

MINUTES OF THE MEETING OF THE HOUSE EDUCATION COMMITTEE
January 19, 1981

The Education Committee met at 12:30 p.m. on January 19, 1981, in Room 129 of the Capitol Building, with Chairman Ralph Eudaily presiding and all members present except Rep. Williams, who was excused.

Chairman Eudaily opened the meeting to a hearing on the following bills: HBs 157, 158, 170 and 174.

HOUSE BILL 157

REPRESENTATIVE ESTHER G. BENGTON, District 59, chief sponsor, said the bill deals with transportation reimbursement to school districts. This is generally done now in February and again in June. She said this causes problems for the school districts as they must either have a large reserve account to cover the transportation cost or they must register their warrants and pay interest. With the bill, requests can be made to move up the first installment to August 31 (this would be based on an estimate - which are usually fairly accurate) and the second one on January 30. Any needed adjustments would be taken care of before June 31.

JESS LONG, School Administrators of Montana, spoke in support and a copy of his testimony is EXHIBIT 1 of the minutes.

JOHN CAMPBELL, Helena School District #1, spoke in support and a copy of his testimony is EXHIBIT 2 of the minutes.

CHAD SMITH, Montana School Board Association, spoke in support. He said the idea for this bill received unanimous support from the Association of School Boards. He said this bill is needed now more than ever as inflation is eating up the reserves and they are having difficulty paying contracted services. He said if the Office of Public Instruction did not have the money in August to make this payment, have them pay as soon as they get it.

BEN LAMB, Great Falls Public Schools, urged the support of the committee for the bill.

GLEN DRAKE, Association of County Superintendents' of Schools, said they support both bills (HB 157 and HB 158).

MAYNARD OLSON, Office of Public Instruction, said he did not speak as an opponent but just to present information to point out problems related to this. A copy of these problems is EXHIBIT 3 and part of the minutes.

Rep. Bengton in closing asked the committee to take a close look at the school districts' problems if a choice had to be made between their problems and the problems of the Office of Public Instruction.

Questions were asked by the committee. It was brought out that the money is available on July 1 and yet not paid out to the school districts until the end of January. Rep. Hanson asked if they received their money early would they get some interest on it. The reply was if interest were made it would benefit the local taxpayer as it could reduce property taxes.

HOUSE BILL 158

REPRESENTATIVE ESTHER G. BENGTSON, District 59, chief sponsor, said this bill is similar to HB 157 and provides that the state equalization aid be made in five installments each year with the first being at the end of August. She said the districts now need to carry large reserve accounts to tide them over or else need to register their warrants and pay interest on them. She said there would be no fiscal impact, - just a change in bookkeeping for the Office of Public Instruction.

JESS LONG, School Administrators of Montana, spoke next in support and a copy of his testimony is EXHIBIT 4 of the minutes.

JOHN CAMPBELL, Helena School District #1, spoke next in support and a copy of his testimony is EXHIBIT 5 and part of the minutes.

BEN LAMB, Great Falls Public Schools, Assistant Supt. of Business, said they run into the cash flow problem - especially in December and May.

CHAD SMITH, Montana School Board Association, said no school board is opposed to this philosophy. He said there are extreme cash flow problems and no reason why the moneys as they become available shouldn't be sent to the school districts. If the moneys aren't immediately needed for the use of the school district, they should be in the hands of the school district to invest. This would benefit the real property taxpayer in the district.

MAYNARD OLSON, Office of Public Instruction, said he was appearing to express the concerns of Bob Stockton, who was unable to be present. He went through the list of concerns which are EXHIBIT 6 of the minutes.

Rep. Bengtson said she didn't feel the concerns of the Office of Public Instruction were of such a consequence that the bill could not be passed.

Questions were asked by the committee.

HOUSE BILL 170

REPRESENTATIVE PAUL G. PISTORIA, District 39, chief sponsor, said the bill came about because of a family in his district whose son returned from out of state to enroll at Missoula and was told he would have to pay out of state tuition. A copy of the letter sent to the would-be student is EXHIBIT 7

Minutes of the Meeting of the House Education Committee - page 3
January 19, 1981.

of the minutes. Rep. Pistoria said he called Mr. Richardson, the writer of the letter, and a copy of the letter then received is EXHIBIT 8 of the minutes. Rep. Pistoria felt there is favoritism at the University - one might get in and one might not (instate or out of state status).

REPRESENTATIVE RICHARD E. MANNING, District 35, spoke in support. He said a number of people in his district contacted him to support this bill.

JOHN RICHARDSON, Commissioner of Higher Education, spoke in opposition. He passed to the committee members copies of the Montana University Systems' "Classification of Students for Fee Purposes and Admission (Residency Policy)." A copy of this is EXHIBIT 9 and part of the minutes. He said policies are set in a positive framework and they try to administer them positively. If a student is dissatisfied, he can appeal to the Commissioner of Higher Education and if he disagrees with them, to the Board of Regents and he would be heard in a regular hearing. He said this bill could have a fiscal impact. He said he didn't know exactly how many students would be eligible under the bill. They presently have 4,892 nonresident students out of a total of 27,500 students. If 10% of the nonresidents were to qualify for resident student status and as each nonresident pays \$1,368 more a year, the total could be \$668,952. He said they get about 120 to 130 appeals over the year and when in doubt they err on the side of the student. He said they do try to address the policy to the benefit of the student.

Rep. Pistoria commented that he felt there was a big turmoil in the University of Montana's admitting office. Rep. Vincent, upon being recognized by the Chair, requested that Mr. Pistoria confine his comments to the bill.

Questions were asked by the committee. Rep. Hannah asked if this bill meant your grandchildren could come back to Montana and claim resident status. The answer was yes. Rep. Hannah asked how many problems we are talking about. Mr. Richardson said he had about 6 or 7 change-your-mind letters a year. He said 30% of the appeals to the office are granted. Rep. Andreason raised the question of people moving into the state - would their children and grandchildren also be considered residents. Rep. Pistoria said he wanted it to pertain just to Montana people - 80% of the students come from Montana. Mr. Richardson said after they have been here for 12 months they can request a change in status and ways of determining residency is registration to vote, driver's license, pay taxes. Mr. Richardson said section 4 of the present language is unconstitutional. Mr. Teague questioned the word "grandparents" on line 20 as making the bill pretty open. Rep. Pistoria said if it were the wish of the committee it could be changed to parents only.

HOUSE BILL 174

REPRESENTATIVE GERALD KESSLER, District 66, chief sponsor, said this is a simple bill to correct a basic inequity that exists in the law. This would waive the tuition for a high school student attending a school outside his district if the parent paid \$200 or more in district and county property taxes in that district where the child will attend school. This is already permitted for elementary students.

JOHN CAMPBELL, School District #1, Helena, suggested an amendment to the bill, a copy of which is EXHIBIT 10 of the minutes. He said the \$200 amount dates back to the 40s or 50s and was the tuition at that time. Now in the Helena school district the rate for elementary is \$850 and for high school is \$1200. He suggested making this equitable while making the other equitable.

GLEN DRAKE, County Superintendents' Association, said he was not opposed to the amendment as the \$200 is inadequate. He suggested the possibility of giving tax credit up to the tuition amount as a way of achieving equity. He said people are transferring vacant lots to a son or daughter so their taxes will exceed the \$200. He said they are not opposed to the bill but would like to see equity in the tuition amount.

Rep. Kessler in closing said his main concern is getting rid of the inequity between elementary and high school students so he would go along with the amendment.

Chairman Eudaily asked Rep. Kessler to look into the amendment before action was taken on the bill.

Mr. Campbell left testimony from RICHARD W. TRERISE, Lewis and Clark Superintendent of Schools, who also felt the tuition amount should increase. A copy of this is EXHIBIT 11 and part of the minutes.

EXECUTIVE SESSION

HOUSE BILL 137 - Rep. Lory moved DO PASS. He said he felt these days should be vacation days. Rep. Andreason spoke in support of the motion saying the freedom to have the convention is still there but the state would not be putting funds in for those two days. Chairman Eudaily responded to what was acceptable as PIR days by reading from the code book. Rep. Dussault asked the staff attorney if "may include" would allow for the inclusion of other things besides the two listed - inservice training and parent-teacher conferences. Mr. Heiman responded if "but are not limited to" was struck it will be limiting it to those two. The struck language "attending state meetings of teacher organizations" would indicate what was intended by this bill, plus the title, and the 1981 session law would have a whole history of what happens. Rep. Donaldson said since the bill title saying no more teacher conventions is as good as law for two years, it would be a whole

lot simpler not to take out "but are not limited to" and leave it more flexible and the local school district should have some flexibility. He moved to reinsert that language. The motion carried with Reps. Hanson, Kitselman, Andreason, and Eudaily voting no. The original motion of DO PASS of Rep. Lory's he now changed to DO PASS AS AMENDED and this motion passed with Reps. Vincent, Yardley, Teague, Dussault voting no and Rep. Williams excused.

Rep. Meyer moved the meeting adjourn. Meeting adjourned at 2:15 p.m.

Respectfully submitted,



RALPH S. EUDAILY, Chairman

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School Administrators of Montana

501 North Sanders
Helena, MT 59601
(406) 442-2510

Ex. 1

Jan 19, 1981

To: House Committee on Education

Re: House Bill 157

Chairman and Committee Members;

I speak in support of HB 157. Many school districts have cash flow problems with transportation because of the late date of the state reimbursement. The local transportation fund dervies 2/3 of its monies from district and county taxes which are dependent on the property tax payments, whereas the state payment is dervied from sources other than property taxes that flow into the state coffers more evenly throughout the year. The early payment would aleviate the problem that exist with the 20% limit on reserves.

Here is an example of the 1979-80 income for the Opheim Public Schools Transportation Fund. (Supt. Tokerud is currently Pres. of S.A.M.)

July-Dec	District	0	County	0	State	0
Jan	District	22.1	County	10.9	State	15.0

The problem with the state payment is that because of the mechanics of state distribution to the county, state monies do not reach the school district until late Feb. or Mar.

Feb-May	District	0	County	0	State	0
June	District	22.1	County	10.9	State	15.0

Again the state monies are not available to the district until July.

In this day of rising cost of gasoline and othe materials the Opheim Schools had to operate in the red in 1979-80 with the County Treas. using other General Fund monies to cover until the state payment arrived. Early payments are not without precedent. The Federal Vo-Ed program monies are distributed early.

The necessary adjustments to the estimated payments are addressed in the bill. Therefore in order to reduce cash flow problems and reduce reserves in the local transportation funds, I would urge your support of House Bill 157.

EX-100

7
House Bill 159
Transportation Payments

This bill also deals with cash flow. The testimony given on House Bill 158 applies for this bill with the following exceptions on percentages of revenues received and expenditures made.

By mid-year, December 31, 40% - 45% of the transportation budget has been expended but dollar one of state money is yet to be received. When 25% to 50% of the transportation budget financing is dependant upon the release of state financing, this has a direct bearing on the solvency of this fund. In fact the state money will not be received until February or March.

There are some valid reasons for not making the state transportation payments as suggested in this bill. It would appear that more frequent and earlier payments could be made.

Information - House Education Committee

12:30 p.m., Monday, January 19, 1981

Room 129

House Bill #157

1. This bill would require the Superintendent of Public Instruction to guess the amount of each school district's reimbursement and pay that amount before the expense has occurred. At some later date the Superintendent must adjust the figure up or down accordingly.
2. The first payment would have to be made before the school districts' budgets arrive in the Superintendent's office. Therefore, the payment would no longer be a reimbursement but would be an advance.
3. The school districts would still have the same reporting requirements but as would often be the case, no payment would rest on timely reporting.
4. The Superintendent would have to be making adjustments for one fiscal year out of the following years appropriation.
5. This bill would allow school districts with adequate reserves to invest and earn interest on state funds.

School Administrators of Montana

501 North Sanders
Helena, MT 59601
(406) 442-2510

Ex-4

Jan. 19, 1981

To: House Committee on Education

Re: House Bill 158

A comparison of General Fund expenditures and Revenue sources expressed in percentages each month of the year. This is a four year history of the Opheim Public Schools.

Month	Percent Expenditure	Expenditure Cumulative	District Revenue	County Revenue	State Revenue	Revenue Cumulative
July	1.6	1.6				0
Aug	3.1	4.7				0
Sept	6.8	11.5				0
Oct	9.1	20.6			6.3	6.3
Nov	9.2	29.8				6.3
Dec	8.6	38.4				6.3
Jan	11.2	49.7	26.1	7.5		39.9
Feb	9.2	58.9			6.3	46.2
Mar	9.4	68.3			6.3	52.5
Apr	10.0	78.3			6.3	58.8
May	13.5	91.8				58.8
June	8.2	100.0	26.1	7.5		92.4
July				1.3	6.3	100.0
		Totals	52.2	16.3	31.5	

I speak in support of House Bill 158. School Districts are forced into having large reserves (35%) in order to maintain a cash flow for the General Fund. The large reserves are a burden on the local property tax payers. The rancher that has to borrow money at 16% to pay property taxes is not going to appreciate the money being dormant in a reserve.

The monies school districts derive from district and county property taxes are locked into the Nov. and May collection dates but the state monies are derived from the income tax and other sources that are received monthly by the state. These monies are invested and OPI reaps the harvest. It would only seem equitable that school districts be apportioned these monies earlier in order to reduce reserves and to invest the monies at the school district level and that interest relieving the property tax payer load.

Early payment should not create a problem for OPI since they could base the first payments on the previous history of the school district. I don't believe school districts will disappear without reporting where they are going.

The chart on page 1 shows the difficulties one school district (Opheim) encountered with its cash flow in a four period.
Note: The months of Dec. and May

House Bill 158 is a positive step in helping the local property tax payer by reducing reserves with early state payments.

6X.5

House Bill 158
Timing of State Money Distribution to School Districts

The school districts of Montana have a cash flow problem. The lack of cash in our funds is placing some of us in an insolvent cash position at times during the year, and most assuredly hurting our investment programs. These investment programs earn interest revenue that reduces property taxation in the school district.

School districts are finding themselves in this position because only 25% of the revenue to finance their annual general fund budget is received during the first half of the year while 40% to 50% of the budget is being expended. The major reason for the lack of revenue in the first half of the year is the method of distributing state money to the school district. The state provided^s about 50% of the general fund financing for most school districts in the state but has only paid 16% of its 50% state financing by December 31. The balance of the first half year financing (17%) is due largely to property taxation. Property tax collection for the first half of the year has fallen off because tax delinquency has increased due to the interest that can legally be charged by the county verses the interest rates charged by commercial lending agents.

It has been said that school districts can cover their solvency^t cash position with the legally authorized cash reserve. Several of us have a relatively small cash reserve with inflation increased budgets and property tax delinquency. It is possible to increase the cash reserve with an additional property tax but school districts do not wish to tax to raise money that will be used as a buffer for the untimely receipt of state money.

Information - House Education Committee

12:30 p.m., Monday, January 20, 1981

Room 129

Olsen
Ex. 6

House Bill #158

1. This bill would require the Superintendent of Public Instruction to make a guess of the 1st payment of State Equalization. The first payment would have to be made before the school districts' budgets were received in the State office.

2. 60% of the State Equalization would be paid by January 30th. When we made two state payments, the first was 60% and paid on January 1st. This forced the State cash drawer into the red and the State had to borrow money.

3. As the appropriation is normally exhausted in the first two payments the Superintendent would be using the earmarked revenue account to make the payments. If these funds were insufficient, the payment could not be made regardless of the legal requirement as the SBAS system will not accept payments unless the funds are in the State Treasurer's office and have been deposited to the proper account.



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH

HELENA, MONTANA 59601

(406) 449-3024

mailed Oct 14, 1980
Pistonia
Box 7

COMMISSIONER OF HIGHER EDUCATION

October 8, 1980

Paul Hayden Kettenring
2025 Central Avenue
Great Falls, Montana 59401

Dear Mr. Kettenring:

I have reviewed carefully your appeal seeking in-state residency status, and have concluded that you are not eligible for in-state fees at this time. Your work in California, as well as your travels and work overseas, constitute abandonment of your Montana domicile. However, if you reside in Montana for 12 continuous months and take actions expected of a Montana resident (e.g., obtain a Montana driver's license, pay state income taxes), you will be eligible for Montana residency status upon completion of the 12 month period.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Richardson".

John A. Richardson
Commissioner of Higher Education

JAR:blo

cc: James W. Royan



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH

HELENA, MONTANA 59601

(406) 449-3024

Ex. 8

REC'D - WED - OCT. 22, 1980

COMMISSIONER OF HIGHER EDUCATION

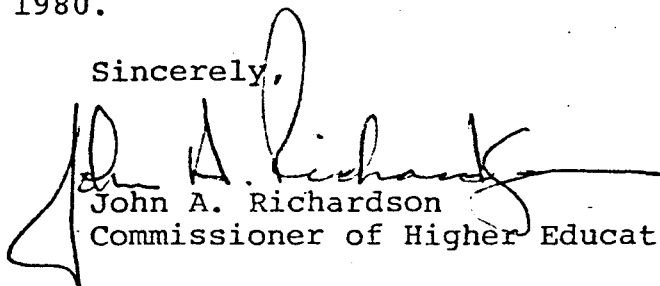
October 21, 1980

Paul Hayden Kettenring
2025 Central Avenue
Great Falls, Montana 59401

Dear Mr. Kettenring:

I have reconsidered my decision denying you in-state residency. Based on additional information which was supplied to me, it appears that you had maintained significant connections in Montana and, therefore, did not abandon your Montana domicile during your absence from the state. It is my decision that you are eligible for in-state fees effective fall term, 1980.

Sincerely,


John A. Richardson
Commissioner of Higher Education

JAR:blo

cc: James W. Royan

Ex. 9

MONTANA UNIVERSITY SYSTEM

Classification of Students for Fee Purposes and Admission (Residency Policy)

Board policy:

1. The units of Montana University System shall apply uniform rules, as described in this policy and not otherwise, in determining whether students shall be classified as in-state or out-of-state for fee purposes, admission to the units of the system and admission to programs of limited enrollment.

Procedures:

1. **Establishing eligibility or domicile.** A student must be a **bona fide** resident of the state to be eligible for in-state status.
 - a. One must be present in the state for a period of twelve (12) continuous months and have had the intent to become a Montana resident for the full twelve-month period.
 - b. Evidence of an intent to make Montana one's permanent home must be manifested before the twelve-month period begins to run.
 - c. During the twelve-month period, the applicant for in-state status is expected to do all those things normally expected of a Montana resident.
 - d. At the end of twelve (12) months, sufficient facts must be demonstrated which clearly indicate the student's status as a Montana domiciliary.
 - e. The following facts and circumstances, although not necessarily conclusive, are valuable in determining intent and will be given primary consideration in support of a claim for domiciliary classification.
 - (1) acquisition of a Montana driver's license in accordance with Montana law¹
 - (2) acquisition of Montana automobile license plates in accordance with Montana law²
 - (3) continuous presence in Montana during periods when not enrolled as a student
 - (4) reliance on Montana sources for the majority of one's financial support
 - (5) former domicile in the state and the maintenance of significant connections therein while absent
 - (6) ownership of residential real property in the state, particularly if the student lives in the home
 - (7) admission to a licensed practicing profession in Montana
 - (8) employment in the State of Montana³
 - (9) the filing of resident Montana State Income Tax Returns or the withholding of Montana personal income taxes from Montana earnings.⁴

¹Montana law provides that any person who has resided in this state for a period exceeding ninety (90) days is considered to be a resident for the purpose of being licensed to drive a motor vehicle and must thereafter be licensed to drive motor vehicles under the laws of this state. Non-residents are exempted from these licensing requirements.

²Montana law provides that a resident of the State of Montana shall not operate a motor vehicle under a license issued by any other state than Montana. Because state law requires that a Montana resident hold a Montana driver's license and register his or her automobile in Montana, the failure to obtain state license or registration will constitute a presumption that the person does not intend to make Montana his or her permanent home for so long as the condition persists.

³Permanent or full-time employment constitutes more persuasive evidence of domicile than student or temporary employment.

⁴Montana law requires that Montana residents must file returns if their gross incomes for the taxable year are in excess of \$940. (15-30-142 M.C.A.).

- (10) registration to vote in this state
- (11) abandonment of ties in a state of former residence.
- f. The following circumstances shall constitute evidence of domicile but, standing alone, shall not create a presumption of domicile:
 - (1) eligibility for welfare
 - (2) possession of a resident Montana Wildlife Conservation License
 - (3) other public records, e.g., birth, marriage, divorce, selective service, social security
 - (4) payment of nonresident fees in a state which might otherwise be considered the student's domicile.

2. Losing eligibility or domicile. A person may lose his or her Montana domicile by going to another state with the intent to reside permanently or indefinitely in the other state:

- a. abandonment of Montana domicile must be established through the person's acts and declarations
- b. if a person has been absent from the state for a period of less than twelve (12) total months, he or she will be presumed to have retained Montana domiciliary status in the absence of clear and convincing evidence to the contrary.
- c. A person who has been absent from the state for longer than twelve (12) months will be presumed to have lost Montana domiciliary status in the absence of documentation indicating the maintenance of a Montana domicile during the period of absence.
- d. The following facts constitute significant connections with Montana that will be considered as evidence of maintenance of domiciliary status during a period of absence from Montana:
 - (1) filing of resident Montana Income Tax returns
 - (2) voting by absentee ballot in Montana or not registering to vote in a state other than Montana
 - (3) holding of a Montana driver's license
 - (4) continuing to license one's automobile in Montana
 - (5) continuing to bank in Montana
 - (6) maintenance of a home in Montana during the period of absence

3. Rules governing special circumstances. The following rules shall apply:

- a. the domicile of a minor or other unemancipated person is that of the parent⁵
 - (1) a student initially classified as an out-of-state student because of dependent status must have been emancipated for a period of one (1) full year before he or she shall be eligible for in-state status
 - (2) emancipation requires that the student be at least fifty-one percent (51%) self-supporting and not be claimed by his or her parents as an income tax deduction
 - (3) The student will be considered to be emancipated as of January 1 of any year for which the parents do not claim the student as a deduction, unless the student can supply documentation indicating that he or she was fifty-one percent (51%) self-supporting before the end of a previous tax year.
 - (4) In any case where the parents have consistently claimed the student as a dependent, statements regarding their future intentions will be required.
 - (5) If emancipation is conceded and residency status granted under the provisions of this section, a follow-up statement from the parents regarding tax deductions claimed may be required.
- b. the domicile of any otherwise emancipated person receiving the majority of his or her financial assistance from a parent is that of the parent, notwithstanding the meaning of parent as listed under "Definitions."
- c. a person does not lose in-state status by reason of his or her presence in any state or country while a member of the Armed Forces of the United States.

⁵ The definitions and terms relating to emancipation and dependency for the purposes of this policy do not reflect emancipation or dependence for the purposes of financial aid; the requirements for financial aid are not affected or governed by this policy.

d. a member of the Armed Forces of the United States assigned to Montana, his or her spouse and/or dependent children shall qualify for in-state status.

e. a person does not gain or lose in-state status by reason of involuntary presence in a penal institution or mental institution in any state or country

(1) if the person did not qualify for in-state status or had not taken appropriate steps toward establishing a Montana domicile prior to incarceration or commitment to one of the above-mentioned institutions, the time therein may not apply toward satisfaction of the twelve-month requirement

(2) Upon release from the institution, the person may then change his or her domicile to Montana, and during the following twelve (12) months, work toward satisfying the requirements necessary to qualify for in-state status.

f. Aliens are legally capable of establishing a domicile in Montana when they have been granted lawful permanent visas by the United States Immigration Service and have met the requirements of this policy.

g. The following persons shall also qualify for in-state status for fee purposes;

(1) any unemancipated student who remains in the State of Montana when the parent, having been domiciled in this state, moves from this state. Such classification shall continue until attainment of the degree(s) for which currently enrolled so long as attendance at an institution or institutions in this state shall be continuous;

(2) Any graduate of a Montana high school who registers at a Montana institution within one (1) year after high school graduation and whose parent has been domiciled in Montana at least one (1) full year of the two (2) years immediately preceding graduation from high school or whose parent is employed and resides in Yellowstone National Park. Such classification shall continue until the completion of a baccalaureate program or for not more than five (5) academic years if the student remains in continuous attendance at an institution.

(3) The spouse and dependent children of an emancipated person employed full time or fully retired within the State of Montana. Such emancipated person shall provide persuasive evidence of Montana domiciliary intent and that said emancipated person is not in this state primarily as a full-time student. Such classification for the spouse and dependent children may be continued so long as said emancipated person continues domicile within this state.

In the administration of this paragraph, neither the full-time employee nor fully retired person or spouse shall be eligible for in-state fee classification if the primary purpose for coming to the State of Montana was the education of the employee, retiree or the spouse.

h. A person who otherwise should be deemed a nonresident shall not gain resident student status by reason of marriage; nor shall resident student status be lost by reason of marriage.

4. Rules for reclassification.

a. A student, to be classified as an in-state student, must meet the requirements for in-state status as of the date application for admission to an institution is made. The classification made at this time shall remain unchanged in the absence of evidence to the contrary. If a closing date has been established for applications to a particular program, the residency status for purposes of admission to the program shall be as of the closing date.

b. Any student admitted as an out-of-state student, who desires to change his or her fee status, must manifest an initial intent to establish a domicile in this state in order that the required twelve-month residency period will begin to run. The determination regarding the initial intent will be based on past actions and not future intentions. Thus, an out-of-state student will be considered to have manifested an intent to establish a permanent home in Montana for the purposes of starting the twelve-month period when one of the following circumstances takes place:

- (1) An automobile belonging to the person seeking to establish residency in this state is registered in this state;
- (2) A Montana driver's license is acquired;
- (3) Montana voter registration is acquired;
- (4) a home is purchased;
- (5) a resident Montana Income Tax Return is filed.

(6) In the event none of the above provisions are applicable to a particular applicant, or in the interest of time, an affidavit of intent (available at the Registrar's Office) may be completed and returned to that office; in the case an affidavit is filed, the twelve-month residency period will begin to run. Any student, however, who owns a motor vehicle or drives in this state will be expected to follow the state laws with regard to these matters as they pertain to

residents. The failure to follow these laws will give rise to a presumption that the establishment of a Montana domicile was not contemplated or intended despite the fact that an affidavit was filed. The same presumption will arise if a person, claiming residency status, neglects to file a resident tax return when eligible;

(7) other actions may be considered as starting the twelve-month period, so long as such actions are clearly indicative of an intent to remain permanently or indefinitely in Montana and are not actions which students routinely take.

c. During the twelve-month period, the student will be expected to do all of the things normally done by Montana residents. The student will be reclassified as an in-state student for the purposes of the payment of fees one (1) year from the date on which an initial intent was manifested if the student at the end of one (1) year's time can show sufficient documented facts and circumstances to indicate an intent to establish a permanent domicile in Montana. To be eligible for reclassification for a given term, the criteria must be met by the first day of registration for that term. The reclassification will take effect at the institutions' next regular registration, never mid-term. Reclassification will never be retroactive to the beginning of the term in progress.

d. A reclassification of status can only be effected through submission of a written petition for classification as an in-state student to the Registrar's Office accompanied by documented supported evidence. The last day to submit petitions for any given quarter is seven (7) days prior to the commencement of registration. Petitions not filed seven (7) days prior to registration in a given term will not be effective that term and any reclassification resulting therefrom will be effective for the following term.

5. **Right to appeal.** A student has the right to appeal the classification assigned by the registering authority to the Commissioner of Higher Education. Such appeal, together with all supporting evidence, must be presented, in writing on forms provided by the Commissioner of Higher Education, to the Commissioner of Higher Education through the registering authority of the university unit.

Immediately upon receiving the appeal, the registering authority shall forward all evidence to the Commissioner of Higher Education. The Commissioner of Higher Education may accept other evidence from either the student, the registering authority, or from other interested persons. Within thirty (30) days of the receipt of the appeal and evidence from the registering authority, the Commissioner of Higher Education shall review the evidence and shall notify the registering authority of the Commissioner's decision.

The decision of the Commissioner of Higher Education may be appealed to the Board of Regents of Higher Education if the Regents agree to entertain such an appeal.

Definitions:

1. **Institution** shall mean any public or privately supported university, college, community college or junior college.
2. **Student** shall denote any person enrolled at a Montana institution of higher education.
3. **Residence or reside** shall denote continuous and permanent physical presence within the State of Montana.
4. **Domicile** shall denote a person's true, fixed and permanent home and place of habitation.
5. **Minor** shall mean a person who has not attained the age of eighteen (18) years.
6. **Emancipated person** shall mean a person whose parents have surrendered the right to claim such person as a dependent as defined in the Federal Income Tax Regulations.
7. **Parent** shall mean jointly, the person's father and mother; or the parent with whom the student normally resides; or if there is a guardian or legal custodian of the person, then such guardian or legal custodian.
8. **Dependent** shall denote a person who qualifies for dependency status, will be so claimed for the current Federal tax year, and was so claimed for the immediately preceding Federal tax year under Federal Tax Regulations.
9. **Continuous attendance** shall denote enrollment at an institution in Montana as a full-time student for the normal academic year in each calendar year, or the appropriate portion or portions of such years, since the beginning of the period for which continuous attendance is claimed. Such person need not attend summer sessions or other such intersession beyond the normal academic year in order to render attendance continuous.

History:

Item 184-004, October 8, 1962.

Item 3-014-R1273, December 10, 1973, as revised July 11, 1977.

Ex. 10
Blue
Campbell

Amendments to House Bill 174

Delete the language "200 or more" from the amenditory language on line 22, and insert in lieu of thereof the following language, ~~"at least"~~ the rate of tuition determined under the provisions of Section 20-5-312")

and add the following amendment of Section 20-5-303 as Section 2.

Section 2. Section 20-5-303, MCA, is amended to read:

"20-5-303. No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any elementary school or a district other than his resident district when the parent has agreed to apy the utition acceptable to the trustees of the district where the school is located. The trustees of the district where the school is located may allow the attendance of a child under the provisions of this section at their discretion. When the attendance is approved, the trustees shall charge tuition at the same rate prescribed by 20-5-305 reduced by any amount which is uniformly waived by the trustees for all tuition payments. However, under this section, tuition shall be waived when the parent of the child paid ~~\$200 or more at least~~ the rate of tuition determined under the provisions of Section 20-5-305 in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

AS Mended



Lewis and Clark County

Office of County Superintendent of Schools

HELENA, MONTANA 59601

RICHARD W. TRERISE
COUNTY SUPERINTENDENT

PHONE 443-1010
EXT. 344

TO: MEMBERS OF THE HOUSE EDUCATION COMMITTEE

FROM: RICHARD W. TRERISE
LEWIS AND CLARK COUNTY SUPERINTENDENT OF SCHOOLS

RE: HB 174

DATE: JANUARY 19, 1981

I would like to express my concerns about HB 174. While I agree that the waiver option should be made available at both the high school and elementary levels, I feel that now is the opportune time to deal with the inequities the \$200 figure creates.

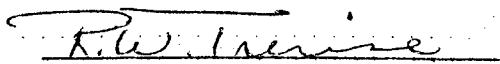
At one time \$200 may have been a reasonable figure to provide that the school district would receive enough money to provide an education for a student. Now, however, when tuition rates are ranging from \$800 to \$1,500 per student, school districts are forced to take a tremendous loss when a tuition fee is waived for \$200.

I would propose instead that this committee seriously consider amending this bill to provide that tuition be waived when an amount "...equal to, or exceeding, the current tuition rate charged by the district as figured in 20-5-312, MCA..." is paid by the parent in district and county property taxes during the immediately preceeding school fiscal year for the benefit and support of the district in which the child will attend school.

This would provide that the school district would receive an amount of money that would be adequate to provide an education for the student.

I would like to see the elementary tuition waiver law changed this way also. Now is a good time to begin that process by enacting an equitable law at the high school level.

Thank you for your consideration.


RICHARD W. TRERISE

VISITORS' REGISTER

HOUSE _____ EDUCATION _____ COMMITTEE _____

ALL HBs 157, 158, 170, 174

Date 1/19/81

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
HB 178 Hon H. Richardson	33 S. Last Avenue Bozeman - Helena	MT. University System		✓
Mr. Dunham	Helena	CHE		HB 170
Marvin Quinlan	Helena	ASMSU		HB 170
Mr. Morabee	Bozeman	ASMSU		HB 170
Mr. Carey	Helena	MSU		
Mike Graham	Helena	ASUM		
Mr. Junt	Helena	NHEA		
John Crist	Helena	U of MT		
Guthrie Nelson	Helena	Commissioner of Higher Education		
John Campbell	Helena	School Dist. #1		
Wayne M. Olson	Helena	O. P. T.		
Mr. Lewis	Helena	S. H. H. of MT	157 158	
Prof Smith	Helena	Mont Sch Bd. Am.	# 157 # 158	amend 14 174
Mr. Christie	Helena	Supt of D.P.E.		
Mr. Gentry	Great Falls	Great Falls Pub Sch	157-158 170	amend 174
Mr. McQuinn	Great Falls	House District 35	170	
John Decker	Helena	County Superintendent of Schools	174	amend

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.