

House BILL NO. 206

INTRODUCED BY

*John Johnson, Kitzberger, Hurdle, Billings, Sage, Schuler*

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE TRUSTEES OF A SCHOOL DISTRICT TO IMPOSE A PERMISSIVE LEVY TO PAY THE ALLOWABLE COSTS OF A DAY TREATMENT PROGRAM FOR SEVERELY EMOTIONALLY DISTURBED CHILDREN; CREATING A BUDGETED DAY TREATMENT FUND; AMENDING SECTIONS 20-3-324 AND 20-9-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Day treatment fund.** (1) The trustees of a district that provides a day treatment program shall establish a day treatment fund for the purposes of recording revenue received and district expenses incurred for a day treatment program for severely emotionally disturbed children.

(2) Program expenses are limited to the following allowable costs:

(a) salaries, benefits, supplies, textbooks, and other expenses, including:

(i) the cost of salaries and benefits of day treatment program teachers, regular program teachers, and teacher aides, corresponding to the working time that each person devotes to the day treatment program;

(ii) the total cost of teaching supplies and textbooks for day treatment programs;

(iii) the costs of heating and electricity and rental of buildings for day treatment programs;

(iv) activities associated with teacher assistance teams that provide prereferral intervention;

(v) the cost of contracted services, including fees paid for professional advice and consultation regarding day treatment students or the day treatment program, and the delivery of day treatment services by public or private agencies;

(vi) transportation costs for day treatment instructional personnel who travel on an itinerant basis from school to school or district to district or to in-state child study team meetings or in-state individualized day treatment program meetings;

(b) services, including:

(i) the cost of salaries and benefits of professional supportive personnel, corresponding to the

1 working time that each person devotes to the day treatment program. Professional supportive personnel  
2 may include day treatment program supervisors, speech-language pathologists, audiologists, counselors,  
3 social workers, psychologists, psychometrists, physicians, nurses, and physical and occupational therapists.

4 (ii) the cost of salaries and benefits of clerical personnel who assist professional personnel in  
5 supportive services, corresponding to the working time that each person devotes to the day treatment  
6 program;

7 (iii) the cost of supplies for day treatment programs;

8 (iv) the cost of activities associated with teacher assistance teams that provide prereferral  
9 interventions;

10 (v) the cost of contracted services, including fees paid for professional advice and consultation  
11 regarding day treatment students or the day treatment program, and the delivery of day treatment services  
12 by public or private agencies;

13 (vi) transportation costs for day treatment program related services personnel who travel on an  
14 itinerant basis from school to school or district to district or to in-state child study team meetings or in-state  
15 individualized day treatment program meetings;

16 (vii) the cost of equipment purchase, rental, repair, and maintenance required to implement a  
17 student's individualized day treatment program;

18 (viii) the additional cost of cooperatives or joint boards, including operation and maintenance, travel,  
19 recruitment, and administration.

20 (2) Allowable costs prescribed in this section do not include the costs of the teachers' retirement  
21 system, the public employees' retirement system, or the federal social security system or the costs for  
22 unemployment compensation insurance.

23 (3) The trustees of a district shall fund the day treatment fund through the permissive levy  
24 authorized by [section 2].

25  
26 **NEW SECTION. Section 2. Permissive levy amount for day treatment program authorized.** (1)

27 Whenever the trustees of a district determine that an amount of revenue is required to finance a day  
28 treatment program for severely emotionally disturbed children, the trustees shall adopt a resolution stating  
29 the reasons and purposes for the additional revenue.

30 (2) This amount must be financed by a levy on the taxable value of all taxable property within the

1 district as prescribed in [section 3]. Proceeds of the levy must be deposited in the district's day treatment  
2 fund pursuant to [section 1].

3 (3) The day treatment fund expenditures budgeted by the trustees must be reported on the regular  
4 budget form prescribed by the superintendent of public instruction in accordance with 20-9-103, and the  
5 adoption of the day treatment fund budget must be completed in accordance with the school budgeting  
6 laws.

7 (4) When the adopted preliminary budget is sent to the county superintendent, the trustees shall  
8 also send copies of all completed day treatment contracts to the county superintendent. The contracts  
9 must substantiate all contracted day treatment services incorporated in the preliminary budget.

10 (5) When the county superintendent determines a deviation between the preliminary day treatment  
11 fund budget amount for contracted day treatment services and the contracted amount for the services, the  
12 county superintendent shall immediately call the deviation to the attention of the appropriate trustees and  
13 shall allow the trustees to change the preliminary budgeted amount to compensate for the deviation.

14 (6) A district may adopt a budget amendment to the day treatment fund budget subject to the  
15 provisions of 20-9-161 through 20-9-166.

16

17 **NEW SECTION. Section 3. Computation of revenue and net tax levy for district day treatment fund**  
18 **budget.**

19 (1) The county superintendent shall compute the levy requirement for each district with  
20 a day treatment fund according to the following procedure:

21 (a) Determine the total money available in the day treatment fund for the reduction of the property  
22 tax on the district by totaling:

23 (i) anticipated or reappropriated interest to be earned by the investment of day treatment fund cash  
24 in accordance with 20-9-213(4);

25 (ii) anticipated payments from other districts and private parties for providing day treatment  
26 services, including transportation services, for the district;

27 (iii) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517,  
28 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

29 (iv) anticipated revenue from coal gross proceeds under 15-23-703;

30 (v) anticipated net proceeds taxes for new production, production from horizontally completed  
wells, and incremental production, as defined in 15-23-601, and local government severance taxes on any

1 other production occurring after December 31, 1988;

2 (vi) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year  
3 that may be used to finance the day treatment fund; and

4 (vii) any fund balance available for reappropriation as determined by subtracting the amount of the  
5 end-of-the-year fund balance earmarked as the day treatment fund operating reserve for the ensuing school  
6 fiscal year by the trustees from the end-of-the-year fund balance in the day treatment fund. The operating  
7 reserve may not be more than 10% of the final day treatment fund budget for the ensuing school fiscal year  
8 and is for the purpose of paying day treatment fund warrants issued by the district under the final day  
9 treatment fund budget.

10 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a),  
11 from the final budget for the day treatment fund as established in [section 1].

12 (2) The net day treatment levy requirement determined in subsection (1) must be reported to the  
13 county commissioners on the fourth Monday of August by the county superintendent as the net day  
14 treatment levy requirement for the district, and a levy must be made by the county commissioners in  
15 accordance with 20-9-142.

16

17 **Section 4.** Section 20-3-324, MCA, is amended to read:

18 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district  
19 shall:

20 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the  
21 district superintendent, the county high school principal, or other principal as the board considers  
22 necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine,  
23 in accordance with the provisions of Title 20, chapter 4;

24 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians,  
25 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel  
26 considered necessary to carry out the various services of the district;

27 (3) administer the attendance and tuition provisions and otherwise govern the pupils of the district  
28 in accordance with the provisions of the pupils chapter of this title;

29 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the  
30 school elections chapter of this title;

1 (5) participate in the teachers' retirement system of the state of Montana in accordance with the  
2 provisions of the teachers' retirement system chapter of Title 19;

3 (6) participate in district boundary change actions in accordance with the provisions of the districts  
4 chapter of this title;

5 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance  
6 with the provisions of the school organization part of this title;

7 (8) adopt and administer the annual budget or a budget amendment of the district in accordance  
8 with the provisions of the school budget system part of this title;

9 (9) conduct the fiscal business of the district in accordance with the provisions of the school  
10 financial administration part of this title;

11 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating  
12 reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions  
13 of the general fund part of this title;

14 (11) establish, maintain, budget, and finance the transportation program of the district in  
15 accordance with the provisions of the transportation parts of this title;

16 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the  
17 provisions of the bonds parts of this title;

18 (13) when applicable, establish, financially administer, and budget for the day treatment fund,  
19 tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food  
20 services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic  
21 education fund, impact aid fund, and interlocal cooperative agreement fund in accordance with the  
22 provisions of the other school funds parts of this title;

23 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises  
24 in accordance with the provisions of the miscellaneous financial parts of this title;

25 (15) hold in trust, acquire, and dispose of the real and personal property of the district in  
26 accordance with the provisions of the school sites and facilities part of this title;

27 (16) operate the schools of the district in accordance with the provisions of the school calendar part  
28 of this title;

29 (17) establish and maintain the instructional services of the schools of the district in accordance  
30 with the provisions of the instructional services, textbooks, vocational education, and special education

1 parts of this title;

2 (18) establish and maintain the school food services of the district in accordance with the provisions  
3 of the school food services parts of this title;

4 (19) make reports from time to time as the county superintendent, superintendent of public  
5 instruction, and board of public education may require;

6 (20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary  
7 conditions of the school or the general health conditions of each pupil and, upon request, make available  
8 to any parent or guardian any medical reports or health records maintained by the district pertaining to the  
9 child;

10 (21) for each member of the trustees, visit each school of the district not less than once each  
11 school fiscal year to examine its management, conditions, and needs, except that trustees from a first-class  
12 school district may share the responsibility for visiting each school in the district;

13 (22) procure and display outside daily in suitable weather on school days at each school of the  
14 district an American flag that measures not less than 4 feet by 6 feet;

15 (23) provide that an American flag that measures approximately 12 inches by 18 inches be  
16 prominently displayed in each classroom in each school of the district, except in a classroom in which the  
17 flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

18 (24) adopt and administer a district policy on assessment for placement of any child who enrolls  
19 in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110; and

20 (25) perform any other duty and enforce any other requirements for the government of the schools  
21 prescribed by this title, the policies of the board of public education, or the rules of the superintendent of  
22 public instruction."

23

24 **Section 5.** Section 20-9-201, MCA, is amended to read:

25 **"20-9-201. Definitions and application.** (1) As used in this title, unless the context clearly  
26 indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific  
27 purpose as authorized by law or by the superintendent of public instruction under the provisions of  
28 subsection (2). Funds are classified as follows:

29 (a) A "budgeted fund" means ~~any~~ a fund for which a budget must be adopted in order to expend  
30 money from the fund. The general fund, transportation fund, day treatment fund, bus depreciation reserve

1 fund, tuition fund, retirement fund, debt service fund, building reserve fund, adult education fund,  
2 nonoperating fund, and any other funds designated by the legislature are budgeted funds.

3 (b) A "nonbudgeted fund" means ~~any~~ a fund for which a budget is not required in order to expend  
4 money on deposit in the fund. The school food services fund, miscellaneous programs fund, building fund,  
5 lease or rental agreement fund, traffic education fund, interlocal cooperative fund, internal service fund,  
6 impact aid fund, enterprise fund, agency fund, extracurricular fund, metal mines tax reserve fund,  
7 endowment fund, and any other funds designated by the legislature are nonbudgeted funds.

8 (2) The school financial administration provisions of this title apply to all money of any elementary  
9 or high school district. Elementary and high school districts shall record the receipt and disbursement of  
10 all money in accordance with generally accepted accounting principles. The superintendent of public  
11 instruction has general supervisory authority as prescribed by law over the school financial administration  
12 provisions, as they relate to elementary and high school districts. The superintendent of public instruction  
13 shall adopt rules necessary to secure compliance with the law.

14 (3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund  
15 is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other  
16 account balances to the general fund if the fund does not have a cash or fund balance deficit."  
17

18 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 3] are intended to be  
19 codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to  
20 [sections 1 through 3].  
21

22 **NEW SECTION. Section 7. Effective date -- applicability.** [This act] is effective on passage and  
23 approval and applies to school district budgets for the school fiscal year beginning July 1, 1995.  
24

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0206, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing the trustees of a school district to impose a permissive levy to pay the allowable costs of a day treatment program for severely emotionally disturbed children; creating a budgeted day treatment fund;

ASSUMPTIONS:

1. Nine school districts and two special education cooperatives presently operate day treatment programs for students who have been identified as severely emotionally disturbed. These services are offered at a total of 15 sites. In addition, two of the programs are "multi-site" programs in that they bring the services to the students rather than bring the students to the program site.
2. The average cost of providing the educational component of day treatment centers is \$56,000 per program. The total cost of education services provided by day treatment programs is \$840,000.
3. Districts are presently funding the education cost component of day treatment programs with state special education dollars and state grants from Managing Resources Montana (MRM). The therapeutic cost component of these programs is funded by Mental Health Centers.
4. No new day treatment centers will be established in FY96 and FY97.
5. There will be no reduction in state school aid or in MRM funding.
6. Under HB 206, districts will budget \$840,000 annually for the day treatment fund in each year of the 1997 biennium. It is assumed that MRM grants will be continue to be used to fund the day treatment fund budget. It is assumed that districts will not reduce their general fund budgets or allocate general fund to the day treatment fund.
7. In the year that the day treatment fund is created, there will be no fund balance reappropriated or nonlevy revenue to fund the budget. The levy requirement will be \$840,000 less the MRM contribution. In the second year of the biennium, fund balance reappropriated and nonlevy revenue will fund 6.5% of the budget. The levy requirement will be \$786,000 less the MRM contribution.
8. District taxpayers will see an increase in local property taxes to replace the district general fund dollars that are no longer available for the day treatment programs.

FISCAL IMPACT: No impact on state expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This proposal will result in some increase in local property taxes given that the day treatment budget is funded with a permissive levy that does not require voter approval.

*David Lewis* 1-20-95 *John Johnson*  
DAVID LEWIS, BUDGET DIRECTOR DATE JOHN JOHNSON, PRIMARY SPONSOR DATE  
Office of Budget and Program Planning

Fiscal Note for HB0206, as introduced

**HB 206**



LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

TECHNICAL NOTES:

1. Section 3 refers to "reappropriated" revenue. This is a misnomer. Subsection (1) (a) (i) and (iii) should refer to anticipated revenue only. Corporation license taxes from financial institutions should be included in the list of anticipated non-levy revenues.