

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, Chairman, on  
February 17, 1989, at 1:00 pm in Room 402 of the State  
Capitol

ROLL CALL

Members Present: Senators; H.W. Hammond, Dennis Nathe,  
Chet Blaylock, Bob Brown, R.J. "Dick" Pinsoneault,  
William Farrell, Pat Regan, John Anderson Jr., and  
Joe Mazurek

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and  
Julie Harmala, Committee Secretary

Announcements/Discussion:

Senator Hammond announced that Senator Anderson had voted in  
favor of SB 360, therefore the bill would pass and he said  
if there was no opposition, the bill would be considered a  
do pass, 5 to 4.

DISPOSITION OF SB 203

Discussion:

Amendments to Senate Bill 203 which were requested by  
Senator Farrell. (See Exhibit #1) The Governor's  
Amendments.

Senator Regan commented that she had asked the LFA office to  
do an analysis of the Governor's amendments to SB 203. She  
then ask why SB 203 was being amended with the Governor's  
amendments when the committee has the Governor's Bill which  
was introduced by Senator Farrell in SB 419. This bill was  
introduced by Senator Farrell at the request of the Governor  
and she said that it seemed to her to make more sense to  
amend the Governor's amendments into his own bill.

Senator Hammond stated that we did not have that bill before us.

Senator Regan pointed out that the committee could have SB 419 before the group and that the committee has spent a considerable amount of time on the Nathe Bill and it is ready to go out. She said both bills could be sent out and this would be a "logical thing to do, to amend the Governor's Bill with his own amendments."

Senator Regan added that she thought this is a travesty because the Superintendents have spent considerable time and there was agreement among the educational community. The committee has spent two weeks going through SB 203. There was agreement on every thing except one item.

She stated that she would like to see SB 203 with a do pass and to amend SB 416 with a do pass and send them both to the House. She said she thought both bill had merit and the House then could consider the issue.

Senator Mazurek said that he spoke to House Speaker Vincent and to Chairman Peck and it was Senator Mazurek's understanding that Speaker Vincent had said publicly and his restated a number of times that these are revenue bills. Therefore he said he did not understand the "time crunch." He ask if they were intended to be treated as revenue bills in the House.

He went on to say that he understood if Senator Hammond and the Governor was concerned that games would be being played but Speaker Vincent did say publicly that there was no question that these were revenue bills. They are because they are going to have the biggest impact on revenue, as the Governor had said in his speech, of anything that has been done in a long time.

He added that he thought "the time should be taken to do it right."

Senator Hammond added that they might be revenue bills, but there is a "fine line" and there has been no assurance from anyone that they necessarily are revenue bills. The committee, he said, has been working on this bill and he said he would like it completed and gotten out. "We have been on Senator Nathe's Bill for many days and it is going to be taken care of today."

Senator Regan said that she was confused because the Governor's amendments were going to be put into the Nathe Bill and then the Senate will pass it and the House will get it, she questioned what bill happen to the Governor's Bill,

which is Senator Farrell's SB 419.

Senator Farrell pointed out that SB 419 has revenue already in it and has been declared a revenue bill, so it does not have to meet the transmittal dead line.

The Legislative Council, the Rules Committee, and the Finance Committee determined that SB 419 is a revenue bill. He stated that he was told that it was a revenue bill.

Senator Mazurek ask if "they" had said Senator Nathe's bill was not a revenue bill.

Senator Farrell responded that it depends on what is done with the amendments to make it a revenue bill and that is up to the Rules Committee. This can be sent to the Rules committee once this bill is on the floor and it is up to the Rules Committee in the House to accept what the Senate does.

He went on to say that in order to make the transmittal dead line and have a bill that does not have to go through a "Rules battle" and run the risk of getting tied up saying it is not revenue. It is preferred that it be sent to the Senate floor for full debate.

Senator Mazurek ask if the intention now was to allow comment on the amendments or if it would just be acted on.

Senator Hammond stated that comments on the amendments were allowed because this is an executive session.

Senator Mazurek said that it was his understanding that there would be some opportunity for the public to comment on the Governor's Plan.

Senator Hammond stated that the committee could call on the people at the meeting and ask questions.

Senator Mazurek ask if anyone would have an opportunity to testify individually on the Governor's Plan, or "do we have to ask them questions before they can comment?"

Senator Hammond responded that this is the way he understood it was going to be.

Senator Mazurek stated that he did not understand why this was happening this way. The Governor has identified this to be the "biggest issue we have ever had before us in years, and the Governor has announced his plan. It comes before the committee in the form of amendments and then no one from the public gets an opportunity to comment on this Plan unless we ask questions." Senator Mazurek said that he had

never heard of this as a process and that he was disappointed because he had thought this had been discussed and talked about with the opportunity given for people that had 24 hours to review the amendments, interested parties coming before this committee and saying "here's our reaction to the amendments, there are these problems and we think they are good, bad, or indifferent."

Senator Hammond stated that if there is time he was willing to go that route and hear from the interested parties.

Senator Mazurek ask again if the Speaker thinks this SB 203 is a revenue bill.

Senator Hammond said that the Speaker has not told him anything.

Senator Brown added that he had seen a story in the Great Falls Tribune quoting the Speaker to the effect that he did not see how the question of revenue could be divorced from the structure of the foundation program. Clearly it is obvious what his political philosophy has become and now the position enunciated by the Governor is to attempt to keep the structural side separate from the revenue side since this is the side we might best be able to agree to. He said he thought there had been considerable progress in this committee in working out the amendments under Nathe's Bill and hopefully if there will be similar good fortune the committee will be able to start today to focus in on the Governor's amendments. Then the committee will be able to transmit this bill with some amendments whether they will be exact amendments or not, which need to be seen by the 45th day. There then should not be nay rules question or any political problem of any kind.

Senator Brown added, "This is the cleanest way to proceed and nothing is getting accomplished by arguing." He went on to say that Senator Hammond had invited interested observers and people who have opinions on this bill to come today and meet with the committee and he said he did not think the procedure that Senator Hammond has offered to follow foreclosed on any of it. He said that anyone on the committee could ask any person representative of any group for their opinion on these amendments. He then ask Eric Feaver to comment on the Governor's amendments to SB 203.

Eric Feaver of the MEA stated that it would be inappropriate for the MEA to comment at this time because they were "on the spot." He ask that it be kept in mind that they did not receive the amendments until late last night and have not had an opportunity to study them in the kind of detail that they would like. He said they would like to reserve comment

on the amendments for a later occasion. If not in the committee, when ever the legislature deems it possible to deal with a full bill that the MEa's opinion can be integrated into.

Don Waldron of SAM, stated that his own impression, having only less than 24 hours to look at the amendments, was that SB 203 as it now stands without the Governor's amendments, is a good workable bill. He admitted that some things in the bill maybe could have been handled differently but for the most part, he said there were good compromises that schools could live with.

He said that some of his concerns with the amendments were with (1) the comprehensive insurance fund being left out of the general fund (2) that SAM would like the retirement fund to be separate from in the general fund because there is no way to pick up a short fall. So the money for retirement could not be collected with out a vote of the public or the money would have to be taken away from other instructional areas. He said that in other words when retirement is left in the general fund the voters must be gone to for the money. He said he did not believe there was anyway the state could fund this fully and it will always be a year behind and there will be "dipping" into instructional budgets, in the general fund (3) the limitations on the annual increase in the general fund and as said before, the 117% average is acceptable if it is worked in over a five year period. There is still some concern when talking about the limitation of 117% if budgets are being talked about or if it is expenditures. This is not clear as it was presented as to what the amendments actually say. As it reads now he said, there will be a freeze after one year, so the districts with 117% will sit there and they will not go up and the local control issue is therefore completely out because the schools that are not able to pass their mill levies now are usually the ones at the bottom of the expenditure ladder. These districts will have to go out to the voters to ask for the money and they can go up 8%, but if they can not pass a levy they will not get any place. These people then will not be being brought up as should be with these amendments. He said this also applies to the 4% in the middle area. (4) that there is no fiscal note attached to these amendments or rather there is no memo outlining the savings to the state of Montana that is generated by the amendments over the next four years. He said that he had a feeling there was a savings that is far above what an amended SB 203 could do.

Mr. Waldron concluded by questioning the intent of these amendments and if the unfunded law suit was actually being addressed or if schools were being weakened. Montana

schools he said, are good to outstanding and taking away the ability of the local level to innovate and grow could cause our schools to become plain good and on their way down. He urged the committee to take SB 203 as it was presented and not to add the "ill conceived" amendments to this good bill. (See Exhibit #2)

Pat Melby, a lobbyist for the plaintiffs in the Loble Law Suit, commented that he knew that he had a number of clients that would like to be here to testify on the Governor's amendments in a regular legislative hearing.

He stated that he did not think that these amendments as they had been presented would meet the requirements of the Supreme Court decision on school equalization. He said he keeps hearing from the proponents of the proposal that 80% of school funding is being equalized and he feels they are not because they are proposing to fund current statewide school expenditures at 80% then they are saying the same thing that was said before the Supreme Court decision and that part will be distributed on an equal basis. Therefore they think they have met the equalization test. This argument was rejected by the Supreme Court. What the Supreme Court said was that the problem is not in the foundation program and the distribution of the foundation program on an equalized basis, but that the problem is an over-reliance, an excessive reliance on the voted levy. With these proposed amendments there is no fiscal analysis about what would be done with the proposed capping mechanism which is punitive to the poorer schools and this would retain in place for many years the disparity with voted levies between the poor schools and the rich schools.

He added that he felt as Senator Regan felt, that it is a travesty to be cramming these amendments into SB 203 for which people came in from all over the state and presented testimony on and many hours have been spent in executive session discussing amendments, but never these amendments have never been discussed in this committee until today.

Senator Brown asked Pat Melby to repeat his analysis of the 80% equalization plan.

Mr. Melby explained that what he has heard from the proponents is that they are equalizing at the 80% level but when looking at equalization, the amount of statewide expenditures that are being funded are not being looked at, but what is being looked at is the disparity between what the difference between what the state is spending and what the individual contributing school districts are spending and what the voted levy is.

Senator Brown ask if it was his contention that the Governor's amendments would not equalize 80% of the per student funding.

Mr. Melby replied, "Absolutely. Statewide they are proposing to fund 80% of the current statewide expenditures. This is not equalizing at the 80% of per student expenditures in each individual district. In some it might equalize 100%, in some it may only pay for 65%. There is still disparity in the voted levies. This is what the Supreme Court found unconstitutional. Not that the state funding was only 65% of expenditures.

"The other problem with the Governor's amendments," he stated, "is that it starts with averages and the capping mechanism considers the averages within the various school district sizes. He submitted that the committee take a look at the averages between the various school district sizes and they will find a built in inequity, a disparity between ANB expenditures of those districts that have no relationship between school size or difficulty in increased expense in providing educational services in a small school district as compared to a large school district. He reminded the committee that the system starts out with inequity.

He went on to say that he shared concerns with Mr. Waldron in that the retirement program exacerbates the inequities in this program.

Senator Nathe ask Mr. Melby how he saw equalizing across the board since he was an attorney for the plaintiffs in the Loble law suit.

Mr. Melby replied by reminding the committee that he was not the attorney of record in the Loble Court case and that he was only lobbying in behalf of those school district that were the plaintiffs in the case. He stated that they have presented the consensus points and they have endorsed Senator Nathe's bill and felt that Senator Nathe was a real leader in resolving this the school funding issue. He said that SB 203 was a way to incorporate some of the plaintiffs consensus points.

Senator Nathe ask Mr. Melby if segregation does not take place between the categories on the schedules, how are we going to achieve finding the money on so many thousands of dollars per ANB and be able to say that's it, because the little schools are going to go by the way side.

Mr. Melby replied that they would propose that school equalization between the school district categories be done

exactly as proposed in SB 203, only using 1988 figures. He pointed out that this bill "is a good bill" and Senator Nathe should fight for it.

Director Ken Nordtvedt stated that Mr. Melby's interpretation that equalization meant that reliance on voted levies was suppose to be reduced. This is exactly what the second year of the Governor's Bill does with the infusion of the 100 million dollars into the increase in the schedules and that is to reduce by a given set of school budgets in the state that is reduced by 100 million dollars reliance of voted levies to meet the same budgeting levels.

Senator Brown ask Director Nordtvedt to respond to the argument that the poorer school districts, the ones that have the greatest difficulty in getting the levies passed now can only catch up by voted levies at the rate of 8% or 4% a year and that they will never be able to reduce this disparity in voted levies.

Director Nordtvedt replied that if a school is sufficiently below the average, spending below its school size category, after the second year of the program the schedules will have been increased by an additional 31%. Many of these schools will find themselves with a zero voted levy, that is the voted levy that has been applied in the past to meet their spending levels would be reduced to zero. This would be a remarkable achievement for the low spending schools that they could do their present level of spending with no voted levy, however these schools also have the opportunity to have a voted levy with the remaining local control. The caps are designed to give them a faster growth rate than the average school and these schools would be able to increase their budgets if they so chose faster than the average schools. The average school will also be able to increase their budgets faster than the higher than average spending schools. Because of the built up pressures of a few years of I 105 the expectation is that almost every school will tend to exercise the caps to the limits. The initial distribution of schools will show that after these caps operate for two years, the schools will be closer together in their spending. Unless it is wanted that the legislature mandates the high spending schools reduce their funding, it is hard to conceive of a mechanism that ill close the cap between spending if that is the intent. It is not clear that this is the intent of the Supreme Court ruling, "the intent of the Supreme Court ruling can be interpreted that a major fraction like 85% of the state system of school expenditures could be supplied in an equalized manner. "This in itself is a definition of an equalized school system." If it is wanted to go further like some states do and absolutely mandate school spending to be equalized in



every district, the state could take that road but the present administration chooses not to take that road.

Senator Brown asked him to explain the Governor's Retirement Plan.

Director Nordtvedt explained that the administration thinks it is a small thing to talk about 15% overhead on salaries in a school as being fundamentally different than salaries themselves. It is basically a component of salaries. Retirement historically was part of the general fund, until the legislature pulled it out and funded it by a mandatory levy on local property. By bringing it back to the general fund and increasing the schedules the first year by 52 million dollars (that went into mandatory levies before) we are equalizing part of school funding. This is funding the part of school costs currently funded by local levies that vary between 4 or 5 mills and over 50 mills. This is patently such an unequalized part of school funding that this is the clearest and strongest mandate response to the Supreme Court ruling that this component of education must be equalized. The state money is provided in the first year by increasing foundation schedules so that after the transition the retirement costs are funded in the general fund along with the salaries on which they are based.

He went on to comment on the idea that if there is a short fall, for a particular school district this means that they had a larger than normal mandatory county levy.

Director Nordtvedt added that the state will be providing an amount of money that will break even for average spending schools, so the voted levy to make up for the short fall will be a small fraction of the levy relief that is gotten from the mandatory levy taken off the roles. Once the retirement is placed into the general fund and a general fund is wanted that is higher than what state support is providing there will be voted levies. If a budget increase is wanted there will be voted levies asked for.

He said the other side of the coin is the other half of the school districts will find that the money provided by the 18.6% increase in schedules more than covers what they would have received from mandatory county levies.

Mr. Waldron commented that this verifies that some schools will be in trouble if their special levy fails. These school districts would have to take from construction, maintenance, etc., to pay the retirement and social security for employees they have under contract.

Senator Blaylock ask about the mandatory levy relief and if

this was because the assumption is that there would be no statewide mandatory levy.

Director Nordtvedt said he did not know because it was not known how this was going to be funded. He said the revenue issues were going to be addressed very shortly. The Governor has stated that the funding of this equalization can not all go back on property.

Senator Mazurek ask Mr. Nordtvedt if he would agree that this bill will have an impact on tax collection, up or down.

Mr. Nordtvedt pointed out that he was not the one to ask if this bill was a revenue bill or not. He said this bill though will have major implications to the fiscal system of Montana.

He went on to say that this bill includes the provision to make the permissive levy part of the mandatory levy. The provision to convert the permissive levy to part of the statewide mandatory levy will change the revenue collections in the state so in this sense it would in his view as a non legislative member "be a revenue bill."

Senator Mazurek stated that this was the trouble, that this point was not understood and he did not mean this to be "partisan," but personally he had no idea why the bill can not be heard in a normal public hearing process. Clearly this is a revenue bill. He then asked if there was some reason why everyone could not be invited in and the amendment spread around for everyone to read.

He asked if the legislature should not be holding a public hearing on major proposals.

Director Nordtvedt replied that is he added up all the meetings that he had attended in the Governor's reception hall and in the normal committee meetings, he said that he could not think of any issue facing the legislature in many years that has had more time for hearings, fact finding time, and exchanging of views than this issue has had already.

Senator Mazurek agrees that this has been going on longer than before the legislature met. But he said when talking about the Governor's amendments, which essentially make SB 203 a new and different bill, they have not been the subject of any public hearing.

Director Nordtvedt stated that he had discussed these amendments before the House Select Committee just yesterday. These are the same amendments that were proposed for the

Thomas' Bill and he gave a presentation before the select education committee.

Senator Brown said that there were ideas "floating all over the building and all over the state" on how to come to grips with the Loble Decision. So the Governor pulled together many of these ideas that everyone is familiar with and earlier presented his plan to the whole legislature and afterwards there was an opportunity to respond, asking questions and commenting. So what we have before us then are not new ideas but a compilation of well known ideas that the Governor is asking to be placed in SB 203 as his proposal so something can be rolling through the system prior to the transmittal date.

Director Nordtvedt replied that this is exactly what happened and that after calling in all the various groups, the ideas were gathered and then talked about to the staff and then because the Governor is obliged to concern himself with the taxpayer he took their interest into account. The Governor then said that we would take all this material along with the administration's own ideas and design a funding proposal that meets the court mandate and serves the best interest of the state. It was put together and presented.

Senator Brown added that what is to be done in the Senate Education Committee is to simply adopt these amendments and this would place this bill "on the first leg of a long journey" of how a law becomes a law. We all know that this bill has to go through this committee, has to go to the Senate floor, and it must go through the whole process in the House of Representatives again and all the other persons in the legislature could have their own thoughts and ideas placed in SB 203 when their turn comes. So all that is being done here is attempting to put Governor Stephens' stamp on this particular proposal and get it started through the process.

Director Nordtvedt agreed that getting it started was important, so that it has the potential to go through the legislative process and to reach the Governor's desk in time to then address the revenue issue facing the state. Obviously we cannot short circuit the legislative process.

Senator Regan stated that because Director Nordtvedt has been connected with the whole process and indeed was an architect of some of the funding, perhaps he could tell the committee why they were using the Nathe Bill and not the Governor's Bill to put the amendments into.

Director Nordtvedt stated that he could not remember

precisely when and in what gathering this decision was made. He said it was a group decision when alternatives were being discussed.

Senator Regan said that she felt it was strange that the Governor was not using his own bill for his own amendments.

Director Nortvedt responded by saying that he thought the urgency of time was the factor.

Senator Mazurek commended the Governor for getting out and taking advise from others and trying to come together with his own plan. The only difficulty Senator Mazurek said he had with this was that the committee is relegated to consider the amendments only in executive session. There should be a hearing on what is obviously a revenue bill and everyone would try to meet the 55 day dead line. He wondered why there was this unwillingness to have a public hearing on this proposal because it does have some of it own features.

Director Nordtvedt said that he has heard almost nothing else but the Governor's Plan and since the details were spelled out and the discussion was kept alive by the people that were here today.

Senator Farrell stated that in "light of the last few questions" he felt that they were not based on what the amendments were and SB 203 was not being discussed but rather the "philosophy" of "why we did not do this or why we did not do that."

He then moved that the amendments to SB 203 be passed and placed into SB 203.

Senator Nathe ask Steve Brown about PL 874 funds.

Steve Brown, representing thirty-three Indian Impact districts, said that even though the plan itself may not meet the federal equalizing test, the use of the expenditure of 8 7 4 funds in the Governor's amendments would be capped so this would be a back door way to equalize funds. There are legal questions whether this can be done and the implications on the 33 Indian Impact districts because obviously there is going to be no incentive for these districts to continue to apply for and receive these funds if they are capped. There are fairness questions, he said.

He went on to suggest that this effect is maintained in the Governor's amendments, meaning that 8 7 4 funds are used for general fund expenditures and retirement.

No one in the education community or the Governor's office is arguing that this is not a revenue bill and he said he has heard no one say that the 45 day dead line applies. If this is the case he said he was willing to sit down with whomever. He said that if there was mistrust among the members, this was fine but he suggested not to try to catch the education community up in this mistrust. We simply do not have a bill that needs to be transmitted by the 45th day.

Mr. Brown went on to say that it is perfectly possible to have a gray bill printed and have a hearing on this bill and then hopefully there would be a print out showing the district by district impact of the Governor's proposal. He said that Representative Fred Thomas said it best when he said "in the end this is not going to be a partisan debate, but the legislature will vote based on the impact these bills have on their local districts." Mr. Brown said that it seems to him that when the vote is cast each will have to know what the impact is going to be district by district. He asked that the "political game playing" not interfere with making a solid decision based on the facts and the 8 7 4 area is a perfect example of why this should be done.

Mr. Ray Shackelford, Budget Director responded to the PL 874 money question, by saying that hypothetically where the foundation program has been increased and the district has 874 funds and there has been a capping mechanism put on that says the districts that are above a level of 116% of the average may not increase their budget, it is conceivable that they would upon receiving sufficient 8 7 4 not be able to use all of their money. There would not be enough room between their total general fund money from the state and the top of their budget that was capped from last year in order to use all of the 8 7 4 funds. This is a possibility, whether or not this would occur would have to be seen. Receipt of 8 7 4 money is not a regular occurrence.

He went on to say that from the 8% level and getting these schools up to the average, the general practice was that the 8% would represent a reasonable growth and all the districts would still have the local component involved in the school plan. 8% seems to be a reasonable growth and at the upper end of the spectrum, the 116% seems to be a reasonable distance from the average and between these two points there is a smooth curve that is based very closely to the current foundation program.

Senator Regan ask how long it will take to narrow the gap in the large variation of spending.

Mr. Shackelford stated that the best projection was that

there would be some allowance each year for the average to change because the schools on the average increase by 4% and so the averages would change so there would be a recalculation and in 2 years the distance could be checked. To say that there would be a 15 year time period or a 20 year time period for the low schools to reach an average is not a reasonable reduction. In two years we will be able to see what the change has been.

Superintendent of Public Instruction, Nancy Keenan stated that in these "difficult times" we are seeing tempers raging and conflict and concern about the process. She said she has concerns on two fronts (1) the process itself and (2) if there are really answers to proceed at this stage of the game.

She said that she thought it was an issue of fairness and no one in the committee or in the Senate knows what the Governor's amendments do to the individual districts. There are no specifics and this is concerning her because there is no way of knowing what any page of these amendments do to the Montana Public School system and everyone at the meeting would have to answer that they honestly do not know either. There have been no runs on the numbers or what the implications of this proposal would be on the school districts.

She suggested a gray bill and then she said the numbers could be known and how and what this does to the schools at home. She pointed out that the legislators get to Helena and forget about "them" out there. The kinds at home, teachers at home, people at home, all are the ones that will be affected by what is being done today in this committee with this process. She asks that they be allowed the opportunity to be heard in a forum. She told the committee that "here is where they can lay out how they think, how it affects their districts and ultimately how it affects the kids of this state."

She went on to say that when she hears there is no vehicle for funding, she does not agree because there are several vehicles. Senator Nathe's Bill is a vehicle and "a very good one." Kadas' Bill is also a vehicle with two years of study, two years of numbers, two years of specifics. Questions that have been answered with these vehicles are; What will happen if retirement is put in? What will happen if it is taken out? What happens if there are seventeen funds or if there are two funds? What happens if comprehensive insurance is paid for? These are the specifics that need to be known. She said that the committee does not have such answers with the amendments that are before them right now.

She said that she shares the concern about taxes, but there is some one being forgotten and it what would happen back home. She challenged the committee saying that if anyone could tell her what these amendments do to the individual districts, she wanted to be filled in.

She concluded by saying that urgency causes mistakes and when mistakes are caused it has to be lived with for two years at home. She ask the committee to move "slowly, methodically, reasonably and allow people to say what affect these amendments have on their districts." She urged the committee to "set aside the partisan politics, set aside the railroading because ultimately home is being affected. As elected officials the responsibility is to move slowly with details before making decisions. She ask the committee to sit down with the educational community because two years has been spent telling how the test can be met and to help solve this problem for Montana. Amendments should not be passed for the sake of urgency.

Senator Regan requested that Madalyn Quinlan address how this will affect the foundation program.

Madalyn Quinlan stated that at Senator Regan's request she prepared a limited amount of information on the proposed amendments. (See Exhibit #3)

Director Nordtvedt responded by saying that retirement costs in 1989 which are being used for a base for purposes of the of the next two years, were 50 million dollars. They actually fell a couple million from the 1988 school year so these percentages more than fund the retirement costs, based on the best information available.

Also it was the intent during drafting to make the caps work on a per pupil basis. Finally the particular appropriations for transportation and insurance were left out of this bill because they are appropriation bills and would be a bill in their own right.

Senator Blaylock commented that this issue is enormously important and he questioned if the committee was under the gun in so far as if this is a revenue bill or not. Senator Hammond has not had direct word from the Speaker of the House and he wondered if the committee would like to have direct word from the Speaker by coming before the committee and give his word that this would be treated as a revenue bill so the committee does not have to immediately vote on these amendments.

Senator Farrell stated that these exact amendments were not

proposed throughout the week but most of the concepts were discussed. Caps, special education funding, retirement, and a consensus list was gone through, therefore Senator Farrell said he does not understand what the problem is here. The amendments or the bill are not being discussed as a committee and he said "it simply looks like this is a stalling tactic, so the everybody can take more time. They do not want to put their name on the line." He said he wanted to get something rolling in order to start working on something that will have results.

Senator Mazurek stated that he is being asked to put his name on the line and his school district and the taxpayers in his county or himself has any idea what is included in these amendments. He said he has some questions and some comments, for example he said there is new language in the amendments concerning special education and it is based on statewide average salaries and he wondered what the ramification of this was and the impact in the individual districts.

He agreed that the ideas had been discussed but he said he preferred reading the bill and the amendments and digest the information before he has to act on it. If this is stalling it is only to get information to make an informed vote. He said he would like to allow his school board to see these amendments. He said he does not want to "vote blindly on this as a package."

Senator Farrell commented that these were the first set of concrete amendments that the committee has had. He said there has been a lot of discussion and a lot of consensus points.

Senator Regan stated that she had spent a lot of time on the educational study issue and she said she knows the Nathe Bill raises the elementary schedule by 60% statewide and it raises the secondary level by 68% and this bill is acceptable to her district but she said she does not know what these amendments do to her districts schedules and she would like to know before she has to vote.

Senator Pineseault commented that he would not care if these amendments made his district "filthy rich," he will not vote on them because he does not know what is in them. He said that he thinks a hearing is only fair and he "refuses to run the process this way."

Senator Hammond said that he would hope that the committee members would ask what ever questions they have because Mr. Nordtvedt is here to answer any question and he said that they are trying to clear this up as quickly and cleanly as



possible. He said they are trying to get this before the Governor so the funding situation can be addressed.

Senator Regan ask Mr. Nordtvedt how these amendments affect her district and how they affect the schedule.

He replied by referring to Exhibit #3. (See Exhibit #3)

Senator Brown said that he was becoming frustrated because he said he thought that what was being seen here was some "classic stonewalling."

He went on to say that Governor Stephens was elected by all the people in the state as we were elected by people from our own legislative districts and he in good faith has made a proposal up front for what he would like to see the committee place into the legislative process for the consideration from all legislators. He said he thought that the committee might as well vote on Senator Farrell's motion, because he said he did not think there was any real interest in discussing the amendments specifically. "There is primarily interest in keeping this process from going forwards."

Senator Brown ask for the question on Senator Farrell's motion.

Senator Regan said that she finds herself offended by Senator Brown's comment because she considers herself a good educator and she wants to deliver a good bill. There are some amendments that she would object to.

Senator Brown told Senator Regan that she would have many more opportunities to vote on the specifics of this proposal. He added that they are trying to "keep the faith with the Governor and give him a chance to get his plan on board."

Senator Mazurek stated that he did not think that this has to happen because the committee was setting themselves up to be criticized by the press and getting locked up in a partisan battle. He said he could not understand why the committee was unwilling to recognize this as a revenue bill. He felt the committee was headed for a partisan battle and he wants to give the Governor his fair day but he did not understand why it had to be today.

Senator Brown said that the obvious reason is that if the committee waits until after the 45th day there will be all kinds of amendments and the issue will get lost. It makes it difficult for this legislative session to proceed as apparently Speaker Vincent wants to do. "So we feel all we

can do is push this thing over by the 45th day, then he can do with it what he wants."

Senator Mazurek said that he had not heard from anyone in the Democratic Party in the Senate that they want to try and take away from the Governor's Plan.

Senator Blaylock said that he thought "we might as well have the vote."

Senator Hammond clarified that Senator Farrell's motion in affect was if there is an inconsistency with the prior amendments that have been made that these new amendments would supersede them.

Senator Farrell summarized SB 203 at the request of Senator Regan by stating that the bill rolls in the retirement under the general fund, it equalizes on a statewide average the special education, it modifies the schedules to include the 50 million dollars the 18.6 per cent, this includes the money in the second year of adjusting funds for 100 million dollars. It increases the schedules for ANB. Basically special education will be equalized based on average salaries across the state.

Amendments and Votes:

Senator Farrell moved that the Governor's amendments be moved into SB 203 and if there was an inconsistency with the prior amendments that had been made, these new amendments supersede them.

A Roll Call vote was taken and there were 5 in favor of the motion and 4 against.

THE MOTION WAS CARRIED TO AMEND SB 203.

Recommendation and Vote:

Senator Farrell moved SB 203 do pass as amended.

Senator Blaylock called for the question.

A Roll Call vote was taken and there were 5 in favor of the motion and 4 against.

THE MOTION WAS CARRIED THAT SB 203 DO PASS AS AMENDED.

Senator Hammond requested that the committee get a revised fiscal note on the amended SB 203 and that the researcher

Dave Cogley draft a gray bill and a explanation of the amendments.

### HEARING ON SB 403

#### Presentation and Opening Statement by Sponsor:

SENATOR FRED VANVALKENBURG, Senate District #30, stated that SB 403 was a simple bill that basically would establish a statute which would provide that the Superintendent of Public Instruction would contract with private corporations for the purpose of supervising interscholastic activities at the high school level in the state of Montana.

He noted two drafting errors and he proposed amendments to deal with them. (See Exhibit #1)

He went on to say that one thing that is extremely difficult for him to understand was how when the fiscal analyst costed out the accreditation standards in the state of Montana they came up with a figure that was 70% of what was currently being spent. For a variety of reasons he said he began to try to figure this out and one of the things that began to dawn on him was that it was not being taken into account what was being spent in dollar amounts on interscholastic activities which is not required by the accreditation standards. These amounts are very substantial for example they are at a minimum of 8 million dollars a year and may be higher.

He went on to say that he had occasion to be approached by some constituents who had been following the MHSAs for years. They had interest in public participation and open meeting and they related stories that go on within the board meeting and annual meeting of the MHSAs. They gathered some information on how money is being spent within this organization. Also he said he learned that two things had occurred since the legislature had last met, (1) the MHSAs were sued by the two Eagle River Schools and Judge Bennett ruled the organization to be a quasi public organization and therefore subject to the open meeting law of the state (2) the MHSAs had for many years been operating their internal operation off of tournament revenue and had changed from a system of being funded through tournament revenues to a system of assessing dues on individual school districts based on activities that the district participated in. He said that he understood the reason for this was largely to resolve an internal dispute about the division of tournament

revenues between the various schools and how this revenue was generated and to provide some stability within the organization. So then there would not be great fluctuation in the internal operating budget.

He said as an outsider it appears now under this dues paying structure it may well be that substantial portions of these dues are coming from tax dollars. This led him to conclude that there had to be some kind of mechanism where the legislature established some public accountability with the manner in which rules were adopted that controls the supervision of interscholastic activities in the state which could affect as much as 15 million dollars of expenditures and that there was some accountability of how the dues money would be spent.

He finally concluded that by providing that the Superintendent of Public Instruction would contract with a private non profit corporation to supervise and provision would be set up in the contract to guarantee some of these basic things that are expected of expenditures of public moneys. One provision is that there would be a public audit and when rules are being adopted there would be a public notice procedure and open meeting procedure. There should also be a guarantee that what ever corporation

used would comply with human rights laws.

Finally he felt that it should be guaranteed that there would be some individuals serving in a capacity of overseeing within the organization who were solely accountable to the public. He proposes that the board of directors of such an organization should be nine members, four of whom would be school administrators representative of all the school classes, that school boards be represented with 2 school board trustees, and there would be 3 public members appointed by the Superintendent of Public Instruction to insure that this was just not "a little club" but an understanding that there were large dollar amounts involved here with public money.

List of Testifying Proponents and What Group they Represent:

DENNIS BURR, The Montana Taxpayers Association

MARGARET DAVIS, Volunteer Lobbyist for the League of Women  
Voters

NANCY GRIFFIN, The Montana Women's Lobbyist Fund

Testimony:

DENNIS BURR stated that Senator VanValkenburg explained the concept of this bill and he said in his opinion interscholastic activities was a large portion of school spending. This is public money, whether it is tax dollars or not.

He said the one thing that interested him was the auditing and the accountability through OPI. He said he knew there were more opponents to the bill than proponents, but this could be because a private non profit corporation is specified, but the bill does not name the corporation specifically. He went on to say that public money or tax money should be run through and accounted for in a method through a government operation that allows a handle on total school spending.

MARGARET DAVIS, (See Exhibit #2)

NANCY GRIFFIN, (See Exhibit #3)

List of Testifying Opponents and What Group They Represent:

RONALD WATERMAN, Attorney for The Montana High School Association

PAUL STAHL, present at the meeting as an interested individual

JIM MOULDS, Superintendent of Centerville Public Schools

JESS LONG, The School Administrators of Montana

BRUCE MOERER, The Montana School Boards Association

JIM GRANT, The Athletic Director of the Great Falls Public Schools

Testimony:

RON WATERMAN, (See Exhibit #4, #5, and #6)

PAUL STAHL said that as a school board member in Helena, Montana, a past coach, and a past referee he feels that as an elected school board member he oversees the MHSA. School Board members make up the high school association and we are not here to demand a change and the charges a misappropriation of funds he feels speaks to him as a school board member and the accusations that the MHSA has acted inappropriately speaks to him because members such as himself are the ones that spend the money. We spend \$9600 in the Helena school district on dues to the MHSA, this is a long ways from 15 million dollars.

The purposes of this are essentially saying that school boards are not doing their job and the legislature needs to come in and tell the school boards how to run their business. He went on to say that if they are going to audit the MHSAs through the procedures under statute, then school boards should also be audited. This bill is saying that money is not being spent correctly and we do not know what we are doing. He concluded by saying that board members are accountable.

JIM MOULDS, (See Exhibit #7)

JESS LONG stated that SAM has had a long standing resolution in support of the MHSAs as presently structured with the association being controlled by its members and representatives of MSBA. He said they strongly recommend that the MHSAs not be a part of the OPI or any agency of the state legislature. He ask for a do not pass on SB 403.

BRUCE MOERER stated that Chip Erdmann of the Local Control Board ask him to convey his opposition to SB 403. He went on to say that they echo the concept that there is local control in running the MHSAs and it can be seen that over the past few years there has been an increase of accountability of the MHSAs. He added that they are already audited.

He closed by saying that the MSBA recommends that SB 403 do not pass.

JIM GRANT, (See Exhibit #8)

Questions From Committee Members:

Senator Pinsoneault ask Nancy Griffin about the statement that she had made about mismanagement of public funds and he ask her to give just one example.

Ms. Griffin commented that the financial statements that Senator Pinsoneault had before him (See Exhibit #2) were unaudited. It is her understanding that there were allegations of funded junkets sending board members to Hawaii.

Senator Blaylock ask Mr. Waterman if it was true that the MHSAs had their meeting in Honolulu.

Mr. Waterman replied that to the best of his knowledge he did not know of any meetings in Honolulu. He said he believes the reference that is being made is in reference to a board meeting that occurred in Las Vegas, Nevada. This board meeting was conducted primarily because there was a

time when the transfer of ruling needed to be made prior to the time when a student's eligibility would be affected. The board was at an annual meeting and conducted a meeting to rule on an eligibility issue. Subsequent to this the board has not had meetings like this.

Senator Blaylock asked if the trip to Las Vegas was paid by MHSA funds.

Mr. Waterman replied that they were there because there was a National High School Association Convention. The members of the board were in attendance at this convention.

Senator Pineseault ask about the amount each school pays for dues to the MHSA.

Mr. Jim Haugen of the MHSA replied that each school pays two hundred dollars per activity for which they take part. These schools receive 80% of the proceeds from tournaments.

Senator Nathe ask Mr. Jack Copps of OPI to comment on this move of the MHSA into the OPI.

Mr. Copps replied as the sponsor of this bill knows that they are not the people who requested this transfer. Should the transfer occur it is obvious that it will cause the OPI more work than what is being done now. The statutes clearly state that any contract of this size will be bid and the OPI would be responsible for putting together such a contract, accepting the bids, appointing people and monitoring the activities of the corporation and there would be an increased legal liability and certainly we would not be a neutral party. The OPI feels strongly that if this is placed with the OPI they want to make sure that activities never elevate themselves to a point where they become of greater importance than instruction.

Senator Blaylock ask how many women are members on the MHSA board.

Mr. Waterman answered that there is a representative from the MHSA who sits on the board of directors who is Tammy Hall from Bozeman. She has served fours years and there are other administrators who are female and they are optimistic that there will a continued growing number of women involved.

Closing by Sponsor:

Senator VanValkenburg said that he can understand what Mr. Waterman is talking about when he claims that this bill elevates interscholastic competition as a right as opposed

to a privilege. The school board people, the administrator from Centerville, the athletic director, they all act like this is just their money to use however they see fit and because they are public employees and elected as school board members that this is all that is necessary to establish accountability.

What he feels really happens here is that there is a diffusion of accountability until there is so little accountability that no individual school board member that finds any problem can do anything about it because there is so much potential for retaliatory action by the rest of the organization.

This bill will maintain the real essence of regulation of interscholastic activities and it really bring about some accountability on the public faces of what spending is involved. It is not just the \$400,000 that the MHSAs spend to run the organization, it's the million of dollars that they drive by virtue of the adoption of rules within the organization. This is a reasonable middle ground between total regulation by OPI and absolutely no public involvement.

#### DISPOSITION OF SB 403

##### Discussion:

Senator Pinsoneault commented that he thought the approach rather than putting a bill into law would be joint resolution saying to the MHSAs we think there should be more participation, we think you should increase membership on the board and at least three of the members should be women. Give the MHSAs a couple of years to comply and if they do not let us come back and pass the bill.

Senator Brown commented that the point is that this is public money we are talking about and the MHSAs serve a public function by mandating rules that affect the public schools.

Senator Hammond stated that he grew up under the MHSAs and all the people associated with this association found that they had to defend themselves many times and some here have remarked that these members are prone to saying "we have the authority." He said that the MHSAs "better be this way" because they take more grief and more static and they have to settle more problems.



He went on to say that he could not see how this could ever work under OPI. He strongly recommended that this committee give this bill a do not pass.

Senator Regan stated that she thinks there are a number of issues here, one being that the court has found that the MHSa is a quasi judicial board and it has the power to make rules that are binding on the part of school districts. Secondly, handling large sums of money and should be audited, not the MHSa is in terms of submitting the figures, but a legislative audit as all public money is audited. This concept of having some association between the extra curricular board and the state is not new because other states are under direct state control and Montana is one that is independent. An internal audit is not too much to ask of a quasi judicial board that is able to bind school districts by their rules.

She said that she would like to see them under the OPI, then they are subject to review of their ruling making authority and they would receive an internal audit of public moneys. Tournament money could still be distributed the same kind of way. It would dispel the kind of cloud that is heard about. So she said she favored the bill.

Amendments and Votes:

Senator Brown moved that the amendments by Senator VanValkenburg to SB 403 be adopted.

Senator Farrell called for the question.

THE MOTION WAS CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Brown moved that SB 403 do pass as amended.

A roll call vote was taken and THE MOTION FAILED.

Senator Hammond reversed the vote with no opposition..

SB 403 RECEIVED A DO NOT PASS AS AMENDED.

Senator Hammond will carry the adverse committee report to the floor.

ADJOURNMENT

Adjournment At: 4:00 pm

  
Senator H. W. Hammond, Chairman

HH/jh

Senmin.217

ROLL CALL

EDUCATION

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2-17-89

---

NAME	PRESENT	ABSENT	EXCUSED
<u>Chairman Swede Hammond</u>	✓		
<u>Vice Chairman Dennis Nathe</u>	✓		
<u>Senator Chet Blaylock</u>	✓		
<u>Senator Bob Brown</u>	✓		
<u>Senator Dick Pinsoneault</u>	✓		
<u>Senator William Farrell</u>	✓		
<u>Senator Pat Regan</u>	✓		
<u>Senator John Anderson Jr.</u>	✓		
<u>Senator Joe Mazurek</u>	✓		

Each day attach to minutes.

**SENATE STANDING COMMITTEE REPORT**

February 17, 1989

**MR. PRESIDENT:**

We, your committee on Education and Cultural Resources, having had under consideration SB 203 (first reading copy -- white), respectfully report that SB 203 be amended and as so amended do pass:

(See attached)

**AND AS AMENDED DO PASS**

Signed: \_\_\_\_\_

H. W. Hammond, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration SB 403 (first reading copy -- white), respectfully report that SB 403 be amended and as so amended do not pass:

(See attached)

AND AS AMENDED DO NOT PASS

Signed: \_\_\_\_\_

H. W. Hammond, Chairman

NOT PROOFED

SENATE EDUCATION

EXHIBIT NO. 1

DATE 2-17-89

BILL NO. SB 203

Amendments to Senate Bill No. 203  
Introduced Copy

Requested by Senator Farrell  
For the Senate Committee on Education

Prepared by Dave Cogley  
February 16, 1989

1. Title, line 5.  
Strike: "COMPREHENSIVE INSURANCE"  
Insert: "SCHOOL PERSONNEL RETIREMENT COSTS"
2. Title, line 6.  
Following: "BUDGET;"  
Insert: "TO ELIMINATE THE COUNTY RETIREMENT LEVY AND THE  
DISTRICTS' RETIREMENT FUNDS;"
3. Title, line 7.  
Following: "OF"  
Insert: "THE SCHOOL"
4. Title, lines 8 and 9.  
Following: "LEVY"  
Strike: "OF ALL ELEMENTARY AND HIGH SCHOOLS"  
Insert: ", INCLUDING RETIREMENT"
5. Title, lines 9 through 12.  
Following: "SCHEDULES;"  
Strike: remainder of line 9 through "DISTRICT;" on line 12  
Insert: "TO LIMIT ANNUAL INCREASES IN EACH DISTRICT'S MAXIMUM  
GENERAL FUND BUDGET; TO REQUIRE THE ALLOWABLE COST SCHEDULE  
FOR SPECIAL EDUCATION PERSONNEL TO BE BASED ON THE AVERAGE  
STATEWIDE SALARY FOR VARIOUS CATEGORIES OF SPECIAL EDUCATION  
PERSONNEL;"
6. Title, lines 15 and 16.  
Following: "LEVY;"  
Strike: remainder of line 15 through "INFLATION;" on line 16
7. Title, lines 18 through 21.  
Following: "AID;"  
Strike: remainder of line 18 through "105;" on line 21
8. Title, line 23.  
Strike: "STATUTORY APPROPRIATION;"  
Insert: "STUDY OF THE EQUALIZATION OF TRANSPORTATION, INSURANCE,  
AND CAPITAL EXPENDITURES;"
9. Title, line 24.  
Strike: "15-10-402, 17-7-502,"  
Insert: "17-3-213, 19-4-605,"
10. Title, line 25.  
Strike: "20-3-331,"

11. Title, page 2, line 1.  
Strike: "20-6-608,"  
Insert: "20-7-414,"

12. Title, page 2, line 3.  
Following: "20-9-201,"  
Insert: "20-9-212,"  
Strike: "20-9-318"  
Insert: "20-9-316"

13. Title, page 2, line 4.  
Following: "20-9-322,"  
Insert: "20-9-331"  
Strike: "20-9-353,"

14. Title, page 2, line 5.  
Strike: "20-9-531, 20-9-532,"

15. Title, page 2, line 7.  
Following: "20-5-313,"  
Strike: remainder of line 7

16. Title, page 2, line 8.  
Following: "20-9-352,"  
Insert: "20-9-501, 20-9-531, AND 20-9-532,"  
Strike: "AN"  
Strike: "DATE"  
Insert: "DATES"

17. Page 2, line 11, through page 5, line 2.  
Strike: sections 1 and 2 in their entirety  
Insert: "Section 1. Section 17-3-213, MCA, is amended to read:  
"17-3-213. Allocation to general road fund and countywide school levies. (1) The forest reserve funds so apportioned to each county ~~shall~~ must be apportioned by the county treasurer in each county ~~between the several funds~~ as follows:  
(a) to the general road fund, 66 2/3% of the total amount received;  
(b) to the following countywide school levies, 33 1/3% of the total sum received:  
(i) the annual basic tax levy for elementary schools provided for in 20-9-331;  
(ii) the annual special tax for high schools provided for in 20-9-333; and  
(iii) the high school transportation fund provided for in 20-10-143;  
~~(iv) the elementary teacher retirement and social security fund provided for in 20-9-501;~~  
~~(v) the high school teacher retirement and social security fund provided for in 20-9-501.~~  
(2) The apportionment of money to the funds provided for under subsection (1)(b) ~~shall~~ must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds.

Whenever the total amount of money available for apportionment under this section is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (1)(b).

(3) In counties ~~wherein~~ in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% of the total amount received for the general road fund to ~~such the special road district or districts~~ within the county based upon the percentage that the total area of ~~such the~~ road district bears to the total area of the entire county."

Section 2. Section 19-4-605, MCA, is amended to read:

"19-4-605. Pension accumulation fund -- employer's contribution. The pension accumulation fund is the fund in which the reserves for payment of pensions and annuities ~~shall~~ must be accumulated and from which pensions, annuities, and benefits in lieu ~~thereof shall~~ of pensions and annuities must be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund ~~shall~~ must be made as follows:

(1) Each employer shall pay into the pension accumulation fund an amount equal to 7.428% of the earned compensation of each member employed during the whole or part of the preceding payroll period.

(2) If the employer is a district or community college district, the trustees shall budget ~~and pay~~ for the employer's contribution ~~under the provisions of 20-9-501~~ in the general fund budget.

(3) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's contribution.

(4) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under the budget.

(5) All interest and other earnings realized on the ~~moneys~~ money of the retirement system ~~shall~~ must be credited to the pension accumulation fund, and the amount required to allow regular interest on the annuity savings fund ~~shall~~ must be transferred to that fund from the pension accumulation fund.

(6) All pensions, annuities, and benefits in lieu ~~thereof~~ shall of pensions and annuities must be paid from the pension accumulation fund.

(7) The retirement board may, in its discretion, transfer from the pension accumulation fund an amount necessary to cover expenses of administration."

18. Page 9, lines 10 and 11.

Strike: line 10 through "20-9-532;" on line 11

Renumber: subsequent subsection



19. Page 15.

Following: line 14

Insert: " Section 6. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall ~~have the power and it shall be their duty to perform the following duties or acts:~~

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board ~~may deem~~ considers necessary, accepting or rejecting ~~such any~~ recommendation as the trustees shall in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel ~~deemed~~ considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or an emergency budget of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, foundation program, ~~permissive levy,~~ additional levy, cash reserve, and state impact aid amount for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, ~~retirement fund,~~ building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building

fund, lease or rental agreement fund, traffic education fund, and interlocal cooperative agreement fund in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education, and special education parts of this title;

(18) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(19) make ~~such~~ any reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when ~~deemed~~ considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather at each school of the district an American flag ~~which shall be that measures~~ not less than 4 feet by 6 feet; and

(23) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Renumber: subsequent sections

20. Page 17, lines 15 and 16.

Strike: "retirement fund,"

21. Page 19, lines 13 through 19.

Strike: section 7 in its entirety

Renumber: subsequent sections

22. Page 34, line 13.

Strike: "20-9-318"

Insert: "20-9-316"

23. Page 35, line 4 through line 10.

Strike: section 17 in its entirety

Renumber: subsequent sections

24. Page 35.

Following: line 10

Insert: " Section 17. Section 20-7-414, MCA, is amended to read:

"20-7-414. Determination of children in need and type of special education needed -- approval of classes and programs by superintendent. (1) The determination of the children requiring special education and the type of special education needed by these children ~~shall be~~ is the responsibility of the trustees, and ~~such the determination shall~~ must be made in compliance with the procedures established in the rules of the superintendent of public instruction. Whenever the trustees of a school district or the governing authority of an institution learn of a handicapped child in their jurisdiction who is in need of special education, they shall determine whether the child is in need of a surrogate parent by determining whether the parents or guardian is unknown or unavailable or if the child is a ward of the state. The determination must be made within 10 days of the date on which the trustees of a school district or the governing authority of an institution learned of the presence of the child in the district. If the child is in need of a surrogate parent, the trustees of a school district or the governing authority of an institution must nominate a surrogate parent for the child as provided in 20-7-461.

(2) Whenever the trustees of any district intend to establish a special education class or program, they shall apply for approval and funding of the class or program by the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the board of public education, and the rules of the superintendent of public instruction. No special education class may be operated by the trustees without the approval of the superintendent of public instruction. Each special education class or program must be approved annually to be funded as part of the ~~maximum budget without a vote~~ foundation program for special education."

25. Page 37, line 1.

Strike: "foundation program amount"

Insert: "general fund budget"

26. Page 38, line 2.

Following: "program"

Insert: "distribution"

27. Page 38, line 9.

Following: "program"

Insert: "distribution"

28. Page 38, line 18.

Strike: "entire"

Insert: "average"

Following: "cost"

Insert: "as determined under subsection (5)"

29. Page 38, line 19.

Strike: "such"

Insert: "the"

30. Page 38, line 20.

Strike: "entire"

Insert: "average"

31. Page 39, line 15.

Strike: "entire"

Insert: "average"

Following: "cost"

Insert: "as determined under subsection (5)"

32. Page 39, line 16.

Strike: "such"

Insert: "the"

33. Page 39, line 17.

Strike: "entire"

Insert: "average"

34. Page 39, line 25.

Strike: "entire"

Insert: "average"

Following: "cost"

Insert: "as determined under subsection (5)"

35. Page 40, line 1.

Strike: "such"

Insert: "the"

36. Page 40, line 2.

Strike: "entire"

Insert: "average"

37. Page 41, line 22, through page 42, line 19.

Strike: subsections (5) and (6) in their entirety

Insert: "(5) To determine the allowable cost for special education personnel provided for in subsections (1)(a) and (1)(b) for the ensuing school fiscal year, the superintendent of public instruction shall:

(a) require each district that received special education funding for the current school fiscal year to submit, by December 1 of the current year, documentation of the salaries received by all special education personnel funded under this section for the current school fiscal year;

(b) calculate, from the documentation submitted pursuant to subsection (5)(a), the average statewide salary for each of the following categories of special education personnel:

(i) special program teachers;

- (ii) special program aides;
  - (iii) special program supervisors and administrators;
- and
- (iv) specialists, including professional supportive personnel; and
  - (c) calculate the total allowable cost for special education personnel for a district, based on the average statewide salaries calculated for the categories in subsection (5)(b)."

38. Page 43, line 9.

Following: "receipts."

Insert: "Districts that did not receive state equalization aid during the current year may maintain a cash reserve not exceeding 35% of the general fund budget for the ensuing school year."

39. Page 43.

Following: line 13

Insert: "Section 24. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the total of the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303;

~~(ii) the district's permissive levy amount as provided in 20-9-352; and~~

~~(iii)~~ (ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the ~~total of the moneys~~ money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal ~~moneys~~ money received under the provisions of Title I of Public Law 81-874 or other anticipated federal ~~moneys~~ money received in lieu of ~~such federal~~ that act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated revenue from ~~vehicle~~ property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, and 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for interim production and new production, as defined in 15-23-601;

(vii) anticipated interest to be earned or reappropriated

interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(viii) anticipated revenue from corporation license taxes collected from financial institutions under 15-31-702; and

(ix) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(c) Subtract the ~~total of the moneys~~ money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total requirement determined in subsection (1)(a).

(2) The net general fund levy requirement determined in subsection (1)(c) ~~shall~~ must be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy ~~shall~~ must be made by the county commissioners in accordance with 20-9-142."

Renumber: subsequent sections

40. Page 43, line 22.

Strike: "20-9-318"

Insert: "20-9-316"

41. Page 44, line 22.

Following: "~~taxes~~"

Insert: "property taxes and"

42. Page 44, line 23.

Strike: "23-2-518"

Insert: "23-2-517"

43. Page 44, line 24.

Strike: "67-3-205"

Insert: "67-3-204"

44. Page 45.

Following: line 21

Insert: "Section 26. Section 20-9-201, MCA, is amended to read:

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law. Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend any money from ~~such~~ the fund. The general fund, transportation fund, bus depreciation reserve fund, elementary tuition fund, ~~retirement fund~~, debt service fund, leased facilities fund, building reserve fund, adult education fund, nonoperating fund, vocational-technical center fund, and any other funds so designated by the legislature ~~shall~~ be are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend any money on deposit in ~~such~~ the fund. The school food services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund,

traffic education fund, interlocal cooperative fund, and any other funds so designated by the legislature ~~shall be~~ are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district except the extracurricular money realized from pupil activities. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts, ~~as prescribed by law and~~ . He shall establish such rules as are adopt rules necessary to secure compliance with the law."

Renumber: subsequent sections.

45. Page 46, line 7.

Strike: "retirement fund;"

46. Page 47.

Following: line 2

Insert: "Section 28. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county shall:

(1) receive and hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts which are entitled to a portion of ~~such~~ the money according to the apportionments ordered by the county superintendent. A separate accounting ~~shall~~ must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

(a) the basic county tax in support of the elementary foundation programs;

(b) the basic special tax for high schools in support of the high school foundation programs;

(c) the county tax in support of the county's high school transportation obligation; and

~~(d) the county tax in support of the high school obligations to the retirement systems of the state of Montana;~~

~~(e) any additional county tax required by law to provide for deficiency financing of the elementary foundation programs;~~

~~(f) any additional county tax required by law to provide for deficiency financing of the high school foundation programs; and~~

~~(g)~~ (d) any other county tax for schools, including the community colleges, which may be authorized by law and levied by the county commissioners;

(2) whenever requested, notify the county superintendent and the superintendent of public instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1) of this section and the amount of any other school money subject to apportionment and apportion ~~such~~ the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent;

(3) keep a separate accounting of the expenditures for each budgeted fund included in the final budget of each district;

(4) keep a separate accounting of the receipts,

expenditures, and cash balances for each budgeted fund included in the final budget of each district and for each nonbudgeted fund established by each district;

(5) except as otherwise limited by law, pay all warrants properly drawn on the county or district school money and properly endorsed by their holders;

(6) receive all revenue collected by and for each district and deposit these receipts in the fund designated by law or by the district if no fund is designated by law. Interest and penalties on delinquent school taxes shall be credited to the same fund and district for which the original taxes were levied.

(7) send all ~~revenues~~ revenue received for a joint district, part of which is situated in his county, to the county treasurer designated as the custodian of ~~such revenues~~ the revenue, no later than December 15 of each year and every 3 months thereafter until the end of the school fiscal year;

(8) at the direction of the trustees of a district, assist the district in the issuance and sale of tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

(9) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there is insufficient money available ~~in the sum of money~~ in all funds of the district to make payment of such warrant. Redemption of registered warrants ~~shall~~ must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

(10) invest the money of any district as directed by the trustees of the district within 3 working days of ~~such~~ the direction;

(11) ~~give~~ give each month give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types of revenue received, and the cash balance; and

(12) remit promptly to the state treasurer receipts for the county tax for a vocational-technical center when levied by the board of county commissioners."

Renumber: subsequent sections

47. Page 47, line 19.

Strike: ", including insurance"

48. Page 48, line 20.

Strike: "20-9-318"

Insert: "20-9-316"

49. Page 49, line 25.

Following: "exceptions."

Insert: "(1)"

50. Page 50, line 3.

Strike: "20-9-318"

Insert: "20-9-316"

51. Page 50.

Following: line 7



Insert: "(2) If a district receives money other than from the foundation program, the district's total general fund budget may not exceed:

(a) 108% of the total general fund budget of the prior school year, if during the prior school year the district's general fund budget per pupil was 84% or less of the average general fund budget per pupil of all schools in the same foundation program schedule category;

(b) 100% of the total general fund budget of the prior school year, if during the prior school year the district's general fund budget per pupil was 116% or more of the average general fund budget per pupil of all schools in the same schedule category;

(c) the percentage of the total general fund budget of the prior school year that results from the following calculation, if during the prior school year the district's general fund budget per pupil was more than 84% or less than 116% of the average general fund budget per pupil of all schools in the same schedule category:

$$1.04\% - \frac{\text{percent of average budget per pupil} - 100}{400}$$

(3) Prior to March 1 the superintendent of public instruction shall calculate the average general fund budget per pupil of the districts in each foundation program schedule category, and shall determine the percentage of average budget per pupil that each district in each category budgeted during the current school year.

Section 32. Section 20-9-316, MCA, is amended to read:

"20-9-316. Elementary school ~~maximum budget~~ foundation program schedule for 1985-86 school fiscal year 1990. For the school fiscal year ending June 30, 1990, the elementary school foundation program schedule is as follows:

(1) For each elementary school having an ANB of nine or fewer pupils, the maximum ~~shall be \$19,959~~ is \$23,907 if said the school is approved as an isolated school.

(2) For schools with an ANB of 10 pupils but less than 18 pupils, the maximum ~~shall be \$19,959~~ is \$23,907 plus \$834.10 \$999.20 per pupil on the basis of the average number belonging over nine.

(3) For schools with an ANB of at least 14 pupils but less than 18 pupils that qualify for instructional aide funding under 20-9-322, the maximum ~~shall be \$32,714~~ is \$39,188 plus \$834.10 \$999.20 per pupil on the basis of the average number belonging over 14.

(4) For schools with an ANB of 18 pupils and employing one teacher, the maximum ~~shall be \$27,466~~ is \$32,900 plus \$834.10 \$999.20 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 25.

(5) For schools with an ANB of 18 pupils and employing two full-time teachers, the maximum ~~shall be \$43,851~~ is \$52,528 plus \$522.40 \$625.73 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 50.

(6) For schools having an ANB in excess of 40, the maximum on the basis of the total pupils (ANB) in the district ~~for elementary pupils will be is~~ as follows:

(a) For a school having an ANB of more than 40 and employing a minimum of three teachers, the maximum of ~~\$1,938 shall be \$2,321~~ is decreased at the rate of ~~\$1.88~~ \$2.25 for each additional pupil until the total number (ANB) ~~shall have reached a total of reaches~~ 100 pupils.

(b) For a school having an ANB of more than 100 pupils, the maximum of ~~\$1,825 shall be \$2,186~~ is decreased at the rate of ~~\$1.72~~ \$2.06 for each additional pupil until the ANB ~~shall have reached reaches~~ 300 pupils.

(c) For a school having an ANB of more than 300 pupils, the maximum ~~shall not exceed \$1,481~~ is \$1,774 for each pupil.

(7) The maximum per pupil for all pupils (ANB) and for all elementary schools ~~shall must~~ be computed on the basis of the amount allowed ~~herein~~ in this schedule on account of the last eligible pupil (ANB). All elementary schools operated within the incorporated limits of a city or town ~~shall must~~ be treated as one school for the purpose of this schedule."

Section 33. Section 20-9-317, MCA, is amended to read:

"20-9-317. High school ~~maximum budget foundation program~~ schedule for ~~1985-86~~ school fiscal year 1990. For the school fiscal year ending June 30, 1990, the high school foundation program schedule is as follows:

(1) For each high school having an ANB of 24 or fewer pupils, the maximum ~~shall be \$113,708~~ is \$136,206.

(2) For a secondary school having an ANB of more than 24 pupils, the maximum ~~\$4,738 shall be of \$5,675~~ is decreased at the rate of ~~\$25.84~~ \$30.95 for each additional pupil until the ANB ~~shall have reached a total of 40 such reaches~~ 40 pupils.

(3) For a school having an ANB of more than 40 pupils, the maximum of ~~\$4,324 shall be \$5,180~~ is decreased at the rate of ~~\$25.84~~ \$30.95 for each additional pupil until the ANB ~~shall have reached reaches~~ 100 pupils.

(4) For a school having an ANB of more than 100 pupils, a the maximum of ~~\$2,774 shall be \$3,323~~ is decreased at the rate of ~~\$4.32~~ \$5.18 for each additional pupil until the ANB ~~shall have reached reaches~~ 200 pupils.

(5) For a school having an ANB of more than 200 pupils, the maximum of ~~\$2,342 shall be \$2,804~~ is decreased by ~~\$2.38~~ \$2.85 for each additional pupil until the ANB ~~shall have reached reaches~~ 300 pupils.

(6) For a school having an ANB of more than 300 pupils, the maximum of ~~\$2,104 shall be \$2,520~~ is decreased at the rate of 44 52 cents until the ANB ~~shall have reached reaches~~ 600 pupils.

(7) For a school having an ANB ~~over of more than 600~~ pupils, the maximum ~~shall not exceed \$1,973~~ is \$2,360 per pupil.

(8) The maximum per pupil for all pupils (ANB) and for all high schools ~~shall must~~ be computed on the basis of the amount allowed ~~herein~~ in this section on account of the last eligible pupil (ANB). All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town, ~~shall must~~ be

treated as one school for the purpose of this schedule. ""

52. Page 50, line 10.

Strike: "1989-90"

Insert: "school fiscal year 1991"

53. Page 50, line 11.

Strike: "1989-90"

Insert: "the school fiscal year ending June 30, 1991,"

54. Page 50, line 15.

Strike: "\$32,253"

Insert: "\$31,103"

55. Page 50, line 18.

Strike: "\$32,253"

Insert: "\$31,103"

56. Page 50, line 19.

Strike: "\$1,348"

Insert: "\$1,300"

57. Page 50, line 24.

Strike: "\$52,867"

Insert: "\$50,984"

Strike: "\$1,348"

Insert: "\$1,300"

58. Page 51, line 2.

Strike: "\$44,386"

Insert: "\$42,803"

59. Page 51, line 3.

Strike: "\$1,348"

Insert: "\$1,300"

60. Page 51, line 7.

Strike: "\$70,864"

Insert: "\$68,339"

Strike: "\$844.20"

Insert: "\$814.07"

61. Page 51, line 15.

Strike: "\$3,131 must be"

Insert: "\$3,020 is"

Strike: "\$3.04"

Insert: "\$2.93"

62. Page 51, line 19.

Strike: "\$2,949 must be"

Insert: "\$2,844 is"

63. Page 51, line 20.

Strike: "\$2.78"

Insert: "\$2.68"

64. Page 51, line 23.  
Strike: "may not exceed"  
Strike: "\$2,394"  
Insert: "is \$2,308"

65. Page 52, line 7 through line 20.  
Strike: subsection (8) in its entirety

66. Page 52, line 23.  
Strike: "1989-90"  
Insert: "school fiscal year 1991"

67. Page 52, line 24.  
Strike: "1989-90"  
Insert: "the school fiscal year ending June 30, 1991,"

68. Page 53, line 3.  
Strike: "\$192,939"  
Insert: "\$177,204"

69. Page 53, line 5.  
Strike: "\$8,039 must be"  
Insert: "\$7,383 is"

70. Page 53, line 6.  
Strike: "\$43.85"  
Insert: "\$40.27"

71. Page 53, line 10.  
Strike: "\$7,338 must be"  
Insert: "\$6,739 is"

72. Page 53, line 11.  
Strike: "\$43.85"  
Insert: "\$40.27"

73. Page 53, line 14.  
Strike: "\$4,707 must be"  
Insert: "\$4,323 is"

74. Page 53, line 15.  
Strike: "\$7.34"  
Insert: "\$6.74"

75. Page 53, line 18.  
Strike: "\$3,973 must be"  
Insert: "\$3,648 is"

76. Page 53, line 19.  
Strike: "\$4.03"  
Insert: "\$3.71"

77. Page 53, line 22.  
Strike: "\$3,570 must be"

Insert: "\$3,279 is"

78. Page 53, line 23.

Strike: "74"

Insert: "68"

79. Page 54, line 1.

Strike: "\$3,348"

Insert: "\$3,076"

80. Page 54, line 11 through line 24.

Strike: subsection (9) in its entirety

81. Page 55, line 3.

Following: "amount"

Insert: "of distribution"

82. Page 55, line 9.

Following: "and"

Insert: "20-9-317 and"

83. Page 56, line 1.

Strike: "20-9-318 and"

Insert: "20-9-316 through"

84. Page 56, line 7.

Following: "program"

Insert: "distribution"

85. Page 56, line 9.

Strike: "amount"

Insert: "distribution"

86. Page 56, line 25.

Strike: "and 20-9-318"

87. Page 58, line 25.

Following: "~~ex~~"

Insert: "20-9-316(3) or"

88. Page 60.

Following: line 8

Insert: Section \_\_\_\_ Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program. (1) It shall be the duty of the The county commissioners of each county ~~to shall~~ levy an annual basic tax of 28 mills on the dollars of the taxable value of all taxable property within the county, except for ~~vehicles property~~ subject to taxation a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, 61-3-204, for the purposes of local and state foundation program support. The revenue ~~to be~~ collected from this levy ~~shall must~~ be apportioned to the support of the foundation programs of the elementary school districts in the county and to the state special revenue fund, state equalization aid account, in the

following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated ~~revenues~~ revenue identified in subsection (2) below shall must be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined above, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The ~~proceeds~~ revenue realized from the county's portion of the levy prescribed by this section and the ~~revenues~~ revenue from the following sources shall must be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall be kept of ~~such proceeds and revenues~~ the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's ~~account~~ accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of ~~the property taxation established by the county levy required by this section,~~ including federal forest reserve funds allocated under 17-3-213;

(f) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(g) anticipated revenue from ~~vehicle~~ property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521 and 61-3-537, and 67-3-204."

Section 40. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) ~~It shall be the duty of the~~ The county commissioners of each county ~~to shall~~ levy an annual basic special tax for high schools of 17 mills on the dollar of the taxable value of all taxable property within the county, except for ~~vehicles subject to taxation under 61-3-504(2)~~ property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the

purposes of local and state foundation program support. The revenue ~~to be~~ collected from this levy ~~shall~~ must be apportioned to the support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the estimated ~~revenues~~ revenue identified in ~~subsections (2)(a) and (2)(b)~~ below shall be subsection (2) is subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined ~~above~~ in subsection (1)(a), the county treasurer shall remit the surplus to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The ~~proceeds~~ revenue realized from the county's portion of the levy prescribed in this section and the ~~revenues~~ revenue from the following sources ~~shall~~ must be used for the equalization of the high school district foundation programs of the county as prescribed in 20-9-334, and a separate accounting ~~shall~~ must be kept of ~~these proceeds~~ the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state ~~moneys~~ money distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section, including the federal forest reserve funds allocated under the provisions of 17-3-213;

(c) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(d) anticipated revenue from vehicle property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, and 61-3-537, 67-3-204."

Renumber: subsequent sections

89. Page 60, line 17.

Following: "a"

Insert: "tax or"

Strike: "in lieu of tax"

Insert: "under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204"

90. Page 62.

Following: line 8

Insert: "property taxes and"

91. Page 62, line 9.

Strike: "23-2-518"

Insert: "23-2-517"

92. Page 62, line 10.

Strike: "67-3-205"

Insert: "67-3-204"

93. Page 65, line 1, through page 68, line 12.

Strike: section 37 in its entirety

94. Page 70, line 6, through page 73, line 3.

Strike: sections 39 through 41 in their entirety

95. Page 74, line 16.

Following: "Repealer."

Insert: "(1) Sections 20-9-352, 20-9-501, 20-9-531, and 20-9-532, MCA, are repealed.

(2)"

96. Page 74, lines 17 and 18.

Strike: "20-9-105, 20-9-316, 20-9-317, and 20-9-352"

97. Page 74.

Following: line 22

Insert: "NEW SECTION. Section 49. Interim study of funding for school district transportation, capital expenditures, and comprehensive insurance. The office of budget and program planning shall:

(1) during school fiscal years 1990 and 1991, study the transportation, capital outlay, and comprehensive insurance needs of the elementary and high school districts, and methods of distributing aid in an equalized manner; "

(2) seek the advice and recommendations of the superintendent of public instruction and the board of public education during the study process;

(3) report recommendations resulting from its study to the 52nd Legislature and prepare legislation to implement its recommendations; and

(4) develop incentive and accountability programs to enhance equalization of educational opportunity as well as the quality of education provided to Montana public school pupils.

NEW SECTION. Section 50. District retirement fund balance-transfer. A district that has a balance remaining on [the effective date of this section] in the district retirement fund formerly established under 20-9-501 shall transfer the balance to the district general fund. The amount anticipated to be transferred under this section must be included in the total money calculated under 20-9-141(1)(b) that is available for reduction of the property tax levy imposed in 1990 for the district's general fund.

Renumber: subsequent section

98. Page 74, line 23.

Strike: "date. [This act] is"

Insert: "dates. (1) [Sections 1, 2, 6, 16, 17, 22, 24, 26, 28



through 40, 42, 46, 47(1), and 48 through 51] are effective July 1, 1989.

(2) [Sections 3 through 5, 7 through 15, 18 through 21, 23, 25, 27, 41, 43 through 45, and 47(2)] are effective July 1, 1990."

February 17, 1989

TO: Senate Education Committee

FROM: Don Waldron, Chairman  
Legislative Committee, School Administrators of Montana

2  
DATE 2-17-89  
BILL NO. SB 203

SENATE BILL 203 (Amendments as expected to be presented to Senate Education Committee for Governor Stephens)

As an introduction, I feel that SB 203, as it now stands, is a good workable bill. Something I would have liked handled differently, but for the most part a good compromise between what schools would like and what is possible.

The (I think) proposed amendments:

1. I could live with Comprehensive Insurance Fund removed from the general fund.

2. I still dislike the idea of retirement being included in the general fund. My main concern is that there is no way of getting the shortfall of money for retirement collected without a vote of the taxpayers or the money taken away from other instructional areas.

3. Limitations on annual increases in general fund. We have said that 117% of average budget could be worked out over a five year period.

Now the amendments say one year and then freeze until everyone catches up and we will all be average. Local Control? Districts willing to pay more for something better is no longer possible.

4. The allowable increases of 4% and 8% would be from local levies. Low funded districts are usually districts with low taxable value and areas where special mill levies are not easily passed.

5. Where is the fiscal note on these amendments? Or maybe I should say where is the memo outlining the savings to the state that is generated by these amendments over the next four years?

6. Has the intent and letter of the law in the Underfunded Lawsuit been addressed?

Montana schools are good to outstanding. Take away some of the ability at the local level to innovate and grow you can then expect all our schools to be just plain good and on their way down.

I urge you to take to the floor SB 203 as presented. Do not add these ill conceived amendments to a good bill.

Thank you.



JUDY RIPPINGALE  
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA

Office of the Legislative Fiscal Analyst BILL NO. SB 203

STATE CAPITOL  
HELENA, MONTANA 59620  
406/444-2986

SENATE EDUCATION

EXHIBIT NO. 3

DATE 2-17-89

February 17, 1989

Senator Pat Regan  
Seat #19  
Montana State Senate  
State Capitol  
Helena, MT 59620

Dear Senator Regan:

The amendments that have been proposed for House Bill 623 by Representative Thomas and for Senator Bill 203 by Senator Hammond reflect Governor Stephen's school funding proposal.

The Governor's proposal increases the foundation program schedules by 18.6 percent in fiscal 1990 and by an additional 30.1 percent in fiscal 1991 (i.e. the schedules in fiscal 1991 are 54.3 percent higher for fiscal 1991 than for fiscal 1989). We estimate that these schedule increases provide an additional \$51.85 million to schools in fiscal 1990 above the present schedules. In fiscal 1991, the schedule increases provide an additional \$150.58 million above the estimated fiscal 1991 cost of the present schedules.

Table 1  
Cost of the Foundation and Permissive Program  
1991 Biennium  
(Millions)

	Current Law (0-0)	Governor's Proposal (18.6-30.1)	Difference
Fiscal 1990	\$278.71	\$330.56	\$ 51.85
Fiscal 1991	<u>277.32</u>	<u>427.90</u>	<u>150.58</u>
Total	<u>\$556.03</u>	<u>\$758.46</u>	<u>\$202.43</u>

Fiscal 1988 retirement expenditures for school district personnel totaled \$52.45 million. If these costs are projected forward to the 1991 biennium, the executive proposal falls \$0.6 million short of covering school district's retirement costs in fiscal 1990 and \$1.87 million short of covering

retirement costs in fiscal 1991 given that the executive also wants to infuse \$100 million into the foundation program to cover other general fund costs.

An 18.82 percent increase in the fiscal 1990 schedules would achieve a level of revenues which provided \$52.45 million for district retirement costs with no increases for inflation in any other general fund cost categories. To cover \$52.45 million in retirement costs in fiscal 1991 and provide an additional \$100 million for other general fund costs would require another 30.43 percent increase in the schedules in fiscal 1991 for a total increase in the schedules of 54.97 percent from fiscal 1989 to fiscal 1991. District retirement fund balances transfer to the district general fund.

2  
problem  
The executive proposal implements spending caps based on average general fund budgets per pupil within foundation program size categories for the prior school year. For example, the general fund budgets of the 69 elementary districts (fiscal 1989) with 301 or more ANB would be grouped to generate an average general fund budget per pupil for that size category. Districts budgeting in excess of 116 percent of the average would be allowed no increase in their general fund budget. Districts budgeting 84 percent or less than the average would be allowed an 8 percent increase in their general fund budgets. Districts which budget between 84 and 116 percent of average could increase their general fund budgets under the following formula:

$$1.04 - \frac{\text{percent of average per pupil} - 100}{400}$$

For example, a district spending 108 percent of the average would be allowed an increase of 2 percent ( $1.04 - .02 = 1.02$ ).

As drafted, the executive proposal is unclear as to the first year the cap would take effect. If retirement is incorporated into district general fund budgets in fiscal 1990, fiscal 1989 and fiscal 1990 general fund budgets would not be consistent in terms of the expenditures covered. Fiscal 1991 is the first year that the cap could be practically implemented if only general fund expenditures are to be compared.

One problem with the executive proposal is that the caps apply to a district's budget based on the total general fund budget for the prior school year without making allowances for changes in ANB from one year to the next. This problem is a technical problem that can be corrected through the amendment process.

The executive proposal includes several items that are not in the draft amendments to House Bill 623 and Senate Bill 203. These items include reductions in the coal, oil, and natural gas severance taxes, a change in the definition of ANB, increases in the basic county levies of 12 mills for elementary and 10 mills for high school to cover the inclusion of retirement costs in the foundation schedules, and appropriations of \$5 million for comprehensive insurance, \$10 million for debt service and capital outlay, and \$10 million for transportation. The reductions in severance taxes, change in the definition of ANB, and increases in the basic county levies can be found in Senate Bill 419 (Farrell). The appropriation requests for debt service, capital outlay, transportation, and comprehensive insurance have

not been presented to the legislature nor has the mechanisms for distributing these appropriations.

Our office intends to provide the legislature with further analysis of the executive school funding proposal as the details become available. We are also working to provide the legislature with an analysis by school district of the impact of the proposed budget caps.

If you have any further questions regarding the impact of school funding proposals, please let me know.

Sincerely,

Madalyn Quinlan  
Associate Fiscal Analyst

Amendments to Senate Bill No. 403  
First Reading Copy

Requested by Senator VanValkenburg  
For the Senate Education Committee

Prepared by Eddy McClure  
February 15, 1989

1. Title, line 6.  
Following: "STATE, A"  
Strike: "PRIVATE"  
Insert: "NONPROFIT"

2. Title, line 9.  
Following: "BY THE"  
Strike: "PRIVATE"  
Insert: "NONPROFIT"

3. Page 1, line 19.  
Following: "with a"  
Strike: "private"  
Insert: "nonprofit"

4. Page 1, line 22.  
Following: "by a"  
Strike: "private"  
Insert: "nonprofit"

5. Page 1, line 25.  
Following: "to the"  
Strike: "private"  
Insert: "nonprofit"

6. Page 2, line 3.  
Following: "with a"  
Strike: "private"  
Insert: "nonprofit"

7. Page 2, line 5.  
Following: "chapter 3"  
Strike: ", part 2"

8. Page 2, line 19.  
Following: "to a"  
Strike: "private"  
Insert: "nonprofit"



To: The Senate Education Committee

Supporting SB 403 with amendment

*Margaret Davis*

My name is Marty Onishuk, Director of the League of Women Voters of Montana. The League supports SB <sup>403</sup> which requires the Superintendent of Public Instruction to contract with the Montana High School Association about extracurricular, interscholastic activities in public and private high schools in the state.

The League has long had a position supporting an open governmental system that is representative, accountable and responsive and that assures opportunities for citizen participation in governmental decision making. The Montana High School Association practices have not met these criteria.

The League has observed MHSA activities since 1984. First we were concerned with non-compliance with the Open Meetings Law. The 1987 Legislature amended the OML to cover MHSA specifically, and we are finally able to get agendas and minutes.

Since 1921, the MHSA has, by custom, regulated extracurricular interscholastic activities in Montana. By never writing accreditation standards about extracurricular, interscholastic activities (except for one rule including extracurricular activities under equality of opportunity) the Board of Public Education has allowed this practice to continue. There is not constitutional, legislative or rule connection between the state and MHSA. 20-1-211 (RCM) allows local boards of trustee of each school to join "strictly educational associations and authorize payment of dues to such association..."

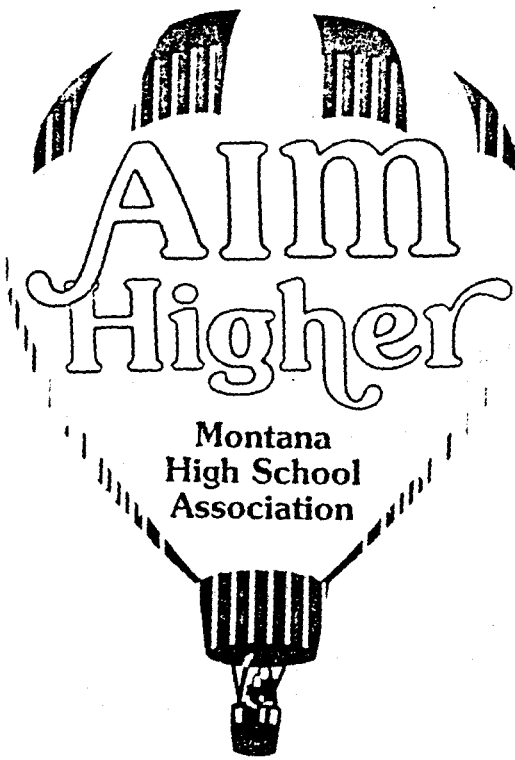
The MHSA affects Montana schools in two ways. First, the dues which each school pays at \$200 per activity per year amount to \$382,000 statewide in 1988-89. This is the major portion of the current \$468,000 budget of MHSA.

Secondly, in the same way accreditation standards approved by the Board of Public Education determine how local trustees spend the equalization and other funds, the rules and regulations adopted by the MHSA which each school must follow to play in any MHSA activities costs money authorized by local trustees. At least 10% of local school budgets are spent on extracurricular activities. This amounts to approximately \$30 MILLION each year of public money. No public participation is required, nor is any allowed at the annual meeting, in the MHSA rule-making because the MHSA is not under the Montana Administrative Procedures Act. While SB 403 does not remedy the MAPA problem, it moves a step in increasing public accountability in an activity costing large sums of public money where none exists now.

Exhibit 2

SB 403

2/17/89



**ACTIVITIES  
IN MONTANA**

**An Alcohol and Drug  
Education and Prevention  
Program for Montana  
High School Students**

Montana High School Association  
1 South Dakota  
Helena, MT 59601  
(406) 442-6010



A legislative audit is in order because school foundation funds are involved in the funding of the MHSA office and board activities and by the 175 public high schools participating in athletic, speech and drama, and music events controlled by the MHSA.

The MHSA has a \$40,000 grant from the state Crime <sup>control</sup> Commission for a drug and alcohol education program for high school students. However, they allowed a vender, the Billings Sheraton, to serve Bloody Mary's from a "Bloody Mary Station" tended by two "girls" in nurses' costumes from 8 a. m. until noon the first day of the annual meeting, Monday, Jan. 23, 1989. The "Aim High" program was touted as a major program to curb substance abuse soon after the meeting of school officials opened. Again public funds are involved in MHSA activities. ("Aim High" brochure enclosed.)

The Board of the MHSA is the smallest in the United States--four school administrators and one school board member. By statute or rule, board composition is mandated--Board of Public member, Supt. of Public Instruction members, or racial or sexual quotas--in Alaska, Colorado, California, Connecticut, Georgia, Hawaii, Iowa, Maine, Louisiana, New Hampshire, New Mexico, New York, South Carolina, Virginia, West Virginia, and Wyoming according to a study--"A Review of the Structure and Governance of the MHSA" contracted by the Association of AA School Administrator, October 1985. We support the expansion of the board to nine members.

We suggest an amendment to SB 403. Instead of called the organization a "private" corporation, we would like "non-profit" substituted to stop any unintended ambiguity the proposed language might cause. The MHSA is incorporated as a "non-profit" corporation. Further, District Judge Gordon R. Bennett found "that MHSA is a defacto governmental body and is therefore subject to Montana's right to know and open meeting law and the due process provisions of the constitution of the constitutions of Montana and the United States" on page 36, lines 12-15 in his ruling in Sept. 1987 in Salish-Kootenai Tribe for Two Eagle River School V. MHSA. He also stated, "There is no danger as alleged by MHSA that any private enterprise which chooses to provide goods and services to government and collect a fee become subject to the Open Meeting Law. The difference in paying membership dues to MHSA and buying milk from a local dairy (MHSA's example) is that the purchase of milk from a local dairy does not subject public schools to regulation by the dairy (Pg. 10, Line 12-17). Also, "Montana's public schools are deeply involved in fielding and promoting athletic teams. To this end they expend time, energy and resources. The state finances, equips and trains the fielded team. The MHSA advises and assists in this effort, establishes standards and supervises and coordinates what the teams do. The state is actively and intensely involved in interscholastic activities. The coordination of these activities in a separate body does not obscure the real and crucial involvement of the state in the total program (Pg. 11, lines 18-25). According to MHSA incorporation papers and Judge Bennett's ruling, MHSA is not a "private corporation".

In these times of tight money for education, we asked you to pass SB 403 to help give accountability to public school money.

February 17, 1989

adopted 1/24/88 - w/o discussion

SENATE EDUCATION

EXHIBIT NO. 2

DATE 2/17/89

BILL NO. SB 403

MONTANA HIGH SCHOOL ASSOCIATION  
PROPOSED GENERAL BUDGET  
JULY 1, 1989 - JUNE 30, 1990

REVENUES

	PROJECTED 88-89	PROJECTED 89-90
1. Membership Activities Fees	382,000	385,000
2. Interest	15,000	18,500
3. MOA Dues	40,000	40,000
4. State Track Meet	15,000	18,000
5. Supply Purchases	10,500	14,000
6. Convention	3,000	4,500
7. Corporate Sponsors	500	6,000
8. Other	2,000	9,375
<b>TOTAL REVENUE</b>	<b>468,000</b>	<b>495,375</b>

EXPENDITURES

	APPROVED	PROPOSED
1. <u>Salaries</u>		
A. <u>Executive Staff</u>		
Executive Director	52,500	53,900
Asst. Executive Director	43,050	44,450
Asst. to Executive Director	33,700	36,200
B. <u>Support Staff</u>	62,375	68,375
<b>Total Salaries</b>	<b>193,425</b>	<b>202,925</b>
2. <u>Employee Costs</u>		
A. <u>Health Insurance</u>		
3 Executives	7,400	11,300
4 Support Staff	4,000	6,000
B. <u>Retirement</u>	17,000	18,000
C. <u>Social Security Taxes</u>	13,500	13,700
D. <u>Workers' Comp</u>	1,500	1,500
E. <u>Employee Travel Allowance</u>		
Executive Director	2,400	2,400
Asst. Executive Director	2,400	2,400
Asst. to Executive Director	2,400	2,400
F. <u>Unemployment Tax</u>	100	100
G. <u>Life Insurance</u>		
Executive Director	500	700
Asst. Executive Director	300	550
Asst. to Executive Director	200	225
H. <u>Miscellaneous</u>		
<b>Total Employee Costs</b>	<b>51,700</b>	<b>59,275</b>

## LEAGUE OF WOMEN VOTERS OF MONTANA

17 FEB 89

Joy Eruck, president  
1601 Illinois, Helena, Montana 59601

SB 403: An act to allow the Superintendent of Public Instruction to contract with, on behalf of the high school districts in the state, a private corporation to supervise interscholastic activities of the high schools and to collect from high school districts any membership fees and charges levied by the private corporation;...

The League of Women Voters of Montana supports SB 403 and asked that the language of the **bill be amended** to strike the word "private" and substitute the word "non-profit" on page 1, lines 6, 9, 19, 22, and 25; and page 2, lines 3 and 19.

While SB 403 does not mention the Montana High School Association by name, this is the governing body that we are dealing with in this bill. High school <sup>interscholastic</sup> extra-curricular activities are regulated at present by this "defacto governmental body" (Judge Gordon Bennett), and MHSA plays an indirect role in the spending of millions of dollars in public, school district funds

The League of Women Voters of Montana became interested in the Montana High School Association as an outgrowth of its concern about equal opportunity for women students in athletics and other extracurricular activities. Quite frankly, the relationship between the League and MHSA has not always been cordial. However, as result of new MHSA policies, which were sometimes adopted in response to litigation, progress has been made in increasing the accountability of MHSA. All Montana students, and in particular students and parents whose individual situations come before the Montana High School Association for rulings, have benefitted by new requirements for open meetings and formal accountability procedures. Very clearly, it is the public policy of this state to assure opportunities for citizen participation and equal access to education, and that these policies apply to the Montana High School Association.

SB 403 formalizes the arrangement by which high school districts have traditionally handled the management of ~~extra-curricular~~ <sup>inter-scholastic</sup> activities. It also gives the Superintendent of Public Instruction a set of criteria for contracting for the services performed now by MHSA. The Montana High School Association conducts its business on a statewide basis, and therefore it is appropriate that the contracting authority rest with the state Superintendent of Public Instruction.

Please give SB 403 a Do Pass recommendation.

Margaret S. Davis, 816 Flowerree, Helena MT 59601, 443-3487

# MONTANA WOMEN'S LOBBYIST FUND

P.O. Box 1099

Helena, MT 59624

406/449-7917

SENATE EDUCATION

EXHIBIT NO. 3

DATE 2-17-89

BILL NO. SB203

S. B. 403

Recommend: Do Pass

The Montana Women's Lobby supports requirements which allow accounting for public money through the legislative audit procedure. Presently the Montana High School Association enjoys complete autonomy from disclosure of expenses and public hearings processes. Yet they establish rules and regulations and set compliance standards. The structure of the organization is indeed unique within state government.

This legislation would not jeopardize the function of the MHSA, nor will it diminish the need for an interscholastic organization. The board's function is a significant one: both for speech and drama and sports. This bill authorizes a greater degree of public input into a very important public policy process funded with public funds. The purpose of this legislation is to provide accountability!

I submit to you that the present completely autonomous arrangement has resulted in mismanagement of public funds, expense on unrelated activities, and as a result a disservice to participating school districts. Actual accountings of expenses are difficult to obtain as the organization is not presently required to provide them.

This is good legislation it promotes close supervision of our education dollars, which are seemingly in short supply in Montana. Please support S.B. 403.

SENATE EDUCATION  
EXHIBIT NO. 4  
DATE 2-17-89  
BILL NO. SB 403

TESTIMONY RE SENATE BILL 403

I am Ronald F. Waterman, an attorney at law, practicing in Helena, Montana. I appear here today on behalf of the Montana High School Association in opposition to Senate Bill 403.

Several weeks ago you heard testimony and debate concerning Unisex Insurance. A bill to repeal current law was rejected. In part the Senate declared "enough was enough" when it confronted the unisex issue for the third time in three successive legislative sessions.

Pending before this committee is Senate Bill 403, which proposes to place extracurricular activities under the regulation of the Office of Public Instruction and to transform the Montana High School Association, a private Montana corporation, into an agent of the OPI under its supervision and regulation. The Montana High School Association resists this bill. In contrast to the unisex legislation however, this bill, or similar legislation, has been presented to virtually every legislature since at least 1974. As with unisex, on this issue "enough is enough."

There are four principal reasons why the present bill should be rejected. Those reasons are: (1) the bill does not add to the public scrutiny or accountability of the

Montana High School Association; (2) the funding method advanced in the bill is unworkable and probably unlawful; (3) the Office of Public Instruction as regulator of extracurricular activities will be charged with final authority over all decisions concerning extracurricular activities; and (4) the bill will transform student privileges into student rights and deprive local school boards of local control.

The bill requires the Office of Public Instruction both to regulate all extracurricular activities between high schools in Montana and allows the Superintendent of Public Instruction to contract with a private corporation but only if the corporation adheres to the open meeting law, complies with laws governing human rights and discrimination, permits legislative audits of its records and is governed by a nine member board, three of whom are members appointed by the Office of Public Instruction. These sections of the bill propose to introduce accountability into the operations of the Montana High School Association.

In fact, only one provision proposed by this bill, the consistency of the board, is a new provision as regards the Montana High School Association. The remaining provisions are already procedures which the Montana High School Association operates under or which

are similar to those the Montana High School Association participates in.

The Montana High School Association operates under the open meeting law. Section 2-3-203(2), MCA.

The Montana High School Association has a policy of non-discrimination and is subject to state law, Section 49-2-307, MCA, and operative regulations, ARM 24.9.1008, as well as subject to federal regulations and the continuing jurisdiction of the United States District Court in the Ridgeway litigation.

The Montana High School Association regularly has its books and records audited and the audit is made available to all 184 of its member schools. Copies of the audit are attached to this testimony. Since under the proposed legislation the Montana High School Association would remain a private corporation, its own audit responsibilities would continue, though it would become subject to a legislative audit in addition. This would clearly add additional costs for the duplicating audit activities. Further this would subject the Montana High School Association to a unique requirement. It would be the only non-state agency subject to legislative audit. Schools now are not subject to such an audit. Neither are any other organization which collect dues from public entities--Montana School Board Association, Montana

Association of Counties, or the Montana League of Cities and Towns. There is a question, of course, of whether the legislative auditor has the power to audit a non-state agency and this bill does not broaden the powers of the legislative auditor in that regard. This provision of the bill, requiring legislative audit, therefore may be impossible to comply with.

A restructuring of the board of directors of an otherwise private corporation is a totally new element of regulation. This legislation directs the Office of Public Instruction to not only contract with an organization for the regulation of extracurricular activities but also to control that organization by having the largest block of directors appointed by the Office of Public Instruction. This internal and external control assures only one thing; that any action of the Montana High School Association challenged by anyone will inevitably involve the Office of Public Instruction as a defendant both as the principal and as the de fact controller of the Montana High School Association. The Montana High School Association's status as an independent contractor will surely be affected by this board domination and any protection extended to the Office of Public Instruction through dealing with an independent contractor will be jeopardized by this provision.



Second, the funding formula, requiring regulated schools to pay a fee to the Office of Public Instruction is probably unlawful. Section 20-3-106, MCA, sets forth the Superintendent of Public Instruction's specific powers. No specific authorization can be found which allows the superintendent to perform those activities this bill requires the superintendent to perform. Sub-parts (14), (15), (18) and (33) authorize accepting and distributing certain kinds of funds not applicable here. However, subsection (34) is a catch-all authorizing performance of "any other duty" prescribed by the legislature.

More to the point, sub-part (11) specifically gives the superintendent the power to supervise the provisions of 20-9-201(2), MCA. That section says in part:

The school financial administration provisions of this title apply to all money of any elementary or high school district except the extracurricular money realized from pupil activities.

Financial administration laws have no application to receipts from extracurricular activities. Further, OPI has no supervisory powers over those funds.

This mechanism of collecting funds may also conflict with the powers of the local trustees as set forth in 20-3-324, MCA. Sub-part (8) of that section gives the trustees the power to "adopt and administer the annual budget . . .". Sub-part (9) of the same statute grants

the power to "conduct the financial business of the district . . .".

The established mechanism is for the trustees to budget and spend and for OPI to make sure this budgeting procedure is done according to law. The proposed legislation infringes upon local control by first allowing OPI to contract on behalf of the schools and then second, by granting OPI the power to collect funds from the schools and distribute those funds to the agent with whom it has contracted. Schools have no control over who is contracted with or the contracted amount yet are obligated to pay for such service. This clearly conflicts with the powers of local trustees. The funding mechanism provided by the bill is probably unlawful.

Third, if passed, the legislation will make the Office of Public Instruction the final authority over all extracurricular issues and conflicts. At present the Montana High School Association acts independent of the Office of Public Instruction and thus its decisions achieve an element of finality, subject to grievance procedures and district court review. If passed the proposed legislation will change this element of finality. Every aggrieved party will look to the Office of Public Instruction for relief from the decisions of the Montana High School Association. This is logical both

because the Office of Public Instruction retains the power to control who regulates extracurricular activities and thus retains the power to control how extracurricular activities are regulated and because OPI appoints the largest single block of directors and thus has direct influence over the ultimate decisions of the board. Simply put, aggrieved parties will follow the chain of command to its highest position, in this instance, the Office of Public Instruction. Further as already noted, in the event of litigation against the Montana High School Association for any reason, the Office of Public Instruction will assuredly be joined, if not named exclusively, based upon its appointive powers and control over the Board of Directors.

Fourth, and most important, this bill will transfer extracurricular activities from its status as a privilege to a new status as a right which students can then expect to be entitled to be extended on an equal basis. If an activity is governed by the Office of Public Instruction, the argument exists the activity is a recognized part of a basic education which must be equally extended to all students. It also becomes part of the funding formula which this legislature will soon address. Just as in the recent school funding suit which suggests a student was entitled to equity in funding, if extracurricular

activities becomes a right, then all student will be able to demand equal opportunity of participation in all such activities regardless of the size of the school.

The real losers with this bill will be the local school boards. They will lose their ability to decide which extracurricular activities are appropriate for their individual districts. Instead, all of the decisions regarding school activities will be made at a state level and through enforcement of student rights of equal opportunity in extracurricular activity participation. Presently local boards make these decisions. There has been no reason shown to warrant this extinguishment of local control.

There are a host of other issues unresolved by this legislation. Presently schools receive a distribution of tournament receipts. Will this continue or will that money be seized by the state? The Montana High School Association also assists in the functioning of the Montana Officials Association. Will that activity continue under this bill? And further, if the Montana High School Association is not the contractor with the Office of Public Instruction for extracurricular activities, what will happen to the Montana Officials Association? There are further details left unanswered by this legislation Districting and redistricting decisions, selections of

tournament sites, and other activities are not mentioned and it is uncertain who will make those decisions or how the decisions will be made. Further there is the issue of whether the Montana Administrative Procedure Act applies and if so, whether a non-state agency can publish regulations through the Office of the Secretary of State. If a non-state agency cannot, then the Office of Public Instruction would have to publish such regulations, leaving the anomaly of a regulation being enforced by the Montana High School Association when it did not have the power to make and publish the regulation in the first instance.

This bill is presently urging that accountability is needed in this area. I submit accountability has been achieved. Further, this legislation is bound only to present conflict and controversy over the entire field of the regulation of extracurricular activities. In the end it will be the local boards which lose local control which will suffer the most.

Montana High School Association submits the appropriate resolution of this matter is to reject Senate Bill 403.

7687R



SENATE EDUCATION

EXHIBIT NO. 5

DATE 2-17-89

BILL NO. SB 403

# Montana High School Association

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

## EXECUTIVE STAFF

Den L. Freund  
Executive Director  
James C. Haugen  
Assistant Executive Director  
Bill Sprinkle  
Assistant to the  
Executive Director

## BOARD OF CONTROL

Supt. Tony Tognetti, Pres.  
Stevensville  
Supt. Dale Zorn, Vice Pres.  
Shelby  
Supt. Tom Warwick  
Ennis  
Prin. Dwight Moose  
Helena High  
Margaret Basta  
Lindsay  
(Mont. School Boards Assoc.)

February 15, 1989

TO: SENATE EDUCATION COMMITTEE  
FROM: DAN L. FREUND, EXECUTIVE DIRECTOR *DLF*  
RE: SENATE BILL 403

Please accept my sincere apologies for not being in attendance for the hearing on Senate Bill 403.

A prior long-standing commitment is taking me out of state for the next four days. I am certain that representatives who will speak on my behalf as Executive Director of the Montana High School Association and others who will speak on behalf of the member schools of the Montana High School Association, will be able to address any questions or concerns that the Senate Committee may have.

Once again, my apologies.

DLF/jls

SENATE EDUCATION

EXHIBIT NO. 6

DATE 2-17-89

FILE NO. SB 403

FINANCIAL STATEMENTS AND  
AUDITORS' REPORT

MONTANA HIGH SCHOOL ASSOCIATION

JUNE 30, 1986 and 1985

MONTANA HIGH SCHOOL ASSOCIATION  
JUNE 30, 1986 and 1985

CONTENTS

	Page
AUDITORS' REPORT	1
FINANCIAL STATEMENTS:	
Statements of Assets and Reserves Resulting From Cash Transactions.....	2
Statements of Revenues, Expenses and Capital Additions.....	3-4
Statements of Changes in Fund Balances.....	5
Notes to the Financial Statements.....	6-8
SUPPLEMENTAL INFORMATION:	
Auditors' Report on Supplemental Information.....	9
Audit and Legal.....	10



**GALUSHA  
HIGGINS &  
GALUSHA**

HELENA, MONTANA

**CERTIFIED PUBLIC ACCOUNTANTS**  
POST OFFICE BOX 1699  
ARCADE BUILDING  
111 NORTH LAST CHANCE GULCH  
HELENA, MONTANA 59624  
TELEPHONE 406/442-5520

July 23, 1986

Board of Directors  
Montana High School Association  
1 South Dakota  
Helena, Montana

We have examined the statements of assets and reserves resulting from cash transactions of the Montana High School Association as of June 30, 1986 and 1985, and the related statements of revenues, expenses and capital additions and changes in fund balances for the years then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As described in Note A1, the Association's policy is to prepare its financial statements on the basis of cash receipts and disbursements; consequently, certain revenues and the related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the accompanying financial statements are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly the assets and reserves resulting from cash transactions of the Montana High School Association at June 30, 1986 and 1985, and the revenue collected and expenses paid during the years then ended, on the basis of accounting described in Note A1, which has been applied on a consistent basis.

*Delusha, Higgins and Galusha*  
GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

MONTANA HIGH SCHOOL ASSOCIATION  
STATEMENTS OF ASSETS AND RESERVES  
RESULTING FROM CASH TRANSACTIONS  
JUNE 30,

ASSETS	1986			1985
	Operating Funds	Plant Funds	Retirement Funds	Total All Funds
<b>CASH ON DEPOSIT</b>				
Checking account, Norwest Bank, Helena	124,851			124,851
Savings account, Western Federal Savings and Loan Association, Helena	1,386			1,386
Certificates of Deposit, Valley Bank of Helena				178,986
<b>RESTRICTED FUNDS</b>				
M.O.A. Reserve Fund, Western Federal Savings and Loan Association (Note B)	3,000			3,000
Retirement Fund account, Norwest Capital Management and Trust Co., at cost (Note C)			178,728	178,728
<b>INVESTMENTS</b>				
IMRA Account, Valley Bank of Helena	3,921			3,921
<b>FIXED ASSETS (AT COST)</b>				
Land		8,474		8,474
Building (Note F)		92,353		92,353
Automobiles		15,774		15,774
Equipment (Notes D and E)		75,326		75,326
	<u>133,158</u>	<u>191,927</u>	<u>178,728</u>	<u>503,813</u>
<b>LIABILITIES AND FUND BALANCES</b>				
<b>LIABILITIES</b>				
Agency account - Norwest Capital Management and Trust Co.				50
Payroll taxes withheld	2,158			2,158
Liability for employee investment withheld from payroll	50			50
Contract payable - Xerox Corporation (Note D)		18,405		18,405
	<u>2,208</u>	<u>18,405</u>		<u>20,613</u>
<b>FUND BALANCES</b>				
<b>Unrestricted:</b>				
Designated by Board for long-term investment	3,921			3,921
Undesignated	<u>124,029</u>			<u>124,029</u>
	<u>127,950</u>			<u>127,950</u>
<b>Restricted:</b>				
Net investment in fixed assets		173,522		173,522
Retirement funds			178,728	178,728
Montana Officials' Association	3,000			3,000
	<u>130,950</u>	<u>173,522</u>	<u>178,728</u>	<u>483,200</u>
	<u>133,158</u>	<u>191,927</u>	<u>178,728</u>	<u>503,813</u>

The accompanying notes are an integral part of these financial statements.

**CENTERVILLE PUBLIC SCHOOLS**SCHOOL DISTRICTS NO. 5 AND 5C  
693 HIGHWAY 227SAND COULEE, MONTANA 59472  
Phone 406-736-5123TRUSTEES  
Tom Lorang  
Chairman  
Alan FrancetichLarry McEwen  
Ronald Davis  
Bruce Cowgill

February 17, 1989

Senate Education Committee  
State Capitol  
Helena, MT 59620

Dear Mr. Chairman and Committee Members:

The Centerville Public Schools, Sand Coulee, Montana is opposed to the passage of Senate Bill 403 which would eliminate the Montana High School Association in its present form, place all of its functions under the State Office of Public Instruction. They, then would farm it out to a private corporation.

Creating more levels of bureaucracy in any organization places the emphasis on management concerns which ultimately results in control "from the top down" over all organizational activities and needs. Consequently, there is a tendency toward encouraging uniformity rather than permitting diversity--in values as well as behavior--within the organization, in order to facilitate control. This important generalization has adverse political as well as managerial applications and implications.

The Montana High School Association is a grass roots organization directly responsible to its member schools. In fact, the Montana High School Association is the member schools. The members schools employ various persons who effectively manage the Association affairs. These employees are under the control of a board of directors that represent all four classifications (i.e. AA, A, B & C). The board of directors are elected by the member schools.

Each year this school district reviews all proposals submitted by the member schools, which are published by the M.H.S.A. control office. This review is accomplished at our December meeting of the Board of Education. All school board meetings throughout the State of Montana are open to the public. Thus, local school boards with input from the public direct their respective administrators to vote accordingly at the annual meeting of the Association in January. This method of governance is the essence of local control and is about as far removed from politics as is possible. Consequently, decisions are made in the best interest of all the students in the state by persons entrusted to this duty.

February 17, 1989  
Senate Education Committee  
Page Two

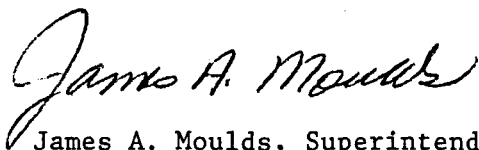
In the past twenty-five years various bills have been introduced to the State legislature to abolish the Montana High School Association in its present form. The legislature and/or the Governor in their wisdom have killed all of these efforts. As a result, the Association has continued to flourish and grow to meet the ever increasing demands upon the public school systems in this state.

There is a small minority of people in the State of Montana who have a personal axe to grind against the Montana High School Association. This small, but very vocal minority of people have become so obsessed with attacking the Association to further their own private agenda, that they have become fanatical. An excellent definition of a fanatic is a person or group which has lost sight of the cause and doubles the effort.

Could it be that Senate Bill 403 is a thinly veiled attempt to gain revenge on the Montana High School Association over an issue this vocal minority group could not win in state or federal court?

Senate Bill 403 should be put out of its misery by this committee. The Montana High school Association is alive, well and is working in its present form.

Respectfully submitted,



James A. Moulds, Superintendent  
Centerville Public Schools

JAM/gmw

# GREAT FALLS PUBLIC SCHOOLS

DEPT. OF HEALTH, PHYSICAL EDUCATION AND ATHLETICS

BOX 2428 1100 4TH ST. SO. (406) 791-2232

GREAT FALLS, MONTANA 59403

February 16, 1989

SENATE EDUCATION

EXHIBIT NO. 8

DATE 2-17-89

BILL NO SB 403

Senator H. W. Hammond  
Chairman, Senate Education Committee  
Montana Senate  
Capitol Building  
Helena, Montana 59620

Dear Senator Hammond and Committee Members:

As the Athletic Director for the Great Falls Public Schools, I want to state my opposition to Senate Bill 403.

The Montana High School Association, the organization that is currently charged with the responsibility for governing interscholastic activities in Montana, is extremely effective in its present form. To pass legislation that will change an already satisfactory arrangement for governing activities will serve no good purpose.

No governing body charged with the conduct of interscholastic activities will ever be able to please everyone, but the Montana High School Association under the current format does accommodate the best interests of the students and the schools that the association has been created to serve.

In my opinion, Senate Bill 403 attempts to solve a problem that does not exist.

Sincerely yours,

Jim Grant  
Athletic Director

February 16, 1989

Senator H. W. Hammond  
Chairman, Senate Education Committee  
Montana Senate  
Capitol Building  
Helena, Montana 59620

Dear Senator Hammond and Committee Members:

As a school trustee in Great Falls and as a past president of the Montana School Boards Association, I must express my opposition to Senate Bill 403.

The present structure of the MHSB board provides that there is a representative from each class of high schools, as well as a member appointed by the Montana School Boards Association (this member, of course, must be a local school board trustee). During the last several years the leadership of the MHSB and the School Boards Association have met and visited about mutual concerns. At the same time local trustees all over the state have become more involved in working with their representation to MHSB.

To politicize the activities association by placing it under the Office of Public Instruction would be a giant step backward and has the potential of adversely affecting the other and more proper functions of this office.

No governing body of the activities association will ever please everyone, but the proposal embodied in Senate Bill 403 will create more problems than it will ever solve.

Very truly yours,



DJH:mt

Donald J. Hamilton



ROLL CALL VOTE

SENATE COMMITTEE EDUCATION

Date 2-17-89 to mauc Bill No. SB 203 Time 2:45

NAME	YES	NO
Vice Chairman Dennis Nathe	✓	
Senator Chet Blaylock		✓
Senator Bob Brown	✓	
Senator Dick Pinsoneault		✓
Senator William Farrell	✓	
Senator Pat Regan		✓
Senator John Anderson	✓	
Senator Joe Mazurek		✓
Chairman H.W. "Swede" Hammond	✓	

5 4

Julie Harmala  
Secretary

H. W. Swede Hammond  
Chairman

Motion: Farrell - moved do pass as  
Amended - passed  
Blaylock - questioned

reused FN for

gray bill



ROLL CALL VOTE

SENATE COMMITTEE EDUCATION

Date 2-17-89 Amending <sup>SB</sup> Bill No. 203 Time 2:35

NAME	YES	NO
Vice Chairman Dennis Nathe	✓	
Senator Chet Blaylock		✓
Senator Bob Brown	✓	
Senator Dick Pinsoneault		✓
Senator William Farrell	✓	
Senator Pat Regan		✓
Senator John Anderson	✓	
Senator Joe Mazurek		✓
Chairman H.W. "Swede" Hammond	✓	
	5	4

Julie Harmala  
Secretary

H. W. Swede Hammond  
Chairman

Motion: Farrell moved that Gov  
Amend - be moved into  
SB 203 passed  
Amend -  
MM

ROLL CALL VOTE

SENATE COMMITTEE EDUCATION

Date 2-17-89 SB Bill No. 403 Time \_\_\_\_\_

NAME	YES	NO
Vice Chairman Dennis Nathe	✓	✓
Senator Chet Blaylock	✓	✓
Senator Bob Brown	✓	✓
Senator Dick Pinsoneault	✓	✓
Senator William Farrell	✓	✓
Senator Pat Regan	✓	✓
Senator John Anderson	✓	✓
Senator Joe Mazurek	✓	✓
Chairman H.W. "Swede" Hammond	✓	✓

4 5

Julie Harmala  
Secretary

H. W. Swede Hammond  
Chairman

Motion: Senator Blaylock moved  
SB 403 pass as amended -  
failed.