

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By CHAIRMAN DARYL TOEWS, on January 30, 1995, at
1:02 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: HB 49, HB44
Executive Action: HB 51, HJR 3, SB 140, SB 156, SB 112, SB
101, HB 44, HB 49

HEARING ON HB 49

Opening Statement by Sponsor:

REP. MIKE KADAS, HD 66, Missoula, said that over a year ago the voters in Missoula County voted to unify the Missoula County High School District and the largest elementary district, District #1. One of the unification results was the loss of one mill for adult education. When they were two separate districts, three mills could be levied for adult education but now they could levy only two. REP. KADAS stated that he had carried a bill in the December, 1993, special session which allowed the unified

district to levy three mills. The bill passed both Houses and was signed by the Governor but was not enacted because the above-mentioned unified district did not have co-terminus boundaries. Therefore, **REP. KADAS** was presenting the bill again to allow the Missoula County adult education program to continue with a three-mill levy.

Proponents' Testimony:

Gregory Fine, School Board Trustee, Missoula Public Schools, stated that the Missoula Schools are committed to the adult education program and have transferred dollars to cover the shortfall in this year's budget. He urged support for **HB 49** because it brings his district into parity with the rest of the state and with what the Missoula district has been doing.

Mary Vagoner, Superintendent, Missoula County Public Schools, said she would be appreciative if the committee would view **HB 49** as a sense of fairness and an opportunity for the Missoula Schools to continue to operate the 38-year-old adult education program with the two mills levied from the high school budget, as it has been up until this current year.

Carl Sandell, Director of the Program in Missoula, said he had been involved with the adult education program for 23 years and has seen the program grow from 1700 enrollees to 4600 this past year. It includes all segments of the community as participants. The three major areas of involvement are the adult basic education which served 833 persons last year; computer instruction is scheduled through 30 sections of computer classes each quarter; continuing education which focuses on training and retraining, i.e. welding, boiler exam preparation, etc. **Mr. Sandell** said that the program can be viewed as a service center to people within the district as well as in the area. The Missoula adult education program has extended sites in Superior, Thompson Falls and Plains.

Loran Frazier, School Administrators of Montana (SAM), expressed support for **HB 49** and asked the committee that they give it a DO PASS.

Bruce Moyer, Director of Business Services, Missoula County Public Schools, said that three mills (two mills at the high school level) had been levied for adult education since 1981 and asked for reinstatement of the one mill omitted this year. That one mill would raise approximately \$118,000 which would raise the taxes on a \$100,000 home in Missoula County by about \$3.80.

Jim Foster, Montana Rural Education Association (MREA), voiced the same support for **HB 49** as in the House.

Michael Keedy, Montana School Boards Association (MSBA), verbalized support for **HB 49** because of its fairness and uniformity of treatment.

Opponents' Testimony:

Fred Happel, Montanans for Better Government, faxed his testimony which he requested be added to the verbal testimony. **EXHIBIT 1**

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if the one mill levy could be run as a voted levy and **Carl Sandell** replied that it could but adult education views this section of the law as its foundation program. The concern is that it will always be in place to support adult education.

SEN. DELWYN GAGE wanted to know if the mills figured in the calculation of distributed non-mill revenues. **REP. KADAS** said they were.

SEN. BARRY "SPOOK" STANG asked for clarification on the section which mentions one or three mills, wondering if Missoula County could levy two or three mills. **REP. KADAS** replied that it was three mills, explaining that before the unification, the high school district levied two mills and the elementary levied one. After unification, the high school district could levy only one and that's what **HB 49** is trying to correct.

Closing by Sponsor:

REP. KADAS further addressed **SEN. EMERSON'S** question about the voted levy and said that everywhere else in the state the adult education levies were permissive, so it would be unfair if Missoula County were required to vote.

HEARING ON HB 44Opening Statement by Sponsor:

REP. JOE QUILICI, HD 36, Butte, said that **HB 44** raises the limit from five years to ten years during which school districts can bond. The background to **HB 44** is that since 1989, the ENRC and the state has done energy retrofits on many state buildings. Schools are now being included and many small school districts cannot fund an energy retrofit program and pay off the bonds in five years. **HB 44** gives them up to ten years to pay them off. **REP. QUILICI** wanted to clarify the fact that money for this does not come from the taxpayers but from the savings realized through the energy retrofits. He used the rural district of Ramsey as an example and said the gym was very cold during basketball season. The Ramsey district has retrofitted with a new heating system, new insulation, etc. If the Ramsey district could have extended the pay-off time from five years to ten, using the energy savings, the district could have done even more in terms of energy-saving improvements. **REP. QUILICI** urged the committee to

pass HB 44.

Proponents' Testimony:

Tom Livers, Department of Natural Resources, read his testimony, (EXHIBIT 2) and distributed a brochure. EXHIBIT 2A

Gary Willis, Montana Power Company, said Montana Power Company (MPC) is a partnership with the Office of Public Instruction, Board of Investments, and Department of Natural Resources. He said that MPC can supply money because of savings realized when MPC buys the electricity at a cost which is actually lower than building a power plant or dam. **Mr. Willis** said that MPC supported HB 44 and asked the committee to do the same.

Loran Frazier, School Administrators of Montana (SAM), voiced support for HB 44, saying that the reasons have already been stated.

Don Waldron, Montana Rural Education Association (MREA), said he supported HB 44 because he believed in it, and asked the committee's support for HB 44 also.

Michael Keedy, Montana School Boards Association (MSBA), said MSBA wholeheartedly supported HB 44 for the reasons already articulated. People are not fond of government spending but they despise government waste and that's why MSBA supports HB 44. He also asked for the committee's support.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. EMERSON asked if ten years was enough, or would 12 or 15 years be better. **Tom Livers** said that a longer time would allow more flexibility and state statutory limits are fifteen years; however, no debt has ever been issued for longer than ten years. What needs to be ensured is a positive cash flow while the debt is being retired as well as substantial savings during the life of the improvements after the debt retirement. **Mr. Livers** concluded that ten years was adequate.

SEN. GAGE asked if calculations were based on current rates or rate increases. **Tom Livers** said that cash flow is determined by the conservative assumption of a flat energy rate. When the cost of not doing the work is figured, the projection of that cost to the school over a period of time, maybe ten years, is used. To ensure that there is a positive cash flow beginning on day one, the most conservative figures are used.

SEN. GAGE stated that he realized most of the financing came through InterCap, but banks are required by federal government to be involved in community betterment programs, etc. He wondered if it would be possible for schools to arrange financing through

the bank. REP. QUILICI said he didn't remember any banks offering such a proposal, but if they could do it cheaper, he would approve.

Closing by Sponsor:

REP. QUILICI said that he had been working on energy retrofits for many years and these are good programs. He said that he would like to see HB 44 pass and he would like to see SEN. GAGE'S idea pursued because anything that makes schools better should be considered.

EXECUTIVE ACTION ON HOUSE BILL 51

Motion: SEN. MIGNON WATERMAN MOVED HB 51 BE CONCURRED IN.

Discussion: SEN. STANG asked if board members could misuse the bid limits. SEN. WATERMAN replied she supposed anything could be misused if one tried hard enough, but HB 51 was appropriate because of the potential savings for school districts.

Vote: Motion THAT HB 51 BE CONCURRED IN CARRIED UNANIMOUSLY by voice vote.

SEN. CASEY EMERSON will carry HB 51.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 3

Motion: SEN. STEVE DOHERTY MOVED THAT HJR 3 BE CONCURRED IN.

Discussion: SEN. HERTEL asked if all schools would need a certified person to teach. SEN. JENKINS said that HJR 3 authorized schools to use ASL to fulfill foreign language requirements.

SEN. HERTEL wondered if a school would be required to hire a certified sign language teacher to teach a deaf child enrolled there. SEN. FORRESTER answered that a Child Study Team studies the placement needs of the child and the district in which the child is ultimately placed would have to provide a certified sign language teacher.

SEN. FORRESTER asked why it was necessary for the legislature to urge Board of Public Education and Board of Regents to approve HJR 3, and wondered why the Great Falls group didn't go directly to the Boards.

SEN. MESAROS wondered whether sign language fit the criteria for a foreign language requirement. Eddy McClure answered that it would, if a rule were adopted and accreditation standards with a

laundry list of what counts as a foreign language was drawn up. This would have to be done at both the high school and university levels.

SEN. EMERSON asked if there were such a list. **Eddy McClure** said there were college entrance requirements. **Gail Gray, OPI**, offered the information that accreditation standards speak of a second language and what schools have done is to require that the second language be a foreign language. However, if a local board would be interested and wanted to use American Sign Language as a second language, it could be done, but ASL may not fit the college entrance criteria.

SEN. GAGE asked whether the world in general uses ASL as a universal sign language. **SEN. DOHERTY** said that symbols (boy, boat, car) are universally recognized but the spelling of words is not.

Vote: Motion that **HJR 3** BE CONCURRED IN **CARRIED UNANIMOUSLY** by voice vote.

SEN. STEVE DOHERTY will carry **HJR 3**.

EXECUTIVE ACTION ON SENATE BILL 140

SEN. TOEWS presented five amendments (**EXHIBIT 3**), explaining that the Montana School Boards Association and the Montana Education Association requested them. The amendments' sheet listed five, but he asked that the fifth be stricken, saying that the Board of Public Education had a problem with the three-year limit and **SEN. TOEWS** agreed, stating there are times when three years may not a sufficient length of time to keep the letter in the personnel file.

Motion/Vote: **SEN. JENKINS** MOVED THAT THE FIRST FOUR AMENDMENTS AS PRESENTED BY **SEN. TOEWS** BE ADOPTED. Motion **CARRIED** by **UNANIMOUS** voice vote.

SEN. GAGE presented two amendments also, (**EXHIBIT 4**) which said that if a school board was asked by another prospective employer if there was a letter of reprimand on a prospective employee, the board could only affirm or deny. **Wayne Buchanan, Board of Public Education**, gave more information by reading a sentence from the Attorney General's opinion on whether the letters of reprimand should be available; "The Board of Real Estate when requested must disclose the status of any real estate licensee whether any disciplinary action has been taken against that individual, and if so, the reason for the disciplinary action." **27-1-804** also defines privileged (can be divulged) correspondence; "a privileged publication is one made in the proper discharge of an official duty to any legislative or judicial proceeding, or any other official proceeding authorized by law.....by a fair and true report without malice by a judicial, legislative or other

public official proceeding or anything said in the course thereof." Because the letters of reprimand would be determined in such a hearing, that information would be available to other government agencies, i.e a school district. The actual information (names, transcripts of proceedings, etc.) has to be balanced with the individual's right and necessity to know. **Mr. Buchanan** concluded that the law does what is proposed in **SEN. GAGE'S** amendments.

Motion/Vote: SEN. DELWYN GAGE MOVED THAT HIS AMENDMENTS TO SB 140 BE ADOPTED. Motion CARRIED by UNANIMOUS voice vote.

Motion/Vote: SEN. DARYL TOEWS MOVED THAT SB 140 DO PASS AS AMENDED. Motion CARRIED by UNANIMOUS voice vote.

EXECUTIVE ACTION ON SENATE BILL 156

SEN. WATERMAN explained that her amendments (**EXHIBIT 5**) clean up the language in the title and adds language clarifying who a resident is. The crux of the additions is on page 2 which clarifies that a high school graduate who is a citizen or resident alien is a Montana resident. **Eddy McClure** said that several years ago the Supreme Court threw a bill out because the title did not reflect everything in the bill; therefore, everything is included in Amendment #2 for protection of the legislature.

Motion/Vote: SEN. MIGNON WATERMAN MOVED TO ADOPT THE AMENDMENTS TO SB 156. Motion CARRIED UNANIMOUSLY by voice vote.

Motion/Vote: SEN. MIGNON WATERMAN MOVED DO PASS ON SB 156 AS AMENDED. Motion CARRIED by UNANIMOUS voice vote.

EXECUTIVE ACTION ON SENATE BILL 112

Motion/Vote: SEN. BARRY "SPOOK" STANG MOVED TO ADOPT THE AMENDMENTS TO SB 112. Motion CARRIED by UNANIMOUS voice vote. EXHIBIT 6

Motion: SEN. BARRY "SPOOK" STANG MOVED DO PASS ON SB 112 AS AMENDED.

Discussion: SEN. TOEWS asked what would happen if the fiscal impact would be substantially more than indicated. **SEN. STANG** said that if the cost would be substantially more than currently, it could be pro-rated. If the current method would cost substantially more than included in the appropriation, there would have to be a supplement. The intent is not to cost more money. **David Huff, OPI**, said that the Task Force would stand by the figures it gave; in fact, the figures were probably on the conservative side. The fiscal note for SB 112 does not take into

account what additional amounts may be needed to take care of growth. He summed up his remarks by saying that the Task Force still supported its figures.

SEN. STANG asked for clarification on his understanding that currently the transportation budget is set and if there are more students, the difference is pro-rated. **David Huff** gave his affirmation. **SEN. STANG** also wanted to know if the pro-rating would be done by rule or by statute. **David Huff** said that if there is an underage, it would be because of more students and not **SB 112**.

SEN. STANG said that the Governor's office wanted to know that if **SB 112** causes an overage, will it be pro-rated. **Gail Gray, OPI**, said that the option to pro-rate is a statute; however, before pro-rating is done, an attempt is made to get a supplemental. There is presently a request for a supplemental before the legislature. The legislature can deny the request if the reason for the shortfall clearly states that it was because of increased students or **SB 112**.

Vote: Motion to give DO PASS to **SB 112** as amended **CARRIED** 9-1 by voice vote with **SEN. GAGE** voting "No."

EXECUTIVE ACTION ON SENATE BILL 101

Eddy McClure explained that the amendments were suggested by **SEN. LINDA NELSON** when she presented **SB 101**. After **SB 101** was drafted, **Kathy Fabiano, OPI**, suggested a few changes, including corrections to outdated language. **Ms. McClure** read the amendments as listed on **EXHIBIT 7**.

Motion: **SEN. MIGNON WATERMAN** MOVED TO ADOPT THE AMENDMENTS TO **SB 101**.

Discussion: **SEN. STANG** commented that **SB 101** did not get an adequate hearing because of shortage of time.

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SEN. TOEWS said that he had talked to **SEN. LINDA NELSON** who said that **Don Waldron, Montana Rural Education Association (MREA)**, could answer questions. **Mr. Waldron** said that all but one amendment had been testified to when the hearing was held, and the remaining one does not make that much difference. **SEN. NELSON** said she was concerned that the committee may not be aware of how many people back **SB 101**. **Mr. Waldron** concluded, however, after talking to committee members, that they were cognizant of that fact.

Vote: Motion to approve the amendments for **SB 101** **CARRIED** by **UNANIMOUS** voice vote.

Motion: SEN. MIGNON WATERMAN MOVED DO PASS FOR SB 101 AS AMENDED.

Discussion: SEN. WATERMAN commented that she liked SB 101 because it provided for technology as well as teacher training.

SEN. STANG received clarification that the levy was permissive and not voted. SEN. EMERSON said he liked to see school boards have authority through local control and SB 101 allowed for that.

SEN. GAGE commented that people would look with suspicion on the school board if it levies two mills even if elected levies fail. He also wanted to know if GTB was in the general appropriations bill and was told that it was.

SEN. TOEWS said that the permissive levy of two mills was a good idea for a school district because a school which has a good GTB match would benefit.

SEN. STANG observed that the concentration has been on two mills, but SB 101 says that the technology fund could be up to 2 percent of the General Fund budget, which could exceed two mills. Committee members concurred.

SEN. GAGE said he was aware of a House Bill which would set aside revenue from timbered land for schools, and possibly for funds such as SB 101 is suggesting. In that case, he could support SB 101. Eddy McClure attested to that bill, saying she had been asked to make amendments. A portion of the proceeds would be placed in a technology fund which would be based on matching monies, similar to the present math and science fund.

SEN. STANG said that he had a bill draft not yet completed that deals with another fund for technology. SEN. JENKINS suggested that action of SB 101 be delayed until the outcome of SEN. STANG'S bill is known.

SEN. EMERSON said that the permissive levy will cost an extra \$6.45 million in 1996 and \$6.25 million in 1997. He suggested that perhaps the schools should buy technology equipment from their budgets with their own money.

Substitute Motion/Vote: SEN. LOREN JENKINS MOVED TO TABLE SB 101. Motion CARRIED 7-3 by voice vote, with SEN. HERTEL, SEN. WATERMAN AND SEN. DOHERTY voting "No."

EXECUTIVE ACTION ON HOUSE BILL 44

Motion/Vote: SEN. JOHN HERTEL MOVED THAT HB 44 BE CONCURRED IN. Motion CARRIED UNANIMOUSLY by voice vote.

SEN. DELWYN GAGE will carry HB 44.

EXECUTIVE ACTION ON HOUSE BILL 49

SEN. JENKINS asked for clarification on the number of mills REP. MIKE KADAS was requesting, saying that he had understood three mills but it appeared that HB 49 was asking for two. SEN. STANG explained that further reading of HB 49 clears the issue, and the three mills are the total of two from the high school district and one from the elementary district. The two districts are not co-terminus; therefore, the separate mills.

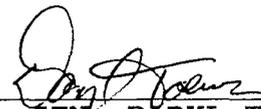
SEN. FORRESTER suggested that the language of HB 49 be a bit clearer. SEN. WATERMAN commented that the date on the fiscal note was incorrect; it should be July 1, 1994.

Motion/Vote: SEN. MIGNON WATERMAN MOVED THAT HB 49 BE CONCURRED IN. Motion CARRIED 9-1 by voice vote with SEN. EMERSON voting "No."

SEN. BARRY "SPOOK" STANG will carry HB 49.

ADJOURNMENT

Adjournment: The meeting adjourned at 2:28 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFF, Secretary

DT/jes

SENATE STANDING COMMITTEE REPORT

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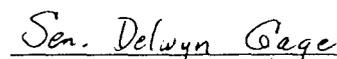
MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 44 (third reading copy -- blue), respectfully report that HB 44 be concurred in.

Signed: 

Senator Daryl Toews, Chair


Amd. Coord.
Sec. of Senate



Senator Carrying Bill

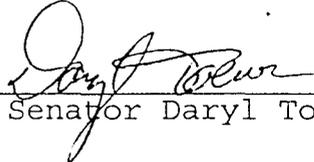
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 30, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HJR 3 (third reading copy -- blue), respectfully report that HJR 3 be concurred in.

Signed: 
Senator Daryl Toews, Chair


Amd. Coord.
Sp Sec. of Senate

Sen. Steve Doherty
Senator Carrying Bill

251556SC.SPV

SENATE STANDING COMMITTEE REPORT

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MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 112 (first reading copy -- white), respectfully report that SB 112 be amended as follows and as so amended do pass.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Page 2, line 7.
Strike: "bench seat"
2. Page 9, line 1.
Following: "subtracting"
Strike: "3"
Insert: "6"

-END-


Amd. Coord.
Sec. of Senate

251630SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 30, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 51 (third reading copy -- blue), respectfully report that HB 51 be concurred in.

Signed: _____



Senator Daryl Toews, Chair




Amd. Coord.
Sec. of Senate

Sen. C.A. Casey Emerson
Senator Carrying Bill

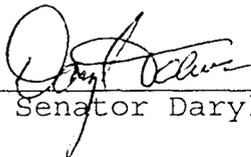
251555SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 30, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 140 (first reading copy -- white), respectfully report that SB 140 be amended as follows and as so amended do pass.

Signed: 

Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 7.

Following: "CERTIFICATE;"

Insert: "AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO INFORM A SCHOOL DISTRICT OF THE EXISTENCE OF A LETTER OF REPRIMAND UPON REQUEST;"

2. Title, line 9.

Following: "CONSIDER"

Insert: "A LETTER OF REPRIMAND OR"

3. Page 1, line 15.

Following: "20-4-110."

Strike: "Suspension"

Insert: "Letter of reprimand, suspension"

4. Page 2, line 22.

Following: "consider"

Insert: "a letter of reprimand or"

5. Page 2, line 23.

Following: last "to the"

Insert: "school district or the"

6. Page 3, line 1.

Following: "certificate."

Insert: "The board may, upon a request by a school district, inform the school district that a person's certification file includes a letter of reprimand, but the board may not provide a copy of the letter without first determining that the public's right to know outweighs the person's right to privacy."

-END-


SA

Amd. Coord.
Sec. of Senate

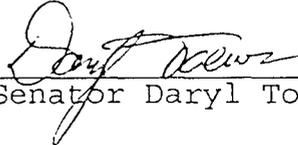
251601SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
January 30, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 156 (first reading copy -- white), respectfully report that SB 156 be amended as follows and as so amended do pass.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 5.

Following: "ACT"

Insert: "REVISING CERTAIN STATUTES RELATING TO THE UNIVERSITY SYSTEM;"

2. Title, line 10.

Following: "EDUCATION;"

Insert: "ELIMINATING CERTAIN MISCELLANEOUS FINANCE PROVISIONS RELATING TO UNIVERSITY SYSTEM CONSTRUCTION AND BOND PROJECTS; REVISING THE NAMES OF THE UNITS OF THE UNIVERSITY SYSTEM; CLARIFYING THE DEFINITION OF RESIDENT STUDENT AND PROVISIONS RELATING TO DOMICILE;"

3. Title, line 13.

Following: "20-25-303,"

Insert: "20-25-501, 20-25-503,"

4. Page 21, line 4.

Page 41, lines 17, 18, and 22.

Strike: "32" or "32"

Insert: "34"

5. Page 24, line 23.

Following: line 22

Insert: "Section 19. Section 20-25-501, MCA, is amended to read:

"20-25-501. Definitions. (1) Terms used in this part are defined as follows:

(a) "Domicile" means a person's true, fixed, and permanent home and place of habitation.

(b) "Emancipated minor" means a person under the age of 18 years who ~~supports himself~~ is self-supporting from ~~his own~~ personal earnings or is married. A person who received more than 25% of the cost of ~~supporting himself~~ support from any person


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SA Sec. of Senate

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other than an agency of the government ~~shall~~ may not be considered an emancipated minor.

(c) "Minor" means a male or female person who has not obtained the age of 18 years.

(d) "Qualified person" means a person legally qualified to determine ~~his~~ the person's own domicile.

(e) "Resident student" means:

(i) a student who has been domiciled in Montana for 1 year immediately preceding registration at any unit for any term or session for which resident classification is claimed. Attendance as a full-time student at any college, university, or other institution of higher education ~~shall~~ is not alone be sufficient to qualify for residence in Montana.

(ii) any graduate of a Montana high school who is a citizen or resident alien of the United States and whose parents, parent, or guardian ~~have~~ has resided in Montana at least 1 full year of the 2 years immediately preceding ~~his~~ the student's graduation from high school. ~~Such~~ The classification ~~shall continue~~ continues for not more than 4 academic years if the student remains in continuous attendance at a unit; or

(iii) a member of the armed forces of the United States assigned to and residing in Montana, ~~his~~ the member's spouse, or ~~his~~ the member's dependent children.

(2) In the event that the definition of residency or any portion thereof is declared unconstitutional as it is applied to payment of nonresident fees and tuition, the regents of the Montana university system ~~shall have authority to~~ may make rules on what constitutes adequate evidence of residency status not inconsistent with ~~such~~ those court decisions."

Section 20. Section 20-25-503, MCA, is amended to read:

"20-25-503. **Presumptions and rules as to domicile.** (1) Unless the contrary appears to the unit registering authority, it is presumed the domicile of a minor is that:

(a) of the parents or, if one of them is deceased or they do not share the same domicile, of the parent having legal custody or, if neither parent has legal custody, the parent with whom the minor customarily resides; or

(b) of ~~his~~ the minor's guardian when the court appointing the guardian certifies that the primary purpose of the appointment is not to qualify the minor as a resident of this state.

(2) A resident student who marries a nonresident does not by that fact alone lose resident status for tuition and fee purposes for a period of 4 years after marriage.

(3) Residence is not lost because of relocation as a member of the armed forces of the United States.

(4) A new domicile is established by a qualified person if ~~he~~ the person is physically present in Montana with no intention to acquire a domicile outside of Montana.

(5) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

(6) Montana high school graduates who are citizens or resident aliens of the United States are resident students of the system for 4 consecutive years of attendance if:

(a) they apply for admittance to the system within 1 year after graduation; or

(b) their parents or the parent having legal custody or, if neither parent has legal custody, the parent with whom they customarily reside has resided in Montana in one of the 2 years immediately preceding the graduation.

(7) Upon moving to Montana, an adult employed on a full-time basis within the state of Montana may apply for in-state tuition classification for ~~his~~ the adult's spouse or any dependent minor child, or both. If ~~such~~ the person meets the requirement of full-time employment within the state of Montana and files for the payment of Montana state income taxes or files estimates of those taxes or is subject to withholding of those taxes and renounces ~~his~~ residency in any other state and is not ~~himself~~ in the state primarily as a student, ~~his~~ the person's spouse or any dependent minor child, or both, may at the next registration after qualifying be classified at the in-state rate so long as ~~he~~ the person continues ~~his~~ Montana domicile. In the administration of this subsection, neither the full-time employee or spouse ~~shall be~~ is eligible for in-state tuition classification if the primary purpose for coming to Montana was the education of the employee or spouse."

Renumber: subsequent sections

6. Page 41, line 20.

Strike: "33(2)"

Insert: "35(2)"

7. Page 41, line 24.

Following: "through"

Strike: "31, 33(1), 34, and 35"

Insert: "33, 35(1), 36, and 37"

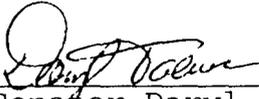
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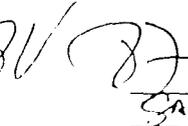
SENATE STANDING COMMITTEE REPORT

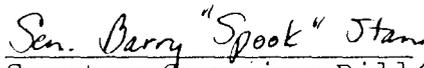
Page 1 of 1
January 30, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 49 (third reading copy -- blue), respectfully report that HB 49 be concurred in.

Signed: 
Senator Daryl Toews, Chair

 Amd. Coord.
Sec. of Senate


Senator Carrying Bill

251554SC.SPV

SENATE EDUCATION

EXHIBIT NO. 1

DATE 1/30/95

BILL NO. HB 49

MONTANANS FOR BETTER GOVERNMENT
FRED HAPPEL, LOBBYIST

FAX COVER PAGE

TO: SENATOR DARYL TOEWS

FR: FRED HAPPEL

DT: JANUARY 30, 1995

SENATOR TOEWS:

COULD YOU PLEASE SEE THAT THIS TESTIMONY IS ADDED TO THE
VERBAL TESTIMONY ON HB 49. I AM SORRY THAT I MISSED THE
HEARING, BUT I WAS NOT ABLE TO BE IN HELENA TODAY. THANK
YOU VERY MUCH.

TESTIMONY OF FRED HAPPEL ON HB 49

Mr. Chairman, members of the committee:

I am Fred Happel, I am a lobbyist for Montanans for Better Government. I am submitting this testimony in writing as I will be unable to attend the hearing on the bill.

We are opposed to HB 49. It is our view that any tax increases are totally unnecessary and should be avoided at all costs during this legislative session. While this bill will not increase taxes by itself, it will give school districts additional taxing authority, and there is little doubt that many school districts will take advantage of this opportunity. Adult Education is already adequately funded and does not need any additional funds; furthermore, school districts can find funds elsewhere.

We urge committee members to adopt a do not pass report.

January 30, 1995

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
TESTIMONY ON HOUSE BILL 44

My name is Tom Livers. I'm representing the Department of Natural Resources and Conservation, and I'm here to support House Bill 44.

This legislation would extend school debt term limits from five to ten years for specific energy conservation projects. This would be limited to projects qualified under the state's schools energy retrofit financing program and financed through the Board of Investments. The net result of this bill will be to increase energy and cost savings to schools across Montana, without any increase in state or local tax liability.

It's possible to structure energy efficiency improvements in public buildings so that the energy cost savings is greater than the associated financing costs. We do this with our own state government facilities. The difficulty schools face is needing to amortize their debt within the five years allowed under the Board of Investment's INTERCAP program, which are the best financing terms available to Montana schools for this type of work. This five-year limit makes it more difficult to build these projects with a positive cash flow. This is the problem that HB 44 addresses.

At the direction of the Legislature, DNRC last year developed a retrofit financing program for energy improvements in Montana schools. We did this without new legislation or new bureaucracy, by threading together and modifying existing programs operated by DNRC, the Montana Power Company, and the Board of Investments. This program -- $E=mc^2$ -- is described in the brochure I've passed out along with my testimony.

The program has gotten off to a very good start, with more than two dozen districts participating in the first year. However, we've identified many good projects that do not yield positive cash flow when financed over five years. When this is the case, one of three things happens:

1. The school comes up with a substantial amount of up-front capital in order to buy down the principal amount of the loan;
2. The school implements only a few high return measures thus skimming the cream and leaving other good measures undone; or
3. The school drops the project.

Some schools are able to come up with up-front capital. Many, particularly the smaller schools, are not. Some are willing to skim the cream, which we believe is not a sound economic outcome in the long term. Some projects are dropped.

The Deer Lodge School District is a typical example. We have identified cost-effective energy efficiency improvements totalling \$97,313. Under our $E=mc^2$ partnership, we expect the Montana Power Company to cover approximately \$36,000 of this, leaving an up-front project cost of about \$61,000. This work is projected to save the school almost \$8,500 each year in energy costs.

If the school is limited to five years in which to amortize its \$61,000 share of the project, it will see an annual debt payment of more than \$14,500, which is a negative cash flow of about \$6,000 per year. If the school were to buy down the principal to a cash-neutral position, it would cost them \$26,000 up front -- money they don't have to commit.

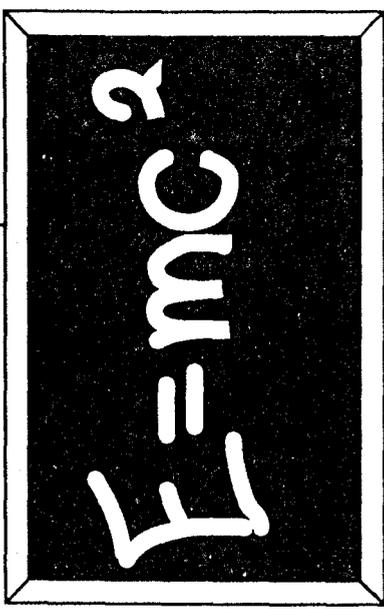
If House Bill 44 passes and the school is able to amortize its \$61,000 share over ten years, it would then see an annual debt payment of about \$8,400, which yields a slightly positive cash flow for the project while the debt is being retired. More significantly, after the debt is retired, the school will continue to realize the full \$8,400 annual savings for the life of the improvements; these savings will increase as energy costs continue to escalate.

This bill would not *require* schools to amortize energy projects over ten years. It would *allow them the option* of going up to ten years when it makes economic sense to do so.

It's often said that government should operate more like a business. In certain areas, that's possible. This is one place in which government can and does operate like a business. Properly designed energy efficiency projects are sound economic investments. They save energy and tax money in public buildings.

DNRC recognizes the concerns regarding voter control of long-term school debt. We believe that an extended debt term, limited to cost-effective energy projects, is in the best interest of the schools, taxpayers, utility ratepayers and state government. It will reduce unnecessary energy consumption in Montana schools, and save everyone money. I urge you to support House Bill 44, and I will try to answer any questions you may have. Thank you.

SENATE EDUCATION
EXHIBIT NO. 2A
DATE 1/30/95
BILL NO. H844



E = mc² is a partnership between the Department of Natural Resources and Conservation, the Montana Board of Investments, the Office of Public Instruction, and the Montana Power Company. It combines government and private sector resources to maximize energy and cost savings for schools.

What next?

Find out more about E = mc². Fill out the attached card, or call:

Connie Onstad
Key Accounts Representative
Energy Division, DNRC
P. O. Box 202301
Helena, MT 59620-9983
Telephone: 444-6777
Fax: 444-6721

**A solution for saving
energy and money
in our schools**



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$$E = mc^2$$

Efficiency = managing costs carefully

Energy savings pays

It's no secret that energy efficiency pays for itself, especially here in Montana. Improvements in lighting, controls, ventilation systems, boilers and building insulation can yield significant savings. The key is finding money to pay for these improvements.

That's where $E = mc^2$ comes in.

What is $E = mc^2$?

- ↳ a comprehensive approach to energy conservation
- ↳ a public-private partnership that combines the technical and financial resources of state government and Montana's utilities
- ↳ a turnkey package that can take you from A to Z with little or no hassle
- ↳ a flexible, customized program tailored to the specific needs of your school or district
- ↳ a solution to rising energy costs in Montana schools

How does it work?

1. Contact the Department of Natural Resources and Conservation. A DNRC key accounts representative will explain the program and how it might fit your needs.
2. Your DNRC representative will arrange an energy use evaluation, at no cost to you, to determine the rough savings potential for your facility.
3. If the evaluation shows potential, DNRC will arrange an indepth engineering analysis. Again, this analysis is done at no cost to you — just a good-faith commitment to follow through with some or all the identified measures.
4. Once the analysis is finished, your account representative will help you put together an energy retrofit project and financing package that meets your specific needs.
5. Your energy cost savings will cover your project finance payments.
6. Performance contracts can be included in this program to guarantee your energy cost savings.

$E = mc^2$

NAME _____

POSITION _____

SCHOOL/DISTRICT _____

ADDRESS _____

TELEPHONE _____

FAX _____

Yes, I'd like to learn more about $E = mc^2$

Amendments to Senate Bill No. 140
First Reading Copy

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

Prepared by Eddy McClure
January 24, 1995

1. Title, line 9.
Following: "CONSIDER"
Insert: "A LETTER OF REPRIMAND OR"

2. Page 1, line 15.
Following: "20-4-110."
Strike: "Suspension"
Insert: "Letter of reprimand, suspension"

3. Page 2, line 22.
Following: "consider"
Insert: "a letter of reprimand or"

4. Page 2, line 23.
Following: last "to the"
Insert: "school district or the"

5. Page 2, line 28.
Following: "file"
Insert: "for up to 3 years"

SENATE EDUCATION

EXHIBIT NO. 4

DATE 1/30/95

BILL NO. SB 140

Amendments to Senate Bill No. 140
First Reading Copy

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

Prepared by Eddy McClure
January 24, 1995

1. Title, line 7.

Following: "CERTIFICATE;"

Insert: "AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO INFORM A
SCHOOL DISTRICT OF THE EXISTENCE OF A LETTER OF REPRIMAND
UPON REQUEST;"

2. Page 3, line 1.

Following: "certificate."

Insert: "The board may, upon a request by a school district,
inform the school district that a person's certification
file includes a letter of reprimand, but the board may not
provide a copy of the letter without first determining that
the public's right to know outweighs the person's right to
privacy."

Amendments to Senate Bill No. 156
First Reading Copy

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

Prepared by Eddy McClure
January 25, 1995

1. Title, line 5.

Following: "ACT"

Insert: "REVISING CERTAIN STATUTES RELATING TO THE UNIVERSITY
SYSTEM;"

2. Title, line 10.

Following: "EDUCATION;"

Insert: "ELIMINATING CERTAIN MISCELLANEOUS FINANCE PROVISIONS
RELATING TO UNIVERSITY SYSTEM CONSTRUCTION AND BOND
PROJECTS; REVISING THE NAMES OF THE UNITS OF THE UNIVERSITY
SYSTEM; CLARIFYING THE DEFINITION OF RESIDENT STUDENT AND
PROVISIONS RELATING TO DOMICILE;"

3. Title, line 13.

Following: "20-25-303,"

Insert: "20-25-501, 20-25-503,"

4. Page 21, line 4.

Page 41, lines 17, 18, and 22.

Strike: "32" or "32"

Insert: "34"

5. Page 24, line 23.

Following: line 22

Insert: "**Section 19.** Section 20-25-501, MCA, is amended to read:
"20-25-501. **Definitions.** (1) Terms used in this part are
defined as follows:

(a) "Domicile" means a person's true, fixed, and permanent
home and place of habitation.

(b) "Emancipated minor" means a person under the age of 18
years who ~~supports himself~~ is self-supporting from his ~~own~~
personal earnings or is married. A person who received more than
25% of the cost of ~~supporting himself~~ support from any person
other than an agency of the government ~~shall~~ may not be
considered an emancipated minor.

(c) "Minor" means a male or female person who has not
obtained the age of 18 years.

(d) "Qualified person" means a person legally qualified to
determine ~~his~~ the person's own domicile.

(e) "Resident student" means:

(i) a student who has been domiciled in Montana for 1 year
immediately preceding registration at any unit for any term or

session for which resident classification is claimed. Attendance as a full-time student at any college, university, or other institution of higher education shall is not alone be sufficient to qualify for residence in Montana.

(ii) any graduate of a Montana high school who is a citizen or resident alien of the United States and whose parents, parent, or guardian have has resided in Montana at least 1 full year of the 2 years immediately preceding his the student's graduation from high school. ~~Such~~ The classification shall continue ~~continues~~ for not more than 4 academic years if the student remains in continuous attendance at a unit; or

(iii) a member of the armed forces of the United States assigned to and residing in Montana, ~~his~~ the member's spouse, or ~~his~~ the member's dependent children.

(2) In the event that the definition of residency or any portion thereof is declared unconstitutional as it is applied to payment of nonresident fees and tuition, the regents of the Montana university system ~~shall have authority to~~ may make rules on what constitutes adequate evidence of residency status not inconsistent with ~~such~~ those court decisions."

{Internal References to 20-25-501:

x27-1-718}

Section 20. Section 20-25-503, MCA, is amended to read:

"20-25-503. Presumptions and rules as to domicile. (1)

Unless the contrary appears to the unit registering authority, it is presumed the domicile of a minor is that:

(a) of the parents or, if one of them is deceased or they do not share the same domicile, of the parent having legal custody or, if neither parent has legal custody, the parent with whom the minor customarily resides; or

(b) of ~~his~~ the minor's guardian when the court appointing the guardian certifies that the primary purpose of the appointment is not to qualify the minor as a resident of this state.

(2) A resident student who marries a nonresident does not by that fact alone lose resident status for tuition and fee purposes for a period of 4 years after marriage.

(3) Residence is not lost because of relocation as a member of the armed forces of the United States.

(4) A new domicile is established by a qualified person if ~~he~~ the person is physically present in Montana with no intention to acquire a domicile outside of Montana.

(5) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

(6) Montana high school graduates who are citizens or resident aliens of the United States are resident students of the system for 4 consecutive years of attendance if:

(a) they apply for admittance to the system within 1 year after graduation; or

(b) their parents or the parent having legal custody or, if neither parent has legal custody, the parent with whom they customarily reside has resided in Montana in one of the 2 years immediately preceding the graduation.

(7) Upon moving to Montana, an adult employed on a full-time basis within the state of Montana may apply for in-state tuition classification for ~~his~~ the adult's spouse or any dependent minor child, or both. If ~~such~~ the person meets the requirement of full-time employment within the state of Montana and files for the payment of Montana state income taxes or files estimates of those taxes or is subject to withholding of those taxes and renounces ~~his~~ residency in any other state and is not ~~himself~~ in the state primarily as a student, ~~his~~ the person's spouse or any dependent minor child, or both, may at the next registration after qualifying be classified at the in-state rate so long as ~~he~~ the person continues ~~his~~ Montana domicile. In the administration of this subsection, neither the full-time employee or spouse ~~shall be~~ is eligible for in-state tuition classification if the primary purpose for coming to Montana was the education of the employee or spouse." "
{Internal References to 20-25-503: None.}

Renumber: subsequent sections

6. Page 41, line 20.
Strike: "33(2)"
Insert: "35(2)"

7. Page 41, line 24.
Following: "through"
Strike: "31, 33(1), 34, and 35"
Insert: "33, 35(1), 36, and 37"

Amendments to Senate Bill No. 112
First Reading Copy

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

Prepared by Eddy McClure
January 25, 1995

1. Page 2, line 7.
Strike: "bench seat"

2. Page 9, line 1.
Following: "subtracting"
Strike: "3"
Insert: "6"

Amendments to Senate Bill No. 101
First Reading Copy

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

Prepared by Eddy McClure
January 26, 1995

1. Page 1, line 26.
Following: "(a)"
Insert: "when establishing a technology acquisition fund,"
2. Page 1, line 27.
Following: "budget"
Strike: "for the ensuing school fiscal year"
3. Page 1, lines 28 through 30.
Following: "fund" on line 28
Strike: "for the ensuing school fiscal year"
Following: "total" on line 28
Insert: "adopted"
Following: "budget"
Strike: remainder of line 29 through "year" on line 30
4. Page 2, line 8.
Strike: "July"
Insert: "August"
5. Page 2, lines 13 and 15.
Strike: "or reappropriated"
6. Page 2, line 19.
Following: "15-31-702;"
Insert: "(v) any fund balance available for reappropriation;"

Renumber: subsequent subsection

DATE 1/30/95

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: HB 44, HB 49

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Carl [unclear]</i>	Hissoula County Pub Schs	HB 48	X	
Gregory J. Fine	Missla County Schools	HB 49	X	
Mary D. Wagner	Missla Co Pub Schs	HB 49	X	
Ricky Shaffer	Shields Volby PS	HB 49	X	
Tom Livers	Dept. Natural Resources & Cons.	HB 44	X	
Lynnda Brannan	MASBO	HB 44	X	
Mildred Feedy	MSBA	HB 44	X	
"	"	HB 49	X	
Larry Willis	Maxtana Power Co.	HB 44	X	
[unclear]	Devil 36	HB 44	✓	
Don [unclear]	SAM	HB 44 49	✓	
George Moya	Missla County Pub Schs	HB 49	X	
Sal [unclear]	O P A			
Jim [unclear]	MDEA	HB 49	X	

Don Walden VISITOR REGISTER HB 44 X

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY