

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK, on February 20, 1991,
at 3:00 P. M.

ROLL CALL

Members Present:

Chet Blaylock, Chairman (D)
Harry Fritz, Vice Chairman (D)
Robert Brown (R)
Bill Farrell (R)
H.W. Hammond (R)
Dennis Nathe (R)
Dick Pinsoneault (D)
Mignon Waterman (D)

Members Excused: Bill Yellowtail

Staff Present: Eddye McClure (Legislative Council).

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

HEARING ON SB 395

Presentation and Opening Statement by Sponsor:

Senator Dick Pinsoneault, Senate District 27, presented SB 395,
an act to revise the laws related to the transfer of territory
from one elementary or high school district to another.

Proponents' Testimony:

Doug Olson, Attorney, Helena, testified in support of SB 395.
Exhibit 1.

Bob Anderson, Montana School Boards Association, testified in
support of SB 395. Exhibit 2.

Rachel Velleux, Missoula County Superintendent of Schools,
testified in support of SB 395.

Announcement:Introduction of State Superintendent Nancy Keenan:

Senator Blaylock said that as chairman of the Implementation Committee, he had been pressing OPI to make budget figures known to the committee as soon as they were available so the committee would know if the disparity ratio on the funding and taxing were closing or widening.

The chairman had asked State Superintendent Nancy Keenan to address the committee regarding the figures that have come in and are now available.

Nancy Keenan indicated that some first figures are available. She said as the committee would recall, the Legislative Auditor, the Governor's Budget Office and the Office of Superintendent of Schools all agreed that they would be working off the same set of numbers. The budget numbers that came in from the school district were then audited by Mr. Seacap and his staff and they just completed that audit this week. She said that the figures that she was presenting have been agreed on by all three entities so that OPI can proceed with issues of school funding dealing off the same base. Exhibit 3.

HEARING ON HB 154Presentation and Opening Statement by Sponsor:

Representative Forrester, District 98, presented HB 154, an act to allow a bus depreciation reserve fund to be used to convert, rebuild, or replace a bus. He said that some smaller school districts are having to keep school busses for longer periods of time because of lack of finances and because of that, they need a fund to keep them repaired other than general fund. He felt that this bill provided a useful tool for small school districts to use. He spoke of the expense of buying a new bus and the bus reserve fund could be used to buy back a bus to be remodeled for an activity vehicle or could be used to replace an engine or other repair to a bus.

Questions From Committee Members:

Senator Nathe asked if the bus reserve fund applied just to the big yellow busses running on routes or does it apply to the diesel busses that some of the schools run for athletic activities.

Representative Forrester said that the fund would apply to any bus owned but not leased by the school district.

There was a discussion regarding the length of time that busses could be used. Representative Forrester said the cut off date by

Questions From Committee Members:

Senator Blaylock asked Doug Olson about any other changes in SB 395 besides the two he had described. Mr. Olson said that there were some other changes such as the filing fee. He said a filing fee would give County Superintendents the authority to consider the impact that a transfer of territory would have on the school district losing the territory. Under the existing statutes, they are only suppose to consider a transfer if it is in the best interest of the petitioner; and if it is, they are supposed to grant the petition. This bill would enable them to weigh both sides before making a decision.

Senator Waterman asked why there was a filing fee and was told that it was to discourage piece meal efforts. Right now there is no charge that is assessed against someone who files for a change and County Superintendents report that they came in lot by lot.

Senator Blaylock asked Rachel Velleux if SB 395 would solve the problems she had described and she said yes.

Senator Waterman asked the witness if under present law only the interests of petitioning residents are considered and she answered yes. Senator Waterman asked with the changes that are proposed in SB 389 interests of both districts would be considered. If a district did not want to lose the tax base, that would be considered equally with the best interests of the ones wanting to transfer? Ms. Velleux said yes.

Senator Waterman asked can you ever envision a time when a school district would be willing to give up property if there is any value at all to the property (tax base value) even though it might be in the best interest of students? Ms. Velleux said that there are some cases between Missoula School District No. 1 and Bonner School District No. 1 where they were willing to lose that territory because of tuition being paid for students who were going to school in another district. In fact, the witness said, they were delighted to give up the property.

Ms. Velleux said that the districts make many decisions based on monetary situations and that parents don't always make the best decisions for their children. Sometimes decisions are made based on where the family lives and the parents work rather than where the best school is. Unfortunately, she said, reasons are usually based on parental convenience.

Closing by Sponsor:

Senator Pinsoneault said that he felt there were certain provisions included in SB 389 that would help take care of problems described by both Doug Olson and the county superintendent. He thanked the proponents to SB 389 and urged committee support of SB 389.

law was 1977 but there was a grandfather's clause that had allowed older busses to be kept in operation; however, OPI has certain standards for busses so even if there is a grandfather clause, OPI will only allow busses to be used a certain length of time.

There was discussion by committee on the age of some busses still in operation. Representative Forrester said that many of the smaller districts had no choice but to repair and keep busses running since they did not have the funds available to purchase new vehicles.

He said that he understood that districts could use general funds to maintain busses but he thought that many school districts don't have those funds available to them. Since many districts do not have money for new busses, they will keep repairing them one way or another. This bill would enable them (when they don't have general fund money) to do work without looking for funds elsewhere (teachers' salaries, layoffs, etc.,)

Senator Waterman spoke of the national standard that came out a year ago when legislators heard about the old busses that were not safe and at that time it was recommended that they not be used. She remembered that 1977 was the cut off year? Representative Forrester said that 1977 was the cut off year but at the present time there are no national standards.

Senator Waterman said that she had concerns about HB 154 allowing or encouraging people to utilize those busses that are that old. She said that there have been a lot of reports about busses that are unsafe. She said that in 1977 safety codes required the gas tanks be moved. Prior to that year they were not required to be moved and those busses had gas tanks located very close to the front doors or right under the front doors making it impossible for passengers to get out.

Representative Forrester said that the Ryegate School was one of the ones who testified. They said that they have 1961 and 1968 busses that they are using and that they have no busses newer than 1968 and if you put a cut off date in the bill, they will repair the bus anyway because it doesn't appear from their testimony that they can purchase a newer bus. Bus standards were updated in 1977 and after 1977 manufacturers of school busses had to meet different areas of safety but Montana law allowed older busses to be used.

Senator Nathe said that the 4x4 suburbans that are used by some districts don't fit the description of a school bus but they are safer and more practical travelling unpaved roads during bad weather. He said that he thought the committee should look at revising some of the law that specifies that only a standard yellow school bus may be used for transporting students. He said that the big yellow school busses had a 2 1/2 Ton truck frame stripped off at the box with seats sitting on the frame and

covered over the top. The only safety feature might be the fact that school busses are yellow and sitting up higher than most vehicles. He mentioned that there are no seat belts in school busses.

Senator Farrell said that he served on the National Advisory Committee in 1987 and watched demonstrations of bus crashes. He said that there may not be a Montana law specifying how long a bus can be used but the bus manufacturers do put schools on notice when they need to upgrade a bus. He said that he knew of incidents where students were killed because the bus was old and needed upgrading, gas tank in dangerous place, etc., He said that he was certain that the committee did not want those old busses in operation. He thought that the money saved might not be worth the price of safety. He said that bus manufacturers have voluntarily strengthened some requirements.

Closing by Sponsor:

Representative Forrester said that after the discussion by the committee, it is important to realize that HB 154 doesn't keep busses on or off the road but rather, it allows a district to have that prerogative. This bill merely allows a district the flexibility and allows them to be legal if they have to repair an old bus. He said that he had to believe that some of the districts are repairing and using their old busses because they have no choice. The sponsor felt that most school districts do not practice keeping unsafe busses on the road. He thinks that if the committee does not pass HB 154, the old busses will still be operating but it will place additional hardship on a school district. If they do not have general fund monies to repair the busses that they have to continue using, they'll have to use teachers' salaries through a layoff.

EXECUTIVE ACTION ON HB 154

Motion:

SENATOR HAMMOND MOVED that HB 154 DO PASS. Five voted aye; three voted no. (Farrell, Waterman and Pinsoneault voted no). MOTION CARRIED.

EXECUTIVE ACTION ON SB 395

Motion:

SENATOR PINSONEAULT MOVED that SB 395 DO PASS. Seven voted aye; one voted no. (Waterman) MOTION CARRIED.

ADJOURNMENT

Adjournment At: 5:00 P. M.

Chet Blaylock

SENATOR CHET BLAYLOCK, Chairman

Betsy Clark

BETSY CLARK, Secretary

CB/bc

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

February 20, 1991

Senate 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 to support 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)'s 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 the same).

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. *drafting error*

- (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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Helena, Montana 59601
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Robert L. Anderson, Executive Director

—MONTANA SCHOOL BOARDS ASSOCIATION—

TESTIMONY ON SB 395

The Montana School Boards Association wants to go on record in support of SB 395. First, it provides needed clarification in many areas of the law. Second, it requires the County Superintendent to consider the effect of the transfer on those residing in the remaining territory of the school district losing the territory as well as those residing in the territory proposed for transfer. In the past, the County Superintendent was not allowed to consider the effect on the school district that would lose the territory, creating a one-sided decision making process.

Please support SB 395.

SENATE EDUCATION

EXHIBIT NO.

2

DATE

2-20-91

BILL NO.

SB395



OFFICE OF PUBLIC INSTRUCTION

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

Nancy Keenan
Superintendent

February 20, 1991

MEMORANDUM

TO: Chairman Schye, House Education Committee
Chairman Blaylock, Senate Education Committee

FROM: Nancy Keenan *NK*

SUBJ: Equalization and HB28

The question heard throughout the early days of the session was, "Is HB28 working?" In an attempt to provide an evaluation of the effectiveness of HB28, we did a preliminary analysis using FY91 budget data. School year 1990-1991 expenditure information will not be available until this fall.

As you may recall from the underfunded schools lawsuit, two measures of equalization were discussed. One measure was that 85% of the funding had to come from wealth neutral sources (a statewide levy, for example). The other measure was that per-pupil expenditures within similar size categories of schools could have a disparity of no more than 25 percent after removing the extremes, the top and bottom 5 percent of the schools in that expenditure category.

The attached graphs show estimated disparity ratios for different size categories of schools. The ratios were calculated in the same manner used to explain disparity in the lawsuit. The lawsuit used 1985-86 actual expenditure information. The estimated ratios use budget data for school year 1990-91. The same ANB categories were used for the lawsuit disparity calculations and the FY91 estimates. For this calculation, allowable special education budget amounts were removed.

The analysis indicates that in 10 of the 13 categories the per-pupil disparities have narrowed. The disparity ratios for nearly 80 percent of the elementary students and 50 percent of the high school students are close to the acceptable 1.25 ratio. The higher disparity ratios in several of the smaller categories indicate that additional work needs to be done to move toward equalization.

SENATE EDUCATION

EXHIBIT NO. 3

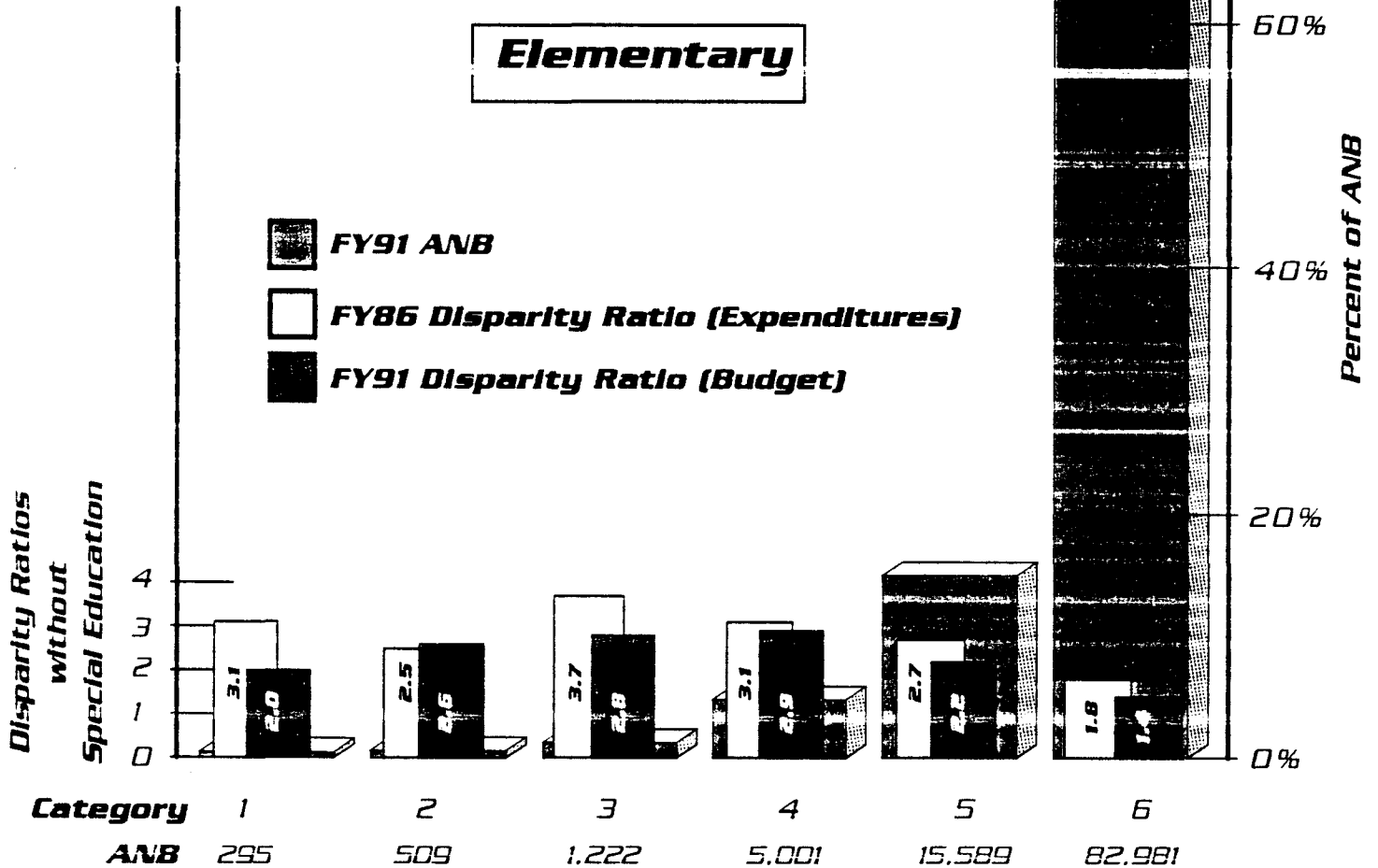
DATE 2-20-91

BILL NO. SB 395



Nancy Keenan, Superintendent
State Capitol
Helena, Montana 59620

Disparity Ratios FY86 & FY91 Without Special Education



Elementary					
Category Number	ANB Range	ANB	Disparity Ratios		
			FY 86	FY 91	
1	1 - 9	295	3.1	2.0	
2	10 - 17	509	2.5	2.6	
3	18 - 40	1,222	3.7	2.8	
4	41 - 100	5,001	3.1	2.9	
5	101 - 300	15,589	2.7	2.2	
6	300 +	82,981	1.8	1.4	

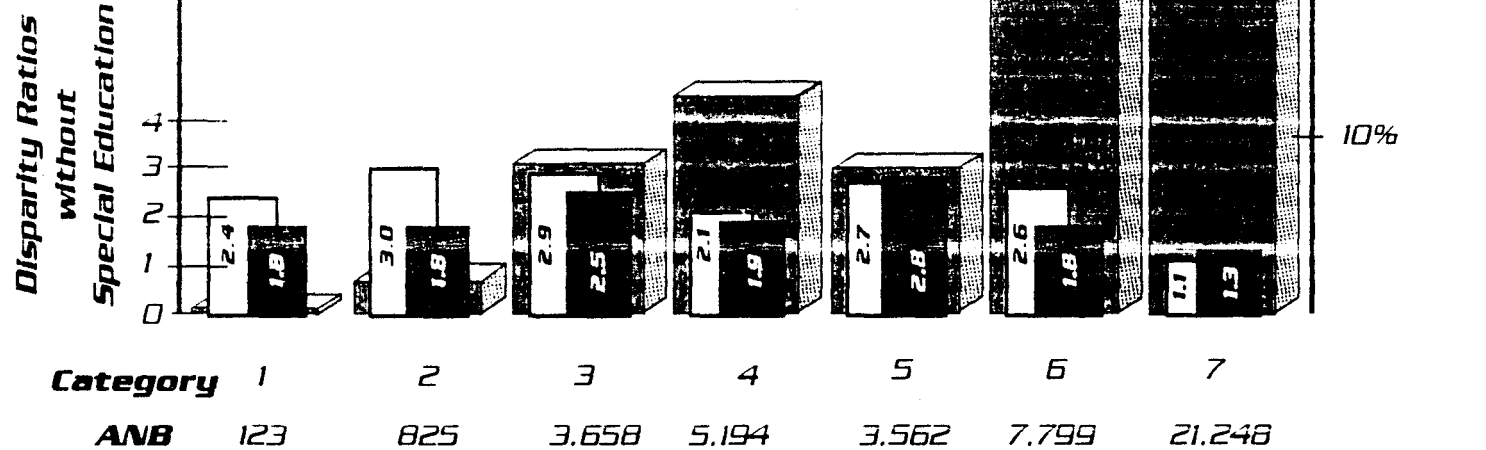
2-20-91
SB 395



Nancy Kennan, Superintendent
State Capitol
Helena, Montana 59820

Disparity Ratios FY86 & FY91 Without Special Education

High School



High School

Category Number	ANB Range	ANB	Disparity Ratios	
			FY 86	FY 91
1	1 - 24	123	2.4	1.8
2	25 - 40	825	3.0	1.8
3	41 - 100	3,658	2.9	2.5
4	101 - 200	5,194	2.1	1.9
5	201 - 300	3,562	2.7	2.8
6	301 - 600	7,799	2.6	1.6
7	600 +	21,248	1.1	1.3

DATE 5-20-91

COMMITTEE ON Education

VISITORS' REGISTER

[illegible]