

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

March 6, 1985

The seventeenth meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:04 p.m. in Room 402, State Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 412: REPRESENTATIVE HAYNE, District 10, sponsor of the bill, said the bill simply clarifies language in the school special education laws which specifically applies to confidential correspondence between the federal Department of Education and the Office of Public Instruction. She said the bill is just a housekeeping bill which brings certain terminology in state law in line with federal terminology for reporting purposes.

PROPOSERS:

GAIL GRAY, Director of Special Education, Office of Public Instruction, presented her written testimony in support of the bill (Exhibit #1).

Mrs. Gray also presented a letter in support of the bill to the committee from ROBERT RICHARDS, Chairman, Montana Special Education Advisory Committee (Exhibit #2).

OPPOSERS:

JUDITH BURKHARTSMAYER, Montana Association of School Psychologists, presented her written testimony in opposition to the bill (Exhibit #3).

There being no further opposers, the hearing was opened for discussion.

DISCUSSION:

SENATOR PINSONEAULT and SENATOR MAZUREK asked why the language on page 3, lines 21 and 22 was stricken from the bill.

REPRESENTATIVE EUDAILY, member of the House Education Committee, replied the House committee took it out because specific

handicapping conditions were eliminated for children under 5 years of age. They felt this was ambiguous and needed to be very clear.

MRS. BURKHARTSMEYER said it is often very difficult to identify a primary handicapping condition in children under five. This gives time to determine the extent of a handicap before the child reaches school age.

SENATOR YELLOWTAIL asked if omitting "seriously" is strictly a semantic amendment.

MRS. GRAY says it was only intended to conform to federal law.

MRS. BURKHARTSMEYER felt it would be very restrictive. She said of all the states, only Oklahoma has adopted the stricter label.

REPRESENTATIVE HAYNES closed.

CONSIDERATION OF HOUSE BILL 298: REPRESENTATIVE EUDAILY, District 4, sponsor of the bill, stated the bill provides for naming a new beneficiary to the retired teacher pension in case of death or divorce. By law this cannot be done in the Teacher's Retirement System at present. He said there have been several requests and the law does not provide the mechanism for naming a new beneficiary.

PROPOSERS:

BOB JOHNSON, Administrator, Teacher Retirement Board, said the bill is actuarially adjusted to reflect the change of beneficiary. The bill just provides a mechanism for change.

PHIL CAMPBELL, Montana Education Association, supported the bill.

TERRY MINOW, Montana Federation of Teachers, supported the bill.

There were no further proponents and no opponents to the bill.

DISCUSSION:

SENATOR McCALLUM asked if this bill could be amended to restore full pension to a retired teacher in a situation where a teacher took a lesser amount in his pension in order to cover his beneficiary. The beneficiary died, and the retiree still receives the lesser amount.

REPRESENTATIVE EUDAILY said he had checked this exact situation with the actuary and the answer is the pension is frozen at that level and cannot be changed.

REPRESENTATIVE EUDAILY closed by saying this merely opens an area which will benefit retirees at no cost.

EXECUTIVE ACTION:

ACTION ON HOUSE BILL 298:

SENATOR MAZUREK moved to amend page 3, lines 15 and 16 as per the attached standing committee report. The motion carried unanimously.

SENATOR HAFLEY moved to amend page 3, line 9, as per the attached standing committee report. The motion carried unanimously.

SENATOR HAFLEY moved House Bill 298 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL 412:

SENATOR PINSONEAULT moved to amend the bill as per the attached standing committee report. The motion carried unanimously.

SENATOR PINSONEAULT MOVED HOUSE BILL 412 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL 111:

SENATOR MAZUREK moved House Bill 111 BE NOT CONCURRED IN.

SENATOR HAFLEY said he was cognizant of all the arguments against the bill and is sympathetic with the reasons for the motion, however, because of constituency pressure he would have to oppose the motion.

SENATOR MAZUREK said there are good reasons to put education in the preference bill. However, he felt it opens the whole preference compromise and legislation to more and more tampering.

SENATOR PINSONEAULT said he agreed with Senator Haffey. He has to go with his constituents and he also noted he is a

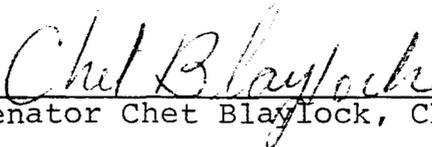
Senate Education and
Cultural Resources Committee
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Page 4

Vietnam era veteran and is sympathetic to them.

SENATOR REGAN said if we make this change, in two years we will have groups in wanting to include all of education. This bill is restrictive and just reopens the whole preference issue again. She presented the committee with figures re the university system (Exhibit #4).

SENATOR MAZUREK'S MOTION CARRIED ON A ROLL CALL VOTE (Exhibit #5).

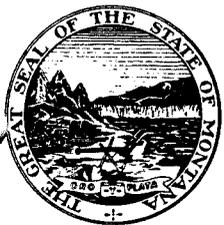
ADJOURN: There being no further business to come before the committee, the meeting adjourned.



Senator Chet Blaylock, Chairman

jdr

MARCH 6, 1985
SEN. C.D. X
SILL. RES.
HB 412



OFFICE OF PUBLIC INSTRUCTION

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

Ed Argenbright
Superintendent

March 3, 1985

TO: Senator Chet Blaylock
Chairman, Education and
Resources 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.

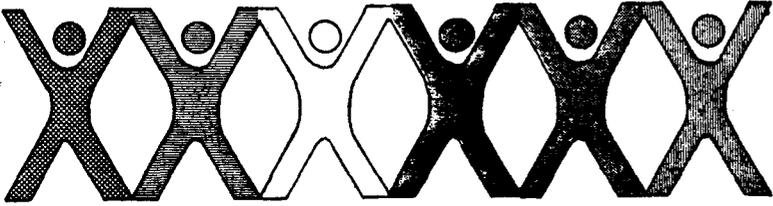
The categorical identification of a child as handicapped is especially difficult when the child is five years old or younger. The evaluation tools used with preschool children point out deficits but the reasons for the deficits are often unclear. The Department of Education has allowed states to count 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.

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 as 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.

GG/bjs

EXHIBIT # 2
MAR. 6, 1985
SEN. ED. & CULT
RESOURCES
HB 412

Montana
SPECIAL EDUCATION ADVISORY PANEL



OFFICE OF PUBLIC INSTRUCTION ● ED ARGENBRIGHT, SUPERINTENDENT

March 3, 1985

To: Senator Chet Blaylock, Chairman
Education and Resources Committee
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.

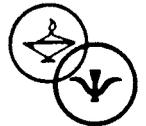
Sincerely,

ROBERT RICHARDS
Superintendent

mec7

Bill # 3
MARCH 6, 1985
SEN. ED. &
CULT. RES.
HB 412

Montana Association of School Psychologists



Senator Playlock and Committee Members:

Our association would like to express our opposition to HB412 unless the term "Seriously" is dropped from page 2, line 2. This bill was introduced at the request of the Office of Public Instruction in an effort to be consistent with Federal definitions.

This is a worthwhile goal, but the change in category title from Emotionally Disturbed to Seriously Emotionally Disturbed may have a profoundly negative effect in services to such children. Montana's services to such students amounts to only .43 percent of school age children, compared to national figures of .71 percent. December 1984 childcount figures show a decrease of 11.8 percent from last year in the ED category. Over identification of such children is not a problem in Montana. A change in title to Seriously Emotionally Disturbed (SED) will probably further reduce such services.

Nationally, the trend is to make this category less restrictive. Since 1978 only Oklahoma has adopted a stricter label with at least seven other states making the label less restrictive, such as Behaviorally Disturbed.

Why are we opposed to this more restrictive label?

- A. We believe that special education services should be provided to affected children as early as possible in an effort to prevent worsening of their problems. Waiting until they are SED does not allow this.
- B. Many parents reject the SED classification because they believe such labeling may have negative, long term effects on their child. Rather, they may request reclassification as Learning Disabled or refuse services for the child.
- C. This change is not mandated by the Federal government. Montana does not need this change. Less than one-half of the states currently use the SED label and the trend is not to.
- D. The SED label places sole reliance in the judgment of the school psychologist and minimizes the role of other Child Study Team members in placement decisions.

Our association urges you to drop the term "Seriously" from the amending sections.

Thank you.

Judith A. Burkhartsmeier
Judith A. Burkhartsmeier 442-6440/443-0095

12111-4
 MARCH 6, 1985
 SEN. ED. & CULT.
 RESOURCES
 Sen. Ragan
 AB III DISCUSSION

	FACULTY		PROF/ADM		CLASSIFIED	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
CHE	0	0	13	12	0	10
EMC	119	48	38	5	70	163
MSU*	490	193	317	140	347	658
NMC	67	17	19	10	36	62
TECH	97	15	48	12	44	78
UM	409	119	45	10	292	465
WMC	<u>29</u>	<u>10</u>	<u>20</u>	<u>1</u>	<u>15</u>	<u>21</u>
TOTAL	1211	402	500	191	804	1457

*Totals include Cooperative Ext.: Faculty - 1 male, 9 females;
 Prof/Adm - 87 male, 44 females; Classified - 2 male, 43 females

STANDING COMMITTEE REPORT

March 5, 1985

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **298**

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color

(Regan will carry the bill.)

PERMITTING CHANGES IN OPTIONAL RETIREMENT ALLOWANCES UNDER TEACHERS' SYSTEM

Respectfully report as follows: That **HOUSE BILL** No. **298**

be amended as follows:

1. Page 3, line 9.

Following: "may"

Strike: "on a one-time basis"

2. Page 3, lines 15 and 16.

Following: "and" on line 15

Strike: the remainder of line 15 through "that" on line 16

AND AS AMENDED
BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXX~~

Senator Chet Blaylock,

Chairman.

STANDING COMMITTEE REPORT

March 6, 19 85

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration HOUSE BILL No. 412

third reading copy (blue)

color

(Brown will carry the bill.)

CLARIFYING DEFINITIONS USED IN SCHOOL SPECIAL EDUCATION LAW

Respectfully report as follows: That HOUSE BILL No. 412

be amended as follows:

1. Page 2, line 2.

Following: "~~Emotionally~~"

Strike: "Seriously emotionally"

Insert: "Emotionally"

2. Page 2, line 16.

Following: "is"

Strike: "seriously"

3. Page 3, line 22.

Following: "specified"

Insert: "A child who is 5 years of age or younger may be identified as handicapped without the handicapping condition being specified."

AND AS AMENDED
BE CONCURRED IN

~~XXXXXX~~

~~XXXXXX~~

.....
Senator Chet Blaylock,

Chairman.

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

*LH 11111 115
MAY 6, 1985
H.S. 111
Senate Edu-
cation &
Cultural
Resources*

ROLL CALL VOTE

SENATE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Date 3/1/85 House Bill No. 111 Time _____

NAME	YES	NO
SENATOR PINSONEAULT		✓
SENATOR BROWN		
SENATOR REGAN		
SENATOR SMITH		
SENATOR HAFNEY		
SENATOR YELLOWTAIL		
SENATOR MAZUREK		
SENATOR FARRELL		✓
SENATOR McCALLUM		✓
SENATOR BLAYLOCK, CHAIRMAN		

JILL ROHYANS
Secretary

SENATOR CHET BLAYLOCK
Chairman

Motion: In order to amend the bill
to add a new section

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 6,

19 35

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **111**

third reading copy (blue)

color

(Mazurek will carry the bill)

UNIVERSITIES, COLLEGES, & VO-TECHS TO APPLY EMPLOYMENT PREFERENCE

Respectfully report as follows: That **HOUSE BILL** No. **111**

BE NOT CONCURRED IN

~~XXXXX~~

~~XXXXXXXX~~

.....
Senator Chet Blaylock,

Chairman.