

MINUTES OF THE MEETING
INSTITUTIONS AND CULTURAL EDUCATION SUBCOMMITTEE
49TH LEGISLATIVE SESSION
February 18, 1985

Tape 37, Side B

The meeting of the Institutions and Cultural Education Subcommittee was called to order by Chairman Steve Waldron on February 18, 1985, at 8:10 a.m. in Room 129 of the Capitol.

ROLL CALL: All members were present. Also present were Keith Wolcott of the Legislative Fiscal Analyst's Office (LFA), George Harris of the Office of Budget and Program Planning (OBPP), Carroll South, Director of the Department of Institutions, Dick Heard, Superintendent for Boulder River School and Hospital, and Jim Curry, Business Manager of Boulder.

HB 667: A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A YOUTH ALLEGED TO BE A DELINQUENT YOUTH TO BE DETAINED AT MOUNTAIN VIEW SCHOOL; REQUIRING THE COUNTY OF THE YOUTH'S RESIDENCE TO PAY CERTAIN EXPENSES RESULTING FROM THE DETENTION; APPROPRIATING FUNDS TO THE DEPARTMENT OF INSTITUTIONS; AMENDING SECTIONS 41-5-207, 41-5-306, AND 53-30-202, MCA; PROVIDING A TERMINATION DATE; AND PROVIDING EFFECTIVE DATES."

Representative Gene Donaldson, House District #43 in Helena, spoke about this bill and the circumstances generating a need for such a bill. This bill has already been passed through second reading on the floor of the House. Rep. Donaldson asked this committee to address the appropriation level and the percentage of payment by the local units (counties). Mountain View will need some remodeling and Rep. Donaldson asked that we include sufficient funds to accomplish this aspect of the bill.

DEPARTMENT OF INSTITUTIONS

(044) Lauri Ekanger and Barbara Gibson of the state's Purchasing Division outlined the reason for the dramatic increase in drugs used by the institutions. The bottom line is that prescription drugs are getting more expensive everywhere and that includes the state's contracts.

Ms. Gibson has set up a special system for the institutions to purchase drugs that is different than purchasing methods for other items. This is a sealed bid process but, because of the problems with expensive drugs, the Purchasing Division has three contractors from which the institutions can purchase these drugs. Ms. Ekanger wanted to emphasize that this is the only instance in which more than one contractor can be used.

The reason three contractors are used is to give the institutions a chance to purchase the lowest brand-name products and also purchase generic products.

Chairman Waldron asked Mr. South if he encourages his doctors to prescribe generic drugs. Mr. South responded that, if he did, he would be accused of practicing medicine. He continued that he doesn't have the expertise to ask doctors to use generics and he would rather leave that decision up to them. He noted that doctors are seldom concerned about budgets and fiscal matters.

(140) Curt Chisholm, Deputy Director for the Department of Institutions and acting administrator for Montana State Hospital before the new administrator came on staff, said the State Hospital has a formula for drugs. No doctor has the authorization to prescribe any drug not found on that formula. The Department of Institutions uses the medical director of Montana State Hospital as the authority figure for this purpose.

It was noted that, currently, the Purchasing Division does not handle bunch orders for drugs so there is no discount for ordering a lot at one time. Also, the division is working on centralizing contracts so they can have a single order point. Last year, \$4 million was spent on drugs, including the drugs used by the University System.

HOUSE BILL 667

Chairman Waldron said he has a problem with the 50% contributions by counties. He said they are paying all of the costs for detaining these kids now and he felt they should continue to pay all of the costs. Sen. Bengtson said crime prevention is a concern in which the entire state should play a part.

(240) Mr. Chisholm outlined the breakdown for the appropriation in the bill (Exhibit 1). A \$63,000 appropriation would be necessary to remodel the infirmary for male inmates and to secure Cottonwood Cottage for the female inmates. \$77,953 in FY 86 and \$93,417 in FY 87 would be needed for personal services which would include 4.8 FTE cottage life attendants to supervise the male inmates 24 hours per day and a .36 FTE teacher would be required in addition to the present education staff in conformance with state law. \$7,185 in FY 86 and \$8,622 in FY 87 would be needed for operational costs at an average daily population rate of 5 inmates. \$600 is needed to purchase a hot food cart for the inmates.

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This proposal would accommodate 8 inmates, 5 male and 3 female. The male inmates would be kept in the remodeled infirmary and the female inmates would be housed in Cottonwood Cottage.

There was some discussion regarding the 50% per diem cost to counties. Mr. South said he has no way of forcing the counties to pay these costs. If they do not pay, the department has to absorb the costs because they legally have no recourse to nonpayment by the counties. Putting language in the bill that a county cannot use the facility unless they pay can only be applied in retrospect and the department would still end up having to absorb the costs for the present.

Mr. South said he sees two options: payment up front or refusal to allow counties which do not contribute to house their juvenile inmates at Mountain View.

(375) Steve Nelson of the Board of Crime Control said this proposal would be used for the 100 kids who are now detained in county jails for more than five days. The number of youths held in county jails has been decreasing but, Mr. Nelson said, this is because of the lawsuits which have arisen due to the law against holding a juvenile in an adult facility. By law, a juvenile cannot be within sight or sound of adult offenders and they cannot be served by the same staff that serves the adult offenders. Mr. Nelson said these kids are being bounced around the state's institutions until they can be placed, i.e., Pine Hills for a 45-day evaluation, Warm Springs for evaluation, etc. Mr. Nelson said this bill could be the beginning of a long-term solution to this problem.

Mr. Nelson submitted a letter from the Montana Association of Counties (Exhibit 2) supporting HB 667. Mr. Nelson noted that the juvenile population in jails is decreasing by about 30% annually but he reiterated that the reason for this could be because counties don't want to be holding these kids illegally in their jails.

There was a lot of discussion regarding the 50% county contribution. Mr. Nelson said this was a nice split and he did not feel the counties would overutilize Mountain View.

Mr. South said the costs would have to be tied to something because he did not want the reimbursement to help pay for the general administration costs of Mountain View. He noted the .36 FTE teacher couldn't be included in the cost per day because of language in the per diem bill. Mr. Nelson said it would be hard to isolate the costs.

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Another reason given for the decrease in juveniles held in jails was the establishment of shelter care centers, foster care centers, and other juvenile programs.

Tape 38, Side A

Mr. Nelson said the 100 youths proposed to use Mountain View for long-term holding constitutes 60% of jail hours for juvenile offenders. Sen. Himsl wondered what county would want to pay the travel expenses to transport inmates to Mountain View and also pay their per diem while in that institution. Chairman Waldron noted that this state has been breaking the law by keeping juveniles in county jails and it has come to a point where this disregard for the law can no longer be tolerated. Mr. Nelson said a judge in Great Falls has proclaimed that juveniles cannot be housed in that county jail and, in some cases, these delinquents are simply let go because there is nowhere to keep them.

It was noted that Kalispell is working on a facility for juvenile delinquents and Montana and Wyoming are the only states in the Union that do not have juvenile detention centers.

Mr. Nelson said the average length of stay for the 100 long-term juveniles is about 10 days but there was a youth in Billings who was held for 15 months. Rep. Miller worried that judges will prolong juvenile's hearings as long as they are being kept somewhere else. He said, presently, a juvenile offender case has to go to the top of the court docket.

Mr. South said it might be a good idea if the committee puts a flat rate in the bill to alleviate any problems with what kind of percentage would be just.

There were no opponents to this bill. The hearing was closed to further testimony.

BOULDER RIVER SCHOOL AND HOSPITAL

(227) Mr. Wolcott went over the budget comparison for this agency (Exhibit 3). The OBPP deleted one occupational therapist. The LFA added 5 FTE direct care staff based on a 1:1 ratio. The LFA used a 4% vacancy savings, the OBPP used 6%. \$200,000 per year is the difference between 4% and 6%.

It would take 203.876 posts for direct care staff using the posting method brought before the committee by Mr. South. The OBPP would need an additional 15.88 and the LFA would

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need 10.88 to come up to the 203.876 level. Mr. South said the agency could provide adequate staffing if the OBPP level of staffing is approved.

There was a lot of discussion regarding the difference between teachers and trainers. Eastmont does not require a special education endorsement for its teachers but BRSH does require that endorsement. Mr. Heard explained that, in some of the more extreme cases, the staff person can only train an individual. But in some more advanced cases, the staff person can indeed teach the educational fundamentals of reading, writing, and arithmetic. This issue was discussed in length.

EXECUTIVE SESSION: (550)

Sen. BENGTON moved to accept the OBPP recommended level of FTE for personal services with a 6% vacancy savings.

Chairman Waldron requested a roll call vote be taken. Reps. MENAHAN and MILLER opposed the motion. All other members approved the motion. The motion PASSED.

Chairman Waldron said the full Appropriations Committee will be hearing the proposals from HB 909 recommendations and they will be making any adjustments to the budget.

The entire difference in the base for Operating Expenses is the food costs. The addition of \$4,500 to each fiscal year would put the LFA level where it should be.

Sen. BENGTON moved to accept the LFA current level for Operating Expenses with the addition of \$4,500 in each fiscal year for food costs and to include language in the bill to allow the institution to spend \$26,000 in FY 86 and \$12,480 in FY 87 of donated funds.

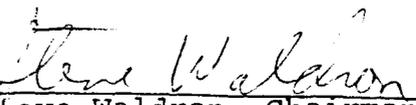
The motion PASSED unanimously.

Sen. BENGTON moved to authorize \$20,000 for the biennium for equipment purchase.

The motion PASSED unanimously.

Being no further business to come before this committee, the hearing was adjourned at 10:40 a.m.

Respectfully Submitted:


Steve Waldron, Chairman

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 6667
Maile Julea
Fred Hayes

1 INTRODUCED BY

2 BY REQUEST OF THE BOARD OF CRIME CONTROL

3

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A YOUTH

6 ALLEGED TO BE A DELINQUENT YOUTH TO BE DETAINED AT MOUNTAIN

7 VIEW SCHOOL; REQUIRING THE COUNTY OF THE YOUTH'S RESIDENCE

8 TO PAY CERTAIN EXPENSES RESULTING FROM THE DETENTION;

9 APPROPRIATING FUNDS TO THE DEPARTMENT OF INSTITUTIONS;

10 AMENDING SECTIONS 41-5-207, 41-5-306, AND 53-30-202, MCA;

11 PROVIDING A TERMINATION DATE; AND PROVIDING EFFECTIVE

12 DATES."

13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 41-5-207, MCA, is amended to read:

16 "41-5-207. Court costs and expenses. The following

17 expenses shall be a charge upon the funds of the court or

18 other appropriate agency when applicable, upon their

19 certification by the court:

20 (1) the costs of medical and other examinations and

21 treatment of a youth ordered by the court;

22 (2) reasonable compensation for services and related

23 expenses for counsel appointed by the court for a party;

24 (3) the expenses of service of summons, notices,

25 subpoenas, traveling expenses of witnesses, and other like

1 expenses incurred in any proceeding under the Montana Youth

2 Court Act as provided for by law;

3 (4) reasonable compensation of a guardian ad litem

4 appointed by the court; and

5 (5) cost of transcripts and printing briefs on appeal;

6 and

7 (6) cost of detention as provided for in 41-5-306(4)." Section 2. Section 41-5-306, MCA, is amended to read:

8 "41-5-306. Place of shelter care or detention. (1) A

9 youth alleged to be a delinquent youth or youth in need of

10 supervision may be sheltered only in:

11 (a) a licensed youth foster home as defined in

12 41-3-1102;

13 (b) a facility operated by a licensed child welfare

14 agency; or

15 (c) a licensed youth group home as defined in

16 41-3-1102.

17 (2) ~~the~~ A youth alleged to be a delinquent youth may

18 be detained in a jail or other facility for the detention of

19 adults only if:

20 (a) the facilities in subsection (1) are not available

21 or do not provide adequate security;

22 (b) the detention is in an area physically and

23 visually separate and removed from those of adults;

24 (c) it appears to the satisfaction of the court that

EXHIBIT 1
February 18, 1985

SECOND READING
HB 667



1 public safety and protection reasonably require detention;
 2 and
 3 (d) the court so orders.
 4 (3) The official in charge of a jail or other facility
 5 for the detention of adult offenders or persons charged with
 6 crime shall inform the court immediately if a person who is
 7 or appears to be under the age of 18 years is received at
 8 the facility. Such official shall bring the person before
 9 the court upon request or deliver him to a detention
 10 facility designated by the court.

11 (4) (a) A youth alleged to be a delinquent youth may
 12 be detained at Mountain View school as provided in
 13 53-30-202. The superintendent of the school must be notified
 14 before a youth is transported to the school for detention.

15 The county of the youth's residence shall:

16 (i) pay the cost of transporting the youth to and from
 17 the school;

18 (ii) pay medical costs incurred by the youth during
 19 detention; and

20 (iii) reimburse the state general fund for 50% of the
 21 per diem cost of detention. The department of institutions
 22 shall determine the per diem rates according to 53-1-401(7)
 23 and 53-1-404.

24 (b) The county shall pay the costs provided for in
 25 subsection (4)(a) from the county's district court fund.

1 (4)(5) A youth alleged to be in need of care shall be
 2 placed only in the facilities stated in subsection (1) of
 3 this section and shall not be detained in a jail or other
 4 facility intended or used for the detention of adults
 5 charged with criminal offenses."

6 Section 3. Section 53-30-202, MCA, is amended to read:
 7 "53-30-202. Establishment of juvenile correctional
 8 facilities -- use of Mountain View school to include
 9 detention. (1) The department of institutions, within the
 10 annual or biennial budgetary appropriation, may establish,
 11 maintain, and operate facilities to properly diagnose, care
 12 for, train, educate, and rehabilitate children in need of
 13 these services. The children must be 10 years of age or
 14 older and under 21 years of age. The facilities include but
 15 are not limited to the Mountain View school, the Pine Hills
 16 school, and the youth forest camp.

17 (2) Mountain View school may be used at any one time
 18 for the detention of no more than five male and three female
 19 youths under the age of 18 who are alleged to be delinquent
 20 youths. The superintendent shall establish a procedure to
 21 assure that this capacity for detention is not exceeded.
 22 Youths detained at the school are entitled to the
 23 educational and ancillary services normally provided to
 24 students at the school, subject to security provisions."

25 NEW SECTION. Section 4. Appropriation. (1) There is

1 appropriated \$63,200 from the general fund to the Department
2 of Institutions for the fiscal years ending July 1, 1985,
3 and July 1, 1986, for the building modifications at Mountain
4 View School required to implement this act.

5 (2) There is appropriated \$187,777 from the general
6 fund to the Department of Institutions for the biennium
7 ending July 1, 1987, for the operational expenses to
8 implement this act.

9 NEW SECTION. Section 5. Termination date. This act
10 terminates July 1, 1987.

11 NEW SECTION. Section 6. Effective dates. (1) Section
12 4(1) and this section are effective on passage and approval.

13 (2) Section 4(2) is effective July 1, 1985.

14 (3) Sections 1 through 3 and 5 are effective October
15 1, 1985.

-End-

EXHIBIT 2
February 18, 1985

**MONTANA
ASSOCIATION OF
COUNTIES**

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

February 18, 1985

TO: Rep. Steve Waldron, Chair
Joint Subcommittee on Institutions

FROM: *Gordon M.*
Gordon Morris, Executive Director

The Montana Association of Counties supports HB 667 (Donaldson), which would allow youths alleged to be delinquent to be detained at Mountain View School.

At our annual meeting last June in Kalispell, our membership endorsed a resolution supporting the establishment of regional youth detention center facilities. The resolution, #84-3, is attached for your information. In addition, I am attaching a copy of proposed resolution 84-43, which was incorporated into #84-3.

Thank you and your committee for your careful consideration of HB 667.

MACo

RESOLUTION NO. 84-3

TO SUPPORT THE ESTABLISHMENT OF REGIONAL YOUTH DETENTION CENTER
FACILITIES

WHEREAS, Montana Counties recognize the growing difficulty of providing adequate and constitutional juvenile detention facilities at the local level; and

WHEREAS, Federal Laws require the segregation of facilities for juveniles;

NOW THEREFORE, BE IT RESOLVED, that the Montana Association of Counties does hereby support 1) the concept of "state youth detention centers" and 2) the goal that no child should be in an adult facility.

BE IT FURTHER RESOLVED, that two regional detention centers, one at Mountain View School and one at Pine Hills School each consisting of 20 beds and funded by the State be created.

BE IT FURTHER RESOLVED, that counties would participate in the funding for those sites by way of fees assessed for average population of juveniles and costed back to the respective counties at the prevailing state rate.

SPONSORED BY: District #7

APPROVED:

As Amended, June 12, 1984

RESOLUTION 84-43

WHEREAS, The courts have recognized the special protections and responsibilities to be afforded juveniles; and

WHEREAS, Recent litigation involving children held in adult facilities have placed personal and punitive liability with local officials.

NOW, THEREFORE, BE IT RESOLVED, That the _____ endorses the goal that no child should be in an adult jail.

* * * * *

Passed by majority vote of the membership of _____ in open session at _____, Montana, this _____ day of _____, 1984.

Attest: _____, President

APPROVED:

Incorporated into Resolution 84-3

BOULDER RIVER SCHOOL & HOSPITAL

<u>PERSONAL SERVICES</u>	<u>1986</u>	<u>1987</u>
Executive FTE	440.40	440.15
LFA Current Level FTE	<u>446.40</u>	<u>446.15</u>
Difference	<u>(6.0)</u>	<u>(6.0)</u>

Executive	\$9,087,366	\$9,113,190
LFA Current Level	<u>9,414,481</u>	<u>9,441,496</u>
Difference	<u>\$(327,115)</u>	<u>\$(328,306)</u>

- - - - - Personal Services Issues - - - - -

1. Direct Care Staff 5.0 FTE	\$ 86,050	\$ 86,192
2. Occupational Therapist	\$ 26,693	\$ 26,703

<u>OPERATING EXPENSES</u>	<u>1986</u>	<u>1987</u>
Executive	\$1,780,040	\$1,752,831
LFA Current Level	<u>1,773,777</u>	<u>1,852,034</u>
Difference	<u>\$ 6,263</u>	<u>\$(99,203)</u>

- - - - - Operating Expenses Issues - - - - -

1. LFA Current Level Base under executive base	\$ 44,160	\$ 44,693
2. Cost per meal adjustment at 1.4 cents per meal	\$ 4,500	\$ 4,500
3. Donated funds	\$ 26,000	\$ 12,480

The net difference in the base results from the executive using too high of a cost for loss of USDA commodities.

<u>EQUIPMENT</u>	<u>1986</u>	<u>1987</u>
Executive	\$ 10,474	\$ -0-
LFA Current Level	<u>26,740</u>	<u>15,864</u>
Difference	<u>\$(16,266)</u>	<u>\$(15,864)</u>

----- Equipment Issues -----

1. See attached detail

<u>FUNDING</u>	<u>1986</u>	<u>1987</u>
State Special (Donations)	<u>\$ 26,000</u>	<u>\$ 12,480</u>

KWLEG:BRIEF FORMAT

BOULDER RIVER SCHOOL AND HOSPITAL

Equipment Item	Fiscal 1986		Fiscal 1987	
	OBPP Qty.	LFA Amount	OBPP Qty.	LFA Amount
Couches	4	\$ 2,670	8	\$ 7,120
Living Room Chairs	4	1,020	4	2,040
Rocking Chairs	6	720	6	1,440
Mattresses			20	2,600
Weiland Love Seat	1	640	1	640
Beds	5	2,000		
Moduform Settee	1	770		
Moduform Chairs	2	530		
Recliners	2	772		
Refrigerators	2	450		
Heavy Duty Washer	2	550	4	2,200
Heavy Duty Dryer			4	8,000
Commercial Washer (2016)			1	2,700
Exercise Mat	1	352		
TOTAL		<u>\$10,474</u>		<u>\$26,740</u>
				<u>\$ -0-</u>
				<u>\$15,864</u>