

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 8, 1985

The meeting of the Education and Cultural Resources Committee was called to order by Chairman Dan Harrington at 3:25 p.m. on March 8, 1985 in Room 312-3 of the State Capitol.

ROLL CALL: All members were present, but Representatives Hammond, Hannah, Harbin, and Thomas arrived later than roll call.

CONSIDERATION OF S.B. 106: Senator James Shaw, District #12, introduced S.B. 106 as primary sponsor of the bill. The bill has to do with Subchapter "S" Corporations in that if you own land in two different counties and are a Subchapter "S" Corporation, you would not need to pay tuition for a child attending school in a county nearest your residence, i.e. the tuition is pro-rated. A few years ago the Attorney General ruled that Subchapter "S" Corporations were not classified as a partnership. Sen. Shaw also distributed an amendment (Exhibit 1) which may take care of some objections he has heard to the bill. He asked for concurrence.

PROPOSERS: Bill Anderson with the Office of Public Instruction offered support as the bill is fair and would not give the members of these families any more rights than anyone else.

Don Waldron, speaking for the School Administrators of Montana, said the bill would be a legal way to do what is fair for the taxpayers in the districts.

There being no further proponents, opponents, or questions from the committee, Senator Shaw closed the hearing on the bill by referring to the amendments which would take care of any problems.

CONSIDERATION OF S.B. 109: Representative Gene Ernst from District #29 opened the hearing on S.B. 109 on behalf of Sen. David Fuller, who was presiding in the Senate at the time. Rep. Ernst said the bill came at the request of the Montana Historical Society and is titled the Museum Loan Act. He asked that a member of the Historical Society explain the purpose of the bill.

Mr. Bob Archibald, Director of the Montana Historical Society, distributed written testimony, Exhibit 2, and explained that the bill would permit museums to assume title to items which have been loaned to them in instances where the lender or their successors cannot be located. It would not take affect until seven years after the loan was made. He said any upkeep

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or maintenance on these items is impossible at present because they are not the legal property of the museums in the State. He read to the committee a letter of resolution which supported this legislation and represented the feelings of 80 museums across Montana. (See Exhibit 3)

PROponents: Brenda Schye spoke on behalf of the Montana Arts Advocacy which, she explained, is a broad cross-section of Montanans. She asked that the committee consider this bill favorably. (See written testimony, Exhibit 4)

Bill Anderson, Office of Public Instruction, relayed that his staff felt this is a good bill and supports it.

There being no further proponents or opponents, Chairman Harrington opened the floor to questions. Rep. Montayne asked Mr. Archibald if he could get back a gift given to a museum by a relative. Mr. Archibald said the donor would generally be required to sign a title transfer and it would assume the donor is the legal owner in the first place. The I.R.S. also requires that if the donation is claimed for tax purposes, there must be a title transfer. Rep. Mercer questioned whether this would apply to items already in the museums and Mr. Archibald said it would apply only to loaned material. If the heirs cannot be located by certified mail, a public notice would be placed in the newspaper for three weeks. Rep. Mercer asked what would be the ramifications of failure to notify the museum of an address change, as in Section 7 of the bill. It was clarified that after seven years and attempts to contact the owners, the museum takes ownership of the property. There ensued discussion regarding the signing of a loan agreement, presenting that loan agreement or proof of ownership when an object on loan is released to another party, and the need for the museum to know that they are giving the item back to the rightful owner. The provisions of the statute are made known to the lender at the time the loan agreement is signed. Rep. Peck wondered what sort of documentation would be needed to ascertain that an item truly belonged to the person in the first place. Mr. Archibald said they have to be very careful and use their best judgement. It was pointed out to Rep. Eudaily that the change in the interest rate in the bill from 5% to 10% on Page 10, line 4 of the bill was a Senate amendment to reflect present realities.

Senator Fuller was present at this time to close the hearing on S.B. 109 by urging support of the bill.

CONSIDERATION OF S.B. 84: Senator Bob Brown, District #2, opened the hearing on this bill as its sponsor. He said this is a simple bill which fills a place in the law that somehow was not addressed. It allows schools to acquire property by

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lease-purchase agreement, there is no statutory authorization which allows for it now. Districts are becoming more and more interested in new technical equipment and it becomes obsolete quickly and would be more advantageous at times to acquire it on a lease-purchase agreement.

PROPOSERS: Chip Erdmann, representing the Montana School Board Association, said the bill came out of their convention at Billings the prior year and prompted its introduction. It allows school districts to enter into these agreements for both personal and real property. There are safeguards built in for purchasing real property the same as buying land outright. It would have to go through the same voter requirements.

Don Waldron with the School Administrators of Montana spoke for the group in urging support of the bill. He cited the example of leasing copy machines and service for less money than they could buy just the service contract alone and, at the end of three years, they could pay a certain amount and keep the machine if they desire.

Ruthe Tigges, Elementary School Principals from Billings, asked support of the bill for reasons stated on written testimony. (See Exhibit 5)

Bill Anderson, representing the Office of Public Instruction, stood in support of the bill.

Eric Feaver with the Montana Education Association said they were delighted to support the bill.

There being no opponents, Chairman Harrington called for questions from the committee. Rep. Sands asked Mr. Anderson if the bill would require competitive bidding and Mr. Anderson answered that it would follow current law in that regard. Chip Erdmann also answered that in regard to real property, it still has to go through the bidding process and applies at the time the contract is signed. Mr. Erdmann answered Rep. Hannah's question that the school districts are doing it at present, but there is no authorization for it.

Senator Brown closed the hearing on the bill by saying he would like Rep. Nelson to carry this bill on the floor should the committee recommend that the bill be concurred in.

EXECUTIVE SESSION:

ACTION ON S.B. 106: Rep. Peck motioned that S.B. 106 BE CONCURRED IN. Rep. Glaser spoke to the proposed amendments saying that not only on Page 2, lines 9 and 10 should a "." be placed following "corporation", but also the same should

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be added to lines 19 and 20 on Page 3. He explained the U.S. Tax Code (1371 & 1372) definition of corporations having 20% or more of its gross receipts, or \$3,000, whichever is more, cannot be a Subsection "S" Corporation. The intent of the amendments should be to leave the wording at closely held or family coporations. It was generally agreed among committee members that if someone wished to know if they fit the categories of a closely held or family corporation definition, they should go to the legislative council attorney. Rep. Glaser believed a lot of people were excluded in this bill that Sen. Shaw intended to include. Rep. Hannah moved that action on S.B. 106 be passed for the day and the motion was unanimously approved.

ACTION ON S.B. 84: Rep. Williams moved that S.B. 84 BE CONCURRED IN. The motion was seconded by Rep. Kitselman and the motion carried by unanimous voice vote.

ACTION ON S.B. 109: Rep. Peck moved that S.B. 109 BE CONCURRED IN. Rep. Williams seconded the motion. Rep. Mercer moved to amend the bill in the following way:

1. Page 3, lines 14 through 16.
Following: "property"
Strike: remainder of line 14 through
"property" on line 16

He explained that he felt it difficult to provide documentation on property ownership on these kinds of items. It was pointed out by Mr. Archibald that a Notice of Intent to retain interest is filed in response to a letter sent by the Society and with or without the statute the museum cannot return property unless they are provided with a receipt or documentation. In cases of potential heirs reclaiming property, they need a copy of the original loan receipt, a copy of the will, or other documents which state the interest the person may have in the property.

The question was called on the motion to amend S.B. 109 and it carried by voice vote with six opposing votes cast.

Rep. Hannah addressed the bill with his objection of cutting off the rights of the people and giving ownership over to the museum. He suggested that a bill be drafted so the museums have a right to preserve and maintain property placed in their care rather than giving ownership to them.

Mr. Archibald answered Rep. Eudaily's question of who establishes a reasonable market value as referred to on Page 10 of the bill by saying that it would have to be done by an appraiser, and he would assume it would not have to be done in court.

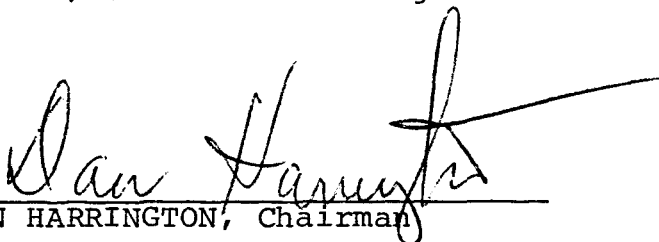
A voice vote was called on the motion that S.B. 109 BE CONCURRED IN AS AMENDED. The motion carried with Reps. Hannah, Glaser, and Brandewie opposing.

EDUCATION AND CULTURAL RESOURCES COMMITTEE

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There being no further business, the committee adjourned at
4:20 p.m.



DAN HARRINGTON, Chairman

crf

STANDING COMMITTEE REPORT

MARCH 9

19 85

MR. **SPEAKER**

We, your committee on **EDUCATION & CULTURAL RESOURCES**

having had under consideration **SENATE**

Bill No. **94**

THIRD reading copy (**BLUE**)
color

**ALLOWING SCHOOL DISTRICTS TO ACQUIRE PROPERTY BY LEASE-PURCHASE
AGREEMENT**

Respectfully report as follows: That **SENATE**

Bill No. **94**

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

MARCH 8

19 85

MR. SPEAKER

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE Bill No. 109

THIRD reading copy (BLUE)
color

MUSEUM LOAN ACT

Respectfully report as follows: That SENATE Bill No. 109

BE AMENDED AS FOLLOWS:

1. Page 3, lines 14 through 16.
Following: "property"
Strike: remainder of line 14 through "property"
on line 16

AND, AS AMENDED

BE CONCURRED IN

DECREASE

DAILY ROLL CALL

EDUCATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-8-85

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington	✓		
Ralph Eudaily	✓		
Ray Brandewie	✓		
William Glaser	✓		
Joe Hammond	✓		
Thom Hannah	✓		
Raymond Harbin	✓		
Roland Kennerly	✓		
Les Kitselman	✓		
John Mercer	✓		
John Montayne	✓		
Richard Nelson	✓		
Jerry Nisbet	✓		
Ray Peck	✓		
Jack Sands	✓		
Ted Schye	✓		
Fred Thomas	✓		
Mel Williams	✓		

EXHIBIT 1
S.B. 106
3-8-85

Amend Senate Bill 106, third reading copy, as follows:

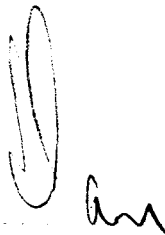
1. Page 2, line 9.

Following: "corporation"

Strike: remainder of line 9 and line 10 in its entirety

Insert: "."

Example



TESTIMONY: SB109
Museum Loan Act

MONTANA HISTORICAL SOCIETY,
ROBERT ARCHIBALD

Senate Bill 109 permits museums to assume title to items which have been loaned to them where the lender or his or her successors cannot be located. The provisions of this bill have no effect until at least seven years after the loan was made.

The legislation provides for extensive safeguards to protect the rights of lenders. The proposed statute will address a longstanding dilemma faced by many Montana museums, including the Montana Historical Society. Museums often are responsible for materials to which they have no clear title and where the owner or the owners' heirs cannot be located. The Historical Society, for example, has objects which have been in its possession for fifty years which are stored and insured but to which the Society has no legal title. Such objects cannot be located when they deteriorate and while we do not own them, we also cannot dispose of them. This bill will permit us to obtain title in such situations after due process, as outlined in the legislation has been followed.

Due process consists of the following:

1. Lender will be informed of the process when the loan is made.
2. After seven years the museum may notify the lender of its intent to terminate the loans. If the museum cannot locate the lender through the mails, it must give notice of its intent in newspapers in the area of the museum and in the area of the lender's last known address.
3. The lender may preserve interest by notifying the museum in writing.
4. The lender may take action to recover the property for three additional years.

The Montana Historical Society supports SB109. The bill addresses the legitimate concerns of museums while providing appropriate safeguards for lenders.

EXHIBIT 3
S.B. 109
3-8-85

M A M museums association of montana

Loma, Montana
January 16, 1985

Dr. Robert Archibald, Director
Montana Historical Society
225 North Roberts
Helena, Montana 59620

Dear Dr. Archibald:

At the Museums Association of Montana meeting in Hamilton May 11, 1984, a thorough discussion was held on the many increasing problems related to items that had been loaned to museums. We were advised that there would be a Bill addressing the problem, presented to the 1985 Legislature.

Aware that many of our members were presently being confronted with this kind of problem, our Board of Directors composed the following resolution;

WHEREAS Existing law does not specifically address the issue of the rights of museums and lenders of property to museums as to property which has been left unclaimed by the owner thereof for an extended period of time, and

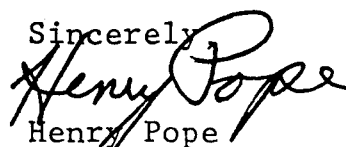
WHEREAS This is a topic of concern to the nuseum profession nationally, and

WHEREAS Museums in Montana have a significant number of unclaimed loans--in some instances loans which have remained in an institution for 75 years.

NOW THEREFORE BE IT RESOLVED: that the Museums Association of Montana supports legislation setting forth a procedure for dealing with unclaimed cultural property.

This resolution was presented to our members in our Association Summer 1984 Newsletter. A ballot was provided so that approval or disapproval could be given. Ballots returned approved the resolution.

The Montana Historical Society is our only member in the Helena area. You will no doubt be keeping well advised on any proposed legislation addressing the problems of items loaned to museums. We would like for you to represent us and present our resolution, should there be any hearings on Bills related to this problem.

Sincerely,

Henry Pope
President MAM
Box 126
Loma, Montana 59640

Montana Arts Advocacy

committee of the Montana Institute of the Arts Foundation

TESTIMONY OF BRENDA SCHYE ON SB 109
March 8, 1985
HOUSE EDUCATION AND CULTURAL RESOURCES

I represent the Montana Arts Advocacy, a broad cross-section of Montanans who are committed to the development of our state's cultural and artistic resources. Montana has a rich multi-cultural heritage of which her residents are justifiably proud. Museums play a central role in preserving our cultural, artistic, scientific, and historic heritage for the benefit of present and future generations.

Museums, large and small, are finding a need for legislation which sets forth a uniform procedure for them to deal with abandoned cultural property.

We believe SB 109 provides museums with the flexibility they need to properly manage their collections, while protecting the interests of families and individuals who have generously entrusted museums with articles for the public's benefit.

We hope you will give this bill a favorable recommendation.

K. Paul Stahl—Helena
James Poor—Great Falls
Mary Hudspeth—Glendive
Charles Tooley—Billings
Eric Myhre—Helena

Donna Gray—Pray
B.J. Hawkins—White Sulphur Springs
Claudette Morton—Helena
Reed Robinson—Missoula
Deborah Schlesinger—Helena

Sydney Sonneborn—Miles City
C. Karen Stanton—Hardin
J.D. Holmes—Helena
John Koch—Miles City
Joan Hendricks—Executive Secretary-Billings

EXHIBIT 5
S.B. 84
J. 8. 85

MARCH 8, 1985

HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE
CHAIRMAN HARRINGTON AND MEMBERS
STATE CAPITAL
HELENA, MONTANA

DEAR HONORABLE REPRESENTATIVES:

THANK YOU FOR THIS OPPORTUNITY TO SPEAK IN FAVOR OF SENATE BILL #84 WHICH WOULD ENABLE SCHOOL DISTRICTS TO UTILIZE LEASE/PURCHASE OPTIONS WHEN ACQUIRING PERSONAL AND REAL PROPERTY.

THE BILLINGS PUBLIC SCHOOLS SUPPORT THIS LEGISLATION FOR THE FOLLOWING REASONS:

1. THIS LEGISLATION WOULD ALLOW FOR MORE CONSISTENT BUDGETING PRACTICES BY AVOIDING PEAKS AND VALLEYS CAUSED BY THE NEED TO PURCHASE HIGH COST PROPERTY COMPONENTS. AN EXAMPLE OF THIS MIGHT BE A LARGE COMPUTER MAINFRAME AT A COST OF \$300,000 IN WHICH PAYMENT MIGHT BE DISTRIBUTED OVER FIVE OR MORE YEARS RATHER THAN A SINGLE LARGE PAYMENT IN ONE FISCAL YEAR.
2. THIS LEGISLATION WOULD ENHANCE THE OPPORTUNITY FOR A SCHOOL DISTRICT TO PROVIDE PLANNED GROWTH AND DEVELOPMENT. BY HAVING THE OPTION TO INCLUDE LEASE/PURCHASE METHODS, A SCHOOL DISTRICT WILL HAVE A BETTER CHANCE TO ACQUIRE FUTURE SCHOOL SITES AHEAD OF CITY GROWTH. HERE AGAIN, THE COST WOULD NOT HAVE TO BE PAID OUT OF A SINGLE FISCAL YEAR, THUS AVOIDING INCONSISTENT BUDGETING PRACTICES.

ON BEHALF OF THE BILLINGS PUBLIC SCHOOLS, I URGE YOU TO SUPPORT SENATE BILL #84. DR. JOHN DEENEY, ASSISTANT SUPERINTENDENT FROM OUR SCHOOL DISTRICT AND I ARE WILLING TO RESPOND TO ANY QUESTIONS YOU MAY HAVE. THANK YOU FOR THIS OPPORTUNITY TO ADDRESS YOUR COMMITTEE.

SINCERELY,

RUTH TIGGES, PRINCIPAL OF ARROWHEAD ELEMENTARY SCHOOL
BILLINGS PUBLIC SCHOOLS

VISITOR'S REGISTER

SENATE HOUSE EDUCATION COMMITTEE
 BILL 84 - ALLOWING SCHOOL DIST. TO ACQUIRE DATE March 8, 1985
 PROPERTY BY LEASE-PURCHASE
 SPONSOR Bob Brown

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POS.
John Keene	2906 Cotton Billings	S. D. AZ	✓	
Rich Tingey	2914 Joan Lane	School Dist # 2	✓	
Bill Anderson	Helena	OPT	✓	
Don Waldron	Missoula	S.A.M.	✓	
Susan	Helena		✓	
Mark Zylman	Alberton Mt.	Alberton School	✓	
Kim	Alberton, Montana	Alberton School	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

SENATE HOUSE EDUCATION COMMITTEE
BILL 109 - MUSEUM LOAN ACT DATE March 8, 1985
SPONSOR David Fuller

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Brenda Schye	Glasgow	Mont. Arts Advocacy	X	
LOD HODK		11/1/86		
Jessynea	Helena	MHS	✓	
Elizabeth	MT - Hart Sec	MHS	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

SENATE HOUSE EDUCATION COMMITTEE
BILL 106 - TO DEFINE PARENT AS SHAREHOLDER IN DATE March 8, 1985
A FAMILY CORP FOR SCHOOL TUITION
SPONSOR James Shaw

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP POS
Bill Anderson	Helena	OPI	✓	
Don Waldron	Missla	S.A.W.		
TODD HYDAK		MACO		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.