

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION**

**Call to Order:** By SENATOR CHET BLAYLOCK, on February 6, 1991, at  
3:00 P. M.

**ROLL CALL**

**Members Present:**

Chet Blaylock, Chairman (D)  
Harry Fritz, Vice Chairman (D)  
Robert Brown (R)  
Bill Farrell (R)  
H.W. Hammond (R)  
Dennis Nathe (R)  
Dick Pinsoneault (D)  
Mignon Waterman (D)  
Bill Yellowtail (D)

**Staff Present:** Eddy McClure (Legislative Council).

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

**HEARING ON HB 27**

**Presentation and Opening Statement by Sponsor:**

Representative Foster, District 32, presented HB 27 an act to exempt a school district from the Nepotism law in the employment of a substitute teacher.

The sponsor pointed out one addition that was made by the House Education Committee on Page 2, Lines 3-4, which he felt was a good addition to the bill. It limits the number of consecutive days that the substitute could teach.

The speaker said that part of the problem is that the present law on nepotism does not directly address how substitute teachers are going to be hired. School districts have interpreted the law differently. In those areas where a strict interpretation has been made, substitute teachers have been put into a real tough situation especially those who are certified because the usual way that they want to be certified is to spend time in the classroom. If they can't do that, they are forced to take college courses and an examination for certification. This is

expensive for the substitute teacher. The community and the school also suffer from this because it is not that unusual for there to be a relatively small pool of qualified substitute teachers and when some names are eliminated from the list, it really does have the potential for an effect on the quality of education.

Also school board member who are related to the substitute teacher have been known to resign from his/her position so that the relative may continue teaching. This creates a real difficulty since it could take a qualified person off the school board.

The sponsor said that SB 27 was received in the House. On the floor the vote was 96 - 1.

See Exhibits 1, 2, 3, 4, 5.

There were no proponents or opponents to the bill.

Questions From Committee Members:

Senator Blaylock mentioned that one of the problems as seen previously by the Education Committee was found on some of our reservations where there are a lot of people who are related within those communities. When asked what his feeling were on this, Senator Foster said that he could only speak for the school districts that approached him and felt that the change of law would benefit their community. He added that he thought it would help any school district including the reservations in the employment of a substitute teacher.

Closing by Sponsor:

Representative Foster in closing said that everyone recognizes the importance of a strong nepotism law but he hoped that the committee would look at circumstances with the community. He said that he thought this offered an opportunity to help school districts, communities and the substitute teachers who have been put in somewhat a difficult position because of certain interpretations of the law. He urged support of HB 27.

HEARING ON HB 175

Presentation and Opening Statement by Sponsor:

Representative Dave Brown, House District 72, an act to provide that the trustees of an elementary school district shall make available a kindergarten program in the district.

The sponsor said that the only real change is on Line 13, Page 1,

where it reads, "shall establish or make available". Any other changes pertain to grammatical changes made by the Legislative Council.

The sponsor said that when he first started carrying this legislation in 1981, kindergartens were much like first grades of yesterday. He emphasized kindergarten importance from a social development standpoint as well as being the real beginning of the academic program both in reading and math.

The sponsor reminded the committee that the compulsory age of school attendance in Montana is still age 7. In this state if parents do not want to send their children until age 7, they don't have to. The sponsor said that he didn't intend to change that.

Federal requirements for pre-school service to handicapped require kindergarten activity if school districts are going to receive funds.

In the state of Montana 99.4 percent of kindergarten age students receive kindergarten at this present time. Ten years half of the second class districts did not have kindergarten and most of the third class districts did not. Today it is down to 30 percent districts who do not have kindergarten affecting about 74 students. There are about 30 districts where kindergarten is available but there are no students in that age group.

The sponsor said that he would submit to committee that kindergarten is still used as a whipping boy by a lot of people to get new levies passed. Also said that many people will put up the cash to replace sports programs that have been cut but would not fund band or kindergarten if those funds were cut. More than 20 other states in this nation are mandating preschool requirements for ages 3 and 4. It is time for Montana to take a serious look at this bill. Given the Equal Access Supreme Court decision, it is only going to take one lawsuit before the court writes the law for the legislators. Sponsor asked that the committee please support the bill.

#### Proponents' Testimony:

Gail Gray, OPI, in support of HB 175. Speaker briefly touched on three points: (1) Important for all children to have the opportunity to participate in the kindergarten program if their parents wish for them to attend. (2) Emphasize that it is absolutely necessary for equal education opportunity; (3) Kindergarten is much more than a school readiness program for 5 year olds; kindergarten provides a foundation for success in elementary grades and lifelong learning. The Office of Public Instruction urges support of HB 175.

Further proponents of HB 175:

Eric Feavor, MEA.  
Wayne Buchanan, MBPE.

There were no opponents to HB 175.

Questions From Committee Members:

Senator Blaylock said that he noticed on the fiscal note that it talked about 30 districts, or 8 percent, do not have kindergarten. He asked the sponsor for the names of those districts which are: Sixteen schools who have 11 or fewer students. There are six that have between 12 - 30 students and there are seven districts that have between 31 - 74 students. Listed: Custer, Daniels, Fergus, Garfield, Glacier, Judith Basin, Lake, two small districts in Lewis and Clark; Liberty, Lincoln; Pondera and Powell. Most are one district. Custer County is the biggest - ten districts. That county does make kindergarten available whenever they possibly can even though they are listed with not providing.

Senator Fritz asked Representative Dave Brown why he thought this bill had failed in previous sessions. The sponsor said that HB 175 has had opponents (Ag groups, WIFE, etc.) consistently oppose this bill in all previous sessions for two reasons: (1) Concern about little children who would have to travel by bus over long distances; (2) concern regarding impact on communities.

Closing by Sponsor:

Representative Brown urged the committee to support HB 175.

The Senate carrier is J. D. Lynch.

HEARING ON SB 234

Presentation and Opening Statement by Sponsor:

Senator Gage, Senate District 5, presented SB 234 which is an act to provide that tuition approval agents are not required to approve a tuition application for out-of-county tuition if the resident school district provides transportation.

The speaker said that part of this bill went into the 1985 session during a special situation and this is the part that makes up SB 234. Sponsor said that the superintendent of schools at Hinsdale had brought this matter to his attention. They said

that this law was causing them a lot of problems. He said that he had talked to the people in the OPI and to Andy Merrill and they had related to him that they could see no rational reason why this should be in the statutes; particularly Lines 21 starting on Page 2 and going through Line 2, Page 3. He pointed out that it puts those tuition agreements on or before April 30, 1985, and this deals just with high school and would no longer be effective for anyone.

The other part of the bill, Lines 19-20, deals with a child residing in a county different from the county wherein he wishes to attend school. There is a provision in the bill currently on tuition that says that the approval agent shall approve a tuition application from a child who lives closer to a high school of another district than a high school located within his resident district or when, for geographic conditions, it is impractical to attend the high school nearest his residence.

It goes on to give exception saying that the approval agents are not required to approve a tuition application for a student seeking to attend a high school outside the residence district if the resident district provides transportation.

If there were parents residing in Toole County who chose to send their child to a school in Glacier County (and Toole County was providing bus service for the child), Toole County would still be required to pay tuition to Glacier County for the child's education. Under the old exception, it appeared that those agents had to approve that tuition agreement. Under this situation where there is transportation being provided, if those parents see fit to send that child to a school in another county, the approving agents do not have to approve a tuition agreement. The sponsor said that he had been told that most of the schools and most of the educators do not want to get into this whole tuition section of the statutes because it would present a lot of problems in interpretation of the law.

#### Proponents' Testimony:

Senator Swede Hammond, Senate District 9, testified in support of SB 234.

#### Opponents' Testimony:

Eric Feavor, MEA, said that he doesn't know for certain that MEA is an opponent but he was quite certain that MEA couldn't support the bill as written. He said that he would urge the committee to consider some questions before they make a decision on SB 234:

- (1) How many students are affected by this piece of legislation.
- (2) Where those students might be located.
- (3) What school districts are involved.
- (4) What dollars might be involved.

The speaker said that the example of Hinsdale has been heard but he would suspect that it may involve much more than Hinsdale. It could be all of northern Jefferson County, Helena and Boulder. He said that he would suspect that there are other examples of that around so he hoped that the committee would not just approach this as a simple little bill but suggested that it might have a profound fiscal impact on the school districts in Helena and schools in Jefferson County.

The speaker said that the governor had urged parental choice whenever possible in the field of education; however, it has been pointed out to the governor that there is a wide array of parental choice within Montana statutes that allows parents to send their children to just about any school that they want. He added that since ANB follows that student, there is a pay voucher scheme in this state that is pretty well recognized. The speaker suggested that this bill would impinge upon parental choice. He said that at this point MEA is opposed to SB 234.

#### Questions From Committee Members:

Senator Blaylock told Senator Gage that in this committee in past sessions "a regular hornet's nest" was before us out of Jefferson County which is close to Helena. He said that there are many students wanting to attend school in Helena and there have been some "hot" meetings before the committee on this subject. He asked if the speaker had the facts and figures that were suggested (by OPI) that the committee look at and Senator Gage said that he did not have those figures at this time. Senator Gage said that he felt that those facts and figures did not have anything to do with this bill because if a school is providing transportation for a student, it doesn't appear that the committee should mandate to the approving agents that they have to approve a tuition agreement with another county for that student's tuition. There is already a provision in the law that says that approval agents are not required to approve tuition when the student is going outside of the resident district if the district provides the transportation to the school within the resident district.

Sub 2 says that approval agents shall approve a tuition application of a child living closer to a high school of another district than any high school located within a resident district when the road or geographical conditions are such that it is impractical to attend the high school nearest the residence. If those conditions exist, then there is already the mandate to approve that tuition agreement but if those conditions do not exist and it just the preference of the parent to change schools and the residence school district is providing transportation then those approval agents should have the option of saying that they will not approve this tuition agreement.

Senator Blaylock said that he felt this bill would be in opposition to requests by President Bush, former Secretary of

Education Bennett and Governor Stephens who have all called for greater freedom of choice. He spoke of the state of Minnesota where a child can go to any high school in that state that they want to regardless of where they live.

Senator Gage said that he didn't have a problem with that concept but he said that he didn't think a resident district should have to provide transportation to get those students to school within his district and also pay tuition to another district because of personal choice. He suggested if the state wants to pick that up, that's another thing. It would appear that the parent or the state should pick up that tuition but not the resident school.

Senator Nathe asked how much a district losing a student would pay to the receiving district.

Senator Waterman said that the receiving district sets the amount of money to be paid for the student. Generally, it is the difference between what their cost is to educate that student and the ANB.

Senator Hammond said that the cost is now \$6000 a student.

Senator Waterman said, "Let me run the scenario for you from Jefferson County so you will know the "hornet's nest" you are walking into. In Jefferson County about 75% of the students in that high school district live closer to Helena High School than they do to Boulder High School. When they built the new Boulder High School, they were aware with their demographics of that situation because the board was made up of residents of Boulder and they chose to locate the high school in Boulder...There is a substantial number and I am thinking in excess of 100 students from Jefferson County who attend high school at Helena High because they live closer to the school.

Parents don't want to bus their kids over the Boulder Hill and I'm not certain that Boulder High School could house all of those students. I can tell you that Helena would not educate them if our taxpayers were paying for it. We simply would not underwrite the education of kids whose parents are not paying taxes in our district so if this sort of proposal went through and we would tell Jefferson County High that they had their students next year, I don't believe that the high school at Boulder could house them and I know you would have an uproar from parents whose kids live closer to this district.

Senator Farrell said that he remembered very well why this statute was inserted. It was because of a south side Great Falls sub division where students were going to the school nearest their homes (in another district). Both sides were here together with people from Jefferson and Lewis and Clark Counties and that is why all of this was written. It was hotly contested at the time.

Closing by Sponsor:

Senator Gage closed the hearing on SB 234. He urged support of the bill since he feels that there are provisions made for geographic situations but also feels that if going to a different school is simply a parental choice situation, then the school accepting those students should be reimbursed by the parents or the state but not the residence school district.

EXECUTIVE ACTION ON SB 17

Discussion:

See Exhibit No. 5.

Motion:

SENATOR BROWN MOVED that Amendment to SB 17, No. 280945SC.SJI, DO PASS. Vote was unanimous. MOTION CARRIED.

SENATOR BROWN MOVED that SB 17 as amended DO PASS. Vote was unanimous. MOTION CARRIED.

EXECUTIVE ACTION ON HB 175

Motion:

SENATOR WATERMAN MOVED that HB 175 DO PASS. Seven voted aye; one voted no. (Senator Hammond). MOTION CARRIED.

Carrier for the Senate - J. D. Lynch.

EXECUTIVE ACTION ON HB 27

Motion:

SENATOR NATHE MOVED that HB 27 DO PASS; Seven voted aye; one voted no. (Senator Pinsoneault) MOTION CARRIED.


Carrier for the Senate - Francis Koehnke.



ADJOURNMENT

Adjournment At: 4:30 P. M.

  
\_\_\_\_\_  
SENATOR CHET BLAYLOCK, Chairman

  
\_\_\_\_\_  
BETSY CLARK, Secretary

CB/bc

SENATE STANDING COMMITTEE REPORT

Page 1 of 6  
February 7, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration senate bill no. 17 (first reading copy -- white), respectfully report that Senate Bill No. 17 be amended and as so amended do pass:

1. Title, line 15.

Following: "VALUATION;"

Insert: "TO EXTEND THE ALLOCATION OF PERCENTAGES OF THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE AND INCOME TAX TO THE STATE GENERAL FUND, THE DEBT SERVICE ACCOUNT FOR LONG-RANGE BUILDING PROGRAM BONDS, AND THE STATE EQUALIZATION AID ACCOUNT FOR PUBLIC SCHOOLS;"

2. Title, line 16.

Following: "SECTIONS"

Insert: "15-1-501,"

3. Title, line 21.

Strike: "20-9-361,"

4. Page 16, line 7.

Following: "receipts"

Insert: "received under the provisions of chapter 7, part 4, or this part"

5. Page 16, line 8.

Following: "in"

Insert: "a separate account of"

6. Page 16, lines 12 and 13.

Following: "budget"

Strike: remainder of line 12 through "20-9-141" on line 13

7. Page 20, line 10.

Following: "receipts"

Insert: "received under the provisions of chapter 7, part 1, or this part"

8. Page 20, line 11.

Following: "in"

Insert: "a separate account of"

9. Page 20, lines 15 and 16.

Following: "budget"

Strike: "and used in the manner provided for in 20-9-141"

10. Page 21, line 14.  
Following: "subsections"  
Strike: "(3)"  
Insert: "(5)"  
Following: "and"  
Strike: "(4)"  
Insert: "(6)"

11. Page 22, line 3.  
Following: "receipts."  
Insert: "(3) Any unreserved fund balance that is equal to or less than the prior year's excess reserves as provided in subsection (5) may be used to fund the permissive levy provided by 20-9-145 or the voted levy provided by 20-9-353.  
(4)"  
Re-number: subsequent subsections

12. Page 22, line 5.  
Strike: "earmarked" through "purposes"  
Insert: "reserved under subsection (2) or reappropriated under subsection (3)"  
Following: second "~~cash~~" on line 5  
Insert: "fund balance"

13. Page 22, lines 11 and 12.  
Following: "received"  
Strike: the remainder of line 11 through "year" on line 12

14. Page 22, lines 13 and 14.  
Following: "received" on line 13.  
Insert: ": (i)"  
Following: "protested" on line 14.  
Insert: "in a"  
Following: "prior"  
Strike: "to July 1, 1990"  
Insert: "school fiscal year"  
Following: ";" on line 14.  
Insert: "(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and  
(iii) in delinquent taxes from a prior school fiscal year;"

15. Page 23, lines 9 through 10.  
Following: "(2)"  
Strike: the remainder of line 9 through "(b)" on line 16  
Following: "county" on line 16  
Strike: "commissioners"  
Insert: "superintendent"

16. Page 25, line 21.

Following: line 20

Strike: "(i)"

insert: "(a)"

17. Page 25, line 24.

Following: line 23

Strike: "(ii)"

Insert: "(b)"

18. Page 27, lines 22 through 25.

Following: "is"

Strike: "." on line 22 through "(b)" on line 25

19. Page 28, lines 18 through 21.

Following: "receipt of" on line 18.

Insert: "; (a)"

Following: "year" on line 19.

Insert: "; (b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents,

(c) delinquent taxes from a prior school fiscal year;"

Following: "and" on line 19.

Insert: "(d)"

Following: "of the" on line 20.

Strike: "settlement amount"

Insert: "taxes received under subsection (5)(a), (5)(b), or (5)(c)"

20. Page 28, line 22.

Strike: "general fund"

21. Page 29, line 21.

Strike: "expenditures within"

22. Page 29, line 24.

Following: line 23

Strike: "superintendent of public instruction"

insert: "county superintendent and to the Board of county commissioners of the county"

23. Page 31, line 17.

Following: "20-9-313"

Insert: "or is for the reasons provided in 20-9-161(5) and 20-9-161(6)"

24. Page 34, line 21.

Following: "from"

Strike: "106% of"

25. Page 36, line 21.

Following: "with"

Insert: "available and"

26. Page 51, line 21.

Following: "amount"

Insert: "and the permissive amount"

27. Page 52, lines 12 through 17.

Following: "~~(1)~~"

Insert: "(1)"

Following: "~~proceeds~~" on line 17.

Strike: "Proceeds"

Insert: "Except as provided in subsection (1), proceeds"

28. Page 54, line 7, following line 6.

Insert: "(2) For the benefit of each municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, the state treasurer shall distribute each fiscal year from the state equalization aid levy to the municipality the amount, if any, equal to the product of the incremental taxable value of the urban renewal area times the reduced school levy for the area, each calculated for the fiscal year. The reduced school levy for a fiscal year is the difference between the aggregate amount of all property tax levies for school purposes in the urban renewal area, expressed in mills, in the fiscal year ended June 30, 1989, and the aggregate amount of all property tax levies for school purposes in the area or the district, expressed in mills, in the fiscal year, including the state equalization aid levy. The state treasurer shall distribute the amounts to municipalities in two equal installments on December 31 and June 30 of the fiscal year."

29. Page 54, lines 7 through 18.

Strike: section 31 in its entirety

Re-number: subsequent sections

30. Page 73, line 14.

Following: "and"

Insert: "the county commissioners shall"

31. Page 73, lines 17 through 24.

Following: "(8)"

Strike: the remainder of line 17 through "(b)" on line 24

32. Page 73, line 24  
Following: "county"  
Strike: "commissioners"  
Insert: superintendent

33. Page 74, line 4.  
Strike: "(1)"  
Insert: "(a)"

34. Page 74, line 7.  
Strike: "(ii)"  
Insert: "(b)"

35. Page 77, line 5.  
Following: "other"  
Strike: "district"  
Following: "sources"  
Insert: "provided in 20-5-307(4), 20-5-312(8), and 20-9-321(3)"

36. Page 77, line 10.  
Following: "reimbursement of"  
Insert: "miscellaneous program fund"

37. Page 90, line 13.  
Following: line 14  
Insert: "Section 47. Section 15-1-501, MCA, is amended to read:  
"15-1-501. Disposition of money from certain designated  
license and other taxes. (1) The state treasurer shall deposit to  
the credit of the state general fund all money received by him  
from the collection of:  
(a) fees from driver's licenses, motorcycle endorsements,  
and duplicate driver's licenses as provided in 61-5-121;  
(b) electrical energy producer's license taxes under  
chapter 51;  
(c) severance taxes allocated to the general fund under  
chapter 36;  
(d) liquor license taxes under Title 16,  
(e) telephone company license taxes under chapter 50; and  
(f) inheritance and estate taxes under Title 72, chapter  
16.  
(2) All money received from the collection of income taxes  
under chapter 50 of this title must be deposited as follows:  
(a) ~~57% in fiscal year 1990 and 50% in fiscal year 1991,~~  
59.5% to the credit of the state general fund;  
(b) ~~9.8% in fiscal year 1990 and 8.7% in fiscal year 1991,~~  
to the credit of the debt service account for long-range building  
program bonds as described in 17-5-408; and

~~(c) 33.2% in fiscal year 1990 and 41.3% in fiscal year 1991, 31.2% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.~~

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

~~(a) 64% in fiscal year 1990 and 61% in fiscal year 1991, to the credit of the state general fund;~~

~~(b) 11% in fiscal year 1990 and 10.5% in fiscal year 1991, to the credit of the debt service account for long-range building program bonds as described in 17-5-403; and~~

~~(c) 25% in fiscal year 1990 and 28.5% in fiscal year 1991 to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.~~

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund."

Renumber: subsequent sections

28. Page 100, line 9.  
Following: "through"  
Insert: "46 and 48 through"

39. Page 100, line 12.  
Following: "through"  
Strike: "50"  
Insert: "46, 48 through 57,"

40. Page 100, line 14.  
Following: "(2)"  
Strike: "[sections 41 through 44; and"  
Insert: "[section 47; is"

Signed: *Walter B. Black*  
Walter B. Black, Chairman

2-7-91  
Amd. Coord.  
LB 27 1:30  
Sec. of Senate

Ex. 1  
2-6-91  
HB 27

Chairman Blaylock and Members of the Senate Education Committee:

Thank you for the opportunity to give testimony in support of House Bill 27. This particular issue is close to my heart and I've spent many hours examining and re-examining my thoughts and feelings before presenting this testimony to you.

In 1988 I chose to resign my teaching position to be a full-time mother. Because I resigned my position in good standing, I knew I would be welcomed back into the school as a substitute teacher, and in fact was. I was an ideal choice; not only a certified teacher but thoroughly acquainted with the administration, staff, and students; and knowledgeable of the curriculum as well. My intention all along was to keep my certificate current by substitute teaching since I plan to return to the profession eventually. Under current OPI guidelines, a certified teacher may recertify his/her certificate by substituting one hundred days and completing six credits every five years. This seemed reasonable to me and I set about accomplishing it.

My sister-in-law was elected to the school board in April of 1990. In August of 1990 when I went in to sign up on the substitute list for the coming year the principal told me <sup>he</sup> had checked with Montana School Board Association attorneys and that because of section 2-2-302 of the nepotism law he could no longer hire me as a substitute teacher. I was very dismayed to hear this and positive he must have misunderstood the MSBA attorneys. I was quite aware that I was not eligible to be given a teaching contract as long as my in-law remained on the board but never dreamed her position on the board would conflict with me substituting. I immediately checked with an OPI attorney who confirmed that it was, indeed, illegal for me to substitute teach in that school district. The attorney also told



me that while I wasn't able to substitute I still had the option of taking twelve credits and the National Teacher's Examination every five years for recertification. If necessary this is what I will do but to me it seems to be the least desirable choice.

For me, this would entail a round trip distance to Helena (Carroll College) of 98 miles or a round trip distance to Bozeman (MSU) of 162 miles. Therefore, commuting to Montana State University for one quarter with a course load of twelve credits, for example, could be broken down into the following costs:

Tuition	\$440.00
Books, Materials	100.00
Food (Three meals a week, \$3.00 per meal, x 10 weeks)	90.00
Gasoline (Three trips per week @ 162 miles per trip x 10 weeks = 4,860 miles, My vehicle averages 15 mpg so fuel at \$1.32 a gallon would cost	427.00
Childcare (One child for 18 hours per week x 10 weeks @ \$1.25 per hour =	225.00
National Teacher's Examination	80.00

---

TOTAL COST	\$1262.00
------------	-----------

The Registrar's Office at MSU said that in their estimation, that cost would increase to about \$1500.00 once the semester system is implemented. I also tabulated the cost of attending Carroll College for one semester but even with the closer distance, decreased childcare fee, and no food allowance, the expenses amount to approximately \$3600.00. I simply cannot afford that kind of expense.

Not only is my financial cost high, but I feel there is a cost to the community as well. Perhaps not a financial one but one that is felt, nevertheless. Smaller communities such as mine rarely have the resource pools to draw from that larger urban areas do. It is often difficult for small schools to find an adequate number of substitute teachers, let alone a number

of qualified substitutes. It becomes a no-win situation. The school can't utilize my education, knowledge, and experience as a certified teacher. I am unable to maintain my teaching credentials in what I feel is a mutually beneficial situation.

After gathering this information, I contacted Representative Mike Foster and Senator Francis Koehnke and asked their advice about rectifying what I consider to be an unfair situation. I can certainly understand the need for the nepotism law concerning hiring practices for fulltime and/or permanent positions but I hope the Committee and ultimately the entire Senate will agree with the House of Representatives and see the rationale for amending the nepotism law to allow a certified teacher to maintain his/ her professional credentials.

Again, thank you for this opportunity to express my opinion. I'd also like to thank Representative Foster for sponsoring this bill and for being so responsive to his constituent's needs. In addition, I wish to express my gratitude to Senator Koehnke for the time and attention he has given this matter.

Dawn Field  
2927 Hwy. 284  
Townsend, MT 59644

266-4464

SENATE EDUCATION  
EXHIBIT NO. 1  
DATE 2-6-91  
BILL NO. HB 27

EXHIBIT # 2  
DATE 1-14-91  
HB 27

To: House Education Committee  
From: Rus Steinebach, Superintendent, White Sulphur Springs School District #8  
Date: January 11, 1991  
RE: HB 27

I submit this letter in support of HB 27. It may seem strange to you that a school superintendent is supporting a bill that weakens the state's nepotism law but as I hope to show, article 2-2-302 MCA is hindering the hiring of teacher substitutes while providing protection against a non-existent problem.

Let me explain via a real example. While I was superintendent of the Willow Creek School, I became acquainted with an excellent teacher that substituted in that school on a regular basis. This teacher was popular with the students and the staff. She did an excellent job and on several occasions, as positions became available, I tried to persuade her to work for the school district full time. She always refused. While she enjoyed teaching and continued to substitute teach whenever she was asked, she had two young boys at home and felt that full time employment would be unfair to them. Her husband, after much prodding by friends, ran and was elected a school trustee. At this point I could not longer hire one of the best teachers in the area because of the nepotism law.

This problem is common in small Montana communities. I am currently superintendent at the White Sulphur Springs Schools and have been told of similar problems. Either qualified potential board members refuse to run for office because of jeopardizing a relatives chances to work in the school system or qualified substitute teachers can not be used because a relative is on the school board.

This problem is especially acute in small communities for two reasons. First, qualified substitute teachers are usually in short supply in isolated communities. Secondly, everyone tends to be related to all the other long term residents in smaller communities. Thus the nepotism law is especially troublesome to administrators trying to find substitute teachers in the small rural Montana communities.

While the above reasons aren't valid reasons for hiring relatives as permanent school district employees, the pool of qualified substitutes that may work a half a dozen times in a year is very small in most Montana communities. Many times we are forced to use people with little or no formal education above high school. This is not the best we can do for the children in school.

For these and other reasons too lengthy to give here, I ask that you support House Bill 27.

Thank you for allowing me this forum.

*Rus Steinebach*

SENATE EDUCATION  
EXHIBIT NO. 2  
DATE 2-8-91  
BILL NO. HB 27

# Elementary and Secondary Education

*Custer County District High School*

ROBERT RICHARDS  
SUPERINTENDENT

*Miles City School District No. 1*

1604 Main Street  
MILES CITY, MONTANA 59301

January 30, 1991

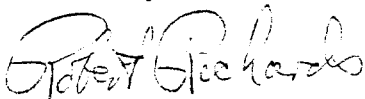
Representative Ervin Davis  
House Education & Cultural Resources  
Capitol Station  
Helena, MT 59620

Dear Representative Davis,

House Bill 27, introduced by Representative Foster, would allow school districts to exempt employment of substitute teachers from the nepotism laws. It has become increasingly difficult to find quality substitute teachers within our district. Passage of this bill would allow our district to consider the employment of at least three additional substitute teachers not presently available to our pool.

I urge your support of this bill.

Sincerely,



Robert Richards  
Superintendent

RR/smw

SENATE EDUCATION

EXHIBIT NO. 3

DATE 2-6-71

BILL NO. HB 27

EXHIBIT 5 4  
DATE 1-14-91 2-6-91  
HB 27

Monday, January 14, 1991

To Whom It May Concern;

I am writing this letter in regard to changing the nepotism law concerning substitutes. At this time I am employed as a full time teacher in the White Sulphur Springs School District and a change in the law would not directly have any effect on me.

I have had first hand experinece which denied my brother in-law a position on the school board and in which I was denied substituting because of the law. I had taught for ten years at Ringling School and then quit to stay home with my daughter. Because my brother in-law had been elected to the school board after I was tenured at Ringling I had been able to teach there, but was then no longer able to substitute. In a town the size of Ringling, and I may add, many, many Montana towns, there was noone qualified to substitute except for me. In this case the nepotism law only served to have an averse effect on the students. I knew the students, curriculm and teaching methods , but was unable to apply them to students I had taught for years. Having a substitute who knew the situation would only have benefitted the students.

In the second case, I had been substituting for two years in White Sulphur when my brother in-law decided to run for the school board. Having three children in school in White Sulphur and being the only parent of children in school from Ringling, he seemed to be the perfect candidate for the position. We didn't realize that after he was elected either I would have to quit substituting or he would be unable to serve his position. He bowed out, enabling me to continue to work, but again noone benefitted from this situation.

I cite these specific cases, but know that this must be the case in many Montana towns. By changing the law I feel that students would stand to benefit.

Thank you. SO. AUB. B...

SENATE EDUCATION  
NO 4  
2-6-91  
BILL NO HB27

Ex. 5  
2-6-91  
HB 27

Testimony For Senate Education Committee  
House Bill 27

John A. Grande

I'm involved in the livestock business near Martinsdale and for the past five years have represented my community as a trustee on the White Sulphur Springs High School Board.

As members of the Education Committee you are aware of the myriad of problems which face small school districts in Montana today. Availability of outstanding educators to teach our students is one of these problems. Our Superintendent, Rus Steinebach, wrote to the board of trustees "the nepotism law poses an undue hardship on smaller communities that find it difficult to locate qualified substitute teachers. The problem many times is not who to choose for a substitute but if anyone is available."

In 1986 two excellent teachers moved into the White Sulphur Springs area. Both were natives of Meagher County who had obtained their teaching degrees and certificates and taught for several years in other communities in the state. When they moved back to Meagher County both were looking to continue their teaching careers, and both had brothers on the White Sulphur Springs School Board. We could not take advantage of having these teachers with fine credentials and recent experience - even as substitutes.

Just last year a woman who had been substitute teaching in our district decided to seek full-time employment. At the same time, unaware of the nepotism law, her brother-in-law ran for and was elected to the board of trustees. When realizing this problem, the trustee resigned the position he had just been elected to in order that his sister-in-law could continue to teach. When this happened we lost someone who would have been a valuable addition to our board. This was probably still very preferable to the alternative of losing a fine teacher.

The potential for abuse of nepotism in hiring substitute teachers is no doubt existent, but slight. The decisions of whom to hire to substitute are, in our district, entirely administrative decisions which the principals make. The board does not and should not have influence over these decisions. Upon passage of this bill individual school districts can take steps to implement school policy to eliminate any potential for abuse. This would give each district the freedom to do what is best for students, faculty, and community.

In the White Sulphur Springs School Policy Handbook there is a section entitled the Board Code Of Ethics. The first line reads "The ethical board member always bases decisions on what is best for the children of the district". It is undeniably in the best interest of our students to be able to hire the finest teachers available to fill in when their usual teacher cannot be present. In many cases we cannot do that now. House Bill 27 would help to allow us to employ the best teachers available for our students.

