

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

February 11, 1983

The meeting of the Senate Education and Cultural Resources Committee was called to order by Chairman Bob Brown on February 11, 1983, at 12:37 p.m. in Room 402, State Capitol.

ROLL CALL: The roll was called with all members being present. Senator Severson was late arriving.

SENATE BILL 358: Senator Gage, District 7, sponsor of the bill, stated this amends the oath of office for teachers. He said he has a great deal of feeling for the bill as basics of government are not being taught in schools to a great degree. The Constitution being the basic law of the land, teachers should pledge to uphold it, he felt, as they exert a great deal of influence on today's children. With our tenure laws, it is necessary to document and prove unfitness and if a teacher isn't upholding the United States and Montana Constitutions, they should not be teaching. He said the bill strikes the unconstitutional language in the bill and uses the oath the House and Senate take at the beginning of the session. He noted, in closing, as with most laws, this speaks to only a few teachers. The great majority are doing a fine job.

PROPOSERS

Jess Long, Executive Director, School Administrators of Montana, stated the law as it stands was challenged by the courts and deemed unconstitutional and therefore his organization supports the bill.

Doug Kelley, representing the Freedom Council of the State of Montana, stated support for the bill.

There being no further proponents and no opponents to the bill the hearing was closed.

ACTION ON SENATE BILL 358: Following discussion Senator Blaylock moved to amend the bill by striking the language on lines 10 through 12 (attached committee report exhibit #1). The motion carried unanimously with Senator Severson absent.

Senator McCallum moved Senate Bill 358 DO PASS AS AMENDED. The motion carried unanimously with Senator Severson absent.

EDUCATION AND CULTURAL RESOURCES

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Senator Severson joined the committee session.

ACTION ON SENATE BILL 246: Jim Mockler, representing the Montana Coal Council, stated the mining companies need state and federal regulations to be compatible and felt the proposed amendment would take care of that problem.

Senator have moved to amend the bill on page 3, line 14 (amendment #3, exhibit #2). The motion carried unanimously.

Senator Berg moved to amend the bill on page 3, line 6 (amendment #2, exhibit #2). The motion carried unanimously.

Senator Mazurek moved to amend the bill on page 2, line 21 (amendment #1, exhibit #2). The motion carried unanimously.

The committee reviewed a proposed statement of intent (exhibit #3) but due to the length of the proposed statement, delayed final action on the bill pending a new statement of intent.

DISCUSSION OF SENATE BILL 253 AND SENATE BILL 331: In discussion, the committee referred to Senate Bill 253, Senate Bill 331, and several proposed copies of a substitute committee bill. Those bills herein referred to as Grey Bill #1 (exhibit #4), Grey Bill #2 (exhibit #5), and the Kelley Draft (exhibit #6).

Doug Kelley, Grace Gospel Church, stated he appreciated the efforts of the committee and would go with the grey bill (#1) if the committee felt that was the best that could be done. He then submitted a new draft of the bill for committee consideration (exhibit #6).

Hidde Van Duym, Executive Director, Board of Public Education, responded to Senator Brown by stating without an enforcement mechanism, any of the proposals is only a piece of paper. He noted a problem with separating private, church, and home schools. He said the statute should cover all educational entities as you end up with endless difficulties in the statutes with accreditation otherwise.

Following further discussion, Senator Elliott moved to insert New Section (g) of the Kelley Draft (exhibit #6) into Grey Bill #2 (exhibit #5) providing the same requirements for private and home schools as for church and parochial schools but in different sections. Both sections would include the 180 day or equivalent provision.

~~The motion carried unanimously.~~

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Following discussion regarding testing requirements, Senator Haffey moved to include testing for everyone grade 4 and over as per attached amendment (exhibit #7) and to ask for a fiscal note re the testing requirement. The motion was made for inclusion in a new copy of the bill for discussion purposes.

The motion carried unanimously.

Senator Brown asked the Committee Attorney to run a copy of the proposed committee bill to include the foregoing provisions for review at the following meeting.

ADJOURN: There being no further business, the meeting adjourned.


A handwritten signature in cursive script that reads "Bob Brown".

Senator Bob Brown, Chairman

jdr
Addendum attached

ADDENDUM
EDUCATION AND CULTURAL RESOURCES COMMITTEE
February 11, 1983

Following the meeting of February 11, 1983, it was brought to the attention of the Chairman that the deadline for submitting requests for committee bills was February 12. Senator Brown polled the committee members separately on the floor and by their vote submitted a request to the Legislative Council for a committee bill (exhibit #8).



Senator Bob Brown, Chairman

jdr

ROLL CALL

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/11/83

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Bob Brown, Chairman</u>	X		
<u>Senator Ed Smith, V. Chairman</u>	X		
<u>Senator Roger Elliott</u>	X		
<u>Senator Delwyn Gage</u>	X		
<u>Senator George McCallum</u>	X		
<u>Senator Elmer Severson</u>			
<u>Senator Harry Berg</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Jack Haffey</u>	X		
<u>Senator Joseph Mazurek</u>	X		

2/11/83

Education & Cultural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Emily Hill (Visitor) Connie Olsen	Flathead Valley C-H	358		
Joe Cook	" " " " " "	358		
Rae Bowman	" " " " " "	358		
Rana Anderson	" " " " " "	358		
Memise Timlick	" " " " " "	358		
Laura Seelye	" " " " " "	358		
Tommy Anderson	" " " " " "	358		
Alice Stanley	Montana University System	358		
Jack W. Long	SAMI	358		
Larry Lynn Kenow	MFT	358		
Carolyn B. Brown	Self	358	✓	
Margie B. Kelley		358/253	✓	
Harriet M. Kelley				

(Please leave prepared statement with Secretary)

2-11-05

Chairman, Members of the Committee

I urge strong approval of retaining a portion of the teachers oath upholding loyalty.

In an influential position as teachers of our children it must remain important to uphold the Constitution and give a good example as far as patriotism is concerned.

I strongly support S. B. 358 and feel that any further lessening of a loyalty oath would be anathema. As public servants there should be no problem in conforming to our Constitution in a Republic. Those who cannot abide by this requirement certainly are Circumspect and should be removed as public servants.

Rose Mary Rogers
1517 Alwersee
Helena, Mont. 59601

6226667 /
Feb. 11, 1983

STANDING COMMITTEE REPORT

February 12, 19 83

MR. **PRESIDENT:**

We, your committee on **EDUCATION AND CULTURAL RESOURCES**

having had under consideration **SENATE** Bill No. **358**

Respectfully report as follows: That **SENATE** Bill No. **359**

introduced copy, be amended as follows:

1. Page 2, line 4.

Following: "America"

Strike: ", "

Insert: "and"

2. Page 2, line 5.

Following: "Montana"

Strike: ", and"

Insert: "."

3. Page 2, lines 10 through 12.

Following: "America"

Strike: lines 10 through 12 in their entirety

And, as so amended, DO PASS

~~DO PASS~~

A.C.

rebut #2
2/11/1983

STANDING COMMITTEE REPORT

February 17, 1983

MR. **PRESIDENT:**

We, your committee on **EDUCATION AND CULTURAL RESOURCES**

having had under consideration **SENATE** Bill No. **246**

Respectfully report as follows: That **SENATE** Bill No. **246**
introduced copy, be amended as follows:

1. Page 2, line 21.

Following: line 20

Strike: "consider systematically"

Insert: "systematically consider"

2. Page 3, line 6.

Following: "(1)"

Insert: "in consultation"

Following: "with"

Strike: "the concurrence of"

3. Page 3, line 14.

Following: "22-3-423"

Insert: ". If the state agency acts in conjunction with a federal agency in their normal course of granting permits, the rules adopted under this subsection must be substantially the same as the federal rules that apply to the federal agency"

~~XXXXXXX~~

And, as so amended, DO PASS

Statement of Intent Attached

Senator Bob Brown, Chairman.

The primary purpose of this amendment is to insure that systematic consideration of heritage properties on state-owned land does occur in state agency planning and actions. More specifically, the amendment is meant to encourage state agencies to develop such a system themselves, tailored to their own agency needs, time schedules, and actions and that they do so within a format that requires attention and response to public, practical reactions as well as concurrence from historians and archeologists in the Society. The amendment then directs agencies that do not choose to prepare their own regulations to afford systematic consideration to heritage properties on state lands through adherence to general regulations prepared by the Society.

The regulations written as a result of this amendment should insure that (a) the decision on whether to undertake a professional cultural resources inventory or site evaluation prior to a potentially harmful action is made by the agency in consultation with the Society and is deliberate; (b) any heritage properties identified on state land are afforded direct consideration in an agency's decision on whether or how to undertake an action; and (c) wherever feasible, damage to heritage properties is avoided or subject to an appropriate form of mitigation. The regulations are not intended to require a single course of action by the agency or absolute protection of all heritage properties identified. The desired end is deliberate knowledge of and consideration of cultural resources in agency planning.

Regulations written by either state agencies or the

Society should likely have as common elements:

- a requirement that prior to taking an action affecting state land or property state agencies will check with the Society to determine the presence or absence of previously identified historic or prehistoric resources, the relative value of any previously identified sites or buildings, and whether a field inventory or further site evaluation needs to occur to determine whether heritage properties might be impacted. State agencies will need to provide the Society with information on legal location, ground condition, and building age and condition.
- a requirement that the Society provide the information requested within a specified time and in a precise format.
- a requirement that each state agency have a system for making and documenting decisions on whether heritage properties identified as being affected by an agency decision or action can be afforded protection, avoidance, reuse, rehabilitation, or recording prior to impact and that the system adopted permits Society comment to the agency on their decision.
- a method for adjudicating differences between the agency and the Society in instances where the value of jeopardized sites appears to be high. Such a method could involve the Governor-appointed State Historic Preservation Review Board.

This amendment would be applicable to state agencies in two separate contexts: decisions on remodeling or demolition of historic state-owned buildings and decisions made by state land managing agencies relative to leases, easements, access, development, etc. For instance, the Department of Institutions has been considering abandonment and demolition of "Old Main" at the Montana State Veterans Home in Columbia Falls. The building is architecturally distinctive and is viewed within the community as possessing historically significant associations. In the absence of a known, systematic process for evaluating the importance of the building and alternatives for its use--either by the state or by the private sector--interest in preservation of the structure becomes an irritant to the Department and the origin of public criticism of them if they appear to have no way to react to that interest.

Similarly, within the past two years, landowners whose property adjoined school trust land in Eastern Montana were angry over the destruction--resulting from oil exploration work--of a prehistoric site which extended from state land onto their own land. The Department of State Lands could not assure them of having followed procedures that afforded the site consideration in the leasing process and was therefore legally liable in the absence of those procedures. The amendment proposed would require Lands to prepare regulations that suited their leasing schedules and discretionary abilities and clarify for the landowner the expectations that they could hold of a state agency.

The amendment, by requiring agency preparation of regulations or adherence to Society prepared regulations, assures Montanans that a system for respecting heritage properties will be established and that they can comment on the system and affords state agencies the opportunity to establish regulations that both suit their needs and protect them from legal or general criticism. The amendment further assures Montanans that the Society's expertise in history, archeology, and historic architecture is made available to state agencies for assistance in determining site value and potential for protection or reuse.

*State lease make
a park*

In the case of the Montana University System, "regulation" is understood to mean procedures to be included in the Montana University System Policies and Procedures Manual through the formal and public process used by the Regents for that purpose.

Exhibit #4
Feb 11, 1983

Greer Bill #1

BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE EXEMPTIONS TO COMPULSORY ENROLLMENT IN PUBLIC SCHOOLS BY PROVIDING THAT A CHILD MAY BE EXEMPT IF ENROLLED IN A PRIVATE, PAROCHIAL, CHURCH, OR HOME SCHOOL THAT KEEPS ATTENDANCE AND IMMUNIZATION RECORDS, PROVIDES AN ORGANIZED COURSE OF STUDY, IS HOUSED IN A FACILITY MEETING FIRE AND HEALTH STANDARDS, AND ADMINISTERS TO STUDENTS AND KEEPS RECORDS ON STANDARDIZED TESTS IT SELECTS; AMENDING SECTION 20-5-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-102, MCA, is amended to read:

"20-5-102. Compulsory enrollment and excuses. (1)

Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

(2) Such parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the

district within the first week of the school term or when he establishes residence in the district unless the child is:

(a) enrolled in a private institution, or a parochial, private, church, or home school which ~~provides instruction in the program prescribed by the board of public education pursuant to 20-7-111~~ complies with the provisions of [section 2];

(b) enrolled in a school of another district or state under any of the tuition provisions of this title;

(c) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

(d) excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title;

(e) excused from compulsory school attendance upon a determination by a district judge that such attendance is not in the best interest of the child; or

(f) excused by the board of trustees upon a determination that such attendance by a child who has attained the age of 16 is not in the best interest of the child and the school.

(3) The excuse provided for in subsection (2)(d) of this section shall be issued by the district superintendent or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is

denied by the applicable official, an appeal of such decision may be made to the district court of the county within 10 days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

NEW SECTION. Section 2. Nonpublic school requirements for compulsory enrollment exception. To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic school shall:

(a) maintain records on pupil attendance and disease immunization and make such records available to the county superintendant of schools on request;

(b) provide an organized course of study that includes mathematics, science, social studies, and language arts, including reading and writing;

(c) be housed in a building that complies with local health and safety regulations; and

(d) select and administer nationally recognized standardized tests to students each year. The school must keep the tests results on file and make them available to the county superintendent of schools on request.

NEW SECTION. Section 3. Codification instruction. Section 2 is intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1 apply to section 2.

-END-

Ed Comm bill/LEE5

Dray Bill TR
Exhibit #5
Feb. 11, 1983

***** Version of Feb. 11, 1983 *****

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE EXEMPTIONS TO COMPULSORY ENROLLMENT IN PUBLIC SCHOOLS BY PROVIDING THAT A CHILD MAY BE EXEMPT IF ENROLLED IN A PRIVATE, PAROCHIAL, CHURCH, OR HOME SCHOOL THAT KEEPS ATTENDANCE AND IMMUNIZATION RECORDS, PROVIDES AN ORGANIZED COURSE OF STUDY, IS HOUSED IN A FACILITY MEETING FIRE AND HEALTH STANDARDS, AND ADMINISTERS TO STUDENTS AND KEEPS RECORDS ON STANDARDIZED TESTS IT SELECTS; AMENDING SECTION 20-5-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-102, MCA, is amended to read:

"20-5-102. Compulsory enrollment and excuses. (1)

Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

attained the age of 16 is not in the best interest of the child and the school.

(3) The excuse provided for in subsection (2)(d) of this section shall be issued by the district superintendent or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within 10 days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

NEW SECTION. Section 2. Religious school requirements for compulsory enrollment exception. To qualify its students for exemption from compulsory enrollment under 20-5-102, a religious school shall:

(1) maintain records on pupil attendance and disease immunization and make such records available to the county superintendant of schools on request;

(2) provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301 and 20-1-302;

(3) provide an organized course of study that includes mathematics, science, social studies, and language arts, including reading and writing;

(4) be housed in a building that complies with appropriate local health and safety regulations; and

(5) select and administer nationally recognized standardized tests to students each year. The school must keep the tests results on file and make them available to the county superintendent of schools on request.

NEW SECTION. Section 3. Codification instruction. Section 2 is intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1 apply to section 2.

-END-

Ed Comm bill/LEE5

Exhibit #6

Kelly draft

Feb. 11, 1983

BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE EXEMPTIONS TO COMPULSORY ENROLLMENT IN PUBLIC SCHOOLS BY PROVIDING THAT A CHILD MAY BE EXEMPT IF ENROLLED IN A PRIVATE, PAROCHIAL, CHURCH, OR HOME SCHOOL THAT KEEPS ATTENDANCE AND IMMUNIZATION RECORDS, PROVIDES AN ORGANIZED COURSE OF STUDY, IS HOUSED IN A FACILITY MEETING FIRE AND HEALTH STANDARDS, AND ADMINISTERS TO STUDENTS AND KEEPS RECORDS ON STANDARDIZED TESTS IT SELECTS; AMENDING SECTION 20-5-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-102, MCA, is amended to read:

"20-5-102. Compulsory enrollment and excuses. (1)

Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

(2) Such parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the

district within the first week of the school term or when he establishes residence in the district unless the child is:

- (a) enrolled in a parochial or church school ^{which provides an} ~~(see new~~ organized course of study that includes mathematics, science, social studies, and language arts, including reading and writing;
- (b) enrolled in a school of another district or state

under any of the tuition provisions of this title;

- (c) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

- (d) excused from enrollment in a school of the district when it is shown that his bodily or mental

condition does not permit his attendance and the child

cannot be instructed under the special education provisions of this title;

- (e) excused from compulsory school attendance upon a determination by a district judge that such attendance is not in the best interest of the child; or

- (f) excused by the board of trustees upon a determination that such attendance by a child who has attained the age of 16 is not in the best interest of the child and the school.

NEW SECTION: (g) enrolled in a private or home school

which complies with the following:

- (i) maintains records on pupil attendance and disease immunization;

- (ii) provides an organized course of study that includes mathematics, science, social studies, and language arts, including reading and writing;

- (iii) be housed in a building that complies with

applicable health and safety regulations:

(iv) selects and administers annually nationally recognized standardized tests to all students; and

(v) upon request of the county superintendent make available the above records, information and test results.

(3) The excuse provided for in subsection (2)(d) of this section shall be issued by the district superintendent or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within 10 days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

NEW SECTION. Section 3. Codification instruction. Section 2 is intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1 apply to section 2.

version #7,
Feb. 11, 1983

Amend the committee grey bill (February 11 Version) substantially
as follows: *> grade 4 and above*

1. NEW SECTION. Section 3. Pupil testing. (1) Every elementary and high school in the state must, at least once a year, administer a nationally recognized test to all pupils attending the school. The office of public instruction shall compile a list of nationally recognized tests applicable for student testing. From this list the school may chose which test it will administer to its students.

(2) Each year the school must transmit an abstract of such test scores to the office of public instruction. The school must keep the results of each test on file for three years.

(3) If upon examination of the test results submitted under subsection (2), the office of public instruction has reason to believe that there is necessity for review of the school submitting the test results it may require the county superintendent of schools to review the school for non-compliance with applicable education standards established under this title.

2. Amend the grey bill by changing section 2(5) to read:

"(5) comply with the annual testing requirements of [section 3]"

3. Amend the title and codification instruction to conform

Amend Ed Grey Bill/LEE5

Exhibit #8
Feb. 11, 1983

The Big Sky Country



MONTANA STATE SENATE

February 11, 1983

Diana Dowling, Executive Director
Legislative Council

Dear Mrs. Dowling:

By a two-thirds vote the Senate Education and Cultural Resources Committee is requesting a bill to be drafted as per the attached.

Bob Brown

Senator Bob Brown, Chairman
Senate Education and Cultural Resources Committee

BB/jdr
Attachment