

HOUSE EDUCATION COMMITTEE MINUTES  
March 4, 1981

The House Education Committee convened at 12:30 p.m., Wednesday, March 4, 1981, in Room 129, State Capitol, with Chairman Eudaily presiding and all members present except Reps. Donaldson and Lory, who were excused, and Rep. Azzara, who was absent.

Chairman Eudaily opened the meeting to a hearing of the following bills: SBs 58, 262, 281 and HJR 34.

SENATE BILL 58

SENATOR FRED VAN VALKENBERG, District 50, chief sponsor, said the bill was introduced at the request of the Health and Environmental Sciences Department to amend the immunization law by deleting the provision that failure to act is an exemption. He said prior to 1979 we did not have any statewide immunization law but did have a law that permitted local school districts to adopt immunization policies. He mentioned a measles outbreak in the state that had come about because people had become lackadaisical about getting vaccinations for their children. He said the provision they are seeking to delete was inserted into the 1979 law in an attempt to deal with the situation of the impossible student, the one who won't do anything at all as far as getting vaccinated or electing to take one of the exemptions. He said the exemptions are quite liberal as they can be taken for medical reasons, for religious reasons, and for overall personal reasons. The parent only needs to sign a form claiming one of these exemptions. He said at the time of the passage of the bill it was expected about 5% would elect to take the exemptions. The "failure to act" exemption, which has become known as the "administrative exemption" is claimed by the school when there is no proof of vaccination or signing of an exemption card. This has been abused with one district claiming 100% administrative exemptions. He said this makes it impossible to administer this law or for the law to accomplish what it was designed to do. He said he was suggesting an amendment which would permit a 30 day grace period for transfer students. A copy of this is EXHIBIT 1.

RICK CRANKSHAW, Department of Health and Environmental Sciences, Preventive Health Bureau, said he was the coordinator for the immunization law. A copy of his testimony is EXHIBIT 2 of the minutes. He said he had received a call from Ray Fischer, manager of Blue Cross, just before the meeting that he was unable to attend and asked that his support be indicated and to pass out immunization record cards.

PAT PETAJA, Montana Health System Agency, said the "administrative exemption" is a serious loophole in the school immunization law. She said they are delighted to see this bill that would eliminate that. She said sometimes it is easy to forget what polio was like and the very serious handicaps and this could happen again if children are not immunized.

JOYCE COOMBE, Chairperson, Montana State School Nurse Interest Group, spoke in support and a copy of her testimony is EXHIBIT 3.

G. BRIAN ZINS, Montana Medical Association, Helena, said they urge support of the bill.

DR. JEFF STRICKLER, American Academy of Pediatricians, said as pediatricians they are very interested that all children receive immunization. He said children who are not immunized are a risk to the community as unfortunately not all immunizations are 100% effective and the immunized child may get the disease because they are exposed. He said the medical neglect of failing to immunize is really a form of child abuse.

JOANNE SHEARER, Helena, representing self, said as the mother of three children she believed in immunization and felt it was important to protect the health of all children. She said the current law with its loophole unnecessarily exposes her children to communicable diseases.

JESSE LONG, School Administrators of Montana, said in the Senate they had opposed the bill but if the amendment allowing the 30 day grace period for transfer students is adopted they are for the bill. He said an idea they would have liked to have seen incorporated is financial support to the school district for this. They urged the committee to support the bill as amended by Senator Van Valkenberg.

DAVID B. LACKMAN, Chairman of the Legislative Committee of the Montana Public Health Association, spoke in support and a copy of his testimony is EXHIBIT 4.

WILLIAM BURKE, Butte, Health Officers Association, felt this "administrative exemption" was contrary to the interests of the people of the state. He said the bill would bring clarity to the law, better immunization and as a result healthier children.

CHAD SMITH, School Board Association, said he was a proponent in the sense that the School Board Association can see the problem. He said it was not their intent to create these problems. He said he knows of the school district that has taken the position that because it doesn't have adequate funds it is not going to take on any new duties. That is the one that took the 100% administrative exemption. He said they tried to encourage the district otherwise but were not successful. He said it was an embarrassing, complete circumvention of the law. He felt, though, that this bill is an overreaction the other way. Because of a situation that is representative of a complete disregard for the law, no situation is worthy of consideration. He said their problem is that many of the parents don't show up - they just abandon the children to the schools. They are totally indifferent and claim they have a constitutional right to send their children to school and don't have to sign

anything. He felt the exemptions shouldn't include more than 5% of the children which should give enough protection. He mentioned a newspaper article in which Mr. Crankshaw had mentioned if the exemptions could be kept to 10% it would protect against any type of disease. He said in the amendment they offered in the Senate they offered to cut it to 5%. He said they would prefer having that amendment but in lieu of that they would like to have the exemption left to the Department. He said they would go along with that. EXHIBIT 5 is a copy of his suggested amendments and EXHIBIT 6 is a statement he left with the committee.

JOY STEVLINGSON, Great Falls, MPTS urged support of the bill. she said she realized there are passages in the bill that will cause some inconvenience and some overburdening. She suggested the use of volunteers within the community to help those districts that have a problem with this. She said no one is exempt from registering their car and our children should be at least as important to us.

TONY McCOMBER, Montana Education Association, spoke in support. He said this is an easy problem to ignore when things are going well but it carries a potential of epidemics when we fail to carry out the immunization because of this loophole. He said he realizes the concern of the school board. He also said the district could get volunteer help in their community from PTA members, retired people and other civic groups. He urged support of the bill.

Senator Van Valkenberg said the following witnesses had planned to come and speak in support of the bill: Judy Olson; Rick Reese, MT University System; and Jerry Roth. He said he seriously questioned Mr. Smith's being a proponent of the bill. He did not feel the amendment offered by Mr. Smith would bring about the end he would like to see accomplished and that is the safety and welfare of the children. He felt the amendment would leave in the failure to act amendment and if you do that you might as well kill the bill as you would have as bad or worse situations developing in the coming biennium. He said they talked about the possibility of giving the Department of Health some discretion in the truly impossible student cases. He said the department doesn't support that amendment. He felt the injunction power and the personal exemption provided plenty of leeway in dealing with the so called impossible student. He said if you put the monkey on the parents' backs that the law will be executed, the parents will do what they are asked to do. He suggested Mr. Crankshaw be asked about the quote from the paper.

Questions were asked by the committee. Rep. Andreason asked what would happen in an extreme case where the parents refused to sign any exemption slip. What would the school do? Sen. Van Valkenberg said if he wasn't a transfer student they would dismiss the student and notify the Department of Health to start an injunction action until proof of vaccination is shown or exemption is complied with.

He said this is an unlikely event. Andreason asked if the court could put in an exemption on their behalf. The Senator said it would be similar to a joint tenancy to property - court orders the sale of the property and one of the joint tenants won't sign the deed, the court can sign for him. So the court he felt would have the power to sign the exemption.

Rep. Hannah asked the percentage of people exempted. How many people were not immunized last year. Mr. Crankshaw said they know the number of schools and from that they would say about 1/4 of the students in the state of Montana are not immunized. He said the reports are still coming in.

Rep. Dussault asked Mr. Crankshaw about the newspaper quote mentioned by Mr. Smith. Mr. Crankshaw said the paper said he had said that 10% or less would be a good show effort on the part of the schools. He had said to the reporters that the department would take a close look at all schools that would have reported 10% were taking administrative exemptions as that would be a strong indication of abuses of the law. He said they had just sent 600 exemption forms to Billings. He said that city did list them as administratively exempt but are trying to spend more time in trying to get them vaccinated or to sign. They do have the names of the students. He said he has a compilation of schools listing more than 10% as administratively exempt. He said Cascade County has submitted 34 of 45 schools and of the 34, ten schools had 10% or more. He said the second largest high school in the state listed 52% administratively exempt. He said they couldn't tell which of the children are protected or not because they have filed an administrative exemption even though there might be documents somewhere which the parents aren't providing.

#### SENATE BILL 362

SENATOR FRED VAN VALKENBERG, District 50, chief sponsor, said the bill was introduced at the request of the School Boards Association to deal with the potential problem that might arise in the future if we again have a statewide declaration of emergency. He mentioned the St. Helens emergency that had shut down a part of the state for four days. The school laws require the days be made up and it came at the end of the school year which made it difficult. Some made it up on Saturdays and some ignored the law and hoped no one would find out. He said it is unlikely that such a governor declared emergency would happen again, however the volcano remains active.

JESSE LONG, School Administrators of Montana, spoke in support of the bill.

DAVID SEXTON, Montana Education Association, said this is the best bill the School Boards Association has come up with.

BETTI CHRISTIE, Office of Public Instruction, said they support the bill.

Senator Van Valkenberg said he closed.

During questions from the committee, Rep. Hanson asked if there should be a limitation. Sen. Van Valkenberg said it could only last for 30 days as that is all the governor can declare. Rep. Williams questioned if we could get by if it were 30 days. Mr. Long said it would be difficult to make up 30 days of lost time. Students would be shorted, no doubt about that.

Rep. Hannah asked if this was the only means by which we can solve this problem and Sen. Van Valkenberg said he thought so. Rep. Hannah asked if the governor had the power to do this authoritatively. The answer was no.

Rep. Williams wondered if there should be a ten day limit, assuming that most emergencies don't last very long. The Senator said he had no objection as most emergencies would not go beyond that period.

Chairman Eudaily said he had heard talk at one time to the effect of putting this on a prorated basis because if it came close to the end would not have to make up the days and if it happened earlier they would have to make up the days. The Senator said no one had talked to him on that.

Rep. Hannah asked how many emergencies we have had in the past ten years. The answer was one. The last 20 years - one.

#### SENATE BILL 281

SENATOR FRED VAN VALKENBERG, District 50, chief sponsor, said this bill deals with the even more unlikely possibility that the emergency will fall on an election day. That did happen this past year. This allows the election to be postponed and held at a later time.

DAVID SEXTON, Montana Education Association, said they support this bill. He said you may be doing something for someone in the next century.

JESSE LONG, School Administrators, said they support the bill.

BETTI CHRISTIE, Office of Public Instruction, said they support the bill. She said the Attorney General had ruled last May that they couldn't have the days off (referring to a question on the former bill).

Senator Van Valkenberg said he closed.

Questions were asked by the committee. Rep. Anderson said the bill on line 18 says the new date for the election shall be on

a Tuesday. He suggested substituting the word "date" for "Tuesday". He said as long as they give 7 days notice - the school district might want to run it on another day because of a holiday or other elections. The Senator said no problem with that.

Rep. Hanson said there is a reason for the amendment. The present requirement is 40 days notice must be given before an election is rescheduled, and this is sometimes impossible because of the final budget date. He said the 7 day notice is the meat of the bill.

#### HOUSE JOINT RESOLUTION 34

REPRESENTATIVE JOHN VINCENT, District 78, chief sponsor, said he felt the bill was selfexplanatory. He said the school foundation program is very complex and very difficult to understand and because of that complexity very difficult for the Legislature to address it adequately through the funding we are asked to provide. This study is brought so it would allow for a discussion of alternatives to seeking a better way than the way we are doing it. He said there is very high likelihood that a class action suit will be filed by a number of school districts claiming the school foundation does not meet the criteria for the state mandate for the funding of the school. He is absolutely sure that will be filed unless we address it in another manner. This is the other way to do it. Question before the committee is whether we should resolve the question through the courts or through another study. In Washington after extensive court proceedings the state of Washington determined that it is illegal to use any voted levies to finance a basic education. State is obligated to furnish a basic education and there is a need to determine what a basic education is. If there is a court case the public will be paying for it. There is another resolution much like this.

DAVID SEXTON, MEA, we rise in support of HJR 34 and Senate JR 22 which are very similar in intent and direction and SJR 22 does address the constitutional question. He urged the committee to take a look at that in light of this resolution as well. There is a problem and a threat of some kind of legal action. Not that its meant to be a threat as much as it is a real problem with declining enrollment and inequitable funding. This kind of study will be very valuable.

JESSE LONG, Montana School Administrators, said they are concerned about a challenge to the school foundation program. He thought an interim study would help resolve problems further down the road. He hoped it will be given priority in the next two years.

BETTI CHRISTIE, OPI, said they support the bill. She said the foundation program is so vital and so important we need to resolve the problems.

Rep. Vincent in closing said the committee has before it now both bills. He said it makes no difference to him which resolution is used as either one can be amended.

Questions were asked by the committee. Rep. Anderson suggested an amendment on page 2, line 11, to remove "total." Rep. Vincent said it is very unlikely you would have a total revision but he hoped to leave the word in to permit that flexibility if needed. He wouldn't have any real objection. Rep. Anderson said line 18 - do you believe that line is consistent with the rest of the resolution - increasing a county's property tax when it should be a decreasing county tax. Rep. Vincent responded you want to say something other than "increase" - maybe "consider". No objection to the way the word "increase" sets a certain direction. Rep. Anderson asked if line 23 fits in with the foundation program or is it a separate topic. Rep. Vincent: no objection to that. Rep. Kitselman said it does fit and he was glad to see it in the resolution. He mentioned the city of Billings had gone under self-insurance and saved thousands of dollars.

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

#### EXECUTIVE SESSION

SENATE BILL 58 - Chairman Eudaily permitted some additional questions of witnesses as Mr. Smith had been unable to stay for questions after testifying earlier.

In response to a question concerning his suggested amendments, Mr. Smith said the loophole would no longer be there. He went on to discuss the amendments he had offered in the Senate Education Committee and on the floor of the Senate as well as the ones being offered to this committee.

Senator Van Valkenberg expressed his concern with the amendments offered by Mr. Smith. He said he would like to see the bill as prepared, with the grace period for transfer students added, work for a biennium as it was planned to do.

Rep. Dussault moved DO PASS on SB 58. She then moved to adopt the amendments of Senator Van Valkenberg having to do with permitting a grace period for transfer students. The motion to adopt these amendments carried unanimously.

Rep. Anderson said he favored the bill and commended Senator Van Valkenberg for his work on it. He said it is working in other states and it is long overdue in this state. He said we have an obligation to not only teach but to do what we can to protect the health of our students. He said it is not impossible students but impossible parents.

Rep. Dussault said the law is very clear and she read the law from the code book. She said to muck up the law because of the possibility that someone might file a lawsuit is no way to go.

The question was called and the motion carried unanimously with those

present that the bill BE CONCURRED IN AS AMENDED. Absent were: Reps Azzara, Donaldson and Lory.

SENATE BILL 262 - Rep. Andreason moved that the bill BE CONCURRED IN. The motion carried with all voting yes except Rep. Hannah who voted no and absent were Reps. Azzara, Donaldson and Lory.

SENATE BILL 281 - Rep. Anderson moved the bill be amended on line 18, page 1, by striking "to be held on a Tuesday." The motion carried unanimously with those present. Rep. Anderson then moved the bill BE CONCURRED IN AS AMENDED and this motion carried unanimously with those present (absent were Reps. Azzara, Donaldson and Lory).

Senator Van Valkenberg said he would get someone to carry the bills on the floor.

Rep. Yardley moved to adjourn. Meeting adjourned at 2:35 p.m.

Respectfully submitted,

  
RALPH S. EUDAILY, CHAIRMAN

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PROPOSED AMENDMENTS TO SENATE BILL 58

Title, line 8.

Following: "TO ACT;"

Insert: "ALLOWING A GRACE PERIOD FOR TRANSFER STUDENTS;"

Page 1, line 13.

Following: "required"

Strike: "."

Insert: "--grace period for transfers. (1)"

Page 1, line 15.

Following: "unless"

Strike: ", prior to enrollment,"

Page 1, line 16.

Following: line 15

Strike: "(1)"

Insert: "(a)"

Page 1, line 21.

Following: line 20

Strike: "(2)"

Insert: "(b)"

Following: "enrollment;"

Strike: "or"

Page 1, line 22.

Following: line 21

Strike: "(3)"

Insert: "(c)"

Following: "exemption"

Strike: "."

Insert: ";or"

Page 1

Following: line 22

Insert: "(d) is a pupil transferring from another school district, in which case the provisions of subsection (2) apply."

Page 2

Following: line 1

Insert: "(2) A person who transfers from one school district to another shall have 30 calendar days after commencement of attendance at the school to which he or she transfers to either complete immunization as specified in subsection (1)(a), commence immunization in the manner required by 20-5-404, or file for an exemption. If none of the foregoing actions is taken within 30 days, the transfer pupil must be prohibited from further attendance until such action is taken."

## JUSTIFICATION: SB 58

"An act to amend Section 20-5-403, MCA, of the School Immunization Laws to eliminate the exemption based on failure to act."

Background

The 1973 Montana Legislature enacted a law which allowed school districts to require immunizations, but for school enterers only. Less than half of the school districts made a real effort to enforce the law. As a result, Montana children's immunization levels were among the lowest in the country and, during 1977, Montana had the dubious distinction of having the highest case rate of measles in the country, with over one thousand cases. Contrary to popular belief measles, is a serious childhood disease. Measles causes severe illness and can result in ear infection, deafness, encephalitis, and even death. (There were 6 deaths due to measles in the U.S. in 1980.)

Just prior to the 1979 legislative session, Montana was one of the last 4 states in the country without a statewide school immunization law. The 1979 Legislature passed SB 175 and today all 50 states have statewide school immunization laws.

All school immunization laws in the U.S. allow exemptions for medical reasons; most of these laws permit religious exemptions; and about one-third of the immunization laws also allow personal exemptions. SB 175, also introduced by Senator Fred Van Valkenburg, allowed for all three exemptions to the immunization requirement. The bill was strong, yet fair and conciliatory. Although assuring the protection of children through immunization is the primary goal of immunization laws, SB 175 could never have been construed as being a compulsory or mandatory immunization law. There were alternatives to immunization; the bill merely required that the parent (or guardian) either (1) insure and document that their children are immunized or (2) file an appropriate exemption. Representatives from over 20 school, health, and voluntary organizations and agencies supported SB 175; there were no opponents. However, the Montana School Boards Association representative, speaking as a proponent, introduced the amendment which resulted in a fourth exemption to immunization, the Administrative Exemption. The amendment means that if a parent fails to immunize his/her child or file for a medical, religious or personal exemption, then that child is exempted simply because the parent failed to act. The school must file an Administrative Exemption form for all such children. SB 58 wishes to have this loophole removed.

Rationale for SB 58

Children spend a large part of their developing years in schools. During this time the schools are (or should be) concerned, not only with their education, but also with their health and safety. This concern for health is particularly important when one considers that schools provide occasions and places for the spread of serious communicable diseases by bringing large numbers of children together for extended periods of time. Indeed in recent years, high proportion of outbreaks of diseases like measles and rubella have occurred among school-age children who became infected after exposure to their classmates during school

hours. Adults in the schools can also be affected; it's a serious matter if a female teacher who is pregnant is exposed to rubella.

For these reasons, all 50 States have now enacted laws or regulations requiring that children be immunized against the basic "childhood" diseases before being allowed to enter school. There is a long tradition of legal support for this, which acknowledges the school's concern for, and obligation toward, the health of the children in their care. Where they have been applied vigorously, such laws have been effective in reducing or eliminating disease outbreaks in schools so that more children can come to school each day in good health and ready to learn.

Many laws are difficult to implement during their first year following enactment. School immunization laws are no exception. However, the "failure to act" amendment has made Montana's law unnecessarily difficult to successfully implement. When this amendment was introduced last session, Department of Health officials were aware and concerned that the amendment might cause problems with enforcement. We elected, however, to not oppose the amendment and give the amended law every chance to succeed.

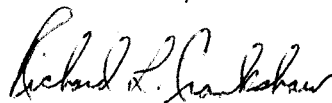
Nationally, less than 1% of the pupils enrolled were exempted last school year for medical and religious reasons combined. In Montana, it appears that approximately 1% of the pupils will be exempted for medical, religious, and personal reasons combined. But -- the "Reports of Exempted Pupils" reveal that in over 25% of the schools, 10% or more of the pupils were exempted for administrative reasons alone. Some schools reported well over 50% of their pupils as Administrative Exemptions, and one school reported that 100% of their pupils had been administratively exempted.

In the event of an outbreak of communicable childhood disease, Department of Health, local health, and school officials must be able to readily and rapidly identify unprotected/unimmunized children. No immunized child should be given an Administrative Exemption and, since we know from surveys that almost 90% of Montana's school enterers are immunized, we know that the Administrative Exemption has been misused at least by some schools.

The "failure to act" amendment has (1) made Montana's Immunization Law unnecessarily confusing, (2) created an additional form and more paper work for schools, and (3) taken away the obligation/responsibility of the parent to present the appropriate document to school officials. But the bottom line is that a strong, straightforward law will result in less childhood illness and, therefore, less absenteeism and disruption of the educational process.

We urge you to vote in favor of SB 58.

Submitted by:



Richard L. Crankshaw  
Coordinator, Montana Immunization Program  
Preventive Health Services Bureau  
State Department of Health & Env. Sciences.

Ex. 2

DATE: March 4, 1981

TO: The Chairman and Members of the House  
Education Committee

FROM: Joyce R. Coombe, R.N. *Joyce Coombe*  
Chairperson  
Montana State School Nurse Interest Group

REGARDING: Senate Bill 58

As a school nurse attempting to comply with Immunization Law 20-5-403, I would like to testify in favor of Senate Bill 58, which would amend the above law and eliminate the exemption based on failure to act, otherwise known as the administrative exemption.

My reasons for supporting this bill are as follows:

1. Since prevention of disease is one of the most important goals in child care, completely immunized children would eliminate many communicable childhood diseases and the ensuing medical complications that can occur when a child has that disease.
2. As the law now reads, the burden of exemption in cases where a parent fails to act is placed on the school administration. Not only does this usurp the parents rights and responsibilities, but it creates an immense amount of unnecessary paper work for the schools.
3. The Immunization Law itself is contradictory and tends to lose its clarity because the administrative exemption eliminates the enforcement of the law as stated in Section 7 of the law.

For these reasons, I urge you to support Senate Bill 58.

Senate Bill No. 58 (Van Valkenburg ) " An act to amend section 20-5-403 , MCA , of the school immunization laws to eliminate the exemption based on failure to act."

House hearing : Education committee , Wednesday , March 4, 1981 , 12:30 P.M. rm 129

I am David Lackman , Diplomate in Immunology of the American Board of Microbiology ; and lobbyist for the Montana Public Health Association . I am testifying in support of Senate Bill No. 58

Schools represent the universal point of contact with children. What better place for enforcing the universal immunization program ? As a long-time school board member , I welcomed the opportunity to provide for the whole child. Unfortunately there are gaps in coverage in the home and church.

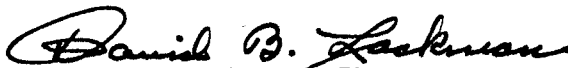
It is impossible to carry on a comprehensive public school program in most communities in Montana without a voted levy ; and I noted that the two districts opposing this legislation in the senate committee hearing did not use their full taxing authority.

Childhood diseases aren't harmless infections. Rubella (German measles) virus has gained notoriety in recent years as being a leading cause of developmental disabilities. When this virus infects an expectant mother during the first trimester , there is at least a 35% chance that a defective child will be born. This virus is a major target in the school immunization program. Some of you may have noticed in Friday's paper that care for the Developmentally Disabled has overwhelmed the Medicaid budget .  
PREVENTION IS THE SOLUTION .

The post-infectious encephalitides - particularly post-measles- are very serious clinical problems ; frequently resulting in death or permanent disability . Latent childhood viruses are now thought to be involved in certain degenerative diseases of the nervous system. Again , prevention is the answer!

The budget for the Department of Health is being cut severely so it would be impossible for them to go into schools and enforce this program. Schools already have a sophisticated system for keeping records . With the amendment to allow a grace period for transfer students , I really don't see any problem for them .

We respectfully urge enactment of SB 58.




David B. Lackman , Ph.D. , Chairman , Legislative Committee , Montana Public Health Association ( & Lobbyist)

Smith 7.15

SENATE BILL NO. 58  
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MR. CHAIRMAN: I move to amend the third reading copy of Senate Bill No. 58 as follows:

1. On page 1, by deleting the proposed amendments shown in lines 13, 16, 21 and 22.
2. On page 2, following line 1, by adding the following sentence as subsection (2): "The department may determine that a failure of any person to act as provided in subsection (1) is an exemption if circumstances indicate such action advisable." 

*Some people won't sign anything unless if required*

Ex. 6

STATEMENT IN SUPPORT OF AMENDMENT TO SENATE BILL NO. 58  
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Section 20-5-403, M.C.A. presently provides that school authorities may not enroll students unless they have been immunized against certain diseases, but recognizes that in some cases the school may not be able to obtain either the immunization or the personal exemption statement provided in Section 20-5-405, M.C.A. I recognize that the exemption has been applied beyond its intent by a very few school districts but that is no reason to over-react to the other extreme and delete the administrative exemption altogether.

There is good reason for the administrative exemption in some cases. The immunization law places the obligation of enforcement on the school authorities although the function of schools is education, not public health. The school is obligated to enforce the compulsory attendance law and on the other hand is obligated to refuse admittance to any student who is not immunized unless an exemption statement is signed. The two obligations conflict and can put the school administration in an unresolvable position.

Some parents, for reasons of personal conviction, insist on their state constitutional right to send their children to the public schools and state they are not required to sign any statement on immunization before they can enjoy that right (See Butler Area School District -v- Butler Education Association, 391 A.2d 1295 (1978) on the constitutional right to education). The unresolvable situation developed here would result in a court suit, not against the public health service, but against the school authorities who refused school enrollment under the

Frequently students transfer from other states claiming that they were immunized before transfer but have no record of it. It may take days or weeks to get the immunization records. The parents won't sign an exemption statement because the child is actually immunized. The school administration can't reasonably refuse admittance to the student until the records arrive. An administrative exemption must be temporarily allowed. Sometimes records are lost. Sometimes part of the records are lost.

Sometimes the parents of the children cannot be located, or will not cooperate if located. The child should not be deprived of an education while the problem is resolved.

I am talking about isolated cases but serious administrative problems. The amendment would allow an administrative solution to the small percentage of such cases without endangering the immunization program. Mr. Crankshaw of the Department of Health says if the administrative exemption is less than 10% of the school's enrollment, good faith on the part of the school administration is shown. ~~It would not allow for an administrative exemption of more than 10%.~~

School districts are not opposed to the immunization law but ask that they not be put in a helpless position because of it.



## VISITORS' REGISTER

HOUSE

EDUCATION

COMMITTEE

BILL

SB 58

Date 3/4/81

SPONSOR

VAN VALKENBERG

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Pat Letaja	Helena	Montana Health System	✓	
Sheryl Math	Helena	self	✓	
G. Brian Lins	Helena	MT Med. Assoc.	✓	
John Harper	Helena	self	✓	
Jerome T. Loendorf	"	mt. medical assoc.	✓	
David Lackman	"	MT Public Health Assn	✓	
John W. Loman	"	Sch'l Adm. of MT	✓	
D. Sexton	"	MSA	✓	
T. M'Gibber	"	MSA	✓	
J. H. Strocke	"	Ame Acad of Pediatr.	✓	
Gay Sterkingson	Great Falls	MPTA	✓	
Sharon L. Finney	"	MPTA	✓	
Joanne Shearer	Helena	Self (Parent)	✓	
Joyce Gornik	Butte	School Nurse Interests	✓	
Rick Garkshaw	Helena	SDHES	✓	
Ellie Parley	"	"	✓	
Chad Smith	"	Mont Sch Bds Assn	amend	
William Burke	Butte	Health Officer association	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.