

MINUTES OF THE MEETING OF THE HOUSE EDUCATION COMMITTEE
February 9, 1981

The House Education Committee convened on February 9, 1981, in Room 129, State Capitol, at 12:30 p.m., with Chairman Eudaily presiding and all members present except Rep. Dussault who was absent.

Chairman Eudaily opened the meeting to a hearing on the following bills: HBs 585, 587 and SB 67.

SENATE BILL 67

SENATOR JAN JOHNSON, District 47, chief sponsor, said the bill allows the school districts to enhance their interest returns by investing school district money in direct obligations of the United States government if such an investment would be advantageous to the district. She said money could be invested on Friday night and withdrawn on Monday morning if needed.

There were no opponents and Senator Johnson had no closing statements.

Questions were asked by the committee. Chairman Eudaily asked if it were not possible to do this now with the language already in the law. Senator Johnson said the reason for this is that only in the counties where federal banks do not exist can a school district cross county lines. Chairman Eudaily questioned if the "or" didn't take care of that. Senator Johnson said the Attorney General had made a ruling, but with this wording it would be legal.

HOUSE BILL 585

REPRESENTATIVE JOE F. KANDUCH, Sr., District 89, chief sponsor, said vandalism at the colleges didn't bother him too much until his daughter came home from college and said something should be done as no one wants to squeal on those doing the vandalizing. He said if they had money invested they would say something. This bill would take \$6.50 from each student and put it into a fund that would be used just to repair vandalism on the school property. If no money is used the student would get his money back. Any administration costs would have to be taken out of the interest earned by this fund.

JACK NOBLE, Montana University System, said they opposed this bill because they felt it was unnecessary. He said this legislation would generate \$490,000 a year in potential anti-vandalism insurance and they do not have any problems that approach that volume of cost. He said currently vandalism is covered through a state insurance writer which compensates for vandalism after a \$250 deductible per occurrence - broken windows the agency or campus has to absorb. He said the vandalism that does occur is usually in the dormitory or the married student housing and these buildings are financed through charges to the students and so it would be to the student's best interest if they see vandalism to stop it. He

mentioned administrative costs. The warrants to return the deposits would go through the complex statewide accounting system and cost about \$14.00 a warrant to process.

STEVE CAREY, Associated Students of the University System, said there is very little notable damage. He felt this might encourage vandalism as the students would want to get their money's worth. He felt there was no need for this bill. He said there is also a problem of returning warrants at the end of the year - no forwarding address and the student is not at the last one recorded.

JIM MOCABEE, Bozeman, ASMSU, said they don't believe there is any current problem with vandalism and so they urge a do not pass.

TERRY WATERS, ASEMC, WMC, TECH, NMC, said they agree with what has been said by the opponents. He said he would like to emphasize there isn't enough vandalism to justify this large a fee collection.

Rep. Kanduch in closing said he was really pleased that he had this bill that gave school lobbyists a chance to come up and testify. He said he was pleased to learn there is no vandalism and, if they are telling the truth, there is no need for this bill.

HOUSE BILL 587

REPRESENTATIVE BEN HANSON, District 93, chief sponsor, said there is a wealth of laws on the books dealing with school districts. This bill has to do with the creation of a new school district from parts of an old district. He said there has been a law on the books dealing with this for many years, but changes are needed. The trend has been just the opposite - to consolidate. We have gone from 1000 districts in 1962 to less than 500. He said changes were needed to make it a more orderly procedure and to put the burden on those wanting a new district and not on the people who are happy with the things as they are. Rep. Hanson went through the bill discussing the changes. One says the land in a district should be contiguous and another would require a majority of electors in the new district to initiate the process. With the law as it now is families which include ten children can initiate action and it takes a majority in the proposed district to stop the process. The bill eliminates the protest provision for if there is a majority asking for it there is no need for a protest provision.

MIKE BOWMAN, County Superintendent of Schools, Missoula County, said he has struggled with this bill since their county attorney requested the Attorney General's opinion. He said in their particular instance the area was south of Missoula and part of the urban area and the part that was in the rural portion blocked off an area that was further south that would have stayed in the home district, and it would have been unfeasible for them to bus their students. He said there is a problem where land is not contiguous and he favored the new language in section 1, as well as increased input from community members. He thought requiring the majority might be a little high - perhaps 35% or 20%. He had

reservations on page 2, lines 23-25, that says 10% of the voters must be over three miles from an operating school. He felt just requiring a majority from the area wanting a new district would suffice. He said it is essential as soon as the County Superintendent issues an order that a district becomes a separate entity in an orderly way. This is on page 4, lines 2 through 5, and he felt should be left in. He urged support of the bill.

WAYNE BUCHANAN, Montana School Board Association, said this is an extremely important bill. He said this is not necessarily because of the Missoula situation, but that situation drew our attention to a serious loophole in the law which needs to be corrected. He said as the law now is a small number of people in a school district can control the educational destiny of numbers of people. He said they had a suggested amendment: page 3, line 23, following "district," insert "and in the best interest of the remaining district." He said the bill is well written and he sees no problem with it. He said it still allows small districts to create their own school. He felt the language should be left in of 10% of the voters signing the petition must reside more than three miles from an operating school.

DAVID SEXTON, Montana Education Association, said the trend is toward consolidation but he, too, felt the law for creating a new district has some very serious problems - a leftover from the "horse and buggy days." He said people have discovered a mechanism by which school districts can be harrassed. Small groups of disgruntled people can create turmoil everytime someone has a complaint against the action of a school board.

LYLE EGGUM, Co-Director of School Community Services, Office of Public Instruction, spoke next and a copy of his testimony is EXHIBIT 1 and part of the minutes. He questioned Mr. Buchanan's suggested amendment - he felt the way the bill is written it will provide for the best interest. He felt this old law could be used as a protest vehicle. He said the bill deserves favorable consideration.

JESSE LONG, School Administrators of Montana, said carving up a district can create administration and transportation problems. He said the bill doesn't deny the creation of new districts but defines it more clearly.

MIKE STEPHEN, Montana Association of Counties, said since they are the collectors and bookkeepers of the property tax that supports both the county and the school districts they are in favor of what will make for the best administration. He agreed with Mr. Buchanan on his amendment that it should also be to the best interest of the remaining district.

REP. HANSON in closing said the Senate does have a bill increasing the valuation needed before a district could break away and this will make it more difficult to create a new district. He said the committee would need to consider the 10% needing to live 3 miles from an operating school. He said he could see where a district might want to break away for reasons other than

distance, and if 51% have signed the petition that might make it difficult enough.

Chairman Eudaily opened the meeting to questions from the committee.

Rep. Vincent asked if 51% of the electors wasn't a little high as it takes only 15% to get an initiative on the ballot. Rep. Hanson thought not as this is a case where you would need an indication of the majority. He said he thought of the possibility of having an election but with poor turnouts the 51% on the petition is more clearly the will of the majority.

Rep. Vincent asked concerning the County Superintendent being the final decider. Rep. Hanson said he would have to have a very good reason to rule against the majority.

Rep. Yardley asked Mr. Buchanan about the double negative on page 2, lines 4 and 5. He said he could see a problem as there is no limitation as to when the County Superintendent has to make his decision. If there is an appeal to the County Commissioners no time limit on when they must make their decision and that can work against the creation of a new district.

Mr. Eggum pointed out there would be a problem with having an election as there would not be an entity to sponsor it.

Rep. Hannah raised the question of the 8 months period - he asked if this would be long enough. Rep. Hanson said that language is in the present law.

Chairman Eudaily closed the hearing and after a short break opened it to a consideration of the following bills:

EXECUTIVE SESSION

House Bill 388 Rep. Kitselman moved DO NOT PASS. He said it pertains to one particular problem that he felt could be handled on the local level.

Rep. Teague said the college was created by a county vote and they favored the setting up of the college in 1949. He said he knew it was a local problem but believe if you make your bed you lie in it.

Rep. Donaldson said it is a problem that has to be handled in another way. They need help if they are to continue but this is not the way to go.

Rep. Hannah said he agreed with Rep. Donaldson. He said he had a question in his mind if the college is going to survive at all. If we change the statute to change the tax base they might be able to stay afloat a couple of more years. He said he opposed the bill.

The question was called and the motion passed with 10 voting for and six opposed (Yardley, Vincent, Williams, Lory, Kennerly, Teague)

and one (Rep. Dussault) was absent.

House Bill 449 Rep. Teague moved DO PASS. Rep. Hannah said he was not comfortable with this bill. He said we continue to address things that give something for nothing in order to make legal what the Attorney General said was not legal. He said the principle goes against his grain.

Chairman Eudaily said they can be absent for 50 days as long as there isn't 10 days in a row.

Rep. Hanson said you are getting something for it. The teachers aren't sitting around as they have the records to close out.

Rep. Williams said it makes something legal that we have been doing for a long time.

Rep. Anderson said one of the problems is the auditor can go back three years and tally up the seniors that got five days off each of those years - could amount to a tremendous amount of money that the district is out.

Chairman Eudaily said he felt someone is throwing up a smoke screen. If the majority of your students are there you can count them. Why has the problem come up?

Bob Stockton on being asked responded that if you dismiss the class you can't count them as absent - they are dropped.

The question was called and the motion passed with Reps. Hannah and Eudaily voting no and Rep. Dussault, absent.

HOUSE BILL 457 Rep. Lory moved DO PASS. Rep. Williams supported the motion.

Rep. Hannah spoke against the motion saying it would give a few school districts the authority to increase their tax base. He said the reason his people elected him was to hold the line on taxes.

Rep. Williams said this just gives these school districts what the other districts have - same privilege.

The question was called and the motion carried with Rep. Hannah voting no and Rep. Dussault was absent.

HOUSE BILL 466 Rep. Williams moved DO PASS. The motion carried unanimously with Rep. Dussault absent.

HOUSE BILL 404 Rep. Lory said if we don't get the requirement of an oath out this bill will not be possible because the oath has been declared unconstitutional.

Rep. Andreason moved DO PASS. Rep. Hannah questioned if this would be permitting people to teach who have different values than we do - values that are very important to us as Montanans

and Americans. Rep. Andreason replied these people are screened before entering the country. Also if they are way out to lunch the local people would know it. Rep. Hannah agreed if this was the case but with the suggested tenure bills being considered testimony has indicated it can be a problem to get rid of a teacher. Rep. Teague said he understood where Rep. Hannah was coming from but he asked if "c" wouldn't take care of it.

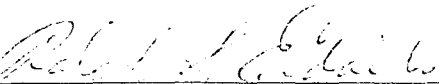
The question was called and the motion carried with Reps. Hannah, Kitselman and Eudaily voting no and Rep. Dussault was absent.

HOUSE BILL 585 Rep. Vincent moved DO NOT PASS. Motion carried unanimously with those present (Rep. Dussault was absent).

SENATE BILL 67 Rep. Lory moved DO PASS. The motion carried unanimously with those present (Rep. Dussault was absent).

Rep. Anderson moved to adjourn. Meeting adjourned at 2:30 p.m.

Respectfully submitted,



RALPH S. EUDAILY, Chairman

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OFFICE OF PUBLIC INSTRUCTION

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Ed Argenbright
Superintendent

Ex. 1

February 9, 1981

TO: Representative Ralph Eudaily, Chairman
House Education Committee

FROM: Lyle A. Eggum, Co-Director *Lyle*
School/Community Services Unit

RE: H.B. 587

Chairman Eudaily and committee members, I am Lyle Eggum, Co-Director of the School/Community Services Unit in the Office of Public Instruction. House Bill 587 introduced by Representative Hanson and co-signed by several members of this committee provides clarification and direction to both the petitioners and the county superintendent who must process the petition to create a new elementary school district.

It makes good common sense to require that all parcels of land be contiguous in the creation of a new district. The transfer of land from one district to another in all other cases requires that it touch borders in some manner. Annexation of districts, consolidation of two or more districts, and personal land transfer requests are examples which require this provision. Withdrawal of noncontiguous parcels of land to create a new district in the center of an existing district makes administration by all officials a confusion that can only be classed as a disaster.

Requiring a majority of the electors to sign the request petition provides long needed strength to the decision making process of creating a new district. Annexation and consolidation actions both require a majority vote of the affected area to be transferred as an indication of the will of the people. It certainly seems reasonable that transferring land in the creation of a new district ought to also show a majority consent of the people.

Once a valid petition is presented for action it deserves to be heard. The deletion of the protest petition and assurance of a hearing are excellent improvements to the process. The majority of the people in a given area should be granted the opportunity to voice their views. It is a difficult task for the county superintendent to determine what is advisable and particularly evasive is what is in the best interest of the residents. This change insures both sides of the question will be heard.

Representative Ralph Eudaily
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Subsection 6 of 20-6-217 M.C.A. identifies an eight (8) month limitation on the new district which can create confusion. A three and one-half ($3\frac{1}{2}$) month limitation of time is imposed by 20-6-202 M.C.A. for boundary changes in elementary districts. The second Tuesday in August through December 31 is the only allowable time for a new district to be created. If the county superintendent issues an order creating a new district on the second Tuesday in August it is entirely possible that the new district would expire and revert back to the original district in April long before it has the opportunity to operate a school. The language in subsection six (6) states that the district must open and operate a school within eight (8) months of the county superintendent's order. An August order provides no manner of budgeting the new district until the new cycle occurs. Therefore, it is impossible for the new district to operate until the beginning of a new budget and school year. Because of this situation there is a need to provide the county superintendent the flexibility to establish the date of creation. The new district must be afforded an orderly transition period without endangering the opportunity to function.

In summary, H.B. 587 is good for everyone involved. It deserves your favorable consideration. I urge you to give this bill a "do pass" vote.

LAE:jy

VISITORS' REGISTER

HOUSE EDUCATION COMMITTEE

BILL SB 67

Date 2/9/81

SPONSOR Senator Johnson

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE EDUCATION COMMITTEE

BILL HB 585

Date 2/9/81

SPONSOR Rep. Kanduch

[illegible]

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE EDUCATION COMMITTEE

BILL HB 587

Date 2/9/81

SPONSOR REP. HANSON

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.