

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN DARYL TOEWS**, on February 10, 1995, at
1:06 p.m.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. John R. Hertel, Vice Chairman (R)
Sen. C.A. Casey Emerson (R)
Sen. Delwyn Gage (R)
Sen. Loren Jenkins (R)
Sen. Kenneth "Ken" Mesaros (R)
Sen. Steve Doherty (D)
Sen. Gary Forrester (D)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Eddy McClure, Legislative Council
Janice Soft, Committee Secretary

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

Committee Business Summary:

Hearing: SJR 11
Executive Action: SB 118, Sb 250, SB 232, SB 291

HEARING ON SJR 11

Opening Statement by Sponsor:

SEN. VIVIAN BROOKE, SD 33, Missoula, said the Constitution guarantees equality of educational opportunity for each person in Montana. Our Constitution also recognizes the distinct and unique cultural heritage of the American Indian and expresses Montana's commitment to preserving that cultural integrity. **SEN. BROOKE** said a study to see how the above is being integrated into Montana's schools could be conducted by the interim committee on Indian affairs in the legislature.

Proponents' Testimony:

Deborah Wetsit, University of Montana, read her written testimony. EXHIBIT 1

Clara Nomee, Madam Chairman, Crow Tribe, sent her written testimony. EXHIBIT 2

Christine Kaufmann, Director, Human Rights Network, said her organization tries to help communities respond to bigotry, hatred and intolerance. **Ms. Kaufman** said the Human Rights Network supports SJR 11 because Indians are often victims of intolerance. She said appreciation of diversity begins with teaching the concept to young students. She informed the committee of a conference on Indian sovereignty which she attended, and from that meeting came a suggestion that teachers be required to take a course in Indian studies. **Ms. Kaufman** said she was pleased to see SJR 11 address the suggestion and urged support for the bill.

Terry Long Fox, Fort Belknap Tribe & President, American Indian Business Leaders, said she was educated in the Billings public school system and was amazed at the questions she was asked concerning American Indians. She said one of the objectives of the American Indian Business Leaders was to address the differences between how Indian and non-Indian business people think. **Ms. Long Fox** urged support for SJR 11.

Richard Crofts, Deputy Commissioner of Higher Education, offered support for SJR 11, on behalf of the Board of Regents and the Commissioner of Higher Education. He said their participation in the study suggested by SJR 11 could be helpful in promoting cultural differences and understanding among students, faculty and staff. **Mr. Crofts** said the drawing up of a friendly amendment had been discussed with **Eddy McClure** and **SEN. BROOKE** which would incorporate the consultation of the Commissioner of Higher Education for the study. **Mr. Crofts** urged support for SJR 11.

Ellen Swaney, urged support for SJR 11. She said she had prepared a listing for the college prep curriculum which listed the cultural diversity courses which are already in place in Montana schools.

Lynda Brannon, Indian Impact Schools of Montana, urged support for SJR 11, saying it is time for Montanans to learn about the first United States culture.

SEN. DELWYN GAGE, SD 43, Cut Bank, said he spoke on behalf of the Blackfeet Nation, which was part of his district, and the Indian Affairs Committee in the legislature, on which he has served during his legislative term. **SEN. GAGE** informed the committee of a program which tracks the Montana Indian students in their education -- are they finishing and if not, why not. He said if prison officials had a better understanding of Indian culture,

they would find it easier to work with the native Americans.

SEN. GAGE spoke in favor of **SJR 11**, saying it would benefit both the native American and general populace.

SEN. BARRY "SPOOK" STANG, SD 36, St. Regis, member of Committee on Indian Affairs, asked to be listed as a proponent and expressed support for **SJR 11**.

Scott Carlson, University of Montana, said he was a sociology major and the father of two young children who were being educated in the Missoula schools. **Mr. Carlson** expressed surprise at what his children were learning regarding native Americans, saying at times his children were more informed than the educators. **Mr. Carlson** asked support for **SJR 11**.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. DARYL TOEWS asked for clarification of, "preserve the cultural heritage of the American Indian." He wondered if it meant the general populace working to preserve the heritage, or was it to be preserved within the Indians themselves. **Deborah Wetsit** said it was to be done by both Indians and non-Indians because learning about other cultures broadens horizons.

SEN. TOEWS wondered if teachers on the reservations were required to take courses in Indian culture and was told it was no longer necessary.

SEN. CASEY EMERSON asked if Montana history was still a requirement in the K-12 school curriculum. **Gail Gray, OPI**, said it was recommended but not required.

Closing by Sponsor:

SEN. BROOKE thanked the committee for a good hearing and expressed appreciation to those who had come great distances in order to testify. She suggested it would be interesting to research the original Constitutional Convention language to determine the intent of "preserve the cultural heritage of the American Indian." **SEN. BROOKE** encouraged support for **SJR 11**.

EXECUTIVE ACTION ON SENATE BILL 118

Eddy McClure explained the amendments. **EXHIBIT 3**

Motion/Vote: **SEN. DELWYN GAGE** MOVED THE ADOPTION OF THE AMENDMENTS AS PER EXHIBIT 3. Motion CARRIED by UNANIMOUS voice vote.

Motion: **SEN. JOHN HERTEL** MOVED DO PASS ON SB 118 AS AMENDED.

Discussion: SEN. HERTEL said SB 118 was examined thoroughly for potential dishonesty by the school districts. The conclusion reached was schools would portray professionalism.

SEN. GARY FORRESTER asked for clarification for SB 118 being subject to contingent voidness and Eddy McClure said it was not because it did not reduce revenue.

SEN. FORRESTER opined SB 118 was beginning to undo what HB 667 did. SEN. TOEWS agreed that in some ways it did. SEN. FORRESTER said HB 667 was put into effect so school districts would stop taking advantage of estimating their non-levy revenues. He expressed concern over schools again taking advantage if SB 118 would pass.

SEN. GAGE said he did agree somewhat that SB 118 did pick away at HB 667, but it was more realistic to budget on the basis of known factors. Fluctuations in interest, oil & gas prices and production have made it very difficult for schools to be realistic in their non-levy estimates. SEN. GAGE commented there would probably be some school abuse which always happens, but he still supported SB 118.

SEN. HERTEL commented it would not happen to the magnitude as formerly because there are safeguards.

Vote: Motion to DO PASS SB 118 as amended CARRIED 8-2 on a voice vote, with SEN. DOHERTY and SEN. FORRESTER voting "No."

EXECUTIVE ACTION ON SENATE BILL 250

Eddy McClure distributed copies of the amendments and explained SEN. STANG wanted a guarantee that monies returned to the General Fund would reduce the BASE levy; thus the second amendment. She said the first amendment says the money from the General Fund must be within the adopted budget. EXHIBIT 4

SEN. FORRESTER asked if the money from SB 118 could be distributed into the proposed technology and litigation reserve funds. Kathy Fabiano, OPI, said a district could underestimate its non-levy revenues which could give it a surplus at the end of the fiscal year.

SEN. LOREN JENKINS asked for clarification regarding the transfer of monies and Eddy McClure said amendment #1 says transfers must be made from within their adopted budget.

SEN. FORRESTER asked about the purpose for SB 250 if the transfer must stay within the budget. SEN. GAGE said it allows districts who do not spend their full budgets to transfer monies to the above-mentioned funds. Otherwise, the surplus monies would have to be used to reduce the levies.

SEN. FORRESTER said **SB 118** could still be used to build up accounts so it would not be necessary to reappropriate the cash.

SEN. GAGE said his understanding of amendment #1 is revenue which comes in over budget must be reappropriated. The only money which will be available for transfer is budgeted revenue which is unspent.

MR. FORRESTER said school districts can comingle monies so he was not sure they could be separated. **SEN. GAGE** answered budget, rather than dollars, were spent.

SEN. JENKINS understood monies could be transferred from the General Fund within the adopted budget in order to establish the fund. **Kathy Fabiano** said prior to **HB 28**, school districts did not have to budget for this transfer to the compensated absences fund (same concept as the other reserve funds), either to establish the fund or to add to it. After **HB 28**, which mandated a balanced budget, the question was whether the cap would apply to both the district expenditures and transfer to the compensated absences fund, or would the cap only apply to the expenditures of the district. When districts were asked from where the transfer money would come if it wasn't budgeted for, they said the non-levy revenue would be intentionally underestimated. **OPI** looked at the situation and said schools must transfer within the budget cap, so for three years the schools did so. Last year the Attorney General ruled the transfer did not need to be within the budget, schools could spend up to their budget caps and if they still had money left over it could be transferred to the reserve funds. **Ms. Fabiano** said **SB 118** would allow schools to once again underestimate the non-levy revenue which would allow them to transfer the excess to the reserve funds, even though they may have spent 100% of their budget.

SEN. JENKINS said amendment #1 allowed fund transfer at the first of the year. **Kathy Fabiano** said if the district has to transfer within its budget, it can be done at any time through the year.

SEN. JENKINS asked if, according to amendment #1, it would be possible for the transfer to be part of their budget. **Ms. Fabiano** said it could because district expenditures are restricted to their total budget, not separate line items.

Motion/Vote: **SEN. BARRY "SPOOK" STANG** MOVED TO ADOPT THE AMENDMENTS AS PER EXHIBIT 4. Motion CARRIED by UNANIMOUS voice vote.

Motion: **SEN. BARRY "SPOOK" STANG** MOVED DO PASS ON **SB 250** AS AMENDED.

SEN. WATERMAN asked for clarification on **SB 250** as amended. **SEN. GAGE** said money from the budget could be transferred to the reserve funds at any time during the year, i.e. the transfer could not be taken from cash which may be above the budget.

Vote: Motion to pass SB 250 as amended CARRIED 7-2 by voice vote, with SEN. JENKINS and SEN. TOEWS voting "No."

EXECUTIVE ACTION ON SENATE BILL 232

SEN. TOEWS explained the amendments were addressed to comments made during the testimony. Eddy McClure and SEN. TOEWS explained the changes, amendment by amendment. EXHIBIT 5

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

Motion/Vote: SEN. DARYL TOEWS MOVED TO ADOPT THE AMENDMENTS AS PER EXHIBIT 5. Motion CARRIED by UNANIMOUS voice vote.

Motion: SEN. DARYL TOEWS MOVED DO PASS ON SB 232 AS AMENDED.

Discussion: SEN. STANG asked for the purpose of the bill. SEN. TOEWS capsulized by saying SB 232 gives control back to the district by decoupling the accreditation standards from the money.

SEN. MIGNON WATERMAN said she was concerned about decoupling the accreditation standards from the funding, i.e. federal special ed accreditation standards say if one school does not meet the standards, all federal special ed funding in Montana is in jeopardy. SEN. TOEWS said Montana does set standards for special ed, but the standards are set to the federal minimum standards, which are not accreditation standards.

SEN. WATERMAN asked if the Superintendent of Public Instruction had authority to withhold special ed funds. Eddy McClure said federal money could not be withheld for failure to comply with state accreditation standards. Montana's standards will be the federal standards. SEN. WATERMAN wanted assurance all districts would not suffer because one district would decide not to comply with accreditation standards. Robert Runkel, Director of Special Ed, said when Montana receives federal special ed monies, every child must be guaranteed appropriate special ed. The state of Montana receives about \$8-\$9 million federal special ed monies which are contingent upon the guarantee that each special ed child receives appropriate special ed. Mr. Runkel concurred with SEN. WATERMAN there is no power to withhold state dollars.

SEN. GAGE also asked for clarification of his understanding if one school failed to comply with accreditation standards, all schools would lose the federal special ed funding. Robert Runkel agreed with SEN. GAGE'S understanding.

SEN. JENKINS asked if special ed was an accreditation standard and Mr. Runkel answered the Board of Public Education has accepted the special ed rules as part of its standard. Failure to implement special ed regulations also results in failure to

follow school accreditation standards which would mean OPI going to the Board of Public Education to inform the Board a certain school is not meeting the accreditation standards. The withholding of foundation funds would be recommended.

SEN. JENKINS wanted clarification of his understanding special ed standards stand alone; however, the standards are covered under **SB 232** (money can be withheld if the standards are not met). **SB 232** says monies cannot be withheld if accreditation standards are not met. **Bob Runkel** said **SB 232** will lower the two standards now included in the state standards to the federal standards for special ed. All state special ed programs will operate according to the federal standards, which now would become the state standards, making them exactly the same. Failure to meet both would result in the withholding of the 10% federal funds.

SEN. GARY FORRESTER said **SB 232** allows special ed to be fixed by the federal government because they require every special ed student to be served; failure to do so could result in a lawsuit against the state of Montana.

SEN. WATERMAN still questioned what power, besides withholding Direct State Aid, the state would have over a school district who does not comply with federal special ed accreditation standards. **SEN. GAGE** replied every school district would be suing that particular district for loss of federal monies.

SEN. TOEWS said the special ed standard is not the accreditation standards. **SEN. WATERMAN** still was unclear what power, under **SB 232**, OPI had to withhold funds for failure to comply with state and federal special ed accreditation standards. **SEN. TOEWS** agreed to a clearer wording which would answer the above question suggesting "special ed funds could be withheld for failure to meet the federal and state special ed standards", be added on page 12, lines 16-17.

SEN. EMERSON asked for clarification on what monies would be lost. **SEN. TOEWS** said federal special ed, not all federal monies.

Motion/Vote: **SEN. LOREN JENKINS MOVED TO ADOPT THE AMENDMENT, "SPECIAL ED FUNDS COULD BE WITHHELD FOR FAILURE TO MEET THE FEDERAL AND STATE SPECIAL ED STANDARDS."** Motion **CARRIED** by **UNANIMOUS** voice vote.

SEN. WATERMAN commented one of Montana's special ed strengths was parental involvement and parental notice. **SB 232** removes those rights through lowering the state standards to the federal standards.

SEN. GAGE wondered if "and" should replace "or" on page 2, line 30. **Eddy McClure** said if districts should be forced to meet minimum federal standards, the wording should be "and."

Motion/Vote: SEN. MIGNON WATERMAN MOVED TO ADOPT THE AMENDMENT, INSERT "AND" AND STRIKE "OR." Motion CARRIED by UNANIMOUS voice vote.

Motion: SEN. BARRY "SPOOK" STANG MOVED DO PASS FOR SB 232 AS AMENDED.

SEN. WATERMAN spoke as an opponent to SB 232, saying parental involvement to improve schools would not be active in all communities. She further said she had done some research and discovered if SB 232 passes, Montana would become the only state which would not tie accreditation standards to funding. SEN. WATERMAN expressed concern over equalized funding and the Supreme Court's decision which said state accreditation standards are the minimum standards upon which a quality education must be built. The passing of SB 232 would tell school districts they don't have to meet accreditation standards; thereby, making opportunities for lawsuits. SEN. WATERMAN respected and applauded SEN. TOEWS' desire to make school districts more responsible but said SB 232 was not the way to accomplish it.

SEN. JENKINS said another part of that Supreme Court decision said equality in education was not purely economical, but included students' willingness to learn because of parental participation.

SEN. TOEWS said Montana is one of the few states which attempts to keep local control. The more school boards are allowed to be responsive to students' needs, the more there will be a certain kind of school board member. Currently, school boards are advisory committees rather than school boards. SEN. TOEWS maintained if school districts are in danger of losing their accreditation, the communities will rise to the challenge.

Vote: Motion to pass SB 232 as amended PASSED 6-4 on a roll call vote.

EXECUTIVE ACTION ON SENATE BILL 291

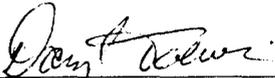
SEN. GAGE reminded the committee about the two potential salary levels and the fact that once tenure is attained, it is a property right. He said he proposed this amendment, even in the possibility of a lawsuit.

Motion/Vote: SEN. DELWYN GAGE MOVED TO ADOPT THE AMENDMENTS TO SB 291 AS PER EXHIBIT 6. Motion CARRIED by UNANIMOUS voice vote.

Motion/Vote: SEN. DELWYN GAGE MOVED DO PASS ON SB 291 AS AMENDED. Motion CARRIED 6-4 on a roll call vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 2:45 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

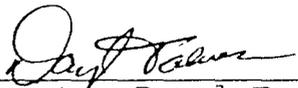
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 10, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 250 (first reading copy -- white), respectfully report that SB 250 be amended as follows and as so amended do pass.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Page 1, lines 13 and 14.

Following: "(2)

Strike: remainder of line 13 through "balance" on line 14

Insert: "The trustees of a district may transfer money from the general fund, within the adopted budget,

2. Page 1, line 16.

Following: second "fund"

Insert: "and must be used to reduce the district's general fund
BASE budget levy requirement computed pursuant to 20-9-141"

-END-

 Amd. Coord.
Sec. of Senate

351542SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 10, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 291 (first reading copy -- white), respectfully report that SB 291 be amended as follows and as so amended do pass.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Title, lines 6 and 7.

Following: "DATE" on line 6

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

2. Page 1, lines 26 through 28.

Strike: "-- applicability" on line 26.

Following: "1995" on line 26

Strike: remainder of line 26 through "1995" on line 28

-END-


Amd. Coord.
Sec. of Senate

351549SC:SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 10, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 118 (first reading copy -- white), respectfully report that SB 118 be amended as follows and as so amended do pass.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 5.

Following: "REVENUE"

Insert: ", INCLUDING CERTAIN TUITION PAYMENTS, REVENUE FROM PROPERTY TAXES AND FEES, NET PROCEEDS FROM CERTAIN OIL AND GAS PRODUCTION, INTEREST EARNED ON GENERAL FUND INVESTMENTS, AND CORPORATION LICENSE TAX REVENUE,"

2. Title, line 6.

Following: "DATE AND"

Strike: "AN"

Insert: "A DELAYED"

3. Page 3, line 7.

Strike: "1995"

Insert: "1996"

-END-


Amd. Coord.
SA Sec. of Senate

351535SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
February 10, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 232 (first reading copy -- white), respectfully report that SB 232 be amended as follows and as so amended do pass.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 17.

Following: "SECTIONS"

Insert: "20-1-301, 20-1-302,"

Following: "20-1-304,"

Insert: "20-1-308,"

2. Title, line 18.

Following: "20-7-705,"

Insert: "20-9-311,"

3. Page 1, line 23.

Insert: "Section 1. Section 20-1-301, MCA, is amended to read:

"20-1-301. School fiscal year. The school fiscal year shall begin on July 1 and end on June 30. At least 180 school days of pupil instruction shall must be conducted during each school fiscal year, except that 175 days of pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302 or unless~~ a district is granted a variance under the provisions of chapter 9, part 8, of this title. For any elementary or high school district that fails to provide for at least 180 school days of pupil instruction, the superintendent of public instruction shall reduce the county equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that school year by 1/90th for each school day less than 180 school days."

Section 2. Section 20-1-302, MCA, is amended to read:

"20-1-302. School day ~~and week~~. Subject to 20-1-308, a school day of pupil instruction shall must be ~~at least an average of~~ 2 hours for kindergartens and all other preschool programs, ~~unless a variance has been granted by the superintendent of public instruction in accordance with the policies of the board of public education, at least an average of~~ 4 hours for grades 1 through 3, and at least an average of 6 hours for grades 4 through 12. ~~The number of hours in any one school day for grades~~



Amd. Coord.

ST Sec. of Senate

351733SC.SRF

~~4 through 12 may be reduced by 1 hour if the total number of hours in the school week is not less than 30 hours. The number of hours in a school week may be reduced, in an emergency, with the approval of the board of public education."~~

Renumber: subsequent sections

4. Page 2, line 8.

Insert: "Section 5. Section 20-1-308, MCA, is amended to read:

"20-1-308. Religious instruction released time program. (1) The trustees of an elementary or high school district may provide for a religious instruction released time program under which a pupil may be released from regular school attendance for a period not to exceed 2 hours per week for the purpose of receiving religious instruction upon written request, renewed at least annually, of the pupil's parent or guardian.

(2) No religious instruction released time program may be established or administered in such a way that public school property is utilized for the purpose of religious instruction.

(3) No public ~~moneys~~ money may be used, directly or indirectly, for such religious instruction.

(4) Any period for which a pupil is released under a religious instruction released time program is part of the school day ~~and week~~ for purposes of 20-1-301, 20-1-302, 20-5-103, 20-9-311, and all other provisions of Title 20, and ~~such~~ the release may not adversely affect the pupil's attendance record."

Renumber: subsequent sections

5. Page 2, line 30.

Following: "standards"

Strike: "or"

Insert: "and"

6. Page 5, line 19.

Following: line 18

Insert: "(30) withhold state and federal special education money for failure to comply with minimum federal standards for special education;"

Renumber: subsequent subsections

7. Page 10, line 12.

Insert: "Section 13. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB).

(1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a

count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-804, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction, but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When any pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and no incorporated territory is involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other

schools of the district; or

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(b) a junior high school has been approved ~~and accredited~~ by the board of public education as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes; or

(c) a middle school has been approved ~~and accredited~~ by the board of public education, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; ~~or~~

~~(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.~~

(9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

(10) For average daily attendance reporting purposes, districts shall provide the superintendent of public instruction with annual reports of school attendance for regularly enrolled students and special education students, using a format determined by the superintendent."

Renumber: subsequent sections

8. Page 12, line 17."

Following: "standards"

Insert: "but shall withhold state and federal special education money for failure to comply with the minimum federal standards for special education"

-END-

MONTANA INDIAN EDUCATION ASSOCIATION

P.O. Box 1018
Browning, MT 59417

Senate Education

SENATE NO. 1

DATE 2/10/95

BILL NO. SJR 11



February 10, 1995

Mr. Chairman and Members of the Committee:

"The future of Indian people rests
with the education of their young."

My name is Deborah Wetsit and I am here to speak in favor of this bill. I am a faculty member in the School of Education at The University of Montana and I chair the Diversity Advisory Council which advises the President of this institution on cultural diversity issues. I also serve on the Board of Directors for the Montana Indian Education Association which is the largest American Indian organization in the State with a membership of over 400 educators of Indian and non-Indian people.

The reason for this particular requested interim study to study public schools' compliance with Article x, S 1, subsection (2) of the Montana Constitution, the role of American Indian studies in higher education, and the level of knowledge of the general public regarding American Indian issues, was the conclusions reached as a result of participating in a law & policy conference last spring at The University of Montana. During the course of this conference some very important questions were raised such as:

How can policy makers develop policy for the State of Montana without an adequate knowledge base regarding issues impacting all of the Montana citizens, including American Indians?

How can lawyers, judges, and other legal entities adequately represent and implement the law without an adequate understanding of the cultural world view of all of those impacted including American Indians?

It was determined that in order to set and to implement policy and law that truly addresses the needs and issues in this State, we need to have a well educated citizenry. This educated citizenry needs to have a knowledge base that gives an understanding of the potential impact of any law and policy under consideration on all citizens including the State's largest minority group; the American Indian. This seems especially appropriate given our State's Constitution which guarantees equality of educational opportunity to each person in Montana and which "recognizes the distinct and unique cultural heritage of the American Indians" and expresses the State's commitment to preserving that cultural integrity. It seems that after 23 years of living under the auspicious of our Constitution that it is time to assess how well we, as a State, are doing in the context of our education system.



I do know that as a college faculty member that the knowledge base of the vast majority of students with regard to American Indian culture, history and contemporary issues is extremely minimal. I've taught Native American Studies classes in the past and currently teach graduate students in the School of Education and all of these students have a limited understanding of the concept of culture and its implications. This forces me to question what is being taught in our K-12 system with regard to "recognizing the distinct and unique cultural heritage of the American Indians." In my capacity as Chair of The University of Montana's Diversity Advisory Council, I find that this Council cannot assume that faculty, staff and administration, have a basic knowledge base about the American Indian culture and issues both which are prerequisites for informed policy making and implementation. And yet, one of the goals in higher education is to instill the value of culture diversity by respecting other cultures and recognizing the contribution that each culture makes towards strengthening the fabric of our society. As a member of the Montana Indian Education Association, I am concerned that all children who are our future State leaders may not be getting the education that seems to be referenced in our State Constitution.

Given these observations and concerns, I do not question the accuracy and pervasiveness of my impressions and believe it is time to collect hard data to determine how well our educational system is providing this knowledge base about "the distinct and unique cultural heritage of the American Indians." This requested study will be means a of determining what the Montana knowledge base is and provide the opportunity to look at possible options as to how we can convey the requisite knowledge. The Office of Public Instruction has begun exploring some curricular changes in its social studies curriculum and there are other curriculum efforts that exist at the national level which may provide some options for exploration. This study could provide a status report of how educated our citizenry is concerning this issue and it could provide options that would allow the State of Montana to address any shortfalls if they exist.

I urge the Committee to vote "do pass" on this bill. Thank you.

CROW TRIBAL COUNCIL

P.O. Box 159
Crow Agency, Montana 59022
(406) 638-2601

SENATE EDUCATION

EXHIBIT NO. 2

DATE 2/10/95

BILL NO. SJR 11

Clara Nomee, Madam Chairman
Joseph Pickett, Vice-Chairman
Marvin L. Stewart, Secretary
Dennis Big Hair, Vice-Secretary

February 9, 1995

Darrell Toews, Chairman
Education and Cultural Resources Committee
Montana State Legislature
State Capitol

Dear Mr. Toews;

Please accept this letter as an indication of the support of the Crow Tribe for Senate Joint Resolution #11: A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE COMMITTEE ON INDIAN AFFAIRS TO STUDY PUBLIC SCHOOLS COMPLIANCE WITH ARTICLE X, SECTION 1, SUBSECTION(2), OF THE MONTANA CONSTITUTION, THE ROLE OF AMERICAN INDIAN STUDIES IN HIGHER EDUCATION, AND THE LEVEL OF KNOWLEDGE OF THE GENERAL PUBLIC REGARDING AMERICAN INDIAN ISSUES; AND REQUIRING A REPORT TO THE 55TH LEGISLATURE.

I understand this Senate Joint Resolution #11 is being introduced and heard in your committee on this day, Friday, February 10, 1995 and thus I offer this letter for comments. The Crow Tribe has been successful in maintaining a great deal of it's cultural heritage and it's native language. The Crow Tribal people are very proud of our heritage and we seek to maintain and preserve our Crow Language and Crow Culture. Likewise, we know that the educational attainment of Crow Indian people has been limited and thus the numbers of trained and educated Crow Indian educational personnel is extremely limited. In this light, the schools serving the Crow Indian students, on or near the Crow Indian Reservation, must hire non-Indians and non-Crows to teach and counsel our Crow Indian students.

I am sure that you are well aware that the Curricula in our public school systems do not address American Indian history, culture, and contemporary issues which are so vital in providing non-Indians an appreciation for American Indian people and their culture. SJ11 proposes to provide a mechanism which can enrich teacher education curriculum and increase the knowledge of the general public about historical and contemporary American Indian issues. On through such adequate preparation can non-Indian personnel begin to understand and appreciate our Culture, our Traditions and our people. SJ11 proposes the initiation of a



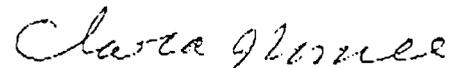
Crow Country

Page 2

analysis by the Committee on Indian Affairs to determine how best to adequately prepare teachers to work with American Indian students in Montana so that they can effectively educate them to their highest potential.

Please accept this letter as a solid endorsement for SJ11, as introduced by Vivian Brooke. Thank you for your sincere consideration.

Sincerely,



Clara Nomee, Madam Chairman
Crow Tribe

Amendments to Senate Bill No. 118
First Reading Copy

Requested by Senator Hertel
For the Sente Committee on Education and Cultural Resources

Prepared by Eddy McClure
February 7, 1995

1. Title, line 5.

Following: "REVENUE"

Insert: ", INCLUDING CERTAIN TUITION PAYMENTS, REVENUE FROM
PROPERTY TAXES AND FEES, NET PROCEEDS FROM CERTAIN OIL AND
GAS PRODUCTION, INTEREST EARNED ON GENERAL FUND INVESTMENTS,
AND CORPORATION LICENSE TAX REVENUE, "

2. Title, line 6.

Following: "DATE AND"

Strike: "AN"

Insert: "A DELAYED"

3. Page 3, line 7.

Strike: "1995"

Insert: "1996"

SENATE EDUCATION

EXHIBIT NO. 4

DATE 2/10/95

BILL NO. SB 250

Amendments to Senate Bill No. 250
First Reading Copy

Requested by Senator Stang
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure
February 2, 1995

1. Page 1, lines 13 and 14.

Following: "(2)

Strike: remainder of line 13 through "balance" on line 14

Insert: "The trustees of a district may transfer money from the
general fund, within the adopted budget,

2. Page 1, line 16.

Following: second "fund"

Insert: "and must be used to reduce the district's general fund
BASE budget levy requirement computed pursuant to 20-9-141"

Amendments to Senate Bill No. 232
First Reading Copy

Requested by Senator Toews
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure
February 3, 1995

1. Title, line 17.

Following: "SECTIONS"

Insert: "20-1-301, 20-1-302,"

Following: "20-1-304,"

Insert: "20-1-308,"

2. Title, line 18.

Following: "20-7-705,"

Insert: "20-9-311,"

3. Page 1, line 23.

Insert: "Section 1. Section 20-1-301, MCA, is amended to read:

"20-1-301. **School fiscal year.** The school fiscal year shall begin on July 1 and end on June 30. At least 180 school days of pupil instruction shall must be conducted during each school fiscal year, except that 175 days of pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, ~~or unless a variance for kindergarten has been granted under 20-1-302 or~~ unless a district is granted a variance under the provisions of chapter 9, part 8, of this title. For any elementary or high school district that fails to provide for at least 180 school days of pupil instruction, the superintendent of public instruction shall reduce the county equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that school year by 1/90th for each school day less than 180 school days."

{Internal References to 20-1-301:

a20-1-308 x20-5-109 x20-6-209 x20-8-109}

Section 2. Section 20-1-302, MCA, is amended to read:

"20-1-302. **School day and week.** Subject to 20-1-308, a school day of pupil instruction shall must be at least an average of 2 hours for kindergartens and all other preschool programs, ~~unless a variance has been granted by the superintendent of public instruction in accordance with the policies of the board of public education, at least an average of 4 hours for grades 1 through 3, and at least an average of 6 hours for grades 4 through 12. The number of hours in any one school day for grades 4 through 12 may be reduced by 1 hour if the total number of hours in the school week is not less than 30 hours. The number of hours in a school week may be reduced, in an emergency, with the approval of the board of public education."~~

{Internal References to 20-1-302:

a20-1-301 a20-1-308 a20-2-121 x20-5-109

a20-9-311 a20-9-311 x20-9-802}
Renumber: subsequent sections

4. Page 2, line 8.

Insert: "**Section 5.** Section 20-1-308, MCA, is amended to read:

"**20-1-308. Religious instruction released time program.** (1) The trustees of an elementary or high school district may provide for a religious instruction released time program under which a pupil may be released from regular school attendance for a period not to exceed 2 hours per week for the purpose of receiving religious instruction upon written request, renewed at least annually, of the pupil's parent or guardian.

(2) No religious instruction released time program may be established or administered in such a way that public school property is utilized for the purpose of religious instruction.

(3) No public ~~moneys~~ money may be used, directly or indirectly, for such religious instruction.

(4) Any period for which a pupil is released under a religious instruction released time program is part of the school day ~~and week~~ for purposes of 20-1-301, 20-1-302, 20-5-103, 20-9-311, and all other provisions of Title 20, and ~~such~~ the release may not adversely affect the pupil's attendance record."

{Internal References to 20-1-308:

a20-1-302}

Renumber: subsequent sections

5. Page 2, line 30.

Following: "standards"

Strike: "or"

Insert: "and"

6. Page 5, line 19.

Following: line 18

Insert: "(30) withhold state and federal special education money for failure to comply with minimum federal standards for special education;"

Renumber: subsequent subsections

7. Page 10, line 12.

Insert: "**Section 13.** Section 20-9-311, MCA, is amended to read:

"**20-9-311. Calculation of average number belonging (ANB).**

(1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the nearest school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection

(1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-804, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. If a variance has been granted as provided in 20-1-302, ANB must be computed in a manner prescribed by the superintendent of public instruction, but the ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When any pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and no incorporated territory is involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(b) a junior high school has been approved and ~~accredited~~ by the board of public education as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB

purposes; or

(c) a middle school has been approved and ~~accredited~~ by the board of public education, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; ~~or~~

~~(d) a school has not been accredited by the board of public education, the regularly enrolled, full time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.~~

(9) When 11th or 12th grade students are regularly enrolled on a part-time basis, high schools may calculate the ANB to include an "equivalent ANB" for those students. The method for calculating an equivalent ANB must be determined in a manner prescribed by the superintendent of public instruction.

(10) For average daily attendance reporting purposes, districts shall provide the superintendent of public instruction with annual reports of school attendance for regularly enrolled students and special education students, using a format determined by the superintendent." "

{ Internal References to 20-9-311:

x20-1-101	a20-1-308	x20-6-702	x20-7-117
x20-7-431	x20-9-313	x20-9-313	x20-9-313
x20-9-321			

Renumber: subsequent sections

8. Page 12, line 17."

Following: "standards"

Insert: "but shall withhold state and federal special education money for failure to comply with the minimum federal standards for special education"

SENATE EDUCATION

EXHIBIT NO. 6

DATE 2/10/95

BILL NO. SB 291

Amendments to Senate Bill No. 291
First Reading Copy

Requested by Senator Gage
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure
February 10, 1995

1. Title, lines 6 and 7.

Following: "DATE" on line 6

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

2. Page 1, lines 26 through 28.

Strike: "-- **applicability**" on line 26.

Following: "1995" on line 26

Strike: remainder of line 26 through "1995" on line 28

DATE 2/10/95

SENATE COMMITTEE ON Senate Education

BILLS BEING HEARD TODAY: SJR 11

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
RICHARD CROFTS	OCHFE	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dobroch Wofit	NIETH	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Terri Long Fox	University of North	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christine Kaufmann	MT. Human Rights Natl	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Carlson	Uof M ^{BLACKFEET} _{Missoula}	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Wayne Buchanan	BPE	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Barry Stone	Senat. Dist 36	SJR 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

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