

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, Chairman, on
March 10, 1989, at 1:00 in Room 402 at the State
Capitol

ROLL CALL

Members Present: Senators: H. W. Hammond, Dennis Nathe,
Chet Blaylock, Bob Brown, R. J. "Dick" Pinsoneault,
William Farrell, Pat Regan, John Anderson Jr., and
Joe Mazurek

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and
Julie Harmala, Committee Secretary

Announcements/Discussion:

None

HEARING ON HB 364

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE RICHARD NELSON, House District #6, thanked Chairman Hammond for moving this bill into the Senate Education Committee. It was, he said, originally heard in the House Education Committee and it deals with a school situation which is measles in the schools and so forth. He said he felt the bill would be more appropriate in the Education Committees in its content, than to go to the Health Committee.

He went on to explain that the Montana immunization law has proven effective in reducing disease incidence in Montana school children due to vaccine preventable diseases. HB 364 includes changes that are intended to further reduce the potential for disease introduction into the school system and also allow the county health officer the ability to determine appropriate control measurers including the link of exclusion during an outbreak.

The bill broadened the application of the immunization law from only K-12 schools to other educational settings including post secondary facilities that play an important part in disease transmission. It includes mumps as the necessary vaccine in K-12 schools, it deletes the personal exemption and defines specific procedures and conditions for qualifying for a religious exemption. Medical exemptions are still allowed under the existing rules. It requires a school from which a student is transferring to provide the student with a photo copy of the immunization record for the school to which the transfer is being made and not allow a student to enter without that record. The school of origin must provide the original record within 30 days. It also removes the thirty day exclusion period time limit for those excluded during outbreaks due to lack of immunization. The length of exclusion would be determined by the county health officer as outlined in the communicable disease rules.

List of Testifying Proponents and What Group they Represent:

DONALD E. ESPELIN, M.D., Pediatrician and Chief for the Health Services Bureau, Department of Health and Environmental Sciences

DICK PAULSEN, Manager of the Montana Immunization Program, Montana Department of Health and Environmental Sciences

LES CONGER, Christian Science Committee on Publication for Montana

LEROY SCHRAMM, Legal Council for the Board of Regents

Testimony:

DR. DONALD ESPELIN, (See Exhibit #1)

DICK PAULSEN, (See Exhibit #2)

LES CONGER, (See Exhibit #3)

LEROY SCHRAMM, of the B of R, stated the office of the B of R think that HB 364 especially as it applies to high school students narrowing the exemption is the best thing this bill does. If there is virtually universal immunization at the high school level, this problem will pretty much be taken care of at the college level. The extension of coverage to the colleges and universities as far as the six campuses of the university are concerned is immaterial because in December the Regents passed a policy that made measles and rubella immunization mandatory for anyone entering any of the six units of the university system. Mr. Schramm said the Regents are not opposed, it does parallel the B of R policy which may be viewed a unnecessary.

For informational purposes, he explained that this will require a change of policy on two of three types of school campuses around the state. Rocky Montana College already requires measles and rubella immunization but Carroll College and the College of Great Falls do not. This would also require the change of policy for the community college and the Vo Tech schools.

"All in all," Mr. Schramm said, "we think the bill is a real step forward."

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members:

Senator Farrell asked how long after the shot does the immunization take effect. Dr. Espelin replied that there must be a chance given to build up an immunity, which is "some weeks depending on the person's ability."

Senator Farrell asked what would happen if someone moves into the state and they do not have this immunization record. Dr. Espelin replied that the student would get immunized and be admitted into school. This is the same method used on outbreak control when people are excluded from school, they are immunized and allowed back to school. He explained that the reason it is done this way is that it causes the least amount of disruption in the community and maximizes the public health benefits.

Senator Farrell asked if it was the same with mumps, that are now included in the bill. Dr. Espelin replied yes but that mumps was not a disease of the elderly as much.

Senator Regan asked if an outbreak were to occur would a student with a religious exemption be admitted to the school or would they be required to go home. Dr. Espelin explained that the way an outbreak is handled is that all susceptible are excluded from school until the outbreak is over. The outbreak that is "declared over thirty days after the last rash on set." He said that no matter for what reason a child is not immunized they would be excluded until they were immunized or the outbreak was controlled.

Senator Regan asked if the religious exemption simply is an exemption for not requiring the immunization for admittance into school but once the outbreak takes place there is no religious exemption other than staying at home. Dr. Espelin agreed.

Senator Blaylock asked if on getting the religious exemption is all they have to do is say they want a religious exemption or is it required that they be a member of a church that objects to this. Dr. Espelin replied that his understanding was it needed to be notarized. Senator Blaylock asked if a student could just say, "I don't believe in it religiously." Mr. Conger replied that on Page 6, it refers to the fact that they must present a notarized affidavit on a form prescribed by the Department, saying that immunization is contrary to religious practices of the science.

Senator Blaylock stated that even with this, they could still just say, "I object religiously." Mr. Conger replied that they could if they wanted to perjure themselves.

Senator Pinsoneault said that it was his understanding that perjury occurs only at a judicial proceeding and by a witness, who under oath, testifies to a material matter.

Senator Mazurek asked if the House Education Committee deliberately made this a felony offense. Representative Nelson replied that he did not recall it coming up as to what class of offense it would be, there was concern with the stating of a religious reason for not being immunized and have this presented to the school.

Senator Brown asked about the measles outbreak in Kalispell, when a student's parent objected to immunize just because they were a counter culture family. They were not from an organized religion so he wondered if this would be considered a "religious belief or a personal belief." He wondered if the student could go to a notary. Mr. Conger stated that the intent of the amendment to the bill was that this be used by religions which includes spiritual healing only. Senator Brown asked if a person must be a member of some organized religion or could they claim to be a "nature worshiper." Rep. Nelson repeated that it was his understanding that it had to be a well recognized religion which includes spiritual healing.

Senator Mazurek asked who it was that had put in perjury. Mr. Conger replied that this was offered to them by the legal department in the Christian Science Mother Church. If a misdemeanor would be more appropriate this would be something that could be changed. He said that there was no way a Christian Scientist could perjure himself on this, therefore he said they had no concern at this point.

Senator Pinsoneault suggested that "false swearing" be included in the Title of the bill. Chairman Hammond stated

that if there was no objection this would be considered done.

Senator Mazurek asked that since this bill included pre schools, he wondered if licensed day care should be considered. Mr. Paulsen replied that presently there were rules written by the department that the law for day care is enforced by SRS and there are rules related to licensed day cares. He said that whenever there was an organized group of children there were rules relating to a licensed day care. Senator Mazurek asked if these rules related to immunization and Mr. Paulsen replied that they do.

Closing by Sponsor:

REPRESENTATIVE NELSON closed by saying that he feels this is a critical matter. In Kalispell the measles outbreak cost \$10,000 in cash outlay for funding and these were funds that they did not have. Some fund transferring had to be done within the county. It also cost \$34,000 worth of staff time, which they had to take care of through comp time. He said this shows what an expensive proposition this was.

DISPOSITION OF HB 364

Discussion:

Senator Regan said that there had been some reference to \$400,000 and she wondered if there was some money someplace for this debt. Dr. Espelin replied that the immunization program gets its vaccine from CBC Laboratories and the program is funded by them. This coming year anyone in the state born after 1957 must be immunized and not immunized for measles after 1980. There will be a \$400,000 shortfall in the program, meaning that every bit of available vaccine will be used.

Senator Nathe ask where the money comes from. Dr. Espelin said that a grant from CBC is applied for and they supply the money. Mr. Paulsen added that the grant amount to the vaccine portion is over \$600,00, but the total grant was \$700,000. (This includes, DPT, Polio, NMR, MOR, HIT vaccines).

Amendments and Vote:

Senator Pinsoneault moved that the offense would be "false swearing" rather than "perjury."

Without objection the MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Blaylock moved that HB 364 do pass.

Senator Nathe called for the question.

THE MOTION CARRIED UNANIMOUSLY.

Senator Brown will carry HB 364 to the floor of the Senate.

DISPOSITION OF HB 299

Discussion:

Senator Regan suggested that HB 299 needs an amendment if it is going to be passed. She said she favors passage of the bill because in the large school districts there are problems where there is preponderance of trustees coming from one area. It is not that this is bad, she said, but there should be a feeling in all the districts that the people have someone to go to, rather than being ignored and excluded. She gave the example of the situation in the Billings Heights area where there is no representation on the board and it would be the seventh largest city in the state (in terms of population), if it was considered a separate city. The amendment Senator Regan suggested would be a non resident requirement, so the person running for the board would not have to live in the district for which they ran.

Senator Pinsoneault commented that he had not heard anything favorable about the bill. He added that he felt this was a big city bill.

Senator Mazurek commented that he felt if a non residency requirement was put in, it almost defeated the idea of the bill. Senator Regan responded by saying that a Representative or a Senator may run out of the district providing the district does not cross county lines and she said she feels they do a good job representing the district's constituency.

Dave Cogley explained that the bill requires that the person be elected by the residents of "that single member district." They would not be elected at large.

Senator Nathe asked if there would be a phase-in period if the bill passed. Senator Regan replied that they would be able to pick the district they wanted to run from.

Senator Mazurek pointed out that reapportionment does cause problems. He wondered if there was a compelling need for this bill.

Senator Pinsoneault commented that the focus of this bill was on a single school closure and suddenly a law is going to be put in place for a particular school having to go through the process of loosing school. He agreed that he did not see the compelling need.

Senator Regan pointed out that this was far more reaching than closing one school. Billings has a population of 70,000, with the largest school district in the state, There are single member districts for the commissioners, single member districts for the city council members. These members are already in wards that are proportionate. Therefore she felt that proportioning a school district would not be that difficult. She said that there are areas of the school district where the people living in these areas, feel as though they are being ignored. They feel there is no one to go to, to express their concerns. She went on to say that watching the way a school board meeting in a large school district is run and the size can be threatening and difficult for people to feel that their voices are being heard. It is not just the closure of one school, she explained it simply is that, "All the trustees come from one area." She said that she understood they may still come from one area, but they will begin to focus on other area as well. In Billings there is a very good school board and just recently the Southside area got a person elected to the board but the members comes mainly from the northwest area. Single member districts are easier to run in, going door to door, visiting the schools and getting to the people.

Senator Brown replied that this bill had a good case but he said he had a problem with the bill in that if a single member district was good for legislators, good for council members and good for school districts of 40,000 or more people, he wondered why they would not be good for smaller districts. He added that he knew there was not a factionalism problem now in the smaller communities and he did not want to create one.

Senator Nathe asked that if in single member districts if the trustees would be elected only by the people in that district they would be representing. He also wondered if when they ran for a district if they ran at large, being residents. Dave Cogley explained that the bill does not address whether a trustee has to live in the district or not, but it does require that only the electors residing in that district get to elect the trustee.

Senator Regan commented that the committee members coming from the smaller areas were not recognizing the problems of living in a community where there are 10,000 students, a population of almost 100,000. It is not the little neighborhood school where everyone is known in the town. "The schools are not known nor is the complexity of this understood."

Amendments and Votes:

Senator Regan moved the non resident requirement amendment for HB 299.

THE MOTION CARRIED 7 to 2 with Senator Brown and Senator Hammond voting against the motion.

Recommendation and Vote:

Senator Regan moved HB 299.

Senator Farrell moved as a substitute motion to table HB 299.

THE SUBSTITUTE MOTION CARRIED 8 to 1, with Senator Regan voting against it.

A roll call vote was taken. (See Exhibit #1)

Later in the meeting Senator Mazurek moved that the committee reconsider the action of tabling HB 299. He said he was making this motion for the purpose of making a motion that HB 299 do not pass. He said that Senator Regan thinks this bill ought to be able to be brought to the floor. He said he felt tabling the bill would be a courtesy to the sponsor and he is making the motion for the purpose of having it recorded on the floor. He urge the committee to support his motion so the bill could be "killed, fair and square."

Senator Nathe called for the question.

THE MOTION CARRIED 8 to 2.

Senator Mazurek moved that HB 299 do not pass.

THE MOTION THAT HB 299 DO NOT PASS CARRIED WITH A 7 to 2 VOTE.

Senator Hammond will carry the adverse committee report to the floor of the Senate.

DISPOSITION OF HB 481

Discussion:

Senator Hammond explained that this bill changed accumulated sick leave fund of school districts.

Dave Cogley announced that there was an amendment to HB 481 because there was a technical oversight in drafting the bill and this occurred in Sub section 4b on Page 2. He said it did not specify the date that the accumulated vacation leave would be computed whereas on line 9, the date to compute accumulated sick leave is January 15 of the preceding school year. He said it has been concurred that an appropriate date is needed on which the accumulated vacation leave would be computed and that the amendment simply used the same date (January 15 of the preceding school year) for the date on vacation leave.

Senator Farrell stated that his concern was that there was no indirect cost to property tax. They said it was no "direct cost," because the millage does not revert back, he said there would be a property tax cost.

Senator Nathe agreed that this bill comes from excess money and budgeted funds are always budgeted in excess because transfers can not take place between school budgets. The only way out of this is to go to an emergency levy and the figures scared him he said. He pointed out that means for Bozeman and substantial funds can be built.

Amendments and Votes:

Senator Pinsoneault moved that the amendments to HB 481 be so moved.

THE MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Nathe moved that HB 481 do not pass.

Senator Pinsoneault asked if it was allowed that the other school district employees can take accumulated time when they move.

Senator Hammond commented that teachers accumulate sick leave time.

Senator Regan pointed out that a certain number of days can be accumulated but the teachers do not get the money. Only one quarter of the money can be claimed.

Senator Hammond stated that when a teacher retires they can have the money.

Phil Campbell of the MEA, stated that statutorily teachers are not entitled to sick leave. This is negotiated in the contracts. Teachers are excluded from sick leave under the statutes. Almost all teachers have sick leave and in most cases its less than what is available to other school employees. Most school districts limit what school teachers can get.

Senator Nathe stated this is vacation leave and its non teaching people and the reserve that has to be built up includes vacation leave in addition to the sick leave they already got.

Senator Hammond asked what the situation was at the junior college level as far as sick leave is concerned.

Flathead Community College President, Howard Fryette stated that it is negotiated in and at one time there was a 100 day cap, now it is unlimited. It is reimbursable upon termination or upon retirement at 25% of the total amount of accumulated days as of 1975. Sick leave is negotiated and there is a 100 day cap.

He added that because of a Supreme Court ruling, saying that community college faculty are like state employees, they can accumulate sick leave.

Senator Pinsoneault stated that these employees do not make much money and if they leave it is generally for a good reason, the custodial people and secretaries and in a situation where they leave for what ever reason this is a cushion for them and it is not much. If they have accumulated when they leave they should be entitled to the

amount in a lump sum. There is not much provided for the non certified teachers in the district. They do not have any representation as the teachers do because they are not unionized. He said he has an element of empathy for this particular group of people because of the low pay and they are not represented.

Senator Hammond stated that the schools brought this bill in, only to create a 30% reserve fund to pay it, it does not deal with whether they get it or not.

Senator Brown called for the question on Senator Nathe's motion that HB 481 do not pass.

THE MOTION CARRIED THAT HB 481 DO NOT PASS with Senator Pinsoneault voting no.

Senator Blaylock will carry the adverse committee report on HB 481.

DISPOSITION OF HB 20

Discussion:

Chairman Hammond reminded the committee that HB 20 required Kindergarten in each elementary school district. He also said that 97% of the students are being served by kindergartens in the state with 3% being in the very rural areas. He said he did not think it was ever determined as to whether the local district would have the opportunity to say when they would have the kindergarten. The B of PE could determine this, because there is a lot of lee way with the bill and he said he know of some school districts where there would be a problem holding kindergarten every day for one half of the day.

Senator Brown stated that according to the bill the trustees of a district shall establish or make available a program capable of accommodating a minimum of all the children in a district who will be 5 years old on September 10 of the school year and it seems to be very flexible.

Recommendation and Vote:

Senator Blaylock moved that HB 20 do pass.

Senator Farrell called for the question.

A roll call vote was taken and THE MOTION CARRIED 5 TO 4.
(See Exhibit #1)

Senator Blaylock will carry HB 20 to the floor of the Senate.

DISPOSITION OF HB 332

Discussion:

Chairman Hammond explained that HB 332 gave authority of community college trustees as to college property and finance.

Senator Mazurek stated that there has always been a statute to give them power to accept money and he wondered what harm there would be to "...may accept or borrow money for the purposes of this section."

Dave Cogley said that he was certain this authority was still included but there would be no harm in putting it back in if there was concern.

Senator Nathe said he had a problem with the new section on Page 3, "...the general cash fund reserve" and its allowed to build to 35%, and this language transferred from elementary and secondary law. Tuition is coming at the college level and he wondered if there was a cash flow problem elementary and secondary schools have. He wondered also what the total amount of the general fund reserve that should be related to mills that are levied or to the whole gamut of money.

Don Kettner, President of Dawson Community College, replied that with the mandatory levy it is assessed in November. The colleges get the money at the end of December, first of January. Summer school starts in July and there are people on the payroll July and August. The receipts received by the college are tuition fees and up to this time there has been a reserve from a prior funding formula for the months of July and August. Since the passage of I 105, these reserves have been used up. The 35% figure was just taken from the school law and there would be no problem reducing that amount.

Senator Nathe asked if the assessment of mills for the community colleges was different than what the commissioners put on them. He said they usually do this in August when they determine the final mills. The community college should be getting the money at the same time.

Howard Fryette, President of Flathead Valley Community

College, replied that the community colleges do not actually get cash until December.

Senator Regan asked what the community college's general fund budget was.

President Fryette replied that for Flathead Valley it was \$3,200,000.

Senator Regan said then that 20% of this would be over \$600,000. She then pointed out that this would be a tremendous amount.

President Fryette replied that between 10 and 20% would be an acceptable amount.

President Kettner said that the Dawson Community College's budget was about 1.7 million and somewhere between 10% and 20% would be fine but no less than 10%. He said that as of the legislature's actions in 1980, the reserve fund was done away with and I 105 buried it.

Senator Mazurek asked how HB 332 made it this far with this 35% reserve.

Mr. Schramm replied that when HB 332 was first put together it was thought that the easiest way was to reflect what the school districts were doing so each section would mirror school district law and all that is wanted by the community colleges is to be treated like school districts. This was done oblivious to the problems that are being discussed. He said that the 35% was not put in so it could be bargained from, it was strictly a model of what school districts are doing.

Senator Blaylock felt that it should be a 15% reserve, so there is a leeway. If programs are to be limited, he felt that this should not take place.

Senator Regan stated that this was not the only money they had, this 10% reserve.

Amendments and Vote:

Senator Farrell moved that HB 332 be amended to a 10% reserve.

Senator Regan called for the question.

THE MOTION TO AMEND HB 332 CARRIED, 6 TO 3, WITH SENATORS, MAZUREK, BLAYLOCK, and BROWN VOTING NO.

Recommendation and Vote:

Senator Mazurek moved that HB 332 be concurred in as amended.

Senator Nathe called for the question.

THE MOTION CARRIED UNANIMOUSLY.

Senator Brown will carry HB 332 to the floor of the Senate.

DISPOSITION OF HB 346

Amendments and Votes:

Senator Brown moved the amendment to HB 346 stating that the reason for the amendment (See Exhibit #1) was that he had been contacted by people from the Flathead Valley Community College, who wanted to make their new campus tobacco free. If the board of trustees chooses to do this, the community colleges want to be included in this bill.

THE MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Mazurek moved HB 346 to be concurred in as amended.

THE MOTION CARRIED 6 TO 3.

DISPOSITION OF HB 455

Discussion:

Chairman Hammond explained that HB 455 dealt with the mandatory tuition approval for elementary pupils to attend nearest school.

Dave Cogley said that he talked with Bruce Moerer who explained that this bill could have an impact on a district's ability to pay tuition if there was a whole family taking advantage of the proposal. In an elementary school the only way that a sending district can raise the tuition is by a local voted levy and if they are already up against the I 105 cap this could present problems.

Senator Blaylock asked if this bill was really needed.

Senator Hammond replied that it was needed in two or three places.

Senator Mazurek asked if it would affect the situation around Helena where several people are coming into Lewis and Clark county from outside the county.

Senator Hammond stated that hopefully tuition will be done away with soon.

Claudette Morton of B of PE, said that all the models that are being looked at to revise the foundation program would do away with tuition.

Senator Hammond pointed out that because of the attorney general's decision that a district does not have to pay the tuition local districts are saying "if you want your child to go to school there, you must pay the tuition."

Senator Nathe asked if the districts had the option to pay it or not pay it.

Senator Hammond said that there was also a district that runs a bus in another district and this district is now refusing to pay transportation because of the attorney general opinion. He said that when tuition was eliminated, problems would also be eliminated.

Senator Mazurek asked if this bill requires a tuition agreement.

Senator Hammond said that this bill says that the local district in which a student resides would have to pay the tuition to the attending districts. Although he said if they are not charging tuition at the time, they could not start.

Senator Brown stated that he did not feel enough was known about the bill to make a motion.

DISPOSITION OF HB 344

Discussion:

Superintendent Prickett of the Deaf and Blind School, explained that the bill recognizes what the school is currently doing in response to board policy, which it does not now reflect in the form of outreach programing. Also

the bill specifies that it is a day school, it amends qualifications for the superintendents, and makes the number times a student is sent home flexible at the discretion of the B of PE, which will depend on the funding.

Senator Mazurek suggested that in Section 1 "the school may consult with parents," the "shall" be changed to "may", so it is not termed to be mandating.

Claudette Morton of the B of PE, replied that the concern is that in trying to deal with students and provide more opportunities for them to be in their own home districts, it is important that these resources are there from the deaf and blind school. The B of PE did not ask for a "may" because the school could say if they had the discretion to do it and the B of PE feels it is important to keep these outreach resources available.

Senator Nathe raised the concern that this was new language on the bottom of Page 1 and he said if this is changed to "shall," this is new language that is mandating and he wondered if the states financial obligation was being increased by mandating this. He said probably the legislators do not spend enough time to have an over all comprehensive view of the services provided to developmentally disabled. He wondered where the line was that SRS leaves off and the school takes over. He wondered also if Ms. Morton had a "firm-line in mind," where a determination could be made.

Ms. Morton replied that this is an entirely different situation because for the children that are born with a handicap the sooner an educational program is set up for them and the sooner they are reached and worked with the better they fit in. This is nothing that SRS works with and the other part is working with the schools and teachers so they have the resources to work with these children. This is the function of this school.

The B of PE is doing these things now, with the responsibility to provide the braille and large print books and the home workers.

Senator Nathe asked if this was being done for pre schoolers and parents throughout the state now.

Ms. Morton replied yes.

Mr. Nathe asked if the intent was to have the absolute responsibility to do this now

Ms. Morton replied that yes this was the intent to have this

put into law to have it clearly stated that the deaf and blind school is not just a residence school but also a resource in these areas.

Senator Regan ask about a program for early intervention and she wondered if they were contracting with the B of PE.

Ms. Morton replied that part of the responsibility of the B of PE was to provide these services in terms of working with pre school children, the parents, and the communities.

Senator Mazurek said his concern is the terms in the bill "shall consult with....." It is not so much, he said, that it is a mandate as far as the B of PE is concerned, but now when a parent wants the service, this means the B of PE is obligated to provide that service.

Senator Farrell pointed out that the old law already says the school must provide these services.

Mr. Prickett commented that consultants do consult out in the state with parents and schools. He said his original intent was not to build an empire or get additional funding, but rather to protect the funding the school is now getting. Technically the school is providing a service which is not mandated in the law and also he said he was apprehensive about programs being taken away and being told to pull the school's tentacles back into Great Falls.

Senator Regan stated that she wanted to address the issue of when the deaf and blind school came to ask if the trips could be increased and the state needed to pay for this because of parental liability. One round trip per month was granted, now with this bill this seems to make it open ended. She asked if there was any parental responsibility requirement and finally she asked if foundation funds could be used.

Mr. Prickett replied that the foundation program is forbidden to use any of the funds for anything that is for a child's basic education or is the state's responsibility. This section of the bill would give the school more flexibility and would give the school permission to send the children home more than nine time a year. Certainly he said, the legislature would be the body that would decide on the approval of the budgeted funds.

Recommendation and Vote:

Senator Blaylock moved that HB 344 do pass.


Senator Nathe called for the question.

THE MOTION CARRIED, 8 TO 1, WITH SENATOR REGAN VOTING AGAINST IT.

Senator Blaylock will carry HB 344 to the floor of the Senate.

ADJOURNMENT

Adjournment At: 3:00 pm


Senator H. W. Hammond, Chairman

HH/jh

Senmin.310

ROLL CALL

EDUCATION

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3-10-89

NAME	PRESENT	ABSENT	EXCUSED
<u>Chairman Swede Hammond</u>	✓		
<u>Vice Chairman Dennis Nathe</u>	✓		
<u>Senator Chet Blaylock</u>	✓		
<u>Senator Bob Brown</u>	✓		
<u>Senator Dick Pineseault</u>	✓		
<u>Senator William Farrell</u>	✓		
<u>Senator Pat Regan</u>	✓		
<u>Senator John Anderson Jr.</u>	✓		
<u>Senator Joe Mazurek</u>	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 364 (third reading copy -- blue), respectfully report that HB 364 be amended and as so amended be concurred in:

Sponsor: Nelson, R. (Brown)

1. Title, line 15.

Strike: "PERJURY"

Insert: "FALSE SWEARING"

2. Page 6, line 17.

Strike: "PERJURY"

Insert: "false swearing"

Strike: "45-7-201"

Insert: "45-7-202"

AND AS AMENDED BE CONCURRED IN

Signed: H. W. Hammond
H. W. Hammond, Chairman

4/10
3/13/89
3/13/89
H.W.

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 299 (third reading copy -- blue), respectfully report that HB 299 be amended and as so amended be not concurred in:

Sponsor: Addy (Hammond)

1. Page 3, line 17.

Strike: "and 20-3-338"

Following: "."

Insert: "Notwithstanding the provisions of 20-3-338 a trustee candidate of a single-member trustee district established under this section is not required to be a resident of the trustee district."

AND AS AMENDED BE NOT CONCURRED IN

Signed: H. W. Hammond
H. W. Hammond, Chairman

4/10
3/13/89
3/13/89
SCRHB299.313

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 481 (third reading copy -- blue), respectfully report that HB 481 be amended and as so amended be not concurred in:

Sponsor: Spring (Blaylock)

1. Page 2, line 12.

Following: "employees"

Insert: "on January 15 of the preceding school fiscal year"

AND AS AMENDED BE NOT CONCURRED IN

Signed: H. W. Hammond
H. W. Hammond, Chairman

scrhb481.313

3-14-89
10:30

SENATE STANDING COMMITTEE REPORT

March 11, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 20 (third reading copy -- blue), respectfully report that HB 20 be concurred in.

Sponsor: Brown, D. (Pinsonneault)

BE CONCURRED IN

Signed: H. W. Hammond
H. W. Hammond, Chairman

41.0
3/13/89
3:50
P.M.

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 332 (third reading copy -- blue), respectfully report that HB 332 be amended and as so amended be concurred in:

Sponsor: Connelly (Brown)

1. Page 3, line 15.
Strike: "35%"
Insert: "10%"

AND AS AMENDED BE CONCURRED IN

Signed: *H. W. Hammond*
H. W. Hammond, Chairman

*4/10
3:11:31
3:50
3:50 p.m.*

SCRHB332.313

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 346 (third reading copy -- blue), respectfully report that HB 346 be amended and as so amended be concurred in:

Sponsor: Rice (Mazurek)

1. Title, line 5.

Following: "DISTRICT"

Insert: "OR COMMUNITY COLLEGE DISTRICT"

Following: "SCHOOL"

Insert: "OR COMMUNITY COLLEGE"

2. Title, line 6.

Following: "DISTRICTS"

Insert: "AND COMMUNITY COLLEGE DISTRICTS"

3. Page 1, line 16.

Following: line 15

Insert: "or community college facility designated as tobacco-free by the board of trustees of the school district or community college"


4. Page 2, line 2.

Following: "facilities"

Insert: "designated as tobacco-free by the board of trustees of the school district;

(5) community college buildings or facilities designated as tobacco-free by the board of trustees of the community college district"

AND AS AMENDED BE CONCURRED IN

Signed: 
H. W. Hammond, Chairman

SENATE STANDING COMMITTEE REPORT


March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 344 (third reading copy -- blue), respectfully report that HB 344 be concurred in.

Sponsor: Nisbet (Blaylock)

BE CONCURRED IN

Signed: 

H. W. Hammond, Chairman

scrhb344.313

eg
3.
14-84
70-31

SENATE EDUCATION
EXHIBIT NO. 1
DATE 3-16-89
BILL NO. HB 364
March 1989

TESTIMONY FOR THE SENATE COMMITTEE ON EDUCATION
AND CULTURAL RESOURCES
HB 364

Mr. Chairman and Members of the Committee, I am Donald E. Espelin, M.D., pediatrician here in Helena and currently Chief, Preventive Health Services Bureau, Department of Health and Environmental Sciences.

The Department has proposed this bill to give us a better chance at reducing or eliminating vaccine-preventable disease. The recent outbreak in Flathead and Silver Bow counties put our backs against the wall. We ran out of money, manpower and vaccine. We simply have to reduce the impact of such outbreaks.

We are currently looking at a short fall this next year of \$400,000.00. This amount of vaccine would bring our state in line with current public health measles immunization levels. I would like to introduce you, Mr. Dick Paulsen, the program manager for our Immunization Program. Thank you.

DEE/vg-2xt

SENATE EDUCATION

EXHIBIT NO. 2

DATE 3-10-89 March 1989

BILL NO. HB 364

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

MONTANA IMMUNIZATION LAW TESTIMONY
HB 364

Chairman Hammond 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. These changes are based upon our 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. 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, 2) it defines "pre-school" for use in the law, 3) it includes mumps as a necessary vaccine, 4) it removes the personal exemption, 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.

The bill was amended in the House to reinstate the religious exemption which the Department originally wanted to remove. The Glacier County measles outbreak in 1985 (137 cases) was started due to a religious exemption. The Department is willing to accept the amendment that puts the religious exemption back into the law as found in this bill. However, we will reassess our position with the next legislature if it is found that the religious exemption leads to future disease outbreaks in Montana.

March 1989

The Department also favors the House amendment that removes the 30 day transfer period for immunization records which was, in part, responsible for the recent measles outbreak in Flathead County. This amendment was recommended by a school superintendent in Kalispell. The schools will now copy the immunization record and give the copy to the student. Allowing a 30 day period for the original copy of the record to be transferred is a sensible approach for both getting the record to the school and helping keep disease out of the school.

The personal exemption played an important part in starting the 1987 statewide measles where 127 measles cases occurred. It started in Great Falls and was initiated by a student with a personal exemption. 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 County Health Departments and Montana Medical Association supporting a removal of the exemptions. Montana is in the minority of states that do allow philosophical (personal) exemptions. Presently, 28 states do not allow philosophical exemptions for school entry.

What actually happens during an outbreak demonstrates how the exemptions are being abused. 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. 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.

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 College. Remember, measles is most serious in adults. At Principia College (a Christian Science 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.

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 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.

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.

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

March 1989

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 Directory of Montana Schools 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. Un-immunized 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 un-immunized 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 vaccine-preventable 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

March 1989

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.

REP/vg-106d

(Testimony at first hearing, February 6, 1989; House Committee
on ~~Publication.~~
Education)

SENATE EDUCATION

EXHIBIT NO. 3

DATE 3-10-89

NO. 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 not 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. Our 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 inoculated 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 inoculated 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 inoculated.

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 well-being 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 Health 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 inoculation had to stay home from school or be inoculated. Some of them chose to accept inoculation 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 inoculated 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 immunization 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 Bill 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.

WITNESS STATEMENT

Exhibit 3

NAME: Les Conger DATE: 10 Mar 89

ADDRESS: 10455 Gee Norman Rd. Belgrade 59714

PHONE: 388-4040

REPRESENTING WHOM? Christian Science Churches of MT

APPEARING ON WHICH PROPOSAL: HB 364

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: The religious exemption is very important to us. The bill as presented preserves religious freedom.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

HB364

NAME: Marcia Youngman DATE: 3/10/89

ADDRESS: 1214 W Koch Rozeman

PHONE: 587-5704

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: HB364

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: I support this bill if the religious exemption currently included in the bill remains intact.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE EDUCATION
EXHIBIT NO. 1
DATE 3-10-89
FILE NO. HB 346

Amendments to House Bill No. 346
Third Reading Copy

For the Committee on Education

Prepared by Dave Cogley
March 6, 1989

1. Title, line 5.

Following: "DISTRICT"

Insert: "OR COMMUNITY COLLEGE DISTRICT"

Following: "SCHOOL"

Insert: "OR COMMUNITY COLLEGE"

2. Title, line 6.

Following: "DISTRICTS"

Insert: "AND COMMUNITY COLLEGE DISTRICTS"

3. Page 1, line 16.

Strike: "district"

Insert: "or community college facility designated as tobacco-free
by the board of trustees of the school district or community
college district"

4. Page 2, line 2.

Following: "facilities"

Insert: "designated as tobacco-free by the board of trustees of
the school district;

(5) community college buildings or facilities
designated as tobacco-free by the board of trustees of the
community college district"

ROLL CALL VOTE

SENATE EDUCATION

EXHIBIT NO. 1

DATE 3-26-89

BILL NO. HB 20
(BROWN)

SENATE COMMITTEE EDUCATION

Date 3-10-89

House Bill No. 20

Time 2:10

NAME	YES	NO
Vice Chairman Dennis Nathe		✓
Senator Chet Blaylock	✓	
Senator Bob Brown	✓	
Senator Dick Pinsoneault	✓	
Senator William Farrell		✓
Senator Pat Regan	✓	
Senator John Anderson		✓
Senator Joe Mazurek	✓	
Chairman H.W. "Swede" Hammond		✓

5 4

Julie Harmala
Secretary

H. W. Swede Hammond
Chairman

Motion: Senator Blaylock moved that
HB 20 do pass. - passed

ROLL CALL VOTE

Exhibit 1
3/10/89
HB 299

SENATE COMMITTEE EDUCATION

Date 3-10-89 House Bill No. 299 Time 1:55

NAME	YES	NO
Vice Chairman Dennis Nathe		✓
Senator Chet Blaylock	✓	
Senator Bob Brown	✓	
Senator Dick Pinsoneault	✓	
Senator William Farrell	✓	
Senator Pat Regan		✓
Senator John Anderson	✓	
Senator Joe Mazurek	✓	
Chairman H.W. "Swede" Hammond	✓	
	7	2

Julie Harmala
Secretary

H. W. Swede Hammond
Chairman

Motion: table passed