

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

January 7, 1987

The second meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on January 7, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: Senator Halligan was excused, but all other members were present.

Chairman Mazurek clarified the use of the microphones in the committee room and also explained that SB 23 would still be heard with the absence of the sponsor, Senator Halligan.

CONSIDERATION OF SB 23: There was no opening statement to SB 23.

PROPOSERS: Nancy Newcomer, representing the Montana League of Women Voters, from Missoula gave support for the bill. She was concerned about the interpretation of the Open Meeting Law when used by organizations or associations. She used the Montana High School Association (MHSA) as an example for explaining this misinterpretation created by the Open Meeting Law. She explained that the League of Women Voters filed suit against the MHSA in May of 1985 with the intention of having MHSA strictly follow the Open Meeting Law. She commented that the MHSA did sign an agreement on the Open Meeting Law (see Exhibit 1, page 1). She said that by advise of counsel the League of Women Voters would have difficulty with Part 1 of Chapter 3 in the Montana Code Annotated (MCA) because it states that notice and participation in open meetings only applies to governmental agencies. She also pointed out in Part 2 of the Open Meeting Law that it states notice and participation only applies to governmental agencies and public bodies. Ms. Newcomer felt the MHSA has taken these certain sections of the law verbatim and not liberally as instructed in the legislative intent. She gave minutes of a conference call made by the MHSA Chairman, Mr. Sirokman, who called for an open meeting while in Helena when his speaker was on in his office in Valier, Montana (see Exhibit 1, page 4). Ms. Newcomer stated that she wrote a letter to the MHSA to inquire about copies of the public notices prior to conference calls. She said that the response from Mr. Dan Freund (see Exhibit 1, page 6) was correct because of the language used in the law at the present time. Ms. Newcomer commented that the MHSA Board of Directors had their National Federation Meeting in Las Vegas, Nevada and there they proceeded to have an open meeting. Ms. Newcomer questioned

this action of meeting out of the state since the MHSA had signed the Open Meeting Law agreement with the League of Women Voters. She presented another letter to the committee from Dan Freund stating there are no requirements in the law which states an agency or board governed by the provisions of that act must be held with in the state (see Exhibit 1, page 7). Ms. Newcomer said she had a real hard time understanding an open meeting concerning Montana taking place in Las Vegas. She presented the committee with minutes from the Las Vegas meeting, which included action taken on two students, Jerusha Farr and Stephanie Hatzell. Ms. Newcomer explained that she contacted the two students' parents and found neither family knew of any MHSA decisions concerning their children (see Exhibit 1, page 9). Ms. Newcomer felt the law at the present gives no notice provision or right to participate unless one is under a governmental agency or Part 1 of Chapter 3 of the MCA. She agreed with the public funds section in SB 23, but wanted to see sections 2-3-102 and 2-3-202 of the Open Meeting Law combined. She also wanted section 2-3-101 to read . . . governmental agencies and public bodies . . . (see Exhibit 1, page 9).

Nancy Deden a parent of a high school student in Missoula supports the bill because of the difficulty she has experienced with the MHSA inability to get notices and agendas of meetings out to the public (see Exhibit 2, written testimony).

Martha Onishuk of Missoula felt the strengthening of the Open Meeting Law was very important because the public money used by organizations or associations should expect and welcome oversight by citizens, public officials and the press to justify receiving public support (see Exhibit 3, written testimony).

Eveline E. Curtis, Eureka, Montana, stated her support for the bill in written form (see Exhibit 4, written testimony).

Kim Wilson, lobbyist for Common Cause, supports the changes that Senator Halligan put in the bill, but not the language used in the bill. He stated Common Cause believes in the notice provision accompanying the open meeting section. He felt the language in the bill now does not address this correctly. He stated that Montana had one of the strongest constitutional open meeting laws in the nation and Montanans should be proud of this. For this reason he felt reluctant to change it, but he believed there were inconsistencies in the open meeting section as it exists now. He pointed out two parallel sections in the Bill of Rights; Article 2, Section 8, and Article 2, Section 9. He pointed out that Article 2, Section 8 of the Constitution and Section 2-3-101 of the MCA through 114 are addressed at state agencies. He felt both sections addressed the citizens access to the rule making process, and Article 2 Section 9 and MCA Section 2-3-201 discuss public bodies. He said sections

2 3 201, 2 3 202, 2 3 203 talk about agencies, boards, public bodies - and commissions. He explained 2 3 201 through 21 did not give a notice provision. He clarified sections 2 3 101 and 2 3 201 have a distinction because one is for rule making and one is for open meetings, but Article 2, Section 9 clearly gives notice to address the problem the League of Women Voters have had. He also proposed to taking another look at defining the words in the law.

George Ochenski, Montana Environmental Information Center, supported SB 23, and felt an informed citizenry is government's best friend and strongest ally.

OPPONENTS: Bruce Moerer, Montana School Board Association, explained MSBA did not know if this law would apply to MSBA, because the MSBA does not have regulatory powers (see witness sheet). He asked if a notice provision would be statewide or a notice provision to every resident in each community that is a member of MSBA. He felt mailing out a notice to each local newspaper would be quite costly. He said the MSBA is opposed to SB 23 mainly because they don't know how it applies to them.

Jesse Long, Executive Secretary for School Administrators of Montana, felt the bill was in vengeance against the Montan High School Association. He felt this vengeance against the MHSA has caused a shotgun effect on the other associations (see witness sheet).

Rose Skoog of the Montana Health Care Association (MHCA) stated her association is a private nonprofit trade association representing nursing homes around the state with educational lobbying and a variety of other representation. She explained the Montana Health Care Association would be catgeroized under the Open Meeting Law because some of the members use county property. She said the MHCA does have joint meetings out of the state with neighboring states' health care associations. She did not feel that was Senator Halligan's intent.

Bill Leary, President of the Hospital Association, said strict interpretation of this law would cause the Hospital Association to give notice to the press on their meetings. He said the association does recommend some policies to hospitals, but does not dictate policies to the hospitals. He said at the present time the association is opposed to SB 23.

DISCUSSION FROM THE COMMITTEE:

Senator Crippen asked if anyone from the MHSA was in the committee room. No one stepped forward, so Senator Crippen asked the committee to postpone until the MHSA had a chance to speak. Senator Blaylock questioned the MHSA's meeting in Las Vegas for the reason the funds used for the

trip come from basketball tournaments. He said he had problems in understanding this and would like to direct this question to the MHSA. Senator Pinsoneault asked Mr. Jesse Long who pays the school administrators dues to belong to the MHSA. Mr Long responded that half the dues are paid by school districts. He stated it is a fringe benefit from the school districts in substitution of salaries. Senator Pinsoneault asked if this was tax dollars used for the dues. Mr. Long replied yes it was. Senator Blaylock asked Mr. Long why school administers don't pay their own dues. Mr. Long said 50% do pay and 50% use it as fringe benefit instead of taking an increase in salary.

Senator Mazurek felt SB 23 should be heard again because of the absence of Senator Halligan. He turned the chair over to Senator Crippen to present SB 11.

CONSIDERATION OF SB 11: Senator Mazurek introduced SB 11 which amends the Uniform Transfer to Minors Act. He told the committee that prior to 1985 if one wanted to place a security in a custodial account one had to set up a separate account anone had to register the individual security as being a custodial security. He said it did not allow the use of a standard brokerage account in a stockbroker's office as a custodial account. He explained if a parent or guardian wanted to place a stock in a custody or ownership of the minor, they had to go through a separate registration process. The Commission of Uniform State Laws in 1985 changed the language that exists on lines 3, 4, and 5 on page two of SB 11 to acomplish what he had introduced. He said the bill makes it clear that a person who wants to place a security in a custodial account can do it by using a standard street account. They don't have to set up a separate brokerage account and register each security that they want to place in a custodial account. The National Association of Security Dealers and brokers requested this amendment. (see SB 11 summary).

PROPOSERS: None

OPPOSERS: None

Senator Mazurek closed on SB 11.

DISCUSSION FROM THE COMMITTEE:

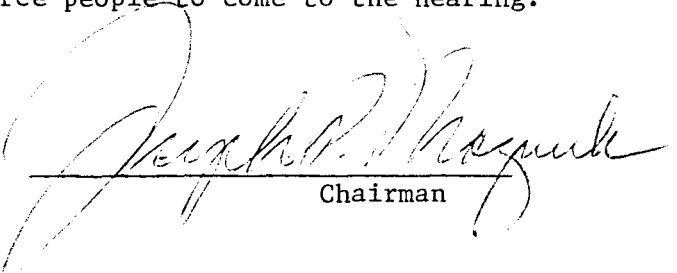
Senator Beck asked if the Internal Revenue Department would have problems defining and registering custodial accounts as a gift. Senator Mazurek responded by including the amendment the Internal Revenue would have to accept the new law.

ACTION ON SB 11: Senator Crippen moved SB 11 DO PASS. SB 11 was voted unanimously DO PASS from the committee.

Senator Mazurek asked the committee if they had questions for the researcher on anything or if they needed anything.

Senator Crippen asked for background information on MHSA funds and Senator Mazurek said he would ask the MHSA to be present at another scheduled meeting. Senator Yellowtail responded with the idea if the MHSA doesn't want to meet with the committee, the committee should go to Las Vegas to meet with them. Senator Blaylock felt SB 23 should exclude those groups who do not use public funds and are not influencing public policy. Senator Mazurek asked Senator Blaylock how far he would like to limit groups. Senator Blaylock felt a meeting in Las Vegas is a closed meeting, not an open one. Senator Mazurek said the Board of Directors probably attends the National meeting and while they were there they held a board meeting. He felt they did not go there to have an actual meeting. Senator Pinsoneault felt the groups that have mixed funds will be most effected by SB 23. Senator Bishop said he thought the law was adequate now because one can not force people to come to the hearing.

The meeting adjourned at 11:00 a.m.

  
Chairman

# ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 7th, 1987

| NAME  | PRESENT | ABSENT | EXCUSED         |
|---|---------|--------|-----------------|
| <u>Senator Joe Mazurek, Chairman</u>        | x       |        |                 |
| <u>Senator Bruce Crippen, Vice Chairman</u> | x       |        |                 |
| <u>Senator Tom Beck</u>                     | x       |        |                 |
| <u>Senator Al Bishop</u>                    | x       |        |                 |
| <u>Senator Chet Blaylock</u>                | x       |        | personal reason |
| <u>Senator Bob Brown</u>                    | x       |        |                 |
| <u>Senator Jack Galt</u>                    | x       |        |                 |
| <u>Senator Mike Halligan</u>                |         |        |                 |
| <u>Senator Dick Pinsoneault</u>             | x       |        |                 |
| <u>Senator Bill Yellowtail</u>              | x       |        |                 |
|   |         |        |                 |
|   |         |        |                 |
|   |         |        |                 |
|   |         |        |                 |
|   |         |        |                 |

Each day attach to minutes.

## VISITORS' REGISTER

SENATE AND HOUSE COMMITTEE \_\_\_\_\_

BILL 23

DATE \_\_\_\_\_

SPONSOR \_\_\_\_\_

| NAME              | REPRESENTING       | RESIDENCE          | SUPPORT | OPP |
|-------------------|--------------------|--------------------|---------|-----|
| Kathy Karp        | MT LWW             | Helena             | ✓       |     |
| Nancy Dedn        | PARENT             | Missoula           | ✓       |     |
| Kara Krimitz      | LWW-MT             | Helena             |         |     |
| Erin Jean         | MSA                | MSA                |         |     |
| Marty Orshuk      | LWW-MSIA           | Missoula           | ✓       |     |
| Bruce Henry       | Parent             | Missoula           | ✓       |     |
| Sandy Meadenger   | LWWMT              | Helena             | ✓       |     |
| George Moore      | MSA                | HELENA             |         |     |
| Madison Jensen    | AFSCME             | Helena             |         |     |
| Jim Mayes         | AFSCME             | Helena             |         |     |
| Ron Wilson        | Comm (CWA)         | Helena             |         |     |
| ROSE SKOOG        | MT. HEALTH CARE    | Helena             |         | ✓   |
| William Leary     | MT. Hospital Assn  | Helena             |         | ✓   |
| Bruce W. G. G. G. | MSBA               | Helena             |         | ✓   |
| Debi Brammer      | MA CD              | Helena no position |         |     |
| Bob Correa        | Boy CopC           | Bozeman            |         | ✓   |
| GEORGE CURENICK   | MEIC               | Helena             | ✓       |     |
| Rich Meis         | MEIC               | Helena             |         |     |
| Yuse Long         | School Admin of MT | Helena             |         |     |
| William Leary     | LWWMT              | Helena             | ✓       |     |
|                   |                    |                    |         |     |
|                   |                    |                    |         |     |

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

2-2-304. Penalty for violation of nepotism law. Any public officer or employee or any member of any board, bureau, or commission of this state or any political subdivision thereof who shall, by virtue of his office, have the right to make or appoint any person to render services to this state or any subdivision thereof and who shall make or appoint to such services or enter into any agreement or promise with any other person or employee or any member of any board, bureau, or commission of any other department of this state or any of its subdivisions to appoint to any position any person or persons related to him or them or connected with him or them by consanguinity within the fourth degree or by affinity within the second degree shall thereby be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than \$50 or more than \$1,000 or by imprisonment in the county jail for not less than 6 months or by both such fine and imprisonment. History: En. Sec. 3, Ch. 12, L. 1933; re-en. Sec. 456.3, R.C.M. 1935; R.C.M. 1947, 59-520.

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan 7, 1987

BILL NO. SB 23

CHAPTER 3

PUBLIC PARTICIPATION  
IN GOVERNMENTAL OPERATIONS

Part 1 — Notice and Opportunity to Be Heard

- Section
- 2-3-101. Legislative intent.
  - 2-3-102. Definitions.
  - 2-3-103. Public participation — governor to insure guidelines adopted.
  - 2-3-104. Requirements for compliance with notice provisions.
  - 2-3-105. Supplemental notice by radio or television.
  - 2-3-106. Period for which copy retained.
  - 2-3-107. Proof of publication by broadcast.
  - 2-3-108 through 2-3-110 reserved.
  - 2-3-111. Opportunity to submit views.
  - 2-3-112. Exceptions.
  - 2-3-113. Declaratory rulings to be published.
  - 2-3-114. Enforcement.

Part 2 — Open Meetings

- 2-3-201. Legislative intent — liberal construction.
- 2-3-202. Meeting defined.
- 2-3-203. Meetings of public agencies to be open to public — exceptions.
- 2-3-204 through 2-3-210 reserved.
- 2-3-211. Recording.
- 2-3-212. Minutes of meetings — public inspection.
- 2-3-213. Voidability.
- 2-3-214 through 2-3-220 reserved.
- 2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know.

Part 1

Notice and Opportunity to Be Heard

2-3-101. Legislative intent. The legislature finds and declares pursuant to the mandate of Article II, section 8, of the 1972 Montana constitution that

legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency.  
History: En. 82-4226 by Sec. 1, Ch. 491, L. 1975; R.C.M. 1947, 82-4226.

2-3-102. Definitions. As used in this part, the following definitions apply:

- (1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules, determine contested cases, or enter into contracts except:
  - (a) the legislature and any branch, committee, or officer thereof;
  - (b) the judicial branches and any committee or officer thereof;
  - (c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or
  - (d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.
- (2) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include:
  - (a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or
  - (b) declaratory rulings as to the applicability of any statutory provision or of any rule.
- (3) "Agency action" means the whole or a part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, or the equivalent or denial thereof.  
History: En. 82-4227 by Sec. 2, Ch. 491, L. 1975; amd. Sec. 23, Ch. 285, L. 1977; amd. Sec. 1, Ch. 452, L. 1977; R.C.M. 1947, 82-4227(part); amd. Sec. 1, Ch. 343, L. 1979.

2-3-103. Public participation — governor to insure guidelines adopted. (1) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures shall assure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public.

(2) The governor shall insure that each board, bureau, commission, department, authority, agency, or officer of the state adopts coordinated rules for its programs, which guidelines shall provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1) of this section. These guidelines shall be adopted as rules and published in a manner which may be provided to a member of the public upon request.  
History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(1), (5).

Cross-References

Right of public participation in government.  
Art. II, sec. 8, Mont. Const.

Adoption of rules, 2-4-302.

Publication of rules — availability, 2-4-312.

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan 7, 1987

BILL NO. SB 23



2-3-104

GOVERNMENT STRUCTURE  
AND ADMINISTRATION

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**2-3-104. Requirements for compliance with notice provisions.** An agency shall be considered to have complied with the notice provisions of 2-3-103 if:

- (1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;
- (2) a proceeding is held as required by the Montana Administrative Procedure Act;
- (3) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or
- (4) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(2).

## Cross-References

Montana Administrative Procedure Act — notices, 7-1-2121.  
proceedings, 2-4-302, 2-4-306, 2-4-501.

## Publication and content of local government

**2-3-105. Supplemental notice by radio or television.** (1) Any official of the state or any of its political subdivisions who is required by law to publish any notice required by law may supplement such publication by a radio or television broadcast of a summary of such notice or by both of such broadcasts when in his judgment the public interest will be served.

(2) The summary of such notice shall only be read with no reference to any person by name then a candidate for political office.

(3) Such announcements shall be made only by duly employed personnel of the station from which such broadcast emanates.

(4) Announcements by political subdivisions may be made only by stations situated within the county of origin of the legal notice unless no broadcast station exists in such county, in which case announcements may be made by a station or stations situated in any county other than the county of origin of the legal notice.

History: En. Sec. 1, Ch. 149, L. 1963; R.C.M. 1947, 19-201.

**2-3-106. Period for which copy retained.** Each radio or television station broadcasting any summary of a legal notice shall for a period of 6 months subsequent to such broadcast retain at its office a copy or transcription of the text of the summary as actually broadcast, which shall be available for public inspection.

History: En. Sec. 2, Ch. 149, L. 1963; R.C.M. 1947, 19-202.

**2-3-107. Proof of publication by broadcast.** Proof of publication of a summary of any notice by radio or television broadcast shall be by affidavit of the manager, an assistant manager, or a program director of the radio or television station broadcasting the same.

History: En. Sec. 3, Ch. 149, L. 1963; R.C.M. 1947, 19-203.

## Cross-References

Affidavit defined, 26-1-1001.

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PUBLIC PARTICIPATION  
IN GOVERNMENTAL OPERATIONS

2-3-201

**2-3-108 through 2-3-110 reserved.**

**2-3-111. Opportunity to submit views.** Procedures for assisting public participation shall include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(3).

## Cross-References

Right of public participation in government,  
Art. II, sec. 8, Mont. Const.

**2-3-112. Exceptions.** The provisions of 2-3-103 and 2-3-111 do not apply to:

- (1) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety;
- (2) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or
- (3) a decision involving no more than a ministerial act.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(4).

## Cross-References

Emergency rules, 2-4-303.

Disaster and emergency services, Title 10, ch. 3.

**2-3-113. Declaratory rulings to be published.** The declaratory rulings of any board, bureau, commission, department, authority, agency, or officer of the state which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 2-4-623(6) and 2-4-501, respectively.

History: En. 82-4227 by Sec. 2, Ch. 491, L. 1975; amd. Sec. 23, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4227(part); amd. Sec. 3, Ch. 184, L. 1979.

**2-3-114. Enforcement.** The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition made within 30 days of the date of the decision of any person whose rights have been prejudiced.

History: En. 82-4229 by Sec. 4, Ch. 491, L. 1975; amd. Sec. 25, Ch. 285, L. 1977; R.C.M. 1947, 82-4229.

## Part 2

## Open Meetings

**2-3-201. Legislative intent — liberal construction.** The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

**Cross-References**  
Right of public to examine documents or to observe deliberations of public bodies, Art. II, sec. 9, Mont. Const.

**2-3-202. Meeting defined.** As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.  
History: En. 82-3404 by Sec. 2, Ch. 567, L. 1977; R.C.M. 1947, 82-3404.

**2-3-203. Meetings of public agencies to be open to public — exceptions.** (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds shall be open to the public.

(2) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demand of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting shall be open.

(3) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency.

(4) Any committee or subcommittee appointed by a public body for the purpose of conducting business which is within the jurisdiction of that agency shall be subject to the requirements of this section.

History: En. Sec. 2, Ch. 159, L. 1963; and, Sec. 1, Ch. 474, L. 1975; and, Sec. 1, Ch. 567, L. 1977; R.C.M. 1947, 82-3402; and, Sec. 1, Ch. 380, L. 1979.

**Cross-References**

Right of public to observe deliberations of all public bodies, Art. II, sec. 9, Mont. Const.  
Right of individual privacy, Art. II, sec. 10, Mont. Const.  
Notice of agency action required, 2-3-103.  
Deliberations of medical legal panel to be secret, 27-6-603.  
Criminal penalty for closed meeting — official misconduct, 45-7-401.

**2-3-204 through 2-3-210 reserved.**

**2-3-211. Recording.** Accredited press representatives may not be excluded from any open meeting under this part and may not be prohibited from taking photographs, televising, or recording such meetings. The presiding officer may assure that such activities do not interfere with the conduct of the meeting.

History: En. 82-3405 by Sec. 4, Ch. 567, L. 1977; R.C.M. 1947, 82-3405.

**2-3-212. Minutes of meetings — public inspection.** (1) Appropriate minutes of all meetings required by 2-3-203 to be open shall be kept and shall be available for inspection by the public.

(2) Such minutes shall include without limitation:

- (a) date, time, and place of meeting;
- (b) a list of the individual members of the public body, agency, or organization in attendance;
- (c) the substance of all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record by individual members of any votes taken.

**Cross-References**  
Citizens entitled to inspect and copy records, 2-6-102.  
Records open to public inspection, 2-6-104.

**2-3-213. Voidability.** Any decision made in violation of 2-3-203 may be declared void by a district court having jurisdiction. A suit to void any such decision must be commenced within 30 days of the decision.  
History: En. 82-3406 by Sec. 5, Ch. 567, L. 1977; R.C.M. 1947, 82-3406.

**2-3-214 through 2-3-220 reserved.**

**2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know.** A plaintiff who prevails in an action brought in district court to enforce his rights under Article II, section 9, of the Montana constitution may be awarded his costs and reasonable attorneys' fees.  
History: En. 93-8632 by Sec. 1, Ch. 493, L. 1975; R.C.M. 1947, 93-8632.

## CHAPTER 4

### ADMINISTRATIVE PROCEDURE ACT

#### Part 1 — General Provisions

| Section  | Short title.   |
|----------|--|
| 2-4-101. | Definitions.   |
| 2-4-102. | Rules and statements to be made available to public. |
| 2-4-103. | Subpoenas and enforcement — compelling testimony.    |
| 2-4-104. | Representation by counsel.                           |
| 2-4-105. | Service.   |
| 2-4-106. | Construction and effect.                             |

#### Part 2 — Organizational and Procedural Rules

|          |  |
|----------|--|
| 2-4-201. | Rules describing agency organization and procedures. |
| 2-4-202. | Model rules.   |

#### Part 3 — Adoption and Publication of Rules

|                               |   |
|-------------------------------|---|
| 2-4-301.                      | Authority to adopt not conferred.   |
| 2-4-302.                      | Notice, hearing, and submission of views.   |
| 2-4-303.                      | Emergency rules.  |
| 2-4-304.                      | Informal conferences and committees.  |
| 2-4-305.                      | Requisites for validity — authority and statement of reasons.                     |
| 2-4-306.                      | Filing, format, and effective date — dissemination of emergency rules.            |
| 2-4-307.                      | Omissions from ARM or register.   |
| 2-4-308.                      | Adjective or interpretive rule — statement of implied authority and legal effect. |
| 2-4-309 and 2-4-310 reserved. |   |
| 2-4-311.                      | Publication and arrangement of ARM.   |

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan. 7, 1987

BILL NO. SB 23

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan. 7, 1987

BILL NO. SB 23

# COPY

SENATE JUDICIARY

EXHIBIT NO. 1, page 1DATE Jan. 7, 1987BILL NO. SB 23RELEASE OF CLAIM AND STIPULATION FOR DISMISSAL

COMES NOW the League of Women Voters of Montana (LWV) and the Montana High School Association (MHSA), by and through their respective counsel of record, and

W I T N E S S E I H:

WHEREAS, a Petition for Relief has been filed in the District Court of the First Judicial District of the State of Montana in and for the County of Lewis and Clark, Cause No. BDV-85-462, styled League of Women Voters of Montana, et al., v. Montana High School Association, et al., and alleging a violation of Montana's Open Meetings Law and Constitution, Article II, Section 9; and,

WHEREAS, MHSA has filed a motion to dismiss the said Petition upon grounds that the Respondent is not a "public body" within the meaning of the Montana Open Meetings Law and Constitution; and,

WHEREAS, the parties have settled their differences and wish to memorialize the same in this document and to dispose of the Petition for Relief and litigation associated, therewith.

NOW, THEREFORE, LWV and MHSA agree as follows:

1. MHSA shall, from the date of this agreement, abide by the provisions of the Montana Constitution,

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# COPY

Article II, Section 9, as it is statutorily implemented in the Montana Open Meetings Law, Sections 2-3-201 through 2-3-221, MCA, and any Montana Supreme Court decisions construing those provisions; and,

2. In the event a Petition for Relief against MHSA is filed by the League of Women Voters alleging a violation of the Montana Constitution, Article II, Section 9, as it is statutorily implemented in the Montana Open Meetings Law, the MHSA agrees not to assert, and does hereby waive, asserting the defense that they are not a "public body" within the meaning of the Montana Open Meetings Law, in any such lawsuit; and,

3. MHSA will not defend any such suit upon the grounds that the LWV or any member, thereof, was not present at the meeting in which the alleged violation occurred.

In consideration of the foregoing, LWV agrees to dismiss its Petition for Relief in Cause No. BDV-85-462, with prejudice.

Each of the parties agree to pay its own attorney's fees and costs associated with this action and to jointly request dismissal of the lawsuit of the Petition for

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Relief based upon the terms and conditions set forth,  
herein.

DATED this 24<sup>th</sup> day of January, 1986.

LEAGUE OF WOMEN VOTERS OF MONTANA, et al.

By:

PETER MICHAEL MELOY  
THE MELOY LAW FIRM  
P.O. Box 1241  
Helena, Montana 59624

MONTANA HIGH SCHOOL ASSOCIATION, et al.

By:

Sarah M. Power  
SARAH M POWER  
GOUGH, SHANAHAN, JOHNSON & WATERMAN  
P.O. Box 1715  
Helena, Montana 59624

60645

SENATE JUDICIARY

EXHIBIT NO. 1, page 2

DATE Jan 7, 1987

FILE NO. SB 23

# COPY

MHSA Office  
March 5, 1986  
Helena, Montana

## MINUTES OF A TELEPHONE CONFERENCE CALL

Mr. Sirokman called the conferees to order at 11:22 a.m. He stated that the open meeting was in effect and his speaker was on in his office in Valier.

Present on the call were Vice President Bill Vogt, Kalispell; Supt. Tom Warwick, Ennis; Principal James E. Wood, Sidney; Tammy Hall, Bozeman; Executive Secretary Dan Freund and Assistant Executive Secretary Jim Haugen and 12 school administrators who were concerned with the 1, 2 and 3-B alignments for sports. Mr. Sirokman explained how the call would be handled and asked each speaker to be brief with his opinions as to what should be done with those particular alignments. The following people then addressed the Board of Directors and there were questions and discussion following each speaker: Superintendent Conrad Robertson, Columbus, Superintendent Jim Stanton, Baker; Principal Glenn Viker, Broadus; Superintendent Dick Webb, Big Timber; Principal Dennis Hamilton, Three Forks; Superintendent Larry LaCounte, Lodge Grass; Superintendent Dave Peters, Red Lodge; Principal Ed Goyette, Forsyth; Superintendent Ramona Stout, Huntley Project; Superintendent Bob Krogh, Roundup; Superintendent Bob Sindelar, Shepherd. The main issue with all of those members was the placement of Broadus and all spoke against Broadus leaving Division 1-2B for 3-B, except Broadus themselves.

After the Board discussed the issue, motion by Warwick, second by Wood to leave Broadus in 1-2, B for athletics. Carried.

Big Timber's request was also to be placed in 3-B because of travel now that Deer Lodge was in their conference. There was no action taken on Big Timber's request.

Mr. Sirokman thanked all the administrators. Those folks excused themselves from the conference call.

The issue with Harlem was then discussed concerning Harlem's request to go to 6-B and the Board's notification that Harlem would be placed there during the special meeting held two weeks previously.

Motion by Wood, seconded by Vogt to leave Harlem in 5-B for basketball. Carried.

Mr. Freund said there was also a request by Hamilton High School from Mr. Johnson to reconsider the large-small concept in Class "A" football on the west side of the state for '86-'87. After brief discussion, motion by Wood, second by Warwick to deny that reconsideration request. Carried.


Mr. Haugen was asked by Mr. Sirokman to report on the wrestling survey as to the change of the time of seasons.

The Assistant Executive Secretary reported that 34 schools were for change that would place wrestling after the first of the year and 33 were against that change. Motion by Vogt, second by Wood that no change would take place in the wrestling season. Carried.

Mr. Sirokman ordered that each school pay for its portion of the phone call for the minutes during which they spoke and terminated the call at 11:43 a.m. The charge for the call was \$330.63 for 52 minutes of speaking time, charged out at \$6.36 a minute, to be prorated among the schools that spoke and the remainder to the M.H.S.A.:

Conrad Robertson, Columbus, \$38.16  
Jim Stanton, Baker - \$6.36  
Glenn Viker, Broadus - \$19.08  
Dick Webb, Big Timber - \$12.72  
Dennis Hamilton, Ghree Forks - \$12.72  
Larry LaCounte, Lodge Grass - \$12.72  
Dave Peters, Red Lodge - \$12.72  
Ed Goyette, Forsyth - \$19.08  
Ramona Stout, Huntley - \$12.72  
Robert Krogh, Roundup - \$6.36  
Richard Sindelar - Shepherd - \$12.72

  
\_\_\_\_\_  
President Richard Sirokman

  
\_\_\_\_\_  
Executive Secretary Dan L. Freund

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DATE Jan. 7, 1987

BILL NO. SB 23



# Montana High School Association

1 South Dakota Avenue Helena, MT 59601 (406) 442-6010

## EXECUTIVE STAFF

Dan L. Freund  
Executive Secretary  
James C. Haugen  
Assistant Executive Secretary  
Mike A. Colbrese  
Assistant to the  
Executive Secretary

## BOARD OF DIRECTORS

Supt. Richard Sirokman, Pres.  
Valer  
Prin. Bill Vogt, Vice Pres.  
Flathead (Kalispell)  
Supt. Tom Warwick  
Ennis  
Prin. James Wood  
Sidney  
Tammy Hall  
Bozeman  
(Mont. School Boards Assoc.)

June 25, 1986

Nancy Newcomer, Director  
12 Parsons Drive  
Missoula, MT 59802

Dear Ms. Newcomer:

Please be advised that the answer to your letter received in this office on June 14, 1986, asking for copies of the public notice that was given prior to the March 5 and 17, 1986 MHSA conference call meetings, I would advise you as follows.

Under the conditions set forth we do not believe that it was necessary to give public notice prior to the conference phone calls on March 5th and 17th. The business was conducted as per the open meeting law with all access to telephone speakers available and all interested parties.

Sincerely,

MONTANA HIGH SCHOOL ASSOCIATION

Dan L. Freund  
Executive Secretary

DLF:rcw  
cc: Ron Waterman

COPY

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# Montana High School Association

1 South Dakota Avenue

Helena, MT 59601

(406) 442-6010

## EXECUTIVE STAFF

Dan L. Freund  
Executive Secretary  
James C. Haugen  
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Etnis  
Pnn. James Wood  
Sidney  
Lammy Hall  
Bozeman  
(Mont. School Boards Assoc.)

June 25, 1986

COPY

Bev Henry  
413 Artemos Drive  
Missoula, MT 59803

Dear Mrs. Henry:

In reply to your letter received in this office June 11, 1986 regarding the grievance because of failure to follow the Open Meeting Law in the scheduling of the MHSA June meeting sometime between June 30 and July 2 at the Riviera Hotel in Las Vegas, I would advise you as follows.

There is no requirement in the Montana Open Meeting Law which states specifically that an agency or board governed by the provisions of that act must meet within the confines of the state of Montana to conduct its business. Likewise, although the Articles of Incorporation designate the Montana High School Association offices at One South Dakota as its principal office for the transaction of its business, there is nothing in the Montana Articles of Incorporation or Bylaws which require the Montana High School Association to conduct the meeting in Montana or at its principal place of business.

Nevertheless, since my last communication with Nancy Deden, the MHSA Board of Directors will not be making final decisions on the placement of tournament sites. It will be done upon the return of the MHSA Board to Montana and will be acted on officially by conference phone call.

Other items, however, will be officially acted on concerning any petitions for a waiver of the transfer rule that may have been filed before the meeting date.

We hope this clarifies the issue.

Sincerely,

MONTANA HIGH SCHOOL ASSOCIATION  
Dan L. Freund  
Executive Secretary

DLF:jrs

SENATE JUDICIARY

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DATE Jan 7, 1987

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# COPY

Riviera Hotel  
Las Vegas, Nevada  
June 29, 1986

## MINUTES OF A MEETING OF THE MHSA BOARD OF DIRECTORS

President Richard Sirokman called the meeting to order at 6 p.m. Present at the meeting were Superintendent Tom Warwick of Ennis, Principal Jim Wood of Sidney, Tammy Hall of Bozeman and the Executive Staff.

The first item of business was the review of the Financial Report of the State Softball Tournament held in Helena, and a request for financial aid from Athletic Director Cecil Warren because of losses incurred by that tournament.

There was a lengthy discussion concerning the financial loss of the first MHSA-sponsored State Softball Tournament.

A motion was made by Hall to pay Helena schools the difference between sending their teams out of town to a tournament and that of keeping them in town at the site and not having to pay expenses. Motion died for lack of a second.

A motion was made by Sirokman and seconded by Wood to table the request, to discuss the item with Cecil Warren concerning resolving the issue and to place the same on the Board of Directors September Board Meeting Agenda. Motion carried.

Petitions for Waiver of the Transfer Rule were reviewed by the Board of Directors. A motion was made by Hall and seconded by Wood to deny the Petition for Waiver of the Transfer Rule filed on behalf of Jerusha Farr by Missoula Sentinel High School. Motion carried.

A motion was made by Wood and seconded by Warwick to deny the Petition for the Waiver of the Transfer Rule filed on behalf of Stephanie Hatzell by Red Lodge High School. Motion carried.

There was a lengthy discussion over the Eastern A schedule problems - i.e. Livingston not honoring the Eastern A schedule and allegedly some other schools not honoring the schedule also in various sports.

Various solutions to the problems were reviewed by the Board of Directors.

A motion was made by Hall and seconded by Warwick to allow the present Livingston schedule and other school's schedules to be played (not the original Eastern A schedules) but that any games not played in that original Eastern A schedule be counted as forfeits (pending MHSA counsel agreement). Motion carried. Be it noted that Mr. Wood abstained from voting.

Assignments were made by President Sirokman for attendance at the various National Federation workshops.

President Sirokman recessed the meeting at 7:20 p.m. and reconvened the group at 9:30 a.m. on Wednesday, July 2, 1986.

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6227

3535 Pattee Canyon Road  
Missoula, MT 59803  
January 6, 1987

The Honorable Michael Halligan  
State Senator  
P.O. Box 9121  
Missoula, MT 59807

COPY

Dear Senator Halligan:

In April of 1986 the Montana High School Association declared my daughter, Jerusha Farr, ineligible to participate in varsity level sports at Sentinel High School in Missoula because she had transferred from one high school to another without a corresponding move by her parents as stipulated in Section 12 of the Association Handbook.

In my opinion Jerusha had not transferred but had arranged for a four-month leave to attend a ski academy, Stratton Mountain School. This academy is a private institution without interscholastic athletics, and her purpose in attending was to take advantage of their unique coaching and competitive opportunities to develop her skiing talents--opportunities missing in Montana and in a sport not offered by the Montana High School Association.

Jerusha left Sentinel November 18, 1985 and reenrolled on March 24, 1986. After reenrollment in the same classes, with the same teachers, at the same times, Jerusha was informed of her ineligibility for what I believe to be erroneous causes.

I asked on April 22 for an interpretation of the rules. Dan L. Freund, Executive Secretary, informed Richard Correll, Principal of Sentinel High School, on April 30, 1986 that the Board of Directors during a conference call on April 29 had ruled Jerusha ineligible. The Board, however, did point out that possibly a Hardship Petition could be filed.

The Hardship Petition was filed and supported by Richard Correll on the grounds that she transferred to Stratton "for the purpose of receiving instruction in cross country skiing which is an activity that is not sponsored by the Montana High School Association and, therefore, it appears that the transfer rule should not apply in Jerusha's case."

On July 10, 1986 Mr. Correll called to inform me that the MHSA had met and denied Jerusha's appeal on the Hardship Petition and what, should we want to appeal, legal steps I needed to take.

SENATE JUDICIARY

EXHIBIT NO. 1, page 9

DATE Jan. 7, 1987

BILL NO. SB 23

The Honorable Michael Halligan  
January 6, 1987  
page 2

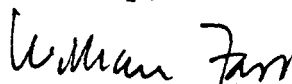
I called Dan Freund, Executive Secretary, in Helena that same day and he thought the Board was fully informed of Jerusha's situation and he said he could hold out no hope that they would change their minds.

In all of this, I had numerous conversations with Mr. Freund and Mr. Correll and at no time was I made aware that the Montana High School Association came under the provisions of Montana's Open Meeting Law. In fact, later it came to light that the decision to declare Jerusha ineligible was made out of state via a conference call. I was denied participation in the discussion of my daughter's case and I was not given notice, timely or otherwise--both of which are guaranteed by the Montana Open Meeting Law. The Montana High School Association violated their agreement with the Montana League of Women Voters and they harmed the athletic career of my daughter which may have repercussions in her selection of colleges.

MHSA prevented my daughter from competing in both Spring track and Fall cross country running, both competitive seasons in which she had excelled. Instead of encouraging athletic participation, they hindered it. She has been harmed.

I can only hope that you change the law to force the MHSA to give timely notice and to abide by the Open Meeting Law.

Sincerely,



William Farr

SENATE JUDICIARY

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DATE Jan 7, 1987

FILE NO. SB 23

Chapter 3: Public participation in Governmental Operations

MCA sections 2-3-101 to 2-3-221

Title changed to "Public Participation in Public Operations"

SECTIONS

2-3-101 to read ...governmental agencies and public bod-  
ies.....

2-3-102 combined with 2-3-202

Add: "Public body means a commission, authority,  
board, council, committee, or any other group of two  
or more persons organized under the law of this state,  
and collectively empowered as a voting body to perform  
a public governmental function affecting the rights,  
duties, obligations, privileges, benefits, or other  
legal relations with any person, or collectively  
authorized to spend public funds. New Jersey S.A.  
10:4-8(a).

2-3-103 to 2-3-113 remain the same

2-3-114 omit

2-3-203 to 2-3-212 remain the same

2-3-213 to read ...A suit or petition to void any such  
decision must be commenced within 30 days of the  
decision or aproval of minutes.

2-3-214 to 2-3-221 remain the same

Nancy Newcomer  
LWV-Montana  
12 Parsons Drive  
Missoula, MT 59802  
549-0328

SENATE JUDICIARY

EXHIBIT NO. 1, page 11

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BILL NO. SB 23

January 6, 1987

To whom it may concern:

For the past 8 years I have made it a practice to attend the Montana High School Board of Directors and Annual Meetings. Over the years it has been difficult to get agendas of the meetings and keep up with the occurring business of the Montana High School Association, as they set up rules and regulate Montana public high schools extra curricular activities.

An example of this difficulty occurred in attending the last Montana High School Association Meeting on November 23, 24, and 25, 1986.

I called the MHSA on Friday, November 21 to confirm that the Board of Directors were meeting and at what time this meeting would take place in Helena. I asked this question of the person answering the MHSA phone and was told the MHSA Board of Directors meeting would start at 9:00 A.M. Monday on November 24, 1986. In the past the Board of Directors has normally met in Helena at the MHSA office. At 8:50 A.M. Mrs. Henry and myself arrived at the MHSA office on Monday the 24th of November to find that the meeting was not being held there. The office person told us the meeting had been scheduled for Great Falls. We then had to travel to Great Falls to the Sheraton Hotel. We arrived there at 10:30 A.M. late for the meeting.

In the course of the meeting we were informed that the meeting had started in Great Falls on Sunday at around 4:00 P.M., this was a day earlier than we had been informed by the MHSA front office.

I believe that the OPEN MEETING law is an important part in making sure the public is able to participate and be informed on public issues. The MHSA makes very important decisions concerning extra curricular activities in our schools. Many of their decisions have financial impacts on our schools, such as Livingston faced in their travel situation this year. It is important that the tax-payer has recourse to the business and materials that affect their school systems.

Nancy B. Deden  
210 Westview Dr.  
Missoula, MT 59803  
(406) 728-2844

Nancy Deden 1/6/87  
Date

SENATE JUDICIARY

EXHIBIT NO. 2

DATE Jan 7<sup>th</sup>, 1987

BILL NO. 5823



Testimony on SB 23. Jan. 7, 1987

I'm Martha Onishuk, 5855 Pinewood Ln., Missoula. I thank you for the opportunity to testify on SB 23. Since the 1960's I have been interested in citizen participation in governmental operations and have testified many times before Legislative committees and state and local bodies. With this background in mind, I became interested, as a parent and a former high school teacher, in the activities of the Montana High School Association. I wish to use the MHSA as an example of changes needed in the Open Meetings Law.

The MHSA is different from any other organization which receives public funds. By its rule-making, the MHSA governs the spending by local school districts of approximately \$20 Millions statewide of public schools money. (In the Missoula County High School system-- comprised of 3 AA and 1 C Class schools--out of a budget of \$13.2 Millions, \$826 thousands is budgeted for extracurricular activities and this does not include salaries or transportation costs.)

How does the MHSA rule-making differ from the Board of Public Education accreditation standard rule-making? The State Board of Public Education must comply with the Administrative Rules of Montana which require the publication of proposed rules and changes in the State Register, the holding of public hearings, and the final decision-making by the Constitutionally-mandated Board of Public Education. The MHSA is a Montana corporation not referred to by name in school law. The only reference is in 20-1-211 which allows local school boards to join and to pay dues and travel expenses to participate in "educational associations." Yet MHSA rules control about 10% of the high school budgets statewide without public participation or hearings nor with input, oversight or review of the Legislature, the Board of Public Education or the Superintendent or Office of Public Instruction.

Why does MHSA have this hold? By its rules, a school cannot participate in any activities controlled by MHSA unless the school is a member of MHSA and follows its rules. Further, no MHSA school can play any games with a non-MHSA school. And only one organization in each state is allowed by the rules of the National Federation of School Associations.

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EXHIBIT NO. 3

DATE Jan. 7<sup>th</sup> 1987

BILL NO. SB 23



2 Testimony on SB 23.

How does MHSA make its rules? At the annual January meeting, each school has one vote regardless of enrollment. The local School Board may send a member instead of an administrator. The only way a citizen may have any input in the rule-making is by addressing the local school board which can decide 1 of 183 votes. No public or citizen comment or participation is allowed before the voting body of delegates at the annual meeting. This procedure is very different from the rule-making procedure used by the Board of Public Education as required by the Administrative Rules of Montana when the B of PE adopts accreditation standard rules.

MHSA is the only organization in the state that, through its rules, determines the spending of at least \$20 MILLIONS of taxpayers money by the local school districts to participate in extracurricular activities without public, Legislative, board or agency input or participation.

I support the intent of SB23 to strengthen the Open Meetings Law. Any organization or association funded by public money should expect and welcome oversight by citizens, public officials and the press to justify receiving public support. Organizations in this category will probably oppose any accountability. They should not. If they accept public money, they are accepting accountability. I wish to propose two changes in the proposed legislation:

1. Under 2-3-203, add "(5) Any organization or association expending public funds whose policies and rules govern the spending of funds or the use of facilities and other resources of local or state governmental bodies shall be subject to the requirements of this section."
2. Under 2-3-102 Definitions (1) add at the end of this section "enter into contracts or any organization or association, funded in whole or in part by public funds, whose rules, decisions and policies dictate the spending of public money or the allocation of public resources by local or state governmental bodies."

SENATE JUDICIARY

EXH'BI NO 3

DATE Jan. 7th, 19

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As long as public money is involved and activities of public bodies are mandated by the decision of an organization or association, the citizens should have an opportunity to comment before any decisions are made.

3. Testimony on SB 23

Thank you for the opportunity to participate in government as guaranteed under Section 8 and 9 of the Bill of Rights of the Montana Constitution.

SENATE JUDICIARY

EXHIBIT NO 3

DATE Jan. 7, 1987

BILL NO. SB 23

January 5, 1987

To whom it may concern:

I have been working in the area of sex equity in high school athletics for over 10 years now and have found it very difficult to research any actions taken by the MHSA in regard to Montana High School athletic programs. I have been refused attendance in the past at their meetings and have had great difficulty in getting materials such as bulletins, minutes, conference directors, etc.

In June of 1986 I requested copies of MHSA's General Ledger-Transaction Register for the year of 1985. I enclosed a check for \$15.00 (which was cashed by MHSA. I received nothing from MHSA until August 1, 1986 at which time I was advised that their "attorneys advised them that the correct way to handle my request was to send me the Annual Auditor's Report." I immediately wrote stating I did not want the Annual Auditor's Report but had paid for and wanted the 1985 Ledger-Transaction Register.

I heard nothing from MHSA and on September 9, 1986, I informed my school district of the problem and requested that my school, a member of MHSA, request these Ledgers for me. I received the ledgers within 10 days. They were mailed directly to me.

I believe that the OPEN MEETING law must more clearly cover organizations such as MHSA who do school and other public business in order that the Montana tax-payer has recourse to information and materials important to them.

Eveline E. Curtis  
Rt #1 Box 96 H  
Eureka, MT 59917  
(406) 889-3778

Eveline E. Curtis  
Date

William McKeig  
NOTARY PUBLIC for the State of Montana  
Residing at Eureka, Montana.  
My commission expires 10/10/87

SENATE JUDICIARY

EXHIBIT NO. 4

DATE Jan. 7, 1987

BILL NO. SB 23

NAME: Nancy Newton DATE: 1/7/86

ADDRESS: 12 Parkers Dr Missoula

PHONE: 549-0328

REPRESENTING WHOM? WT- League of Women Voters

APPEARING ON WHICH PROPOSAL: Senate bill #23

DO YOU: SUPPORT? ✓ AMEND?            OPPOSE?           

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bruce W. Moers DATE: 1-2-87

ADDRESS: 1 So. Montana, Helena

PHONE: 442-2180

REPRESENTING WHOM? MSBA

APPEARING ON WHICH PROPOSAL: SB 23

DO YOU: SUPPORT?        AMEND?        OPPOSE? X

COMMENTS: oppose held in its present form

we do not know if it applies to MSBA

- 1) we do not dictate policies and procedures
  - 2) we do not affect the rights, duties, obligations, privileges, benefits or other legal relations of any other person
  - 3) we do not regulate our members or dictate their expenditure of funds
- if it does apply, it is a clarification of the method and timeliness of the notice requirements

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jessie W Long DATE: 1/7/86

ADDRESS: 515 N Sanders Helena

PHONE: 442-2510

REPRESENTING WHOM? School Admin of MT

APPEARING ON WHICH PROPOSAL: SB 23

DO YOU: SUPPORT?            AMEND?            OPPOSE?   /  

COMMENTS: We do not oppose Open Meeting laws

but we question the present form of the bill

It appears that SB 23 is aimed at MESA but

it is as a shotgun to a number of other assoc.

Does it apply to our Assoc? The SAM does

not deny rights to students nor does it set

policy or procedures for school districts this bill

would ~~also~~ cause an additional heavy cost to

provide notice to 500 districts in the state

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

# STANDING COMMITTEE REPORT

January 7th 197

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration..... SENATE BILL No. 11

first reading copy ( white )  
color

11

**Effect transfer to minor by transferring security to custodial account.**

Respectfully report as follows: That..... SENATE BILL No. 11

DO PASS

~~DO NOT PASS~~

Chairman.