

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator Blaylock, on March 12, 1993, at 3:18 p.m.

ROLL CALL

Members Present:

Sen. Chet Blaylock, Chair (D)
Sen. Harry Fritz, Vice Chair (D)
Sen. John Brenden (R)
Sen. Bob Brown (R)
Sen. John Hertel (R)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)
Sen. Bill Yellowtail (D)

Members Excused: Senator Waterman

Members Absent: None

Staff Present: Eddye McClure, Legislative Council
Sylvia Kinsey, Committee Secretary

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

Committee Business Summary:

Hearing: HB 473
HB 494
HB 566

Executive Action: HB 494
HB 566
HB 384

Discussion on HB 398, 424 and 469:

Chair Blaylock said the subcommittee on HB 398, 424 and 469 met at 8 a.m. this morning to discuss these three bills that were in conflict. All of the interest groups came and Rachel Vielleux and Dori Nielson did a lot of work to help resolve this. Eddye McClure kept track of things and helped out. It was a good meeting and all present gave good input. The decision of the subcommittee was to put Representative Johnson's bill HB 398 and Representative Spring's bill, HB 424 into Rep. Cocchiarella's bill, HB 469. They dropped out the no tuition in Cocchiarella's

bill and put Representative Johnson's three main points that he wanted as well as Representative Spring's bill into 469. The no tuition issue will now be a flat rate. They also changed it so that in the situation close to the North Dakota border where there are kids within 3 1/2 miles of a North Dakota school and 20 miles to a Montana school, they can get tuition if they go to the N. D. school. He suggested the possibility that there might be some Montana kids who would attend a Provincial school since we touch the border of Canada. If these kids do cross the border they would get tuition for that.

Chair Blaylock said the Council is buried in heavy bills including the taxation bills, school reorganization bills etc. and Ms. McClure will do the best she can to get this up by Wednesday. We will put this out to the committee with all the changes made. She will fax copies to Ms. Vielleux who has worked on this bill and is very knowledgeable. We will ask her if there is anything we have forgotten.

Senator Hertel said he believed Senator Blaylock had covered the issue. He came out of the meeting feeling very good about it, a lot of progress was made and it will do something that covers everybody's concerns.

Chair Blaylock mentioned that they agreed there are conflicts between the way we handle elementary students and the way we handle high school students in regard to tuition. We are going to coordinate that so the laws will all read the same for the two groups. Ms. McClure said this was in the Cocchiarella bill where it had been clarified.

Senator Hertel said some of us were concerned after the hearing that we had received that kind of legislation in the Senate, the sponsors felt badly about it, but he believed we would come out with something we could all live with.

Chair Blaylock said he was pleased that all the major school groups were here and they were in agreement with what we were doing.

Discussion on House Bill 473:

There was discussion on House Bill 473 and the possibility of tabling the bill with the mathematical possibility it could get the required number of votes to bring it to the floor of the Senate where it could pass.

Senator Stang said it would take every member of the committee to table the bill. Chair Blaylock said even with a unanimous committee vote to table the bill there was nothing to prevent a member of the Senate bringing it to the floor.

Chair Blaylock said he had asked the President of the Senate if a constitutional amendment could be tabled and he urged us to go

ahead. Senator Brown said the idea would then be that we would assume if we put this on the table it would stay there unless some member objected on the floor, and then it would go to Rules. Chair Blaylock said he believed it would save time to table the bill and if someone objected, that was their right.

Senator Stang said if anyone on this committee voted against tabling the bill there would still be a mathematical chance to get the votes on the Senate floor. He pointed out that the 40 votes from the House plus one vote from this committee could give it a chance to pass. Senator Stang said the reason it could be done with assurance in the House was because if you received anything under 50 votes in the House there is no mathematical chance of receiving 100 votes over all. He said he would hate to table this bill until the sponsor had a chance to tell us what he would like done with it.

HEARING ON HOUSE BILL 494

Opening Statement by Sponsor:

Representative Tim Dowell, House District 5, Kalispell, said this bill revises the Special Ed laws to comply with the requirements of the Federal Disabilities Education Act. We have the potential of losing a significant amount of federal funding for special education if this bill does not pass and we do not comply.

Ms. McClure, Legislative Staff, handed out proposed amendments requested by Representative Dowell. (exhibit 1)

Proponents' Testimony:

Bob Runkel, Administrator, Division of Special Education, OPI testified in favor of HB 494 and handed in written testimony. (exhibit 2) He said the reason the amendments were requested was because the bill, as originally proposed, was flawed in that there were two technical errors calling for laws that are not consistent with the federal regulations. He explained the amendments and the reason for them.

Don Waldron, Montana Rural Education Association, spoke in favor of HB 494. He said his organization believed this was one of the two major bills in Special Education.

Opponent's Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Brown said on page 1 and 2 of the bill are references to assistive technology service and training or technical assistance. He assumed these are things that are defined in the federal law and asked if we take it from these new definitions that there will be any additional requirements that the state will have to meet. Mr. Runkel said the obligations were incurred on September 29 of 1992 and we have required public schools, since the adoption of the federal regulations, to ensure that all of the requirements of the new federal regulations are being followed by schools. In that sense, it is not a new obligation as we stand today, we have interpreted our obligation to be sure that all federal regulations are being followed among all public schools as of the adoption of the federal regulation.

Senator Stang asked if there was no fiscal impact by this bill to the state and Mr. Runkel said he believed there is no fiscal impact in the sense that these things are already obligations of the state and they have required that schools meet all these obligations since their adoption.

Senator Stang said in regard to the amendment on accreditation, they had a bill in this committee earlier dealt with the curriculum in the Pine Hills and Mountain View schools that did say they would meet the accreditation standards. He asked if that is correct, do we really need that amendment. Mr. Runkel said the amendment they are proposing was brought about because of a concern regarding Montana School for the Deaf and Blind, not because of Pine Hills or Mountain View.

Senator Toews referred to page 15, lines 20-21, where it talks about the school board finding a surrogate parent and asked if it is federal law that the trustees have to find a surrogate parent for these kids. Mr. Runkel said federal law requires that when a parent cannot be found or located or if the child is a ward of the state they must be awarded a surrogate parent. It must be a parent who participates in the process and an appointment of a surrogate parent is a federal requirement. A definition we have applied in Montana as a ward of the state is children who have had permanent custody taken by, perhaps the Dept. of Family Services.

Senator Toews asked if it is a federal requirement that the trustees of the school district appoint that surrogate parent and Mr. Runkel said the language they have included here makes it clear that the trustees or their designee is responsible. The trustees of the district can adopt procedures to assign an individual to act as a surrogate parent. The adoption of procedures may be determined by the local school district and may be, for example, assigning a superintendent to nominate the surrogate.

Senator Brown said he would interpret this as saying the Board of Trustees in the school district just has the obligation to make

this happen in the school district. The school district is the policy making authority and would be responsible for carrying it out.

Ms. McClure referred to line 5 of the stricken language and Mr. Runkel said the language regarding surrogate parent in the bill is an attempt to ease or make more simple, the appointment of a surrogate parent and still follow federal regulations. In line 5 it says if the trustees determine the need of a surrogate parent and the additional language that a district shall adopt procedures. This should give them the flexibility to simplify the process.

Senator Brenden asked if there are any cases today where a child who fit in this category would not have a surrogate parent, be a ward of the state or have this already in place. Mr. Runkel said yes, whenever a parent has had permanent custody removed and the child becomes a ward of the state under the DFS, those children under federal law would be required to have an appointed surrogate parent. He said he understood over 90% of the children who are in the custody of the DFS, have temporary custody assigned and those cases, temporary custody of the department would not require the appointment of a surrogate parent. Only where all parental rights have been removed, would it be required to have a surrogate parent.

Closing by Sponsor:

Representative Dowell said he would close, and if the committee does pass this bill out, Senator Brown has agreed to carry it on the Senate floor.

HEARING ON HOUSE BILL 473

Opening Statement by Sponsor:

Representative Dave Brown, House District 72, Butte, said HB 473 was put in as a request from a number of student groups in the University System. Page 2, lines 7-10, amends the constitutional language by adding one member to Board of Regents, chosen by the Governor from a slate of six candidates nominated by the student governments of the units of the University System. He said he understood from conversations with the students that Governor Racicot has indicated his support for this legislation and would continue it while in office, but there could be another Governor who would not do so, and gave his support for this kind of legislation. He said there is statutory language that could be used for this. This came out of the House with 60 votes and he would talk to Senator Beck about the prospects on the Senate floor to draft a bill to do this statutorily.

Senator Blaylock told Representative Brown that the committee had discussed this bill at the request of Senator Beck and the

students who felt they had probably made a mistake in asking that they go this way for a constitutional amendment because of the cost. They realized it was late, asked for a committee bill and the vote did not come out for a committee bill. The committee decided in order to give the students as much encouragement as we could, to write a letter as a committee, to Governor Racicot, asking him to follow this procedure for the ensuing two years. At that time the students could come in and get statutory language. From what has been said, we feel the Governor would be very receptive to that and would accept the six names submitted by the students and pick one of the six on a voluntary basis.

Proponents' Testimony:

D'Anna Smith, Associated Students MSU, said HB 473 is an amendment to the constitution asking that the student member of the Board of Regents be constitutionally recognized. It is the opinion of the student body of MSU that there should always be a student who would represent the interest of the students. The intent of this bill was to allow the student body governments to be a nominating committee in the selection of the Student Regent, the Governor would still make the appointment, he would just be given a slate of candidates to choose from.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Representative Brown said he understood what the committee was saying and would talk to Senator Beck and see if he wanted to try this on the floor although with the time constraint he doubted if anything would happen there. He said he appreciated the committee's support through the letter.

EXECUTIVE ACTION ON HOUSE BILL 494

Motion/Vote: Senator Brown moved to amend HB 494. (exhibit 1) Motion CARRIED unanimously, Senator Waterman was absent.

Motion/Vote: Senator Brown moved HB 494 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously with Senator Waterman absent. Senator Brown to carry the bill on the Senate floor.

HEARING ON HOUSE BILL 566Opening Statement by Sponsor:

Representative Emily Swanson, House District 79, Bozeman, said all this bill does is to waive the bonding requirements for building or construction projects that cost less than \$7500. Previously they had to get bonding for \$5,000 and less and it simply raises the floor to \$7500.

Proponents' Testimony:

Gary Griffith, Supervisor of Maintenance Operations and Support Services, Bozeman School District, said they would like to see this bill passed as a matter of convenience. At the present time when they have a \$6,000 project they do not have to go through the bidding process, advertising process, etc. because their bid limit is \$7500, but they still have to ask the contractor who may not have the ability to get a bond, to have a bond. A bond costs \$300 and if you don't have bonds you have to go through a lengthy process in going through audits etc. to get bonding requirements. The school district would still have the right to require the bonds, but if we would like to waive the bonds we are asking for that ability up to the bidding limit, which is \$7500 and triggers their coincidental requirements.

Bob Anderson, Montana School Board's Association said he concurred in the prior testimony and the sponsor's explanation. They urged support of the bill.

Loren Frazier, School Administrators of Montana said they too, support this bill.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Representative Swanson said she closed.

EXECUTIVE ACTION ON HOUSE BILL 566

Motion/Vote: Senator Fritz moved House Bill 566 BE CONCURRED IN. The motion CARRIED unanimously with Senator Waterman absent.

Senator Fritz will carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 384

Motion: Motion by Senator Fritz that House Bill 384 BE TABLED.

Discussion: Senator Fritz explained his motion saying he believed this bill was using a cannon where a fly swatter would do the job. He did not believe there was a very big quarrel between the Legislature and the Board, which are two constitutionally independent bodies. This would take power away from one and give it to another. He believed the Board of Public Education and the OPI play an important role and it would put the power in the control of the Legislature detrimentally and prevent things from happening when they should happen between legislative sessions.

Senator Brown said he was inclined to agree, although he is in sympathy with the first part of the bill where it is trying to make sure, before Board policy is enacted if it has a financial impact, there is a way to pay for it.

Vote: The motion to table CARRIED with Senator Brenden voting no and Senator Waterman absent.

ADJOURNMENT

Adjournment: 4:11 p.m.


CHET BLAYLOCK, Chair


SYLVIA KINSEY, Secretary

CB/s

ROLL CALL

SENATE COMMITTEE EDUCATION

DATE 3/12/93

[illegible]

FO8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 15, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 566 (first reading copy -- blue), respectfully report that House Bill No. 566 be concurred in.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 15, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 494 (first reading copy -- blue), respectfully report that House Bill No. 494 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

That such amendments read:

1. Page 10, line 21.

Following: "meets the"

Strike: "accreditation"

Insert: "education"

2. Page 14, lines 6 and 7.

Following: "who"

Strike: remainder of line 6 through "of" on line 7

Insert: "reside in"

-END-

AW Amd. Coord.
Sec. of Senate

Senator Carrying Bill

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Amendments to House Bill No. 494
Third Reading Copy

~~H~~ BILL NO. 494

Requested by Representative Dowell
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 6, 1993

1. Page 10, line 21.

Following: "meets the"

Strike: "accreditation"

Insert: "education"

2. Page 14, lines 6 and 7.

Following: "who"

Strike: remainder of line 6 through "of" on line 7

Insert: "reside in"

SENATE EDUCATION

OPI Testimony on House Bill 494

EXHIBIT NO. 2

DATE 3/12/93

#BILL NO. 494

House Bill 494 updates Montana statutes to be consistent with the Individuals with Disabilities Education Act (IDEA) and its implementing regulations. The Individuals with Disabilities Education Act was formerly called the Education of the Handicapped Act (EHA) or PL 94-142. A recent congressional reauthorization of the Act called for certain changes in the law. The implementing regulations for these changes was published in the *Federal Register* on September 29, 1992. We have assured the U.S. Department of Education that our standards and practices in special education in Montana meet these federal requirements. This Bill provides the updates needed for our statutes to be consistent with federal law and regulation.

DATE 3-12-93

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: HB 473, 494, 566

Name	Representing	Bill No.	Check One	
			Support	Oppose
BILL PRICKEIT	MSDB	494	X	X
Bill Davis	MSDB	494	X	X
Bob Ruckel	OPI	494	X	
Don Waldron	MREA	⁴⁷³ 566	X	
William Emerson		473	X	
Bob Anderson	MSBA	566	X	
GARY GRIFFITH	Bozeman Sch. Dist.	566	X	
Nancy Smith	ASMSL	473	X	
Quint Taylor	The Univ of Mont	473	X	
DAVE BROWN	Sponsor - HD #72	473	X	
Samuelson	MSU	473	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY