MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Rep. H.S. "Sonny" Hanson, Chair, on February 15, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Sonny Hanson, Chair (R) Rep. Alvin Ellis, Vice Chair (R) Rep. Ray Brandewie (R) Rep. Fritz Daily (D) Rep. Ervin Davis (D) Rep. Ed Dolezal (D) Rep. Dan Harrington (D) Rep. Jack Herron (R) Rep. Bea McCarthy (D) Rep. Scott McCulloch (D) Rep. Norm Mills (R) Rep. Bill Rehbein (R) Rep. Sam Rose (R) Rep. Wilbur Spring (R) Rep. Norm Wallin (R) Rep. Diana Wyatt, Vice Chair (D)

Members Excused: Rep. Gervais and Rep. Simpkins

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council Susan Lenard, Committee Secretary

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

Committee Business Summary: Hearing: None Executive Action: HB 143, HB 398, HB 439, HB 443, HB 469, HB 494, HB 527, HB 566

EXECUTIVE ACTION ON HB 398

Motion: REP. MCCARTHY MOVED HB 398 DO PASS.

Motion/Vote: REP. MCCARTHY moved to amend HB 398 with the amendments offered by REP. JOHNSON, the sponsor of the bill. Motion carried unanimously.

Motion: REP. BRANDEWIE moved to amend HB 398.

Discussion:

REP. BRANDEWIE noted the amendment would state it will not be an option for schools to waive tuition fees once the superintendent of the Office of Public Instruction has defined the tuition amounts. He said "people will send along the kids but do not want to sent anything to retire the debt."

REP. HANSON asked how the amendment would affect students attending schools in states bordering Montana. **REP. BRANDEWIE** replied once fair costs are determined they should be charged by the school. He said he believes it was not appropriate costs associated with providing the space for students should be waived. He stated it was not fair to districts who spent the money to build good schools in the first place. It was suggested HB 398, in addition to other things, could go a long way toward encouraging consolidation.

REP. MCCARTHY asked REP. BRANDEWIE he was implying parents should assume the cost of the tuition of the receiving school, above and beyond their local taxes, if they decide to take their child out of a district, regardless of the location in the state. REP. BRANDEWIE replied she was correct. He stated the school will already receive ANB for the student so out of a total cost of, for example, three thousand dollars, the cost to the parents might be only one thousand or even five hundred dollars. He maintained it would depend on the particular circumstances of the district. REP. MCCARTHY declared the receiving district will already be receiving ANB for that student. She asked if he was proposing parents be required to pay tuition on top of the taxes they already pay. REP. BRANDEWIE said they should if their children don't go to the schools they are supposed to attend. He explained this way, the parents would help to pay off the debt of the receiving district.

REP. ROSE asked if this would apply to children with special needs. **REP. BRANDEWIE** said students with special needs are already paid for and that he was identifying the "optional" situations of transfers.

REP. DAVIS said the original language contained in statute 20-5-303 states that trustees "may allow the attendance of a child." He said the representative he is changing 20-5-305 to read "that they may be reduced by the amount the parent of the child paid." He said the original language said "shall." He asked what would occur if the trustees decided not to redistribute the amount. **REP. BRANDEWIE** said the intent of his amendment to strike the line "reduce by any amount which is waived by the trustees." He noted he did not believe it is up to the trustees to put a waiver on taxpayer dollars. He said he does not have a problem with the "shall" and "may" aspect of the bill. **REP. DAVIS** said he could not understand why the trustees have the option of reducing the HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE February 15, 1993 Page 3 of 9

tuition by the amount the parent paid in tuition. He insisted the parent would be required to pay twice.

REP. HARRINGTON contended the last administration clearly believed in choice. He said it even considered putting a voucher system in place. **REP. HARRINGTON** suggested the amendment is completely contrary to the ideas previously expressed. He questioned the constitutionality of the proposed amendment.

REP. ELLIS said the title indicated eliminating tuition waivers but said page 3, line 10, has to do with not denying the parent's choice, providing they pay the tuition. He asked if this amendment does both things. **REP. BRANDEWIE** replied it does. He said if a school wants to let the child attend, the parent has the obligation to pay tuition. He stated parents assume that obligation once they choose to send their child out of the district. **REP. ELLIS** asked if eliminating tuition waivers means schools have to charge tuition. **REP. BRANDEWIE** stated that is precisely what he is proposing. Once tuition has been determined by OPI, schools will not have the option to waive it. **REP. ELLIS** said he believed this decision should be left to the discretion of local school boards.

REP. MCCULLOCH asked if the tuition would be the educational costs incurred above and beyond the amount of ANB money the receiving school collects. **REP. BRANDEWIE** said that was correct. **REP. MCCULLOCH** asked if the amendment would take away the option of the local school board to waive or decrease the amount of tuition. **REP. BRANDEWIE** replied that someone must pay that outstanding amount, either the parents or the taxpayers within the district.

REP. REHBEIN questioned if this amendment is in direct conflict with **REP. COCCHIARELLA's** bill, HB 469. **REP. BRANDEWIE** replied they are diametrically opposed. **REP. REHBEIN** if this would completely take away the choice of a school to option to charge tuition. **REP. BRANDEWIE** replied he was correct.

<u>Vote</u>: HB 398 BE AMENDED. Motion to amend with REP. BRANDEWIE's amendments failed 2 to 16 with REPS. BRANDEWIE and WYATT voting yes.

Motion: REP. BRANDEWIE MOVED HB 398 DO PASS AS AMENDED.

<u>Discussion</u>:

REP. MILLS asked what the bill does for those students who live on the border and attend school in North Dakota. **REP. JOHNSON** said tuition is paid for high school students going out of state by the county of residence out of the county equalization account. For the elementary students who attend school out of state, the county does not pay for their tuition out of county equalization money and therefore does not receive state equalization for those students. House Bill 398 straightens out HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE February 15, 1993 Page 4 of 9

the situation so counties, and thus school districts, will receive state equalization funds for both elementary and high school students.

REP. ROSE asked what occurs when Canadian children, because of poor road conditions, attend Montana schools. **REP. JOHNSON** explained the same law should apply to those students as well. He noted the province of Alberta takes care of the tuition for its citizens.

Vote: HB 398 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 439

Motion: REP. HARRINGTON MOVED HB 439 DO NOT PASS.

Discussion:

REP. HARRINGTON said since the state of Montana does not run programs such as those covered in the bill, he does not believe it is appropriate to require graduates of these programs to practice in the state. He also noted students cannot not receive military scholarships if this stipulation is mandated. It was explained the IRS would require students to pay this money back during the time of transition from student to practicing professional.

REP. DAILY asked if it would be desirable to look at an amendment to eliminate 10% of the debt per year a student incurred while in school if they come back to practice for ten years in rural area in the state. **REP. MCCARTHY** said if a student accepted the terms of the bill she/he would be forced into studying one of the types of medicine needed in Montana. She noted the choices of these medical students would be limited.

REP. WALLIN said he has spoken to enough students to know it affects their decisions to go to medical school. He spoke against the bill.

REP. ROSE said rural communities in the state make every attempt to attract doctors. He reminded the committee 43% to 47% of the medical students do return to Montana to practice. It was noted physicians are guaranteed to receive at least \$80,000 in starting salary in those communities with which **REP. ROSE** was familiar.

REP. MILLS asked how young students would be allowed the latitude to make decisions regarding their specific medical field if they are tied to choosing one which would fit into the demands of the state. HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE February 15, 1993 Page 5 of 9

REP. DAILY said if a student becomes a brain surgeon it will be a very short time before they make more money than most of the people in the room. He indicated those individuals deserve the pay they receive but should help out the rest in the state for the assistance given to them while in school.

Motion/Vote: REP. DAILY MOVED HB 439 BE TABLED. Motion carried 17 to 1 with REP. DAILY voting no.

EXECUTIVE ACTION ON HB 443

Motion: REP. MCCULLOCH MOVED HB 443 DO PASS.

<u>Discussion</u>:

REP. MCCULLOCH contended HB 443 would not be in violation of the Family Privacy Act. He noted he was waiting for an opinion from a lawyer from OPI as to whether the bill is absolutely necessary. **REP. MCCULLOCH** indicated he would favor to table the bill if it is indeed determined as unnecessary.

REP. HARRINGTON commented if the bill is necessary he will support it but said the intent of the bill is something done presently.

REP. SPRING asked if a student is charged a deposit when they register on school materials they use. **REP. MCCULLOCH** replied he did not believe so.

REP. MCCULLOCH asked for the committee's permission to ask **Bruce** Moerer, MSBA, to comment on the idea school districts are allowed to collect these fees without statutory authority. Mr. Moerer said there are probably a lot of districts which already do this, but whether they have the legal authority to do so is not entirely clear.

REP. WYATT said it was her understanding schools are not able to hold transcripts of students for fees incurred from school material damage or loss. She noted a Great Falls district sends up to three billing notices for such offenses. After the third time, the school is left with little recourse and usually releases the transcript information. She emphasized her support of HB 443.

REP. DOLEZAL said the question is whether or not the districts can do so. He asked if the districts presently doing so have ever been challenged for illegally withholding grades or transcripts. **REP. DOLEZAL** affirmed his support for what **REP. MCCULLOCH** is attempting to accomplish.

REP. BRANDEWIE stated there was no harm in passing this out of the committee and onto the floor of the House. He said it "just clarifies and formalizes current practice." **REP. MILLS** suggested an amendment should be added to restrict students from being able to graduate if they have not paid all of their bills.

REP. MCCARTHY, in response to **REP. MILLS'** proposed amendment, referred to line 25, page 2, where it noted a school may withhold the diplomas of students with outstanding bills. She said since a diploma is the certificate of graduation, this might address the representative's concern.

REP. MCCULLOCH said he did not know if **REP. MILLS'** amendment is within the scope of HB 443. He did not want the bill to go the rules committee.

Vote: HB 443 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 469

Motion: REP. BRANDEWIE MOVED HB 469 DO NOT PASS.

Discussion:

REP. BRANDEWIE said HB 469 could be a good bill if the state had complete equalization in place. He emphasized if HB 469 were to pass at this time it would be no impetus for some schools to consolidate with one another.

REP. REHBEIN stated he opposed the do not pass motion. He said in rural areas the tuition is not a problem because students generally go to the closest school. He noted there are always at least two sides to the issue. In the rural areas of his district it would be advantageous to do away with tuition whereas in the more urban settings the situation is the reverse.

<u>Vote</u>: HB 469 DO NOT PASS. Motion failed 7 to 11 with REPS. BRANDEWIE, DOLEZAL, HERRON, MILLS, SPRING, WYATT, and HANSON voting yes. EXHIBIT 1

<u>Motion/Vote</u>: REP. HARRINGTON MOVED HB 469 DO PASS. Motion carried 10 to 8 with REPS. BRANDEWIE, DOLEZAL, HERRON, MILLS, ROSE, SPRING, WYATT, and HANSON voting no. EXHIBIT 2

EXECUTIVE ACTION ON HB 494

Motion: REP. DOLEZAL MOVED HB 494 DO PASS.

Discussion:

REP. WALLIN asked if the bill requires a fiscal note. **REP. HANSON** replied a fiscal note would apply to a individual local school district not to the state fund.

Vote: HB 494 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 527

Motion: REP. MCCULLOCH MOVED HB 527 DO PASS.

Discussion:

REP. WALLIN suggested a committee of legislators could not do a better job than the Board of Regents. He indicated the bill might be self-defeating.

REP. MCCARTHY said she believes those individuals who rewrote the constitution in 1974 worked very diligently and thoroughly in deliberation on the whole process. She stated she does not believe in putting piece-meal amendments on all of the hard work they accomplished.

Motion: REP. MCCARTHY MADE A SUBSTITUTE MOTION THAT HB 527 DO NOT PASS.

Discussion:

REP. REHBEIN said he looked at the bill as reinventing government. It would bring those individuals involved to task on the issues as they should be required to do.

REP. HARRINGTON stated he voted in 1972 to give the Board of Regents all the power it needed. He said he is now considering voting in the opposite direction. He noted his difficulty with the manner in which the Board was dealing with its authority.

REP. ELLIS said he was in agreement with **REP. HARRINGTON.** He went on to add with all of the frustrations expressed by the public, it is necessary to "try new things and get the government closer to the people." He said "individuals appointed by the governor, probably the college presidents, should have the expertise to run the system." He noted his support of the bill, saying the Board of Regents has not gotten rid of infighting within the system. He maintained the bill would help to create a more effective form of government.

REP. REHBEIN recalled the testimony of **Mr. Schram** and noted the bill may make the universities get together and make unified decisions. He asked what role the junior colleges and Vo-Tech Centers play in the proposed system. **REP. HANSON** replied as he understood it, the Board would be comprised of nine members. The university presidents would be three of the nine members. Three would be appointed by the governor, one representing the community and junior colleges, one representing the Vo-Tech Centers, and another, the students.

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REP. MILLS said he would like to see the bill go out onto the floor of the House to let the university system know the legislature is dissatisfied with what they have accomplished, knowing full well what the legislature has requested to be done.

REP. WYATT said she supports the do not pass motion. She argued the results of passing the bill might be even worse than is anticipated. **REP. WYATT** noted her constituency has indicated they would prefer to have two main institutions and the other secondary institutions to exist as feeder schools. She contended the bill could be a step in the wrong direction since the universities would control the majority of the decisions and the Vo-Tech centers would be left without a full voice in funding decisions. It was emphasized this step might not be the best one for the state of Montana.

REP. MCCARTHY stated there is no president at Western Montana College. Because the school is a branch of the University of Montana the provost is the highest administrative position on campus. This could put the board down to eight members if the bill was interpreted in that fashion.

<u>Vote</u>: HB 527 DO NOT PASS. Motion failed 7 to 11 with REPS. DAVIS, DOLEZAL, GERVAIS, MCCARTHY, WALLIN, WYATT, and HANSON voting yes. EXHIBIT 3

<u>Motion/Vote</u>: REP. HARRINGTON MOVED HB 527 DO PASS. Motion carried 11 to 7 with REPS. DAVIS, DOLEZAL, GERVAIS, MCCARTHY, WALLIN, WYATT, and HANSON voting no. EXHIBIT 4

EXECUTIVE ACTION ON HB 566

Motion/Vote: REP. ROSE MOVED HB 566 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 143

Motion: REP. MCCULLOCH MOVED HB 143 BE RECONSIDERED.

Discussion:

REP. SPRING said the Willow Creek delegation basically knows something needs to be done. He supported the move to bring the bill off the table.

REP. MCCARTHY stressed there are only five schools involved in the discussion. She insisted none of them are being asked to close. The five schools affected by the bill are being paid a supplement above their ANB and are thus able to keep their schools open. **REP. MCCARTHY** said the total amount of money being

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spent for one hundred students is \$359,483. She emphasized none of the schools in question are within the twenty five mile isolated radius required by OPI for small schools. Since this is the case, none of the students would be denied access to another high school if they chose not to attend the one located in their district. **REP. MCCARTHY** emphasized HB 143 does not close any schools. It simply maintains the state will no longer supplement these small schools above and beyond ANB amounts.

REP. ELLIS pointed out the bill would deny the schools under consideration half of their foundation program money, but insisted it does not change HB 28. Schools would be able to hold their levies regardless. **REP. ELLIS** said if the state does not pay the foundation money the ranchers and taxpayers in the district would end up making up the loss in funding.

REP. REHBEIN said there are many schools in the state within twenty five miles of another school, but many of the students already travel a great distance to get to the school they presently attend. He stressed many of the small districts are paying more mills than their districts are spending and as such are supporting schools in more urban areas.

REP. DAVIS articulated his belief the committee made the correct decision during the first vote. He said the legislature will close these small schools by reducing their foundation funding amounts in half. He stressed the districts cannot possibly levy the amounts necessary to cover the proposed cuts in funding.

<u>Vote</u>: HB 143 BE RECONSIDERED. Motion failed 8 to 10 with REPS. BRANDEWIE, DAILY, DOLEZAL, HERRON, MCCARTHY, MCCULLOCH, SPRING, and WYATT voting yes. EXHIBIT 5

ADJOURNMENT

Adjournment: 4:25 p.m.

HANSON, Chair Secretary

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HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL

DATE	215	193

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR			
REP. ALVIN ELLIS , VICE-CHAIR			-
REP. DIANA WYATT , VICE-CHAIR			
REP. RAY BRANDEWIE			
REP. FRITZ DAILY			
REP. ERVIN DAVIS	\checkmark		
REP. ED DOLEZAL			
REP. DAN HARRINGTON			
REP. JACK HERRON	\checkmark		
REP. BOB GERVAIS			11
REP. BEA MCCARTHY	\checkmark		
REP. SCOTT MCCULLOCH			
REP. NORM MILLS			
REP. BILL REHBEIN			
REP. SAM ROSE			
REP. DICK SIMPKINS			
REP. WILBUR SPRING			
REP. NORM WALLIN			

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Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>House Bill 398</u> (first reading copy -white) do pass as amended .

Signed: _______Sonny Hanson,

And, that such amendments read:

1. Page 1, line 19. Following: "rate" Insert: "for each funding category in the foundation program schedules" 2. Page 2, line 12. Following: "data" Insert: "for the general fund, debt service fund, and retirement fund" 3. Page 2, line 24. Following: "costs" Strike: "may" Insert: "must" 4. Page 3, line 4. Strike: "negotiate" Insert: "approve" 5. Page 10, line 15. Following: "rate" Insert: "for each funding category in the foundation program schedules" 5. Page 10, line 18. Following: "data" Insert: "for the general fund, debt service fund, and retirement fund" 7. Page 11, line 2. Strike: "20-5-301(3)(e) and (3)(f)" Insert: "20-5-311(2)(b)"

Committee Vote: Ves <u>15</u>, No <u>O</u>.

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8. Page 11, line 4. Strike: "<u>may</u>" Insert: "must"

9. Page 11, line 9. Strike: "negotiate" Insert: "approve"

February 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>House Bill 443</u> (first reading copy -white) <u>do pass</u>.

Signed: 16 Sonny Hanson, Chair

February 16, 1993 Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>House Bill 469</u> (first reading copy -white) <u>do pass</u>.

Signed: 1 Sonny Hanson, Chair

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Committee Vote: Tes ____, No ____.

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February 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>House Bill 494</u> (first reading copy -white) <u>do pass</u>.

Signed: 45" Source Hanson, Chair

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February 16, 1993 Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>House Bill 527</u> (first reading copy -white) <u>do pass</u>.

Signed: UC Louiny Hanson, Chair

Com	ittee	Vo	te:
Yes	<u> </u>	No	

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February 16, 1993 Page 1 of 1

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Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>House Bill 566</u> (first reading copy -white) <u>do pass</u>.

Signed: <u>US "Contra Hanson</u>, Chair

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HOUSE OF REPRESENTATIVES

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HOUSE	OF REPRESENTATI	EXHIBIT 2 DATE 2/15/93 HB 469
Education and Cultu:	ral Resources	COMMITTEE

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HOUSE OF REPRESENTATIVES

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Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

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HOUSE OF REPRESENTATIVES

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Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

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Rep. Bea McCarthy	<i>✓</i>	
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