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January 27, 2025

Via E-Mail

Montana Board of Public Education
c/o McCall Flynn
46 North Last Chance Gulch
Helena, MT 59601

RE: Liberty Elementary School District No. 10, through its proposed Liberty Academy
Charter School
Our Matter Number 250015

Dear Dr. Tharp & Board Members:

Thank you for your careful consideration of the Liberty Academy Charter School Academy. We genuinely appreciate your careful consideration of all applications. We appreciate the Board-wide recognition of the unique characteristics of Hutterite communities and their students and the ongoing challenges to meet Hutterite students' educational needs within our Public Education System. Each Board member has expressed a genuine understanding of need and the desire to help. Nonetheless, as the Board enters a new era of Charter Schools, we understand and appreciate the Board's desire to proceed cautiously to ensure it does not step outside the authority given to it by the Legislature and the Constitution. While we believe the Board has authority to grant Liberty's application, we believe it is prudent to confirm that by requesting an Attorney General's opinion and possibly clarification from the legislature.

As the Board considers its request for an Attorney General's opinion at its Special Meeting tomorrow, we would like to offer our assessment of the issue based upon the background and our observations during last week's meeting. The "valid applicant" issue raised by the Montana School Boards Association is dismissed by the clear language of HB 549 which authorizes a school district, in this case Liberty Elementary School District No. 10, to file a Charter School application. It appeared that the Board's legal counsel confirmed the validity of the applicant in response to the Chair's questions. The only other issue raised regarding the Board's authority to grant Liberty's Application is the application of Montana Code Annotated § 20-7-118 ("Section 118") regarding remote instruction.

Oddly, Section 118 is generally viewed as authorizing, not limiting, legislation. See Montana Code Annotated § 20-1-101(22). Section 118 authorizes a district to provide remote instruction to pupils located "in the **nearest** district [to the] pupil's district of

residence when the pupil's district of residence does not provide remote or in-person instruction **in an equivalent course**. A course is not equivalent if the course does not provide **the same level of advantage on successful completion**, including but not limited to dual credit, advanced placement, and career certification. Montana Code Annotated § 20-7-118(c) Emphasis Added. With respect to the pupils to be served by Liberty the intervening districts (those between Liberty and each of the Colonies involved) are Sunburst K-12, Galata Elementary, Fort Benton Elementary, North Star Elementary and Chester-Joplin-Inverness Elementary. Included with this letter is a summary of the history of the Colonies in dealing with the residential districts. Each of the Colonies involved in Liberty's application have been denied service by their respective districts of residence.

A key understanding in the educational challenge for the Colonies is the need for onsite education. Traditionally, that has been accomplished through inter-local agreements between Hutterite Colonies and their district of residence. The Montana Office of Public Instruction recognizes the unique character of Hutterite communities and their students. See Essential Understandings of Montana Hutterites, a Resource for Educators and Students (a copy of which is attached to this letter and available online at <https://files.eric.ed.gov/fulltext/ED520607.pdf>). On page 6 of that publication, OPI states:

When they are six they begin formal German school and at seven they start "English" or public school. In addition to the public-school day, they have at least two hours of German, religion and culture, one hour in the morning before regular school and another hour after the regular school in a separate place from the public school, The German teacher, who is a member of the colony, uses the Bible as one of his texts. He is also the liaison to the public school.

...

The Hutterite students continue with these long days of formal education At meals, they are assigned two special teachers, a man and a woman, who sit with them in a separate room or table and teach the children table manners, obedience, respect and thankfulness. These adults also see to the children's needs for food, etc. The children sit by age.

The unique cultural, religious and language needs of Hutterite students can only be served through onsite education. They cannot simply "get on the bus." Doing so would require sacrifice and loss of cultural, religious and language needs¹. Likewise, the previously available onsite instruction obtained through inter-local agreements facilitated and enhanced parental oversight which would also be available in a Charter School setting. The residential and geographically intervening districts do not provide and have

¹ Instruction in religious studies or topics occurs only within the German Immersion School which is entirely separate from the curriculum, pedagogy and instructional models taking place as part of the "public school" model.

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refused to provide an educational setting that recognizes and preserves core values and practices of Hutterite students.

In the context of Section 118, the question is whether it should be interpreted to limit remote instruction in this case. Section 118 should be broadly construed to achieve the fundamental purpose of public education which is to promote “the full educational potential of each person.” Montana Code Annotated § 20-7-601(1). In that same provision, the Legislature recognizing unique and individual needs declared, “any public or private regulation that discriminates against a district or pupil participating in forms of personalized learning referenced in this section is inconsistent with constitutional goals and guarantees under Article X of the Montana constitution.” In the applicable constitutional and policy framework, Section 118 clearly authorizes remote instruction for these students through Liberty. The nearest district to each of the Colonies involved that provides “an equivalent course²” is Liberty.

To present the question to the Attorney General, the unique characteristics of the Hutterite Colonies need to be explained and incorporated into the question. With that in mind, we suggest that the question to the Attorney General should be phrased as follows:

Does Montana Code Annotated § 20-7-118 authorize the provision of remote instruction by Liberty Elementary School District No. 10, through its proposed Liberty Academy Charter School to Hutterite Colony students in elementary school districts other than Liberty Elementary School District No. 10.

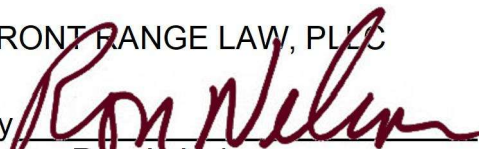
If permitted, we are happy to provide additional background and context to the Board and the Attorney General to explain the unique circumstances involved in education of Hutterite Colony students.

Again, we thank the Board for its careful and thoughtful consideration of Liberty’s application. If the Board or any of its members would like further comments or discussion, we are happy to provide it.

Sincerely,

FRONT RANGE LAW, PLLC

By



Ron A. Nelson

Enc.

² The term “course” should not be narrowly interpreted to refer to a single class or topic. Necessarily, it would need to incorporate multiple classes or topics to be effective. To limit the term to a class or topic would ignore the overall goals and rights of these students to a full and meaningful education. That term should also include a course of study or instructional pedagogy.

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CC: Liberty Elementary School District No. 10
Dylan Klapmeier

YEAR	Eagle Creek Colony	Riverview Colony	Cool Springs Colony	Hillside Colony	Rimrock Colony	Sunnybrook Colony
FY1986-87 thru FY1990-91	Eagle Creek operated their school privately until petitioning OPI and opening a public school / Liberty School District for 1986-87 school year.					
FY1991-92 thru FY1999-00	Continued operation of public school district.	Liberty operated school at Riverview after CJI declined. (8 years)				
FY2000-01 thru FY2012-13	Continued operation of public school district.	Due to Riverview's increased enrollment, CJI opted to operate Riverview		Uncertain start date until they notified Hillside they would no longer do so, Sunburst operated school onsite at Hillside Colony.	Uncertain start date until they notified Rimrock they would no longer do so, Sunburst operated school onsite at Rimrock Colony.	
FY2013-14 thru FY2022-23	Continued operation of public school district.	After enrollment decreased, CJI opted not to operate Riverview and once again entered interlocal agreement with Liberty for operation of Riverview.	North Star school district declined to operate colony school at Cool Springs. Beginning in 2015-16, CJI operated Cool Springs. (8 years)	Beginning in 2016-17, Liberty operated Hillside school through interlocal agreement with Liberty. (7 years)	Beginning in 2016-17, Liberty operated Rimrock school through interlocal agreement with Liberty. (7 years)	In 2021-22, Ft. Benton declined any involvement with Sunnybrook school due to increased workload and one-year delay in state funding. Operated as private school.

FY2023-24	Public school; standalone district.	CJI declined to operate school at Riverview and declined to enter into multi-district agreement to allow Liberty to operate. Colony operated school privately.	CJI declined to operate school at Cool Springs. No services were provided from North Star (district of residence). Colony operated school privately.	Liberty operated Hillside School through a multi-district agreement with Sunburst. In accordance with HB 214, Sunburst reported ANB.	Liberty operated Rimrock School through a multi-district agreement with Sunburst. In accordance with HB 214, Sunburst reported ANB.	Operated as private school.
FY2024-25	Public school; standalone district.	No public education available. Colony is operating a private school.	No public education available. Colony is operating a private school.	No public education available. Colony is operating a private school.	No public education available. Colony is operating a private school.	No public education available. Colony is operating a private school.

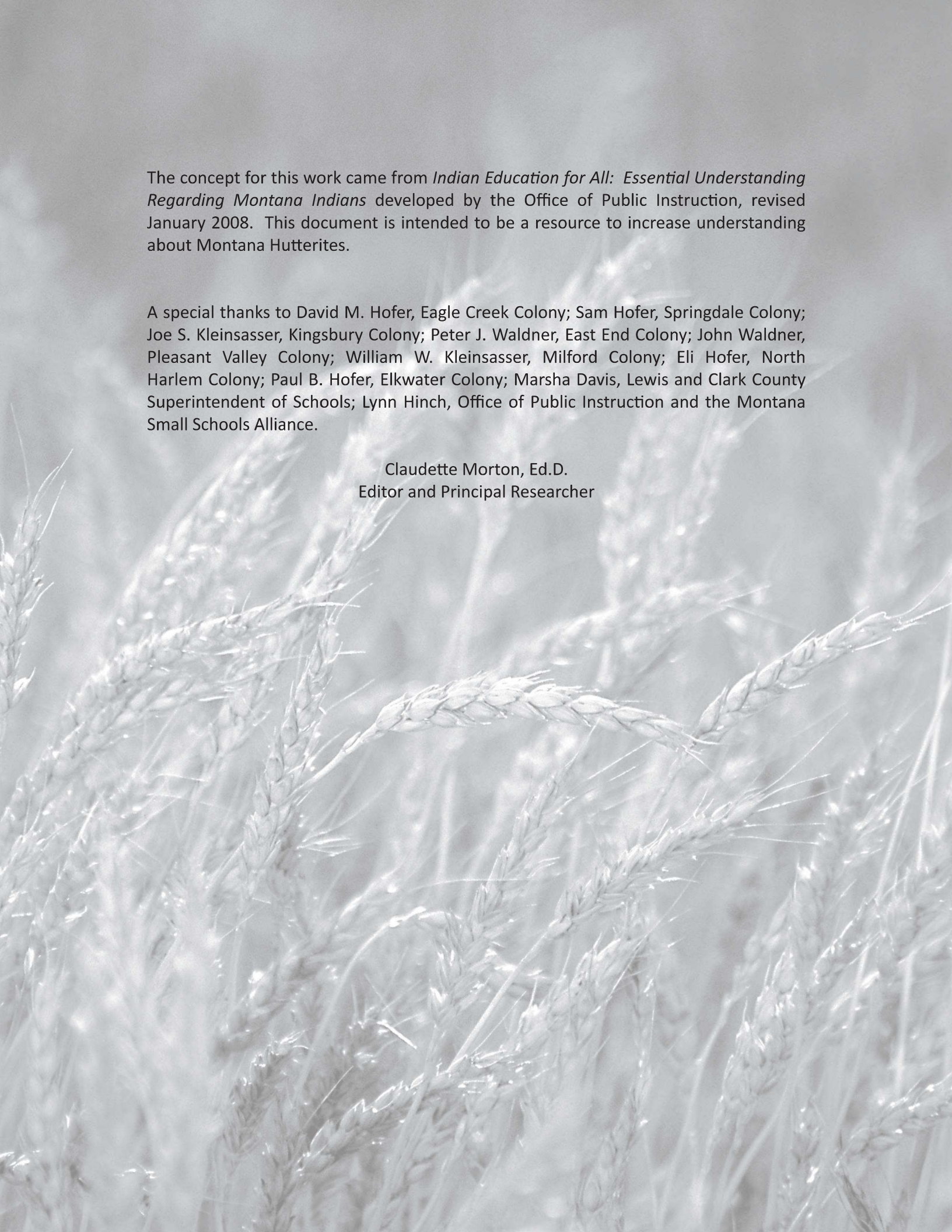
ESSENTIAL UNDERSTANDINGS OF Montana Hutterites

A Resource for Educators and Students



opi.mt.gov

Developed by Montana Educators and
the Montana Office of Public Instruction



The concept for this work came from *Indian Education for All: Essential Understanding Regarding Montana Indians* developed by the Office of Public Instruction, revised January 2008. This document is intended to be a resource to increase understanding about Montana Hutterites.

A special thanks to David M. Hofer, Eagle Creek Colony; Sam Hofer, Springdale Colony; Joe S. Kleinsasser, Kingsbury Colony; Peter J. Waldner, East End Colony; John Waldner, Pleasant Valley Colony; William W. Kleinsasser, Milford Colony; Eli Hofer, North Harlem Colony; Paul B. Hofer, Elkwater Colony; Marsha Davis, Lewis and Clark County Superintendent of Schools; Lynn Hinch, Office of Public Instruction and the Montana Small Schools Alliance.

Claudette Morton, Ed.D.
Editor and Principal Researcher

Essential Understandings of Montana Hutterites: A Resource for Educators and Students

Developed by Montana Educators and the Montana Office of Public Instruction

Researched and edited by Dr. Claudette Morton,



Published by the Montana Office of Public Instruction, 2010



Montana
Office of Public Instruction
Denise Juneau, State Superintendent

Essential Understandings Regarding Hutterites (Hutterite Brethren, Hutterians)

Essential Understanding 1

Hutterites Colonies exist throughout Montana. [See map on next page.]

They pay taxes and contribute to Montana's economy.

BACKGROUND

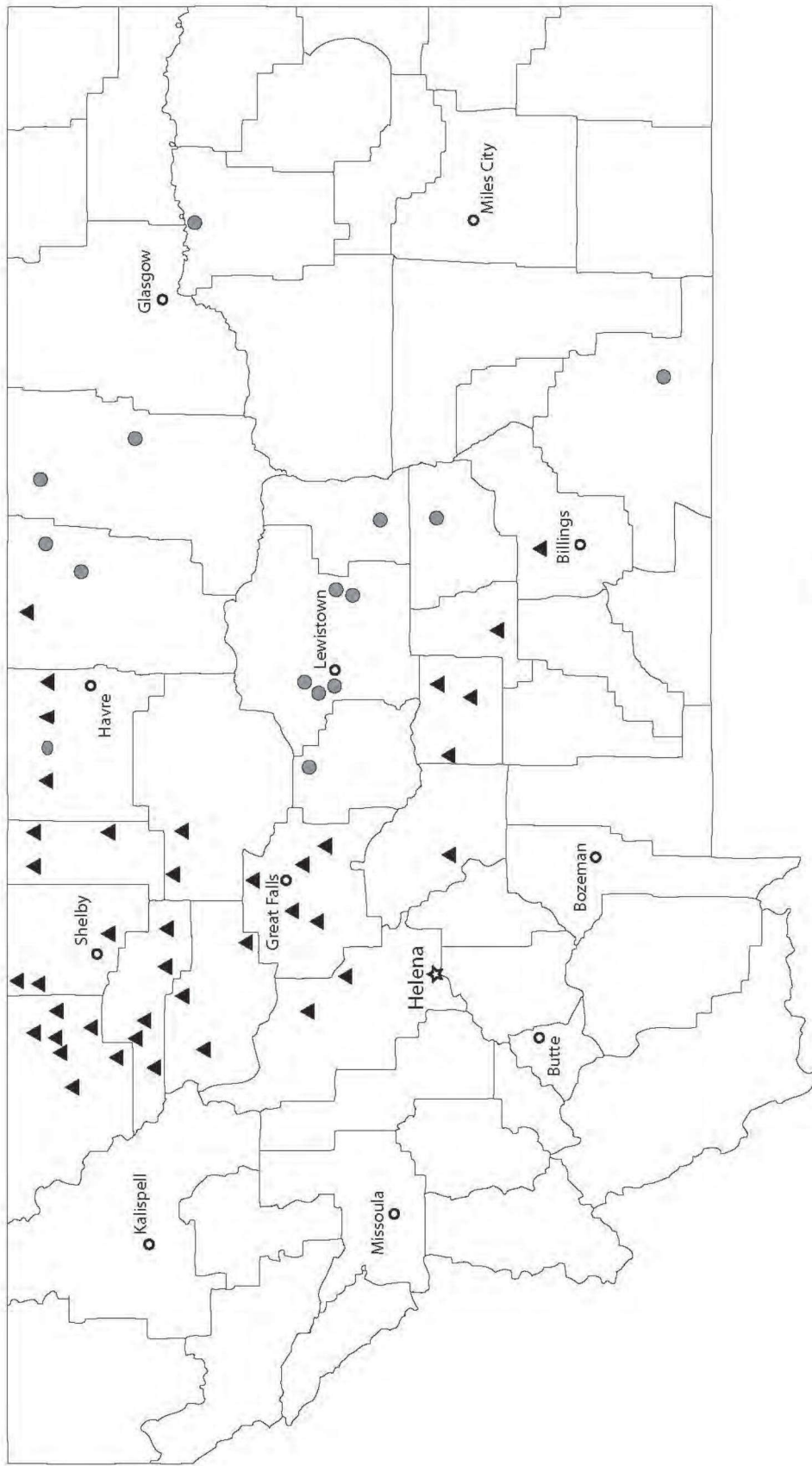
The term Hutterite comes from the name of the founder of the group, Jakob Hutter, a hat maker by trade. Hut is German for hat and the English pronunciation of Hutterite is with a short u, the same way we pronounce the name of a small house: hut.

Hutterite people live in colonies located primarily throughout rural Montana, South Dakota and the Canadian Provinces of Alberta, Saskatchewan and Manitoba. A colony is a group of families governed by the minister who is elected. A secretary, who writes checks and keeps the records, and an assistant minister, who may be the German teacher, are elected. Depending on what the colony's major areas of agriculture are, they may have managers. For example, if raising hogs is a major program they will have a manager for the hog operation. Each adult has assigned responsibilities to sustain the colony. They are democratic, and all major decisions are made by the people who are affected. About 100 people live on each colony although the actual size varies. There are approximately 50 colonies in Montana. The term colony refers both to the land that a particular group owns, the buildings, and the group of people itself.

The Hutterite colonies in Montana contribute to the state's economy as hog, beef, dairy, egg, poultry and grain producers. In the summer time their vans can be seen at farmers' markets throughout the state where they sell fresh produce, eggs, poultry and some times bakery products. The colonies are primarily self-sufficient. In recent times they contribute to the local economy by contracting for specialized services. They make their own clothes, build their own buildings and repair and maintain almost everything including farm implements on the colony. Colonies are also diversifying and they provide some services on a neighborly basis.

Because the colonies own land, they pay significant property taxes and because they own farm equipment and livestock they pay business and livestock taxes. In some of our small rural districts they may be among the school district's biggest property tax payers, and if it weren't for the Hutterite children, the public school district might close.

Location of Hutterite Colonies in Montana, 2010



(Map courtesy of Eli Hofer, 2010)

Essential Understanding 2

The Hutterites in Montana represent two branches: the *Dariusleut* and the *Lehrerleut*.

BACKGROUND

When the Hutterites moved to North America (Canada and the United States), in the 1870's, they formed three colonies. From those original colonies, two branches moved to Montana. Darius Walther was the minister of one of the original colonies, and his people were called Dariusleut. The other group in Montana is the *Lehrerleut* named because their minister was a teacher and the German word for teacher is *lehrer*. The word *leut* means folk or people.

Currently, there are 15 *Dariusleut* colonies in Montana and 35 *Lehrerleut* colonies. See a list of the colonies and their affiliation on the next two pages.

Each branch has its own bishop or head of the whole group, and economically and socially, the people of the one group tend not to mix with the people of the other. However, all Hutterites are willing to lend help to anyone else when needed. To a keen observer there are some small differences. The men of the *Lehrerleut* group use buttons on their clothes where as the men of the *Dariusleut* use hooks and eyes as fasteners. They both follow the major tenets of their faith. The *Lehrerleut* are generally considered the more conservative of the two branches.

The colonies visit back and forth in Montana and Canada. When the young people marry, the wife moves to make a home in her husband's colony although she may visit her family frequently.

Montana Hutterite Colonies & Schools 2010

County	Group	Colony	School District
Big Horn	D	Forty Mile	<i>private</i>
Blaine	L	Hartland –AC	Chinook
	D	North Harlem—Ind. Dist.	North Harlem
	D	Turner—Not AC	Turner
Cascade	L	Fair Haven—AC	Ulm
	L	Pleasant Valley—AC	Belt
	L	Big Stone-AC	Centerville
	L	Cascade—AC	Sun River Valley
	L	Hill Crest	<i>Not opening until 2012</i>
Chouteau	L	Twin Hills	Knees
	L	Sunny Brook	<i>Not opening until 2012</i>
Fergus	D	Ayers—Ind. Dist.	Ayers
	D	Deerfield—Ind. Dist.	Deerfield
	D	Fords Creek w/Ayers	
	D	King Colony—Ind. Dist.	King Ranch
	D	Spring Colony—Ind. Dist.	Spring Creek
Glacier	L	Glacier—AC	Cut Bank
	L	Glendale—AC	Browning
	L	Big Sky—AC	Browning
	L	Hidden Lake—AC	Cut Bank
	L	Horizon	<i>Not opening until 2012</i>
	L	Seville—Ind. District	Mountain View
	L	Zenith	<i>Not opening until 2011</i>
Golden Valley	L	Golden Valley—AC	Rye Gate
Hill	L	East End—AC	Rocky Boy
	D	Gilford Colony—Ind. Dist.	Gilford
	L	Hilldale—AC	Rocky Boy
Judith Basin	D	Surprise Creek—AC.	Geyser School
Lewis & Clark	L	Milford Colony—Ind. Dist.	Auchard Creek
	L	Elk Creek	<i>Not opening until 2011</i>
Liberty	L	Riverview—AC	Chester-Joplin-Inverness
	L	Sage Creek—AC	Chester-Joplin-Inverness
	L	Eagle Creek—Ind. Dist.	Liberty Elementary
McCone	D	Prairie Elk—AC	Vida
Meagher	L	Springdale—AC	White Sulphur Springs
Musselshell	D	Kilby Butte	Roundup
	D	Flat Willow Ranch	Winnett
Phillips	D	East Malta	Malta
	D	Loring—AC	Malta
Pondera	L	Kingsbury—AC	Valier
	L	Miami---Ind. Dist.	New Miami Colony
	L	Pondera—AC	Dutton-Brady
	L	Birch Creek—AC	Dutton-Brady
Teton	L	Midway Colony—AC	Dutton-Brady
	L	Miller—AC	Bynum
	L	New Rockport—AC	Golden Ridge
Toole	L	Rockport—Ind. District	Rockport
	L	Cam Rose—AC	Shelby
	L	Rimrock—AC	Sunburst
Wheatland	L	Hillside Colony—AC	Sunburst
	L	Springwater—AC	Harlowton
	L	Martinsdale—AC	Harlowton
Yellowstone	L	Duncan—AC	Harlowton
	L	Mountainview—AC	Broadview

AC denotes Attendance Center.

Essential Understanding 3

Religion guides the Hutterite way of life.

BACKGROUND

Religion is central to everything the Hutterites do. They are Christians, but they have some important distinctions from other protestant churches. They are Anabaptists, which means that they believe their members should wait until they are adults and can choose to be baptized. Some wait into their twenties or thirties to commit to their religion and life on the colony.

Anabaptists introduced the concept of separation of church and state during the Reformation. The Hutterites believe strongly in freedom of religion. Hutterites are tolerant of all religions.

They also believe in an elected lay ministry and are non-combative. There are three distinctions that most *English* (the name they give to all non-Hutterites) see immediately: The handmade, dark clothes, hats for the men, head scarves for the women, the German language they speak to each other, and the fact that they live in colonies. These are all outward signs of their belief of having a separate society from worldliness. They shun superfluous material possessions and work together as a community for the common good. Their modest clothes show obedience and humility.

Essential Understanding 4

Hutterites value education for their children.

BACKGROUND

As far back as 1578, historical records of regulations showed the Hutterite schools and teachers were advanced for their times. Hutterites began kindergarten before any other culture.

At age two and a half or three, children in a Hutterite Colony begin their education in their *Kindergarten*, which we would call a combination of childcare and pre-school. They learn to pray, play, share, sing songs and eat properly. This begins their formal teaching of 'high' German. At five students begin a longer German kindergarten.

When they are six they begin formal German school and at seven they start "English" or public school. In addition to the public school day, they have at least two hours of German, religion and culture, one hour in the morning before regular school and another hour after the regular school in a separate place from the public school. The German teacher, who is a member of the colony, uses *The Bible* as one of his texts. He is also the liaison to the public school.

Like other Montana public schools, the colony schools follow the Montana Accreditation Standards. Though they are concerned about the eroding influence of electronic and entertainment media on their children, they generally allow educational/informational media resources in their schools.

The Hutterite students continue with these long days of formal education. At meals, they are assigned two special teachers, a man and a woman, who sit with them in a separate room or table and teach the children table manners, obedience, respect and thankfulness. These adults also see to the children's needs for food, etc. The children sit by age.

As they get older they are expected to work with adult members of the colony in the summers and when not in school to learn a vocation. This is a very important part of their education, because it is their future.

At age 15 the boys and the girls move toward more adult work activities. Some colonies do allow their students to continue with high school, but the concern of the influence of non-colony life, keeps some from pursuing formal education at a public high school. Other colonies encourage correspondence classes and distance education to allow their children to receive a high school diploma.

There are instances where some young people are going on to state universities to become teachers for their own colony schools. The young people become skilled at their trades within the colony and learn to use sophisticated, commercial techniques.

Essential Understanding 5

The Hutterites have a distinct history impacted by governments and wars.

BACKGROUND

Hutterites are a communal branch of Anabaptists, who, like the Amish and Mennonites trace their roots to the Reformation of the sixteenth century.

Their beliefs, especially the concept of Christian Community, have resulted in hundreds of years of odyssey through many countries.

Nearly extinct by the eighteenth and nineteenth centuries, the Hutterites found a new home in North America. They migrated to the United States after the Civil War, and from a population of about 400, grew to upwards of 50,000. There are approximately 500 colonies spread out over the northern part of the western United States and southern Canada.

HISTORY

Originating in the Austrian province of Tyrol in the 16th century, the forerunners of the Hutterites migrated to Moravia to escape persecution. There, under the leadership of Jakob Hutter, they were able to strengthen, refine and adjust their practices to fit with current society. Their communal form of living is based on the New Testament books of Acts of the Apostles, Chapter 2 (especially Verse 44), 4 and 5 and Second Corinthians. This distinguishes them from other Anabaptists such as the Amish and the Mennonites.

Peter Riedeman, another early elder, wrote his *Confession of Faith* in 1540. This document is taught and used in colonies even today.

During the next hundred years, church membership grew to fifty thousand, and the people were known for their outstanding workmanship as farmers, millers, weavers and clock-makers. The Thirty Years' War (1618-1648) wiped out every colony in Moravia and almost ended their congregations, but some Hutterites escaped to Slovakia and Transylvania. Not long after the move, the Empress of Austria, Maria Theresa, a devout Catholic, declared that all worship outside of the state church was forbidden. Except for a small group who crossed the Alps to Wallachia, then under Turkish rule, no one escaped this crack down. Children were removed from parents and the elderly were sent to live in monasteries.

Those who escaped over the Alps were accepted by the Turks and allowed to settle in 1767 near Bucharest. The next year war broke out in this region between Russia and Turkey and the peace loving Hutterites were caught in the middle. However, in 1770, Count Rumiantsev, who was head of the Russian army, offered them free land on his estates in the Ukraine and so they traveled from Bucharest to the Desna River. For the next one hundred years the Hutterites lived in the Ukraine. They enjoyed complete freedom of religion, control over their schools and exemption from military service.

However, in 1870, the Russian government, which controlled the Ukraine at the time, introduced

compulsory military service. The Hutterites decided they should leave and so they sent scouts with the Mennonite delegation to visit North America in 1873. Three groups totaling 1265 individuals migrated to North America between 1874 and 1879 in response to the new Russian military service law. Of these, 400 chose to live in a communal societal setting, versus individual ownership of property as the major part of their Anabaptist convictions

Most Hutterites are descended from these 400. Names for the leader of each group, the three groups were called the *Schmiedeleut*, *Dariusleut*, and *Lehrerleut* (*leut* in the German word for people). They settled initially in the Dakota Territory. Later, some *Dariusleut* and *Lehrerleut* colonies were established in Montana. Here, each group reestablished the traditional Hutterite communal lifestyle.

During World War One, the pacifist Hutterites suffered persecution in the United States. The Hutterite community responded by abandoning Dakota and moving 17 of the 18 existing American colonies to the Canadian provinces of Alberta, Manitoba, and Saskatchewan. With the passage of laws in the United States to protect conscientious objectors, some of the *Schmiedeleut* ultimately returned to the Dakotas beginning in the 1930s where they built and inhabited new colonies. Some of the abandoned structures from the first wave of Hutterite Colonies still stand in South Dakota.

In 1942, alarmed at the influx of Dakota Hutterites buying copious tracts of land, the province of Alberta passed the Communal Properties Act, severely restricting the expansion of the *Dariusleut* and *Lehrerleut* colonies. The act was repealed in 1973 allowing Hutterites to once again purchase land. The 1942 law resulted in the establishment of a number of new colonies in British Columbia, Saskatchewan and Montana and eastern Washington in the 1940s and 1950s. In 1963, legislation was introduced in the Montana House of Representatives to limit the amount of land that Hutterites could buy and own. It was defeated by the work of Francis Bardanoue from Harlem and George Harper from Helena who spoke passionately on the House Floor against the bill because it was designed to discriminate against one particular group of citizens.

The total Hutterite population in both the United States and Canada is generally estimated to be between forty and fifty thousand. Even today there are many misconceptions about the Hutterites who have colonies throughout Montana, live peacefully and contribute to our economy.

Much of the factual information was taken from:

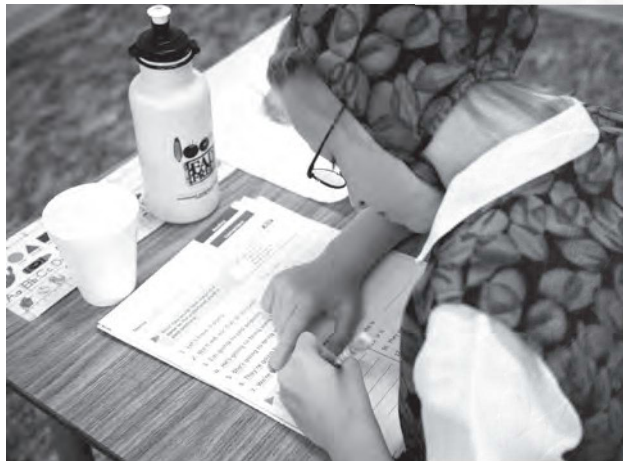
Hofer, Peter. *The Hutterian Brethren and Their Beliefs*. Starbuck, Manitoba: 1955.

Murphy, Don. Hutterian Brethren Church.
www.anabaptistchurch.org/hutterian_brethren.htm Last updated 2/25/2008.

Peters, Victor. *The Hutterians-History and Communal Organization of a Rural Group in Manitoba*. MHS Transactions, Series 3, 1960-61 Seasons. Winnipeg, Manitoba: Manitoba History Society.
<http://www.mhs.mb.ca/docs/transactions/3/hutterites.shtml>

Stanton, Max and Jansen, Rod. *The Hutterites of North America*. Baltimore, MD: Johns Hopkins University Press, 2010.

Wikipedia and revised for accuracy by the Hutterite Education Committee. <http://en.wikipedia.org/wiki/Hutterite>







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