

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Chairman Royal Johnson, on January 13, 1993,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Royal Johnson, Chair (R)
Sen. Don Bianchi, Vice Chair (D)
Rep. Mike Kadas (D)
Sen. Dennis Nathe (R)
Rep. Ray Peck (D)
Sen. Chuck Swysgood (R)

Members Excused: none

Members Absent: none

Staff Present: Taryn Purdy, Legislative Fiscal Analyst
Skip Culver, Legislative Fiscal Analyst
Doug Schmitz, Office of Budget & Program Planning
Jacqueline Brehe, Committee Secretary

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

Committee Business Summary:

Hearing: OFFICE OF PUBLIC INSTRUCTION BUDGET
MODIFICATIONS
Executive Action: NONE

HEARING ON OFFICE OF PUBLIC INSTRUCTION BUDGET MODIFICATIONS

Tape No. 1:A:000

CHAIRMAN ROYAL JOHNSON invited those in the audience who would
like to testify to come forward at this time.

Kelly Evans, Special Education Director in SW Montana, presented
testimony on behalf of **Gail Cleveland, President of Montana
Council of Administrators in Special Education** strongly urging
the committee to approve the special education budget
modification for \$22 million. **EXHIBIT 1**

REP. RAY PECK noted that **Ms. Cleveland** was the Director of
Special Education in Great Falls. **REP. MIKE KADAS** asked what the
maintenance of effort was for special education funds. **Mr. Evans**

said it was his understanding that if the state was to continue to receive federal special education dollars from year to year the level of state and local funding had to be maintained. **REP. KADAS** asked if federal funds would be endangered if the state reduced its \$33 million in funding. **Mr. Evans** said yes.

John Wilkinson, Administrator, Intermountain Children's Home, testified in favor of continuing the provisions of HB 999 passed during the 1991 Session and the provision for the educational costs of children in residential treatment. He noted that his facility now served emotionally disturbed children age 5-12. He said that although the cost of educating these children appeared to have jumped dramatically, it was his opinion that in actuality the cost was just beginning to catch up with the number of children being served. He noted that the 1991 passage of HB 999 was the first explicit recognition of the state's responsibility to educate children in treatment facilities.

Mr. Wilkinson spoke to the issue of the increasing numbers of children placed in residential treatment. He noted that the "medicalization of social services" in recent years had allowed more children who needed treatment to get it because Medicaid would fund what were traditionally social services with federal matching funds. Access now was defined by medical necessity rather than by legal status of the child.

Mr. Wilkinson noted the dramatic increase in the number of child abuse cases and neglect cases being reported. **EXHIBIT 2** He said that although the number of children reported as being abused was increasing, the number of social workers was not, which resulted in significant numbers of the children being under-served. He added that, due to the lack of resources and coordination among agencies, more children were being placed in more restrictive and therefore more expensive levels of care.

Mr. Wilkinson said he did not support the 1991 HB 999 because it was under funded. He did not support the proposed revisions in the present bill (HB 278) because of the lack of clarity in designating the responsibilities of OPI for educational services at treatment facilities and because the bill excluded Intermountain Children's Home. He did support the OPI budget modification but remained concerned about spiraling costs exacerbated by lack of coordination and cooperation. **EXHIBIT 2**

SEN. DENNIS NATHE asked if there was a standard for determining child abuse and if it took into account ethnic differences in child rearing. **Mr. Wilkinson** answered that all of the children at Intermountain came through SRS and there had been an increase in the number of Native American children. He noted that regardless of the value structure of the social workers placing the children, the children were desperately in need of treatment.

CHAIRMAN JOHNSON noted that the DFS maintained that the substantiation rate for child abuse was lower than the 40% which

Mr. Wilkinson cited. Mr. Wilkinson responded that he drew his calculation from figures supplied by DFS. CHAIRMAN JOHNSON asked if any improvement had occurred in planning and cooperation between state agencies within the last year. Mr. Wilkinson replied no and noted that as a provider he did not know what direction DFS was going or what their policy was going to be. He said he would prefer a more comprehensive planning effort. He maintained that when costs skyrocket as they were doing, something was wrong with the system. He noted that DFS had yet to develop a data base for long-range planning. He added that HB 999 was implemented because the increase of children in residential centers and psychiatric hospitals was finally impacting educational costs.

In reply to REP. PECK, Mr. Wilkinson defined substantiation rate as the percentage of investigations in which allegations were found to be true. He noted that, in general, these were reports made to child protective services through a teacher, parent or child. SEN. NATHE reminded the committee that the 1989 Session passed legislation which empowered people to go back and seek compensation for treatment from those who had abused them. He asked if anyone was assisting people in this effort. Mr. Wilkinson said that when it occurred, it was rare due to the extent of the trauma. He noted children could be in counseling for years before they were strong enough to start such a process.

REP. KADAS asked for the percentage of children who were in residential treatment centers due to child abuse, physical abuse or neglect. Mr. Wilkinson said in his experience at the Intermountain Children's Home (ICH) it was 100%. He could not speak for other facilities.

CHAIRMAN JOHNSON asked if there was a way to measure the result of educational services within the treatment centers and asked what would happen if the educational costs were not covered. Mr. Wilkinson commented that ICH did three-year follow-up studies on the children released from the facility. Of the children who left the program each year, 84% were in a less restrictive environment and were still in public school. In a three-year follow up study, 76% were still in less restrictive care. He said the model at ICH was to get the children to trust adults again and to integrate them into the public schools with some support services by the end of their treatment, which usually averaged two years.

Claudia Morley, Director of Education, Intermountain Children's Home, described the profiles of four typical children who would receive services at their facility. All exhibited aggressive and/or violent behavior. EXHIBIT 3

Tape No. 1:B:59

REP. PECK asked the frequency with which the state took action against the parents. Ms. Morley said that of the children they were serving, about 50% of the parents were prosecuted. SEN.

NATHE asked if there were statutes in place enabling the state to go after the parents for the cost of treatment for their children. **Ms. Morley** noted that, once the state removed a child from his parents, the parents were not obligated to pay. She said in her 11 years experience, she knew of only one parent who contributed to the cost of treatment and it was a minimal contribution. **SEN. NATHE** asked if a statute would help the situation. **Ms. Morley** did not feel qualified to provide an answer. **Mr. Wilkinson** informed the committee that in examining the profiles of the children at ICH, one found a very small percentage came from intact homes and a very small percentage came from homes where the parent(s) was gainfully employed. He noted that emotionally disturbed parents caused emotionally disturbed children.

David Quinn, Comptroller, Rivendell Hospital, commented that approximately 78-80% of the patient days at Rivendell were Medicaid days, which meant the clients did not have financial resources. He noted that in his experience when DFS had taken custody of a child and the family had financial resources, the state attached the resources for payment of treatment.

Mr. Quinn testified in support of continuing the provisions of HB 999. He said Rivendell supported HB 999 when it was originally introduced because it was the first time the state accepted the responsibility for the education of children in residential treatment facilities. The consensus of providers was that the best care for children involved educating them while they were in the residential treatment setting. He emphasized that the costs were not increasing at Rivendell, but utilization was. He concurred with **Mr. Wilkinson** concerning the lack of coordination between state agencies.

REP. KADAS asked what the average length of stay was for a child at Rivendell. **Mr. Quinn** replied that Rivendell was an acute care facility and stays averaged 36 days. **REP. KADAS** asked what the daily costs were. **Mr. Quinn** answered that 77% of the costs were reimbursed through Medicaid. The reimbursement from the state for each child was \$410 per day. He noted that Medicaid has not paid for educational costs yet. The cost of education for a child was \$55 per day but school ran for 365 days per year at the facility.

SEN. DON BIANCHI commented that the intent of HB 999 was to reduce the number of children being sent out of state for treatment, and yet the numbers had gone up. He asked for the reason. **Mr. Quinn** said he believed the intent of HB 999 was to have the state take the responsibility for paying for the educational costs of children in residential treatment facilities. **SEN. BIANCHI** added that one of the justifications for HB 999 was that children could be educated more cheaply in-state. He again asked why the out-of-state placements had increased. **REP. PECK** said there were many reasons for implementing HB 999. The chief one was that it was better to

treat children close to their residences rather than out-of-state. He said it was also more efficient to centralize the process under OPI. He added that education was an integral component of the treatment prescribed for a child and as such Medicaid should cover the cost. Mr. Quinn agreed.

REP. KADAS inquired as to the number of beds in the Rivendell facilities. Mr. Quinn said in Butte there were 52. The Billings facility was licensed for 60 beds, but they were currently operating only 46. REP. KADAS asked what percentage of their caseload was Medicaid funded. Mr. Quinn replied that 78-80% were Medicaid funded in both facilities.

CHAIRMAN JOHNSON asked why Rivendell advertised on television if their beds were full. Mr. Quinn noted that the facilities were not running at capacity. CHAIRMAN JOHNSON asked how the Family of One Rule affected their policy making. Mr. Quinn commented that the Family of One Rule allowed them to do business in the state of Montana. With 78-80% of the cases being Medicaid, it was not a money-making venture. He added that Rivendell advertises so that people in rural Montana were informed of the resources available. He said of the telephone calls they received as the result of advertising, only 15% resulted in admissions. He said that the state regulations for admissions were appropriate. He informed the committee that Rivendell often provided free care for clients when Medicaid ran out and the children were not ready to return to their families.

Linda Adelson, Educational Director, Rivendell Psychiatric Hospital, Butte, testified in support of continuing the provisions of HB 999. She gave background material on the children admitted to Rivendell noting that 47% of those admitted were already receiving special education services. All the children were admitted by psychiatrists because they were a danger to themselves or others. She described the 10 most common diagnoses. EXHIBIT 4 She noted that because of HB 999 the children did not experience a breakdown in their educational progress. She also noted that there was better communication between the doctors and the regular teachers of the children.

REP. KADAS asked what happened to the children after they left Rivendell. Ms. Adelson said the facility was required to track the children for two years. She said next year she would have data on the number who finished high school, etc. REP. PECK asked if the clients in the two Rivendell facilities came from the immediate geographical area. Ms. Adelson noted that in Billings there was a Native American track served by Native Americans clinicians. Because of the different treatment tracks, children were being referred for the treatment they required. She added that the referrals for emergencies were higher from the immediate area. REP. PECK speculated that if a unit were in Glasgow, more children from Glasgow would be referred. He noted the inconvenience of travelling long distances may cause people to deal with problems with local resources. Ms. Adelson did not

agree. She said there were many children going to Rivendell from rural areas because there were no local day treatment centers to utilize. **REP. PECK** asked if the increase in the number of admissions was due to the increase in the number of facilities. **Ms. Adelson** said that in the past the children with emotional problems were handled differently (suspension from school), but the need for the facilities was there.

CHAIRMAN JOHNSON asked **Ms. Adelson** to amplify on how she would conduct her follow-up studies. **Ms. Adelson** noted that the present technology, including data bases and computers, would facilitate the process. **CHAIRMAN JOHNSON** noted that she would be dependent on the students or parents informing the system of their location and progress and as such the method was somewhat unreliable.

Jack Casey, Administrator, Shodair Hospital and Shodair Residential Treatment Center, spoke in support of continuing the provisions of HB 999 and described the difficulties involved in supplying educational services for their clients which occurred before passage of the bill. He noted the increase in out-of-state placements even with the increase of facilities in the state. He said that some of the reasons involve the failure of the system. The children were not receiving appropriate services early enough and so deteriorated until they required high cost, intensive services. Funds were not available to serve the children early in the development of their behavioral problems when they could be addressed locally.

Mr. Casey said that Mental Health Management of America was the managed care system which was utilized to determine criteria for admission and when a child's treatment was completed. He noted that at Shodair, 70% of the clients were dependent on Medicaid. He explained that the majority of children who come to Shodair under the Family of One Rule already would have qualified for Medicaid funding. The Family of One Rule allowed children to obtain services who otherwise couldn't because abusive parents would refuse the services.

Mr. Casey explained that it was in the best interest of the child to have educational services under the control of the facility so they could be fully integrated into the program of treatment.

SEN. BIANCHI asked if the facility was still cooperating with the high schools to obtain teachers. **Mr. Casey** said that under HB 999 the facility hired their own teachers. He said there was still cooperation between the facility and school district one in other areas such as crisis intervention. **SEN. BIANCHI** asked if the 129 children who were being served out of state were at a lower level of need than facilities in Montana could supply. **Mr. Casey** said the perception was correct and added that lower intensity treatment centers needed to be developed in Montana. He said as the needs of the children were met at an early stage, it would decrease the costs at the higher end of the treatment

spectrum, i.e., intensive residential centers. He said once a wider spectrum of treatments were made available, it would take 10 years to see the decrease in the number of beds in residential centers.


Mr. Quinn noted that his facility was relying heavily on mental health professionals to track former clients because of the unreliability of self-reporting. Mr. Casey said Shodair was involved with an NIH grant to do an intensive outcome study of in-patient services.

Gail Gray, OPI, informed the committee that OPI was not able to obtain information requested by the committee on the number of full-time special education students who lived in group homes. She noted that they were able to obtain information on the number of full-time special education students who were being served in districts which were not their resident districts.

Robert Runkel, OPI, stated that about one in six of the full-time special education students were served outside their home district. He said that would not only include children in group homes but also foster care settings. He added that there were 2400 full time special education students but the figure was about a year old.

ADJOURNMENT

Adjournment: 9:55 a.m.



REP. ROYAL JOHNSON, Chair



JACQUELINE BREHE, Secretary

jb/

HOUSE OF REPRESENTATIVES

EDUCATION

SUB-COMMITTEE

ROLL CALL

DATE

1-13-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ROYAL JOHNSON, CHAIRMAN	✓		
SEN. DON BIANCHI, VICE CHAIRMAN	✓		
REP. MIKE KADAS	✓	-	
SEN. DENNIS NATHE	✓		
REP. RAY PECK	✓		
SEN. CHUCK SWYSGOOD	✓	-	

MCASE

MONTANA COUNCIL OF ADMINISTRATORS IN SPECIAL EDUCATION

Gail Cleveland, President
3300 Third Street N.E.
Great Falls, MT 59404
(406) 791-2270
FAX: (406) 791-2277

To: Tom Zook, Chairman and Members of the Appropriations Committee

From: Gail Cleveland, President MCASE

Date: 1/12/92

Re: Special Education Funding Request

Montana weather has prohibited me from attending the Appropriations Committee meeting scheduled for 8:00 Wednesday morning. However, on behalf of the Montana Council of Administrators in Special Education, I hope you will accept this written testimony in total support of OPI's request for an increase of \$22 million for special education over the next biennium

The last increase in the special education allocation was during the 1989 Legislative session. During the intervening years, the number of children identified as requiring special education services increased from 15,068 students during the 1988-89 school year to 17,560 students during 1991-92 school year. At the same time Federal mandates have increased requiring districts to provide additional services. For example, districts are required to identify two more categories of disabled children, provide social work and vocational counseling services, and provide transition services for all identified special education students to name just a few. Additionally, teacher salaries and related benefits have continued to rise.

With the increased costs and additional services already discussed, a lack of increase in state special education funding will really be a cut in the dollars available. Since most district special education budgets are funded by a combination of general fund and state special education funds, increases in costs without increases in state funding results in increased reliance on general fund contributions. Therefore, no increases in special education funding are really cuts in dollars available to all students. It is imperative that special education allowable costs are supported with more adequate state funding.

The Montana Council of Administrators in Special Education strongly urges your consideration of the addition of \$22 million new dollars for special education over the next biennium as recommended by the Office of Public Instruction.

1
1-13-93

MEMORANDUM

Date: January 12, 1993

From: John Wilkinson, Administrator, Intermountain Children's Home

To: Representative Royal Johnson, Chairman Appropriations Subcommittee on Education

Subject: Justification for funding for educational services at in-state Residential Treatment Facilities and Children's Psychiatric Hospitals

The question has been legitimately raised with respect to the seeming dramatic increase in the for additional state dollars to fund the allowable education services in the above referenced facilities. In 1988-89 the cost of providing these services to the general fund was \$340,984. In 1994-95 it is estimated that cost will increase to 2,755,241. On that basis alone the costs appear to have dramatically increased.

However, it is my contention that the costs being incurred through educational programs is just beginning to catch up with the significant increase of children served by these programs. The first very significant increase occurred in the FY 91-93 Biennium due to the adoption of HB 999. This was the first time there was an explicit recognition of the state's responsibility to fund children placed in residential and psychiatric hospital programs. Resident school districts from which children were being sent into these programs were having to bear the brunt of these education costs. Court cases were making it clearer that the state had a role to play in funding of educational programs in these treatment facilities.

But let's digress for a moment. Why are we seeing more and more children being placed in these facilities. One of the first recognitions relating to access has been the "medicalization" of social services in this state. Social service programs could limit access of children into treatment facilities by virtue of available funds and the legal status of the child in question. If the funds were not available and the child was not under the authority of the Department of Family Services, then services were denied.

The "medicalization" of these programs, however, offered significant hope to those within the system because Medicaid offered the opportunity to fund what were traditional social services with federal matching funds. However, by participating in this shift toward Medicaid, access to these services also increased dramatically. Access was defined by "Medical Necessity" rather than through the availability of funds and the legal status of the child.

EXHIBIT 2A
DATE 1-13-93
SR.

Why were children migrating into these more intrusive (and expensive) levels of care, then. Consider the following:

The number of substantiated child abuse and neglect cases has increased by 31% from SFY 1985 to 1992 (3,021 vs. 4,351)

The number of children involved yearly in child abuse and neglect investigations has increased by 29% from SFY 1985 to 1991 (7,321 vs. 10,256)

From fiscal year 1985 through 1992, the number of children receiving out-of-state residential treatment increased three times as rapidly as the number of children receiving in-state treatment. DFS estimates that 129 children will have been placed in out-of-state facilities by the end of SFY 1992.

In December of 1990, DFS, at the direction of the Legislature, identified the need for 108 additional social workers, 32 supervisors, and ten family resource specialists. To date, few of these needs have been addressed.

Given the lack of coordination and planning amongst the various state agencies charged with planning the system of care and treatment, and given the absence of resources dedicated to these problems, we, as a provider, have seen a constant and consistent drift of children into more restrictive and more costly levels of care.

We did not support HB 999 last legislative session as we believed that it was underfunded both in terms of need and scope. We do not support the proposed revisions to HB 999 that have been developed by the Office of Public Instruction as they muddy the distinction between OPI's responsibility for educational services at these treatment facilities, and it arbitrarily excludes our facility as a class of provider.

We do support the budget modification request made by OPI, but remain deeply concerned this pattern of spiraling costs will not abate until the various state agencies charged with coordinating, planning and delivering these services work together in a heartfelt manner in developing proactive proposals for addressing the underlying problems affecting Montana's emotionally disturbed children.

EXHIBIT 26
DATE 1-13-93
SB

MEMORANDUM

Date: January 12, 1993
From: Claudia Morley, Intermountain Children's Home
To: Representative Royal Johnson, Chairman
Sub-Committee on Education
Subject: Profile of Children Referred to Treatment

The purpose of Intermountain Children's Home is to provide long term treatment to seriously emotionally disturbed children, ages 4 - 12, with the focus upon building attachments and trust necessary for a child to be re-integrated into a family. These children come to the Home from all over the state.

Profiled below are four children currently in treatment at Intermountain Children's Home. They are characterized by their presenting problems and other remarkable symptoms.

CHILD 1: A nine year old boy is referred for treatment of severe aggression toward animals, siblings, and self (including threats and attempts to kill sisters and a suicide attempt by electrocution). He is the biological child of drug-abusing parents who provided no consistent care, and likely left him unprotected from abuse, until age three, when his adoptive parents adopted him. Despite the adoptive parents' consistent effort to re-parent him, he remains depressed, sullen, unaffectionate, and has recently killed chickens and cats.

CHILD 2: A six year old boy presents multiple problems that include unprovoked impulsive verbal and physical aggression toward children and animals, tantrums in which he destroys property, abnormal behavior regarding food (e.g., gorging, hoarding, and sneaking food at night, eating solidly frozen food, and contaminating food), sexualized behavior (e.g., exposing and fondling himself in public, excessive masturbation, disrobing and binding ankles when toileting); and, a pre-occupation with violence (e.g., talking about chopping people up, cutting off people's sexual body parts). He has experienced multiple short-term foster placements and two psychiatric hospitalizations.

CHILD 3: A six year old boy is diagnosed as being an "unattached" child. He has tried to jump out of moving cars, started two fires in his mother's bedroom, injures others impulsively and without remorse, costly property destruction, and has frequent nightmares. Despite one hospitalization at age 4 1/2 and another at age 5 1/2, he continues to exhibit extreme aggression.

CHILD 4: An eight year old girl referred to treatment due to physical aggression against peers and a teacher (e.g., spitting, hitting, and kicking). Her childhood has been chaotic, marked with violence and severe neglect. She has been in thirteen foster care placements and has had one hospitalization.

EXHIBIT 3
DATE 1-13-93
SB

73-43

10 MOST COMMON DISCHARGE DIAGNOSIS
FISCAL YEAR 1991/1992

DEPRESSION/DYSTHYMIA	124
CONDUCT DISORDER	66
PTSD	30
ADHD	29
OPPOSITIONAL DEFIANT	28
ADJUSTMENT DISORDER	22
INTERMITTENT EXPLOSIVE DISORDER	7
SCHIZOPHRENIFORM	3
BIPOLAR	2
SEXUAL DISORDER, NOS	2

EXHIBIT 4
DATE 1-13-93
SB

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

EDUCATION SUBCOMMITTEE DATE 1-13-93
DEPARTMENT (S) DIVISION

PLEASE PRINT

PLEASE PRINT

NAME	REPRESENTING	
Claudia Morley	Intermountain Children's Home	
KELLY EVANS	MCASE Montana Council of J & S Adm.	
David Quinn	RIVERDELL	
Robert Dunkel	OP	
JOHN WILKINSON	Intermountain Child. Home	
Mary Cooperman	OP	
Paul Smith	OP	
Mary Hudspeth	Lincoln Co. Supt of Schools	
Mona Jamison	Intermountain	
(Linda J. Adelson)	Riverdell Butte + Billings	
JACK CASEY	Shelby	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT
FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.