

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By **CHAIRMAN ALVIN ELLIS, JR.**, on April 3, 1995,
at 3:15 p.m.

ROLL CALL

Members Present:

Rep. Alvin A. Ellis, Jr., Chairman (R)
Rep. Peggy Arnott, Vice Chairman (Majority) (R)
Rep. Vicki Cocchiarella, Vice Chairman (Minority) (D)
Rep. Matt Denny (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Dan W. Harrington (D)
Rep. Jack R. Herron (R)
Rep. Joan Hurdle (D)
Rep. Bob Keenan (R)
Rep. Sam Kitzenberg (R)
Rep. Gay Ann Masolo (R)
Rep. Norm Mills (R)
Rep. John "Sam" Rose (R)
Rep. George Heavy Runner (D)
Rep. Debbie Shea (D)
Rep. Richard D. Simpkins (R)

Members Excused: None

Members Absent:

Rep. William Rehbein, Jr. (R)
Rep. Diana E. Wyatt (D)

Staff Present: Andrea Merrill, Legislative Council
Rena Decevel, Committee Secretary

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

Committee Business Summary:

Hearing: SB 423
Executive Action: SB 423 DO CONCUR

{Tape: 1; Side: A; Approx. Counter: 000; Comments: n/a.}

HEARING ON SB 423

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD 13, Big Timber, stated that SB 423 related to school reserve funds with bonus payments and the payments are requested to stay in the reserve account.

Proponents' Testimony:

Rick Shaffer, Superintendent of Schools, Wilsall, supported the bill and submitted written testimony. **EXHIBIT 1**

Don Waldron, Montana Rural Education Association (MREA), said that this bill was very important because some of the rural areas were going to be developing their areas.

Chris Racicot, Montana Building Association, opposed the bill at first but after working with the sponsor supported it and he recognized the need for rural school districts.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. NORM MILLS asked the sponsor what the bill will allow to be done that cannot be done currently. **SEN. GROSFIELD** replied that the word maximum was placed in the bill because that way they can take the maximum amount or any less. School districts can now accept money for any purpose. He clarified that the maximum amount of payment that the trustees may accept must be based on the number of pupils but another law says that they can take any amount.

REP. JACK HERRON asked for an explanation as to why the word "volunteering" is used. **SEN. GROSFIELD** replied that many programs start off on a voluntary basis to get things going before funding comes in.

REP. MATT DENNY asked and the sponsor clarified that there is not a specific statute with impact fees yet and that voluntary contributions are not required.

REP. VICKI COCCHIARELLA asked why the bill only addresses rural situations and could a subdivision occur without a real negative financial impact on the district. **SEN. GROSFIELD** explained that rural was put in the bill is because in the rural school and agricultural settings there are not very many taxpayers to cover the cost of capital improvements, whereas in towns the taxes are dispersed among many people.

REP. PEGGY ARNOTT questioned why it is limited to real estate developers and subdivision developers. SEN. GROSFIELD said that there is a lot of subdivision activity and they would end up with housing requirements anyway.

REP. ARNOTT said that there is currently a mining impact law and mining fees that need to be considered and asked if this bill impacted that. SEN. GROSFIELD stated that the mining impact is negotiable.

REP. SONNY HANSON questioned what would happen if everything was stripped out of the bill except the four school districts that have funds. SEN. GROSFIELD replied that section 1 is the most important part of the bill but that the other sections look to the future and were important but not essential.

REP. DICK SIMPKINS clarified that section 2 only dealt with real estate developer or subdivision developer. The sponsor agreed.

REP. HANSON disagreed and said that there are specific instances when the subdivision is an integral part of the mining development and is excluded from the negotiations.

REP. MILLS clarified that the impact was to the district's building fund.

{Tape: 1; Side: B; Approx. Counter: 00; Comments: NA.}

Closing by Sponsor:

SEN. GROSFIELD said that he did not have any problem if the committee wanted to take the word "rural" from the bill if it was made clear that the mining impact act would not be overridden.

{Tape: 1; Side: B; Approx. Counter: 65; Comments: NA.}

EXECUTIVE ACTION ON SB 423

Motion: REP. VICKI COCCHIARELLA MOVED THAT SB 423 BE CONCURRED IN.

Discussion:

CHAIRMAN ELLIS mentioned that some states have authorized impact fees and they are difficult to defend in court if they are challenged.

REP. MATT DENNY said that the costs of the impact fee assessment are passed on to the people who buy the homes and would end up paying more in property taxes.

SEN. GROSFIELD replied that it would be a small portion of the tax that would be impacted. All the bill deals with are the capital costs of improvement.

REP. DICK SIMPKINS stated that the voluntary rule should be concentrated on and the schools should be allowed to be a part of the planning phase along with the developers.

Motion: **REP. MATT DENNY** MOVED TO AMEND SB 423.

Discussion:

REP. DENNY explained that the amendments would remove the word "rural" from the title and cut subsection (2) completely.

REP. SONNY HANSON remarked that he opposed the amendments because the bill was geared specifically for the rural areas.

REP. VICKI COCCHIARELLA supported the amendment.

REP. SAM ROSE said that the city/county planning boards dealt with these issues and it has to be approved by the county commissioners.

Motion: **REP. MATT DENNY** WITHDREW THE AMENDMENT.

Discussion:

CHAIRMAN ELLIS supported the bill and the idea that people would be encouraged to work together.

REP. NORM MILLS asked what the bill allowed that could not happen now and why not make things mandatory instead of voluntary.

CHAIRMAN ELLIS explained that the bill mandates that the impacted school district will receive a copy of the subdivision plan which is not required now by law.

REP. HANSON stated that the planning occurs before any building is permitted. The school districts will be allowed to establish funds for construction.

REP. SIMPKINS added that the voluntary portion of the bill refers to the payments and the mandatory part refers to the distribution of the plans. The impact of the schools must be considered.

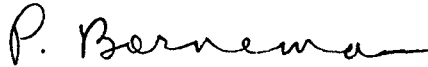
Vote: The motion carried 17-0.

ADJOURNMENT

Adjournment: 4:00 p.m.



ALVIN ELLIS, JR., Chairman



for ANDREA SMALL, Recording Secretary

AE/as

HOUSE OF REPRESENTATIVES

Education

ROLL CALL

DATE 4-3-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Alvin Ellis, Jr., Chairman	X		
Rep. Peggy Arnott, Vice Chairman, Majority	X		
Rep. Vicki Cocchiarella, Vice Chair, Minority	X		
Rep. Matt Denny	X		
Rep. Sonny Hanson	X		
Rep. Dan Harrington	X		
Rep. George Heavy Runner	X		
Rep. Jack Herron	X		
Rep. Joan Hurdle	X		
Rep. Bob Keenan	X		
Rep. Sam Kitzenberg	X		
Rep. Gay Ann Masolo	X		
Rep. Norm Mills	X		
Rep. Bill Rehbein		X	
Rep. Sam Rose	X		
Rep. Debbie Shea	X		
Rep. Dick Simpkins	X		
Rep. Diana Wyatt		X	



HOUSE STANDING COMMITTEE REPORT

April 4, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that Senate Bill 423 (third reading copy -- blue) be concurred in.

Signed: 
Alvin Ellis, Jr., Chair

Carried by: Rep. Anderson

Committee Vote:
Yes 17, No 0.

771049SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Education Committee

DATE 1-3-95 BILL NO. ⁸³123 NUMBER _____

MOTION: Rep. Cocchiarella - Do Concur

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman	X	
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority	Y	
Rep. Matt Denny	X	
Rep. Sonny Hanson	X	
Rep. Dan Harrington	X	
Rep. George Heavy Runner	X	
Rep. Jack Herron	X	
Rep. Joan Hurdle	X	
Rep. Bob Keenan	X	
Rep. Sam Kitzenberg	X	
Rep. Gay Ann Masolo	X	
Rep. Norm Mills	X	
Rep. Bill Rehbein		
Rep. Sam Rose	X	
Rep. Debbie Shea	X	
Rep. Dick Simpkins	X	
Rep. Diana Wyatt	X	

SHIELDS VALLEY PUBLIC SCHOOLS

HIGH SCHOOL

P.O. Box 40

Clyde Park, MT 59018

Phone 406-686-4621

PARK COUNTY SCHOOL DISTRICTS J12 & 5

P.O. Box 131 • Wilsall, Montana 59086

Superintendent: 406-578-2535

Fax: 578-2176

EXHIBIT 1

DATE 4/2/95

SB 423

ELEMENTARY


P.O. Box 131

Wilsall, MT 59086

Phone 406-578-2535

19 January 1995

TO: Senator Grosfield
Representative Anderson

FROM: Rich Shaffer, superintendent 

RE: Enabling language for consolidation bonus payment excess reserves

I have investigated further regarding this matter following our telephone conversations. Information from the Office of Public Instruction reveals that, including Shields Valley, there are only five schools involved in this matter in any way. I have contacted each of the other four schools. Their superintendents have informed me that none of them are holding or plan to hold any of the payment funds in reserve. In other words, they are using it as they receive it, perhaps because the amounts are smaller. In any event, Shields Valley appears to be the sole district holding a general fund bonus payment excess reserve.

I am also told that the solution for our dilemma is reasonably straightforward, involving restoration of one sentence in the law. That sentence is MCA 20-9-104, 5 (b), quote: "any amount received as a general bonus payment under 20-6-401." 20-9-104 deals with the topic of general fund operating reserves and part five of that section deals specifically with exemptions on reserve limitations. The 1993 special session removed that sentence, possibly in the belief that there were no longer any schools effected. That is clearly not the case.

To refresh your memory, the district has approximately \$150,000 in reserve at this time, and wishes to have the option to hold the funds for a possible facilities expansion project in the future. If this cannot be accomplished, the district must either expend the funds or reappropriate them not later than June 30, 1995.

For your convenience, I have included copies of (1) the printout from OPI re schools receiving payments at this time, and (2) a copy of the relevant statute. Should further information be necessary, please contact me.

20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (5) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional

levy provided by 20-9-353, except that districts with a balance on June 30, 1993, in the excess reserve account for Public Law 81-874 funds shall transfer the June 30, 1993, balance to the impact aid fund established in 20-9-514.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) For fiscal year 1994 and subsequent fiscal years, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

(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; or

(b) any amount received as a general bonus payment under 20-6-401.

(6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is \$10,000 or less.

History: En. 75-6924 by Sec. 274, Ch. 5, L. 1971; R.C.M. 1947, 75-6924; amd. Sec. 20, Ch. 11, Sp. L. June 1989; amd. Sec. 7, Ch. 767, L. 1991; amd. Secs. 2, 12, Ch. 6, Sp. L. July 1992; amd. Sec. 11, Ch. 633, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 633 in (1), in second sentence after "(5)", substituted "and (6)" for "through (7)"; in (3) substituted "BASE budget levy, the over-BASE budget levy, or the additional" for "permissive levy provided by 20-9-145 or to reduce the voted" and after "20-9-353" inserted exception clause; deleted former (5)(a) providing that limitation is not applicable to "any amount received under Public Law 81-874"; and deleted (7) that read: "(7) For fiscal year 1993, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the amounts identified by a school district as one or more of the following:

(a) any amount received under Public Law 81-874;

(b) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

(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; or

(c) any amount received as a general bonus payment under 20-6-401." Amendment effective July 1, 1993.

Effective Date — Retroactive Applicability: Section 59(2), Ch. 633, L. 1993, provided: "(2) [Section 11] [20-9-104] is effective July 1, 1993, and the provisions of [section 11(3)] [20-9-104(3)] relating to excess reserves and Public Law 81-874 money apply retroactively, within the meaning of 1-2-109, to district general fund reserves for the school fiscal year beginning July 1, 1992."

[illegible]

District

FY 94
16/94

←

FY 95
(6/95)

FY96
(6/96) :

Hardin El (0023)

7500.00	970.40
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7500.00	970.40
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Flathead Co (Cayuse Prairie El
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40,500.00 2362.20

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Gallatin

Three Forks El
(0360)

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McCone

Circle E1 (0547)

2700.00	1096.20
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2700.00

1096.20

2700.00

1095.20

TOTALS

61,950.00 5895.80

To be deposited
in Fund 01

✓ to be deposited in fund ID

General Fund
Bonus Pmt.

"Transportation
Bonus Part"

Examine the MCA section 20-9-104 (5b)

General Fund operating reserve.
Add some working fund before

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Education COMMITTEE DATE 4-3-95
BILL NO. SB 423 SPONSOR(S) Sen. Grosfield

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Rich Shaffer Box 131, Wilson MT 59086	SUPS	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14