

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 1, 1985

The meeting of the Education and Cultural Resources Committee was called to order by Chairman Harrington at 3:35 p.m. on February 1, 1985 in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Representative Schye who was excused by the Chairman.

CONSIDERATION OF H.B. 417: Representative Duane Compton, District #17, relayed that he introduced this bill at the request of the Office of Public Instruction. This act calls for changing the method of calculating ANB (Average Number Belonging) for special education children. These costs were paid by the State until 1979 at which time it was phased out.

PROPOSERS: Gail Gray, Director of Special Education at the Office of Public Instruction came forward to support H.B. 417. The O.P.I. feels that all students who attend Montana Schools should generate ANB, including full-time special education students. Full-time is defined by spending more than one-half of their day in special education classes. They receive benefits of the general operation and maintenance of the school facilities even though they are not generating money for these costs and spend a portion of the day in regular classes. The full time special education students do not generate monies through the Foundation Program funding. By the 1981-82 school year, all indirect expenses were eliminated as allowable costs. Ms. Gray said the Special Education Advisory Panel with the O.P.I. reviewed this legislation and gave it their unanimous support. (See Exhibits 1 and 2)

Larry Holmquist, Director of Special Education for the Gallatin Madison Special Education Cooperative and representing the Special Education Administrators in the State of Montana said that when the funding system went into more restrained funding of special education, the indirect costs were dropped as well as ANB. The larger districts have more of a problem because of low incidence students which are sent to them. He qualified the fact that the special education budgets would not be receiving these funds, they are earmarked for regular education because of the part they play in educating the child. It would be a penalty to take it from the special education appropriation.

Chip Erdmann with the Montana School Board Association spoke in favor of the bill for the reasons previously stated.

There being no further proponents and no opponents, the chairman opened the floor to questions from the committee.

February 1, 1985

Rep. Sands clarified the fact with Ms. Gray that a student who spends less than 50% of the school day in regular classes does receive ANB. Rep. Eudaily asked if it were an eight million dollar increase for special ed. or for districts. Ms. Gray answered that the money would go to the school districts as a whole, and are basically replacing the indirect costs that were taken away.

There being no further questions, Rep. Compton closed the hearing on H.B. 417 by saying that he received the fiscal note on his desk that afternoon and was surprised at the impact. It would be of benefit to the local taxpayer and school district to help defray these costs.

CONSIDERATION OF H.B. 412: Representative Harriet Hayne, District #10, explained that this bill would clarify definitions used in school special education law. The Office of Public Instruction requested this modification of "handicapped child" and "emotionally disturbed" for reasons of consistency with P.L. 94-142 and Federal laws. When the federal report is submitted to Washington, the term "seriously emotionally disturbed" is always used. It is often difficult to make the identification of a handicap categorically, particularly when a child is five or less. The option for districts to identify on a non-categorical basis would permit the emphasis on programming rather than labeling.

PROPOSERS: Gail Gray, Director of Special Education with the Office of Public Instruction emphasized the modification of the term "emotionally disturbed" was for clarity and consistency with identification at the local school district level. It would be appropriate to bring this definition in line with Federal requirements. The need for non-categorical definitions of pre-school age children exists because of the difficulty in identification and evaluation. The Special Education Advisory Panel supports these changes. (See Exhibit 3)

Larry Holmquist, Director of Special Education for the Gallatin Madison Special Education Cooperative and the Special Education Administrators indicated support for the legislation. The "seriously emotionally disturbed" seems to be a housekeeping change to be kept in line with Federal law. In regard to pre-school non-categorical labeling he said the only thing that may be able to be assessed at such a young age is the speech impairment, but there may be underlying problems and non-categorizing would be a general term beneficial for the parents as well as the child and staff.

There being no further proponents, Chairman Harrington called for opponents to H.B. 412.

EDUCATION AND CULTURAL RESOURCES COMMITTEE

Page 3

February 1, 1985

OPPONENTS: Judith A. Burkhartsmeier representing the Montana Association of School Psychologists reported that they opposed the bill in part. They support not having to identify the handicapping condition of children under five as they may not be discernable. The change from "emotionally disturbed" to "seriously emotionally disturbed" will further discourage the identification of children who appropriately should be served under this category. Montana is ranked very low on the national child count in the "emotionally disturbed" area but to label an elementary child "seriously emotionally disturbed" would be very stigmatic. They recommend passage of the bill amended to read "emotionally disturbed".

There being no further opponents, the chairman opened the hearing to questions from the committee. Rep. Peck questioned Ms. Burkhartsmeier to whether she agreed to adding the term "schizophrenic" to the bill, to which she replied that she could not speak for her Association but personally felt the term to be a valid clinical observation. Rep. Peck also questioned whether a non-categorical child count would be opening the door to identifying these children to which Ms. Gray replied that the districts do so now and it is for an identification process only, not for funding purposes.

Rep. Hannah pointed out on Page 2, lines 2 through 13 on the following page that the bill is trying to define what "seriously emotionally disturbed" means. Ms. Gray explained that the term "child schizophrenic" is still a Federal term and is in their regulations, therefore a parent could demand services under that diagnosis.

Rep. Thomas asked if this new section on non-categorizing of children under five would effect the education of children six and over. Ms. Gray pointed out that this is an option and districts would not be mandated to provide services.

Rep. Hammond asked of the stigma attached to labeling children "seriously emotionally disturbed" to which Ms. Burkhartsmeier answered that it would be even more restrictive and fearful for the parents. She replied that the records as confidential and signed aprental release is required to issue the records to any other party.

Rep. Mercer asked if Ms. Burkhartsmeier felt this bill would show an increase or decrease in the number of special education students and she said there would be none in the pre-school categories, but a decrease would be seen in the younger students in "emotionally distrubed". Rep. Hannah asked how these younger students are identified, to which Ms. Gray replied that it is a mandate to search for and identify children birth to 21 and this is done through a child find clinic at the district level where evaluations are given. She felt, in answer to his question, that it would not give impetus to providing services all year around.

EDUCATION AND CULTURAL RESOURCES COMMITTEE

Page 4

February 1, 1985

Rep. Harbin was assured by Ms. Gray that schools could identify special education students all they wanted, but no child could be served without the concurrence of the parents.

Rep. Eudaily asked how the new language on Page 3, lines 20-22 concurred with Federal Law and Ms. Gray responded that the Department of Education has allowed non-specified identification of children five or younger in other states. Rep. Eudaily wondered whether it would make a funding difference and would open the door to mandated education for those under six. Ms. Gray felt neither issue were involved with this bill.

There being no further discussion, Rep. Hayne added no further discussion, but closed the hearing.

CONSIDERATION OF H.B. 415: Rep. Vernon Keller, District #83, relayed that he carried this bill by request of the Office of Public Instruction. It allows the Board of Trustees of a school district to establish an operating reserve for the debt service fund. The bond issues are paid twice per year in July and January. The budgets are adopted beginning July 1st, the first payment of principal and interest comes due in July, the first tax payments come in late November and are used to pay the district warrants. The school districts must borrow money again to pay in January and must wait until taxes are paid in May to make the payment. By allowing the 50% reserve, the district could make the payment and save interest. The November tax collections could pay the January payment and the May tax payments would replenish the reserve.

PROPOSERS: Mr. Bob Stockton with the Office of Public Instruction in the area of school finance, spoke saying they have been criticized by C.P.A.'s and the business community because this mechanism is not in the law. Some auditors are allowing school districts to do this because they feel it is a good business practice. If school districts hold their reserves at a minimum they do not have the money to do this. In honesty and fairness, he recommends passage of the bill.

Chip Erdmann, Montana School Board Association rose in support of the bill as it would allow the districts to have the funds available to pay the debts as they become due.

Dick Reich, Clerk and Director of the County for the Billings Public School indicated support of H.B. 415. He relayed that the Billings Public Schools held a bond election in November which was successful in retaining a high school (20 million dollars) and two elementary schools (7 million dollars). The principal and interest payments will be in July and August of the next fiscal year. The operating fund is 18% or 7 million dollars, with the payments out of the debt service fund, the operating level will be less than 12% which is not financially beneficial and chances are they will be registering payroll warrants to the teachers in September.

February 1, 1985

There being no further proponents and opponents, the floor was opened for questions.

Rep. Thomas questioned Bob Stockton where the reserve fund to which he answered the money which goes to reduce the levy will be held back and accumulated. It was clarified for Rep. Peck that this is not a new problem, but has been going on for some time. Mr. Reich told Rep. Peck that Billings decreased their reserves to reduce the tax burden but need them during the time they do not receive taxes. The limit in reserve is dictated by statute. Rep. Thomas asked how these reserves are started and Mr. Stockton replied that they could be budgeted, but most commonly the cast left over at the end of the year (rather than reducing the levy) is put into reserve and built up. It was made clear that it could not be transferred from one fund to another. Rep. Hannah asked Mr. Reich that if the bill were in effect today and they could build up to the 50% level, what would the total fund be in his case to which Mr. Reich replied that it would be a little over one million dollars. This money would be acquired through a levy as a line item. Rep. Hannah asked Mr. Stockton whether it would be easier to change the law so that transferring of funds could take place rather than setting up another reserve. Mr. Stockton replied that it could probably only be done with the general fund and presently that fund faces the most difficulty.

Rep. Sands asked if the effective date of July 1, 1985 would be necessary to which Mr. Reich said their district would have a cash outlay of two million dollars for principal and interest due before September and it would be critical for them to be effective this year.

Rep. Keller closed the hearing by saying the impact would affect districts differently. In the two smaller districts where he is from, one does not have to worry about it and one needs it desperately. He urged support of this legislation.

ACTION ON H.B. 417: Rep. Harrington brought out the fact that this bill had a fiscal impact of \$8,681,000. Rep. Peck moved DO PASS on H.B. 417. Rep. Harbin seconded the motion. Rep. Harrington said this bill would go to second reading then to appropriations. He also said that the legislators have created these costs and they need to be addressed, the money will not be going to special education programming. The legislative researcher relayed that the bill needed a technical amendment since it is an extension of rulemaking authority. The amendment attached to the bill is as follows:

1. Page 11, following line 7.
Insert: "NEW SECTION. Section 4. Extension of authority. Any existing authority of the superintendent of public instruction to make rules on the subjects of the provisions of this act is extended to the provisions of this act."

EDUCATION AND CULTURAL RESOURCES COMMITTEE

Page 6

February 1, 1985

A roll call vote was taken on this bill and amendment showing 11 for, 6 against. The bill passes by majority vote.

Action on H.B.'s 415 and 412 will be held at a future date.

There being no further business, the meeting was adjourned at 5:00 p.m.



DAN HARRINGTON, Chairman

crf

DAILY ROLL CALL

EDUCATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2-1-85

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington	✓		
Ralph Eudaily	✓		
Ray Brandewie	✓		
William Glaser	✓		
Joe Hammond	✓		
Thom Hannah	✓		
Raymond Harbin	✓		
Roland Kennerly	✓		
Les Kitselman	✓		
John Mercer	✓		
John Montayne	✓		
Richard Nelson	✓		
Jerry Nisbet	✓		
Ray Peck	✓		
Jack Sands	✓		
Ted Schye	EXCUSED		
Fred Thomas	✓		
Mel Williams	✓		

ROLL CALL VOTE

HOUSE COMMITTEE EDUCATION

DATE 2-1-85 Hoers Bill No. 417 Time _____

NAME	YES	NO
Dan Harrington		
Ralph Eudaily		✓
Ray Brandewie		✓
William Glaser	✓	
Joe Hammond	✓	
Tom Hannah		✓
Raymond Harbin	✓	
Roland Kennerly	✓	
Les Kitselman	✓	
John Mercer		✓
John Montayne	✓	
Richard Nelson	✓	
Jerry Nisbet	✓	
Ray Peck	✓	
Jack Sands		✓
Ted Schye Ex		
Fred Thomas	✓	
Mel Williams		✓
Dan Harrington	✓	

Secretary _____

Chairman _____

Motion: DO PASS AS AMENDED

REP. PECK MOVED, REP. HARBIN SECONDED

11 FOR ; 6 AGAINST

STANDING COMMITTEE REPORT

FEBRUARY 4 19 95

MR. SPEAKER

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration HOUSE Bill No. 417

FIRST reading copy (WHITE)
color

TO CHANGE METHOD FOR CALCULATING AHB FOR SPECIAL EDUCATION

Respectfully report as follows: That HOUSE Bill No. 417

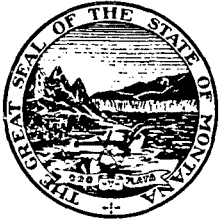
BE AMENDED AS FOLLOWS:

1. Page 11, ~~line 8~~ following line 7.
Insert: *all caps* "New Section. Section 4. Extension of authority. Any existing authority of the superintendent of public instruction to make rules on the subject of the provisions of this act is extended to the provisions of this act."

AND, AS AMENDED

DO PASS

EXHIBIT 1.
H.B. 417
2.1.85



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

January 31, 1985

TO: Representative Dan Harrington
Chairman, Education and Cultural
Resource Committee

FROM: Gail Gray
Director of Special Education
Office of Public Instruction

RE: Testimony on HB 417

The Office of Public Instruction believes that all students who attend the public schools should receive ANB - including those students who are full-time special education students.

Full-time special education students are those students who spend more than half of their time in school in the special education program.

Almost all handicapped students spend at least part of their day in regular classrooms and receive instruction, supplies, and supervision by non-special education funded personnel. During the entire day they receive the benefits of the general operation and maintenance of the school facilities - heat, light, desks, buildings, etc. The regular education services and indirect costs of operating all of the education programs are paid for, to a large degree, by the foundation program funding and the full-time special education students do not generate any of the funding blocks of this funding mechanism.

All special education funds are allocated for the direct excess costs of educating a handicapped child. Even these funds are insufficient to fund the excess costs.

Prior to 1979, the Montana Legislature funded a portion of the indirect costs of educating full-time handicapped students. By the 1981-82 school year, all indirect costs were eliminated as allowable costs for state funding but the ANB for these students was not re-instated.

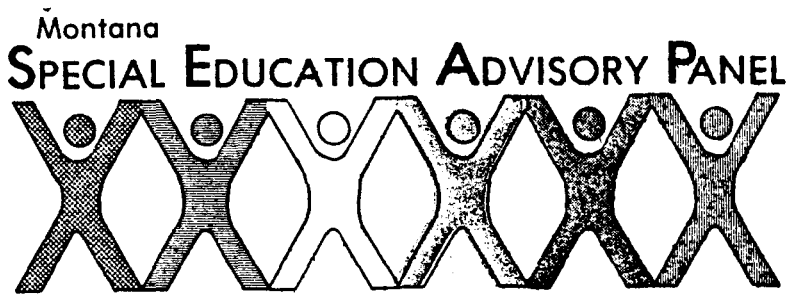
We request that you examine this inequity and hope that your consideration of this bill will be favorable.

GG/bjs

*Problem -
cost effective
program for
all*

Affirmative Action — EEO Employer

EXHIBIT 2
H.B. 417
2-1-85



OFFICE OF PUBLIC INSTRUCTION • ED ARGENBRIGHT, SUPERINTENDENT

January 29, 1985

To: Members of Education Committees
State Capitol
Helena, Montana 59620

From: Robert Richards, Chairman
Montana Special Education Advisory Committee
100 E. Laurel Avenue
Plentywood, Montana 59254

Re: House Bill No. 412 "AN ACT TO CLARIFY CERTAIN DEFINITIONS USED IN
SCHOOL SPECIAL EDUCATION LAW; AMENDING SECTION 20-7-401, MCA."

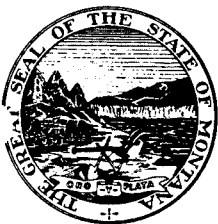
The Montana Special Education Advisory Panel unanimously supports this bill. The consistency with federal definitions in the area of the "emotionally disturbed" is very important and should provide additional clarity for parents, teachers, administrators, school psychologists and others who must make identification decisions in special education.

The option to allow the identification of preschool children as handicapped without a specific condition specified will be greeted by those who are associated with special education as more child-oriented and accurate than the present statute allows.

Sincerely,

ROBERT RICHARDS
Superintendent

mec10



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

January 29, 1985

To: Representative Dan Harrington
Chairman, Education and Cultural
Resource Committee

From: Gail Gray
Director of Special Education
Office of Public Instruction

Re: Testimony on HB 412

The Office of Public Instruction supports this modification of definitions of "handicapped child" and "emotionally disturbed" for consistency, clarity and accuracy in identification reasons.

The requested modification of the "emotionally disturbed" term would make this definition consistent with federal regulations promulgated by the Department of Education to carry out Public Law 94-142. When federal reports on the special education programs and number of students in them are submitted to Washington, the term "seriously emotionally disturbed" is always used. The present definition has some unneeded repetition and does not clearly identify the reason for the identification. The proposed definition clearly defines this reason which is the student's problem is so severe that it is adversely affecting his/her educational performance. The adoption of the requested modification will clarify the process for identification of educationally emotionally disturbed students.

The categorical identification of a child as handicapped is especially difficult when the child is five years old or younger. The evaluation tools used with preschool children point out deficits but the reasons for the deficits are often unclear. The Department of Education has allowed states to count students of preschool age by a non-categorical method as long as they report the numbers categorically to the Department of Education. The basis for the report would be on statistical prevalence figures. We feel that the option to districts to identify on a non-categorical basis would permit the emphasis to be on programming needs rather than on "labeling" which is especially difficult at the preschool age.

GG/bjs

WITNESS STATEMENT

Name JUDITH A. BURKHARTSMEYER Committee On EDUCATION
Address 161 Wedgewood Helena Date 2-1-85
Representing MT ASSOC SCHOOL PSYCHOLOGISTS Support _____
Bill No. HB 412 Oppose HB 412 : In fact
Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Appreciate not having to id. handicapping condition in children under 5 because primary handicapping condition is often not opt determinable. Keep this amendment.
2. Oppose change of ED title to Seriously ED. Will discourage identification of students. TOO STIGMATIC
3. Too few children served now under current label compared to national statistics.
4. Discourages early intervention as parent & teachers reluctant to call elementary student seriously ed.
5. The elimination of the behavioral component of the definition is unfortunate because it helps delineate who should receive such services.

Recommend that you pass bill amended to read "Emotionally Disturbed" ~~and keep language in title~~ ~~in definition~~

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Jack Ruck Committee On _____
Address 101 10th St W Billings Date 2-1-85
Representing Billings Public Schools (Support)
Bill No. 415 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Cash overdrafts exist in debt service fund until collections are received in November
2. No. 1 (above) has effect of reducing reserve established in other school operating funds
3. Failure to pass the proposed legislation could result in the negotiation of warrants prior to collection of tax receipts
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE EDUCATION COMMITTEE

BILL 415--Allowing Operating Reserve in DATE 2-1-85
the Debt Service Fund for School Dists.

SPONSOR Rep. Keller

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

EDUCATION

COMMITTEE

BILL 412--Clarifying Definitions Used in
School Special Ed. Law

DATE 2-1-85

SPONSOR Rep. Hayne

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

EDUCATION

COMMITTEE

BILL 417--To Change Method for Calculating
ANB for Special Education

DATE 2-1-85

SPONSOR Rep. Compton

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.