

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By VICE CHAIRMAN JOHN HERTEL, on March 6, 1995,
at 3:22 p.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Vice Chairman (R)
Sen. C.A. Casey Emerson (R)
Sen. Delwyn Gage (R)
Sen. Loren Jenkins (R)
Sen. Kenneth "Ken" Mesaros (R)
Sen. Steve Doherty (D)
Sen. Gary Forrester (D)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

Members Excused: Sen. Daryl Toews, Chairman (R)

Members Absent: N/A

Staff Present: Eddy McClure, Legislative Council
Janice Soft, Committee Secretary

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

Committee Business Summary:

Hearing: HB 228, HB 368
Executive Action: None

VICE CHAIRMAN JOHN HERTEL CHAIRED IN THE ABSENCE OF CHAIRMAN
DARYL TOEWS.

HEARING ON HB 228

Opening Statement by Sponsor:

REP. H.S. "SONNY" HANSON, HD 9, Billings, said HB 228 addresses educational authority and the exercise of accountability. It is a recommendation of the Governor's Task Force, though REP. HANSON said he pushed for two bills (HB 228 & HB 229) because he felt the composition and areas of authority and accountability are substantially different. He explained HB 228 addresses the

replacement of the State Board of Education and Board of Public Education with a Department of Education and State Education Commission. He said the amendments the committee added to HB 229 were included before the House sent the bill over. **HB 228** simply addresses the Board of Public Education, and not the Superintendent of Public Instruction. He cited the Constitution to give foundation to items addressed by **HB 228**.

REP. HANSON said the State Board of Education presently handles long-range planning, coordinating and evaluating policies and programs through the state's educational system. He stated they are to submit a unified budget request.

REP. HANSON related the Board of Public Education presently exercises general supervision over public schools and such other public educational institutions as assigned by law. He said neither the Constitution nor the statutes give a definition of "general supervision." He also said school district trustees supervise and control the local schools while the Superintendent of Public Instruction is assigned lawful duties.

REP. HANSON claimed it was time to give the public an opportunity to vote whether or not they want to go the direction recommended by **HB 228**. He distributed copies of "Opinion", which came from the "Great Falls Tribune." **EXHIBIT 1**

Proponents' Testimony:

Pat Haffey, Senior Policy Advisor for Education, Governor's Office, spoke in support of **HB 228**, adding it was a result of the recommendations of the Governor's Task Force to Renew State Government which included: (1) Provision for the elimination of the Board of Public Education, Board of Education, Board of Regents, Office of Public Instruction, Superintendent of Public Instruction; (2) Provision for the creation of a Department of Education and an advisory council; (3) Provision for a vote of the people so they could determine whether they preferred a new Department of Education (which would be subject to the Governor and vote of the people through an election process) or the present (appointed & elected officials) system.

Ms. Haffey said the Governor's Office supports **HB 228** because it is part of the Task Force's recommendation and because: (1) It provides for one efficient education agency which is responsible for a seamless K-12 and beyond system of education; (2) It provides for one accountable education agency which would be responsible for budget and quality setting and implementation; (3) It provides for one identifiable education agency which would offer services and assistance and would be responsive to local communities as well as campuses; (4) It offers one single educational agency which eliminates duplication and prevents gridlock.

Ms. Haffey said the Governor's Office realized **HB 228** had been amended but still encouraged the committee's support.

Opponents' Testimony:

Eric Feaver, Montana Education Association (MEA), said MEA was opposed to **SB 228** because it was not the recommendation of the Governor's Task Force to Renew Government. **Mr. Feaver** said he considered it a valuable experience to be a part of the Task Force because it helped him define his perspective on school governance. He said if **HB 228** and **HB 229** were squeezed together, the result would come close to the recommendation of the Task Force.

Mr. Feaver said **HB 228** does some very curious things: (1) It does not do anything which the Board of Public Education cannot do right now, i.e. supervisory authority over public schools. Therefore, if the legislature does not approve of the duties of the Board of Education, it can redefine them; (2) It leaves unanswered the future role of the Office of Public Instruction, an entity which is in the Constitution; (3) It leaves a question of what to do with the Land Board.

Mr. Feaver agreed if an educational governance structure were drawn up today, it would not be organized as it is now; however, there is wisdom in its present design, i.e. interrelated parts which are very hard to separate from the whole without damaging the complete unit. He said **HB 228** tries to separate a part, doesn't answer what to do with another part and does significant damage to the whole, i.e. replacing the Board of Education which is the joint board mandated by the Constitution to make policy, work on long-range development of K-higher education, and develop a unified budget.

Mr. Feaver reminded the committee Governor Racicot is truly interested in the governance of public education. This interest was manifest through his executive order which says the Board of Education is to exercise its authority given it by Article X, Section IX, of the Constitution, i.e. policy development, unified budget and long-range planning. He said he agreed the Governor should demand the Board of Education to "get its act together" but he wondered if the Governor should be the chief state school officer of Montana, which is what **HB 228** would allow in time. He also wondered if the legislature should be the Board of Public Education, which is also what would happen in time.

Mr. Feaver said **HB 228** is not what the Governor's Task Force recommended nor is it good potential public policy. He challenged **REP. HANSON'S** comments on letting the people decide which system they want, noting only two **HB 228** proponents spoke.

Mr. Feaver proclaimed it was the legislature's responsibility to suggest good ideas for the people's consideration, and since the Constitution requires the people to vote on Constitutional

amendments, **HB 228** must be taken to the people. He opined **HB 228** was a bad idea, and chided the legislature for passing bad ideas to the people. He urged the committee to table **HB 228** and instead, support the Governor's order for the Board of Education to do what it is supposed to.

Terry Minow, Montana Federation of Teachers (MFT), said **HB 228** would create a whole new governance structure for education, which is unnecessary since the present system is not broken. **Ms. Minow** said the current system was created by the Constitution to provide an important separation of powers which recognizes public education as the highest duty of government. **Ms. Minow** urged DO NOT PASS for **HB 228**.

Don Waldron, Montana Rural Education Association (MREA), said an advantage of **HB 228** was the State Education Commission which would be appointed by the Governor and approved by the Senate; however, he wondered why the presently appointed board would not serve the wishes of the Governor. **Mr. Waldron** felt the present system was workable and questioned the need for a change in the structure. He also commented the title of **HB 228** does not say anything about the Superintendent of Public Instruction, though the University section of the bill refers to it. **Mr. Waldron** said he was also concerned about duties being assigned after **HB 228** passes. He commented there were too many questions and he expressed opposition for **HB 228**.

Wayne Buchanan, Board of Public Education, said his testimony was neither that of a proponent nor an opponent. He said the Board of Public Education was a proponent of **HB 228** when it was in the House because it appeared there would be a real approach to ending the factionalism of education in order to create a Department of Education. **Mr. Buchanan** said now, however, it appeared the K-12 segment would still be factionalized. Besides that, there was the possibility of **HB 228** passing and **HB 229** failing, which would weaken the K-12 education.

Questions From Committee Members and Responses:

SEN. LOREN JENKINS asked if the legislature had authority over public education. **Mr. Feaver** said it already exercises authority over public schools by funding, and the 1995 legislature heard bills dealing with accreditation standards and charter schools.

SEN. JENKINS asked if the Sherlock Decision gave the Board of Public Education rulemaking authority which exceeded Constitutional legislative law. **Mr. Feaver** responded the Sherlock Decision involved a conflict between a standard adopted by the Board of Public Education which said a school must have an identifiable program for the gifted and talented and a legislature which was anxious for the standard not to abrogate existing statute which said school districts may have a gifted and talented program. **Mr. Feaver** said Justice Sherlock concluded under the supervisory authority given the Board of Public

Education by the Constitution, the Board could adopt the standard. He stated the decision was never appealed.

SEN. JENKINS asked if both **HB 228** and **HB 229** passed, could the State Education Commission, over a five-year period, replace the Board of Public Education and the Board of Regents with a board appointed by the Governor, but separate from the Governor's Office. **Mr. Feaver** said the Board of Regents has the most to lose because they have the most Constitutional authority to write their own rules and declare their own duties, while the Board of Public Education has not acted with the kind of impunity the Board of Regents has. He said his concern regarding **HB 228** and **HB 229** was the development of the Department of Education (director appointed by the Governor), and a Commission (appointed by the Governor) into a state agency whose duties are outlined by law, i.e. a Department of Education may be created which looks like the Department of State Lands.

SEN. JENKINS asked why the State Board of Education was part of both **HB 228** and **HB 229**. **REP. HANSON** said the State Board of Education had two components: (1) Board of Public Education; (2) Board of Regents. If one of those components is removed, there is no need for the title, "State Board of Education."

SEN. JENKINS asked what would happen if one bill passed which removed the Board of Public Education, and the other bill didn't pass, thus retaining the Board. **REP. HANSON** said the Board of Public Education addresses the K-12 issues. If the removal of the Board of Regents bill passed, the State Board of Education would remain and the State Education Commission would be formed. He said there would now be two separate entities instead of six, as presently.

SEN. JENKINS said he was trying to figure out why Board of Education was included in both **HB 228** and **HB 229**. **REP. HANSON** said the State Board of Education was being eliminated in both bills.

SEN. JENKINS asked if the State Education Commission could mesh the Board of Public Education and the Board of Regents into one body, having statutory instead of Constitutional authority for K-higher education. **REP. HANSON** said it could, and explained if both bills were passed the composition of the State Education Commission would be established by the legislative body in 1997.

SEN. JENKINS asked if the body would be separate from the Governor's, similar to the present Board of Public Education or Board of Regents. **REP. HANSON** said it would and stressed the importance of the unit having separate legislative duties. He said it was important that both the Governor and legislators have input into the process because there would be direction through participation.

SEN. JENKINS asked how the office of the Superintendent of Public Instruction would fit in and **REP. HANSON** answered the duties would be assigned by statute, evolving from duties assigned to the State Education Commission; however, the office would be instrumental in providing services to rather than controlling school districts.

SEN. CASEY EMERSON asked if his understanding was correct it would be best if both bills passed; however, if only one bill passed, it would be better than none. **SEN. HANSON** verified his perception.

SEN. MIGNON WATERMAN said she understood if **HB 229** passed, the Board of Education as applied to the Board of Regents would be gone and if **HB 228** passed, the Board of Education as applied to the Board of Public Education would apply, making half of a joint board. She wanted to know why the language was not identical in both bills. **REP. HANSON** said if one bill passed, the board in that bill would become an entity unto itself. He said the transitional duties are given to facilitate the transfer and recognize the appointment of existing people as they phase out. He said he assumed the Governor would make appointments for the new Board during the replacement and then gradually phase them out.

SEN. WATERMAN asked for clarification of her understanding if **HB 228** passed, there would be a Superintendent of Public Instruction, an Office of Public Instruction, a Department of Education and a Director of Education. **REP. HANSON** affirmed and said there would also be a State Education Commission. He said during the transition, the Governor would appoint replacements for the Board of Regents as terms expire; some terms would be short because all would expire in 2001.

SEN. WATERMAN asked how the duties would be divided among the above four entities. **REP. HANSON** said it would be done through the statutes. **SEN. WATERMAN** asked if **REP. HANSON** had thought about what types of duties or examples of duties he envisioned being assigned to each. **REP. HANSON** replied mundane, or duties which must be done.

SEN. WATERMAN said she noticed in **HB 228** the Superintendent of Public Instruction would not serve as an ex-officio member of the State Education Commission and wondered why not. **REP. HANSON** repeated the composition of the State Education Commission would be set by the legislative body.

SEN. WATERMAN said the Superintendent of Public Instruction was left Constitutionally an ex-officio member of the Board of Regents and wondered why the Superintendent was not an ex-officio member of the State Education Commission. **REP. HANSON** said it remained because the statute was existing; **HB 228** does not address that section of statute -- it is taken out under the Regents.

SEN. KEN MESAROS asked what role the Land Board would have with the Superintendent of Public Instruction. **REP. HANSON** said it would remain the same as now.

SEN. DELWYN GAGE asked why it was said K-12 would be weakened if **HB 229** does not pass, but **HB 228** does. **Wayne Buchanan** said one reason was the Board of Regents and the Board of Public Education do not function as equal bodies in the State Board of Education because of differences in size and Constitutional authority. He stated if the Board of Public Education was removed and made into a Commission which no longer had any sort of Constitutional authority, the Commission with no authority would be against the Board of Regents which has all the Constitutional authority. **Mr. Buchanan** said if **HB 228** passed, the Board of Education, which was the vehicle for the two agencies to get together, would be removed.

SEN. EMERSON said in the past 22 years (since the Constitutional Convention) Montana had gone through four or five governors and the educational organization had not yet worked. **Mr. Buchanan** agreed there was a problem in the present educational system but he agreed with **Mr. Feaver** who said Governor Racicot has taken a major step in correcting the problem. **Mr. Buchanan** said until now there was not the necessary resolve among the following: (1) The Board of Regents and the Commissioner's Office must be willing to share some authority with K-12; (2) The Governor must be willing to take leadership; (3) The Superintendent of Public Instruction must be willing to share authority in the process.

SEN. GAGE wondered if there would be more or less politics involved in Montana education if both **HB 228** and **HB 229** pass. **Wayne Buchanan** said he did not know.

Closing by Sponsor:

REP. HANSON responded to **SEN. GAGE'S** last question by saying there would always be politics in education; the 1972 Constitution was naive to assume there would be none. **REP. HANSON** said the Board of Public Education has many functions and it should be assured that the handling of those functions is addressed. He said accountability in the educational system is the crux of **HB 228** and **HB 229**. **REP. HANSON** urged BE CONCURRED IN for **HB 228**.

{Tape: 1; Side: B}

HEARING ON HB 368

Opening Statement by Sponsor:

REP. DON HOLLAND, HD 7, Forsyth, said **HB 368** eliminates duplication of certain functions which take place between the county treasurer and the school district's business office. He

said **HB 368** placed stricter accountability and responsibility upon the school district's business office. **REP. HOLLAND** said **HB 368** is endorsed by the Montana County Treasurer's Association and Montana Association of School Business Officials.

Proponents' Testimony:

David Ashley, Deputy Director, Department of Administration, said **HB 368** came from the Education Committee of the Governor's Task Force. He said this focus group looked at the duties of the county treasurers, superimposed them with the work load which occurred in school business offices and decided there was duplication in some areas. He said **HB 368** eliminated those duplications in a way which does not jeopardize the checks and balances. **Mr. Ashley** expressed support for **HB 368**.

Stan Hughes, Montana County Treasurer's Association, expressed support for **HB 368**. He said it would: (1) Eliminate certain county treasurer budgeting functions which are duplicative of duties of school district clerks; (2) Revise the procedures for issuance of warrants by school districts; (3) Authorize money from the sale of bonds to be credited to the unified investment program with the county treasurer, should the school district so desire. **Mr. Hughes** stated current law requires county treasurers duplicate the following activities: (1) Enter the budgeted amounts of each budgeted fund into the county records; (2) Report budget expenditures or refund credits; (3) Report emergency budget increases; (4) Report outstanding obligations for a budgeted fund; (5) Advise school districts when a budget is nearly expended; (6) Give school district trustees an itemized report of each fund maintained by the district showing the paid and outstanding warrants.

Mr. Hughes related the district, in turn, is required to submit either a duplicate of all warrants written to the county treasurer or a list of all warrants written. He said many districts have implemented payroll and claims funds, which means the treasurer is advised of expenditures through letters of transfer which moves cash from the individual funds to payroll and claims. **Mr. Hughes** maintained the county treasurer can only duplicate the information provided by the district with the end result being a rubber stamp rather than a true cross-check.

Mr. Hughes said the above procedures were necessary many years ago, but not today. About four years ago, all school districts were required to implement Generally Accepted Accounting Principles (GAAP); many times school offices are better equipped than the county treasurers' offices and school districts are capable of handling their own checkbooks.

Mr. Hughes said small districts may write 70-100 warrants in triplicate in a six-month time period and larger districts may write up to 1,000 during that time; however, districts of all

sizes should be able to know their cash balances by adding the deposits and subtracting the expenditures.

Mr. Hughes stressed county treasurers would be available for any assistance the district clerks might need and all reports which currently go from the treasurers' offices to the districts will still be provided under **HB 368**. He informed the committee school districts are the only public entities who have their budgets monitored in the above way; no other county, irrigation district, park district, fire district or other district must do so. He said this was really an auditing functions and school districts are required by law to be audited on a regular basis.

Mr. Hughes said eliminating the duplicative duties will save both time and money for the school districts; therefore, he encouraged support for **HB 368**.

Lynda Brannon, Montana Association of School Business Officials (MASBO), said **HB 368** has been needed for a long time. School business officials have been forced by law to provide the county treasurer with unnecessary paper and work. She said opponents of **HB 368** may say all the afore-mentioned procedures must be in place for a system of checks and balances. **Ms. Brannon's** answer was this is an age of computers and accountability, with duties of both clerks and county treasurers growing tremendously in the past years. She said school districts are now audited more frequently and with more scrutiny. **Ms. Brannon** stated in **HB 368** county treasurers would still receive and distribute all district revenue, and still report the financial activity back to the school district in much the same manner as presently. **Ms. Brannon** summarized **HB 368** is one step toward getting rid of unnecessary work and said MASBO urged the committee's support.

Gary Carlson, CPA, Clancy, member of Governor's Task Force subcommittee, member of Clancy School Board, expressed support for **HB 368**, saying it removed duplication of accounting activity. He said **HB 368** would add efficiency to school record-keeping across Montana and there would be no loss of central control functions. **Mr. Carlson** opined the school district was the responsible party for the detailed accounting record and budgetary expenditures. He said schools are audited regularly which document compliance with record-keeping requirements. **Mr. Carlson** said **HB 368** eliminated duplication which was no longer necessary, as had already been stated, and would streamline government.

Court Herrington, Montana County Treasurer's Association, said members of his organization and MASBO met independently of the Governor's Task Force and came up with the same idea as **HB 368**. He urged the committee's support for **HB 368**.

Don Waldron, Montana Rural Education Association (MREA), said the Superintendent's Association as well as MREA supports **HB 368**.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

REP. HOLLAND thanked the committee for the opportunity to present HB 368. He said it was obvious those who deal with the functions on a daily basis think HB 368 is good legislation. REP. HOLLAND drew the committee's attention to the fiscal note and said there is no impact to the State of Montana, though there might be a positive impact at the local level.

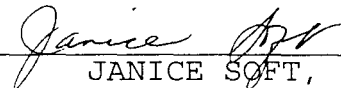
REP. HOLLAND said SEN. MACK COLE had been requested to carry HB 368.

ADJOURNMENT

Adjournment: The meeting adjourned at 4:45 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/jes

Sunday, March 5, 1995

Great Falls Tribune

OPINION

Questions or suggestions? Call Eric Newhouse at 791-1485, or 1-800-438-6600.

Voters should get a chance to choose

How many entities should it take to run statewide education programs in Montana?

Now, there are six: the board of education, the board of public education, the board of regents, the superintendent of public instruction, the governor, and the commissioner of higher education.

Last year a government reorganization task force recommended a consolidation of some of those entities. And this week the Montana House will cast the deciding vote as to whether to send a proposal to replace the regents and commissioner of higher education with a single Department of Education.

It's only a start, but it's a step in the right direction. Lawmakers ought to give voters a chance to decide for

themselves how they want higher education managed in the state.

A better approach would have been to include all education functions in one department, accountable to the governor who in turn is accountable to all Montanans. That would greatly trim administrative costs, allowing more to be spent directly in classrooms.

But consolidating higher education management is a good move by itself. The issue needs 71 votes in the 100 member House to be placed on the November 1996 ballot. Four House members will have to change their minds, from a previous vote, for that to happen.

Here's hoping they reconsider, in favor of allowing Montanans to vote on a sensible proposition.

DATE 3-6-95

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: HB 368 + HB 228

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Check One

Name	Representing	Bill No.	Support	Oppose
STAN HUGHES	MT. CNTY. TREASURERS' ASSOC.	HB 368	✓	
Terry Minow	MET	HB 228		X
Dave Ashley	Dept of Admin	HB 368	✓	
Gary CARLSON	Self	HB 368	✓	
Lynda Brannon	MASBO	HB 368	✓	
Eric Icarner	MEHA	HB 228		X
Wayne Buchanan	BPE	HB 228		X
Don Walden	MIKEA	HB 368 HB 228	X	X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY