

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on January 21, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Ted Schye, Chair (D)
Ervin Davis, Vice-Chair (D)
Steve Benedict (R)
Ernest Bergsagel (R)
Robert Clark (R)
Vicki Cocchiarella (D)
Fred "Fritz" Daily (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Gary Forrester (D)
Floyd "Bob" Gervais (D)
H.S. "Sonny" Hanson (R)
Dan Harrington (D)
Tom Kilpatrick (D)
Bea McCarthy (D)
Scott McCulloch (D)
Richard Simpkins (R)
Barry "Spook" Stang (D)
Norm Wallin (R)
Diana Wyatt (D)

Staff Present: Andrea Merrill, Legislative Council
Dianne McKittrick, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Chairman Schye announced the committee would again address HB 30 on January 23, 1991.

HEARING ON HB 142

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE CHARLES SWYSGOOD, House District 73, Dillon, said HB 142 is by request of an Interim Study Committee on Postsecondary Education. He introduced Senator Judy Jacobson who was the Chair of the Study Committee to present HB 142.

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Proponents' Testimony:

John Hutchinson, Commissioner of Higher Education, said in August 1990 his staff presented to the Committee on Postsecondary Education several positions to improve the administration of higher education in Montana, including lump sum appropriations and better communication among the Board of Regents, the Commissioner's Office and the Legislature. He had been asked to compile a list of goals and long range plans to present to the Legislature. EXHIBIT 1 Dr. Hutchinson also suggested a few changes to the bill including 1) there be four regents instead of two as stated in the bill to compliment the four legislators, 2) allow the Commissioner of Higher Education to serve ex officio on the committee in order to provide input, 3) delete the investigatory powers of the standing committee which is a bit heavy handed and perhaps unnecessary for the nature of the committee, and 4) consider a sunset clause after a four or five year period. He stressed the above four items were presented merely as suggestions and said he would support HB 142 with or without them.

Opponents' Testimony: None

Informational Testimony:

SEN. JUDY JACOBSON, District 36, Butte, said HB 142 should have read, "By request of the Committee on Postsecondary Education" and perhaps that language could be amended into the bill as it progresses. HB 142 creates a Joint Committee on Postsecondary Education and is a big step and new beginning in accomplishing the goals for funding postsecondary education. Having this committee staffed by legislative staff rather than the Commissioner of Higher Education's Office will help it address appropriations questions. SEN. JACOBSON said there are new ways to look at university funding and that things have changed little over the last sixteen years. Perhaps we need to start looking at broad-based goals in regards to the University System.

Questions From Committee Members:

REP. SIMPKINS asked John Hutchinson how he envisioned HB 142 working with Article 10 of the Constitution requiring the State Board of Education and Board of Regents to perform the long-range planning of education in Montana. He said it appears none of the components are complying with the Constitution of the State of Montana. Dr. Hutchinson replied that could be one interpretation.

Closing by Sponsor:

REP. SWYSGOOD said he hoped that the lump sum appropriation question would not come into play on this particular piece of legislation, because they are entirely two separate issues. In

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reference to the Commissioner's proposed four changes, he could not recall them being mentioned to the interim committee. He would have a problem removing the investigatory powers of the Commissioner as this would handicap the committee. **REP. SWYSGOOD** offered an amendment as suggested by **SEN JACOBSON** to add, "By request of the Committee on Postsecondary Education". He also suggested adding on Page 2, Line 4 the community colleges since they are part of the system of higher education.

HEARING ON HB 154

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE GARY FORRESTER, House District 98, Billings, said HB 154 was brought to his attention by the Montana School Boards Association and the Laurel Public Schools. The bill would allow districts to use a bus depreciation reserve fund to convert or remodel a bus, or repair or replace a bus or radio.

Proponents' Testimony:

Bruce Moerer, Montana School Boards Association, (MSBA), said the problem came up in the Laurel School District where they use regular school buses for activities buses, which puts extra miles on the buses. The Laurel School District wanted to fix or remodel its older school buses to make a bus strictly for activities and conserve miles on regular route buses. They found some money in the bus depreciation fund but could not use the money to repair or remodel since that reserve only allows replacement. This legislation would allow districts to handle this kind of problem.

Kay McKenna, Montana Association of County School Superintendents, (MACSS), said schools are faced with many emergency transportation budgets. This is mainly concerning the conversion of buses and especially special education buses. We would like to see a little more flexibility in this fund.

Opponents' Testimony: None

Questions From Committee Members:

REP. BENEDICT asked **Bruce Moerer** if this legislation would allow districts to install a wheelchair lift in a bus. **Mr. Moerer** said this would be possible.

REP. CLARK asked **Bruce Moerer** if he was aware of the new federal regulations requiring replacement of buses within five years and, if so, how will this affect this legislation. **Mr. Moerer** said it was his understanding they are referring to route buses. This legislation refers to an activity bus. The federal rules would supersede anything.

REP. SIMPKINS asked **Bruce Moerer** if repair of buses is now a

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general fund expense. Mr. Moerer said it can come out of the general fund and transportation fund at present and this legislation would allow it to come out of the bus depreciation fund as well. REP. SIMPKINS then asked if the depreciation reserve fund is a separate item, is it also a separate mill levy as well. If so, are we simply shifting funds? Mr. Moerer replied it is not the intent to allow unnecessary shifting of funds but the flexibility to make the best use of the money available.

CHAIRMAN SCHYE asked Bruce Moerer since the buses in his district all have telephones and not radios, would they be included? Mr. Moerer replied it is not specifically defined in the bill, but if repair was needed for the safety of the kids, he would guess it would apply.

Closing by Sponsor:

REP. FORRESTER said this legislation gives school districts one more tool to save money.

EXECUTIVE ACTION ON HB 27

Motion: REP. STANG moved that HB 27 DO PASS.

Amendments, Discussion, and Votes:

REP. DAILY moved that the amendments to HB 27 DO PASS. EXHIBITS 2,3 He said we are trying to allow districts to hire a substitute teacher who is related to member of the board of trustees as long as they are not employed for more than 30 consecutive school days. Motion CARRIED unanimously.

Recommendation and Vote: REP. DAILY moved that HB 27 DO PASS AS AMENDED. Motioned CARRIED upon voice vote with REP. WYATT voting no.

EXECUTIVE ACTION ON HB 104

Motion: REP. HARRINGTON moved that HB 104 DO PASS.

Discussion:

REP. WALLIN asked if teachers would continue to teach 186 days per year. CHAIRMAN SCHYE answered 187 days are allowed and this does not affect the number of days but allows a shortening of two days, the day before Thanksgiving or the day before the two PIR days during convention time. The school board can opt to let school out early in the afternoon on those two days only and those days would be counted as full days. REP. WALLIN said the

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Superintendent from Great Falls, Mr. Williams, expressed concern to him that this would cause additional expense.

REP. HARRINGTON asked where the expense would be, since the state pays for the days anyway.

REP. FORRESTER said he did not know where the expense would come into play either since teachers, customarily under most of today's contracts, call 6 hours and 40 minutes a duty day.

REP. SIMPKINS said the committee effectively would be cutting out a full day of classroom instruction by allowing three hours each day early dismissal. He said Mr. Williams does not feel these should be counted as pupil instruction days.

REP. DAILY said this bill is completely discretionary for each school district. The only time this would really come into question would be if you were traveling to convention from Glendive to Great Falls, for example, and the board would have authority to do this so teachers could travel during the daylight hours.

REP. HARRINGTON said usually when holidays are approaching, those days are not the most productive anyway since kids are high and ready for vacation.

REP. WALLIN said there are 6,500 members that attend these conventions and we are talking about a day and that is expensive. The school district gets the money from the state but the state isn't getting its moneys worth.

CHAIRMAN SCHYE pointed out the school districts will still get the foundation money, but the school districts do not pay the teachers to go to the conventions.

REP. ELLIS said education in Montana is expensive and we are relieving ourselves of the responsibility to educate these students for six hours or one day of classroom instruction. He questioned the idea of regressing in the amount of time we want Montana's youngsters exposed to the educational process.

CHAIRMAN SCHYE said this bill would not take away any education. It gives the question to another elected body to make that decision for each district. It is a matter of trusting local school boards with that decision making power.

REP. MCCULLOCH said the small amount of time incorporated into this bill is a small investment made by a district considering the return it gets from those teachers attending the statewide conferences. Teachers pay their own way to attend the conferences.

Recommendation and Vote: Motion that HB 104 DO PASS CARRIED 14 to 6. EXHIBIT 4

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ADJOURNMENT

Adjournment: 4:00 p.m.



TEB SCHYE, Chair



DIANNE MCKITTRICK, Secretary

TS/dMcK

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE 1-21-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

January 21, 1991

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Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 27 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Title, line 4.

Following: "EXEMPT"

Insert: ", IN CERTAIN CIRCUMSTANCES,"

2. Page 2, line 2.

Following: "teacher"

Insert: "who is not employed as a substitute teacher for more than 30 consecutive school days"

4:52 PM
1-21-91
mml

HOUSE STANDING COMMITTEE REPORT

January 21, 1991

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Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 104 (first reading copy -- white) do pass.

Signed: _____
Ted Schye, Chairman

MONTANA SYSTEMS OF HIGHER EDUCATION
GOALS AND SUBGOALS

EXHIBIT # 1
DATE 1-21-91
HB 142

. MAINTAIN AND ENHANCE THE QUALITY OF INSTRUCTION IN HIGHER EDUCATION IN MONTANA.

- o Provide a diversity of relevant educational offerings in order to improve the well-being of Montana's citizens.
- o Develop a program of student outcome assessment.
- o Provide a caring campus environment and appropriate student services.
- o Attract, retain and motivate faculty and professional staff.
- o Ensure adequacy of library resources and instructional equipment.
- o Acquire and maintain all desirable and necessary accreditations.
- o Assure the incorporation of cultural diversity within the offerings of the Systems.
- o Work cooperatively with K-12 education, tribal and private colleges to provide a coordinated educational experience for Montana citizens.
- o Maximize student preparation for an effective college experience through the application of college entrance requirements and coordination of college preparatory curricula.

II. PROVIDE LEADERSHIP AND MANAGEMENT FOR AN INTEGRATED SYSTEM OF HIGHER EDUCATION IN MONTANA.

- o Continue the development and support of partnerships with other state agencies to provide comprehensive educational and development services.
- o Present the Montana Systems of Higher Education as a coordinated, integrated, and articulated enterprise involving the units of the university system, the vocational-technical center system, and the community colleges.
- o Provide on-going planning process to respond to environmental realities and opportunities affecting higher education in Montana.
- o Refine systems of accountability for the use of resources for higher education.
- o Develop a sound procedure for linking planning and budgeting.

III. DEVELOP AN OPEN AND COOPERATIVE RELATIONSHIP WITH THE LEGISLATURE.

- o The Commissioner's Office and the Regents will be as responsive and forthright as possible in providing information to legislators, individually and collectively.
- o The Regents will seek to form a joint Regents-Legislative committee.

IV. SEEK ADEQUATE AND STABLE FUNDING FOR HIGHER EDUCATION.

- o Strive to secure adequate and stable state support for higher education to allow flexible response to challenges and opportunities by the Board of Regents.
- o Seek creative funding sources to supplement state support.

V. PROVIDE REASONABLE ACCESS TO HIGHER EDUCATION OPPORTUNITIES.

- o Improve transferability and articulation of education offerings throughout the system.
- o Provide increased access through telecommunications, distance learning, and public broadcasting opportunities in concert with other state and private agencies.
- o Determine strategies for providing public higher education in underserved areas of the State.
- o Assure that higher education remains affordable to Montana citizens.
- o Substantially improve minority recruitment and retention in public higher education.

VI. CONTRIBUTE TO THE STATE'S ECONOMIC AND SOCIAL WELL-BEING.

- o Encourage transfer of new ideas, methods and products to the public.
- o Facilitate the delivery of services that will contribute to economic and social well-being in the State.

VII. MAINTAIN AND ENHANCE THE RESEARCH AND CREATIVE CAPABILITIES OF MONTANA'S SYSTEMS OF HIGHER EDUCATION.

- o Substantially improve intercampus collaboration and cooperation in applied and fundamental research programs.
- o Encourage and facilitate application of both fundamental and applied research in areas of economic benefit to the State.
- o Maximize opportunities for faculty and staff to conduct productive research and creative activities through support from federal and non-state agencies.
- o As institutional and system priorities are developed, ensure an appropriate balance in the distribution of faculty effort between research and instruction.

7) notify the retirement board of the employment of a person eligible for membership and forward his membership application to the board.

History: En. 75-6214 by Sec. 109, Ch. 5, L. 1971; amd. Sec. 10, Ch. 127, L. 1977; amd. Sec. Ch. 331, L. 1977; R.C.M. 1947, 75-6214(part); amd. Sec. 5, Ch. 464, L. 1985; amd. Sec. 11, Ch. 494, L. 1987.

Cross-References

PERS — employer contributions, Title 19, ch.

part 8.

EXHIBIT #2

DATE 1-22-91

HB 1

Part 3

Membership

Cross-References

PERS — membership, Title 19, ch. 3, part 4.

Judges' retirement — membership and service allowance, Title 19, ch. 5, part 3.

Highway patrol retirement — membership and credit for service, Title 19, ch. 6, part 3.

Sheriffs' retirement — membership and credit for service, Title 19, ch. 7, part 3.

Game wardens' retirement — membership and credit for service, Title 19, ch. 8, part 3.

Police retirement — statewide plan — membership, Title 19, ch. 9, part 3.

Firefighters' unified retirement — membership, Title 19, ch. 13, part 3.

University System optional retirement program — participation, 19-21-201.

19-4-301. Membership application. Whenever a person becomes a member of the retirement system as required by 19-4-302, he shall complete application form prescribed by the retirement board.

History: En. 75-6212 by Sec. 107, Ch. 5, L. 1971; amd. Sec. 5, Ch. 507, L. 1973; amd. Sec. Ch. 127, L. 1977; amd. Sec. 7, Ch. 331, L. 1977; R.C.M. 1947, 75-6212(1).

19-4-302. Active membership. (1) Unless otherwise provided by this chapter, the following persons must be active members of the retirement system with the exception that those persons who became eligible for membership on September 1, 1937, or on September 1, 1939, and who elected not to become members under the provisions of the law at that time are not required to be members:

(a) any person who is a teacher, principal, or district superintendent as defined in 20-1-101;

(b) any person who is an administrative officer or a member of the instructional or scientific staff of:

(i) a vocational-technical center; or

(ii) a unit of the Montana university system and who has not elected to participate in the optional retirement program under Title 19, chapter 21;

(c) any person employed as a speech therapist, school nurse, or school psychologist or in an instructional services capacity by the office of the superintendent of public instruction, the office of a county superintendent, a special education cooperative, a public institution of the state of Montana, the Montana state school for the deaf and blind, or a school district;

(d) any person who is an administrative officer or a member of the instructional staff of the board of public education;

(e) any person who has elected not to become a member of the retirement system and is reentering service in a capacity prescribed by (a), (b), (c), or (d) of this subsection (1);

(f) any person who has elected not to become a member of the retirement

(b), (c), or (d) of this subsection (1) since the time of such election, and who may thereafter elect to become a member of the retirement system.

(2) In order to be eligible for active membership, any person described in subsection (1) must:

(a) be employed in the capacity prescribed for his eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for his creditable service totally paid by an employer as defined herein.

(3) (a) A substitute teacher:

(i) may elect to become an active member of the retirement system on the first day of employment in any fiscal year; or

(ii) shall become an active member of the retirement system on the 31st day of employment in any fiscal year if he has not elected membership under subsection (3)(a)(i).

(b) The employer shall give written notification to a substitute teacher on his first day of employment in any fiscal year of his option to elect membership under subsection (3)(a)(i).

(4) A substitute teacher who did not elect membership under subsection (3)(a)(i) and subsequently becomes a member must be awarded creditable service for his substitute teaching service if he contributes:

(a) an amount equal to the combined employee and employer contributions that would have been made if he had elected membership; plus

(b) interest at the rate the contributions would have earned if they had been on deposit with the retirement system.

(5) At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership. All persons in similar circumstances shall be treated alike.

History: En. 75-6209 by Sec. 104, Ch. 5, L. 1971; amd. Sec. 6, Ch. 127, L. 1977; amd. Sec. 6, Ch. 331, L. 1977; R.C.M. 1947, 75-6209; amd. Sec. 1, Ch. 221, L. 1981; amd. Sec. 1, Ch. 210, L. 1983; amd. Sec. 1, Ch. 22, L. 1987; amd. Sec. 1, Ch. 296, L. 1987; amd. Sec. 12, Ch. 494, L. 1987; amd. Sec. 6, Ch. 658, L. 1987; amd. Sec. 2, Ch. 56, L. 1989.

Compiler's Comments

1989 Amendment: Inserted (4) relating to the award of creditable service to a substitute teacher; and made minor change in form. Amendment effective July 1, 1989.

Cross-References

Legislators — continued participation, 5-2-304.

Police retirement — statewide plan — active membership, 19-9-301.

Firefighters' unified retirement — active membership, 19-13-301.

University System optional retirement program, Title 19, ch. 21.

University System optional retirement program — effect on rights under teachers' retirement system, 19-21-202.

Community college district nonteaching employees — nonapplicability, 20-15-106.

Community college district teachers and trustees covered by teachers' retirement system, 20-15-106, 20-15-225.

Community college district employees covered by Public Employees' Retirement System, 20-15-106.

19-4-303. Inactive membership. Any person's active membership in the retirement system shall terminate, but he shall be an inactive member, when:

(1) he ceases to be employed in a capacity that allows his membership and he has 5 or more years of creditable service in the retirement system;

(2) he ceases to be employed in a capacity that allows his membership and

EXHIBIT # 3
DATE 1-21-91
HB 27

Amendments to HB Bill No. 27
1st Reading Copy

For the House Committee on Education

Prepared by Andrea Merrill
January 19, 1991

1. Title, line 4.

Following: "EXEMPT"

Insert: ", IN CERTAIN CIRCUMSTANCES,"

2. Page 2, line 2.

Following: "teacher"

Insert: "who is not employed as a substitute teacher for more
than 30 consecutive school days"

EXHIBIT #4
DATE 1-21-91
HB 104

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 1-21-91 BILL NO. 104 NUMBER #1

MOTION: HB 104, DO PASS - Motion by
Rep. Dan Harrington 14 aye 6 no

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN	✓	
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓	
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK		✓
REP. VICKI COCCHIARELLA	✓	
REP. FRED "FRITZ" DAILY	✓	
REP. ALVIN ELLIS, JR.		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER	✓	
REP. FLOYD "BOB" GERVAIS	✓	
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON	✓	
REP. TOM KILPATRICK	✓	
REP. BEA MCCARTHY	✓	
REP. SCOTT MCCULLOCH	✓	
REP. RICHARD SIMPKINS		✓
REP. BARRY "SPOOK" STANG	✓	
REP. NORM WALLIN		✓
REP. DIANA WYATT		✓
TOTAL	<u>14</u>	<u>6</u>

EDUCATION & CULTURAL RESOURCES COMMITTEE

DATE January 21, 1991

SPONSOR Rep. Swysgood

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES

COMMITTEE

BILL NO. 154

DATE January 21, 1991

SPONSOR Rep. Forrester

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bruce W. Goerer	MSBA	✓	
David McKenna	MACSS	✓	
Harry Stollfus	Fort Benton	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.