

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By CHAIRMAN DARYL TOEWS, on March 15, 1995, at
3:15 p.m.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. John R. Hertel, Vice Chairman (R)
Sen. C.A. Casey Emerson (R)
Sen. Delwyn Gage (R)
Sen. Loren Jenkins (R)
Sen. Kenneth "Ken" Mesaros (R)
Sen. Steve Doherty (D)
Sen. Gary Forrester (D)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Eddye McClure, Legislative Council
Janice Soft, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: HB 110, HB 167, HB 228, HB 233, HB 300,
HB 352, HB 415, HB 437, HB 480, HJR 20

EXECUTIVE ACTION ON HOUSE BILL 110

SEN. MIGNON WATERMAN asked what the language in Amendments
HB011001.aam (EXHIBIT 1) did when it was reinserted. Robert
Runkel, OPI, said it provided clarification of who is responsible
for paying when public school districts make the placement, i.e.
when the school district makes the placement, it is responsible
for payment.

Motion: SEN. LOREN JENKINS MOVED TO ADOPT AMENDMENT
HB011001.aam.

Discussion: SEN. JENKINS wondered how payment could be reinserted as the district's responsibility when the amendment addressed the section dealing with court placement. SEN. WATERMAN said this section was not about court placements, but district placements.

SEN. DELWYN GAGE wondered who had the final authority in the out-of-state placement. Robert Runkel said the IEP team made the determination; however, if there was an appeal of the decision of the IEP team, it would go to an independent due process hearing.

SEN. CASEY EMERSON asked the definition of a hearings officer as stated on Page 3, Line 4. Mr. Runkel said the IEP team was composed of school district personnel, and the hearings officer was appointed when a parent did not agree with the recommendation of the IEP team.

SEN. DARYL TOEWS asked if this amendment removed motivation from trustees to go to the state and was told it was not removed.

SEN. JENKINS asked who paid and was told this amendment stated the district will.

SEN. WATERMAN said it was her understanding Amendment HB011001.aam reinstates the language applying to a situation which had no objections or appeals.

Vote: Motion to adopt Amendments HB011001.aam **CARRIED UNANIMOUSLY** by voice vote.

SEN. WATERMAN distributed copies of Amendments HB011001.AEM (EXHIBIT 2) and explained her amendments change the payer mix to the local district paying 25% and the state paying 75% of the cost. She asked OPI if currently a district could negotiate to have an agency other than the district itself pay the entire cost of an out-of-state placement. Robert Runkel said costs for almost all out-of-state placements were paid that way, explaining other state agencies paid for the room and board and treatment, while OPI paid for the education costs. He said the cost of the Kalispell child was not being paid from the Kalispell district's General Fund budget, but from Federal special ed funds which were distributed by OPI.

SEN. WATERMAN said HB 110 was addressing a problem which happened two years ago, but would not happen today. She said if HB 110 passed, districts would have a real incentive to place students out-of-state. She reminded the committee her amendments (HB011001.AEM) would require the districts to pay 25% of the cost.

SEN. BARRY "SPOOK" STANG said he disagreed with the idea that districts would have an incentive for out-of-state placements because districts would have to pay a portion of the costs, according to SEN. WATERMAN'S amendments. He stated currently MRM

paid the entire cost. SEN. WATERMAN said there were controls within MRM; in fact, currently there were 11-14 out-of-state placements as compared to 120 two years ago.

SEN. JENKINS wanted clarification of the Kalispell child being covered 100% by Federal dollars. SEN. WATERMAN affirmed.

SEN. STANG asked if payment was from Federal special ed funds designated entirely for that purpose or if the dollars were taken from other students who might need the services. SEN. WATERMAN said she thought it was taken from funds which would serve other students if it wasn't serving that particular Kalispell student.

SEN. WATERMAN commented if this situation had happened today, the child would have been served from the MRM process. Robert Runkel said it was probably correct; however, if MRM did not want to be involved, the school would need to make a special ed program available for the child.

Motion/Vote: SEN. DELWYN GAGE MOVED TO TABLE HB 110. Motion CARRIED on a 8-2 voice vote, with SEN. FORRESTER and SEN. EMERSON voting "No."

EXECUTIVE ACTION ON HOUSE BILL 167

Motion: SEN. KEN MESAROS MOVED HB 167 BE CONCURRED IN.

Discussion: SEN. GAGE referred to Page 1, Line 22, and suggested "who has been expelled pursuant to this section" follow "disability."

Motion/Vote: SEN. DELWYN GAGE MOVED TO ADOPT THE ABOVE AMENDMENT (EXHIBIT 3). Motion CARRIED by UNANIMOUS voice vote.

Motion/Vote: SEN. DELWYN GAGE MOVED HB 167 AS AMENDED BE CONCURRED IN. Motion CARRIED by UNANIMOUS voice vote.

SEN. J. D. LYNCH will carry HB 167.

EXECUTIVE ACTION ON HOUSE BILL 228

Motion: SEN. BARRY "SPOOK" STANG MOVED HB 228 BE NOT CONCURRED IN.

Discussion: SEN. EMERSON commented since HB 229 will be on the ballot as a Constitutional Amendment, HB 228 should be also.

SEN. WATERMAN countered there was no obligation to send HB 228 out because there was enough testimony to substantiate HB 228 not

being compatible with HB 229. It was her opinion **HB 228** should not leave the committee.

Substitute Motion/Vote: SEN. MIGNON WATERMAN MADE A SUBSTITUTE MOTION TO TABLE HB 228. Motion CARRIED 6-4 by Roll Call Vote (#1).

EXECUTIVE ACTION ON HOUSE BILL 233

Motion/Vote: SEN. JOHN HERTEL MOVED HB 233 BE CONCURRED IN. Motion CARRIED by UNANIMOUS voice vote.

SEN. JOHN HERTEL will carry HB 233.

EXECUTIVE ACTION ON HOUSE BILL 300

Eddye McClure distributed copies of Amendments HB030001.AEM, (EXHIBIT 4) which corrected the inaccurate placement of some counties in HB 300.

Motion/Vote: SEN. DELWYN GAGE MOVED TO TABLE HB 300. Motion CARRIED 8-2 by voice vote, with SEN. WATERMAN and SEN. DOHERTY voting "No."

EXECUTIVE ACTION ON HOUSE BILL 352

Motion/Vote: SEN. LOREN JENKINS MOVED TO ADOPT AMENDMENTS HB035201.AEM (EXHIBIT 5). Motion CARRIED UNANIMOUSLY by voice vote.

Motion: SEN. BARRY "SPOOK" STANG MOVED HB 352 BE CONCURRED IN AS AMENDED.

Discussion: SEN. STANG asked for a definition of "full market value." SEN. DOHERTY said it would be the same process as a homeowner getting an appraisal before buying or selling.

SEN. WATERMAN asked if HB 352 would solve a problem which didn't exist. SEN. DOHERTY said it pertained to land to be disposed of in the future and to ensure it be sold at full market value. SEN. GARY FORRESTER stated HB 352 would allow the books of the alumni association to be audited, thereby holding the association accountable for their funds.

SEN. JENKINS said the reason Fort Missoula wasn't covered under HB 352 was listed in Subsection 3.

SEN. EMERSON commented it was not only the alumni association, but also foundations which had been set up.

SEN. WATERMAN asked for an example of what HB 352 would not allow in the future what had been done in the past. SEN. FORRESTER said the legislature did not feel there was strict enough accounting of the donated money and there was the possibility of the university transferring property to the alumni association. SEN. WATERMAN asked for an example of property the university transferred to the alumni association. LeRoy Schramm said the university had not done so and he felt HB 352 was not solving any problems. Mr. Schramm informed the committee REP. RAY PECK said the legislature wanted to make sure the university was not giving anything to the foundation or alumni association.

Vote: Motion that HB 352 BE CONCURRED IN AS AMENDED CARRIED 9-1 by voice vote, with SEN. WATERMAN voting "No."

SEN. CHARLES SWYSGOOD will carry HB 352.

EXECUTIVE ACTION ON HOUSE BILL 415

Motion/Vote: SEN. KEN MESAROS MOVED HB 415 BE CONCURRED IN. Motion CARRIED by UNANIMOUS voice vote.

SEN. MESAROS will carry HB 415.

EXECUTIVE ACTION ON HOUSE BILL 437

Motion: SEN. LOREN JENKINS MOVED TO ADOPT AMENDMENTS HB043701.AEM (EXHIBIT 6).

Discussion: SEN. JENKINS explained the amendments were to ensure the district had a trustee who would vote only on high school issues.

SEN. WATERMAN asked if it was possible to have two non-voting high school trustees, one from each of the two elementary stand-alone districts who each would be under the .5 taxable valuation. She said when it was over .5, the member would be a voting member.

SEN. STANG commented these districts made the choice to be stand-alone districts, and he wondered if there was a way to become a part of the district so they could vote for the high school trustee. SEN. EMERSON said the ultimate result would be the closing of the small schools and busing the students into Belgrade.

Motion: SEN. LOREN JENKINS MADE A SUBSTITUTE MOTION TO ADOPT AMENDMENTS HB043701.AEM, BUT DROP #2 AND THE LAST HALF OF #4.

Discussion: SEN. DARYL TOEWS said the high school part could be removed and the elementary part could remain.

SEN. JENKINS said his area had many rural elementary schools which were incorporated into the high school districts. SEN. TOEWS said his area had schools who had the same situation but they could vote for the trustee, though the trustee did not have a vote on the high school board. SEN. JENKINS said if the taxable valuation was less than .5%, the district could not vote.

SEN. STANG said in all his years on the Education Committee, he had heard of only two areas with the above problem and it seemed there were other ways besides the legislature to solve it.

SEN. EMERSON reminded the committee one of the proponents mentioned there were 10-12 areas in the state which had the same problem. SEN. JENKINS said he understood Pass Creek and Springhill were part of the high school district, though they were not allowed to vote for a high school trustee because the trustees were elected for both elementary and high school. He said because the elementary district was separated out, the voters could not vote for any trustee.

Vote: Motion to adopt SEN. JENKINS' substitute motion CARRIED by UNANIMOUS vote.

Motion/Vote: SEN. MIGNON WATERMAN MOVED TO TABLE HB 437 AS AMENDED. Motion CARRIED 8-2 by voice vote, with SEN. JENKINS and SEN. EMERSON voting "No."

EXECUTIVE ACTION ON HOUSE BILL 480

Eddye McClure distributed and explained the amendments referred to in the following motions.

Motion/Vote: SEN. MIGNON WATERMAN MOVED TO ADOPT AMENDMENTS HB48003.AEM (EXHIBIT 7). Motion CARRIED by UNANIMOUS voice vote.

Motion/Vote: SEN. STEVE DOHERTY MOVED TO ADOPT AMENDMENTS HB048005.AEM (EXHIBIT 8). Motion CARRIED 7-3 by voice vote, with SEN. GAGE, SEN. EMERSON AND SEN. TOEWS voting "No."

Motion/Vote: SEN. LOREN JENKINS MOVED TO ADOPT AMENDMENTS HB048007.AEM (EXHIBIT 9). Motion CARRIED 7-3 by voice vote, with SEN. STANG, SEN. DOHERTY AND SEN. WATERMAN voting "No."

Motion: SEN. JOHN HERTEL MOVED HB 480 AS AMENDED BE CONCURRED IN.

Discussion: SEN. STANG commented he had been encouraging schools in his district to put less money into administration and more into the classroom; however, he did not agree with the amendment on Page 2, Lines 14-17, of HB 480. He explained if the accreditation standards and rules of the Board of Public Education depend on funding from the legislature, it would not be a good thing.

{Tape: 1; Side: B}

SEN. GAGE agreed the amended language says if the money was a substantial amount, it would be necessary to submit the request to the legislature. SEN. STANG said in Project Excellence, most of the rules dealt with accreditation standards, i.e. curriculum, administration, etc.

SEN. GAGE clarified if the rules don't affect funding, they don't need to be brought before the legislature. SEN. STANG agreed.

SEN. EMERSON asked if the key word on Page 2, Line 14, was "may" or "may not." Eddy McClure said "may not" was the strongest prohibition.

SEN. STANG commented the difference between the old rule and HB 480 was now the legislature had to fund it before it could be implemented. He asked whether the accreditation standards should be set according to what the legislature can finance, or should they be set according to what Montanans want their children to reach. SEN. STANG suggested if the legislature could not fund the goal, Montana citizens may need to find other ways to finance the standards. SEN. TOEWS said if the accreditation system were multi-tiered, the above question could be easier to answer. However, the present accreditation standard is single-tiered and money is the driving force.

SEN. GAGE maintained part of the past school funding problem was the accreditation standards were raised and the legislature didn't fund them, which caused the local districts to absorb the cost. He said if the state was required to fund the standards before they were implemented, the burden would be off the local taxpayers.

SEN. WATERMAN commented some believe the standards are the minimum for a basic quality education.

SEN. JENKINS said Page 2, Lines 10-11, defines "substantial financial impact." He contended HB 667 set limits on education programs and if the Board of Public Education implemented programs which raised the districts over 100%, the legislature was required to allow districts to enact their programs. SEN. WATERMAN said it would be necessary to assume the districts were requiring only things within the accreditation standards.

SEN. STANG informed the committee when Project Excellence was underway, costs of accreditation standards were considered and it was almost impossible to match the cost with the standards.

SEN. GAGE remarked the Board of Public Education would determine whether the cost was substantial, thereby warranting bringing the funding before the legislature. He said if the Board decides there is no way to make the determination, they wouldn't submit it to the legislature.

SEN. HERTEL vocalized the committee was missing the sponsor's intent of **HB 480**, which was local control. He said he felt school boards already had a lot of local control; therefore, he spoke against **HB 480**.

SEN. MESAROS asked for expansion on the definition of the designation of duties (designee). **SEN. WATERMAN** said throughout the education law, certain duties are assigned to certain people. **HB 480** says if the district decided not to have a superintendent, principal or clerk, it can designate who will perform the duty.

SEN. GAGE commented if **SB 232** passed, **HB 480** would be unnecessary, or would **HB 480** allow some things which **SB 232** would not? **SEN. TOEWS** said **HB 480** would allow schools to meet the directed accreditation standards, while **SB 232** said the only way a school could get around the accreditation standard was to be outside the accreditation system.

SEN. GAGE asked if a school decided to be outside the accreditation standards, what was the advantage or disadvantage of **HB 480**. **SEN. TOEWS** said there was none. **SEN. GAGE** asked the advantages or disadvantages of a high school senior who graduated from a school which was outside the accreditation standards. **SEN. TOEWS** said the advantages had to do with the way the school spent its money, i.e. more classroom time, more technology; however, the disadvantages could include not being able to participate in music or sports; also, a college entrance exam could be required.

SEN. WATERMAN asked if a district could choose to not have a clerk, if **SB 232** passed. **SEN. TOEWS** said the school district would still be required to complete financial reports. **SEN. WATERMAN** said **HB 480** would allow the designation of someone else to perform the duties.

Substitute Motion/Vote: **SEN. CASEY EMERSON MADE A SUBSTITUTE MOTION TO TABLE HB 480 AS AMENDED.** Motion CARRIED by UNANIMOUS voice vote.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 20

Motion/Vote: SEN. BARRY "SPOOK" STANG MOVED HJR 20 BE CONCURRED
IN. Motion CARRIED by UNANIMOUS voice vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 4:26 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/jes

MONTANA SENATE
1995 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE _____

3/15/95

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 16, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 167 (third reading copy -- blue), respectfully report that HB 167 be amended as follows and as so amended be concurred in.

Signed: 
Senator Daryl Toews, Chair


That such amendments read:

1. Page 1, line 22.

Following: "disability"

Insert: "who has been expelled pursuant to this section"

-END-


SA

Amd. Coord.
Sec. of Senate

Sen J.D. Lynch
Senator Carrying Bill

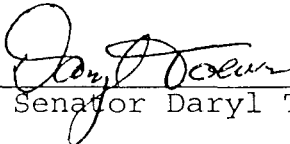
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 16, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 352 (third reading copy -- blue), respectfully report that HB 352 be amended as follows and as so amended be concurred in.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 8.

Following: "SYSTEM"


Insert: "UNLESS CERTAIN CONDITIONS ARE MET"

2. Page 1, line 15.

Following: "TRANSFER"

Insert: "and laws applicable to the disposition of property are followed"

-END-


SR

Amd. Coord.
Sec. of Senate

Sen. Charles "Chuck" Swygard
Senator Carrying Bill

611008SC.SPV

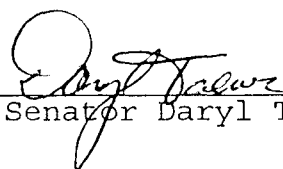
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 16, 1995


MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 233 (third reading copy -- blue), respectfully report that HB 233 be concurred in.

Signed: _____


Senator Daryl Toews, Chair

 Amd. Coord.

 Sec. of Senate


Senator Carrying Bill

Senator Carrying Bill

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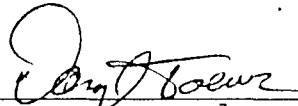
SENATE STANDING COMMITTEE REPORT

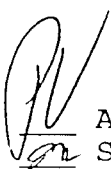
Page 1 of 1
March 16, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 415 (third reading copy -- blue), respectfully report that HB 415 be concurred in.

Signed: _____


Senator Daryl Toews, Chair


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

611022SC.SPV

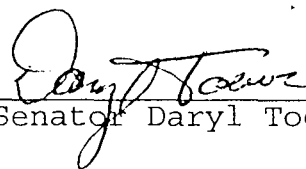
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 16, 1995


MR. PRESIDENT:

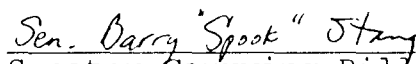
We, your committee on Education and Cultural Resources having had under consideration HJR 20 (third reading copy -- blue), respectfully report that HJR 20 be concurred in.

Signed: _____


Senator Daryl Toews, Chair


Amd. Coord.

 Sec. of Senate


Senator Carrying Bill

611024SC.SPV

DATE 3/15/95 BILL NO. HB 228 NUMBER 1
MOTION: Table HB 228.

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Amendments to House Bill No. 110
3rd Reading Copy

Requested by Representative Fisher
For the Senate Committee on Education

Prepared by Andrea Merrill
March 13, 1995

1. Page 2, line 4.

Strike: "(2) AND (3)"

Insert: "(3) and (4)"

2. Page 2, line 25.

Following: line 24

Insert: "(2) Except as provided in subsections (3) and (4), when the persons determining the individualized education program of a child with disabilities who is in need of special education recommend placement in an out-of-state private residential facility, the trustees of the district of residence shall negotiate the amount and manner of payment of all costs associated with the placement."

Renumber: subsequent subsections

3. Page 3, line 10.

Strike: "(2) AND (3)"

Insert: "(3) and (4)"

Amendments to House Bill No. 110
Third Reading Copy

Requested by Senator Waterman
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure
March 15, 1995

1. Title, lines 4 and 5
Following: "INSTRUCTION" on line 4
Insert: "AND THE DISTRICT OF RESIDENCE"
Following: "TO" on line 5
Strike: "PAY"
Insert: "SHARE IN THE PAYMENT OF COSTS OF EDUCATION FEES"
2. Page 2, line 7.
Following: "of a"
Insert: "special education due process"
3. Page 2, lines 11 through 14.
Following: "child." on line 11
Strike: remainder of line 11 through "child." on line 14
4. Page 3, line 4.
Following: "When a"
Insert: "special education due process"
5. Page 3, line 8.
Following: "20-7-402."
Insert: "The district of residence shall match each \$3 of state funds with \$1 of local funds through a payment directly to the out-of-state provider. This direct local payment does not count as a match or a reimbursement under the provisions of 20-9-321."

Amendments to House Bill No. 167
Third Reading Copy

For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 15, 1995

1. Page 1, line 22.

Following: "disability"

Insert: "who has been expelled pursuant to this section"

Amendments to House Bill No. 300
Third Reading Copy

Requested by Senator Jenkins
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 2, 1995

1. Page 1, line 17.
Strike: "Chouteau,"

2. Page 1, line 18.
Strike: "Fergus,"
Strike: "Golden Valley,"
Strike: "Hill, Judith Basin,"
Strike: "Liberty"

3. Page 1, line 19.
Following: "Grass,"
Insert: "and"
Following: "Teton"
Strike: ", Toole, and Wheatland"

4. Page 1, line 20.
Following: "Carter,"
Insert: "Chouteau,"

5. Page 1, line 21.
Following: "Fallon,"
Insert: "Fergus,"
Following: "Garfield,"
Insert: "Golden Valley, Hill, Judith Basin, Liberty,"

6. Page 1, line 22.
Following: "Sheridan,"
Insert: "Toole,"
Following: "Valley,"
Insert: "Wheatland,"

Amendments to House Bill No. 352
Third Reading Copy

For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 4, 1995

1. Title, line 8.

Following: "SYSTEM"

Insert: "UNLESS CERTAIN CONDITIONS ARE MET"

2. Page 1, line 15.

Following: "TRANSFER"

Insert: "and laws applicable to the disposition of property are
followed"

Amendments to House Bill No. 437
Third Reading Copy

Requested by Senator Jenkins
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 8, 1995

1. Title, line 5.

Following: "PRIVILEGES"

Insert: "RELATED TO HIGH SCHOOL ISSUES"

2. Title, line 7.

Following: "POSITION;"

Insert: "PROHIBITING A HIGH SCHOOL DISTRICT FROM HAVING MORE THAN
TWO NONVOTING TRUSTEES;"

3. Page 3, line 7.

Following: "0.5,"

Strike: "at least"

4. Page 3, line 10.

Following: "PRIVILEGES"

Insert: "related to high school issues only"

Following: "TRUSTEE."

Insert: "A high school district may not have more than two
nonvoting trustees."

Amendments to House Bill No. 480
Third Reading Copy

Requested by Representative Arnott
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 2, 1995

1. Page 16, line 25.

Insert: "NEW SECTION. **Section 26. Coordination instruction.** If House Bill No. 420 is passed and approved and if it includes a section amending 20-9-433, then 20-9-433(2) of [this act] must read:

"(2) Each bond and coupon attached to a bond must be signed by or bear the facsimile signatures of the presiding officer of the trustees and the school district clerk or a designee, provided that one signature of a school district official or the bond registrar must be a manual signature.""

Renumber: subsequent section

Amendments to House Bill No. 480
Third Reading Copy

Requested by Senator Doherty
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure
March 14, 1995

1. Title, line 20.
Strike: "20-7-112,"

2. Page 10, lines 11 through 17.
Strike: section 14 in its entirety
Renumber: subsequent sections

Amendments to House Bill No. 480
Third Reading Copy

Requested by Representative Simpkins
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 15, 1995

1. Page 2, line 10.
Following: "provides"
Insert: "additional"
Following: "funding"
Insert: "specifically"