

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION**

**Call to Order:** By SENATOR CHET BLAYLOCK, on April 10, 1991, at 4:45 P. M.,

#### **ROLL CALL**

##### **Members Present:**

Chet Blaylock, Chairman (D)  
Harry Fritz, Vice Chairman (D)  
Robert Brown (R)  
Bill Farrell (R)  
H.W. Hammond (R)  
Dennis Nathe (R)  
Dick Pinsoneault (D)  
Mignon Waterman (D)  
Bill Yellowtail (D)

**Staff Present:** Andrea Merrill (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### **EXECUTIVE ACTION ON HB 746**

##### **Motion:**

SENATOR FARRELL MOVED to amend HB 746 by striking the portion of the bill which calls for a \$6000 appropriation to be used for administrative expenses of an Advisory Committee for HB 746.

##### **Amendments, Discussion, and Votes:**

SENATOR FARRELL objected to the fiscal note accompanying HB 746 which would take \$6000 from the state General Fund for the purpose of an advisory board meeting to make plans for the proposed flag circle/monument. He said that other groups such as the veterans groups and others had to get their own funding and he thought that the Indian tribes should have to do the same.

SENATOR PINSONEAULT pointed out that most of the veterans groups are long time organized groups who have more funds and backing sources than the Indian tribes might have. He thought that the flag circle and monument proposed in HB 746 was a good idea and that the Native American groups might not be able to start planning or get organization for it if they didn't receive some money to use for the advisory committee.

Amendments, Discussion, and Votes:

Considering again the motion that had been made by Senator Farrell to adopt an amendment to strike the \$6000 appropriation (to be taken from the state General Fund) to be used for administrative purposes for advisory committee, one member (Farrell) voted aye; eight members voted no. MOTION FAILED. AMENDMENT NOT ADOPTED.

SENATOR PINSONEAULT MOVED that HB 746 BE CONCURRED IN. The vote of committee was unanimous. MOTION CARRIED. Senator Yellowtail who had co-signed HB 940 was designated carrier.

SEE MINUTES OF 4-08-91 FOR HEARING.

FURTHER DISCUSSION OF HB 999

SEE MINUTES AND EXHIBITS 6, 7, 8 AND 9 OF 4-8-91 MEETING FOR HEARING.

The following persons appeared before the Senate Education Committee for further discussion of HB 999.

Robert Runkle, OPI  
Jim Smith, MRCCA

Sponsor of HB 999, Representative Ray Peck, was present.

Senator Pinsoneault present Exhibit 1 to committee which he had received in the mail from Lake County.

Senator Pinsoneault said that he didn't think the legislators are here to subsidize or insure that either profit or non-profit organizations providing services stay in business. He said that most of these groups have state and federal monies and in this instance they have school district money. He spoke of the seriousness of claims for services coming into small school districts for payment. He said for that reason he supports HB 999 and he urged the committee to support the bill.

Senator Farrell asked Representative Peck if this bill would allow "allowable costs" based on how we treat special education children. Are we imposing the same standards as we impose on special education?

The speaker said current law states when a child is placed, the placing facility determines what the school district is going to pay. This bill says that is not the way to do it. This bill will allow the school district to determine costs.

Senator Farrell said "when you say that the educational costs will be determined by that district, are they referring to what their costs are in that district?"

Representative Peck said yes, in the bill it says that specifically. On Page 5, "when a child has been placed by state agency in an out-of-state residential program, the amount of daily tuition may not be greater than the average daily cost per student in the district of residence." This refers only to education costs not board, room or treatment costs.

Robert Runkle, OPI, discussed the calculation of cost as found on Page 26, Line 6-15 of HB 999.

Senator Farrell said since these costs are talking about special education, what about children who aren't placed for special education but rather emotionally children who don't fall in the category of special education. He asked how the school district determine those costs. How is OPI going to determine the cost of the home school district for people who aren't in the category of special education?

Mr. Runkle said that under the bill, in-state placements of both handicapped and non-handicapped children will be determined by the state under the provisions of Page 26, Line 6-15. There is no longer an attempt to differentiate the fine line between the child being eligible for special education and one not eligible even though both may be emotionally disturbed.

Out-of-state is more complicated. If the child is handicapped the funding will continue to come out of special education appropriations. The only difference being that the funding is provided by the state directly to the out-of-state placement for children who are handicapped and costs are determined by the maximum amount of cost of educating that child in the district of residence.

What would happen is if the Department of Family Services chose to make that placement of the non-handicapped child, they would have to pay that difference for the out-of-state child. The numbers of non-handicapped children involved is significantly less in dollars than of the children who are handicapped.

Senator Farrell said it had been testified that there is an average of one out-of-state placement per year. Under this bill, what would keep a district from placing those children and passing the costs to OPI without going through Family Services (or any other organization) for approval of placement.

Robert Runkle said OPI was motivated to write HB 999 because of some of these concerns expressed by the Committee. He said that as it becomes more difficult for a variety of reasons to place children, OPI was concerned that school districts may have to pay for that placement that other agencies have been paying.

What isn't a provision of this bill is the following:

(Page 22) there is a special education allowable cost schedule which has been modified to exclude room and board. If a school district makes the placement, the school district can't continue (as they are now) coming to the state to ask to help pay for the education costs.

In-state placements don't <sup>school don't charge for</sup> change funding because the programs are already in the facilities and funded as program units. They are not funded on a per child basis so it won't cost the state additional dollars if the child is picked up by that facility but if the placement is special education, handicapped and placed out-of-state, OPI would (as we are now) provide funding for the education portion, only. We could not pay for room and board.

If the child is special education handicapped, room and board would be in related service under special education and the school would have to pay so therein lies the cost controls that OPI sees in this bill. The state would continue to be involved in providing the cost of education but the district would know going into a placement that they would be responsible for the room and board costs.

Senator Farrell asked if Intermountain School and Yellowstone Treatment Centers are state funded programs.

Mr. Runkle said those programs are not but the provisions of this bill where he pointed out how the funding is to be determined says that if the state funds the program unit, they will fund so many teachers, so many aids and administrative support for operating the education program and OPI funds as though we were contracting with the residential program to make available the education program but it is not any longer going to be funded on a kid-by-kid basis but will under this bill be determined based on OPI's evaluation of what the program costs using the controls that are found on Page 26.

Senator Waterman asked if this is similar to how allowable costs are determined for a school district that is running a special education class.

Mr. Runkle said it is same with exceptions: (1) That costs are included that are allowable in this bill for retirement and social security and unemployment compensation insurance; and (2) OPI will fund 100 percent of what they approved.

With school districts when OPI approves the allowable costs, they will fund teachers' salaries, health insurance and workers' compensation insurance but not those retirement benefits. What is funded will be pro-rated based on our available appropriations.

Senator Waterman asked what percent of that cost is OPI funding for school districts. Mr. Runkle said roughly between 70-75%.

Senator Waterman said, "And, therein, folks lies the problem. They are going to equally underfund these two private facilities as they underfund schools because we underfund them."

Representative Peck said that on Section 7 on Page 19 deals with the allowable costs for special education in the state. Then it goes over to Section 9, Page 25, the new section lays out the fund that educational programs that in-state children's psychiatric hospitals and in-state residential treatment programs for children with emotional disturbances. He asked the Committee to consider Section 7 (the existing program) to answer some of the questions being asked.

Senator Nathe said that Medicare and Medicaid are looking to restrict funds. He said he was wondering if the legislature will be binding itself in statute.

Mr. Runkle said that the hospitals have approached OPI because Medicaid has determined that education costs are not an allowable amount under Medicaid. One reason for this bill is to address a way in which those funds could be provided for education.

Senator Farrell asked Jim Smith if he was concerned that if HB 999 passes that it would restrict and cap these costs and other agencies that place children will have to pick up those costs if administrative costs aren't allowable under this bill.

Jim Smith said that for Intermountain Children's Home and Yellowstone Education Centers, there is no other place to turn to pick up those costs. There is no general education budget to turn to and that is how some of the other districts make up their shortfall. He said that Senator Waterman "hit it on the head" when she said that this bill will underfund these two particular facilities just like all the other districts are underfunded. He said that he agreed with the Senator Pinsonneault that he didn't think it was the responsibility of the state of Montana to keep these private facilities in business but he thinks the state of Montana does have an obligation to pay a dollar for a dollar's worth of service delivered and that is what is not being proposed in this bill. What is being proposed in this bill is to pay 70 cents for a dollar's worth of service delivered.

Senator Hammond asked how often programs are monitored and if there were restrictions (meaning eligibility guidelines) for the type of children placed in programs.

Mr. Runkle said that state operated programs are monitored every three years and out-of-state every five years. He said that he would anticipate that they would develop a practice of monitoring residential private programs on a three year cycle like they do state operated programs at this time. To the second question, he answered that in order to be "an eligible child" under this bill, there is a definition specifically contained in the bill and requires that the child is "an emotionally disturbed child"

but it does not require that the child is diagnosed as special education emotionally disturbed child. There is an eligible child clause to this bill that relates back to another provision of statute that defines an emotionally disturbed child.

Senator Waterman said that she has served on school boards and she knows the difficulty they are facing in that they are spending money from their regular education budgets to meet increasing costs for special education placements. She referred to one case history in Helena where the school was court ordered to spend \$40,000 a year for the placement of a child that the school authorities felt could have been educated in the school district. Those costs are "killing" schools.

The speaker said that she understood a bill was defeated in the House that would have fully funded special education. It would have cost 25 million dollars and that is the amount that school districts around the state are spending to subsidize special education. She said that she thought there was a lot of good in HB 999 and it solves a problem for school districts and it makes sense. She said that the problem she has with the bill is that we are not fully funding special education. We are not fully funding it for school districts. The state is truly short-changing somebody. Whoever is paying the tab for these folks whether it is school districts--they're picking up 30 percent of the costs of educating special ed kids; if it is a group home, they are picking up 30 percent of the costs because through DFS the state is only funding about 70 percent of those services and they're being subsidized.

The speaker said what we as legislators are doing is asking two facilities in this state who educate emotionally disturbed children to also pick up 30 percent of that cost because the state isn't going to fully fund the educational costs. The cost of educating these kids is more intense; it is higher than what it is for educating kids in the public schools. If they could be educated in public schools, they would be there. She said that the "bottom line" is that the state is not going to appropriate the money for it so it is who will get underfunded.

The original concept for Intermountain was discussed; i.e., that the residents would be educated in schools at the institution operated by the Helena School District.

Mr. Runkle gave the Committee a budget handout. See Exhibit 1.

He wanted the Committee to know that the information that is on this bill has not been reviewed by Montana Intermountain Childrens Home but he had contacted the Helena School District because of the concerns expressed in the committee meeting when the bill was heard. He asked them specifically in their district budget about how many dollars would be provided in the form of services by the public school district when they provided the education program at Intermountain Childrens Home.

In the discussion with their Director of Special Education, the dollar figures that the district provided for 1987-88 were \$74,000; for 1988-89 the total county retirement and health insurance at 100 percent and since the salaries of the personnel serving out there were significantly less, the district budget was \$62,000. In 1989-90 Intermountain Childrens Home went private and established their own determination of funding and education costs on a per child basis that year was \$8,844 per child. There were about 20 children that year and the amount of funds received through public school districts for that year was \$176,000. There is a significant difference in costs between the program that is funded through a public school even at 100 percent of what they perceived as their costs versus their costs at the Deaconess in operating their program.

He said that he didn't doubt that it cost Intermountain \$8,844 per child in those years but there were costs that were not included such as administration and other costs. He said that would give a quick and rather "dirty" example of the relative cost difference between when it was funded and operated by the school and charged on a per child basis.

Senator Pinsoneault asked how these costs for education compare with Yellowstone Education Centers' costs. Mr. Runkle said that he did not have those costs but he could recall from memory that the cost per child for elementary program would be about \$8000-10,000 range. The high school costs at Yellowstone Educational Centers are \$12,000 - \$14,000 per child. That is for a longer year so there are some problems with this data. They are talking about a 215 day school year. The figures from the Helena School District were based on 180 days school year.

Senator Waterman said that she was part of the Board when this transition occurred. She said that she thought "we are comparing apples and oranges". She said that the Committee needs to understand that the reason Intermountain went private was because they did not feel that the state was meeting the educational needs of those students. The students are very seriously emotionally disturbed children; most of whom have been very seriously abused and most of them very young. The highest age they go now at Intermountain is 12 years. They felt that you couldn't start educating them at 8:30 in the morning and finish at 3:00 in the afternoon, five days a week, 180 days a year as in public school settings. They chose to go with a specialized program. Does this data say that they are running a "cadillac" program? She said that she didn't think anyone was getting rich at Intermountain. It is a very quality program that is costing 100%. She said that the question is whether we, as a state, are going to pay for that. Whether school districts are going to pay for it or whether the state of Montana is going to tell Intermountain and Yellowstone Education Centers that the state does not want to fund that quality of program for young people in this state and "that is what I think we are talking about".

Senator Pinsoneault said that he could appreciate what was being said but he asked how are the kids going to Yellowstone evaluated? How do we know they have severe problems. Who is doing the evaluations? He said that he thought the judges in this state could use some indoctrination and education in placing these kids sometimes as they do. He asked Jim Smith what the enrollment is for high school at Yellowstone.

Jim Smith answered that there are 52 students combined elementary and high school. He did not have the breakdown.

Senator Farrell said that there had been testimony from Intermountain and Yellowstone. He asked if under HB 999, does this allow Rivendell (Butte and Billings) and Shodair to now start billing for educational costs also.

Robert Runkle said that under HB 999, Shodair and both units of Rivendell would receive funding in the same manner as the residential facilities at Intermountain and Yellowstone will receive.

Senator Farrell said that when Rivendell took over that program, didn't they make an agreement with the state that they would not charge us educational costs?

Robert Runkle said that is true.

Senator Farrell pointed out that there were about 5-7 programs to be considered. Since there is additional information to be presented to the Committee, HB 999 will be discussed again at the next Committee meeting. No executive action was taken.

#### EXECUTIVE ACTION ON HB 940

##### Discussion:

Greg Groepper, OPI, appeared before the Senate Education Committee to further discuss HB 940.

The sponsor of HB 940, Representative Wanzenried, was present.

Senators Hammond and Farrell again expressed concern about money being paid to schools in advance of property taxes collected. They wondered if the reserves would be cut back or closed if money were paid to schools on a monthly basis. Mr. Groepper reiterated that HB 999 did nothing to change the reserves. He said that he had been around school districts for a long time and that he was not aware of any piece of legislation that would try to take away reserves. He said that under HB 28 when the reserves were set down to 20 percent, they had to re-invest that excess at the district level but there was none of that captured by the state. He said there is nothing in HB 940 that will change reserves.



Mr. Groepper said that monies go to the schools now on a monthly basis under the current law except in the district if the 55 mill levy is fully funded by the county; then, they don't receive money monthly. (Rosebud County is the exception.)

Mr. Groepper said that he appreciated the concerns expressed by members of the committee and that he was not trying to argue with anyone. He said that OPI's analysis of this thing is this: Let us take Rosebud County for an example. If they have 35% reserves and they wait until November or December in order to get any money from the 55 mill property tax collection and during this time they are using their reserves; they are having to spend that money and they are drawing down their account at the local bank.

Under HB 940 they will have their reserves and this money will come in up front and the account at the local bank will get larger not smaller because they will have the money in July which is when the first payment goes out. They won't have to wait until December.

After those collections are made in December, they finally get credited to the school equalization account. On January 5 the County Treasurer will make a payment to the State Treasurer to pay back that advance and again in May they will make that payment but the bank is going to have more money accessed than it will have under this bill even in Rosebud County. It is just that schools will get the money six months ahead of time. He said that is the intent of HB 940 to make certain that the districts don't have to wait until the protested and delinquent taxes are paid.

For full details and discussion of HB 940, see minutes and exhibits of 4-8-91 when hearing was held.

Motion and Vote:

SENATOR FARRELL MOVED that HB 940 BE CONCURRED IN. Five members voted aye; one (Hammond) voted no. (Three members were not present; Brown, Pinsoneault and Nathe had been excused).  
MOTION CARRIED. Senator Jergeson designated as the carrier.

ADJOURNMENT

Adjournment At: 6:30 P. M.,

  
SENATOR CHET BLAYLOCK, Chairman

  
BETSY CLARK, Secretary

Office of Public Instruction  
Nancy Keenan, Superintendent  
State Capitol  
Helena, MT 59620

# DEACONESS STATE AND LOCAL FUNDING

## 1987-88 Budget Helena School District

Teacher	Gordon Clark	1.0	\$22,670
Teacher	Peg Hunter	1.0	26,640
Speech	DeVoe	.1	3,600
Psych	Benish	.1	3,200
Adm	Kohl	.1	<u>4,000</u>
			\$60,110

Under HB-999  
Approx Approval 1991-92  
ADA 20.7 = \$179,538  
1992-93  
ADA 28.7 = \$257,549

.16 x Retirement =	69,727
+ Health Insurance @\$1500/FTE	3,450
Supplies/Eq	<u>1,000</u>
<u>87-88 TOTAL</u>	<u>\$74,177</u>

## 1988-89 Budget Helena School District

## State Support 1988-89 Helena School District

(P1 90.9) (P2 35.9)

Teacher	Anise Rusk	1.0	\$16,610
Teacher	Carol Flasnick	1.0	22,490
Speech	Devoc	.1	3,600
	Benish	.1	3,200
	Kohl	.1	<u>4,000</u>
			\$49,900

P1	\$15,098
P1	20,443
P1	3,272
P1	2,909
P2	1,436

.16 x Retirement =	57,884
@ \$1500/FTE	3,450
Supplies/Eq	<u>1,000</u>

	-0-
P2	1,239
P2	<u>359</u>

88-89 TOTAL \$62,334

\$44,756

89-90	Approx 20 @ \$8844/ca	\$176,880
90-91	Approx 20 @ \$9495/ca	\$189,900
91-92	Approx 20 @ \$10,729/ca	\$214,580

P1=94.5 =	\$167,152
P1=91.7 =	174,138
P1=76.4 =	163,939

Source: Helena School District and Office of Public Instruction

*Exhibit 1*  
*HB 999*  
*11-10-91*