

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on February 10, 1989, at 3:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council Researcher

Announcements/Discussion: Rep. Spring announced that he had been contacted by the School Board in the Lamont District, East of Bozeman. They had changed to a five member board and now could not get the people to run for the positions and desired to change back to a three member board. At present there is no provision in the law to allow the district this change. Rep. Glaser made the motion to have Andrea Merrill draft a committee bill and the committee then voted unanimously by voice vote for a bill draft.

HEARING ON HOUSE BILL 510

Presentation and Opening Statement by Sponsor:

Speaker John Vincent, District 80, Bozeman stated the purpose of HB 510 is to create a Governor's Scholarship Program to encourage Montana's most talented high school graduates to attend units of Montana's University and Vocational-Technical Systems. He is also in agreement to include community colleges in the scholarship program. Speaker Vincent said Montana has not done the best job in providing scholarships for deserving students and ranks very low on the national scale. Funding for the program would come from state appropriation, private contributions and special events sponsored by the Governor.

Speaker Vincent continued that this program is modeled after the Governor's Scholarship Program in the State of Idaho and is a first class program providing for exceptionally fine scholarship opportunities for exceptional Montana students. The program would be a cooperative effort between the Montana University System, Executive, and private sectors.

Speaker Vincent said he would address the Governor's

proposed amendments to the bill in his closing comments but wanted to make it perfectly clear from the beginning he did not endorse these amendments since they would pose serious problems for legislation and the entire program.

Testifying Proponents and Who They Represent:

Bill Lannan, Montana University System
 Jack Copps, Office of Public Instruction, (OPI)
 Wayne Phillips, Legislative Liaison for Governor Stephens
 Eric Feaver, Montana Education Association, (MEA)
 Mike Craig, Associated Students University of Montana, (ASUM)
 Brian Harlin, Associated Students Montana State University,
 (ASMSU)
 Bruce Moerer, Montana School Boards Association, (MSBA)
 J. Henry Badt, Montana Association of County School
 Superintendents, (MACSS)
 Dave Bishop, School Administrators of Montana, (SAM)
 Rep. Paula Darko, District 2, Libby

Proponent Testimony:

Bill Lannan, Montana University System shared his enthusiasm for HB 510 saying it is a long over-due piece of legislation. He also shared amendments worked on with Speaker Vincent after contacting Idaho officials as to the specifics of their program. (EXHIBIT 1.)

Jack Copps, OPI voiced the Office of Public Instruction's support for a scholarship program of this magnitude saying at the present time only 66% of freshman attend post-secondary school in Montana while the rest leave for out-of-state institutions. He said currently there is nothing in statute recognizing educational merit and everything possible should be done to see Montana's brightest students taking advantage of educational opportunity in the state.

Wayne Phillips, Governor Stephen's Legislative Liaison said the Governor is a strong supporter of education but regrettably was not informed of many provisions in HB 510. He distributed a list of amendments the Governor would like to see included in the original bill. (EXHIBIT 2.)

Eric Feaver, MEA stated a clear need in the State of Montana to invite, encourage and make possible educational opportunities for Montana's exceptional students to attend Montana's universities, vocational-technical centers, and community colleges.

Mr. Feaver addressed the Governor's proposed amendments to HB 510 saying it would be ill-advised having the Governor part of the selection process. He also stated replacing "exceptional" with "competent", "capable" or other terminology signifying a lower tier student would not be in

the best interest of this particular program. He said there are many "exceptional" students in Montana who receive no funding whatsoever for post-secondary education and that this program is aimed at helping those students. He did hope however, there would be no financial need basis for selection of candidates and stated sympathy in terms of a competitive examination. Mr. Feaver said these type tests are overused in our society and there are many other ways to determine recipients.

Mike Craig, ASUM stated enthusiastic support for HB 510 saying it necessary to encourage Montana High School students to attend facilities in the state. He also stated support for the ideas of the shared funding mechanism built into the bill and the inclusion of community colleges.

Brian Harlin, ASMSU voiced support as well as concurring on many aspects of HB 510 brought to light by Eric Feaver.

Bruce Moerer, MSBA said high school students need to be offered incentives to go on with their educational pursuits and HB 510 would do just that.

J. Henry Badt, MACSS said it is very important to recognize the truly excellent students in Montana and make it possible for them to stay in Montana for their advanced educational endeavors.

Dave Bishop, SAM stated agreement with previous testimony on HB 510.

Rep. Paula Darko, District 2 said Montana is losing one its most valuable resource to out-of-state institutions. She said District 2 has had many exceptional students that have left Montana since the state could offer no more than University Honor Scholarships.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Simpkins asked Bill Lannan how many students are being turned down for student loans and Mr. Lannan replied a student wouldn't be refused a loan unless there was a serious problem such as a previous default or delinquency. He also stated money was available from grants and other scholarship programs and that student loans are somewhat discouraged due to the indebtedness aspect.

Rep. Eudaily asked Mr. Lannan if transportation costs were

generally included in scholarships and he replied they were included so that the students could get home for the established school vacations during the academic year. He said this is not an extreme sum amounting to approximately \$500.00 per year. Rep. Eudaily then asked if there would be any effort made to distribute these scholarships to different units of the educational systems in Montana and Mr. Lannan answered that although he had not thought about this aspect over time he was certain all institutions of higher learning would receive student recipients of the Governor's Scholarship Program.

Rep. Daily asked Speaker Vincent to address the Governor's proposed amendments and Speaker Vincent responded he would do so in his closing remarks.

Rep. Phillips asked Speaker Vincent in view of the amendments offered by the Governor and his veto power what he would suggest and Speaker Vincent said his recommendation is to get HB 510 on the Governor's desk in the shape it was intended originally. He went on to say if Governor Stephens then uses his veto power that is the way the process works.

Rep. Zook asked Speaker Vincent how he felt concerning those students placing in the middle of their classes since the upper level students are offered scholarships and the lower level student is generally taken care of through financial aid programs. Speaker Vincent answered although that may be true this particular program is very specific in design and purpose and that is to keep the best and brightest in our colleges and universities in Montana.

Rep. Eudaily asked the Speaker to address the issue of the competitive exam and he replied that since this is such an elite scholarship program there ought to be some type of examination. He said he did not envision a SAT examination but that to receive the best scholarship in the State of Montana there needs to be some testing administered.

Rep. Simpkins asked what would keep the recipient from taking the awarded scholarship to an out-of-state institution and Speaker Vincent said they would be required to simply sign an affidavit stating they would attend a Montana institution.

Closing by Sponsor: Speaker John Vincent stressed that this bill is to institute an extraordinary and unique scholarship program in the State of Montana. He stated that the Governor should not be allowed to control this program as directed by his amendments to the bill since this is a scholarship program and not a political patronage program. The bill creates a board to develop the rules and

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regulations necessary to award the scholarships. The Speaker also said there is an immense amount of potential in the bill as written for good public relations for the Governor. He said this is Montana's Centennial Year and Montana will receive a great deal of good publicity by instituting a program of this magnitude.

DISPOSITION OF HOUSE BILL 510

Motion: None

Discussion: Chairman Schye stated that HB 510 would be placed in a subcommittee for further study with Rep. Darko, Chairperson, Rep. Eudaily, and Rep. Davis.

Amendments, Discussion, and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 519

Presentation and Opening Statement by Sponsor:

Rep. Vivian Brooke, District 56, Missoula stated she was carrying HB 519 at the request of the Office of Public Instruction and that the bill essentially changes the language in this section of the codes to comply with the policies of the Board of Public Education. She said the bill is an act to remove the authority of the Board of Public Education to permit school districts to use four-wheel drive alternative vehicles to transport pupils to and from school.

Testifying Proponents and Who They Represent:

Terry Brown, Office of Public Instruction (OPI)
Claudette Morton, Board of Public Education

Proponent Testimony:

Terry Brown, OPI, (EXHIBITS 3 & 4.)
Claudette Morton, Board of Public Education, (EXHIBIT 5.)

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Brooke thanked the committee for the excellent hearing and said the amendment offered in testimony by Claudette Morton (EXHIBIT 5.) was agreeable to

her.

DISPOSITION OF HOUSE BILL 519

Motion: Rep. Eudaily made a motion that HB 519 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: Rep. Darko made a motion to amend HB 519 (see attached standing committee report) and the motion CARRIED upon unanimous voice vote.

Recommendation and Vote: Rep. Darko then made a motion that HB 519 DO PASS AS AMENDED and the motion CARRIED upon unanimous voice vote.

HEARING ON HOUSE BILL 324

Presentation and Opening Statement by Sponsor:

Rep. Ervin Davis, District 53, Charlo presented written testimony (EXHIBIT 6.)

Testifying Proponents and Who They Represent:

Jack Copps, Office of Public Instruction (OPI)
John Campbell, Montana Association of School Business Officials
Bruce Moerer, Montana School Boards Association (MSBA)
Dave Bishop, School Administrators of Montana (SAM)

Proponent Testimony:

Jack Copps, OPI stated the language change in HB 324 does not infringe upon any rights school boards have and simply allows a Board of Trustees to delegate the authority which they have to school clerks they appoint.

John Campbell, Montana Association of School Business Officials, (EXHIBIT 7.)

Bruce Moerer, MSBA stated this is simply an accounting manner and that trustees already basically do this when they approve claims and expenditures.

Dave Bishop, SAM agreed with all previous testimony.

Testifying Opponents and Who They Represent:

J. Henry Badt, Montana Association of County School Superintendents (MACSS)

Opponent Testimony:

J. Henry Badt, MACSS expressed concern that by allowing a clerk access to making transfers some local control and obligation

of Boards of Trustees would be lost. Mr. Badt also suggested amending HB 324 so that local boards develop a policy of guidelines to determine the confines of the transfers allowed the clerk in the districts.

Questions From Committee Members: None

Closing by Sponsor: Rep. Davis said HB 324 is very simple and that the committee could possibly look at an amendment as suggested. He said this was not intended to take away authority from local school boards and that this is merely a board option.

HEARING ON HOUSE BILL 527

Presentation and Opening Statement by Sponsor:

Rep. Tom Zook, District 25, Miles City stated this bill is intended to clear up existing confusion that exists among Boards of Trustees and many County Superintendents whether they have the authority to move students from one school to another within their districts. He said there is concern of complying with provisions in 26-502 dealing with opening and reopening of schools.

Testifying Proponents and Who They Represent:

Bruce Moerer, Montana School Boards Association (MSBA)

Proponent Testimony:

Bruce Moerer, MSBA stated HB 527 would clarify what is needed to be done in these cases and allows those boards the discretion they need and should have.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Spring asked Rep. Zook if this is a result of when districts consolidated and now have two school buildings available, one being occupied and the other vacant. Rep. Zook replied this could be the case in some instances.

Rep. Stang asked Bruce Moerer if he felt this was a necessary change in the law and he replied yes and that this was almost like shifting school population around within city limits which the bigger districts do now according to population shifts within the city.

Closing by Sponsor: Rep. Zook thanked the committee for the hearing and asked that they take a close look at the bill and give it a DO PASS recommendation.

DISPOSITION OF HOUSE BILL 527

Motion: Rep. Nelson made the motion that HB 527 DO PASS.

Discussion: None

Amendments and Votes: None

Recommendation and Vote: DO PASS motion for HB 527 CARRIED with Rep. Stang voting no.

DISPOSITION OF HOUSE BILL 173

Motion: Rep. Nelson made the motion that HB 173 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: Rep. Davis then explained his proposed amendments (EXHIBIT 8.). Andrea Merrill, Legislative Council Researcher explained that the amendment merely moves all the dates forward one year.

Rep. Glaser said he wanted time to look over and study the amendments since this legislation would directly affect his district. Chairman Schye said the committee would look through the amendments, discuss them and at that time if Rep. Glaser wanted more time for study the committee would postpone voting on HB 173 until a future meeting. Rep. Glaser said this would be fine.

Rep. Spring asked Andrea Merrill if Fiscal Year 1989 is the closing date or beginning of the year and she replied it is the year about to end.

Rep. Davis said this amendment was the result of a conference call involving himself, Rep. Eudaily, Rep. Nelson, Bruce Moerer and a variety of school officials to address the question of a grandfather clause for school districts that had bonded to build new schools figuring on this money. Rep. Davis also said the districts were very agreeable and thought this would take care of their particular problems without needing to address the grandfather clause.

Chairman Schye asked Rep. Glaser if he wanted to delay acting on HB 173 until a later date and Rep. Glaser replied no.

Rep. Eudaily then made the motion to amend HB 173 and the motion CARRIED upon a unanimous voice vote.

Recommendation and Vote: Rep. Eudaily made the motion that HB

173 DO PASS AS AMENDED. The motion CARRIED upon voice vote with Rep. Cocchiarella voting no.

DISPOSITION OF HOUSE BILL 332

Motion: Rep. Wyatt made the motion that HB 332 DO PASS.

Discussion: Rep. Eudaily asked Andrea Merrill if the major thrust of the bill was to simply set up a reserve fund for the community colleges and she replied that would be the most significant change.

Rep. Zook asked Andrea Merrill if all units of the Montana University System operate this way and she replied no and that the community colleges operate more on the level of school districts.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Voice Vote on the original DO PASS motion of Rep. Wyatt was unanimous.

DISPOSITION OF HOUSE BILL 449

Motion: Rep. Stang made the motion that HB 449 DO PASS.

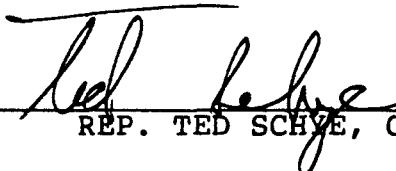
Discussion: Rep. Zook stated there is a Special Education Co-op in his area and they are very dissatisfied with the director and have no authority to make a change. Rep. Schye replied the Joint Board of Trustees can facilitate a change and that every school involved has a representative on that joint board for just that reason.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Voice vote on the DO PASS Motion of Rep. Stang was unanimous.

ADJOURNMENT

Adjournment At: 6:00 p.m.



REP. TED SCHYE, Chairman

TS/dlm

3404.min

DAILY ROLL CALL

EDUCATION & CULTURAL RESOURCES

COMMITTEE

DATE February 10, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ted Schye, Chairman	✓		
Rep. Fritz Daily, Vice-Chairman	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Paula Darko	✓		
Rep. Ervin Davis	✓		
Rep. Ralph Eudaily	✓		
Rep. Floyd Gervais	✓		
Rep. Bill Glaser	✓		
Rep. Dan Harrington	✓		
Rep. John Johnson	✓		
Rep. Tom Kilpatrick	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Richard Simpkins	✓		
Rep. Wilbur Spring, Jr.	✓		
Rep. Barry "Spook" Stang	✓		
Rep. Fred Thomas	✓		
Rep. Norm Wallin	✓		
Rep. Diana Wyatt	✓		
Rep. Tom Zook	✓		

STANDING COMMITTEE REPORT

February 10, 1989

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Mr. Speaker: We, the committee on Education and Cultural Resources report that HOUSE BILL 519 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Title, line 7.

Strike: "AND"

2. Title, line 8.

Following: "MCA"

Insert: ";AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 4, line 5.

Following: line 4

Insert: "NEW SECTION. Section 1. Effective date. [This act]
is effective July 1, 1990."

STANDING COMMITTEE REPORT

February 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that HOUSE BILL 527 (first reading copy -- white) do pass.

Signed: _____
Ted Schye, Chairman

STANDING COMMITTEE REPORT

February 10, 1989

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Mr. Speaker: We, the committee on Education and Cultural Resources report that HOUSE BILL 173 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Title, line 4.

Strike: "5"

Insert: "6"

2. Title, line 6.

Strike: "ANNUAL"

Insert: "AVERAGE"

3. Page 1, line 18.

Strike: "1988-89"

Insert: "1990"

Strike: "1993-94"

Insert: "1995"

4. Page 1, line 22.

Strike: "1988-89"

Insert: "1990"

5. Page 1, line 23.

Strike: "1989-90"

Insert: "1991"

6. Page 2, line 2.

Strike: "1989-90"

Insert: "1991"

7. Page 2, line 3.

Strike: "1990-91"

Insert: "1992"

8. Page 2, line 7.
Strike: "1990-91"
Insert: "1992"

9. Page 2, line 8.
Strike: "1991-92"
Insert: "1993"

10. Page 2, line 12.
Strike: "1991-92"
Insert: "1993"

11. Page 2, line 13.
Strike: "1992-93"
Insert: "1994"

12. Page 2, line 16.
Strike: "1992-93"
Insert: "1994"

13. Page 2, line 17.
Strike: "1993-94"
Insert: "1995"

STANDING COMMITTEE REPORT

February 10, 1989

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Mr. Speaker: We, the committee on Education and Cultural Resources report that HOUSE BILL 332 (first reading copy -- white) do pass .

Signed: _____
Ted Schye, Chairman

STANDING COMMITTEE REPORT

February 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that HOUSE BILL 449 (first reading copy -- white) do pass .

Signed: _____
Ted Schye, Chairman

Amendments to House Bill No. 510

1st Reading Copy

Requested by the Subcommittee on House Bill 510

For the House Committee on Education

Prepared by Andrea Merrill

March 8, 1989

1 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A GOVERNOR'S
2 SCHOLARSHIP PROGRAM TO ENCOURAGE MONTANA'S MOST TALENTED
3 HIGH SCHOOL GRADUATES TO ATTEND ~~UNITS OF MONTANA'S UNIVERSITY~~
4 ~~AND VOCATIONAL-TECHNICAL SYSTEM~~ ACCREDITED MONTANA
5 UNIVERSITIES, COLLEGES, COMMUNITY COLLEGES, AND VOCATIONAL-
6 TECHNICAL UNITS; AND PROVIDING AN APPROPRIATION FOR THE
7 PROGRAM."

8
9 WHEREAS, it is desirable to have Montana's future leaders be Montanans
10 raised and educated in our state; and

11 WHEREAS, establishment of a Governor's Scholarship Program to encourage
12 Montana's most talented high school graduates to attend ~~units of Montana's~~
13 ~~University and Vocational-Technical system~~ accredited Montana universities,
14 colleges, community colleges, and vocational-technical units will promote this
15 goal.

16 THEREFORE, the Legislature of the State of Montana finds it beneficial to the
17 future of the state to:

18 (1) encourage gifted Montanans to attend ~~units of Montana's University and~~
19 ~~Vocational-Technical system~~ accredited Montana universities, colleges, community
20 colleges, and vocational-technical units; and

21 (2) establish the Governor's Scholarship Program to promote attendance by

1 gifted Montanans at ~~units of Montana's University and Vocational-Technical~~
2 ~~system accredited Montana universities, colleges, community colleges, and~~
3 ~~vocational-technical units.~~

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 NEW SECTION. Section 1. Short title. [Sections 1 through 9] may be
7 cited as the "Governor's Scholarship Act".

8 NEW SECTION. Section 2. Governor's scholarship program -- recipients.
9 (1) There is a governor's scholarship program administered by the board as
10 provided in [sections 3 through 9].

11 (2) The board shall determine the scholarship recipients annually in
12 accordance with [sections 3 through 9].

13 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9],
14 the following definitions apply:

15 (1) "Board" means the board of regents of higher education created by
16 Article X, section 9, subsection (2), of the Montana constitution.

17 ~~(2) "Competitive examination" means a standardized examination that~~
18 ~~measures achievement and is administered annually to eligible students on a~~
19 ~~voluntary basis. The competitive examination is given on a specified date and at~~
20 ~~specified locations that must be announced to the public.~~

21 ~~(3) (2) "Educational costs" "Costs of attendance" means student costs for~~
22 ~~tuition, fees, room and board, or expenses related to commuting, books,~~
23 ~~supplies, and other reasonable expenses~~ transportation incurred while attending
24 an eligible institution, as determined by the eligible institution for other campus-
25 based financial aid.

26 ~~(4) (3) "Eligible institution" means any public or independent institution of~~
27 ~~postsecondary education controlled, administered, or supervised by the board~~
28 located in Montana and accredited by the northwest association of schools and

1 colleges.

2 (5) (4) "Eligible student" means any graduate of an accredited secondary
3 school in the state who declares his intention to enroll at an eligible institution
4 during the academic year immediately following his graduation from the
5 secondary school.

6 (6) (5) "High school record" means an individual's rank in his secondary
7 school class, as certified by an official of the school, and an individual's
8 secondary school department, as evaluated by at least two officials of the
9 school.

10 (7) (6) "Program" means the governor's scholarship program established in
11 [section 2].

12 (8) (7) "Recipient" means a student who has been awarded a scholarship.

13 (9) (8) "Scholarship" means a governor's scholarship.

14 (9) "Written essay" means an essay submitted by an eligible student, the
15 contents, criteria, and submission procedures for which are established by the
16 board.

17 NEW SECTION. Section 4. Amounts -- conditions. (1) Each A scholarship
18 ~~must equal the amount established as the total annual educational costs to~~
19 ~~attend~~ may not exceed the costs of attendance established at the eligible
20 institution at which the recipient has enrolled provided that the cost does not
21 exceed the cost of attending a unit of Montana's university or vocational-technical
22 system. The ~~educational~~ costs of attendance are determined by the eligible
23 institution's financial aid office.

24 (2) The recipient is ~~not~~ precluded from receiving other financial aid, awards,
25 or scholarships, ~~even if his total financial aid exceeds the total educational costs~~
26 ~~to attend the eligible institution. However, any restrictions placed on other~~
27 ~~financial aid, awards, or scholarships must be enforced that would result in an~~
28 overpayment of financial aid as determined by the eligible institution's financial

1 aid office.

2 (3) Each scholarship is to be distributed in equal installments that
3 correspond with the terms of the eligible institution's academic year.

4 NEW SECTION. Section 5. Initial award eligibility – number. (1) A
5 scholarship to ~~a unit of the university system~~ an accredited college or university
6 may be awarded to an eligible student who:

7 (a) is accepted for enrollment as a full-time undergraduate at an eligible unit
8 ~~of the college or university system;~~

9 (b) achieves an extraordinary high school record;

10 (c) ~~achieves an extraordinary performance on the competitive examination~~
11 meets an extraordinarily high standard on a submitted written essay;

12 (d) signs an affidavit stating that the scholarship will be used for educational
13 costs of attendance only; and

14 (e) complies with applicable rules and regulations adopted by the board
15 pursuant to [sections 3 through 9].

16 (2) A scholarship to a vocational-technical center may be awarded to an
17 eligible student who:

18 (a) is accepted for enrollment as a full-time student at an eligible vocational-
19 technical center;

20 (b) achieves an extraordinary high school record;

21 (c) ~~achieves an extraordinary performance on the competitive examination~~
22 meets an extraordinarily high standard on a submitted written essay;

23 (d) signs an affidavit stating that the scholarship will be used for educational
24 costs of attendance only; and

25 (e) complies with applicable rules and regulations adopted by the board
26 pursuant to [sections 3 through 9].

27 (3) A scholarship to a community college may be awarded to an eligible
28 student who:

1 (a) is accepted for enrollment as a full-time student at an eligible community
2 college;

3 (b) achieves an extraordinary high school record;

4 (c) meets an extraordinarily high standard on a submitted written essay;

5 (d) signs an affidavit stating that the scholarship will be used for costs of
6 attendance only; and

7 (e) complies with applicable rules and regulations adopted by the board
8 pursuant to [sections 3 through 9].

9 ~~(3)~~ ^{Select} (4) The board shall ~~award~~ ^{Select} four three university system scholarships, one
10 community college scholarship, and two vocational-technical center scholarships
11 each year. ~~appointed~~ awarded by The Gov.

12 NEW SECTION. Section 6. Continuation of award. A recipient remains
13 eligible for a scholarship for up to 4 academic years, as long as he maintains
14 high standards of academic performance as determined by the board.

15 NEW SECTION. Section 7. Repayment for discontinued attendance. If a
16 recipient discontinues attendance before the end of any semester, quarter, or
17 other term for which he has received a scholarship, he must repay that
18 installment to the board if the board requests and if the repayment will not work
19 a hardship upon the student.

20 NEW SECTION. Section 8. Support of program. (1) The program is
21 funded by the following:

22 (a) any funds appropriated to the program by the legislature;

23 (b) all repayments of past scholarship awards;

24 (c) funds obtained through events provided for in subsection (3); and

25 (d) contributions from public or private sources.

26 (2) The funds and all income derived from the funds must be placed at the
27 disposal of the board. The funds must be kept separate and distinct from all
28 other funds. The funds and income derived from the funds must be used solely

1 to support the program.

2 (3) The governor may sponsor public events to raise funds for the program.

3 (4) The board shall accept any contribution for support of the program from
4 public or private sources.

5 NEW SECTION. Section 9. Duties and powers of board. (1) The board
6 shall:

7 (a) supervise the issuance of public information concerning [sections 1
8 through 9];

9 (b) establish standards and procedures for the scholarship application and
10 selection process, including determining the ~~competitive examination content~~
11 criteria, and submission procedures for the written essay to be used;

12 (c) set standards for continuing eligibility for students;

13 (d) establish procedures for scholarship payments to recipients;

14 (e) maintain fiscal controls and fund accounting procedures as may be
15 necessary to ensure proper disbursement of funds;

16 (f) submit an annual report to the governor;

17 (g) adopt rules necessary for the implementation of the provisions of
18 [sections 1 through 9]; and

19 (h) hold at least one public hearing prior to adopting rules under subsection
20 (1)(g) to give interested persons an opportunity to comment on the rules.

21 (2) The board may appoint an administrator ~~and other staff necessary~~ to
22 administer the program.

23 NEW SECTION. Section 10. Appropriation. There is appropriated from the
24 general fund to the board of regents of higher education the following amounts
25 for establishing and carrying out the governor's scholarship program:

26 Fiscal year 1990 \$26,000

27 Fiscal year 1991 52,000

28 -END-

Proposed Amendments to HB 510

- Page 1: Line 13
Strike: "most"
- Page 2: Line 4
Strike: "board"
Insert: "the Governor"
Line 6
Strike: "board"
Insert: "Governor"
Lines 11-13
Strike: Lines 11-13
Insert: "Governor means the Governor of the State of Montana"
Lines 14-18
Strike: Lines 14-18 in their entirety
- Page 4: Line 2
Strike: "board"
Insert: "Governor"
Line 10
Strike: "extraordinary"
Insert: "competitive"
Following: "record"
Insert: "as determined by the Governor"
Lines 11-12: strike in their entirety
Line 21 (same as for line 10)
Lines 22-23: strike in their entirety
- Page 5: Line 3
Strike: "board:
Insert: "Governor"
Line 8
Strike: "board"
Insert: "Governor"
Line 24
Strike: "board"
Insert: "Governor"
- Page 6: Line 5
Strike: "board"
Insert: "Governor"
Line 7
Strike: "board"
Insert: "Governor"
Line 8
Strike: "board"
Insert: "Governor"
Line 12
Strike: following "process"
Line 21
Strike: "Governor"
Insert: "Legislature"

Page 7 Line 2

Strike: Lines 2 through 9 in their entirety.

Insert: "(2) Contributions raised as a result of this Act may be used for purposes of administering the scholarship program. The Governor may appoint an administrator and other staff necessary to administer the program, subject to availability of funds.

(2) In the event there is no sufficient revenue generated as a result of actions taken under Section 8, the Governor, in his sole discretion may suspend the scholarhsip program."



EXHIBIT 3
DATE 2-10-89
HB 519

OFFICE OF PUBLIC INSTRUCTION

Nancy Keenan
Superintendent

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

February 9, 1989

To: Committee Members

From: Terry Brown, Specialist *T. Brown*
Pupil Transportation Safety

Re: House Bill 519

This bill was drafted at the request of the Board of Public Education and the Office of Public Instruction. The history and background of this law and regulation goes back many years, even before I joined the OPI staff in 1977. I would like to explain some of this background information so that you will have a better understanding why this 4-wheel drive vehicle section should be deleted from 20-10-111, MCA.

Background

In the 1950's, 1960's and early 1970's the OPI as a representative of the Board of Public Education used to grant variances to school districts so that they could comply with school bus regulations as best as they could. This procedure was followed until about 1980 when the Board of Public Education and the OPI made the decision to do away with all variances which included transportation along with accreditation standards, etc. One of the main problems was that "school buses" that met the current construction standards were not available in 4-wheel drive. For this reason OPI would grant a variance to school districts to use a 4-wheel drive alternative vehicle, such as a suburban or van to transport students to and from school.

Committee Members
February 9, 1989
Page 2

This began to change in the 1980's when school bus chassis manufacturers began producing 4-wheel drive chassis for the school bus market. Four-wheel drive school buses that meet the school bus construction standards are readily available today.

An Attorney General's opinion also has an affect on why this law and rule should be changed. This opinion was written at the request of Colonel Landon of the Montana Highway Patrol in regard to The Head Start program buses. This is included in Volume No. 39, Opinion No. 63 dated June 14, 1982, which basically states that any child hauled for education purposes shall be transported in a certified school bus. (I have provided copies of this opinion for committee members.)

Please understand that a vehicle manufactured to meet "school bus" construction standards is much safer for our children to ride in than a vehicle that doesn't meet these special safety standards. This also applies to 4-wheel drive "school buses." There is no comparison in the crash protection built into a 4-wheel drive "school bus" compared to a regular van or suburban that you and I could buy off a car lot. These are the reasons why the Board of Public Education has been moving in this direction for the past four years.

Committee Members
February 9, 1989
Page 3

History

Because 4-wheel drive "school buses" were not readily available in the late 70's, legislation was proposed and passed to allow school districts and bus contractors to use 4-wheel drive alternative vehicles to transport children to and from school (20-10-111 (2)(3), MCA).

School districts could accomplish this by making application to the Board of Public Education through OPI. From records in our office I can recall only three school districts that ever applied for variances and later on permission to use 4-wheel drive vehicles that didn't meet standards. They were Luther, Red Lodge and Winnett. After about 1982 only Red Lodge and Luther submitted requests.

The Attorney General's opinion in regard to Head Start buses has an affect on all school transportation as I mentioned earlier.

In 1985 the Board of Public Education made the decision to do away with this special 4-wheel drive vehicle provision. They added the stipulation that those school districts who applied previously could continue to make application through 1990. This would give those districts with 4-wheel drive alternative vehicles a good time line for replacement with a certified "school bus." Only Luther made application this school year.

Committee Members
February 9, 1989
Page 4

Let me recap why the Board of Public Education made this decision with support from our office.

1. The Attorney General's opinion in regard to using other alternative vehicles instead of school buses to transport children to and from school (Volume No. 39, Opinion No. 63, June 14, 1982).

2. School buses that meet safety construction standards are now available with 4-wheel drive chassis.

3. Board of Public Education policy is to no longer grant variances in their educational policies.

4. The fact that only one school in the last five years has applied or asked about using a 4-wheel drive alternative vehicle to transport children to and from school.

EXHIBIT 4
DATE 2-10-89
HB 519

VOLUME NO. 39

OPINION NO. 63

HIGHWAY PATROL - School bus inspections;

MOTOR VEHICLES - Definition of "school bus;"

SCHOOL BUSES - Definition of "school bus;"

MONTANA CODE ANNOTATED - Section 61-1-116, Title 61,
Chapter 1, Title 61, Chapter 8, Title 61, Chapter 9.

HELD: Vehicles operated by the Head Start Program and privately owned vehicles operated for compensation by or for parochial schools, as well as all vehicles operated by or for public school districts, for the purpose of transporting children to and from school are "school buses" within the meaning of section 61-1-116, MCA. Accordingly, they must comply with the statutory provisions in the Motor Vehicle Code (Title 61, MCA) relating to school bus equipment, operation and inspection.

14 June 1982

Colonel Robert W. Landon
Administrator
Highway Patrol Division
Department of Justice
303 North Roberts
Helena, Montana 59620

Dear Colonel Landon:

You have asked my opinion on the following question:

What constitutes a school bus for the purposes of Title 61, MCA?

Specifically you have inquired whether buses operated by parochial schools and by the federally sponsored Head Start Program are to be considered to be "school buses" under section 61-1-116, MCA. If so, they must comply with all the equipment requirements and traffic regulations of Title 61, MCA, pertaining to school buses. See, e.g., sections 61-3-350(2) (school bus to stop at railroad crossings); 61-8-351(2) ("school bus" signs to appear on front and rear of bus); (driver must actuate lights whenever the bus is to be stopped on a highway or street to receive or discharge school children); section 61-8-402(4) (school bus must be equipped with flashing red and amber lights), MCA. In addition, motorists would be obliged to stop for properly marked Head Start and parochial school vehicles whenever their flashing red signal lights were in operation. § 61-8-351(1), MCA.

Section 61-1-116, MCA, defines "school bus" as follows:

"School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school. (Emphasis added.)

The statute utilizes both proprietary and functional criteria to define the term "school bus." A school bus may be publicly or privately owned. If privately owned, it must be operated "for compensation." To be considered as a school bus, a motor vehicle must also be used "for the transportation of children to or from school."

Resolution of your question turns on the interpretation given to the terms "school," "compensation" and "public or governmental agency."

For the purposes of the education title (Title 20), section 20-6-501, MCA, defines "school" as follows:

As used in this title, unless the context clearly indicates otherwise, the term "school" means an institution for the teaching of children that is established and maintained under the laws of the state of Montana at public expense. (Emphasis added.)

Under section 1-2-107, MCA, a definition of a word in one part of the Code is applicable anywhere that word appears in the Code unless a contrary intention appears. In my opinion, a contrary intention does plainly appear in the express limitation of that definition to Title 20. The term "school bus" is defined by section 20-10-101, MCA. Again, however, by express statutory provision, that definition expressly applies only to the use of the term in Title 20. Sections 20-6-501 and 20-10-101, MCA, defining "school" and "school bus," respectively, for the purposes of the education title are not in pari materia with section 61-1-116, MCA, defining "school bus" for the purpose of the Motor Vehicle Code. (See § 61-1-101, MCA.) The two titles govern different subjects. The concern of Title 20 is the administration of the public educational system in particular. The thrust of Title 61 is traffic safety and motor vehicle regulation in general. Furthermore, Title 20 and Title 61 both define "school bus" differently. The definition contained in section 61-1-116, MCA, is plainly broader in scope than the definition provided in section 20-10-101, MCA, which expressly limits "school bus" for the purpose of Title 20, inter alia, to motor vehicles owned by, or under contract to, a public school district. Section 61-1-116, MCA, makes no attempt to similarly limit the term.

Legislative intent is the polestar of statutory interpretation and that intent must be determined, if possible, from the plain meaning of the words used in a statute. Haker v. Southwestern Ry. Co., 176 Mont. 364, 369, 578 P.2d 724, 727 (1976). The words used in a statute should be given their usual and ordinary meaning. Rierson v. State, 37 St. Rptr. 627, 630, 614 P.2d 1020, 1023 (1980).

A school, in the ordinary acceptance of the word, is a place where general education is imparted to young people; it refers to an institution conducting a course of general education and mental training similar to that offered to children by a public education system. Cadet-ettes Corp. v.

Brown, 406 N.E.2d 538, 540 (Ohio App. 1977); State ex rel. Church of the Nazarene v. Fogo, 79 N.E.2d 546, 547 (Ohio 1948); 68 Am. Jur. 2d Schools, § 1 (1973). The term refers to "an institution of learning of a lower grade, below a college or university; a place of primary instruction," Cadet-ettes, 406 N.E.2d at 540-41. The word "school" includes private as well as public institutions of learning. 68 Am. Jur. 2d Schools, § 1 at 360, § 307 at 627 (1973). It does not, however, include a "Sunday school" providing solely religious instruction. Fogo, 79 N.E.2d at 547.

According to Webster's New International Dictionary (2d ed. 1941), "compensation" means "[t]hat which constitutes, or is regarded as, an equivalent or recompense;...that which compensates for loss or privation;...remuneration; recompense."

Clearly, privately owned vehicles are "school buses" within the meaning of section 61-1-116, MCA, if their owners are reimbursed in any manner for transporting children to or from school. A private or parochial school which operates any motor vehicle to transport children to and from its school and charges parents for that service, either by way of tuition or by a direct billing, is operating a "school bus" under section 61-1-116, MCA. The statutory definition of school bus is broad enough to include vehicles owned and operated by parochial schools, as well as private vehicles under contract with parochial schools or with public school districts to provide transportation of children to or from school.

By the plain and ordinary meaning of the term, "a public or governmental agency" is broad enough to encompass both federal and state agencies. Whether they are federally or privately owned, Head Start vehicles would, therefore, fall within the ownership criteria of section 61-1-116, MCA. Since the Head Start program would seem to impart general, primary education to the young, the program falls under the broad meaning of the word "school" as used in the statute. Hence, Head Start vehicles transporting children to and from such programs must be considered to be "school buses" for the purposes of Title 61. It is noteworthy that in 1976, the acting chief counsel of the National Highway Traffic Safety Administration (NHTSA) concluded in a memorandum that vehicles carrying children to and from Head Start programs are "school buses" for federal purposes. NHTSA Memorandum of February 18, 1976. There are two definitions of "school bus" in programs administered by NHTSA. Section 201 of the Motor Vehicle and School Bus Safety Amendments of 1974 added a definition of "school bus" to section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. § 1391), as follows:

(14) "[S]choolbus" means a passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools;

NHTSA accordingly amended its definition of "school bus" in 49 C.F.R. § 571.3, effective October 27, 1976, as follows:

"School bus" means a bus that is sold, or introduced in interstate commerce, for purposes

that include carrying students to and from school or related events, but does not include a bus designed and sold for operation as a common carrier in urban transportation.

In the view of NHTSA a Head Start program designed to afford educational benefits to "preprimary" school children could reasonably be described as a "preprimary school" and its attendees are "preprimary school students." Hence, the NHTSA memorandum concluded that, under 49 C.F.R. § 571.3, a vehicle sold after October 27, 1976, for the purpose of transporting students to and from Head Start programs would have to comply with the school bus safety requirements established under the National Traffic and Motor Vehicle Safety Act.

The definition of school bus found at 49 C.F.R. § 571.3 reflects current congressional policy regarding school buses and, therefore, has a bearing on the scope of the definition of school bus in Uniform Highway Safety Program Standard No. 17 (23 C.F.R. § 1204.4), Pupil Transportation Safety, issued by NHTSA pursuant to its authority under the National Highway Safety Act of 1966 (23 U.S.C. § 401, et seq.). This standard sets minimum requirements for a state highway safety program dealing with pupil transportation and includes requirements for the identification, operation, and maintenance of school buses. Because No. 17's requirements apply to all vehicles while in operation as school buses and because neither NHTSA regulations nor the relevant statutes distinguish between categories of "school," the acting chief counsel of NHTSA concluded in his 1976 memorandum not only that Head Start vehicles are school buses for the purpose of Standard No. 17, but also that both private and public educational institutions, whether profit or nonprofit institutions, were "schools" under the federal definitions.

The conclusions reached by the NHTSA memorandum are re-enforced by both the similarities between Head Start and parochial school transportation, on the one hand, and public school transportation, on the other, and by the legislative history underlying the federal definitions. The apparent purpose of transportation is to give children instruction at a central site. The risks encountered by parochial and Head Start school children while traveling to or from the site are the same as those encountered by public school children. The congressional definition of school bus contained in section 102 of the National Traffic and Motor Vehicle Safety Act Amendments of 1974 (15 U.S.C. § 1391) is necessarily broad. It was intended to include a wide variety of passenger vehicles. See H.R. Rep. No. 93-1191, 93rd Cong., 2d Sess. 42, reprinted in [1974] U.S. Code Cong. & Ad. News 6046, 6076. Similarly, the scope of the Highway Safety Act of 1966, pursuant to which Uniform Standard No. 17 was promulgated, is broad. The express purpose of that enactment is the promotion of safety on the nation's highways in general. S. Rep. 1302, 89th Cong., 2d Sess., reprinted in [1966] U.S. Code Cong. & Ad. News 2741, 2743. In promulgating its administrative definition of "school bus" (49 C.F.R. § 571.3), NHTSA construed the congressional definition (15 U.S.C. § 1391) to include private as well as public school buses. See 40 Fed. Reg. No. 251, 60033 at 60034 (1975).

In finding Head Start buses to be "school buses" under Montana law, there is no danger in running afoul of federal law. Far from preempting state law on the matter, federal

law complements state regulation of Head Start vans as school buses.

The definition of school bus which appears in section 61-1-116, MCA, is the original definition of "school bus" which appeared in the Uniform Vehicle Code (U.V.C.) from 1934 until 1962. U.V.C. Act V, § 1(e) (Rev. eds. 1934, 1938, 1944); U.V.C. Act V, § 1(f) (Rev. eds. 1948, 1952); U.V.C. § 1-156 (Rev. ed. 1954); U.V.C. § 1-160 (Rev. ed. 1956). As of 1972, a total of twenty states had adopted, with slight modification, the same definition. E. Yaw, National Committee on Uniform Traffic Laws and Ordinances, "Laws Requiring Drivers to Stop for School Buses," 1 Traffic Laws Commentary No. 5 (August 1972), prepared for the United States Department of Transportation, National Highway Traffic Safety Administration (NHTSA) at p. 4. In 1957, the Attorney General of Arizona, which had adopted the same U.V.C. definition as has Montana, had occasion to address much the same issue as is presented here. He held that the legislative definition of "school bus" was sufficiently broad to include not only buses owned and operated by school districts but also parochial school buses owned and operated by private institutions. 57-135 Op. Att'y Gen. at 139 (Ariz. 1957). He concluded that the equipment requirements and traffic regulations pertaining to school buses "were enacted for the purpose of protecting not only the children attending public school but all children of the state regardless of what type of school they attend." *Id.* In other states, the purpose of provisions relating to equipment and operation of school buses has also been declared to be the promotion of the safety of school children riding the bus. See, e.g., Hunter v. Boyd, 28 F.2d 412, 414 (1943).

It should be noted that under section 61-9-502(1), MCA, the Highway Patrol is statutorily obliged to conduct semiannual inspections of school buses. Under section 61-9-502(2), MCA, the Patrol is directed to determine whether "the school buses meet the minimum standards for school buses as adopted by the board of public education." Under section 20-10-111, MCA, the board of public education must promulgate uniform safety standards relating to "the design, construction, and operation of school buses in Montana." Because the Legislature has seen fit to incorporate by reference the board of education's safety standards into section 61-9-502(2), MCA, all school buses as defined by section 61-1-116, MCA, whether public or private, must comply with those standards and must be inspected semiannually by the Highway Patrol.

Under section 20-10-111(1)(a)(ii), MCA, the school bus standards promulgated by the board of public education may not be inconsistent with the "minimum standards adopted by the national highway safety bureau," now the National Highway Traffic Safety Administration (NHTSA). See Act of Oct. 15, 1966, P.L. 89-670, § 6(a)(1)(A), 90 Stat. 937, 49 U.S.C. § 1655; Act of Dec. 31, 1970, P.L. 91-605, Title II, § 202, 84 Stat. 1740.

The Legislature amended the aforementioned inspection statute, § 61-9-502, MCA, in 1973 to bring it in compliance with the requirement of semiannual school bus inspection set forth in NHTSA's Uniform Standard No. 17. As discussed above, the federal definition of school bus includes all vehicles equipped to carry more than 10 passengers that are likely to be "significantly used" to transport preprimary, primary, or secondary school children to and from school or school events, whether the school be public or private. See

15 U.S.C. § 1391(14); 49 C.F.R. § 571.3. The federal definition was not, however, intended to include private motor vehicles used to transport members of the owner's household or other students in a car pool arrangement. H.R. No. 93-1191, 93rd Cong., 2d Sess., reprinted in [1974] U.S. Code Cong. & Ad. News 6046, 6076. It should be noted that Montana law, unlike federal law, does not define "school bus" in terms of the number of students carried. Since the federal definition of school bus applies to private school as well as public school vehicles and since Montana's school bus inspection statute, 61-9-502, MCA, was amended in 1973 in order to comply with the requirements of the federal Uniform Standard No. 17, it is my opinion that section 61-9-502(1), MCA, requires semiannual inspections of both private and public school buses as well as Head Start vehicles.

THEREFORE, IT IS MY OPINION:

Vehicles operated by the Head Start program and privately owned vehicles operated for compensation by or for parochial schools, as well as all vehicles operated by or for public school districts, for the purpose of transporting children to and from school are "school buses" within the meaning of section 61-1-116, MCA. Accordingly, they must comply with the statutory provisions in the Motor Vehicle Code (Title 61, MCA) relating to school bus equipment, operation and inspection.

Very truly yours,


MIKE GREILY
Attorney General

MG/SW/ar



Board of Public Education

EXHIBIT 5
DATE 2-10-89
HB 519

February 10, 1989

Claudette Morton
Executive Secretary

TO: Members of the House Education Committee

FROM: Claudette Morton
Executive Secretary

RE: Testimony in Support of HB 519

It is not often, in fact, this may be a first, that a government entity comes before the legislature to ask for removal of authority to do something, but that is exactly what the Board is doing in supporting HB519. To understand this I would like to explain what the Board has done in the rule making authority it has had since the section of law, which this bill would strike, went into effect.

This section of law, to give the Board authority to grant permission to school districts to use four-wheel drive vehicles instead of school buses was enacted into law in the 1981 legislative session. In 1982 the Board enacted 10.64.601-604 or sub-chapter 6 of ARM, which basically set up a mechanism for school districts to apply for this special exemption through the Office of Public Instruction to the Board. Each June meeting the Board has received the applications and acted on them for schools for the upcoming school year.

When this bill was enacted, it is my understanding that four-wheel drive school buses which transported fewer than 8 students either didn't exist or were very expensive. For the next few years the Board received three or four requests per year under these rules, all of which were generally granted.

In 1985, the Board changed the rule. It added language which said that "effective 2/1/87 any four-wheel drive vehicles purchased for school use shall be specifically manufactured for the purpose of transporting students to and from school," and that said vehicles "must meet the 1985 nation minimum standards for school buses." In other words, a vehicle purchased by a school after February first, 1987, that was not a school bus would not be given this special exemption, and a four-wheel drive school bus would not need this exemption. This was because

four-wheel drive school buses were available that were not significantly more expensive than the four-wheel drive with the required equipment.

In 1987 it ammended the rule further to say that "after July 1, 1990, this entire sub-chapter 6 would be deleted from the rules.

Last year, we had one school apply, and this year we had two schools apply. They are both aware of the changes the Board has made in the administrative rules. We do know from Mr. Brown, at OPI, that four-wheel drive school buses are available, and that it is important for the safety of our students and the liability of the school districts, that schools which need four-wheel drives use school buses.

Because our rule says "after July 1, 1990, we asked that HB519 be amended to add an effective date of July 1, 1990, since there may be one or two schools expecting to continue to use their current vehicles until then.

With this one small amendment, we ask the committee's concurrence in HB519.

Thank you.



The Big Sky Country

EXHIBIT 6
DATE 2-10-89
HB 324

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE ERVIN DAVIS

DISTRICT 53

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
PHONE: (406) 444-4800

HOME ADDRESS:
P.O. BOX 63
CHARLO, MONTANA 59824

TESTIMONY

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

FOR THE RECORD, I AM ERVIN DAVIS, REPRESENTATIVE FROM DISTRICT 53, LAKE COUNTY.

HB 324 IS A BILL FOR AN ACT ALLOWING TRUSTEES TO DELEGATE AUTHORITY TO THE CLERK OF THE DISTRICT TO MAKE TRANSFERS OF ANY OR ALL OF THE EXCESS APPROPRIATED AMOUNT TO ANY OTHER APPROPRIATED ITEM OF THE SAME BUDGETED FUND.

THERE WILL BE PROPONENTS TESTIFYING, SO I'LL DEFER QUESTIONS TO THEM AND CLOSE LATER.

THIS BILL IS A CHANGE IN THE BILL BECAUSE THE INTENT OF THE ORIGINAL PROPOSAL WAS MISINTERPRETED AS A WAY FOR A CLERK OF THE DISTRICT TO BE ABLE TO MAKE TRANSFERS WITHOUT BOARD AUTHORIZATION. THAT CERTAINLY WAS NOT, NOR IS IT NOW, THE INTENT OF THE BILL.

BUDGET LINE-ITEM TRANSFERS, DONE AT THE END OF THE FISCAL YEAR, ARE PREPARED ONLY TO SATISFY THE STATUTE REQUIRING SUCH TRANSACTIONS TO BE RECORDED ON THE "PERMANENT RECORDS

PAGE -2-

OF THE DISTRICT." A TRANSFER REPORT IS PREPARED AND PRESENTED FOR FORMAL APPROVAL TO THE TRUSTEES AT THE END OF THE FISCAL YEAR. AT THIS POINT IN TIME, THE TRANSFER REPORT IS JUST THAT -- A REPORT. IT IS NOT USED BY THE TRUSTEES FOR ANY PURPOSE. AFTER APPROVAL, THE REPORT IS FILED AWAY FOR AUDIT PURPOSES.

BY LAW, THE TRUSTEES AUTHORIZE ALL ACTUAL EXPENDITURE FUNDS ANYWAY. EACH MONTH THE TRUSTEES EXAMINE ALL BILLS FOR THE MONTH AND REFUSE OR AUTHORIZE PAYMENT. BY THE END OF THE FISCAL YEAR, SOME LINE ITEMS WILL HAVE GONE OVER BUDGET BECAUSE OF A VARIETY OF CHANGES; I.E., COLD WEATHER (HEAT), UNFORSEEN ILLNESS (REQUIRING ADDITIONAL SUBSTITUTE TEACHERS), ADDITIONAL ENROLLMENTS (REQUIRING ADDITIONAL SUPPLIES), ETC. -- AND NECESSITATING TRUSTEE APPROVAL FOR THOSE EXPENDITURES.

IT IS AT THIS POINT THAT THE CLERK MAKES THE APPROPRIATE TRANSFERS, REFLECTED BY THE OFFICIAL MONTHLY MINUTES OF THE BOARD MEETING. THIS ACTION IS REFLECTED IN A REPORT TO THE TRUSTEES -- AN INTERIM BUDGET REPORT -- WHICH IS USEFUL FOR PLANNING AND DECISION MAKING.

THE REPEAL OR CHANGE OF THE STATUTE 20-9-203, REQUIRING YEAR-END REPORTING COULD BE EXPECTED TO SAVE THE SCHOOL DISTRICTS STATEWIDE AN AVERAGE OF ONE DAY'S SALARY, NOT CONSIDERING ANYTHING ELSE. WITH OVER 380 DISTRICTS IN THE STATE, THE COST STATEWIDE MAY WELL APPROACH \$25,000 (3 HR. DAY TO PREPARE AND TYPE THE REPORT AT \$8.00 PER HR = \$64.00

PAGE -3-

PER DAY TIMES 380 DISTRICTS).

IN THIS DAY OF TRYING TO STRETCH EVERY DOLLAR OF SCHOOL MONEY, IT SEEMS TO BE A WASTE OF TAXPAYERS' DOLLARS TO PREPARE AN END-YEAR REPORT TO SATISFY A STATUTE (VERY LIKE THAT IN HB 275) WHICH HAS BECOME ARCHAIC, WHEN IN REALITY THE ACTION HAS ALREADY BEEN AUTHORIZED AND PERFORMED DURING REGULAR MONTHLY OR SPECIAL BOARD MEETINGS.

AMENDING, OR BETTER YET, REPEAL OF THIS STATUTE WILL NOT AFFECT THE DAY-TO-DAY FLOW OF BUSINESS, NOR WILL IT IN ANY WAY PROVIDE LESS CONTROL OF DISTRICTS' FINANCES BY THE BOARD OF TRUSTEES. ALL BOARDS ARE INTERESTED IN THE TOTAL BUDGET. IT IS FAR MORE PRACTICAL TO ALLOW A LINE-ITEM TO SHOW A DEFICIT, IF IN FACT IT IS A DEFICIT, YET NOT OVERDRAW THE APPROPRIATED FUND. THIS REFLECTS A TRUE AND INTENDED TOTAL BUDGET.

ED:BD

John Campbell, Montana Association of School Business Officials
H.B. 324

House Bill 324 is to resolve a long standing problem that School District Clerks have. They interpret subsection 1 of Section 20-9-208 (the amended language) as a prohibition on transfers between appropriation items within the same fund without board of trustees approval action. The clerks will not overspend an appropriation item without an adequate budget amount. At the same time we wish to "do business" with the vendors on a current basis.

Boards of Trustees generally meet on a monthly or semi-monthly basis. Their approval of appropriation transfers do not lead to the doing business on a current basis with vendors or paying employees on the same basis.

This bill provides a permissive alternative to the board of trustees if they feel that business should be conducted on a current basis. The Board of Trustees may delegate authority the Clerk of the District to determine when appropriation transfers are necessary and to give effect to the transfer on the records of the school district. Thus, the clerk will be able to do business on a current basis.

Please note that subsection 2 is not amended except for a little verbiage change on line 23. Thus, transfers cannot be made between funds of the district.

This proposed amendment will not change the present law on limitation of fund expenditures to the total amount of the budget!

Amendments to HB Bill No. 173
1st Reading Copy

Requested by Rep. Davis
For the House Committee on Education

Prepared by Andrea Merrill
February 7, 1989

1. Title, line 4.
Strike: "5"
Insert: "6"
2. Title, line 6.
Strike: "ANNUAL"
Insert: "AVERAGE"
3. Page 1, line 18.
Strike: "1988-89"
Insert: "1990"
Strike: "1993-94"
Insert: "1995"
4. Page 1, line 22.
Strike: "1988-89"
Insert: "1990"
5. Page 1, line 23.
Strike: "1989-90"
Insert: "1991"
6. Page 2, line 2.
Strike: "1989-90"
Insert: "1991"
7. Page 2, line 3.
Strike: "1990-91"
Insert: "1992"
8. Page 2, line 7.
Strike: "1990-91"
Insert: "1992"
9. Page 2, line 8.
Strike: "1991-92"
Insert: "1993"
10. Page 2, line 12.
Strike: "1991-92"
Insert: "1993"
11. Page 2, line 13.
Strike: "1992-93"
Insert: "1994"

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEEBILL NO. HB 510DATE February 10, 1989SPONSOR Vincent

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
J. Henry BADI	MACSS	✓	
Tack Cupps	OPZ	✓	
Bill Lannan	CHE	✓	
Bruce W. Meers	MSBA	✓	
David M. Rivner	JAM	✓	
Carl Knudsen	SACO/supt.	✓	
Claudette Morton	Board of Public Ed	✓	
Brian Harlan	ASMSU	✓	
Mike Craig	Associated Students of UM	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. HB 519DATE February 10, 1989SPONSOR Brooke

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Terry F. Brown</i>	<i>DP1 Helena</i>	<i>✓</i>	
<i>Claudette Morton</i>	<i>DP1 Bd of Public Ed</i>	<i>✓</i>	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1 of 2

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. HB 324

DATE February 3, 1989

SPONSOR Davis

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

2012

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. HB 324DATE February 10, 1989SPONSOR Davis

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
J. Henry BART	MACSS		✓
JACK COPPS	OPT	✓	
John Campbell	MASBO	✓	
Bruce W. Moerer	MSBA	✓	
DAVID M. BIVHOP	SAM	✓	
CARL KNUDSEN	SACO/supt.	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EDUCATION & CULTURAL RESOURCES COMMITTEE

DATE February 10, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.