	
Marion Stagnmiller	Lewis & Clark Stearns	✓	
Douglas Olson	Quillock Sch Dist	✓	
Bruce W. Meyer	MSBA	✓	
June Miller	A.G.S.	✓	
Jessie Long	SAM	✓	

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