MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on February 6, 1989, at 3:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council Researcher

Announcements/Discussion: None

HEARING ON HB 433

Presentation and Opening Statement by Sponsor:

Rep. Bob Bachini, District 14, Havre, stated the purpose of the bill was to create a State Historic Sites System Improvement Commission and appropriate funds for the Commission's use. He said the Commission would be comprised of legislators, administrators and private citizens that would study Montana's presently owned historical sites to see what could be done with them to improve Montana's tourism.

Testifying Proponents and Who They Represent:

Bob Clark, Interim Director, Montana Historical Society J. Henry Badt, Representing the Daly Mansion Janet Ellis, Montana Audubon Legislative Fund

Proponent Testimony:

- Bob Clark said HB 433 would provide guidance and a long-range plan for the State's involvement in and use of its historic sites. He said at the present time there are fragmented responsibilities among the different agencies and few policy guidelines to follow.
- J. Henry Badt representing the Daly Mansion said many of the problems that occurred last year getting started and organized could have been avoided if this Commission had been in existence. He said this would be a step to tie all the historic sites in the State of Montana

together for the good of the State.

Janet Ellis stated the State Parks Commission would be involved in this Commission and with all of the publicity on the poor state of many of the parks a great deal could be accomplished in the area of long term planning.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Bachini closed by stating Montana has a rich array of historical sites which this Commission could oversee and protect for the good of Montana.

DISPOSITION OF HB 433

Motion: Rep. Darko made the motion that HB 433 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Motion CARRIED upon voice vote with Rep. Phillips voting no.

HEARING ON HB 432

Presentation and Opening Statement by Sponsor:

Rep. Ralph Eudaily, District 60, Missoula, said HB 432 was requested by the Montana Association of Gifted and Talented Education. He said this is a very important element in the vast scheme of education and is often overlooked. Rep. Eudaily said the Board of Public Education would adopt a policy or accreditation standards for gifted and talented children and then the school districts would be authorized to identify and devise programs to serve them.

Testifying Proponents and Who They Represent:

Claudette Morton, Board of Public Education
Jack Copps, Office of Public Instruction (OPI)
Gayle J. Vidal, Gifted and Talented Program Facilitator,
Kalispell
Michael Anderson, Principal, Russell Elementary, Kalispell

Jenny Kaleczyc, 6th Grade Student, C.R. Anderson School, Helena Betty J. Wood, American Association of University Women Jesse Long, School Administrators of Montana (SAM) Kay McKenna, Montana Association of County School Superintendents Bruce Moerer, Montana School Boards Association (MSBA) J. Henry Badt, Montana Association of County School Superintendents

Eric Feaver, Montana Education Association (MEA)

Proponent Testimony:

Claudette Morton, (EXHIBIT 1.)

Jack Copps said the proposed legislation clarifies that all gifted and talented youngsters in the State of Montana will be treated as others in accordance with the standards established by the Board of Public Education. He continued that Montana Law specifically recognizes the needs of the gifted and talented and in so doing requires different educational programs beyond those normally offered in public schools in order to fully achieve the student's potential. He said the OPI believes there is a constitutional expectation present and that constitutional expectation is best served when the Board of Public Education has the opportunity to establish standards that will be adhered to by the districts,.

Gayle J. Vidal, (EXHIBIT 2.)

Michael Anderson, (EXHIBIT 3.)

Jenny Kaleczyc, (EXHIBIT 4.)

Betty J. Wood, (EXHIBIT 5.)

- Jesse Long said it is extremely important to clarify the rules and expectations pertaining to the gifted and talented program and that adequate funding for this program is a necessity.
- Kay McKenna said there are many wonderful programs for gifted and talented children in the rural schools specifically dealing with critical thinking skills. She said HB 432 should be endorsed to get the much needed support for the programs from local school boards.
- Bruce Moerer said funding is the most critical aspect of this program and needs to be given the utmost attention.
- Eric Feaver said HB 432 will eliminate the confusion over who shall govern the gifted and talented program and exactly how standards will be applied and school districts will follow. He said it will also remphasis the constitutional mandate of dealing with all

children in a fair fashion.

J. Henry Badt said the gifted and talented are probably the most neglected group of children in the school system and can no longer be ignored. He stated these children are the best achievers in the system and usually go on to good jobs given the appropriate programs with which to learn.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

- Questions From Committee Members: Rep. Cocchiarella asked Rep. Eudaily if this bill would require schools who have cut gifted and talented programs from their budgets due to a lack of funds to reinstate the programs such as in Arlee. Rep. Eudaily replied he didn't think it would do so and went on to say this simply says the Board of Public Education sets a standard for all schools to meet in order to get funding and then the district is authorized to go ahead and institute the program.
- Rep. Simpkins asked Rep. Eudaily if the Board of Public Education dictates the program then does the Legislature have to fund the it and he replied yes, it is the same as any standard within the accreditation standards.
- Rep. Glaser asked Jesse Long if he knew what this was going to cost and where the money would come from. Mr. Long responded by saying he did not know what the dollar amount would be primarily since there has not been a compilation of cost of programs per student because identification of gifted and talented students is sketchy at best as to the exact numbers. Mr. Long continued there are any number of options available for the funding of all schools including the continuation of property tax, continuation of income tax surcharge and perhaps options such as sales tax and transfers of dollars from other funds.
- Rep. Glaser then asked Chairman Schye if a fiscal note would be forthcoming and he replied Andrea Merrill did not feel one necessary. Rep. Glaser then said this is a multimillion dollar bill and the Committee should know the figures and what is involved. Chairman Schye replied this would be discussed when executive action was taken.

Closing by Sponsor: Rep. Eudaily closed by stating this is one

area of education recognized but not recognized with a very substantial amount of money. He said this has been a match situation where the school districts must put in so many dollars before qualifying for any monies at all. He said the major point is that the gifted and talented program is as much part of the total educational picture as special education which is mandated by Federal Law to be funded. The gifted and talented are a special group of students and deserve to have its problems addressed. Rep. Eudaily said districts could possibly combine into co-ops as with special education.

HEARING ON HB 455

Presentation and Opening Statement by Sponsor:

Rep. Tom Zook, District 25, Miles City, said HB 455 would require approval of a tuition agreement for an elementary school pupil who lives more than three miles from a school of the pupil's resident elementary district and the school the pupil wishes to attend is less distant. Rep. Zook also stated tuition laws should not make attendance at school either a matter of inconvenience or place an additional financial burden above and beyond taxes on parents.

Testifying Proponents and Who They Represent:

J. Harry Taylor, Chairman, Saco School District 12 Kay McKenna, Montana Association of County School Superintendents Sen. Hubert Abrams, District 12, Wibaux

Proponent Testimony:

- J. Harry Taylor, (EXHIBIT 6.)
- Kay McKenna said basically she is a proponent and opponent all in one. She stated she is a proponent because she has seen students go for very long bus rides to get to school and also seen parents transport students many miles. However, on the other hand she said she wants to make sure the rural school districts continue to be supported.
- Sen. Abrams stated support for HB 455 and said often times the deciding factor is purely common sense.

Testifying Opponents and Who They Represent:

James Moulds, Centerville School, Sand Coulee, MT

Opponent Testimony:

James Moulds, (EXHIBIT 7.)

- Questions From Committee Members: Chairman Schye asked James
 Moulds if he understood him to say the elementary tuition
 could be waived and Mr. Moulds replied yes he believed it
 could. Chairman Schye then stated he did not think the
 elementary tuition could be waived on a pupil to pupil
 basis. He continued that at the high school level tuition
 could be waived on a pupil to pupil basis so there could be
 quite a difference. Mr. Moulds said he was not aware of the
 difference between the elementary and high school
 provisions.
- Rep. Eudaily asked James Moulds if eliminating tuition payments entirely as proposed in many of the new funding systems for education could help solve the problem. Mr. Moulds replied he would think it would help in the solution however, he was not certain of all the ramifications of waiving tuitions on a statewide basis.
- Closing by Sponsor: Rep. Zook thanked the Committee for the hearing and suggested a positive vote for HB 455.

DISPOSITION OF HB 455

Motion: Rep. Eudaily made the motion that HB 455 DO PASS.

- Discussion: Rep. Stang said he felt this bill could benefit large districts but small districts that are close together would have problems. He said right now districts in his area would do anything to get kids into their schools.
- Chairman Schye stated tuition is different in that high school tuition is student to student where in elementary this isn't the case. He also said if members of the committee wanted to look further into the ramifications of the bill Rep. Eudaily could withdraw his motion. However, he cautioned that the transmittal deadline was close at hand.
- Rep. Thomas said the committee should act on HB 455.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Motion CARRIED that HB 455 DO PASS upon roll call vote, 12 yes and 8 no.

HEARING ON HB 364

Presentation and Opening Statement by Sponsor:

Rep. Richard Nelson, District 6, Kalispell said the Montana Immunization Law has proven effective in reducing the incidence of disease in Montana children due to vaccine

preventable diseases. He said the proposed legislation changes are intended to reduce the potential for disease introduction into the school systems and allows the county health officers to determine appropriate control measures, including length of exclusion from school during outbreak.

Testifying Proponents and Who They Represent:

Dr. Donald Espelin, Department of Health and Environmental Sciences

Dick Paulsen, Manager, Montana Immunization Program, Department of Health and Environmental Sciences

Michael Anderson, Principal, Russell Elementary School, Kalispell Edward Michaewicz, Dr. PH, Public Health Administrator, Flathead City-County Health Department, Kalispell

LeRoy Schramm, Chief Legal Council, Board of Regents Jesse Long, School Administrators of Montana (SAM)

Proponent Testimony:

Dr. Donald Espelin said HB 364 would aide in the control of vaccine preventable diseases. He said the recent outbreaks in Flathead and Silver Bow Counties stretched his department to the maximum and Montana can not afford additional outbreaks in the future. In the coming year Montana will have a \$400,000.00 shortfall in the immunization program that provides basic immunization vaccine to clinics.

Dick Paulsen, (EXHIBITS 8 and 9.)

Michael Anderson said he supports HB 364 and would make it even stronger requiring a child to be fully immunized before he or she could even get through the school doors. He said the recent outbreak in Flathead County put a terrible strain on the schools. He also stated school officials and teachers want the children in school to teach them and then have to tell parents they must keep them home because they are not immunized.

Edward Michalewicz, (EXHIBIT 10.)

LeRoy Schramm said the amendments to HB 364 were developed by the Department of Health and Environmental Sciences and the Board of Regents (EXHIBIT 9.). He said the amendments leave post-secondary schools in the bill and define them as colleges, universities, and vocational—technical schools requiring students to be vaccinated for measles and rubella. He also stated the Board of Regents recently adopted a policy requiring measles and rubella vaccination for all students in the University System. In effect then, the amendment would reflect and parallel Regents policy. This requirement is consistent with recommendation from the American College Health Association.

Jesse Long said SAM would favor excluding the exemption for personal and religious reasons leaving medical as the only exemption if it were constitutional to do so.

Testifying Opponents and Who They Represent:

Les Conger, Christian Science Committee on Publication for Montana

Opponent Testimony:

Les Conger, (EXHIBITS 11 and 12.)

- Questions From Committee Members: Rep. Simpkins said the Montana Constitution states no person will be excluded from school for religious reason and asked Dick Paulsen if there would be legal problems if a child was refused admittance to school if he or she was not inoculated due to religious reasons. Mr. Paulsen answered that he was not a lawyer and was not sure.
- Rep. Harrington asked Dick Paulsen if the Supreme court has ruled states can pass laws forcing people to become immunized and he replied he did not know.
- Rep. Wallin asked Jesse Long if the suggested amendment agrees with Mr. Conger's views and he said the personal exemption needs to be removed obligating parents to get their children immunized however, a religious exemption would be permissible. He said he would concur with the Department of Health and Environmental Sciences that removal of the personal exemption would cover a larger number of students.
- Rep. Eudaily asked Dick Paulsen how long the outbreak in Kalispell lasted and he replied it started October 12, 1988 and the last rash onset was December 30, 1988.
- Rep. Eudaily asked LeRoy Schramm under what conditions a college student could file for an exemption and he replied that at the present time there is no policy dealing with exemptions on the college level. Mr. Schramm continued that there really isn't a constitutional issue on the college level because the right to a college education is not a basic fundamental right as is the case with primary and secondary education.
- Chairman Schye asked Dick Paulsen what the numbers of statewide exemptions would be and he said based on school reports last year of reporting schools, and not all schools report, there were 2,300 students with personal exemptions and 350 students with religious exemptions. Chairman Schye then asked what the personal exemptions would be and Mr. Paulsen he replied they could be those

using alternative methods of medicine not recognizing standard medical practices and there are some parents who simply do not want to immunize. Mr. Paulsen also added he didn't have the numbers from home schools.

Closing by Sponsor: Rep. Nelson thanked the committee for the hearing and urged a positive vote on HB 364.

HEARING ON HB 449

Presentation and Opening Statement by Sponsor:

Rep. Ted Schye, District 18, Glasgow stated HB 449 would provide stability for Special Education Cooperatives and provide a firm basis for planning and budgeting.

Testifying Proponents and Who They Represent:

Robert Runkel, Director of Special Education, Office of Public Instruction (OPI)

Fred Apellman, Montana Council of Administrators of Special Education

Phil Campbell, Montana Education Association (MEA)

Jesse Long, School Administrators of Montana (SAM)

Bill Pellant, Director of Bitterroot Valley Special Education

Cris Volinkaty, "Parents Let's Unite for Kids"

Bruce Moerer, Montana School Boards Association (MSBA)

Kelly Evans, Director of Special Education Co-op, Southwest Montana

Proponent Testimony:

Robert Runkel said HB 449 is intended to provide needed stability to Special Education Co-ops and provides authority to the OPI to establish rules for approval of formation of cooperatives and incentives to participate in them. He also said the program requires a three year commitment to participate and provides a mild financial incentive which should serve as a catalyst to schools.

Fred Apellman, (EXHIBITS 13 and 14.)

Phil Campbell said the MEA had difficulty in the past working out problems with the special Education Co-ops and that HB 449 is a step in the right direction towards much needed stability and security for the employees of the co-ops. He said previously participants could move in and out of the co-ops at will, which doesn't provide for good employer and employee relations.

Jesse Long stated support for HB 449 also on the basis of stability.

Bill Pellant said when a participant in a co-op can drop out at

any time it has a definite negative impact on funding, effecting the staff and services to districts remaining in the co-op. He said last year when Corvallis dropped out of the co-op there were staff resignations immediately.

- Cris Volinkaty stated support for HB 449 saying it not only provides for stability of staff but stability of the services consumed by Special Education students throughout Montana.
- Bruce Moerer stated support for the bill but said he was not sure all the notice requirements were necessary and may even be overkill.
- Kelly Evans said HB 449 will help stabilize co-ops and also maintain their integrity. He said co-ops not only have problems due to funding but also commitment on the part of school districts. Mr. Evans said co-ops are the only viable vehicle to serve Special Education students in the rural Montana communities since most small communities would not be able to afford to hire their own staffs and even if they could afford to they probably couldn't recruit the necessary staff.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Schye stated once again HB 449 is necessary move in the right direction for Special Education Cooperatives.

HEARING ON HB 374

Presentation and Opening Statement by Sponsor:

Rep. Ray Peck, District 15, Havre said HB 374 would base the computation of ANB for school budget purposes on attendance during the second semester of the preceding school year and the first semester of the current school year. He said it is extremely important to obtain a firm figure for budget purposes and planning. He also said districts will be able to set levies and plan budgets precisely since they will know the dollar amounts.

Testifying Proponents and Who They Represent:

Richard R. Floren, Assistant Superintendent of Schools, Havre J. Harry Taylor, Saco School District 12
Jesse Long, School Administrators of Montana (SAM)
Bruce Moerer, Montana School Boards Association (MSBA)

Proponent Testimony:

- Richard Floren said HB 374 would be beneficial to small schools as well as large and would level out the peaks and valleys of enrollment inclines and declines. He said districts need to know what their budgets will be in order to plan for staff and operation of schools.
- J. Harry Taylor also agreed HB 374 would be beneficial with school districts knowing what their budgets would be.
- Jesse Long said HB 374 would be a good way to level out some of the difficulties that are brought about in trying to determine ANB for budgets for the upcoming year.
- Bruce Moerer agreed there would be a leveling out effect with the overall result providing a much greater degree of certainty in schools and their budgeting process.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Peck said this was a worthwhile piece of legislation and deserving of a positive vote from the committee.

DISPOSITION OF HB 374

Motion: Rep. Spring made a motion that HB 374 DO PASS.

<u>Discussion:</u> Rep. Eudaily said HB 374 should be held in committee until it was clear where the funding bills were going. Rep.

Harrington replied it was getting close to transmittal and HB 374 needs to be acted on.

Amendments, Discussion, and Votes: None

Recommendation and Vote: DO PASS motion of Rep. Eudaily CARRIED upon roll call vote of 13 yes and 7 no.

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES February 6, 1989 Page 12 of 12

ADJOURNMENT

Adjournment At: 7:00 p.m.

REP. TED SCHYE, Chairman

TS/dlm

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DAILY ROLL CALL

| EDUCATION | & | CULTURAL | RESOURCES | COMMITTE |
|-----------|---|----------|-----------|----------|
| | | | | |

DATE February 6, 1989

| NAME | PRESENT | ABSENT | EXCUSED |
|---------------------------------|---------|--------|---------|
| Rep. Ted Schye, Chairman | | | |
| Rep. Fritz Daily, Vice-Chairman | V | | |
| Rep. Vicki Cocchiarella | | | |
| Rep. Paula Darko | | | |
| Rep. Ervin Davis | | | |
| Rep. Ralph Eudaily | V. | | |
| Rep. Floyd Gervais | | · | |
| Rep. Bill Glaser | V | | |
| Rep. Dan Harrington | | | |
| Rep. John Johnson | V | | |
| Rep. Tom Kilpatrick | V | | |
| Rep. Richard Nelson | / | | |
| Rep. John Phillips | | | |
| Rep. Richard Simpkins | | | |
| Rep. Wilbur Spring, Jr. | V | | |
| Rep. Barry "Spook" Stang | V | | |
| Rep. Fred Thomas | / | | |
| Rep. Norm Wallin | V | | |
| Rep. Diana Wyatt | | | |
| Rep. Tom Zook | V | | |
| | | | |

Form CS-30A Rev. 1985

STANDING COMMITTEE REPORT

February 7, 1989
Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u>

<u>Resources</u> report that <u>HOUSE BILL 433</u> (first reading copy -white) <u>do pass</u>.

Signed: Ted Schve, Chairman

STANDING COMMITTEE REPORT

February 7, 1989

Fage 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u>

<u>Resources</u> report that <u>HOUSE BILL 455</u> (first reading copy -white) <u>do pass</u>.

Signed: _______ Chairman

STANDING COMMITTEE REPORT

February 7, 1989
Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u>

<u>Resources</u> report that <u>HOUSE BILL 374</u> (first reading copy -white) do pass.

Signed: Ted Schve, Chairman



Board of Jublic Education

33 South Las Chance Gulch Helena, Maria 19620-0601 EXHIBIT (406) 444-6576 DATE 2-6-89 HB 432

> Claudette Morton Executive Secretary

February 6, 1989

TO: Members of the House Education Committee

FROM: Claudette Morton

RE: Testimony in Support of HB 432

Executive Secretary

The Board of Public Education Representative Eudaily's HB432. As some of you know, the laws dealing with gifted and talented enacted by legislature in the past have presented some ambiguities for the Board. First, the Board has the directive "standards legislative to adopt accreditation," and second, that it adopt "policies for the conduct of programs for gifted and talented children." In the 1983 session the legislature specifically ammended 20-2-121(11) MCA, through That bill included a statement of which delegated rulemaking authority to the Board of Public Education to adopt policies for programs serving gifted and talented children and further said that the rules should address a policy statement fostering development of programs serving the gifted talented. Ιt would appear that when Legisture added the '83 law they did not realize a conflict with the '79 one. The 1983 law implicitly repealed former statements by the Legislature to the contrary. Furthermore, to grant rulemaking authority to the Board in the area of programs for gifted and talented students and standards of accreditation of hand, and make adherence to those rules discretionary with the school districts on the other hand, would effectively nullify the legislative grant authority. HB432 simply corrects inconsistency, and therefore we support its passage.



Association of Gifted and Talented Education

To:

House Education Committee Chairman and Committee

Members

From:

Gayle Vidal, Legislative Chairman

Montana Association of Gifted and Talented Education

Re:

HB 432

Date:

February 6, 1989

My name is Gayle Vidal. I am the Gifted and Talented Program Facilitator for Kalispell School District #5 and Legislative Chairman of the Montana Association of Gifted and Talented Education (AGATE).

On behalf of Montana AGATE, I wish to speak in support of HB432 as a measure which will eliminate confusion about which agency is primarily responsible for authorizing school districts to serve gifted and talented students.

Article X, Section 1, of the Constitution of Montana states:

"It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state."

During the past decade, educators have become increasingly aware that gifted students have some unique needs that we must attempt to address. Advocates for the gifted have sought resources by

developing as many sources of support as possible. Several years ago, in response to growing concerns for the gifted student, the legislature enacted Section 20-7-902, M.C.A. This statute reinforced the right of individual school districts to recognize and serve gifted students. It also had the effect of establishing an alternative permissive authority outside standard accreditation standards which could be cited by districts who vigorously did or did not choose to serve gifted students. In addition, the statute had the unintended effect of setting gifted education and gifted students apart from other populations of students. Gifted education thus became a "special case". This perception of gifted education has not been productive or healthy for our students.

It is our view that if we are to comply with the intent of the framers of our Constitution and maintain a system which allows us to develop the "full educational potential" of each person, it is time to unify our efforts and to establish one avenue by which it is assured that all students' basic education needs are being met. All students means gifted students too.

Therefore, members of Montana AGATE applaud the introduction of HB432 as a measure which will clarify that school districts are authorized to serve gifted children, as all others, in conformity with policies adopted by our Board of Public Education.

Thank you for the opportunity today to make our views known.

BILL COOPER Superintendent PAT LEE Dir. of Special Services

SCHOOL DISTRICT NO. 5 DATE.

PHONE 755-5015 - 233 1ST AVE. EAST - KALISPELL, MONTANA 59901

Administrative Asst. **EXHIBIT** 2-6-

TOM TRUMBULL Business Manager

GARY ROSE

HB.

FLATHEAD HIGH SCHOOL Principal, William Vogt 755-7130

KALISPELL JUNIOR HIGH Principal, Cathryn McDevitt 755-6350

LINDERMAN SCHOOL Principal, Larry Schulz 755.9489

EDGERTON SCHOOL Principal, Rick Davis 257-6180 PETERSON SCHOOL

Principal, Steve Rasor 257-7133 ELROD SCHOOL Principal, Russell Winters 257-3054

HEDGES SCHOOL Principal, Karla Jones 755-4042 RUSSELL SCHOOL

Principal, Michael Anderso 257-3135

My name is Michael Anderson. I am the Principal of Russell Elementary School in Kalispell, School District #5 and am First Past President of the Montana AGATE (Association of Gifted and Talented Education).

I wish to thank the sponsors of HB432. By proposing this bill, they have helped to eliminate a confusing set of double standards. I agree with the drafters of the bill in that gifted and talented education belongs under the direction of the Board of Public Education as do all other education standards. As an administrator at the present time, it is difficult to interpret where the authority to authorize gifted education lies. The Board of Public Education and the legislature have been at odds over who has final authority over gifted and talented education. With the passage of this bill that Furthermore, schools will have conflict is resolved. to consult only the standards for direction and funding will not be separate but part of the foundation funding for basic quality education.

EXHIBIT #4

DATE 2-6-89

HB 432

My name is Jenny Kaleczyc.

I am in the 6th grade at C.R. Anderson Middle School in Helena.

Two years ago, I testified before the Appropriations Committee on funding for gifted and talented.

I pointed out that you approved spending 15 million dollars on university and college athletic teams and 100 thousand dollars on gifted and talented students.

I figured out, then, that it means 600 dollars is spent percollege student on athletics and 67 cents is spent for each gifted and talented kid.

I love sports. I play on two basketball teams, I have played soccer since kindergarten, and I swim competitively, but now I'm two years older and I still can't understand how sports could be 895 times more important than learning.

Since I was here two years ago, a lot has happened to gifted and talented programs.

I-105 passed, making it a law that you couldn't raise taxes.

School costs kept climbing, so gifted classes got cut to save money.

Kids, like me, lost the best learning opportunity they ever could get.

In Helena the gifted and talented program is called Project Promise.

For me, Project Promise changed school from being just another thing I had to do, to being a place where I could be challenged and actually learn and have fun at the same time.

I think gifted programs are most needed for younger kids. The most important thing I have learned in school, I learned in 3rd grade Project Promise.

I learned a skill called Problem Solving, and I use this every day.

Two of the best projects we ever did were "To Market To Market" and building a "Perfect Presidential Candidate."

In "To Market to Market," we learned everything about the stock market. We were each given the same amount of money to invest in a wide range of stocks. We were given business news reports and then we had to make decisions on what to do with our stock.

My dad said he didn't pearn about the stock market until high school, and my mom said she didn't really learn it until college.

My other favorite project was when we were faced with the task of building a "Perfect Presidential Candidate."

The perfect candidate had to wave a flag, shake hands, and move to the left and to the right.

The hard part was you couldn't just give it a push, it had to be self propelled.

We worked in teams according to schools. My team won third place.

Now, there isn't any Project Promise for 6th graders. I really miss it; and, third, fourth and fifth graders only get it once a week.

Every student in Montana is important and special.

Some students were given a gift by God to be able to run fast with a football.

Some students were given a gift by God to be creative and good learners.

I think they should both be given an opportunity to use their gifts.

Please support House Bill 432.

AMERICAN ASSOCIATION of UNIVERSITY WOMENDATE

HB_ 432

MONTANA DIVISION

6 February 1989

RANCH PRESIDENTS

Billings
Earlene Davis
Dzeman
Peggy MwLeod
Butte
Pat Bristol
Jtbank
Linda Almas

Margaret Vandegrift Clara Beier

lasgow
Sandra Oss
Glendive
Ardie Thompson
Teat Falls
Feg Mathews

Lillian McCauley Helena

Ruth Long
alispell
Joyce Atherton

Lewistown
Mary Jo Hamling
iles City
Fleenor Gray

Eleanor Gray Missoula Anna Marie Clouse

orthern Montana
Charlotte Kelley
Josephine Martin
Park

Ann Biastoch Colson Charlotte Stark House Education Committee

Re: HB 432 (Eudaily) "To clarify that a school district is authorized to identify and serve gifted and talented children in conformity with any policy or school accreditation standard adopted by the Board of Public Education."

Dear Sirs and Mesdames:

The American Association of University Women Montana Division believes that this bill will indeed be of benefit to Montana children, because it helps to ensure that the gifted and talented program will continue in accordance with rules or policies adopted by the Board of Public Education.

Gifted children often need the additional stimulus provided by the few hours per week provided by this program. Even superb teachers rarely have the time in the regular classroom to devote extra attention to the gifted children.

We urge the passage of HB 432.

Thank you.

B.J. Wood, legislative chairman

P.O. Box 298
321 Highway 243
Saco, MT 59261

SCHOOLS DATE 2-6-

District #12 Phillips County (406) 527-3221

From: Saco School Dist. #12

Re: House Bill #455

J. Harry Taylor, Chairman

I would like to testify in favor of House Bill #455. This bill would alleviate a problem of children that reside in one district but are closer to a school in an adjacent district.

This hasn't been a problem until a recent attorney general's opinion that interprets current law to make it a requirement for a student to obtain permission from the resident district in order for a child to attend a school outside his district, or for tuition or transportation payments to be made, even if that school is closer or more convenient to his home. The unfairness of this is that the taxes paid to the resident district would not contribute to the education of that child.

It should be only reasonable to assume that the laws of Montana would allow students to attend the closest, most accessible or convenient school.

We have a situation in our area where seven children, kindergarten to sixth grade, from four families range in distance from 22 to 27 miles from our school and 50 to 55 miles to their resident district school. This means a forty to forty-five minute bus ride to the closest school compared to approximately an hour and a half to the resident school. Previously one of these students while in kindergarten and first grade had to travel 22 miles one way to meet the bus in the resident district which meant he had to leave home at 6:00 in the morning and not return until 5:30 at night. These students have been attending our school for the past five years. There is currently an all weather road to the closest school and not to the resident school.

This year the resident district refused to pay transportation and tuition, however upon appeal the county superintendent ruled in favor of the parents. However, a recent attorney general's opinion, Volume number 42 - Opinion number 115, would require parents to obtain permission of the resident district to attend the school in an adjacent district and to have transportation paid. In this particular case the resident district has made it clear that these students will not receive permission to attend a school outside the district even though its closer and more convenient. That is why it is imperative that this bill be passed.

J. Harry Taylor

EXHIBIT # 7

DATE 2-6-89

HB. 455

CENTERVILLE PUBLIC SCHOOLS

SCHOOL DISTRICTS NO. 5 AND 5C 693 HIGHWAY 227 SAND COULEE, MONTANA 59472 Phone 406-736-5123

TRUSTEES
Tom Lorang
Chairman
Alan Francetich

٠,

Larry McEwen Ronald Davis Bruce Cowgill

House Education Committee Montana House of Representatives Helena, MT 59620

Committee Members and Chairman Schye:

The Centerville Public School is opposed to H.B. 455 which would require mandatory tuition approval for an elementary student to attend the nearest school. In reviewing 20-5-301 M.C.A. contingencies already exist in this section of law whereby resident school districts are required to pay the tuition of a student attending school out of district. (i.e. Section 20-5-301, paragraph (3), a, b, c, d, e, f, i.)

In 1985, section 20-5-311 (high school tuition) paragraph (2) (a) and (i) stated, "the approval agents shall approve a tuition application when a child lives closer to a high school of another district than any high school located within his resident district or when, due to road or geographic conditions, it is impractical to attend the high school nearest his residence." Four years ago this school district was very active in having this law changed to read Section 20-5-311, paragraph (2) (ii) "However, the approval agents are not required to approve a tuition application for a student seeking to attend a high school outside the state of Montana or the resident district if the resident district provides transportation." The Montana State House and Senate saw the injustice of the 1985 tuition law as it then read. Consequently, the high school tuition law was changed to make it more just for all taxpayers.

It appears that Representative Zook wants to change the elementary tuition law to read essentially the same as the old (1985) high school tuition law. The reasons why this elementary tuition law should not be changed as Representative Zook desires are as follows:

- A. A yard stick approach to who pays tuition is wrong. Why should the parents of children have their tuition paid to attend an out of district school when other parents who may live one-eighth of a mile closer to the resident district school do not. Many parents, regardless of the distance they live from the resident school, may want their children to attend out of district. Why should some parents have their tuition paid while others do not?
- B. Not only does the resident district lose the A.N.B. for that child, they also have to pay tuition in the amount the out of district school charges. Yet, the resident district voters have no say over the educational program offered at the out of district school.

February 6, 1989 House Education Committee Page Two

C. The resident district may have to provide school bus service to a particular area regardless of the number of students attending the resident school.

In summary, the reasons why a parent wants to send his child to an outof -district school are many. The parents may not like a particular school
board member, administrator or teacher. The parents may not like a library
book, a textbook, a friend whom they think has a bad influence over their child,
or the student's boy or girl friend attends the out-of-district school. The
local board of trustees are in the best position to sift out and determine if
the reasons for out-of-district attendance are legitimate. The local boards
of education now have the discretion to approve or deny tuition payments
(section 20-5-302). Parents have the right to send their children anywhere
they wish for any reason; however, not a public expense (Section 20-5-303).
The elementary and high school tuition laws should remain as they presently
read. As much local control as possible over out-of-district tuition payments
should remain intact.

Sincerely,

Tom Lorang, Chairman Board of Trustees

Centerville Public Schools

TL/gmw

EXHIBIT # 8

DATE 2-6-89 February 1989

HB 364

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE HOUSE EDUCATION AND CULTURAL RESOURCES COMMITTEE

MONTANA IMMUNIZATION LAW TESTIMONY
HB 364

Chairman Scheye and Committee members, I am Dick Paulsen and I submit this testimony, as the manager of the Montana Immunization program, on behalf of the Montana Department of Health and Environmental Sciences.

The Montana Immunization Law has proven effective in reducing illness due to vaccine-preventable diseases in Montana School children. These proposed legislative changes are intended to reduce the potential for disease introduction into the school system and allow the county health officer the ability to determine appropriate control measures, including length of exclusion, during an outbreak. Proposed changes in the law include; 1) broadening of the application of immunization law from only K-12 schools to other educational settings that play an important part in disease transmission. This change is based upon recent experiences with disease introduction and the continuation of outbreaks that have occurred in Montana since the enactment of the Montana Immunization Law in 1980, 2) it defines "pre-school" for use in the law, 3) it includes mumps as a necessary vaccine, 4) it removes personal and religious exemptions, 5) it removes the 30-day exclusion period for those excluded during outbreaks. The length of exclusion would then be determined by the county health officer who is responsible to determine what is necessary to control communicable disease outbreaks.

Religious and personal exemptions played an important part in starting the measles outbreaks that occurred in Glacier County and Great Falls. 137 cases were associated with the Glacier County outbreak which occurred in 1985. It was initiated by a student who had claimed a religious exemption, visited out of state and then brought measles back into Montana. 127 measles cases occurred in the statewide outbreak in 1987. It started in Great Falls and was initiated by a student with a personal exemption who had not traveled outside of Montana. Following the 1987 outbreak, a "measles critique" was sponsored by the Department which included six major health departments (Cascade, Missoula, Flathead, Lewis and Clark, Yellowstone, and Silver Bow Counties) and representatives from

the Indian Health Service and the Centers for Disease Control in Atlanta, Georgia. From that critique came a strong recommendation to remove the personal and religious exemptions from the Immunization Law. The Department has also received communication from the Montana Medical Association supporting a removal of religious and personal exemptions. Montana is in the minority of states that do allow philosophical exemptions. Presently, 28 states do not allow philosophical (personal) exemptions for school entry. There are states that also do not allow religious exemptions, including Mississippi and West Virginia. The Mississippi law was challenged in 1979 in a suit entitled, Brown v. Stone. From this suit, it was determined that the religious exemption was constitutional and the Mississippi State Supreme Court said that allowing a religious exemption would not be in the best interest of the health and welfare of the state. During the recent outbreak in Flathead County, there were 15 Flathead County High School students that had claimed personal exemptions and two that had claimed religious exemptions for measles for school entry. Upon exclusion from school, due to the outbreak, all students had returned to school as immunized except for one student who stayed out for the entire period due to a religious exemption. In the Great Falls outbreak in 1987, there were 21 personal and 13 religious exemptions in the junior high and high schools in Great Falls. Once those students were excluded due to the outbreak, all except for three students returned to school immunized. These examples of what happens during an outbreak, demonstrate how the exemptions are being abused. It is easier for the parents to sign an exemption rather than to take action to immunize their child. This puts the rest of the school system and communities at unnecessary risk to vaccine-preventable diseases.

College immunization requirements have been recommended by the Advisory Committee on Immunization Practices* (ACIP) since 1980 and the American College Health Association since 1983. The Board of Regents has recently developed a policy for implementing a measles and rubella immunization requirement for all students in the university system. The Department has met with the Commissioner

^{*}Note: The ACIP is the group which sets the standard for public health practices related to immunization in the U.S.

of Higher Education several times and have agreed that the primary focus for the law, on prevention of vaccine preventable diseases in this population, is measles and rubella. Both of the Montana universities have already adopted similar requirements for entry. The proposed change in the law is intended to cover all post-secondary schools including those not in the university system. Post-secondary facilities have played an important part in measles outbreaks, not only in the United States but in Montana. There have been ten measles or rubella outbreaks on college campuses in Montana since 1976. This includes outbreaks, since 1987, effecting with both universities at Bozeman and Missoula, Rocky Mountain College, Eastern Montana College, and Flathead Valley Community Remember, measles is most serious in adults. At Principia College in Illinois, in 1985, there were three deaths in students due to measles. Since rubella has its most serious consequence related to pregnancy, it's very important to ensure that the college age group is well immunized against rubella. It has been extremely frustrating and difficult to stop measles outbreaks on college campuses when there is no required documentation of immunization for students.

Mumps was not included in the original draft of the immunization law primarily due to the fact that the immunization program was not able to provide mumps vaccine to all school-aged children due to cost. The program now provides mumps vaccine in the combined MMR vaccine. MMR is the vaccine of choice and is received by all children when they receive measles and rubella vaccination. Including mumps in the law would not be difficult for schools as they already have information on mumps vaccine included on the immunization records.

Pre-school and head start are also not included presently in the requirements for immunization laws and rules. There are some schools which have a pre-school within the school facility as listed in the <u>Directory of Montana Schools</u> published by the Office of Public Instruction. This is a dangerous mixture of potentially un-immunized children in a school setting.

Exclusion period being limited to 30 days in the law is contrary to what is recommended for outbreak control by the Centers for Disease Control. Unimmunized students should not be allowed into a school even if an outbreak continues past 30 days. During the recent outbreak in Kalispell, the situation arose where a student wanted to return to school after the 30-day period but still had not been immunized. The county health officer had to apply to the parent for the parent to decide not to send the children on their own accord. Local Health officers have the authority, by the Administrative Rules of Montana, to do what is necessary to control communicable disease in their county. The determination, on when the return should occur, should be made by a County Health Officers. Should the child return to school and develop measles because the law says they can return, the following could happen: 1) the child would be unnecessarily exposed to a dangerous disease, 2) the outbreak would continue with possible spread of the disease to others (especially other unimmunized siblings), and 3) the parents may have legal recourse against the state of Montana should the child get measles due to their return to school as presently allowed by the Montana Immunization Law.

In closing, Montana has experienced some serious problems related to vaccinepreventable diseases. We, in Montana, have been very lucky in that we have not had anybody die during our measles outbreaks. Texas is not so fortunate. In the current outbreak in Texas, there have been as many as five deaths that may be directly related to measles. This included a 21 year old who was 21 weeks pregnant. There was a child that died due to pertussis in Ravalli county in 1986. The Montana Immunization Law has played an important part in reducing the occurrence and subsequently the consequence of vaccine-preventable diseases. Apparently maintaining high immunization levels alone is not good enough. We have to keep these diseases from being seeded in our schools. Once a disease like measles gets into a school, it can spread very quickly as was seen again this year in the Flathead measles outbreak. The Montana School Immunization Law needs to be strengthened so that the potential for disease introduction into our population can be reduced. If these proposed changes are acted upon favorably, it would be a major step in ensuring the health and safety of Montanans. Your consideration is appreciated.

EXHIBIT # 9

DATE 2-6-89

HB 364

PROPOSED AMENDMENTS TO HOUSE BILL 364 Eintroduced copy3

REQUESTED JOINTLY BY THE BOARD OF REGENTS AND

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1. Title, line 10.

Following: "IN"

Insert: "A"

Following: "SCHOOL".

Insert: "OTHER THAN A POST-SECONDARY SCHOOL"

2. Title, line 15. Fallowing: "THROUGH"

Strike: "20-5-405"

Insert: "20-5-406 AND 20-5-408"

3. Page 2.

Following: line 11

Insert: "(6) "Post-secondary school" means a vocational-tech-

nical center, a college, or a university."

Renumber: subsequent subsections

Page 2, lines 23 and 24.

Strike: "a" on line 23 through "vocational-technical center, a

college, or a university" on line 24.

Insert: "or a post-secondary school"

5. Page 3, line 2.

Following: "school"

Insert: "other than a post-secondary school"

6. Page 3.

Following: line 23

Insert: "(3)(

t: "(3)(a) The governing authority of a post-secondary school may not allow any person to commence attendance as a pupil unless the person:

- (i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or
 - (ii) files for an exemption.
- (b) The governing authority of a post-secondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by this part."
- 7. Page 4, line 1.

Following: "school"

Insert: "other than a post-secondary school"

8. Page 4, line 3.

Following: "in"

Strike: "20-5-403"

Insert: "20-5-409(1)"

9. Page 5.

Following: line 19

Insert: "Section 5. Section 20-5-406, MCA, is amended to

read:

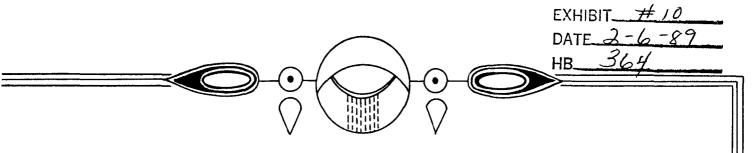
"20-5-406. Immunization record. The governing authority of each school shall require written evidence of each pupil's immunization against the diseases listed specified in 20-5-403 for the type of school in question and shall record the immunization of each pupil as part of his permanent school record on a form prescribed by the department."

Section 6. Section 20-5-408, MCA, is amended to read:

"20-5-408. Enforcement. (1) The governing authority of any school other than a post-secondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.

- (2) Each governing authority shall file a written report on the immunization status of all pupils under its jurisdiction with the department and the local health department at times and on forms prescribed by the department.
- (3) The local and state health departments shall have access to all information relating to immunization of any pupil in any school.""

Renumber: subsequent sections.



FLATHEAD CITY-COUNTY HEALTH DEPARTMENT 723 5th Ave. East Kalispell, Montana 59901 Sanitation: 756-5632 Health Services: 756-5633

February 5, 1989

Ted Schye, Chairman Education and Cultural Resources Committee State Capitol Helena, Montana 59620

Dear Chairman Schye:

The Flathead City/County Health Department thanks you for the opportunity to comment on HB-364 relative to the Nontana State School Immunization Law. The present law is in need of some revisions in order to provide for better control and implementation of laws that pertain to control of communicable diseases.

The department supports changes that relate to the following:

1. Broadening the present law to include colleges, pre-school, day-care centers, and vocational/technical centers.

The present law applies only to k-12 schools. The communicable diseases are of concern to all and are of greater importance when they involve close contact of the same age groups. Classroom settings, extracurricular activities, play areas, food service areas, etc., all contribute to to the spread of communicable diseases. Diseases common to these groups can be controlled by the application of accepted public health practices.

2. Pre-school is defined.

This definition should include day care centers. As mentioned before, the closeness of similar age groups provides for the transmission of disease.

3. Mumps is included in the revised law.

A mumps vaccine is available and effective in preventing the disease and should be included in the list of preventable diseases.

February 5, 1989 Ted Schye page 2

4. Personal and religious exemptions are deleted from the law.

Personal exemptions were a method by which parents circumvented the law. In many cases parents were in a hurry, working or not available during the immunization hours and would not take their youngsters to be immunized. Once they were excluded from the requirement, they procrastinated and thus chose the easy way out and asked for personal exemption. Others chose religious exemptions and did not have their children immunized. Most faiths do not prohibit vaccinations, and this exemption is generally not valid.

5. The 30 day exclusion period during outbreaks will be revised to permit the county health officer to establish the exclusion period.

The present law has a 30 day exclusion period. Students who had personal or religious exemptions had to be permitted to return to school after 30 days. In the event of a disease outbreak, non-vaccinated students were subject to exposure. This not places them in a serious position but also contributes to the possible continuation of the diseases outbreak. Therefore, the length of the exclusion should be left to the discretion of the health officer.

The revised law should also address the issue of non-vaccinated children being allowed into the school systems. A grace period only contributes to the spread of disease. Vaccinations are available through the private sector, as well as health departments. This is not necessarily such an inconvenience that ONE should be exluded. All should be vaccinated before being permitted to attend educational settings.

Sincerely,

Edward P. Michalewicz, Sr

Public Health Administrator

Edward Prachaleura,

cc: Richard Paulsen Rep. R. Nelson

EXHIBIT_#//
DATE_2-6-89
HB_364

STATEMENT

House Bill 364 to expand school immunization requirements

My name is Les Conger. I am the Christian Science Committee on Publication for Montana. In this position I speak on behalf of those Montanans who are adherents of the Christian Science religion. One important part of my duties concerns legislation, that is watching proposed bills to insure the right of Christian Scientists to practice their religion free from restrictions or limitations.

I am grateful for the opportunity to make this statement today regarding House Bill 364. The author and sponsors of this bill obviously are concerned about the health of students in our schools statewide and curbing the spread of disease. The existing laws which this bill would change do give public health officials the authority to require students in public schools to be immunized. This bill would expand the coverage to include preschools, vocational-technical centers, colleges and universities and it would eliminate the existing provision for an exemption based on personal or religious reasons. Our concern is only with the part that removes the religious exemption. I am <u>not</u> here in opposition to the entire bill.

My reason for speaking to you today is the possible effect

of this bill on Christian Science families, children and other

Christian Scientists who are students in Montana. For some of

you who may not be familiar with Christian Science, let me explain.

The Christian Science church is a world-wide church, with approximately 3,200 branches in this country and overseas. church was founded over 100 years ago, with headquarters in Boston, Massachusetts. Christian Scientists rely upon God for their total health care. Instead of receiving medical treatment when experiencing an illness or injury, Christian Scientists rely upon spiritual means through prayer for healing. Instead of going to a physician, they engage a Christian Science practitioner to support them in prayer. They also rely on their religion for prevention of disease. So, it is completely within the mainstream of their reliance on God for protection against any kind of harm to ask that they should not have to be innoculated as a pre-condition for attending a school of any kind. That is one of the main points of this bill that concerns us. It requires that all students be innoculated before even starting a school term. This is as compared to the present law, which authorizes students to be kept out of school during a disease outbreak if the student has not been innoculated.

Since the founding of the Christian Science church, there have been several generations of citizens in this state who have totally relied upon Christian Science to meet all their health needs, having never had physical examinations, medical treatment nor taken drugs or medicine of any kind. How would you feel if you were told that your way of life, your spiritual protection from disease, would no longer be recognized in Montana? How would you explain this to your children or grandchildren who have been depending upon prayer to protect them from sickness and contagion? You see, a Christian Science parent feels he is providing the very best care available for the health and wellbeing of his child. He accepts the responsibility this involves for consistency in the practice of his religion. A Christian Scientist's confidence in God is not passive but active, not theoretical but practical, not occasional but systematic.

Now, let me address just a couple of points about immunization in general. Last year, the American Medical Association recommended elimination of religious provisions for compulsory immunization laws. They proposed that state medical associations take the initiative to eliminate religious accommodations without considering the Constitutional freedom of religion upon which the

provisions are based. And they based their recommendation largely on statistical information. The trouble with their statistics was that they contained a lot of errors and they were not objectively presented, but were selectively used to support their recommendations. An interesting statistic that the AMA glosses over is the incidence of measles among those "appropriately vaccinated." In the year cited by the AMA, 1985, 1,207 cases of measles occurred among people previously vaccinated. That's 79.5% of the nonpreventable cases—as compared to 10.3% of the nonpreventable cases attributed to religious exemptions. Thus, the percentage of cases among those previously vaccinated due to vaccine failure is almost eight times that of the percentage rate among those exempt from the vaccine for religious reasons.

In 1986, which was a more normal year, the Centers for Disease Control (CDC) reported 77 cases of measles attributed to religious exemptions, and 2,377 cases among those appropriately vaccinated. This is a drop in the number of cases among the religiously exempt from 204 cases to 77, a drop of 37.7%. No mention is made of the cases of measles among those "properly vaccinated" increasing from 1,207 in 1985 to 2,377 in 1986. That's an increase of 97% over 1985, which apparently went unnoticed.

My point here is that if Montana Realth officials are relying on the AMA statistics, they are probably being misled. As for the situation here in Montana, I don't believe exemptions for religious reasons are anything but a positive factor in the public health of our state. For example, there have been measles outbreaks in the schools of several cities during the past two years. I have yet to learn of a case of measles among Christian Science students. However, during the outbreaks, those who had been exempted from innoculation had to stay home from school or be innoculated. Some of them chose to accept innoculation so they wouldn't miss three or four weeks of school. That was their decision. Under the existing law, they have that choice. Under this bill, that decision is made for them in advance, by the state.

One other point. Universal immunization is an impossible goal.

One of the implications of the AMA report is that every student should be innoculated against all of the recommended diseases.

Further, that any exception to this recommendation destroys the whole purpose of an immunization program. This is not the case.

At least a certain percentage of students, for medical reasons, cannot be immunized. Thus, in no state is the goal of 100 percent immunization realized. For example, in Illinois, a considerably higher percentage of children are exempt from immunization for

medical reasons than are exempt for religious reasons. And in Maryland, religious exemptions represent less than 1/10 of 1% of all students entering grades K-12 during 1984 through 1986. (The actual percentages were .086% and .079%.) Incidentally, here again, diseases among exempted children were far less than for the non-exempted. The rates for the two groups were 0.05 per 100,000 population for the exempted students and 10.32 per 100,000 for the non-exempted students. So, not only is universal exemption unattainable; even if it were, it would be a questionable goal.

In summary, the right to freely practice one's religion is a precious right guaranteed to the citizens of this state by our own Constitution and that of the United States. I do not believe it is the intention of this legislature that this right should be impaired inadvertently by imposing a method of protection on a number of its families which is contrary to their most cherished religious beliefs.

I respectfully request that House Eill No. 364 be amended to continue to protect religious rights in this state. This may be done by amending the bill as follows:

Section 4. Section 20-5-405, MCA, is amended to read:
"20-5-405. Religious or medical exemption. (1) When a
parent, guardian, or adult who has the responsibility for the
care and custody of a minor seeking to attend school, or the
person seeking to attend school, if an adult, signs and files
with the governing authority a written statement on an affidavit
form prescribed by the department stating under the penalties
for perjury according to Section 45-7-201, MCA, that immunization is contrary to the religious tenets and practices of the
signer, immunization of the person seeking to attend school
may not be required prior to commencement of attendance in any
school. The statement must be maintained as part of the
person's immunization records."

Your careful consideration of this request for an amendment will be sincerely appreciated by the Christian Scientists in this state.

Christian Science Committee on Publication for Montana

EXHIBIT #12 DATE 2-6-89 HB 364

Les Conger 388-4040

January 31, 1989

10455 Gee Norman Road Belgrade, MT 59714

The Honorable Richard M. Nelson House of Representatives Capitol Station Helena, MT 59620

Dear Mr. Nelson:

Thank you for your prompt response to my phone call concerning House Bill 364.

As I stated during our conversation today, the accomodation in the present MCA 20-5-405 for a student to be exempt from immunization for religious reasons is important to Christian Scientists in Montana. In our case, this is more than a preference for an alternative form of health care -- it is a matter of religious freedom. Also, when a Christian Science child is exempted from vaccination, this does not mean he is unprotected. Our way of worship provides this protection through prayer.

As far as I know, there have been no cases of measles among Christian Science children during the recent outbreaks in Great Falls, Kalispell, and other Montana communities. Christian Science children comprise a very small fraction of those requesting exemption from vaccination in Montana. For example, in Great Falls last year they were about two percent of those who stayed home during the measles epidemic.

If, however, the Health Department sees it as imperative to reduce the total number of exemptions from immunization, I would recommend that the accommodation in the law be made more specific so that it protects religious rights established by the U.S. Constitution, while at the same time providing local health and school officials a more manageable situation in terms of the number of non-vaccinated students in their school systems. The following wording of Section 4 of House Bill 364 is recommended:

SECTION 4. Section 20-5-405, MCA, is amended to read:

"20-5-405. Religious or medical exemption. (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority a written statement on an affidavit form prescribed by the department stating under the penalties for perjury according to Section 45-7-201, MCA, that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend school may not be required prior to commencement of attendance in any school. The statement must be maintained as part of the person's immunization records."

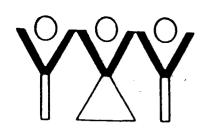
If you have any question about our position on this proposed legislation, please call me. I appreciate your consideration of this matter, which is so important to our basic freedom of religion. I look forward to meeting you at the committee hearing.

Sincerely yours,

Leslie R. Conger

Christian Science Committee on Publication

for Montana



MISSOULA AREA SPECIAL EDUCATION COOPERATIVE

301 W. Alder Missoula, MT 59802 EXHIBIT # 13

DATE 2-6-89

HB #49

Fred Appelman Director (406) 721-5700, Ext. 346

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February 6, 1989

TO: Mr. Ted Schye, Chairman Mr. Fritz Daly, Vice-Chairman Members of the Education Committee Interested Parties

FROM: Fred Appelman, Director

Missoula Area Special Education Cooperative

RE: HB 449

I'm here today to speak in support of HB 449. I speak as chairman of an ad hoc committee formed for the purpose of studying special education cooperatives and for making recommendations for possible legislation.

The bill today before you reflects the "best thinking" of this broad-based state wide committee.

The major concern voiced by members of the committee related to the stability of cooperatives and the effect upon the remaining members when a district decided to withdraw from a cooperative.

A recent survey of Montana's cooperative directors, conducted on behalf of the Cooperative Study Committee, echoed this same membership concern. 38% of cooperative directors reported they had a district or districts withdraw from their cooperative. When asked to list the effects of the withdrawals on their cooperative 100% (all respondents) reported a:

- * reduction in support FTE
- * loss of revenue to the cooperative.

HB 449 in response to a need for stability HB 449 states:

- 1. A school district that joins a cooperative will be required to stay in for a period of three years.
- 2. By October 1 of the current year, a district will be required to give written notice to the management board of the cooperative of its intent to participate or not to participate in the cooperative for the next two school fiscal years.
- 3. Incentives will be offered to districts for joining and staying in a special education cooperative. State incentives are designed to encourage more sharing of services and to move districts toward a more economical operating positions.

In response, HB 449 grants the authority to the Office of Public Instruction to adopt rules to determine eligibility for funding reduced caseloads for itinerant personnel for a full-service special education cooperative or a joint board formed under 20-3-361 for special education purposes.

4. Uniformity of Cooperative Structure

The study committee recommended that for a special education cooperative to be eligible for state incentives that they must be organized under Section 20-7-453 and 20-7-454 which require an Attorney General's approved agreement to be on file with the Office of Public Instruction.

In addition, membership incentives would be offered to joint boards formed for the purpose of providing shared special education services.

HB 449, in response, states:

After June 30, 1990, cooperatives that do not have an agreement approved by the Attorney General and on file with the Office of Public Instruction under the provisions of section 20-7-453 and 20-7-454 may not be funded except by approval of the Office of Public Instruction. After June 30, 1990, the bill grants the authority to the Superintendent to adopt rules for approval of full-service special education cooperative. In constructing the rules the Superintendent is to consider:

special education enrollment

caseload

service pattern

number of schools participating

the geography of the participating districts

other factors determined to be relevant by the Superintendent

The final recommendation of the Cooperative Study Committee relates to the governance of a special education cooperative.

Governance of Cooperatives:

In light of the "local control issue" and in response to concerns voiced by the Montana School Board Association (MSBA), the Committee recommended that a cooperative bill should contain language enabling a management board, comprised of trustees of the contracting districts or their authorized representatives, to govern and manage a full service special education cooperative.

The governance of a joint board, would rest with that board and would be determined by their charter agreement.

DATE: NOVEMBER, 1988 TO: INTERESTED PARTIES

FROM: M.C.A.S.E.

RE:

SPECIAL EDUCATION COOPERATIVES

FACT SHEET

SURVEY OF USERS OF SPECIAL EDUCATION COOPERATIVES SERVICES

Flori McCurdy, who was Director of the Southwestern Montana Educational Cooperative at that time, conducted an extensive study of cooperatives in the state. Questionnaires were mailed to 358 administrators whose districts were either served by cooperatives or who were directors of cooperatives. Of the 358 questionnaires mailed to administrators (superintendents, principals, cooperative directors, and county superintendents), 262 responded which represented a response rate of 73%. Typically 75% agreement on an item is considered as an acceptable "majority" determination.

RESULTS

Cooperatives are supported by their Users as indicated by the following survey results:

PERCENTAGE OF SUPERINTENDENTS AGREEING WITH THE FOLLOWING STATEMENTS:

| RELATIONSHIPS | 96.2% - The district is supportive of your special education cooperative. |
|---------------|---|
| | 94.2% - The Cooperative experiences supportive relationships with administrators. |
| | 93.3% - The cooperative makes possible the delivery of mandated services for districts. |
| • | 88.5% - The cooperative collaborates with other organizations in providing services. |
| EFFICIENCY | 84.5% - The cooperative staff covers the geographic distances efficiently. |
| | 82.5% - As a result of cooperative membership, our district has more choices to make in services to the handicapped. |
| QUALITY | 91.3% - the cooperative staff are qualified to deliver special education services. |
| GOVERNANCE | 91.3% - The cooperative has an adequate governing structure. 88.5% - The cooperative has governing policies clearly established. |
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SERVICE AREA INFORMATION

Total ANB for all cooperatives - 58,157 Average ANB per district (all cooperative combined) - 169 Average ANB per Cooperative - 2,423

Total number of districts being served by all cooperatives - 344 Percentage of districts served by Cooperatives - 63%

COOPERATIVE HISTORY

In response to the upcoming expiration of regional services to the handicapped (effective July, 1980) Montana special education cooperatives were created by legislative action in 1979. There were no feasibility studies concerning the formation of cooperatives prior to enactment of legislation. Districts were given eight months to make the transition from special education service being provided by a regional organization to services being provided by a cooperative operating under an approved inter-local cooperative agreement. Cooperative membership was voluntary. Funding guidelines for cooperatives' itinerant staff did not differ from the funding for non-itinerant staff, and no regulations were created to guide the cooperative organizational development. The development of cooperative can best described as a "seat-of-the pants" process.

FUNDING HISTORY

Staffing guidelines for both cooperatives and districts were based on a full-time equivalency funding formula as stated in the <u>Montana Special Education Reference Manual</u>. For example, a full-time psychologist was funded for every 1500 students (ANB); a full-time speech clinician for every 1000 students or a case load of 35 speech handicapped students; a full-time special education director for 3000 (ANB) or 12 certified staff members. Since cooperatives were organized according to number of students (ANB), and funding patterns for FTEs were depended upon the ANB or child count; withdrawal from membership could Jeopardize the entire cooperative program.

In March, 1981, the Office of Public Instruction developed new funding guidelines for special education allowable costs. Line items in special education budgets were either to be considered Priority I or II. OPI determined that all teaching, psychological, and speech services, and the travel associated with these services were in the Priority I category. Priority II services included: administration, clerical, supplies, benefits, building rental, telephone, and utilities. In 1981, all Priority I costs received 100% state funding while Priority II positions received 47% funding. For the 1988-89 school year, Priority I costs were funded by the state at 91% and Priority II at 36%.

COOPERATIVE SURVEY RESULTS

A recent survey of Montana's cooperatives, conducted for the Cooperative Study Committee, reported that 38% of cooperative directors said they had a district withdraw from their cooperative. 50% of those reporting a withdrawal of an district or districts said this had an adverse effect on the remaining districts in the cooperative. When asked to list the effects of the withdrawals 100% (all respondents) reported an reduction in support FTE and loss of revenue to the cooperative.

Conversely, 38% of the Cooperative Directors indicated that new districts have joined their cooperative after its initial formation. The most frequently cited reason for joined the cooperative was a desire to comply with the requirements of P.L. 94-142 (88% of all respondents checked this item).

86% of Cooperative Directors indicated a need for revisions or changes in the structure or organizations of their cooperatives:

AREAS THAT NEED TO BE ADDRESSED (Percentage of respondents checking an item)

100% - level of funding

89% - stability

89% - mandatory participation

89% - different funding formulas for cooperatives

PROPOSED LEGISLATION

A statewide Cooperative Study Committee, with funding provided by OPI, was established in the Summer of 1988 to study special education cooperatives. The committee was very broad based with initial representation from the following groups or organizations:

- Montana Education Association (M.E.A)
- Council of Administrators of Special Education (C.A.S.E.)
- Montana Association of School Administrators (M.A.S.A.)
- Montana School Boards Association (M.S.B.A.)
- Board of Public Education
- Montana Association of County Superintendents (M.A.C.S.S.)
- Montana House of Representatives
- Governors Office
- OPI

After considerable deliberation the Committee reach consensus on the following major points, which should be addressed in the form of legislation:

- 1. Existing special education cooperatives will be "grandfather". Cooperatives with formal inter-local agreements approved by the Attorney General and on file with Office of Public Instruction would be allowed to stay in existence. In March of 1987, 23 cooperative in the state were identified as meeting the above criterion. No new cooperatives could be formed unless the total number of cooperative dropped to under twenty. In this event, the formation of new cooperatives would be subject to the approval of OPI.
- 2. School district membership in a cooperative would be for three years. Districts withdrawing from the cooperative would be required to notify the cooperative management board no later then October 1 of the third year.
- 3. Then management board of the cooperative is to be comprised of the board of trustees of member schools or their designee.
- 4. Only the "grandfathered" and cooperatives with approved inter-local agreements would be entitled to benefit from reduced caseloads for itinerant personnel.
- 5. The authority for determining reduced caseloads for itinerant cooperative personnel would continued to rest with the Office of Public Instruction.

EDUCATION & CULTURAL RESOURCES COMMITTEE

| BILL NO. 433 | DATE February 6, | 1989 | |
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EDUCATION & CULTURAL RESOURCES COMMITTEE

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| SPONSOR Eudaily | · | | |
| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
| GAYLE J. VIDAL | Kalispell | ~ | |
| Michael Hall | Helena | V | |
| Mighael Honderson | Kalispell | | |
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EDUCATION & CULTURAL RESOURCES COMMITTEE

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| SPONSOR ZOOK | · | |
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EDUCATION & CULTURAL RESOURCES COMMITTEE

| BILL NO. 364 | DATE <u>February 6.</u> | 1989 | |
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| SPONSOR R. Nelson | | | |
| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
| LES CONGER Dould & Espelin MD | 10455 Gee Normon Rd. Belgrade MT 59714 DHES | | |
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| Elward Phichalewig | Kalispell | * | |
| Michael Anderson | Kalispell Kalispell | Х | |
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EDUCATION & CULTURAL RESOURCES COMMITTEE

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| SPONSOR Schye | ······································ | | |
| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
| Robert Runkel | 300Villad#202 (OPI) | × | |
| Bill Pellant | 300 Utland#202 (OPI) NW399 EIK Ridge Hamilton, 147. | X | |
| Kelly EVANS | DEER Lodge, MT | K | |
| they Appelmon | Missoula, UT | K | |
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EDUCATION & CULTURAL RESOURCES COMMITTEE

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| SPONSOR Peck | | | |
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| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
| Bruce W. Morrer | M50A | ~ | |
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| Bruce W. Morrer Ric FLOREN Gun W Jong | MSOA HAURE SAIM | / | |
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ROLL CALL VOTE

| EDUCATION AND CULTURAL RESOURCES | COMMITTEE | |
|---|-----------|----------|
| DATE 2-6-89 BILL NO. 374 | NUMBER # | |
| NAME | AYE | NAY |
| Rep. Ted Schve, Chairman | | |
| Rep. Fritz Daily, Vice-Chairman | V, | |
| Rep. Vicki Cocchiarella | | |
| Rep. Paula Darko | | |
| Rep. Ervin Davis | | |
| Rep. Ralph Eudaily | | |
| Rep. Floyd Gervais | V | |
| Rep. Bill Glaser | | |
| Rep. Dan Harrington | | |
| Rep. John Johnson | | |
| Rep. Tom Kilpatrick Rep. Richard Nelson | | |
| Rep. Richard Nelson | | V |
| Rep. John Phillips | | |
| Rep. Richard Simpkins | | |
| Rep. Wilbur Spring, Jr. | √ | |
| Rep. Barry "Spook" Stang | | |
| Rep. Fred Thomas | | |
| Rep. Norm Wallin | | IV, |
| Rep. Diana Wyatt | | V |
| Rep. Tom Zook | | |
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| TALLY | <u></u> | _7_ |
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| Deer cearly | Chairman | |
| Secretary Secretary OTION: Motion by Rep Endaily CARRIED 13 yes, 7 no. | , Do t | ASS. |
| CARRIED 13 yes, 7 no. | | |
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Form CS-31 Rev. 1985

ROLL CALL VOTE

| EDUCATION AND CULTURAL RESOURCES | COMMITTEE | |
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| ATE 2-6-89 BILL NO. 148 455 | NUMBER # | 2 |
| NAME | AYE | NAY |
| Rep. Ted Schve, Chairman | | |
| Rep. Fritz Daily, Vice-Chairman | V | |
| Rep. Vicki Cocchiarella | | V |
| Rep. Paula Darko | / | |
| Rep. Ervin Davis | | |
| Rep. Ralph Eudaily | | , |
| Rep. Floyd Gervais | | 1/ |
| Rep. Bill Glaser | | V, |
| Rep. Dan Harrington | | V |
| Rep. John Johnson | | |
| Rep. Tom Kilpatrick | | |
| Rep. Richard Nelson | | |
| Rep. John Phillips | | V |
| Rep. Richard Simpkins | | V |
| Rep. Wilbur Spring, Jr. Rep. Barry "Spook" Stang Rep. Fred Thomas | | |
| Rep. Barry "Spook" Stang | | V |
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| Rep. Norm Wallin | | |
| Rep. Diana Wyatt | V | |
| Rep. Tom Zook | | |
| TALLY | 12 | 8 |
| Cunne Mexittrich Secretary | Ad Solo | |
| OTION: Rep Endulis motes | in to I | 0 |
| PASS. Motion CARRIED | 12 yes, 8/ | no. |
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