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AN INVESTIGATION
OF THE TRANSFER OF STUDENTS
IN MONTANA HIGH SCHOOLS

by

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B.A., Montana State University, 1935

Presented in partial fulfillment of the
requirement for the degree of Mas-
ter of Arts.

Montana State University

1942

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ACKNOWLEDGMENT

The means of providing equal educational opportunities for the high school pupils who reside in the remote areas of the several counties of Montana has proved a vexing problem to the legislators of Montana. During the session of the Twenty-Seventh Legislative Assembly numerous proposals were advanced only to be cast aside because they could not be supported with authentic data.

The writer made this study to collect and evaluate such data and then make it available to those who will be asked to formulate a workable high school transfer law. The obligations incurred are many and varied. The advice of Dr. W. R. Ames in preparing the questionnaire and the assistance of Miss Elizabeth Ireland in getting it before the county superintendents proved of inestimable value. To these individuals and to the many county superintendents who gave so generously of their time in providing the information the writer wishes to express his sincere thanks.

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CHAPTER I

INTRODUCTION

For a number of years a difference of opinion has existed regarding the justification of pupils attending high schools outside the counties of their residence. One group of educators recommends that boundary lines between counties should be ignored for purposes of secondary education. It contends that all eligible youth are entitled to the advantages of a secondary education. This group further insists that pupils transfer only when it is more convenient or more advantageous for them to do so. Therefore, the home county should pay the cost of instruction regardless of where the students may be in attendance.

An opposing group holds that in many instances transfers are unjustified and that the privilege of transferring is too frequently abused. It maintains that transfers reduce enrollments in the high schools of the home counties, and since high school revenue is determined by the enrollments, this has an adverse effect on the quality of educational programs of the home counties. The opposing views in many cases are influenced by local conditions and in no instance in Montana has data of a state-wide nature been presented to support the contentions of either side.

The existing transfer law is quite unsatisfactory. The Twenty-Seventh Legislative Assembly endeavored to improve

the situation by passing a compromise measure known as Substitute House Bill No. 144. However, the measure aroused so much opposition that the governor vetoed it for the best interests of all concerned.

The demand for adequate legislation will be presented to the next session of the legislative assembly and therefore, the writer has undertaken to collect and evaluate all data that must be considered in drafting a workable law that will safeguard the educational welfare of the transfer students. To the best knowledge of the writer no similar study has ever been made in Montana.

The material for this thesis was obtained from a questionnaire which was prepared by the author and mailed to each county superintendent of schools by Miss Elizabeth Ireland, State Superintendent of Public Instruction. Returns were received from fifty of the fifty-six county superintendents.

The term "transfer student" as used in this thesis will apply to those pupils who attend a high school outside the county of their residence. The term "transfers" shall refer to the applications submitted by the students for permission to attend a high school outside the county of their residence.

SUMMARY

This introduction presents the purpose of this thesis, - to evaluate all of the factors that must be considered in

preparing an equitable high school transfer law, and making it available to those members of the next legislative assembly who will be charged with the responsibility of drafting such a law.

CHAPTER 11

EARLY HIGH SCHOOL TRANSFER LEGISLATION IN MONTANA

The division of Montana into numerous counties before arterial highways were constructed, and the homesteading of outlying farm lands created a difficult problem in the field of secondary education. Pupils residing in the remote areas of the several counties frequently find it more convenient or more advantageous to attend high school in a county other than that of their residence. Such attendance has raised a number of controversial questions among which the following are outstanding:

1. When is a pupil justified in transferring to a high school outside his home county?
2. Should the county superintendent have the authority to approve or reject such transfers?
3. How much money should be paid to the school being attended by a transfer student?
4. Should transfer students receive transportation aid, if otherwise qualified?
5. From what source should transportation payments be made?

In the early development of secondary education the cost of high school instruction was primarily the obligation of the

school district which elected to establish and maintain such an institution. But the concentration of taxable wealth in the more favored areas created a general demand for county-wide aid for high school instruction. In 1915 the legislative assembly responded with the following enactment:

"In any county where a county high school has been established, any school district which maintains high school classes duly accredited by the State Superintendent of Public Instruction shall be entitled on such accrediting to share in all county high school moneys levied and collected for maintenance . . ."¹

The trend toward county-aid was accelerated in 1917 by the approval of Chapter 105, which reads:

"In any county not maintaining a county high school but in which one or more districts maintain high school classes duly accredited for one, two, three, or four years of high school work by the State Board of Education, a special tax, not exceeding three mills on each dollar of taxable property in the county, shall be made for the benefit of such schools"²

With this early beginning, county-aid was gradually increased until finally in 1931 a high school budget system made the entire county rather than the high school district the basic taxing unit for the support of secondary education. The law was later amended and now provides that:

"In each county in which one or more high schools are maintained, the board of county commissioners shall

¹
p. 118. School Laws of Montana, 1915, Chapter XXI, Section 2112,

²
p. 113. School Laws of Montana 1917, Chap. 105, Section 1,

annually, on the second Monday in August levy a special tax for such high school or high schools, which special tax shall not exceed seven (7) mills: except in counties in which a seven (7) mill tax levy will not produce one hundred twenty-five dollars (\$125) for each pupil residing in the county regularly, and enrolled and attending high school in the county for not less than forty (40) days during the last completed school year. In such counties the levy shall not exceed a rate which will produce one hundred twenty-five dollars (\$125) for each pupil residing in the county . . ."³

Increased county-wide financial support removed the intra-county barriers to high school attendance.

Section 1282, which was passed in 1923, stated that the,

"Attendance at any high school to whose support such money is apportioned in accordance with the provisions of this act, shall be free to all eligible pupils residing in the county in which such accredited high school is located."⁴

"Such moneys" refers to funds raised by means of a county-wide tax.

Section 3, of Section 1282, recognized the high school transfer problem and endeavored to provide a solution with the following instructions:

"No attendance of a high school student outside the county of his residence shall be counted in determining attendance, except in cases where a high school student by reason of convenience to his place of residence or by reason of employment and for reasons of vocational training not otherwise available, attends a high school in another county, and such attendance is approved by the

³

School Laws of Montana 1937, Chap. 118, Section 1263. 11, p. 148.

⁴

School Laws of Montana 1923, Chap. 101, Section 1282, p. 117.

county superintendent of schools of the county of his residence; the county commissioners of said county are authorized in their discretion, to direct the county treasurer to pay over to the school district or county high school where the pupil attends a proportionate share of the high school tax levied in said county, the amount to be determined in the manner in which the distribution of high school funds is made in the county in which the student concerned resides."⁵

This section recognized such factors as distance from school, opportunity to work for board and room and of securing vocational training as justifying high school transfers. The authority to approve or reject transfer applications was vested exclusively in the county superintendent of schools. Under this law a pupil had no recourse if his application was rejected. Furthermore, in cases where applications were approved, there was no assurance that money would be transferred to the school being attended, for the power of doing so was given the county commissioners as a discretionary power to be administered as the board desired. However, if transfer payments were made, they were to equal the amount apportioned to local high schools for each eligible pupil.

Evidently the transfer law of 1923 proved unsatisfactory for in 1931 it was replaced by a number of sweeping changes. The authority to approve transfer applications remained with the county superintendent but the county commissioners were

5

Ibid., Chap. 101, Section 3 of Section 1202, p. 118.

deprived of their discretionary powers to pay for the education of transfer students. Concerning this point the law stated,

"In any case where a high school pupil attends a high school without the county of his residence by authority of the preceding section the board of county commissioners of the county of the pupil's residence must forthwith direct the county treasurer of said county to pay from the high school transfer fund to the board of trustees of the high school district or county high school of the pupil's attendance, the sum of fifty cents (50¢) for each and every day of attendance at the time of the June apportionment. In making said transfer only those pupils who have attended said approved high school not less than thirty-five (35) days during the current school year shall be counted in determining such transfers."6

This section represented a marked improvement over section 1282, for it removed the danger of eligible high schools being denied transfer funds and assured such schools a payment more nearly in keeping with the actual instructional costs. To further guarantee transfer payments the law provided that,

"In counties where students attend a high school outside of the county of their residence as provided by section 81 of this chapter, it shall be the duty of the county superintendent of schools on or before the third Monday in July to prepare and submit to the board of county commissioners a budget which shall be equal to ninety dollars (\$90) for each student whose attendance outside of his county has been so authorized. The proceeds from the collections for the budget for students attending high school outside the county shall be placed in a separate fund known as "The HighSchool Transfer Fund." In determining the total amount to be raised for high school purposes, this budget shall be included therein, and shall be in addition to the regular budget for maintenance,

and the board of trustees of the district high school or county high school to which such students have been transferred, as aforesaid, shall present its claim against the county from which said students have been transferred and the same procedure thereon shall be had as in case of other claims against a county."⁷

In 1933 the above section was revised to read as follows:

"In counties where students attend a high school outside the county of their residence as provided in Section 81 of Chapter 148 Session Laws, 1931, . . . , it shall be the duty of the county superintendent of schools, on or before the third Monday in July to prepare a budget which shall be equal to sixty-five dollars (\$65) for each student whose attendance outside of his county has been so authorized"⁸

This section reflects the influence of the economic depression and represents an attempt to curtail high school expenditures.

No change was made in Section 82 of Chapter 148 which stipulated that fifty cents (50¢) a day was to be paid for each and every day of attendance by transfer students. County commissioners must have found it embarrassing when asked to pay a ninety dollar claim, for 180 days attendance, with only sixty-five dollars available. To correct this conflict the section was again amended in 1935 to read as follows:

"In counties where students attend a high school outside of the county of their residence, as provided in

7

Ibid., Chap. 148, Section 89, p. 142.

8

School Laws of Montana, 1933, Chap 178, Section 8, p. 21.

Section 81 of Chapter 148, Session Laws, 1931, . . . , it shall be the duty of the County Superintendent of Schools, on or before the third Monday in July to prepare a budget which shall be not less than sixty-five dollars (\$65), nor more than ninety dollars (\$90) for each student whose attendance outside of his county has been so authorized"9

It was the intent of the legislators that county superintendents should use the average attendance for the last completed school year as a basis for determining current transfer budgets, and that a sum ranging from \$65 to \$90 per pupil would enable the county commissioners to pay transfer claims at the rate of fifty cents (50¢) per day for each and every day of attendance. However, in 1938-39, the last year during which this law was in effect, the majority of the county superintendents ignored the duties of the county commissioners, and merely paid the minimum of \$65 which was provided for in the above section. Table I on page 11 verifies this conclusion.

Of the thirty-nine counties reporting as having paid transfers during 1938-39 twenty-eight or approximately 72 per cent paid the minimum of \$65 per eligible transfer student.

TABLE I

AMOUNT TRANSFERRED FOR EACH ELIGIBLE
HIGH SCHOOL STUDENT DURING 1938-39

County	Amount Transferred
Beaverhead	\$ 65.00
Big Horn	125.00
Blaine	65.00
Carbon	90.00
Cascade	65.00
Chouteau	65.00
Custer	65.00
Daniels	65.00
Dawson	65.00
Deer Lodge	65.00
Fallon	65.00
Fergus	65.00
Gallatin	65.00
Glacier	65.00
Golden Valley	65.00
Hill	65.00
Jefferson	65.00
Lewis and Clark	65.00
Liberty	65.00
Lincoln	130.00
Madison	65.00
McCone	75.00
Meagher	75.00
Musselshell	68.50
Park	65.00
Phillips	65.00
Pondera	130.00
Powell	65.00
Richland	61.00
Roosevelt	75.00
Rosebud	52.91
Silver Bow	65.00
Stillwater	65.00
Sweet Grass	105.00
Teton	65.00
Toole	65.00
Valley	65.00
Wibaux	65.00
Yellowstone	65.00

CHAPTER III

RECENT HIGH SCHOOL TRANSFER LEGISLATION

In 1937 Chapter 138 was repealed and Sections 81 and 82 became Sections 1262.81 and 1262.82 of Chapter 117,¹⁰ and Section 8 of Chapter 151 appeared as Section 1263.8 in Chapter 118.¹¹ These sections met with growing opposition from year to year. Some school administrators objected to the minimum payment of \$65 and others demanded that transfer funds be added onto the maximum budgets that might be adopted under Section 1233.5.¹² The latter group pointed out that the budget law provided that such funds be entered as a receipt and since no provision was made for their expenditure they benefited the taxpayer rather than the schools in question.

In 1939 the legislative assembly undertook to correct the weaknesses of the above named sections. Numerous hearings were held which resulted in the following enactments:

"The attendance of any eligible high school pupil at an accredited high school outside of the county of his residence, either within or without the state, must be authorized by the county superintendent of schools of the county of his residence, when proper application has been made by the parent or guardian on or before September 1. No payments shall be made for attendance in another state except where such attendance is in a public elementary or

10

p. 136. School Laws of Montana, 1937, Chap. 117, Section 1262.81

11

Ibid., Chap. 118, Section 1263.8, p. 147.

12

See appendix page 89.

secondary school in a county adjacent to the county of the student's residence.

After the budget for high school pupils authorized to attend high school outside of the counties in which they reside has been adopted by the county superintendent of schools, as provided in section 1263.8, the county superintendent of schools in which any such high school pupil resides, shall immediately give to the county treasurer written notice setting forth the names of the high school pupils authorized to attend high school outside of the county, with the names of the high school and the county in which situated which each such pupil has been authorized to attend, with the amount appropriated in such budget for each such pupil. The county treasurer shall, in the months of December and June in each school year, and immediately after the apportionment of the high school tax levy fund has been made, transmit to the county treasurer of each county in which any such high school pupil has been authorized to attend high school the amount apportioned for such high school pupil out of such fund together with the name of such high school pupil for whom the apportionment has been made and the county treasurer of the county receiving the same shall credit such amount to the proper fund of the high school which such pupil has been authorized to attend."¹³

This section is characterized by a number of radical departures from previous practices. In fact it represents a complete victory for those who insist that county boundary lines should not be permitted to serve as barriers to a pupil's high school education. It provides that a county superintendent of schools must approve all transfer applications which are made before September 1. He must notify the county treasurer of the amount to be transferred and must name the counties to which the money is to be paid. Henceforth, transfer payments

13

School Laws of Montana, 1941, Chap. 117, Section 1263.8, p. 136.

are to be made in December and June rather than only during June as done in past years. Section 1262.81 also recognizes the justification of transfers to adjoining counties in neighboring states. But it does not recognize any authority of the county commissioners to pass on questions dealing with the high school transfers.

Section 1263.8, dealing with budgets for transfer students, was amended at length to eliminate as far as possible the danger of misconstruing the intent of the law. It reads,

"In counties where students attend high school outside of the county of their residence, as provided in Section 1262.81 . . . , it shall be the duty of the county superintendent of schools, on or before the third Monday in July to prepare a budget equal to the average amount budgeted per eligible high school pupil for maintenance and operating purposes, for all high schools with the county in which the pupil resides, in their annual final budgets for the school year immediately preceding, for each student whose attendance outside of his county has been authorized . . . Such average amount per pupil shall be ascertained and determined by the county superintendent who shall divide the total amount budgeted for all eligible high school pupils within the county for maintenance and operating purposes during the preceding school year by the total number of high school pupils eligible for budgeting purposes for such year, as provided in Section 1263.5 and as such amounts and number of eligible pupils are shown by such high school budgets for such year; provided that the payment of tuition for pupils attending school in another state shall be in an amount per pupil which is the same as paid by such state for pupils attending like schools in Montana; provided, further, that the number of transfer pupils used for budgeting purposes shall be the number whose attendance was duly authorized by law for the year next preceding. Immediately after such budget has been prepared the county superintendent of schools preparing the same shall give written notice to the county superintendent of schools of each county in which any high school student has been authorized to attend high school under the provisions of said Section 1262.81, which notice shall contain the name of each such student, the high school the

student has been authorized to attend, and the amount budgeted for each such student under the provisions of this section. Each county superintendent receiving any such notice shall, at the time of laying the preliminary high school budgets before the board of school budget supervisors of the county, also lay before the board all such notices received by such county superintendent. The board of school budget supervisors, when adopting and approving the final budget of a high school which any such student from outside of the county has been authorized to attend, as shown by such notice or notices, shall add to Section II, Part I, of such budget an appropriation for such pupils from outside the county in such amounts as said notice or notices shows will be paid over to and received by such high school during the then current school year, and shall also add to Section XI, Part II, of such budget and additional item of estimated receipts showing the amount which it is estimated such high school will receive during the year for the students named in such notice or notices. The amount received, or to be received, during any year by any high school in payment for students from outside of the county attending such high school shall not be taken into account, nor included, nor considered in any manner whatever for the purpose of determining the maximum budget which the high school may adopt under Section 1263.5."14

It was clearly the aim of this section that the high schools in which transfer students were enrolled were to receive a sum of money for each such student equal to the average per pupil cost of high school instruction in the student's home county. It was further provided that any amount received for transfer students was to be added on to the maximum budget which was approved for resident students.

This section represents another triumph for those demanding liberal transfer legislation for it not only increased

14

Ibid., Chap. 118, Section 1263.8, p. 148.

the amount to be received for transfers but also assured the recipient school the direct use of this money. In practice, however, a serious weakness soon manifested itself. It will be recalled that budgets based upon the approved transfers of the preceding year must be adopted on the third Monday in July and that transfer applications must be approved as late as September 1. These two provisions make it impossible for a high school to estimate, with any degree of accuracy, the amount of money to be received for transfer students because the number used for budgeting purposes invariably differs from the number of transfer applications that are approved by September 1. To illustrate this point let it be assumed that twenty students in County A were permitted to attend high school outside of the county during the 1940-41 school term and that the average per pupil budget was equal to \$125. On the basis of these figures the transfer budget adopted on the third Monday in July would have been \$2500 ($20 \times \125). If thirty students had applied for transfers by September 1, 1941, and subsequently attended high school outside of the county, the amount paid for each student would have been the quotient of \$2500 divided by 30, or, \$83.33 per eligible student. Let it be further assumed that ten of these students had been given permission before July 1, 1941, to attend a certain high school in a neighboring county. The administrator of this school, in compliance with Section 1263.8, would have added the anticipated revenue of \$1250 ($\125×10) to his maximum local budget.

However, during the 1941-42 school term his share of the December and June apportionments would have equalled only \$833.33 instead of \$1250. This loss of \$416.67 would have to be met by either curtailing essential expenditures or of completing the school year with a deficit that would have to be paid with revenue from local tax receipts. On the other hand, if twenty instead of 10 students had attended his school the additional money received could not have been used because its expenditure was not provided for in the budget.

The method of apportioning the transfer budget defeats the major objective of Section 1263.8 and seems to create a general disregard for the entire transfer law. The data in the following table, Table II, indicates that less than 50 per cent of the counties complied with the provisions of Section 1263.8 during the 1940-41 school year. According to these provisions the average per pupil cost of instruction in the several counties during 1939-40 school term should have become the average amount transferred for each eligible high school student during 1940-41. It can be readily observed that this was not done in a large number of counties.

The average per pupil cost of high school instruction during 1939-40 was \$119.96. The average amount transferred during the following school year was \$95.35.

To get a clearer understanding of the amount that should have been transferred as contrasted with the sum that

TABLE II
 AVERAGE PER PUPIL COST OF HIGH SCHOOL INSTRUCTION
 IN MONTANA DURING 1939-40 AND THE AVERAGE
 AMOUNT TRANSFERRED FOR EACH ELIGIBLE STUDENT
 DURING 1940-41

County	Average Per Pupil Cost	Average Am't Transferred
Beaverhead	\$133.40	\$ 90.00
Big Horn	127.00	70.00
Blaine	139.00	125.00
Broadwater	121.00	90.00
Carbon	98.15	89.00
Cascade	118.00	118.00
Chouteau	139.00	96.58
Custer	104.00	90.00
Deniels	128.56	75.00
Dawson	85.00	85.00
Deer Lodge	105.00	90.00
Fallon	97.00	75.00
Fergus	58.22	85.00
Flathead	96.00	90.00
Gallatin	114.55	90.00
Glacier	142.00	125.00
Golden Valley	145.40	94.00
Granite	163.97	75.00
Hill	125.00	104.46
Jefferson	170.00	125.00
Judith Basin	125.00	90.00
Lewis & Clark	108.00	105.00
Liberty	154.19	90.00
Lincoln	122.72	122.72
McCone	143.00	75.00
Meagher	160.00	93.00
Musselshell	135.00	80.00
Park	80.00	96.51
Petroleum	148.72	75.00
Phillips	123.96	90.00
Pondera	98.39	90.00
Powell	126.00	90.00
Prairie	105.97	100.00
Ravalli	91.00	77.50
Richland	83.01	75.00
Roosevelt	113.00	75.00
Rosebud	108.81	82.00
Sanders	110.00	110.00
Sheridan	118.62	75.00

TABLE II (continued)

AVERAGE PER PUPIL COST OF HIGH SCHOOL INSTRUCTION
 IN MONTANA DURING 1939-40 AND THE AVERAGE
 AMOUNT TRANSFERRED FOR EACH ELIGIBLE STUDENT
 DURING 1940-41

County	Average Per Pupil Cost	Average Am't Transferred
Silver Bow	\$114.65	\$116.30
Stillwater	138.00	122.00
Sweet Grass	134.59	100.00
Teton	145.00	125.00
Toole	125.00	90.00
Valley	119.06	73.00
Wibaux	102.29	69.94
Yellowstone	94.00	104.00

was actually paid, it is necessary to know the total number of students that transferred during each of the two years in question. This information is given in Table III.

From Table II, page 18, and Table III, page 20, it can be seen that if the provisions of Section 1263.8 had been observed the sum total of the 1940-41 transfer budgets would have equalled \$86,841 ($\119.96×724) instead of \$76,920 ($\93.35×824) the total amount that was actually paid. In terms of averages the per pupil apportionment for transfer students should have been \$105.38 rather than \$93.35.

The per pupil cost and transfer data for 1941-42, as indicated by Table IV, page 21, and Table V, page 22, suggest that the discrepancy between the sum that should have been transferred and the total actually paid was even greater than for the 1940-41 school year.

Montana spent an average of \$124.34 for the education of each of its high school pupils who attended high school in the home county during 1940-41. During 1941-42, \$92.08 was paid for the education of each transfer student.

In 1940-41 (See Table III, page 20) 824 students attended high school outside of the counties of their residence. During the same year the average per pupil cost of high school instruction was \$124.34. Then using the product of the number of transfers and the average per pupil cost a total of \$102,456 is obtained. This should have been the sum of the transfer budgets for that year. Now, dividing \$102,456 by \$60, the total

HIGH SCHOOL TRANSFERS IN MONTANA FOR THE
1939-40 AND 1940-41 SCHOOL YEARS

County	1939-40	1940-41
Beaverhead	5	5
Big Horn	4	51
Blaine	17	14
Broadwater	2	2
Carbon	12	16
Cascade	7	13
Chouteau	56	50
Custer	4	11
Daniels	2	4
Dawson	25	20
Deer Lodge	7	9
Fallon	13	9
Fergus	13	14
Flathead	3	20
Gallatin	22	16
Glacier	5	5
Golden Valley	15	19
Granite	3	5
Hill	13	23
Jefferson	23	15
Judith Basin	12	13
Lewis & Clark	25	27
Liberty	13	12
Lincoln	5	10
Madison	19	23
McCone	23	26
Meagher	11	9
Mineral	0	1
Musselshell	10	14
Park	7	10
Petroleum	0	1
Phillips	6	5
Pondera	13	10
Powder River	20	23
Powell	53	36
Prairie	2	1
Reynolds	2	0
Richland	52	54
Roosevelt	10	11
Rosebud	27	11
Sanders	2	3
Sheridan	17	20
Silver Bow	11	21
Stillwater	12	11
Sweet Grass	11	3
Teton	16	13
Toole	26	20
Valley	13	24
Wibaux	7	9
Yellowstone	22	13
Total	724	824

AVERAGE PER PUPIL COST OF HIGH SCHOOL INSTRUCTION
IN MONTANA DURING 1940-41 AND THE AVERAGE
AMOUNT TRANSFERRED FOR EACH ELIGIBLE
STUDENT DURING 1941-42

County	Average Per Pupil Cost	Average Am't Transferred
Beaverhead	\$131.20	\$ 90.00
Big Horn	122.00	88.25
Blaine	133.60	125.00
Broadwater	125.00	90.00
Carbon	102.70	75.69
Cascade	108.00	108.00
Chouteau	147.00	125.00
Custer	119.00	90.00
Daniels	116.79	75.00
Dawson	85.00	75.00
Deer Lodge	113.00	90.00
Fallon	95.00	75.00
Fergus	60.53	85.00
Flathead	95.66	90.00
Gallatin	121.79	no report
Glacier	147.00	125.00
Golden Valley	150.61	100.00
Granite	142.48	90.00
Hill	104.46	90.00
Jefferson	165.00	125.00
Judith Basin	125.00	100.00
Lewis & Clark	111.00	80.00
Liberty	175.07	90.00
Lincoln	122.72	118.28
Madison	no report	90.00
McCone	165.00	75.00
Meagher	130.00	100.00
Mineral	215.91	140.00
Musselshell	127.00	90.00
Park	96.91	61.63
Petroleum	140.00	75.00
Phillips	123.45	90.00
Pondera	120.95	90.00
Powder River	no report	75.00
Powell	129.00	90.00
Prairie	137.39	100.00
Ravalli	90.00	90.00
Richland	92.66	75.00
Roosevelt	106.00	75.00
Rosebud	139.72	90.00
Sanders	130.00	125.00
Sheridan	144.02	75.00
Silver Bow	107.25	90.00
Stillwater	122.00	70.00
Sweet Grass	134.59	90.00
Teton	150.29	95.50
Toole	125.00	90.00
Valley	122.75	75.00
Wibaux	99.90	85.00
Yellowstone	97.00	90.00

TABLE V

HIGH SCHOOL TRANSFERS IN MONTANA DURING 1941-42

County	Number of Transfers
Beaverhead	7
Big Horn	17
Blaine	20
Broadwater	3
Carbon	23
Cascade	12
Chouteau	33
Custer	14
Daniels	7
Dawson	24
Deer Lodge	11
Fallon	10
Fergus	13
Flathead	26
Gallatin	9
Glacier	14
Goldene Valley	17
Granite	3
Hill	22
Jefferson	18
Judith Basin	9
Lewis & Clark	32
Liberty	15
Lincoln	5
Madison	32
McCone	113
Meagher	5
Mineral	1
Musselshell	15
Park	11
Petroleum	3
Phillips	5
Pondera	10
Powder River	37
Powell	32
Prairie	1
Ravalli	12
Richland	51
Roosevelt	8
Rosebud	8
Sanders	6
Sheridan	20
Silver Bow	22
Stillwater	20
Sweet Grass	12
Teton	13
Toole	16
Valley	19
Wibaux	7
Yellowstone	19
Total	865

number who transferred during 1941-42, a figure is obtained which represents the average amount that should have been transferred for each eligible pupil during the 1941-42 school year. This figure equals \$118.44. But according to the average obtained from the data given in Table V, page 22, only \$92.08 was actually paid.

There are three principal reasons for the unsatisfactory administration of the high school transfer law. They are:

1. The reluctance on the part of county superintendents to transfer money out of the county.

2. A feeling on the part of some county superintendents that the amount to be transferred for eligible pupils is too large.

3. The presence of Section 1262.82 in the High School Code.¹⁵ This section was enacted in 1931 and provided that the treasurer was to pay fifty cents (50¢) for each and every day of attendance by eligible transfer students. This does not agree with the amendments to Section 1263.8¹⁶ and therefore causes some confusion. Some county superintendents, because of the contradictory nature of Sections 1262.82 and 1263.8, proceed to administer the transfer law as it seems fair and equitable in their judgment.

15

See page 8.

16

See page 14.

CHAPTER IV

TRANSFER BILLS IN THE TWENTY-SEVENTH LEGISLATIVE ASSEMBLY

During the fall and early winter of 1940-41 a number of meetings were held in Helena to consider the transfer problem. These meetings were attended by representatives of the Association of Montana School Boards, the Montana Taxpayers Association, the Montana Education Association, a number of county superintendents and the State Superintendent of Public Instruction. Numerous proposals were advanced and from these the following were approved:

1. All transfer applications must be filed on or before July 15.
2. Applications from students living more than ten miles from a high school in their home county or more than three miles from an established school bus route, must be approved by the county superintendent of schools. Others were subject to approval if considered worthy by the county superintendent.
3. A flat rate of \$75 per student was to be transferred for each eligible student unless the counties concerned agreed on a larger amount, but such an amount was not to exceed the average per pupil cost of high school instruction in the home county.
4. Transfer budgets were to be adopted on the third Monday in July. Only those applications that were approved on or before July 15 were to be used for budgeting purposes.

5. Transfer apportionments were to be made in December and June.

The legal counsel for the Montana Taxpayers Association forthwith incorporated the five recommendations in a bill and submitted it to the Committee of Education in the House of Representatives. The bill was noticed on the legislative calendar as House Bill No. 144, and referred to a subcommittee for further consideration. Several members of the subcommittee were opposed to all transfers and insisted that all authority over them should be vested in the county superintendent. This feature was unacceptable to a majority of those who contributed to the original draft of the bill and consequently, it lay dormant until near the close of the legislative session. At this time considerable pressure was brought to bear on the subcommittee to do something about the problem. In response a substitute measure was recommended favorably and passed by both Houses. The bill, entitled "Substitute House Bill No. 144", read as follows:

"The attendance of any eligible high school pupil at an accredited high school outside of the county of his residence, either within or without the state, must be authorized by the county superintendent of schools of the county of his residence when the following conditions exist:

1. When a child lives less than three miles from a public high school in another county, and three or more miles from a public high school in the county of his residence.

2. When a child resides 15 or fewer miles distant from a public high school in another county, and more than fifteen (15) miles from the nearest public high school in the county of his residence, and more than one and a half (1½) miles from an established bus route to such high school.

3. When regular bus transportation is furnished by a high school in another county, and not in the county of his own residence. Such distances, mentioned above, shall be measured from the point where the private family road connects with a public highway leading to the high schools.

4. When the county superintendent, for any other reason, shall approve the attendance of any child in a public school in another county. In approving such attendance in another county, the county superintendent shall take into consideration such items as distance to school, road conditions, trading center of parents, opportunity for employment for high school pupils who must earn part, or all, of expenses, opportunity to live with relatives, dormitory facilities, living conditions, transportation, vocational training.

No payment shall be made for attendance in another state except when such attendance is in a public secondary school in a county adjacent to the county of the pupil's residence, and the amount to be paid shall be the same per pupil as such state would pay should a pupil from that state attend a like high school in Montana . . .

The amount to be budgeted for a high school which a pupil residing in another county has been found eligible to attend, shall be the same as budgeted for by the high school where the pupil attends, counting the total number of pupils in attendance, disregarding county boundaries, but who are otherwise eligible to be counted for budgetary purposes.

It shall be the responsibility of the superintendent of schools and board of trustees of the high school receiving the pupils, and the county superintendent of schools of the pupil's residence to determine and agree upon eligibility of pupils transferring under the provisions of this Act. Provided, that an appeal may be taken to the superintendent of public instruction."

Section 1263.8 was to have been amended as follows:

"Whenever a high school maintained by a school district or a county high school has in attendance an eligible pupil or pupils from another county, provided in Section 1262.81 as amended, said high school shall include such

pupil or pupils when preparing its budget for the year in exactly the same manner and the same basis as if such pupil or pupils were residents of the county in which the high school is located. When said budget has been finally approved, the amount required from the special county-wide tax levy for high schools as provided in Section 1263.11¹⁷ shall be apportioned among the counties where the pupils reside in direct proportion that the number of eligible high school pupils from each county is to the total number of such eligible high school pupils for which the budget has been approved, provided, that, in the preparation of the high school budgets for the year beginning July 1, 1941, the pupils in attendance from other counties to be counted for budgeting shall be those in actual attendance in such high school preparing said budget, during the school year ending June 30, 1941, and who are eligible for attendance in another county under the provisions of this Act, and are eligible to be counted under the other provisions of law.

When said budget has been approved, the board of trustees of the high school making the budget shall send copies to the proper officers of each and every county from which pupils attend, the same as is done for the home county.

The proper officers of the county from which pupils are attending high school outside of the county of his residence shall include the approved budgets submitted from another county for such pupils, when determining the amount of the special county-wide tax for high schools. Likewise, when the proceeds of said special tax are apportioned, the budget for pupils attending outside of the county shall be treated as if it were the budget of a separate high school, within the county, and shall be made as provided in Section 1263.11 as amended. At the same time as the proceeds of said special tax is being apportioned and is distributed to the credit of the various high schools, the county treasurer shall transfer to the high schools located in other counties the amount which is due them as determined above.

The budget for pupils attending in another state shall be prepared by the county superintendent as a separate budget, but shall be included in the special county-wide tax for high schools in the same manner as for other budgets except that the amount of the budget shall be the

same per pupil as allowed by the said state for like high schools in Montana. The county treasurer shall transfer such amounts as provided in this Act upon satisfactory claims by said high school in another state.

The number of pupils attending any high school from outside of the county, the amount received by any high school on account of the attendance of any such pupils from outside of the county shall be taken into account, included and considered for the purpose of determining the maximum budget which the high school may adopt under Section 1263.5." 18

Substitute House Bill No. 144 had a number of desirable features. For instance, it gave the county superintendent authority to approve or reject some types of transfer applications, while others giving distance from school as the reason for transferring, had to be approved. It also recognized the justification of some inter-state transfers. It endeavored to simplify budgetary procedures and stabilize a school's transfer receipts. This endeavor was commendable for the present system of budgeting for transfer students is too impractical. However, the bill contained a number of undesirable features that eventually would have caused its repeal. Large high schools, having detailed budgets, would have found it most inconvenient to have mailed copies to all counties from which it received transfer students. Such schools as the Great Falls High School would have been obligated to prepare and send out as many as ten copies of their budgets. To this the administrators concerned would have objected most vigorously.

18

See Appendix, p. 89.

Part 2 discriminated against the pupils who lived more than fifteen miles from any high school. In substance it stipulated that a county superintendent was compelled to approve the transfer applications of students who lived more than fifteen miles from a high school in their home county but less than this distance from a high school in an adjoining county. If a student lived more than fifteen miles from any high school the county superintendent was free to approve or reject the application. Since the majority of the transfer students live more than fifteen miles from a high school in their home counties, this provision would have placed practically all transfers at the discretion of the county superintendents.¹⁹ This attribute met with considerable opposition. Many of the co-authors of the original bill insisted that isolated students should be permitted to attend the most convenient high school.

In reviewing Substitute House Bill No. 144, Governor Ford detected the above weaknesses and vetoed the measure. This act met with the general approval for the majority of those interested in the problem agreed that it was unwise to enact a law that would have to be modified at the next session of the legislature.

19

See Table VII, p. 32.

CHAPTER V

STATISTICAL SUMMARY OF TRANSFER DATA

In Chapter V the writer will present a compilation of factual information which was taken from the transfer questionnaire. It will prove of interest and value to those who are concerned with Montana's transfer problem.

Table VI, page 31, names the counties that reported having students attending high school in an adjoining county and the number of such students for each county.

In 1940-41 a total of 824 students attended high school outside the county of their residence.²⁰ During the same year, according to Table VI, 613 of these attended high school in an adjoining county. Thus, approximately 75 per cent of the total number of transfers attended high school in counties adjacent to that of their residence.

Table VII, page 32, gives the average distance that the transfer students lived from the nearest high school in their home county during 1940-41.

The average distance for the forty-five counties reporting was 26.8 miles. This fact verifies the contention of the opponents of Substitute House Bill No. 144 who argued that the fifteen mile provision in Part 2 would give the county superintendent almost exclusive authority over the question of issuing transfers.

²⁰

See Table VI, p. 31.

TABLE VI

TRANSFER STUDENTS ATTENDING HIGH SCHOOL
IN AN ADJOINING COUNTY DURING 1940-41

County	Number of Students
Beaverhead	4
Big Horn	30
Blaine	11
Broadwater	1
Carbon	13
Cascade	12
Chouteau	28
Custer	1
Daniels	3
Dawson	15
Deer Lodge	4
Fallon	9
Fergus	7
Flathead	6
Gallatin	12
Glacier	0
Golden Valley	18
Granite	3
Hill	11
Jefferson	15
Judith Basin	17
Lewis & Clark	22
Liberty	9
Lincoln	1
Madison	27
McCone	93
Meagher	7
Mineral	0
Musselshell	9
Park	1
Petroleum	4
Phillips	5
Pondera	0
Powder River	27
Powell	30
Prairie	1
Ravalli	0
Richland	54
Roosevelt	5
Rosebud	6
Sanders	0
Sheridan	17
Silver Bow	1
Stillwater	11
Sweet Grass	8
Teton	12
Toole	9
Valley	18
Wibaux	9
Yellowstone	7
Total	613

TABLE VII

AVERAGE DISTANCE OF TRANSFER STUDENTS FROM
THE NEAREST LOCAL HIGH SCHOOL DURING 1940-41

County	Distance in Miles
Beaverhead	53
Blaine	49
Broadwater	30
Carbon	16
Cascade	23
Chouteau	29
Custer	54
Daniels	19
Dawson	37
Deer Lodge	27.5
Fergus	16.5
Flathead	37
Gallatin	25.6
Glacier	30
Golden Valley	29
Granite	21.6
Hill	16
Jefferson	25
Judith Basin	13.3
Lewis & Clark	29.8
Liberty	32.3
Lincoln	14
Madison	13.4
McCone	44
Meagher	20
Musselshell	30
Park	10
Petroleum	25
Phillips	26.2
Pondera	29
Powder River	35.8
Powell	33.3
Prairie	23
Richland	37.3
Roosevelt	27.5
Rosebud	37
Sanders	12.5
Sheridan	18.3
Stillwater	17.5
Sweet Grass	32
Teton	19.3
Toole	17.2
Valley	24.3
Wibaux	10
Yellowstone	17

Table VIII, page 34, lists the reasons that were given by the students for desiring to transfer. The first column contains the names of the counties and the succeeding columns the number of transfers under each reason given.

The sum of the numbers under the column heading "Nearest High School" proves that distance from school is a primary cause for student transfers. The total of this column equals 51.6 per cent of all reasons given.

The column entitled "Unclassified" contains all of the reasons that were too indefinite to be placed under any of the other column headings. Typical of these was the brief statement "More Convenient". Perhaps, if the facts were known, "More Convenient" in many instances was synonymous with "Nearest High School", in which case the percentage given above would have been augmented.

Table IX, page 35, presents the information of Table VIII in a somewhat modified form. Here the reasons are arranged in the order in which they occurred most frequently and the sum of each is expressed as a per cent of the total.

Table X, page 36, enumerates the counties from which the Aeronautics Department of the Helena High School received its transfer students, and the number of such students coming from each county.

TABLE VIII

REASONS GIVEN FOR DESIRING TO TRANSFER DURING THE 1941-42 SCHOOL YEAR

County	Nearest High School	Live with Relatives	Trading Center	Work For Board	Special Subjects	Dormitory Advantages	Unclassified	Total
Beaverhead	1	2		2				5
Big Horn	23				1			24
Blaine	7	3		1	1			12
Broadwater		1	1					2
Carbon	12	1			3			16
Cascade	2			6	4	3		15
Chouteau	22	3					5	30
Custer	1				10			11
Daniels	2	1			1			4
Dawson	15	1						16
Deer Lodge	4							4
Fallon	9							9
Fergus	7	3			1			11
Flathead	1	1			2	3		7
Gallatin	9	1			1		2	13
Glacier						1		1
Golden Valley	14	1		3	1			19
Granite Hill		1		1	13	7	4	21
Jefferson							18	18
Judith Basin	4	4	4		1		5	18
Lewis & Clark	18				1	1	10	30
Liberty	2	3	3		2	2	3	15
Lincoln		2						2
Madison	24	2			1			27
McCone	92	4						96
Meagher			3		4		2	9
Mineral		1						1
Musselshell	1	1		1			11	14

TABLE VIII (continued)

REASONS GIVEN FOR DESIRING TO TRANSFER DURING THE 1941-42 SCHOOL YEAR

County	Nearest High School	Live with Relatives	Trading Center	Work For Board	Special Subjects	Dormitory Advantages	Unclass-ified	Total
Park		3			6			9
Petroleum			4					4
Phillips		1		1			3	5
Pondera		2		4			2	8
Powder River		14		12			2	28
Powell	10	6		2	10	3	4	35
Prairie	2						1	3
Ravalli		1			3			4
Richland	54							54
Roosevelt							11	11
Rosebud	3	3		1	1			8
Sanders					1			1
Sheridan	13	6			1			20
Silver Bow					5	1		6
Stillwater	2	3	1	1		1	3	11
Sweet Grass	8	1		2				11
Teton	2	1	5		1		4	13
Toole	3		6	2		8	1	20
Valley	11	4			1		7	23
Wibaux	2	2		4			1	9
Yellowstone	6	2			2			10
Total	386	35	27	43	78	30	99	748

TABLE IX

REASONS FOR WISHING TO TRANSFER ARRANGED IN ORDER
OF IMPORTANCE AND EXPRESSED IN PERCENTAGES

Reason	Per Cent
1. Nearest High School	51.6
2. Unclassified	13.2
3. To Live With Relatives or Friends	11.4
4. To Study Special Subjects	10.5
5. To Work For Room And Board	5.7
6. Less Expensive To Live In a Dormitory	4.0
7. Trading Center For Parents	3.6
Total	100.0

TABLE X
HIGH SCHOOL STUDENTS ATTENDING THE
HELENA AERONAUTICS SCHOOL 1940-41

County	Number
Blaine	2
Carbon	3
Cascade	4
Custer	10
Hill	13
Lincoln	2
Madison	1
Meagher	4
Park	5
Powell	10
Ravalli	3
Sanders	2
Sheridan	1
Silver Bow	5
Total	65

An interesting item obtained from Table II, page 35, and Table X, page 36, is that of the 78 students who transferred because they preferred subjects not offered in their local high schools, sixty-five or 86 per cent attended the Helena Aeronautics School.

Since the transfer enrollment at the Helena Aeronautics School comes from practically all parts of Montana, it would seem advisable for Billings in the Eastern part of the state and Missoula in Western Montana to establish similar institutions for the convenience of those students desiring work in aeronautics. The cost of operating such a specialized department is correspondingly higher than the cost of operating the ordinary high school departments, but the greater accessibility of these institutions would probably increase the enrollment sufficiently to justify the investment.

Table XI, page 38, gives the amount of money each county received and paid out for transfer purposes during the 1940-41 school year. A blank in either column indicates that the required information was not submitted by the counties concerned.

The data in Table XI reveals that the transfer receipts and expenditures in each of the several counties do not balance. Some counties, such as Cascade, Jefferson, Roosevelt, Sanders, and Yellowstone received considerably more than they paid out. The transfer receipts exceeded the expenditures in twenty-one counties, whereas the expenditures exceeded the

TABLE XI
 COUNTY TRANSFERS RECEIPTS AND EXPENDITURES
 DURING 1940-41

County	Amount Received	Amount Paid Out
Beaverhead	\$ - - -	\$ 360.00
Big Horn	- - -	2020.00
Blaine	- - -	492.50
Broadwater	- - -	180.00
Carbon	- - -	1438.15
Cascade	4008.69	1414.00
Chouteau	955.00	2772.69
Custer	5392.47	990.00
Daniels	675.00	315.00
Dawson	1290.00	1360.00
Deer Lodge	255.00	345.00
Fallon	200.00	675.00
Fergus	1680.84	855.00
Flathead	1406.07	622.46
Gallatin	1206.77	1001.50
Glacier	377.50	125.00
Golden Valley	514.00	1719.00
Granite	810.00	375.00
Hill	1020.46	1518.00
Jefferson	6762.82	1875.00
Judith Basin	240.00	1432.50
Lewis & Clark	1700.00	3155.00
Liberty	630.00	1089.00
Lincoln	86.00	368.40
Madison	2595.00	2370.00
McCone	1255.00	8462.52
Meagher	900.00	881.00
Mineral	122.72	115.00
Musselshell	150.00	1260.00
Park	901.14	740.75
Petroleum	500.00	225.00
Phillips	- - -	270.00
Pondera	2022.00	690.00
Powell	360.00	3090.00
Prairie	65.00	100.00
Ravalli	None	150.00
Richland	3983.80	3845.50
Roosevelt	500.00	650.00
Rosebud	None	905.50
Sanders	6388.16	110.00
Sheridan	None	906.00
Silver Bow	1146.97	347.86
Stillwater	- - -	1281.00
Sweet Grass	560.00	850.00
Teton	479.00	1562.50
Toole	625.00	1715.75
Valley	1500.00	1427.00
Wibaux	85.00	629.50
Yellowstone	3507.24	1040.00

receipts in twenty-two counties. Seven counties were omitted because their information on receipts and expenditures were incomplete.

Table XII, page 40, gives the high school levies for the 1940-41 school year. In 1940-41 the average high school levy for the fifty counties listed in Table XII was 10.59 mills. The twenty-one counties, given in Table XI, page 38, whose receipts exceeded their expenditures had an average levy of 10.5 mills while the twenty-two counties receiving less than they paid out averaged 10.67 mills. The ten counties that enjoyed the highest ratio of receipts to expenditures paid an average levy of 10.95 mills, whereas the ten counties having the highest ratio of expenditures to receipts averaged only 9.72 mills. These average levies suggest that the money involved in transfer transactions has no material effect on the county high school levies.

During the public hearings on Substitute House Bill No. 144, the charge was made that the transfer privilege was frequently abused by pupils living adjacent to established school bus routes. To determine the authenticity of this statement the writer asked the county superintendents to list their students living on such routes. Only thirteen counties reported having transfer students whose residence was on a school bus route.

TABLE XII

HIGH SCHOOL TAX LEVIES 1940-41

County	1940-41 Levy
Beaverhead	8.5 mills
Big Horn	10.5
Blaine	10.9
Broadwater	9.
Carbon	13.5
Cascade	8.98
Chouteau	8.8
Custer	9.5
Daniels	13.8
Dawson	10.
Deer Lodge	9.
Fallon	11.5
Fergus	12.
Flathead	16.
Gallatin	11.
Glacier	7.
Golden Valley	7.
Granite	7.5
Hill	12.9
Jefferson	8.
Judith Basin	7.
Lewis & Clark	7.6
Liberty	9.
Lincoln	11.5
Madison	11.
McCone	12.5
Meagher	5.5
Mineral	7.
Musselshell	19.
Park	9.5
Petroleum	10.5
Phillips	15.9
Pondera	10.
Powder River	5.
Powell	8.75
Prairie	8.7
Ravalli	13.
Richland	14.3
Roosevelt	10.
Rosebud	6.5
Sanders	8.
Sheridan	21.
Silver Bow	9.5
Stillwater	10.5
Sweet Grass	9.
Teton	11.7
Toole	8.3
Valley	14.
Wibaux	9.5
Yellowstone	11.5

Table XIII, page 42, names the counties that approved transfers for students living on or near an established school bus route and the number of such students in each county. In 1941-42 a total of 865 high school transfers were approved. Of these only thirty-two, or approximately 3.7 per cent, had school bus facilities available to local high schools. This small per cent proves the fallacy of the charge.

Question 18, of the Transfer Questionnaire,²¹ asked the county superintendents to explain the method used by each in paying transportation to eligible transfer students. The answers signify a wide variety of practices ranging from refusal to make any payments to paying the maximum provided by law. Hill, Liberty, Lincoln, Powell, Ravalli, Sanders, Sweet Grass, and Toole counties refused to allow any transportation payments to transfer students who otherwise were qualified. Big Horn, Blaine, Mineral, and Silver Bow counties reported that no demands had been made for transportation aid. Deer Lodge, Gallatin, Lewis and Clark, Musselshell, and Powder River counties paid only the amount that was to be made available from State funds.

In Carbon, Glacier, Madison, and Stillwater counties the districts of the students' residence paid the transportation claims.

²¹

See appendix, p. 76.

TABLE XIII

TRANSFER STUDENTS LIVING ON AN ESTABLISHED
SCHOOL BUS ROUTE 1941-42

County	Number
Beaverhead	1
Big Horn	1
Carbon	5
Cascade	3
Chouteau	1
Deer Lodge	4
Hill	2
Jefferson	5
McCone	5
Sanders	2
Sheridan	1
Toole	1
Valley	1
Total	32

The following counties provided county funds from which transportation payments were made that equalled the maximums provided by the State schedule: Beaverhead, Broadwater, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Golden Valley, Granite, Jefferson, Judith Basin, McCone, Meagher, Park, Petroleum, Phillips, Pondera, Prairie, Richland, Roosevelt, Valley, Wibaux, and Yellowstone.

Rosebud, Teton, and Sheridan counties failed to answer Question 18.

The transportation law which was passed in 1941 does not provide a method for making transportation payments to eligible transfer students and this accounts for the wide variety of practices being employed by the county superintendents. A revised transfer law must include a plan for the county superintendents to follow in establishing transportation budgets from which just claims by transfer students can be paid.

CHAPTER VI

SUMMARY OF RECOMMENDATIONS FOR A DESIRABLE TRANSFER LAW

Question 19 of the Transfer Questionnaire asked the county superintendents to list the provisions which they believed should be included in a fair and just transfer law. In the following summary the author will name the counties that answered the above question and quote their respective answers.

Beaverhead: "We have so few transfers from this county that it is really not a bad problem for us. I do favor a set amount per student to transfer. I believe \$90.00 is a fair amount.

Big Horn. High schools that we have transferred to have asked only the actual cost per pupil. Sheridan, Wyoming, requests \$96.00 per pupil or actual instructional cost. Other schools in Montana have done likewise by request. I sometimes believe this is O. K. if the school could budget for them as they do after the first year as we do.

Broadwater. I believe school boards should be compelled to pay transportation to students entitled to it.

Cascade. If the present law is properly administered and payments made according to law it would seem satisfactory as far as the experience of this county is concerned. We have few transfers and all seem justifiable.

Custer. It seems to me that it would be best to arrive at a reasonable set transfer figure and then have it absolutely mandatory that the transfer be made. I believe that the old transfer price of \$65.00 was too low. \$75.00 seems to be reasonable and it would be better to have it for sure than take chances on a high figure and then not receive anything. I think the present method of arriving at the amount is a very poor one. However, all this is just my personal opinion.

Chouteau. I still favor a flat rate per year of about \$75. to be transferred to school of attendance. The granting of this transfer should not be mandatory but should be

submitted for approval to the county commissioners and county superintendent of schools. The deadline for applications should be July 15 or at latest August 1. Each case should be judged on its particular merits and transfers granted in all cases where justified. No hardship should be placed on any student or family.

Daniels. 1. Reasons for transfer should be O. K.'d by Co. Supt. 2. Requests for transfers to be made before county and school levies are set. 3. A flat amount per day or year (50¢ or \$75) should be the law unless changed by mutual consent of the two counties involved. 4. Transportation should follow the child where application for transfer has been approved.

Dawson. The present transfer of apportionment law has worked out very fairly in Dawson County with the one exception that I feel a flat rate should be named.

Deer Lodge. I think it might be better to have a fixed sum, the same to be paid for all high school transfers.

Fallon. The present law is all right with the exception of the amount to be transferred. I believe a uniform and flat rate should be transferred. County superintendents in Southeastern Montana have agreed on \$75 per pupil. Carter County refuses to transfer any amount.

Fergus. A. Some discretion left to county superintendent and Board of County Commissioners in granting transfers, but making transfer mandatory if pupil lives five or more miles from school and has valid reason for transfer, such as: Nearness to school in adjoining county in terms of road conditions as well as miles. Possibility of living with relatives and friends in another county. Possibility of getting specialized instruction.

B. A definite amount to be paid. We have found 50¢ per day of attendance satisfactory in most cases, though our own instructional costs are less than that.

C. Definite, simple, uniform method of making the transfer of money.

D. Simple, definite method of budgeting for transfer students to take the place of Sec. 1263.8.

E. Some corrections should be made in Chap. 160, Laws of 1939, p. 201, of 1941 Law Book.

There is nothing in that law that provides that those students asking for transfers are not graduates of H. S. We cannot budget for post graduates of our regular high schools, yet as the law stands it requires the transfer of money for post graduates attending vocational schools if the post graduates are not 21 years old.

Flathead.TRANSFER FUND LEGISLATIONI. Applications and Applicants

1. Transfer applications should be made by August 1 on approved application blanks in triplicate, one for home county superintendent's files; one for county superintendent of county to which student is transferred; one to parent; provided that high school students who are committed to state institutions by the courts after August 1 shall file applications immediately after arriving at institution.
2. County Superintendent and County Commissioners should be given some discretion about permitting transfers.
3. Some valid reasons for transfers:
 - a. Students living in isolated districts, who have relatives or friends in another county near a high school.
 - b. Students living on a long bus route who by doctor's affidavit are pronounced unable to take the trip.
 - c. Students from isolated districts who can go to high school in another county maintaining dormitory.
 - d. Students who because of financial reasons cannot attend home school; but have secured jobs in other counties.
 - e. Students who wish to attend a vocational school, such as is maintained in Helena.

II. High School Transfer Budget, How Made

1. On or before the second Monday of August, the county superintendent shall prepare a high school transfer budget which shall be based on:
 - a. The sum of all approved transfer applications at a rate per student specified by the State Board of Education.
 - b. The sum of all approved transportation contracts for transfer students.
 - c. The sum of applications for high school students who were committed to state institutions after August 1 the year before.
2. High schools that accept transfer students, other than those committed to state institutions by court action, without proper permission from the home county do so at their own expense.

III. How Shall Transfer Funds Be Financed?

1. In December and June the county superintendent shall first deduct the amount collected in the high school tax for transfers from the full amount. (This is already provided by law.)
2. In December and June the county superintendent shall authorize distribution from the county high school transportation tax receipts due transfer students holding transportation contracts.
3. When state transportation reimbursement reaches the county, the county superintendent shall authorize distribution from this amount to the high school transfer fund to the extent that state transportation reimbursement has been received for such high school transfer students.

IV. How Shall Claims Against High School Transfer Fund Be Paid?

1. Tuition claims from outside counties shall be presented to home county superintendent in June on uniform blanks set up in the office of State Superintendent. These claims shall give the names of transferred students, the days of attendance of each and the amount due and rate set up by State Board of Education. Such claims shall be signed by the principal of the high school which the transfer student has been attending and notarized.
2. The county superintendent on receipt of said claims, shall verify their validity with her contracts, and after approving them shall instruct the county treasurer to write checks to the institutions presenting their claims. She shall not make such instructions without such claims nor without contracts for tuition.
3. High school transfer students who hold transportation contracts shall present their claims for transportation on approved uniform forms set up by the state superintendent to the county superintendent of their home county in June and December setting forth their attendance records for the semester approved by the high school principal whose signature must appear on such claims.
4. The county superintendent on receipt of such claim shall if she can verify them with her transportation contracts, approve them and authorize the county treasurer to write warrants covering such claims.

V. Transportation For Transfer Students

1. High school transfer students who are eligible to receive individual transportation money in their home county, are eligible to receive the same amount when they transfer to another county.
2. Procedure:
 - a. Before August 1st a contract in triplicate shall be signed by the parents or guardians of the high school transfer student and the county superintendent. It shall provide payment in two installments. Special forms that will be uniform throughout the state shall be set up by the state superintendent for this purpose. One copy shall be given to the student, one to the parent, and one shall be retained in the files of the home county superintendent.

Gallatin. Several county superintendents evidently attempted to make the distribution for transfers according to law but gave it up as a bad job. I believe that much ignoring of the new law has come about because of the fact that the amount to be transferred was the average budget cost rather than the actual cost. I still believe that the actual cost of maintenance, excluding, of course, capital outlay, would be a fair transfer and if this is not satisfactory a flat rate to be decided upon some sort of a parity basis might be satisfactory. It might be anywhere from seventy-five (\$75) to ninety dollars (\$90). Ninety dollars has not seemed unjust to me. The main and only consideration as to whether or not a transfer should be made should be the possible educational opportunity for the child. Factors entering in should be the usual ones; such as, the environment, comparison of opportunities to be offered between the high schools, nearness to a bus system and the amount of transportation paid by the high school if it does not transport pupils.

Glacier. Counties should transfer an amount equal to the amount budgeted for the pupil cost of its own high school students, unless that amount exceeds the per pupil cost of the county to which transfer is being made. In such case, the amount should equal the per pupil cost of the county receiving the transfer. I feel that this plan would eliminate the problem of some counties with low per pupil costs trying to induce students from other counties with high per pupil costs to attend their high schools.

Golden Valley. Keeping the educational welfare of the child in mind, I would list the following points to be considered in a fair and just transfer law: Distance from home, geographical aspects and roads, school curriculum, boarding and batching facilities, possibility of staying with relatives and thus reducing expenses, and medical facilities.

Hill. We believe a just and fair high school transfer law should have and would have the educational welfare of the child in mind. The thing that we deplore in our particular case is the proselyting of our high school students by those in adjoining counties. Hill County maintains seven high schools which I think should be adequately sufficient to meet the needs of all of our students, and we believe the facilities offered here are equal to any of those in the adjacent counties. There are exceptions and for this reason we believe the county superintendent and county commissioners should have some discretionary powers to take care of the exceptions.

Lincoln. Not a problem in this county.

McCone. I believe any transfer law should be definite and to the point so as to preclude any chance for arguments. The first point necessary for this would be a flat rate, also a definite distance, both to an established bus route and to the home high school, within which no transfer can be made. As there are sure to be circumstances arising which cannot be covered by any law, there should be an element of discretion left to the county commissioners, county superintendent or some other responsible party.

Mineral. When children live right in town where there is a high school, I see no real reason for transferring. I think there should be a set sum for transfers. It is being done in some counties, anyhow, I understand--\$90.00 per pupil.

Petroleum. I believe \$75 per student would be fair.

Phillips. I believe that the minimum to be transferred should be ninety dollars.

Pondera. The board of budget supervisors should be allowed to approve or reject the applications for transfer money. I feel after section 1265.3 was written the opportunity for making an application for high school transfers was misused in several cases.

Powell. It is my opinion that the amount transferred for high school students should be uniform. If a high school is operating with a faculty, a few additional students should not cause a great increase in expenditures so the transfer amount should not be too high, perhaps \$75.00. Schools will be pleased to receive this amount and schools having a transfer problem would not object so strongly to a conservative amount.

Roosevelt. I consider a flat rate of transfer, probably \$100 per pupil, most equitable. That rate may be too high. If so, it encourages superintendents to proselyte students from other schools. I believe that the law should not be mandatory on the county superintendent. There should be discretionary power. I believe that the transfer should be made where:

1. The high school in the other county is nearer to student.
 2. Child may stay with relatives at little or no cost.
- I do not think that transfers should be made for:
1. Students living on a bus route in their own county.
 2. Students living in town having a high school in their own county.

Stillwater. No transfer should be made for students living within three miles of a high school within home county, unless the exact courses desired are not offered by high school within county.

b. Transfers should not be granted students who are graduates of high school and are enrolled in such vocational schools as aeronautics schools. This is taking money raised for undergraduates since students who have graduated are not eligible for budgeting.

c. Children on bus routes should not be granted transfers, unless for special courses not offered in home school.

In asking for transfers names of courses should be listed.

d. Amount of money to be transferred should never exceed \$90 per year.

Toole. I believe that transfers should be given to a student when: (a) the distance to a high school outside of the county of his residence is less than that to adequate high school in the county of his residence.

Valley. 1. To stay with relatives. 2. Nearest A. S. and trading center. 3. For vocational training.

Wibaux. We believe the present high school transfer law is fair. As so very few pupils go outside of Wibaux County for their high school work, transfers are rather

a minor problem in this county. For the educational welfare of the child, there are certain times in which the pupil is benefited by attending high school outside of his own county. I believe that a pupil should have valid reason for such attendance before permission should be given.

Yellowstone. Provisions for fair transfer of H. S. funds for students attending out of county. 1. If student does not apply for transfer before Sept. 1, he can attend the high school of his choice and his transfer be made if possible during that year. If no provisions are made for transfer in the present budget, provisions can be made to care for transfer in the following years budget. 2. Provisions whereby county superintendents are notified of students that are being transferred to his or her county. 3. A definite amount set for transfer per pupil.

A review of the county superintendents' recommendations for a just and fair high school transfer law indicates a strong desire for two basic changes in the existing statutes. First, the majority recommends that discretionary powers be reinvested in the county superintendents and county commissioners. Second, that the amount to be transferred for each eligible pupil be stated as a flat, uniform rate through the state.

Neither of these recommendations is in harmony with past experience. In 1923, Section 1232 granted both county superintendents and county commissioners considerable freedom in dealing with high school transfers. This arrangement proved unsatisfactory for in 1931 the enactment of Section 92 deprived the county commissioners of all authority over transfers and provided that they were obligated to pay the cost of instruction of transfer students at the rate of fifty cents (50¢) per day. Then in 1939 Section 1262.81 made it mandatory for the county

superintendents to approve all transfer applications which were submitted before Sept. 1. The present law is too liberal but it certainly would be unwise to reenact a law that was found unsatisfactory and cast aside.

CHAPTER VII

ANALYSIS OF TRANSFER LEGISLATION IN ELEVEN WESTERN STATES

The author wrote to the superintendents of public instruction in eleven Western States. He outlined Montana's high school transfer problem and asked them to send him an explanation of how similar problems were solved in their respective states. Some superintendents answered with explanatory letters while others mailed copies of their school laws with references to the proper sections. The letters are included in the appendix.²²

In the following pages the laws of each state that deal with high school transfers will be analyzed, with special emphasis on the advantages and disadvantages of each.

The law of Idaho provides that,

"All school districts within the State of Idaho which do not maintain a four year high school shall pay tuition for pupils of such district who have completed the course therein and who desire to attend high school in another district."²³

"The rate of tuition charged by any high school of the State of Idaho shall not exceed the actual average cost per capita, based upon the total average daily attendance. The said average cost per capita, including the maximum tuition which may be charged shall be determined by rules and regulations laid down by the State Board of Education...

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See Appendix, pp. 77-88.

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School Laws of Idaho, 1941, Section 32-1601, p. 106.

Tuition shall be charged annually and a fraction of a month shall be deemed a month."²⁴

"Bills of tuition of non resident pupils shall be rendered by the superintendent of the high school district in which the pupils are attending school. The bills of tuition shall contain a statement of the per capita cost on which the tuition is based, the amount due per tuition pupil from the state and county apportionments, and the balance due from the district to which the bill is rendered. The amount of tuition to be transferred . . . shall be the difference between the amount due per tuition pupil from the state and county apportionments and the total per capita cost; provided, such total per capita cost shall not be considered to exceed the per capita cost for tuition purposes approved by the State Board of Education."²⁵

"Every high school within the State of Idaho subject to the general school laws of the state shall receive non-resident pupils upon the basis set forth, except when it would work a hardship upon the high school district; Provided that the County Superintendent of Public Instruction shall be the judge of such cases subject to review by the State Board of Education; Provided further . . ."²⁶

In Idaho high schools are guaranteed \$160 per teaching unit per month for a minimum program of education. The high school district is obligated to levy a tax of three mills. If this levy fails to produce \$160 per teaching unit per month then the balance needed is provided from county and state sources. A teaching unit consists of approximately twenty-seven students. The attendance of the preceding year is used in determining the number of teaching units.

²⁴
Ibid., Section 32-1602, p. 106.

²⁵
Ibid., Section 32-1603, p. 106.

²⁶
Ibid., Section 32-1604, p. 107.

A high school student may attend any high school in the state, providing that his attendance does not work a hardship on the school of his choice. If such a question should arise his case may be referred to the county superintendent and ultimately to the State Department of Public Instruction. If his transfer is approved the district of his residence must pay the difference between his actual cost of instruction and the sum of the county and state apportionments.

The Idaho law has many commendable features. It permits a pupil to attend any high school in the state, with the exception of one minor restriction. It assures the school being attended by the pupil a sum of money equal to his actual cost of instruction and finally the small amount paid by the district of his residence does not create a financial burden.

If the Public School General Fund of Montana were enlarged so as to provide "The sum of six hundred dollars (\$600.00) per teacher and of fifteen cents (15¢) per pupil per day of attendance during the last completed school year"²⁷ it would be wise for this state to copy Idaho's transfer law.

Pearl A. Vanemaker, State Superintendent of Public Instruction, states that in Washington,

"Maintenance and operating costs are paid out of the general fund budget. The revenue^s from this budget are

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School Laws of Montana, 1941, Chap. 112, Section 1200.1, part (a) p. 90.

derived from (1) a levy on the evaluation of the local district which is limited by law to 10 mills. This 10 mills must cover both elementary and secondary levels; (2) the state pays on the basis of 25 cents per day for each day's attendance in the elementary school, the high school 25 cents per day's attendance plus a bonus of $2/5$, plus an additional $2/5$ for vocational classes; if the maximum levy will not provide 15 cents a day from local taxation, the state makes up the difference between what the district is able to raise and 15 cents per day. This is provided for in our equalization law.

We also have in this state non-high school tax which is imposed on districts which do not belong to any high school district. The high school which pupils from these districts attend is entitled to payment for each day's attendance of these pupils in an amount equal to the difference between apportionment paid by the state and the per diem cost."²⁸

The above quotation explains the transfer of funds for the education of high school students who reside in districts not having a high school, however, it is silent on the question of transfers from districts maintaining high schools.

In Oregon definite provisions are made for the education of pupils residing in districts not having a high school but no mention is made concerning the student who resides in a high school district but wishes to attend elsewhere.

Concerning the Oregon law, Mr. Lester A. Wilcox, Assistant Superintendent of Public Instruction, wrote,

"Our high school laws here in Oregon are quite different. Any district can operate or maintain a district high school upon the vote of the people of the district. Building, operation and maintenance is the responsibility of the district, however, and said district receives no help from outside sources. Its total support comes from a property

tax levied within the district. Of course, we have union high school districts where a number of districts join in maintaining a central high school. Many districts do not maintain high schools and as a consequence we have what is known as a nonhigh school district in each county. The nonhigh school district, in other words, consists of those districts that are not in a district maintaining a high school or that are not part of a union high school district. Each county, therefore, has a nonhigh school district presided over by a five-man board of directors. This board of directors levies a tax sufficient to take care of the tuition and transportation, where furnished, of pupils living in the county nonhigh school district. Students are usually allowed to attend any high school that they choose but a contract is made between the nonhigh school district and the several district high schools attended by nonhigh school students. The basis for the calculation of tuition is set forth in the law and it is supposed to cover the actual cost in the district where the student attends. It should be mentioned, however, that the nonhigh school district board has the right to specify the high school students shall attend but this power is seldom used except in cases where the per pupil cost is excessive. The plan works quite satisfactorily inasmuch as the school gets its actual per pupil cost. It might be mentioned also that the nonhigh school district does not have authority to operate a high school. Its authority extends only to payments of tuition and transportation and the auditing of bills presented."²⁹

The Oregon law may be satisfactory in a state where high school support is derived entirely from the proceeds of a district levy. However, in Montana, where the county rather than the high school district is the basic unit for high school support, such a law would be inapplicable.

California also recognizes high school transfers as primarily an inter-district problem. School Code section 2.21

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See Appendix, p. 79.

which applies to high school pupils who reside in one high school district and desire to attend high school in another high school district reads as follows:

"The governing board of any school district may, in its discretion, admit to the schools or classes maintained in such district any pupils who reside in another district which maintains schools or classes of the grade level which such pupils desire to attend, whenever an agreement is entered into between said governing board and the governing board of said district of residence stipulating the terms upon which such interdistrict attendance shall be permitted, or in the event that such agreement cannot be affected, whenever the county board of education having jurisdiction over said district of residence gives written authorization permitting such interdistrict attendance on such terms as may be agreed upon by the county board of education and the governing board of the district of proposed attendance. Pupils admitted under the provisions of this section may be admitted provisionally for a period of not to exceed two school months pending decision by the governing boards of the school districts concerned, or by the county board of education to their permanent admittance."³⁰

Section 2.21 permits a pupil who resides in a high school district to transfer to a high school in another district, providing the governing boards of the two districts concerned have first entered into an agreement authorizing the transfer. If the governing board of the students residence refuses to permit such a transfer the student may appeal to the county governing board. This board may negotiate an agreement with the district maintaining the high school which the pupil desires to attend. The cost of the transfer students education is paid

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School Laws of California, 1959, Chap. 931,
Section 2.21

by the district of his residence.

When a student resides in a district not maintaining a high school he is governed by Section 5.501. It states,

"Any person who is, . . . , eligible to attend high school and who does not reside in a high school district may attend high school in any high school district or unified school district in the county in which he resides or in another county."³¹

The California law has two commendable provisions.

First, it permits a pupil residing in a high school district to present his case to a higher authority if the local board refuses to pay his cost of instruction to some other district. Second, it authorizes resident pupils of non-high school districts to attend any high school in the state. On the other hand, the process of appeal is slow and time consuming. It allows a student to attend a high school for as much as two months before a final agreement needs to be made. In the meantime, the student may worry over whether or not he will be compelled to transfer to some other school which may not offer his choice of subjects. Such a situation will disturb a student's emotional stability.

Nevada, like Montana, has both county and district high schools. The county high schools are supported from the proceeds of a county-wide tax but the district high schools are required to raise a part of the necessary revenue with

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School Laws of California, 1941, Chap. 439, section 5.501.

a district levy. Its law relative to admission of students to the county high schools reads as follows:

"All county high schools shall be open for the admission of graduates holding diplomas from the eighth grade of the elementary schools of the state; provided that the examinations for said diplomas shall have been given under the direction and authority of the state board of education; and to such other pupils as shall pass the examination for admission to the county high school, which examination shall be conducted under the authority and direction of the state board of education; but nothing in this section shall be construed so as to compel a high school district to accept pupils from territory lying outside the boundaries of the county in which such high school is located without legal compensation, nor where accommodations for such pupils are not available. If the pupils are from territory lying outside of the county in which the high school is situated, the average per capita cost of pupils in the county in which such high school is situated shall be deemed a legal compensation."³²

This section of the Nevada law makes it mandatory for a county high school to accept non-resident pupils if its facilities permit and the county of residence is obligated to pay the actual costs of instruction. The law does not mention interdistrict transfers. Probably no need for such legislation has arisen because in Nevada no new high school may be created when the distance to either a district or county high school is less than forty miles. Under this condition it is impossible that a student will live nearer a high school in an adjoining district than a high school in his home district.

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See Appendix, p. 83.

In Arizona high schools are paid \$95 for each pupil in average daily attendance. Some districts maintain their own schools while in other cases several districts combine for the purpose of building and maintaining a high school. The latter districts are known as union high school districts. The difference between the actual cost of instruction and \$95 is raised by the high school unit.

"Pupils living in a district maintaining a high school or who are in a union high school district must attend that high school unless the Board of Education of the high school district gives a written permit allowing the pupils to attend some other high school.

Pupils living in elementary districts, which do not have a high school or do not belong to a union high school, may attend any high school in the county. The district in which the pupil lives must pay the difference between the \$95.00 furnished by the state and the average per high school pupil cost in the county."³³

Regarding transfers in Utah, Mr. Charles Skidmore, State Superintendent of Public Instruction, wrote as follows:

"The problem which you present in your letter of January 29 does not give much trouble in Utah, because there are in Utah only forty school districts for the entire state and the high schools are so well distributed that very seldom does the student desire to cross school district lines."³⁴

Resident students of high school districts in Wyoming may attend a high school in another district if they present a written statement from their local board of trustees

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See Appendix, p. 84.

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See Appendix, p. 85.

authorizing them to do so. Permission from the local board obligates the district to pay the school of attendance its proportionate cost of maintenance. Students coming from districts not having a high school may attend any high school in the state and the districts of their residence must pay the cost of instruction. However, the board of trustees of a non-high school district may designate the high school to be attended if the high school of the student's choice demands an excessive rate of tuition.³⁵

The legislative assembly of Colorado has endeavored since 1935 to enact a mandatory transfer law but in each case the Supreme Court ruled that the constitution of Colorado places in the hands of the school directors the responsibility of instruction in the respective districts and, therefore, such legislation is unconstitutional. Consequently, Colorado does not have a transfer law.³⁶

North Dakota has taken progressive action in solving its transfer problem. Students from districts not having a high school may attend any high school in the state and the school they attend is reimbursed from state funds. This law serves a dual purpose for it exempts the poorer sparsely settled districts which cannot maintain high schools from paying

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School Laws of Wyoming, 1937, Sections 216, 217, 218, and 219. p. 62.

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See Appendix, p. 80.

a high school tax and simultaneously assures the high schools receiving students from such districts some financial aid. The main weakness of the North Dakota law is that the amount to be paid per student cannot exceed \$54.00.³⁷ This small stipend besides being inadequate may have a depressing effect on North Dakota's educational program by causing conservative boards of education to infer that an annual maximum of \$54.00 should be sufficient for the education of a high school pupil. If this amount can be increased so as to equal a reasonable per pupil cost of instruction then North Dakota will have its transfer problem pretty well solved. Students living in high school districts may transfer only after obtaining permission from their local board of trustees. If such permission is granted the district of the student's residence must pay the costs of instruction.³⁸ In North Dakota where the terrain is level and high school districts are small and numerous the restrictions placed on students living in high school districts are not unreasonable.

South Dakota, being somewhat more mountainous than its sister state to the north, gives some recognition to the distance factor in the high school transfer problem. The first part of its law is quite similar to that of North Dakota

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See Appendix, p. 87.

38

Ibid

except that the tuition must be paid in all cases by the home district. It states that providing high school opportunity is the responsibility of the school district in which the pupil eligible to attend high school has his residence. If that district does not have a high school then the pupil is privileged to attend any public high school in the state or an adjoining state and the tuition up to a maximum of nine dollars per month must be paid by the home district. The tuition rate is to be the per pupil cost of maintaining the high school as determined by the county superintendent of schools in the county in which the high school is located, but a charge greater than nine dollars cannot be made even though the per pupil cost exceeds that amount. When a high school is maintained by the district in which a high school pupil resides the district is under no obligation to pay tuition unless the pupil's residence is located more than ten miles from the local high school and nearer to a public high school in an adjoining district either in South Dakota or in an adjacent state. If this situation prevails the home district must pay the tuition to the high school nearest the pupil's Home.³⁹

The transfer laws of Idaho and Washington could be adopted by Montana, with a few minor modifications, because the

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See Appendix, p. 88.

basis of high school support in these two states, as in Montana, goes beyond the boundary lines of the districts maintaining high schools. The laws prevailing in the remaining nine states would be inapplicable because in these states the high school district is the basic taxing unit for the support of secondary education.

CHAPTER VIII

CONCLUSION

The history of transfer legislation in Montana has been a record of constant change. In 1923 the lawmakers vested the county superintendent with the authority to approve or reject transfer applications. The same law gave the county commissioners the right to pay over to the school being attended a sum of money equal to the average high school apportionment for resident students. Dissatisfaction with these provisions caused a number of major changes in 1931. The authority to pass on transfer applications was left unmolested but the county superintendent was required to set up a transfer budget equal to .90 for each approved transfer, and the county commissioners were now obligated to pay out of this budget the sum of fifty cents (50¢) per day for each and every day of approved attendance. Two years later an economy minded legislature, affected by an economic depression, reduced the .90 to a maximum of .65. However, no change was made in Section 1262.32 and it was soon discovered that .65 was insufficient to pay at a rate of fifty cents (50¢) per day of attendance for a school term of 150 days. Therefore, a third change was made in 1937 when the law was amended to read,

"It shall be the duty of the county superintendent of schools, on or before the third Monday in July, to prepare a budget which shall be not less than sixty-five dollars (\$65.00), nor more than ninety dollars (.90.00) for each

student whose attendance outside of his county has been so authorized . . . "40

There was scattered opposition to the section which gave the county superintendent authority to approve or reject transfer applications. It was contended that in some instances transfer applications were refused unjustly. However, this opposition would not have brought about any major changes in the law if the county commissioners had followed the provisions of the above section. Whether the county commissioners were delinquent in their transfer duties or whether this power was usurped by the county superintendents is unknown. But in 1938-39, the last year during which the .65 to .90 provision prevailed, a large majority of the counties paid a flat rate of .65 per eligible pupil. The opposition to this minimum payment joined forces with those that wished greater freedom in securing transfers and induced the legislative assembly to practically rewrite Section 1262.81 and to further amend Section 1263.8. The first change made it mandatory for county superintendents to approve high school transfers that were requested before September 1 and the second abolished the .65 to .90 provision. A requirement was substituted in its place stating that county superintendents must pay a sum of money equal to the average per pupil cost of high school instruction

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School Laws of Montana, 1937, Chap. 118, Section 1263.8, p. 147.

for each of their eligible transfer students.

The new amendments have become more unpopular than their predecessors. During the last session of the legislative assembly an attempt was made to place the transfer laws back to where they were in 1951. The leadership for the move was provided by several counties that have adequate dormitory facilities for all of their isolated students. They insisted that transfer restrictions should be increased. An opposing group of counties which had expanded their facilities to accommodate students from the outlying areas of other counties were equally adamant in their demands that no major changes be made. Finally a compromise bill appeared on the scene. It failed to satisfy either group and was reluctantly approved by both Houses and sent to the Governor. However, the process of reconciling the numerous conflicting views left the measure with several inherent weaknesses and therefore, the Governor refused to give it his approval.

The solution of the transfer problem cannot be reduced to a mathematical formula. It deals with the human equation and, therefore, it will always be subjected to compromise and change.

In the light of this study the author recommends a temporary solution that will be replaced with a more permanent law as soon as the state of Montana complies with section 1200.1

of Chapter 112. This section provides that,

"A uniform system of free, public schools, sufficient for the education of, and open to, all the children of the state, of school age, shall be established and maintained throughout the state of Montana; and to carry on and support a minimum, foundational, educational program therein, the state of Montana shall provide therefore, and contribute thereto, revenue upon the following schedule: (a) For every junior and senior high school, classroom unit in the state, as such is hereinafter defined, the sum of six hundred dollars (\$600.00) per teacher and of fifteen cents (15¢) per pupil per day of attendance during the last completed school year."⁴¹

When Montana meets this obligation, high school students should be permitted to attend any secondary school in the state and the counties of their residence should be requested to pay the difference between the state's contribution and the school's actual per pupil cost of instruction.

In Idaho and Washington a substantial part of the cost of secondary education is paid by the state and their transfer laws, which are based on the above principle, are working satisfactorily.

Until Montana complies with Section 1200.1 the writer recommends that the existing law be amended to include the following provisions:

1. That the transfer applications be submitted on or before July 1.
2. That the State Department of Public Instruction furnish the county superintendents an application form

⁴¹

School Laws of Montana, 1941, Chap. 112, Section 1200.1, p. 90.

that shall be uniform through the state.

3. That the completed form shall provide the following information:
 - (a) Distance to the nearest local high school.
 - (b) Name of the high school the student wishes to attend.
 - (c) Evidence that the student has been given permission to attend the high school in question.
 - (d) Age and educational status of applicant.
 - (e) Reasons for asking permission to attend a high school outside of the county.
4. That a student residing more than twelve miles from a local high school and more than one and one half miles from an established school bus route, must be granted permission to transfer.
5. That county superintendents may approve the applications of those students who fail to qualify under the distance provision but are otherwise eligible to attend high school.
6. That transfers be denied those students who would be ineligible for budgeting purposes if they attended a high school in the county of their residence.
7. That high schools designated by transfer students as schools of their choice be notified of anticipated transfer receipts before July 16, and that the expenditure of such receipts be permitted in addition to any and all revenue obtained because of

- the attendance of resident students.
8. That students must attend not less than forty days before any transfer money shall be paid in their behalf.
 9. That the amount to be paid shall be \$100 per eligible transfer student per year.
 10. That transfer payments be made at the time of the regular high school apportionments.
 11. That transfer students who qualify for transportation aid shall be paid according to the statutory schedule but if the school being attended provides the transportation then such payments shall be made to the high school in question.

These provisions would safeguard the educational rights of the pupils living in isolated areas and simultaneously give the county superintendent discretionary powers over questionable transfers. They would also provide sufficient time during which to prepare transfer budgets and would give the principal of the high school receiving transfers authority to add anticipated transfer receipts onto his maximum budget as determined by attendance of resident students. Transportation aid would likewise be assured.

The average per pupil cost of high school instruction in Montana during 1940-41 was \$125.82, therefore, the recommended sum of \$100.00 should meet with general approval. The

requirement that a student must be eligible for budgeting purposes should he attend a high school in his home county would eliminate post graduates from seeking permission to attend some vocational training school at the expense of the home county.

The writer's recommendations may not meet with the approval of those who demand a liberal transfer law nor of those who would prefer to have all transfers abolished, but his study of the problem convinces him that they must be used as a nucleus for a compromise measure to be used until such time as Montana finds it possible to comply with Section 1200.1.

APPENDIX

QUESTIONNAIRE ON HIGH SCHOOL TRANSFERS

1. How many students, who were residents of your county, attended high school outside of your county during the 1938-39 school term? _____
2. How much money was transferred for each of the above students during the 1938-39 school term? _____
3. How many students transferred out of your county during the 1939-40 school term? _____. The 1940-41 school term _____
4. How many of those that transferred during 1940-41 made formal application before Sept. 1, 1940? _____
5. How many of your transfer students during the 1940-41 school term attended high school in an adjoining county? _____
6. How much money was transferred for each of the students authorized to attend high school outside of the county during the 1940-41 school term? _____
7. For how many students who failed to apply before Sept. 1, 1940, was money transferred? _____ How much per student? _____.
8. What was the average per pupil cost of high school instruction in your county during the 1939-40 school term? _____
During 1940-41? _____ (See section 1263.8 of School Law)
9. What was the high school levy in your county for the 1940-41 school term? _____

10. What is the total amount of transfer money received by all of the high schools in your county during the 1940-41 school term? _____
11. What was the total amount of money paid out for high school transfers by your county during the 1940-41 school term?

12. List the high schools attended by your transfer students during 1940-41, the county in which the high school is located, and the number attending each.

<u>High School</u>	<u>County</u>	<u>No. of Transfers</u>
--------------------	---------------	-------------------------

- | | | |
|----|-------|-------|
| a. | _____ | _____ |
| b. | _____ | _____ |
| c. | _____ | _____ |
| d. | _____ | _____ |
| e. | _____ | _____ |
| f. | _____ | _____ |
| g. | _____ | _____ |
| h. | _____ | _____ |

13. List the reasons given by the students for wishing to transfer to a school outside of the county and the number of times each reason occurred on the applications. (1940-41)

<u>Reasons for Transfer</u>	<u>Number</u>
-----------------------------	---------------

- | | |
|----|-------|
| a. | _____ |
| b. | _____ |
| c. | _____ |

- d. _____
- e. _____
- f. _____
- g. _____

14. How many students were authorized to attend high school outside of the county for the 1941-42 school term? _____

15. How much money do you expect to transfer for each of these students? _____

16. Please give the name of each student who transferred to a high school outside of the county, the distance from his home to the nearest high school in his home county and the distance to the school of his choice if such school is located in an adjoining county.

Name of Student	<u>Distance to H.S. in home county</u>	<u>Distance to H.S. being attended</u>
a. _____		
b. _____		
c. _____		
d. _____		
e. _____		
f. _____		

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____
- f. _____

(Continue if necessary on a separate sheet)

17. How many of the above named students live on an established school bus route? _____
18. What provision is made for paying transportation to those transfer students who live more than three miles from a high school? Explain on a separate sheet of paper.
19. In terms of the educational welfare of the child, please list the provisions that you believe should be included in a fair and just high school transfer law. Thank you for your splendid cooperation.

COPY

State of Idaho
DEPARTMENT OF EDUCATION
Boise

C. E. Roberts
State Superintendent
of Public Instruction

February 10, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

We are sending you a copy of our School Laws with the provisions concerning tuition of high school students marked for your assistance. The state and county in Idaho appropriate money for support of our minimum program of education which guarantees for the operation of each teaching unit \$120 per month elementary and \$160 per month high school based on the average daily attendance of the preceding year. The state, county and a three-mill minimum district levy provide the financial support for the minimum program. All else is provided by the local district. High schools send to us a copy of their operating costs according to the blank which we are enclosing. From this is deducted the minimum program cost of operation and on the differences between the two, tuition is charged. The specific charge being determined by dividing this difference by the average daily attendance of the high school for the specific year of operation.

Yours sincerely,

C. E. Roberts
State Superintendent
of Public Instruction

CER:hn
Encl. 2

COPY

SUPERINTENDENT OF PUBLIC INSTRUCTION
State of Washington
Olympia

Pearl A. Tanamaker
State Superintendent

February 10, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

Your recent request for information concerning our high school apportionment law has been received. Very briefly our state setup is as follows:

Buildings for both grade and high school use are constructed by the local districts with what state aid, federal aid, W.P.A. assistance can be obtained. Maintenance and operating costs are paid out of the general fund budget. The revenues from this budget are derived from, (1), a levy on the evaluation of the local district which is limited by law to 10 mills. This 10 mills must cover both elementary and secondary levels; (2), the state pays on the basis of 25 cents per day for each day's attendance in the elementary school, the high school 25 cents per day's attendance plus a bonus of $2/5$, plus an additional $2/5$ for vocational classes; (3), if the maximum levy will not provide 15 cents a day from local taxation, the state makes up the difference between what the district is able to raise and 15 cents per day. This is provided for in our equalization law.

In addition to the above the state reimburses all transportation costs not to exceed 50 per cent of the total expended for transportation purposes on routes which are approved by the transportation commission.

We also have in force in this state non-high school tax which is imposed upon districts which do not belong to any high school district. The high school which pupils from these districts attend is entitled to payment for each day's attendance of these pupils in an amount equal to the difference between apportionment paid by the state and the per diem cost.

I am enclosing a state summary which may be of interest to you. If we can give you further information which will be

of benefit to you, please feel free to write us.

Very truly yours,

Pearl A. Manamaker
State Superintendent
of Public Instruction

J. Guy Rowland
Elementary, Junior High
and Transportation Supervisor

jgr:pm

COPY

STATE DEPARTMENT OF EDUCATION

Rex Putnam
Superintendent of Public Instruction

Salem, Oregon
February 25, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

My dear Mr. Baum:

In your letter of January 29 you explain the method used in Montana in paying the cost of high school students, especially those who live outside the districts operating high schools.

Our high school laws here in Oregon are quite different. Any district can operate or maintain a district high school upon a vote of the people of the district. Building, operation, and maintenance is the responsibility of the district, however, and said district receives no help from outside sources. Its total support comes from a property tax levied within the district. Of course, we have union high school districts where a number of districts join in maintaining a central high school. Many districts do not maintain high schools and as a consequence we have what is known as a nonhigh school district in each county. The nonhigh school district, in other words, consists of those districts that are not in a district maintaining a high school or that are not a part of a union high school district. Each county, therefore, has a nonhigh school district which is presided over by a five-man board of directors. This board of directors levies a tax sufficient to take care of the tuition and transportation, where furnished, of pupils living in the county nonhigh school district. Students are usually allowed to attend any high school that they choose but a contract is made between the nonhigh school district and the several district high schools attended by nonhigh school students. The basis for the calculation of tuition is set forth in the law and it is supposed to cover the actual cost in the district where the student attends. It should be mentioned, however, that the nonhigh school district board has the right to specify the high school students shall attend but this power is seldom used except in cases where the per pupil cost is excessive. The plan works quite satisfactorily inasmuch as the school gets

February 25, 1942

its actual per pupil cost. It might be mentioned also that the nonhigh school district does not have authority to operate a high school. Its authority extends only to the payments of tuition and transportation and the auditing of bills presented.

For your information I am inclosing a copy of the non-high school law.

Sincerely yours,

Rex Putnam
Supt. Public Instruction

By- Lester A. Ilcox
Assistant Superintendent

LAW: MA
INCL

COPY

State of California
DEPARTMENT OF EDUCATION
Sacramento

February 10, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

Your letter of January 29, 1942, addressed to
Dr. Dexter has been referred to me.

I enclose herewith a copy of School Code sections
2121, 31301, 4.250, and 4.251. School Code section 2.21 is
applicable when a high school pupil residing in one high
school district desires to attend high school in another high
school district. School Code section 3.301 is applicable when
a high school pupil does not reside in any high school district.
School Code sections 4.250 and 4.251 have to do with the trans-
portation of high school pupils not residing in any high school
district.

Very truly yours,

Alfred E. Lentz
Administrative Advisor

17:168
Enc.

SCHOOL CODES OF CALIFORNIA

Section 2.21. The governing board of any school district may, in its discretion, admit to schools or classes maintained in such district any pupils who reside in another school district which maintains schools or classes of the grade level which such pupils desire to attend, whenever an agreement is entered into between said governing board and the governing board of said district of residence stipulating the terms upon which such interdistrict attendance shall be permitted, or, in the event that such agreement cannot be effected, whenever the county board of education having jurisdiction over said district of residence gives written authorization permitting such interdistrict attendance on such terms as may be agreed upon by the county board of education and the governing board of the district of proposed attendance.

Pupils admitted under the provisions of this section may be admitted provisionally for a period of not to exceed two school months, pending decision by the governing boards of the school districts concerned, or by the county board of education relative to their permanent admittance. (Added by Stats. 1937, Chap. 612; amended by Stats. 1939, Chap. 831.)

Section 3.301. Any person who is, under the provisions of this article, eligible to attend high school and who does not reside in a high school district or in a unified school district may attend high school in any high school district or unified school district in the county in which he resides or in another county. (Amended by Chapter 439, Statutes of 1941)

Section 4.250. The unapportioned county high school fund shall be employed by the county superintendent of schools to pay such charges as are stipulated elsewhere in this code, and to provide, with the approval of the county board of education, additional apportionments to the high school districts of the county for current expenses because of temporary emergency conditions arising in such districts. (Amended by Chapter 439, Statutes of 1941.)

Section 4.251. The superintendent of schools shall apportion from the unapportioned county high school fund to each high school district within his county an amount sufficient to reimburse the high school district for money actually expended for transportation of pupils residing in territory in the county not included in any high school district, and attending such high school district during the preceding school year. The amount so apportioned shall not exceed five dollars per month for each pupil so attending. (Amended by Stats. 1933, Chap. 1050.)

COPY

State of California
DEPARTMENT OF EDUCATION

Sacramento

June 19, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

I have your letter of June 13, 1942.

Under School Code section 2.21, the amount to be paid by the district of residence to the district of attendance is the amount agreed upon by the governing boards of the two districts or, where the governing board of the district of residence has refused to enter into any agreement, the amount agreed upon by the county board of education and the governing board of the district of residence. Money payable by a district of attendance under the section are paid to the district of attendance in exactly the same manner as other obligations of the district are paid.

As to attendance under School Code section 3.301, the district of attendance is reimbursed under the provisions of School Code section 3.321-3.323, as added by Chapter 439, Statutes of 1941, a copy of which is enclosed.

Yours very truly,

Alfred E. Lentz
Administrative Advisor

17:167
Enc.

COPY

State of Nevada

DEPARTMENT OF EDUCATION

Carson City

February 2, 1942

Mr. C. W. Baum:
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

Miss Bray, State Superintendent of Public Instruction, has referred to me your letter of January 29 relative to transfer of high school students.

Nevada has 16 county high schools and 29 district high schools. A county high school is under the control of a county board of education and is supported by a county wide tax. A district high school is under the control of the district board of trustees and is supported by apportionments from the state and county apportionments and special district taxes.

The law relative to admission of students to our county high schools reads as follows:

"All county high schools shall be open for the admission of graduates holding diplomas from the eighth grade of the elementary schools of the state; provided that the examinations for said diplomas shall have been given under the direction and authority of the state board of education; and to such other pupils as shall pass the examination for admission to the county high school, which examination shall be conducted under the authority and direction of the state board of education; but nothing in this section shall be construed so as to compel a high school district to accept pupils from territory lying outside the boundaries of the county in which such high school is located without legal compensation, nor where accommodations for such pupils are not available. If the pupils are from territory lying outside the county in which the high school is situated, the average per capita cost of pupils in the county in which such high school is situated shall be deemed a legal compensation."

The district high school law does not contain any provision relative to the acceptance of pupils who reside in a district other than that in which the district high school is located. Since no district high school may be organized when there is another district high school within forty miles distance, there is no problem of transfer of pupils.

I know of only one instance where pupils living in one county wherein there was a county high school sought admission to the county high school of another county and were not permitted to do so because of crowded conditions in the latter mentioned high school.

It is the practice of this state to allow high school students to enter any high school they desire to attend. It is not the practice of high schools who have students who are legal residents of other counties to collect the per capita cost of the high schools in the county from which such students come.

I know of one instance where there were students living in one county wherein there is a county high school who lived nearer a district high school in another county. The students attended the district high school and the county where the children resided reimbursed the district high school the amount of transportation money necessary to transport the students from their place of residence to the district high school.

I hope that this information is what you wish. If you have further questions relative to our school laws do not hesitate to write me at any time.

Very sincerely yours,

George Nehm, Office Deputy

COPY

State of Arizona

DEPARTMENT OF PUBLIC INSTRUCTION

E.D. Ring, Superintendent

Phoenix

February 3, 1942

C. W. Baum, Supt.
Public Schools,
Cascade, Montana

Dear Mr. Baum:-

Under separate cover, I am sending you a copy of the Arizona School Laws, which I am sure you will find more desirable than a statement from me relative to the practice followed in this state on high school attendance.

Our educational system is divided into districts. It is the responsibility of each and every district to finance its entire building program. Each district receives from state sources \$65.00 per elementary pupil in average daily attendance and \$95.00 for each high school pupil in average daily attendance. This money is used for the maintenance and operation of the school.

Pupils living in elementary districts, which do not have a high school or do not belong to a union high school, may attend any high school in the county. The district in which the pupil lives must pay the difference between the \$95.00 furnished by the state and the average per high school pupil cost in the county.

Pupils living in a district maintaining a high school or who are in a union high school district must attend that high school, unless the Board of Education of the high school district gives a written permit allowing the pupils to attend some other high school.

Trusting this is the information desired I am

Yours very truly,

E.D. Ring
Superintendent of
Public Instruction

RDR;zs

COPY

THE STATE OF UTAH
Department of Public Instruction
Salt Lake City
February 2, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

The problem which you present in your letter of January 29 does not give much trouble in Utah because there are in Utah only forty school districts for the entire state and the high schools are so well distributed that very seldom does the student desire to cross school district lines. I am not fully aware whether Montana has adopted the consolidation plan that it attempted to put into practice. I think the plan of consolidation is the best way out.

Very truly yours,

Charles H. Skidmore
State Superintendent of
Public Instruction

COPY

The State of Colorado
DEPARTMENT OF EDUCATION
Office of the Superintendent
Denver

February 2, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

Your letter of January 29 which refers to high school tuition for pupils who live great distances from the high school, is a most interesting one. For a number of years Colorado has been trying to solve this problem but as yet it has been unable to do so.

From time to time the Legislature has passed laws making it mandatory for one school district to pay high school tuition to another school district both within the county and outside of the county, but the Supreme Court ruled that since the Constitution places in the hands of the school directors the responsibility of instruction in the respective districts, such legislation was unconstitutional. Therefore, Colorado is without a high school tuition law such as you refer to in your letter.

Under separate cover we are sending to you a copy of the 1933 compiled edition of the school laws and also legislation passed by the General Assemblies of 1935, 1937, 1939, and 1941. You will note in the 1941 laws the statute covering the high school tuition. You will readily see that while it might have been the intention of the Legislature to pass a mandatory law for the paying of high school tuition, the law itself is not mandatory.

In the 1933 statutes you will find the section concerning the paying tuition from one district to another, in section 171, page 89.

If we can serve you in any other way, or if there is further information that we can give you, we shall be glad to hear from you again.

Very sincerely,

Inez Johnson Lewis
State Superintendent of
Public Instruction

By Lucy Auld
Director of Records and
Correspondence

LCA/B

COPY

State of North Dakota

DEPARTMENT OF PUBLIC INSTRUCTION

Arthur E. Thompson
Superintendent

Bismarck, North Dakota

January 31, 1942

Superintendent C. W. Baum
Cascade, Montana

Dear Mr. Baum:

In response to your letter of recent date, permit me to state that in North Dakota our non-resident high school tuition is paid by the state.

Whether a high school is maintained in a community depends entirely upon the local school district. If a child living in a school district that does not maintain a high school attends school in any high school in the state, then North Dakota assumes the responsibility of paying this non-resident high school tuition.

Some years ago the payment of non-resident high school tuition was a local school responsibility. But through the passage of the State Equalization Fund law, we were able to shift this responsibility on to the state, a much more satisfactory way of handling it. The main weakness of our law is the amount of tuition allowed. The maximum for the school year is \$54.00 or \$1.50 per week per pupil.

Enclosed you will find a copy of the State Equalization Fund law wherein you will find reference to the non-resident high school tuition, the plan we have in North Dakota.

Sincerely yours,

DEPARTMENT OF PUBLIC INSTRUCTION

Paul A. Dalager, Deputy
SuperintendentPAD:n
Enc.

COPY

State of South Dakota

DEPARTMENT OF PUBLIC INSTRUCTION

Pierre

February 4, 1942

Mr. C. W. Baum
Superintendent of Schools
Cascade, Montana

Dear Mr. Baum:

We have your letter of January twenty-ninth in which you have asked that we send you information regarding the payment of high school tuition in this state.

Providing of high school opportunity in South Dakota is made the responsibility of the school district in which the pupil eligible to attend high school has his residence. If that district does not offer high school work then the pupil is privileged to attend any public high school in this state or an adjoining state and the tuition up to a maximum of nine dollars per month must be paid by the home district. The tuition rate is to be the per pupil cost of maintaining the high school as determined by the county superintendent of schools in the county in which the high school is located. A charge greater than nine dollars cannot be made even though the per pupil cost exceeds that amount.

When a high school is maintained by the district in which a high school pupil resides then the district has no tuition obligation unless the pupil's residence is located more than ten miles from the high school and nearer to a public high school outside of the district in this state or an adjoining state. Under such circumstances the home district must pay the tuition to a high school located nearer to the pupil's home. Situations of this kind are not common in this state.

Pupils are eligible for high school attendance when they have completed the eighth grade and have a diploma signed by a county superintendent or city superintendent indicating completion. The home district is obligated to provide four

years of high school opportunity for such pupils or until the high school course has been completed, if completed in less than four years.

Very truly yours,

DEPARTMENT OF PUBLIC INSTRUCTION
J. F. Hines, State Superintendent

By
Deputy State Superintendent

GOT/me

SCHOOL LAWS OF MONTANA

1263.5. BUDGET MEETING--- RESTRICTION ON APPROPRIATIONS --MAXIMUM ALLOWANCE PER PUPIL -- EXTRA LEVY -- COMPUTATION OF ATTENDANCE. The board of trustees of every district maintaining a high school and of every county high school, shall meet at the regular place of meeting of the board on the fourth Monday in June and consider, prepare and adopt a preliminary budget for the next ensuing school year for all high school purposes, and any taxpayer may appear at such meeting and be heard in regard to the preliminary budget. Such meeting may be continued from day to day, but not exceeding three (3) days in all for third class high school district, or five (5) days in all for first and second class high school districts and county high schools. The total amount appropriated in Part I of the preliminary budget for any high school shall not exceed the total amount of estimated receipts for the general fund of such high school, as set out in the county superintendent's estimate of high school revenues, contained in the budget form, and the total amount appropriated in Part I of the preliminary budget for any high school shall not, in any event, exceed per eligible pupil enrolled and in regular attendance for forty (40) days or more, during the then current high school year in which the preliminary budget is adopted, the following maximums: (a) For a school enrolling sixty (60) or fewer pupils the budget shall not exceed one hundred seventy-five dollars (\$175.00) for each such pupil. For a school enrolling more than sixty (60) pupils the maximum of one hundred and seventy-five dollars (\$175.00) shall be decreased at the rate of twenty-five cents (\$0.25) for each additional pupil until the number enrolled shall have reached a total of one hundred sixty (160) such pupils. For a school enrolling more than one hundred sixty (160) pupils the maximum of one hundred fifty dollars (\$150.00) shall be decreased at the rate of fifteen cents (\$0.15) for each such additional pupil until the number enrolled shall have reached two hundred sixty (260) such pupils. For a school enrolling more than two hundred sixty (260) pupils the maximum of one hundred thirty-five dollars (\$135.00) shall be decreased at the rate of ten cents (\$0.10) for each such additional pupil until the total number enrolled shall have reached three hundred sixty (360) such pupils. For a school enrolling more than three hundred sixty (360) pupils the maximum of one hundred twenty-five dollars (\$125.00) shall be decreased at the rate of five cents (\$0.05) for each such additional pupil until the total enrollment shall have reached five hundred sixty (560) such pupils. For a school enrolling more than five hundred sixty (560) pupils the maximum shall not exceed one hundred fifteen dollars (\$115.00) for each such pupil provided that the

maximum per pupil for all pupils enrolled shall be figured on the basis of the amount allowed herein on account of the last enrolled eligible pupil; provided further that nothing herein shall be construed to limit the expenditure of any and all amounts received as tuition and from other states and counties for non-resident pupils in addition to all other expendible income budgeted for. (b) In districts where an application to establish a high school or high schools has been approved by the state superintendent of public instruction, the maximum for the first year shall be the same as that provided for under subdivision (a) of this section; provided further, that nothing herein contained shall be construed as preventing any school district from voting upon itself an additional levy for high school purposes, in accordance with the general school laws pertaining to the voting of additional levies by school districts. For the purpose of ascertaining and determining the number of pupils enrolled and in regular attendance for forty (40) days or more, for all the purposes of this act, there shall be excluded all pupils over the age of twenty-one (21) years, all pupils who have been graduated from a four (4) year accredited high school, and all pupils enrolled in the school who are not resident of the county in which the high school is located. (As amended by Chapter 166, Laws of 1939).

1263.11. HIGH SCHOOL LEVY -- HIGH SCHOOL TAX LEVY FUND APPORTIONMENT OF PROCEEDS. In each county in which one or more high schools are maintained, the board of county commissioners shall annually levy on the second Monday in August a special tax for such high school or high schools, which special tax shall not exceed seven (7) mills; except in counties in which the amount when computed by applying a seven (7) mill levy against the taxable valuation of the county will be less than one hundred twenty-five dollars (\$.125.00) for each pupil residing in the county regularly, and enrolled and attending high school in the county for not less than forty (40) days during the last completed school year, together with the amount contained in the budget provided for in section 1263.8 for pupils authorized to attend high school outside of the county. In such counties the levy may be made and fixed at such rate that the amount, when computed by applying the levy against the taxable valuation of the county, will be one hundred and twenty-five dollars (\$.125.00) for each pupil residing in the county and regularly enrolled and attending high school in the county for not less than forty (40) days during the last completed school year together with the amount contained in the budget provided for in section 1263.8 for pupils authorized to attend high school outside of the county. The proceeds of such special tax levy shall be carried by the county treasurer in a fund to be known as "high school tax

levy fund" and shall be apportioned in December and June of each year by the county superintendent of schools in the following manner: At each such apportionment there shall be deducted from the proceeds one of the tax then in the high school tax levy fund, one-half ($\frac{1}{2}$) of the amount contained in the budget for pupils authorized to attend high school outside of the county which amounts shall be placed in a special fund to be designated as "high school transfer fund" and the remainder shall be apportioned amongst the districts maintaining high schools, or providing for transportation of high school pupils to other districts within the county, and the county high school, if there be one, by using one of the following methods:

(a) In the proportion which the amount of maximum budget which might be adopted under section 1263.5 by each district maintaining a high school or transporting its high school pupils to a high school in another district, and the county high school, if there be one, bears to the total amount of the maximum budgets which all thereof might adopt under said section.

(b) In the proportion which the amount shown in each budget as the amount to be raised for such budget by the county-wide high school tax levy, as determined by section 1263.13, bears to the total amount shown by all of such budgets to be raised by such county-wide high school tax levy as determined by section 1263.18.

The county superintendent of schools, in making such apportionments, shall use and follow the method which he shall deem best under the particular conditions existing in his respective county; provided that no school district or county high school shall receive in any one school year from both of the apportionments made in such year any amount in excess of the amount shown by its high school budget to be raised therefor by the county-wide high school tax levy. If, after making the June apportionment it is found that any amount remains in the high school tax levy fund, it may be reapportioned among those districts, including county high school, which have not received from such apportionments the full amounts shown in their budgets as being required to be raised therefor by the county-wide high school tax levy, but on any such reapportionment no school district or county high school shall receive, such an amount as will make the total amount received from all apportionments during the school year exceed the amount shown in its budget as being required to be raised therefor by the county-wide tax levy. (As amended by Chapter 131, Laws of 1941).

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