

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By Chairman Ted Schye, on January 23, 1991, at 3:00 p.m.

#### **ROLL CALL**

##### **Members Present:**

Ted Schye, Chairman (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)  
Tom Kilpatrick (D)  
Bea McCarthy (D)  
Scott McCulloch (D)  
Richard Simpkins (R)  
Barry "Spook" Stang (D)  
Norm Wallin (R)  
Diana Wyatt (D)

**Members Excused:** Vice-Chairman Ervin Davis and Rep. Dan Harrington

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

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

#### **HEARING ON HB 175**

##### **Presentation and Opening Statement by Sponsor:**

**REPRESENTATIVE DAVE BROWN**, House District 72, said HB 175 requires that kindergarten be offered in all school districts in Montana. Kindergarten offers basic social and academic instruction and is an accepted part of the educational system in Montana (K-12). Children are taught in kindergarten what used to be course material for first grade. Those children denied access to kindergarten often play catch-up in first grade. This bill

does not change the compulsory age for attendance in school of seven. A parent would not be required to send their child to kindergarten. Current statute authorizes districts to offer kindergarten programs and allows the district to receive ANB at .5 for each kindergarten student. REP. BROWN said were this legislation to pass based on first grade enrollments in 1989-90 the Office of Public Instruction projects approximately seventy-two kindergarten students would be expected to enroll. Currently 99.4% of kindergarten age students in Montana are taking advantage of kindergarten programs and with passage of HB 175 the additional .6% would have the same opportunity. While other states are arguing over whether preschool mandates should be put into law, Montana continues to side step the kindergarten issue.

#### Proponents' Testimony:

Eric Feaver, Montana Education Association, (MEA), said he remains mystified that this legislation is a perennial loser in the Legislature. It is almost impossible to believe this Legislature will not mandate kindergarten when most children have access to this important educational program and only a handful do not. It is conceivable, in a period of declining budgets and the inability to meet many mandates already in the statutes, that because there is no mandate for kindergarten some districts that offer kindergarten will not do so in the future.

Wayne Buchanan, State Board of Public Education, said this bill does not require anyone to send their child to kindergarten that does not want to. Recent research recently points to the value of early education. This is particularly important for "at risk" students who have the potential for problems later on in education. The impact is minimal fiscally, and it is time the Legislature opened this advantage up to all Montana children

Gail Gray, Office of Public Instruction, (OPI), said it is important for children to have the opportunity to participate in a kindergarten program if their parents chose to have them do so. It is necessary for equal educational opportunity.

Bruce Moerer, Montana School Boards Association, (MSBA), said it would be mandatory for the districts to offer kindergarten and not mandatory for parents to send children.

Teresa Reardon, Montana Federation of Teachers, (MFT), stated support for HB 175.

#### Opponents' Testimony:

Kay McKenna, Montana Association of County School Superintendents, (MACSS), said the County Superintendents are not at all against kindergarten, but they want to keep this a local control issue. The enrollment issue has to be addressed at the rural level. Her experience across the state in rural situations has been that where there is adequate population for a

kindergarten, one is in place.

Questions From Committee Members:

REP. BENEDICT asked REP. BROWN why this legislation has been defeated the past several sessions. REP. BROWN answered that last session it passed the House and died in the Senate by three votes on second reading. The principle reason has been the concern of the rural groups. It is noteworthy today that all the agricultural groups that previously opposed this legislation are absent.

REP. SIMPKINS asked REP. BROWN if a school had just one child of kindergarten age would the school have to provide kindergarten upon the parents request. REP. BROWN answered yes. REP. SIMPKINS asked if in a situation like that are the kindergarten children bused to the school with the other students. REP. BROWN replied often times the district will hold kindergarten on a two or three day schedule. There is usually a teacher in the system qualified to handle the class or they bring somebody in part-time. Gail Gray from OPI responded there are options for alternative scheduling, where the kindergartners come three days all day during one semester and two days all day the next. REP. SIMPKINS commented that the school would be responsible for transporting the child back and forth to school and also filing for alternate schedules so they can keep the child all day rather than transporting on half-day schedules. Ms. Gray replied yes and the alternate means are very flexible.

REP. WALLIN asked Gail Gray about the number of schools with only one kindergartner. She replied she could get that information for executive action.

Closing by Sponsor:

REP. BROWN said it is appalling Montana is one of a handful of states that does not mandate the kindergarten opportunity. In a world where education is probably the single most important factor when looking at business involvement and competition, both on a domestic and international level, programs must be available.

HEARING ON 202

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BEN COHEN, House District 3, Whitefish, said HB 202 would prohibit the misappropriation of the federal Carl D. Perkins Vocational Education Funds. He received a letter from a business education teacher at Columbia Falls saying they had an application in for a Carl D. Perkins grant, got graded very high on the list, and did not receive the grant. REP. COHEN was told the Office of Public Instruction was not handling the grants ever since the administration of the vo-techs was taken over by the

Perkins money to the vo-techs, while a good portion of that money was intended for the secondary schools. This legislation will ensure misappropriation of the Carl D. Perkins funds will not occur again.

### Proponents' Testimony:

Chip Erdmann, Montana Rural Education Association, said in 1984 Congress passed the Carl Perkins Vocational Education Act, which replaced the Vocational Educational Act of 1963 and recently it has changed again. Under both the old act and the new the funds provided were meant to supplement state and local funds, not supplant them. In other words those funds were not to be used in place of state funds. Mr. Erdmann said both secondary and post-secondary institutions in Montana receive the Carl Perkins funds and they do so through the Board of Regents. The Board of Regents became what the federal government calls the sole state agency for distribution and responsibility for those funds when the governance of the vo-techs shifted over to the Regents. In 1984 the Legislature started appropriating significant portions of the Perkins funds directly into the unrestricted base budgets of vo-techs and essentially took those funds away from the pool where secondary schools could compete for them. For example, last year the vo-techs submitted 11 proposals and high schools submitted 113 in Title II Part B. All were scored by the same panel with all vo-tech granted funding for \$522,000, regardless of scores, and only five high schools received grants. The high schools were encouraged by the Board of Regents and the Office of Public Instruction to apply for grants, which is not easy to do and there is a great deal of frustration. After six years of this happening, four districts filed a legal challenge in district court in Helena challenging the Regents' procedure for distributing the funds. Mr. Erdmann said in actuality the Regents were doing things the only way they could, given the appropriations by the Legislature. The suit was dismissed on a procedural ground. Under the new Perkins Act the allocations are different. The regents have determined 65% of funds will go to secondary schools and 35% to postsecondary. Once that split is made, it is fairly automatic what each institution will receive since they are not submitting competitive grants. The concern is that the Legislature may again appropriate the Perkins funds directly into the vo-techs, therefore, taking away a portion of the funds that should rightfully go to secondary schools. Mr. Erdmann said HB 202 restates requirements in the federal law and in the Board of Regents' state plan for distributing these funds. This legislation reinforces the fact that these funds should be available to secondary and postsecondary schools on an equal basis.

LeRoy Schramm, Legal Counsel, Board of Regents, said the Regents support Rep. Cohen's attempt to solve this serious problem. If it is not solved, litigation will result between the state and some school districts. At issue is about 20% of the federal Perkins money that the Board has felt obligated, because of the

state appropriations, to leave for the use of the vo-tech centers. The Governor's and LFA Budgets keep \$807,000 of Perkins money in the base budget of the vo-tech centers. Perkins funds cannot be used to supplant state General Fund money and the amount of state money to be given the vo-techs can not be affected one way or the other by the use of Perkins money. Mr. Schramm said the passage of HB 202 can be an easy solution but if in fact that \$807,000 appears in the base budget, we will see the legislative process at its worst. If they appropriate the money and at the same time HB 202 passes, the Board of Regents is caught in the middle. In order to solve the problem, the message must get into the appropriation process that this \$807,000 cannot be used to supplant General Fund money because if it does, it is in violation of federal law.

Bruce Moerer, Montana School Boards Association, (MSBA), urged support for HB 202.

Gail Gray, Office of Public Instruction, (OPI), said the hope is for more realistic opportunities for secondary vocational education programs to benefit from Carl Perkins appropriations.

Jim Fitzpatrick, Executive Director, Montana Council on Vocational Education, said the Council is to ensure that the Carl D. Perkins Act is in accordance with the congressional act. Since 1984 the Council has addressed the issue of the Montana Legislature appropriating Perkins funds to the vocational technical centers. The Montana plan is specific that the federal funds will be used to supplement not supplant. Mr. Fitzpatrick said the Council feels the following questions must be addressed: 1) would the Legislature be willing to rescind the past practice of allocating Perkins Grants and backfill the \$807,474 with state funds, 2) would passage of this bill have implications beyond the intended purposes allowing eligible recipients to challenge policies, procedures, interpretations of compliance measures and certainly the state plan itself, and 3) can the Legislature adequately resolve this issue by means other than passage of legislation. Mr. Fitzpatrick said the Council does not support the practice of the Legislature appropriating Perkins funds to Montana's vocational technical centers as evidenced by the recommendation in its last report.

#### Opponents' Testimony:

REP. RAY PECK said there is potential that this bill may go beyond what the sponsor intends. The Congressional Record for August 2, 1990 states the funds made available under Title II will be used to supplement for the uses specified in the application and in no case supplant state or local funds. The question of when you start supplanting and when you start supplementing was difficult, especially in 1984 and 1985 when the state of Montana was in dire financial need. Rep. Peck closed his comments by asking if we really want to start passing legislation that controls legislative committees.

Questions From Committee Members:

REP. WALLIN asked Mr. Erdmann if in view of the disagreements over this fund is there any possibility the federal government will take away the money. Mr. Erdmann said there is an administrative process wherein if the federal government came in and audited the use of those funds and determined they had been misused, they could possibly request a refund or offset future grants.

Closing by Sponsor:

REP. COHEN said Rep. Peck pointed out for the committee exactly what is going on. The fact is the funds have been misused for six years. The federal government has made the law much more explicit so now we are being told we don't need this bill. This bill means if the appropriations committee again fails to take care of our secondary schools they way they are expected to do, we no longer need to have a lawyer check it out. Rep. Cohen stressed this is our state and it is the students of our state that are being deprived while these people shuffle the bucks around in committee. There are secondary students in Montana who deserve to have vocational education. The Appropriations Committee feels it has carte blanche with the use of federal funds. It is really a matter of whether the Education Committee wants to take hold of the reins and make some policy on education or whether you are going to continue to let the members of the Subcommittee on Appropriations, through the allocation of funds, determine what the policies of this state should be.

HEARING ON 208

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE GARY FORRESTER, House District 98, Billings, said HB 208 eliminates the requirement for the Department of Commerce to destroy old records.

Proponents' Testimony:

Ric Floren, Montana Association of School Business, said he contacted the Department of Commerce and they were uncertain why they were even receiving the old records. This was a proposal from the early 1930s.

Kay McKenna, Montana Association County School Superintendents, (MACSS), stated support for this bill and said the Department of Commerce would probably be delighted to see this bill passed.

Bruce Moerer, Montana School Boards Association, (MSBA), stated support for HB 208.

Loran Frazier, School Administrators of Montana, (SAM), stated

support for HB 208.

Closing by Sponsor:

REP. FORRESTER said this is a good bill eliminating the need to require school districts to keep large numbers of invoices as described by testimony.

HEARING ON HB 30

Informational Testimony:

CHAIRMAN SCHYE said it was most unusual to have a hearing interrupted as happened January 16 during the hearing on HB 30. The committee would continue with questions from members and have REP. PECK close.

Questions From Committee Members:

REP. BERGSAGEL asked Supt. Keenan to relate what she envisioned this program would do for schools in terms of hardware and telecommunications availability. Supt. Keenan said currently most schools have computers and what is foreseen as coming on line in the first phase are satellite possibilities, computer modems and telephone lines into the schools. REP. BERGSAGEL asked Supt. Keenan to explain, as reported in the Lambda Report, the compressed video that will go to 66 sites in Montana. Supt. Keenan said this compressed video would go across telephone lines and the potential at those sites is almost limitless. For example, an advanced physics teacher in Glendive may teach a class in Circle, Bainville or another rural area. This is a cooperative teaching effort with one teacher/one site able to reach a number of sites.

REP. BENEDICT had a concern with equal access to funding. He said he has another concern with the significantly high investment for installation. Supt. Keenan said perhaps the private sector could be approached at the local level by the schools and see what deals can be made. There is a cost when you buy into Edunet or ESD1 in Spokane. This has to be a priority to get specific access to certain classes. This is local control issue and very tough to solve. However, there is no way it can all be solved on the state level. There must be effort and commitment from local districts and some serious prioritizing of money in schools.

REP. CLARK asked Supt. Keenan about the fiscal note and the figure showing an FTE at \$37,000. Supt. Keenan replied this FTE is not a salary figure but includes equipment, in-service training or part of the rent for office space. REP. CLARK asked what the FTE would be doing. Supt. Keenan said the FTE would process and evaluate grants, advising schools on technology and coordinating with other programs in distance learning. The workload with this technology is tremendous.

REP. BERGSAGEL asked Supt. Keenan if some curriculum courses currently come from Spokane and is the plan to develop some curriculum out of Bozeman. Supt. Keenan said the ultimate goal is to use higher education units in Montana. We want to offer those programs out of our university units and not out of state. REP. BERGSAGEL questioned if there will be a problem with the transfer of credits within the University System. Supt. Keenan said the Commissioner of Higher Education would need to speak to that. Commissioner Hutchinson said this is an area being worked on at the present time.

REP. WALLIN asked REP. PECK if the capital outlay of \$450,000 to obtain the hardware for the system is a one-time expenditure. REP. PECK said it would be up to the members of the next legislative body to determine whether to put more money in or not. REP. WALLIN inquired whether the hardware purchased now may be outdated in two years. REP. PECK said there is a continual upgrading of systems but that is a local control issue. If the local Board of Trustees determines equipment or programs are outdated, they can make application for available money. It will be up to the administrative structure created by this bill to determine whether this should be done or not.

REP. HANSON asked Supt. Keenan if schools have to participate in the program or, for example, if Saco School chose not to would it receive any cash benefits for determining its own destiny. Supt. Keenan said no school has to participate. Saco School could continue as it has in the past but at some point would find itself not communicating with anybody. This network enables schools to talk to other schools with equipment that is compatible. Saco School will probably find it isn't part of the big picture and will be unable to communicate not only in state but also interstate. That is the risk.

CHAIRMAN SCHYE asked Tony Herbert the role of the Department of Administration in the bill. Mr. Herbert said the Department's role is to provide technical support and expertise to the Office of Public Instruction and higher education while guiding them through the murky waters of the telecommunications industry.

REP. BENEDICT asked Tony Herbert to explain how many FTEs are involved in the fiscal note. Mr. Herbert said there is one FTE for the Department of Administration, two FTEs for the Office of Public Instruction and one-half FTE for the Commissioner's Office.

REP. SIMPKINS said it appears that fiber optics may replace satellite communications throughout the state. He asked Tony Herbert if we are sinking a great deal of money into telecommunications and satellite dishes that will soon need to be replaced with fiber optics. Mr. Herbert replied that no single technology will meet the requirements for K-12, which was learned through the Lambda Study. We should move towards digital communications that can be provided over a microwave signal



provided by the phone company today or over a fiber optic plant they may have in the ground such as Mid-Rivers Telephone. We won't be investing in obsolete technology but will be purchasing various products that are state-of-the-art at the time while being extremely cautious of their long term life-cycle.

REP. SIMPKINS asked Supt. Keenan how this legislation fits with the state Constitution which requires the Board of Education to provide a long range plan for all education in Montana. Supt. Keenan replied that it's evident in the cooperative working experienced with the Board of Regents as that joint board discusses distance learning as well as telecommunications. This has been discussed extensively at the joint board of the Board of Public Education and the Board of Regents.

REP. WALLIN asked Supt. Keenan for comparative scores between schools who have this technology in place and learning from a live teacher. Supt. Keenan replied that the technology is so new there are really no test scores to say who does better. Test scores are not always indicative of how much is learned. Mr. Shields from the College of Great Falls has indicated his students do very well. Supt. Keenan said she would never opt to replace the teacher with machinery, but in areas like Circle we need to get courses available and right now in the 21st century this is how we do it.

REP. BERGSAGEL asked Tony Herbert to address the cost sharing between the private and public sector. The Lambda report references a two million dollar contribution and asked who does it come from. Mr. Herbert replied that TCI Communications said they might be able to provide certain items, which over a five year period would equal an investment of approximately two million dollars.

#### Closing by Sponsor:

REP. PECK said as a retired educator this is one of the most exciting pieces of legislation he has seen. This is a classroom without walls and if we use our imaginations, there is no limit as to what the possibilities are. He said Carl Knudsen from Saco is a recognized educational leader in Montana in terms of development and is totally supportive of this bill. This enhances educational opportunities for every kid. The government entities are all cooperating and the public and private sectors are also involved. It is built on a two year needs assessment in network design for K-12, postsecondary education, vo-techs, community colleges and has potential coursework for all. REP. PECK said there is also potential for every educator and citizen in Montana. It could educate farmers and miners and train government employees. There is great flexibility in the bill, recognizing local control, and allowing local boards to go as far as they wish. This bill does not take money away from anybody or any program.

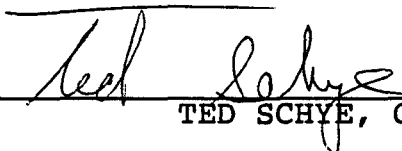
EXECUTIVE ACTION ON HB 208

Motion: REP. WALLIN moved that HB 208 DO PASS AND BE PLACED ON  
CONSENT CALENDAR.

Recommendation and Vote: Motion CARRIED unanimously.

ADJOURNMENT

Adjournment: 5:30 p.m.

  
TED SCHYE, Chair

  
DIANNE MCKITTRICK, Secretary

TS/dMcK

# HOUSE OF REPRESENTATIVES

## EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE 1-23-91

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 23, 1991

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Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 208 (first reading copy -- white) do pass and be placed on consent calendar .

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

  
Ted Schye, Chairman

# HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

EDUCATION & CULTURAL RESOURCES

COMMITTEE

BILL NO. HB 175

DATE January 23, 1991 SPONSOR(S) Rep. Dave Brown

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DAVE BROWN	State Rep. # 72	175		X
K. McKenna	MASS	175	✓	
TERESA REARDON	MFT	175		✓
Pat Roy	CPD			X
Bruce W. Moller	MSBF	175		-
Mike Law	MSA	175		✓

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# HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

EDUCATION & CULTURAL RESOURCES

COMMITTEE

BILL NO. HB 202

DATE January 23, 1991 SPONSOR(S) Rep. Ben Cohen

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
CHIP EDMANN	Mt Rural Education Assoc	HB 202		X
<i>[Signature]</i>	OPR			X
Bruce W. Moen	MSBA	202		X

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# HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

EDUCATION & CULTURAL RESOURCES

COMMITTEE

BILL NO. HB 208

DATE January 23, 1991 SPONSOR(S) Rep. Gary Forrester

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Ray McKenna</i>	<i>MACSS</i>	<i>208</i>		<input checked="" type="checkbox"/>
<i>Tim Floren</i>	<i>MASBO</i>	<i>208</i>		<input checked="" type="checkbox"/>
<i>Bruce W. Moevev</i>	<i>MSBA</i>	<i>208</i>		<input checked="" type="checkbox"/>
<i>J. Frasier</i>	<i>SPAM</i>			<input checked="" type="checkbox"/>

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