

MINUTES OF THE HOUSE EDUCATION COMMITTEE
January 30, 1981

The House Education Committee convened at 12 p.m. on January 31, 1981, in Room 129 of the State Capitol, with Chairman Eudaily presiding and all members present.

Chairman Eudaily opened the meeting to an executive session on the following bills:

HOUSE BILL 198 - Chairman Eudaily asked James Gillett, Acting Legislative Auditor, to explain his research at the committee's request into post-secondary educational costs of inmates of state correctional institutions. A copy of this information is EXHIBIT 1 of the minutes.

Rep. Hannah asked if there were any other funds available. Mr. Gillett said this was all they could find. He said the only persons he is aware of going to the university are from Pine Hills and they would not be affected by this bill.

Rep. Dussault moved DO NOT PASS. Rep. Yardley supported the motion. He said if we cut out either the vo-tech or the extension we could cause more problems. He said one of the biggest problems at a prison seems to be to keep people busy and he would hate to cut out anything that causes worthwhile activity.

Rep. Andreason said he was not speaking against the motion. He questioned the extension program since it has only graduated 6 students but he felt radical surgery like this bill wouldn't do what was needed.

The motion of DO NOT PASS carried unanimously with those present. Absent at this time were Reps. Donaldson, Vincent, Williams, O'Hara, Kitselman, Meyer and Azzara.

HOUSE BILL 186 - Rep. Hannah moved DO PASS. Rep. Lory made a substitute motion of DO NOT PASS. He said the arguments are frivolous such as the possibility of hitting a student when going to vote. He felt the kids should be there when they vote. He didn't see any reason for the bill. Rep. Hanson said it is optional with the local school board now so he would go along with Rep. Lory's motion. Rep. Anderson said parking places is an administrative problem. He said there is a problem if the school systems are saying you cannot have elections within their school buildings and he hoped trustees are taking note and will permit the use of public places for a public vote. Rep. Hannah said in Billings you can't get near the place as there are cars parked everywhere and voting machines are across from the snack bar which makes it an impossible situation. He said it is not a frivolous bill. Rep. Dussault said she supports the motion. Question was called and the motion carried with Reps. Teague and Donaldson voting no and absent now being Reps. Vincent, Williams, O'Hara, Kitselman, and Azzara.

HOUSE BILL 298 - Representative Dussault moved the amendments (EXHIBIT 2) although she said she wasn't sure she was supporting the bill. The motion carried unanimously with those present (absent the same as the previous vote). Rep. Dussault then moved DO NOT PASS AS AMENDED. She said it would seem to her if this is an important matter they could go ahead and do it. Secondly, she is not convinced they would have any better data than they have now. Rep. Hannah spoke in favor of the motion saying they have freedom to do this now. He felt it was too inclusive a bill with authority to get too much information. Rep. Teague said it is impractical to knock at every door and if you get that person you get a dime. Rep. Hanson said he was surprised the county superintendents testified in favor as it would be a tremendous job. The question was called and the motion carried with those present with Rep. Yardley voting no and absent were Reps. Vincent, Williams, Kitselman and Meyer.

Chairman Eudaily closed the executive session and opened the meeting to a hearing on the following bills: HBs 365, 333 and 367.

HOUSE BILL 365

REPRESENTATIVE JIM BURNETT, District 71, chief sponsor, said this is a simple bill which provides for termination of social security coverage for school district employees. He felt teachers should have this choice of whether they wished to be covered or not. He said it is assumed the larger schools will not be affected by the bill as there would be enough elderly individuals that will not vote out of it. He passed copies of "Special Report: Continuing Participation in Social Security" to the members and a copy is EXHIBIT 3 of the minutes.

LARRY NACHTSHEIM, Administrator, Public Employees Retirement Program, said they have no problem with the bill but asked that on page 2, line 10, the word "quarter" be struck and "year" inserted.

JACK SHARP, Social Security Adm., said he would be glad to answer any questions regarding social security. He said he was neither for nor against the bill.

OWEN NELSON, Montana Education Association, spoke in opposition. He felt since there are fringe benefits involved it should be a collective bargaining item. He handed to the committee copies of "Withdrawals from Social Security Coverage" and a copy is EXHIBIT 4 of the minutes.

In closing Rep. Burnett said the bill is the request of many. He asked the committee to give those individuals who want out a chance to vote on a referendum to do this.

Questions were asked by the committee. Rep. Vincent questioned since the majority vote is binding if this could be tyranny of the majority on some who have banked on social security. What

of someone who is just short the needed number of quarters. Mr. Sharp said it is true for a benefit to be payable you need a given number of quarters of coverage according to your year of birth; and also true if they have less than that number they would not be eligible; and also true those numbers can be added to. The quarters of hours do not determine the amount of benefits but the average of earnings credited under social security and that will vary according to the year of birth. Forty quarters is the maximum. If a given entity that has social security coverage follows legal process and withdraws from social security, the entire entity will be removed and remain out for good. That is under the present law.

Rep. Vincent asked if a school district opts out and 7 or 8 years later there is a 60 to 70% turnover they would be precluded from becoming part of social security. That isn't exactly voluntary. Rep. Burnett pointed out that in 1955 to 1959 these teachers were paying 2% of their salary and now it is 6.5%. That is the time they had the choice to go in or not.

Rep. Andreason asked the size of the unit that can opt to withdraw. Mr. Sharp said in terms of number no maximum or minimum. Terminating would terminate for all employees from then and forever after from getting social security coverage. Rep. Andreason asked if they lost the quarters they have earned. Mr. Sharp said no they are left for some later dealing with social security.

Rep. Kitselman asked if this would be a detriment to the fund. Mr. Sharp said one district would not have that big an effect, if many did it could have.

Rep. Hanson asked for the basic reason for the bill since right now the Board of Trustees can withdraw the district from the system. Rep. Burnett said they decided they wanted out and asked me and I checked the statute. Rep. Hanson asked why the Board of Trustees refused to back out. Rep. Burnett said they never discussed it with the Board of Trustees. This bill would give an individual a chance to be heard. If he requests a referendum vote it must be. Rep. Vincent said this could involve any number of people as if a referendum could be initiated that would effect the whole district. Rep. Burnett replied its the people in the system that would get to vote not the Board. The referendum would be presented to the governor and the governor would set up the mechanism for the referendum and it would state that you are withdrawing from social security and it would need a majority plus one to pass.

HOUSE BILL 333

REPRESENTATIVE ROBERT MARKS, District 80, chief sponsor, said this bill makes some changes in definitions for special education and handicapped people to more clearly define some terms that have caused some problems in the school districts. Page 1 defines appropriate public education and is almost the same language from the federal law. Rep. Marks read the federal law definition. He suggested an amendment to the terminology on page 3, line 20, and repeated wherever needed, to add "only" after "refer". The

school boards are put to the test to provide some educational opportunities for certain individuals and at times they find it difficult to accomplish. Perhaps by defining "least restrictive" it will make their job easier and less doubt as to what is "least restrictive" and "less restrictive." He asked the committee to consider what is in the bill and not what some people think is in the bill.

JUDITH A JOHNSON, Director of the Special Education Unit, OPI, spoke next and a copy of her testimony is EXHIBIT 5 of the minutes.

ROBERT L. LAUMEYER, Superintendent of Boulder Schools, representing self, spoke next in support and a copy of his testimony is EXHIBIT 6 of the minutes.

DR. JEFFREY H. STRICKLER, representing self, spoke next in support and a copy of his testimony is EXHIBIT 7 of the minutes.

GERALD W. ROTH, Director of Helena Special Services, School Dist. 1, spoke next in support and a copy of his testimony is EXHIBIT 8 of the minutes.

JESSE W. LONG, School Administrators of Montana, said they favor the bill.

CHAD SMITH, Montana School Boards Association, said they support the bill. He said as has been mentioned everything is not spelled out in these amendments. Opportunities are needed to properly review the case of a handicapped child to see the extent of educability of that child. An attempt was made to place a severely handicapped child in the school system at Boulder. The effect was to place the child in a school that was not equipped in any way. The handicapped child should be given every opportunity to learn but this can be a frustrating situation in a public school that is not financially able to be staffed to help, and should the education of the other children be impeded by this unusual situation. We need a practical solution to the problem that was faced at Boulder. He requested the bill do pass.

EUGENE MACKIN, White Sulphur Springs, School District 8, said they support the bill.

BARBARA SUTHERLIN, Boulder, representing self, said she was quite familiar with the state school at Boulder. "Least restrictive" terminology she felt would allow them to make some judgements that perhaps the institution is not always the least restrictive environment. She mentioned a case in point where it was considered placing a person in a downtown Helena home which is on a very busy street. At the institution this person was able to roam over several acres while at this downtown home he would have had to be locked up. In that particular instance the institution was the least restrictive.

MARILYN PEARSON, Helena, representing self, said she has worked on a private basis with several developmentally disabled children.

She said she would like to go on record as being in favor of the amendments. She felt we should be in compliance with federal law and focus deliverance of services to the individual based on their habilitation needs rather than arbitrary placement.

Chairman Eudaily opened the hearing to the opponents.

FLORENCE LUCAS, Developmental Disabilities Planning and Advisory Council, spoke in opposition. She read a letter from A.A. Zody, Chairman of this council and a copy of the letter is EXHIBIT 9 and part of the minutes.

LARRY HOLMQUIST, Bozeman Special Coop, said he would like to go on record as being opposed. He said the bill serves no meaningful purpose. The element of working with parents and with DD groups and other community groups best meets the needs of the children. This legislation does not clarify and it doesn't provide the type of vehicle needed. Clarification can be made by regulations. There are guidelines already laid out in the Board of Public Education policy. In addition, he suggested taking note of the number of school dropouts - if we are doing a poor job with those children we can also do a poor job with the disabled.

JOHN ALBRECHT, private attorney from Choteau, said he was representing numerous parents of handicapped children. He said he was on the Board of Directors. He said they oppose the bill. He said the bill proposes two terms for the special education law and these two speak right to the heart of all handicapped children. The term "appropriate public education" is vague and doesn't say anything. "Least restrictive" environment definition would be detrimental as the theory of least restrictive environment is location - maximum opportunity to meet and know their peers. This would set up a formal training program and place children in these programs. More children will be placed in private institutions at our expense. He urged defeat of the bill.

NINA VAZNELIS, representing self, spoke in opposition and a copy of her testimony is EXHIBIT 10.

GERALD CHRISTIANSON, Special Education, said the bill is vague and the wording unnecessary. He felt the definition would not be a vehicle to help child study teams determine what is least restrictive.

DANIEL J. GREGIER, Great Falls, Region II Child and Family Services, representing self and 42 other signees, spoke in opposition. A copy of his testimony and a list of the other 42 signees is EXHIBIT 11 and part of the minutes.

CHARLES BRIGGS, Missoula, CCEP, Missoula Advocacy, spoke in opposition. He said it doesn't address the needs. We must keep in mind the overreaching goal - to maximize community mainstreaming and recognize that person's civil rights as a citizen of the United States. The bill refers to the location of services. It

is critical for that individual to realize their fullest potential, which could be independent living in the community with its rewards and responsibilities. This legislation by its very implication turns that upside down. "Least restrictive" does open the gate to other things.

MARGARET AUER, Missoula, speaking as a parent, said the bill scares her to death. She felt all the handicapped could be placed in an institution. She said thanks to special education in her area her child is quite self sufficient.

VIRGINIA DELAND, Missoula, representing herself as a parent, read Bulletin 8. She said the least restrictive environment is closest to the environment of the nonhandicapped child that meets the needs of the handicapped child. She felt the new definition does change the meaning. She said she opposes the bill as it changes the tenor of the past ten years. She said she stands with many parents who have come over to help their children by opposing this bill. She closed with a quote from the Earl of Chesterfield, 1756. "The knowledge of the world is only to be learned in the world."

JOE ROBERTS, Legislative Action Committee for Disabled, said the deinstitutionalization issue is really what is at stake here. Deinstitutionalization - you can look at the record and see that it has been a success. Who is going to benefit from this bill? It'll make the school boards' jobs a little easier. Our concern must be the quality of education the handicapped will receive and not whether school boards have it easier.

DIANA THOMAS-RUPERT, Bozeman, Bozeman Public School, said part of the job of the child study teams is to meet the individual needs of the people that come before them and will determine what is "least restrictive."

SHIRLEY FRISCH, Clancy, representing self as a foster parent of developmentally disabled, spoke in opposition and a copy of her testimony is EXHIBIT 12.

SANDRA KELLEY, Kalispell, representing CHIN and self, spoke next in opposition and a copy of her testimony is EXHIBIT 13.

Also leaving written testimony opposing the bill were:

DAVID B. LACKMAN, Montana Public Health Association, EXHIBIT 14.

JAN RAINIER, Assoc. of Retarded Citizens of MT, EXHIBIT 15.

KENNETH A. ROHYANS, representing self, EXHIBIT 16.

CAROLYN LEE DICK, CHIN and self, EXHIBIT 17.

List of opposed from MSU, Department of Home Economics, EX. 18.

Representative Marks closed. He said he supported deinstitutionalization and supported the group homes. He said he is proud of some of the things that have happened. He said he is not trying to put people back in institutions. The real reason for the bill is to provide the best care for people who can't be mainstreamed.

Chairman Eudaily opened the meeting to questions from the committee.

Rep. Dussault suggested that all who opposed the bill stand.

Rep. Andreason suggested adding the word "also" after "but" on line 21 page 3. Rep. Marks said he had no objection.

Rep. Dussault asked on page 1 what is an educational opportunity designed to meet the needs of the handicapped as well as the unhandicapped? Rep. Marks said this is taken from the federal law. Rep. Dussault asked if only the opportunities provided to the unhandicapped should be permitted for the handicapped. Rep. Marks said no as their needs are different.

Rep. Dussault asked why we are taking definitions from the federal law. Ms. Johnson of the OPI said the Office of Civil Rights are filing suits through 504 (federal law).

Mrs. Deland responded to a question from Rep. Andreason that the emphasis is on the neighborhood school. The law needs to be vague as elasticity is needed to accommodate the needs of various handicapped. The place specific is in the individual education plan. When you drop the locations as a place of emphasis it could mean a special school at the edge of town and not in the normal school with other students.

HOUSE BILL 367

REPRESENTATIVE ANN MARY DUSSAULT, District 95, chief sponsor, said this bill is at the request of the Montana School Board Association. It extends into law the same privilege to school districts that has been granted to local governments, which provides that any new duties on school districts provide a specific means of financing. She said the School Board Association put in a few exemptions on lines 11 and 12, page 1, and that has to do with any laws implementing the federal law. We don't have any control over these laws anyway. She questioned what line 10 on page 2 meant but felt it was probably a good idea to leave it in the bill.

CHAD SMITH, Montana School Board Association, said the school boards of Montana are having increasing financial pressures due to inflation and attempting to get teachers' salaries up as high as possible. He said they spend every dollar twice and if they are mandated by the legislature to do something without the necessary funds provided they have to go back to their property taxpayers. He felt if it is important enough to legislate it should be important enough to finance. Continual imposition on the taxpayers is resulting in more and more levies being voted down. He said the legislature can put in an exclusion if they feel a certain law should be exempt from this requirement, but it will bring it to the legislature's attention each time that it has to be financed.

JESSE LONG, School Administrators of Montana, said they support

the bill. He mentioned the implementation of the immunization bill if it passes. He said he favors immunization but it is another burden on the school district. He felt \$2 a child as Washington has done would be a fair means of providing help for the school district. One thing he asked consideration of - mandates from agencies such as the implementation of having elementary counsellors. He said this is a good move as these children need help but it comes with a 3 1/2 million price tag. He said this would let the legislature know what they are doing and consideration could be given for providing appropriations for that kind of mandate.

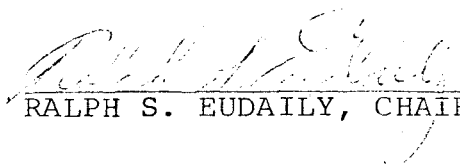
OWEN NELSON, Montana Education Association, said they support the bill as they are concerned about the added costs school districts have been taking on. He expressed concern about the language on page 1, lines 23 and 24, which says the funding from the state for a project will be put in a special fund. He wondered how many funds the district would end up with. He also felt on page 1, lines 19 and 20, it would not be an effective system. Page 2, line 12, concerning an insubstantial amount - who will determine that. There should be a way to put that decision making process to a person or a body. Page 2, line 3, the Board of Trustees may refuse to enforce - decision should be made before the Board of Trustees are confronted with it. This would cause a delay while being litigated.

In closing Rep. Dussault said she does believe that people who impose responsibility should share the responsibility of seeing they are adequately funded. We should not bear the responsibility for what another agency does. Do away with the OPI and make it an department of state government. Mr. Nelson has raised some legitimate concerns and I would be happy to work on them with the parties involved.

There were no questions.

The meeting adjourned at 2:30 p.m.

Respectfully submitted,


RALPH S. EUDAILY, CHAIRMAN

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VISITORS' REGISTER

HOUSE EDUCATION COMMITTEE

LL HBs 333, 365, 367

Date 1/30/81

INSOR 333 (Marks); 365 (Burnett); 367 (Dussault)

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Paul Hargrett	Bozeman	Special Corps HB 333		X
John Thomas P. S.	Bozeman	Bozeman P. S.		
John Thomas P. S.	Bozeman	Bozeman P. S.		
Bill Burkhardt	Helena	HB 333 Mt. Sch. Psychol Assoc		X
W. A. Best	Helena	MT Home Ec. Assoc.		
Bill Hargrett				
John P. S.	Butte			X
John P. S.	"			X
John P. S.	Butte			X
Judy Johnson	OPI Helena	OPI		
John P. S.	Helena	Self		
John P. S.	Helena	Assoc. Retarded Citizens		✓
John P. S.	Livingston	Counterpoint Try. Center		✓
John P. S.	Chico	Self		✓
Gordon Kelley	Kalispell	CHIN, self		✓
John P. S.	Kalispell	Parent, M.A.R.C.		✓
Marlyn Lee Pack	Kalispell	CHIN, self		✓
Margaret West	Helena	Self		✓
John P. S.	Bozeman	Bozeman P. S.		✓
John P. S.	Missoula	Missoula Advocacy		✓
John P. S.	Livingston	Livingston School Dist	✓	
John P. S.	Missoula	Parent		X
David B. Lackman	Helena	MT Pub Hlth Assn		HB 333
John P. S.	Missoula	Parent		✓

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VISITORS' REGISTER

HOUSE

COMMITTEE

LL. H#3 333

Date _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Co Hyans	801 Maynard Rd ^{Helena}	Self		X
Jordan	1821 Cannon ^{Helena}	Self ARC-HE		X
Roberts	729 Eleventh Ave	DD Leg. Action Com.		X
Fitz	Hamilton	DD Leg. Action Com.		X
Wm. KATZNER	Helena	SRS		X
Smith	Mont Sah Bds Assn		H#3 333 365 367	
Frish	Clary MT	self foster parent		X
Albert Laumeyer	Boulder mt.	Self	X	
John Sutherland	Boulder MT	self	X	
Bob Rumbel	Helena MT	Self	X	
Dick Swenson	Helena	Self		
Jim Burnett	House	Self	X	
Jack B. Sharp	Helena	Social Security Admin	neutral	
Norman	Helena	Self	X	
Clarence Lucas	Missoula	DD/PAC - Self as a parent		X
John H. (Pomeroy)		SRS		X
Gene H. Hark	White Sulphur Springs	School Dist #8 Meagher Co.	X	
Ray Roth	Helena	Sch. Dist. #1	X	
Ellen Cook	Missoula	MDDCNC - Missoula	X	X
Mike Morris	Missoula	Self		X
Greg L. Curtis	Chateau	Self + Region II ^{CLAIMED}		X
Wm. J. Wayman	Bozeman	Self		
Emily Brunkert	Bozeman	Self		X
John H. (Pomeroy)	Helena	Self Adm. MT (H#333)		

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HOUSE

COMMITTEE

LL H.R. 365 + 367

Date _____

SPONSOR _____

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HOUSE

COMMITTEE

LL

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Date _____

H.B 365

Barnett

1/30/81

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