

**MINUTES**

**MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By VICE CHAIRMAN CASEY EMERSON in the absence of CHAIRMAN DARYL TOEWS, on February 10, 1997, at 3:25 p.m., in Room 402.

**ROLL CALL**

**Members Present:**

Sen. Daryl Toews, Chairman (R)  
Sen. C.A. Casey Emerson, Vice Chairman (R)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Wm. E. "Bill" Glaser (R)  
Sen. John R. Hertel (R)  
Sen. Loren Jenkins (R)  
Sen. Mike Sprague (R)  
Sen. Barry "Spook" Stang (D)  
Sen. Mignon Waterman (D)

**Members Excused:** Sen. Debbie Bowman Shea (D)

**Members Absent:** None.

**Staff Present:** Eddy McClure, Legislative Services Division  
Janice Soft, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 285, HB 206; Posted  
02/06/97  
Executive Action: SB 240, SB 241, SB 155, HB 28,  
HB 77, SB 244

**HEARING ON SB 285**

**Sponsor:** SEN. STEVE BENEDICT, SD 30, Hamilton

**Proponents:** Dixie Stark, Hamilton  
Robert Van Gunten, Salish Kootenai College

**Opponents:** Lance Melton, Montana School Boards Association

Opening Statement by Sponsor:

SEN. STEVE BENEDICT, SD 30, Hamilton, referred to Amendments SB028501.ACE (EXHIBIT 1) and said they changed one section of law. He explained there already was a County Literacy Fund which gave counties authority to levy one mill for county literacy. He said the amendments allowed the age to be dropped from 19 to 16 for being served with county literacy funds.

Proponents' Testimony:

Dixie Stark, Bitterroot Literacy Program, said her program would be helped by the proposed changes because when this bill was enacted in 1991 they did not have welfare reform to deal with. She said they were careful not to serve the same population the schools served and the change in wording, "16 and older and not enrolled full-time for purposes of ANB," would form two mutually exclusive groups.

Robert Van Gunten, Salish Kootenai College, read his written testimony. (EXHIBIT 2)

Opponents' Testimony:

Lance Melton, Montana School Boards Association, could not attend so submitted his written testimony of opposing SB 285 if not amended. (EXHIBIT 3)

{Tape: 1; Side: A; Approx. Time Count: 3:36 p.m.}

Questions From Committee Members and Responses:

SEN. BARRY "SPOOK" STANG asked why the opposition to the bill. SEN. BENEDICT said the pool of money was being spread too thin. Dixie Stark said she was philosophically opposed to other than the K-12 school district providing these services. She said the original reason for the bill was to bring state law in line with federal law; federal dollars were supposed to be accessible to the different agencies while state dollars were supposed to be accessible only to the school districts and community colleges. SEN. STANG asked how much money the limited resource was. Ms. Stark said the state pool was about \$250,000 while the federal pool was \$800,000, with about \$150,000 additional federal dollars coming this year. SEN. STANG commented the federal funds could be accessed, but not the state funds. Dixie Stark agreed, explaining the state plan controlled how the federal dollars were distributed; however, the state plan was due for revision. SEN. STANG asked how the state plan would be revised and Ms. Stark said an initial plan would be drafted.

SEN. STEVE DOHERTY asked why the age had to be dropped from 19 to 16. SEN. STEVE BENEDICT said with welfare reform, more kids under the age of 19 were not attending school and needed the services. SEN. DOHERTY asked if it was not appropriate to ask

for more money. **SEN. BENEDICT** said it was critical to not let the issue become divisive. **SEN. DOHERTY** asked if the inequities were resolved. **Joanne Erickson, Office Of Public Instruction,** said the inequities came about because of the state plan which gave the tribes earmarked, set-aside funds which the tribes no longer receive. She said when the state plan was revised, the inequities would be addressed -- broadened to include the other parties. She stated the proposed language in Section 1 was verbatim from the federal law and would have brought the state law into compliance with the federal law; it could be used to deal with the inequities through revising the state plan and making the federal plan a little more accessible. **SEN. DOHERTY** asked if we were not in compliance with federal law, were we in danger of losing the Adult Education Program and **Ms. Erickson** said we were in compliance but the law had to be updated to include the other parties.

**SEN. DELWYN GAGE** asked if there was a difference between Adult Basic Education and County Adult Literacy Programs. **Dixie Stark** said traditionally the County Adult Literacy Programs were funded by the federal government through library services. She said Adult Basic Education (ABE) programs tended to deal with levels of fifth grade and higher or 1:1 tutor programs for those at lower reading levels, or for those with significant barriers, i.e. transportation, child care, etc. **SEN. GAGE** said the labels came because of federal rather than state programs. **Ms. Stark** said county monies had a broader definition of literacy than state or federal ones.

**SEN. JOHN HERTEL** asked if there were any enrollment projections of what lowering the age to 16 would cause. **Dixie Stark** said they were currently serving those people but were concerned they could get into trouble because of the way the literacy bill was written. She stated 16 years old was chosen because it was consistent with all other state and federal law.

**SEN. CASEY EMERSON** asked how much federal money would be coming this year. **Dixie Stark** said it would be about \$164,000 for the actual programs, with about \$565,000 additional dollars, which might help fill some of the gaps.

*{Tape: 1; Side: A; Approx. Time Count: 3:49 p.m.}*

Closing by Sponsor:

**SEN. STEVE BENEDICT** said SB 285 would serve a purpose, even if not passed in its entirety, if it lowered the age to 16. He explained that was because a dialogue would be established which would move in a direction which would allow for more cooperation between ABE and the funding. **SEN. BENEDICT** suggested SB 285 was important to get the county literacy programs into compliance. He asked for passage of SB 285 and its amendments.

VICE CHAIRMAN CASEY EMERSON relinquished the chair to CHAIRMAN DARYL TOEWS, who had returned.

HEARING ON HB 206

Sponsor: REP. MATT MCCANN, HD 92, Harlem

Proponents: Linda Brannon, Indian Impact Schools  
Lance Melton, Montana School Boards Association  
Don Waldron, Montana Rural Education Association

Opponents: None.

Opening Statement by Sponsor:

REP. MATT MCCANN, HD 92, Harlem, said HB 206 allowed dissolving a K-12 district and reassembling as an elementary and high school district, the purpose of which was to achieve a stable federal funding status. He explained there were provisions in statue for dissolving, but stabilizing federal funding was not one of them. REP. MCCANN pointed out there would no change in state or local taxes, staffing or educational programs.

Proponents' Testimony:

Linda Brannon, Indian Impact Schools, offered full support of HB 206. She explained if a district became a K-12 and received federal Impact Aid dollars, the calculations did not allow them to receive the federal dollars they had been receiving. She said there were two Impact Aid districts affected.

Don Waldron, Montana Rural Education Association (MREA), was unable to attend the hearing but submitted written testimony via Linda Brannon. (EXHIBIT 4)

Loran Frazier, School Administrators of Montana (SAM), was unable to attend but sent oral testimony of support with Linda Brannon.

Lance Melton, Montana School Boards Association (MSBA), was unable to attend but submitted written testimony. (EXHIBIT 5)

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Count: 3:55 p.m.}

Questions From Committee Members and Responses:

SEN. JOHN HERTEL claimed a similar bill was heard during the 1995 session and wondered how this was different. Linda Brannon said the only bill she could remember that passed was high school and elementary districts whose boundaries were coterminous were required to be K-12 unless they could show it would impact their federal funding. Ms. Brannon said the ultimate result of that law was districts had no mechanism to return to their original

districts in the event it did not work out; the only thing they could do was annex or consolidate with an adjoining district.

SEN. DELWYN GAGE asked if HB 206 would allow a district who could show increased federal funding by being separately elementary and high school, to have that status. Linda Brannon said it would.

Closing by Sponsor:

REP. MATT MCCANN said he closed.

{Tape: 1; Side: A; Approx. Time Count: 3:57 p.m.}

EXECUTIVE ACTION ON SB 240

Discussion: Eddy McClure explained the Waterman Amendments SB024001.AEM (EXHIBIT 6).

SEN. BARRY "SPOOK" STANG asked what the additional cost would be. Kathy Fabiano, Office of Public Instruction (OPI), said all revenue and expenditure projections assumed Kessler would remain a separate district so there would be no fiscal impact. She said the amendment removed the disincentive for consolidation.

SEN. DELWYN GAGE asked if the basic entitlement was on a district or building basis. Ms. Fabiano said it was district -- \$17,000+ for elementary and \$191,000 for the high school district.

Motion/Vote: SEN. DELWYN GAGE MOVED DO PASS ON AMENDMENTS SB024001.AEM. Motion CARRIED UNANIMOUSLY 8-0.

Discussion: SEN. BARRY "SPOOK" STANG asked how far back the retroactive applicability would go. Eddy McClure said January 1, 1997.

Motion/Vote: SEN. DELWYN GAGE MOVED DO PASS ON SB 240 AS AMENDED. Motion CARRIED UNANIMOUSLY 8-0.

EXECUTIVE ACTION ON SB 241

Motion/Vote: SEN. DELWYN GAGE MOVED TO TABLE SB 241. Motion CARRIED 8-1, with SEN. BARRY "SPOOK" STANG voting NO.

EXECUTIVE ACTION ON SB 155

Discussion: SEN. DARYL TOEWS said he had talked with Dr. Wayne Buchanan who admitted some of the Council were out on the fringes in following what the statute called for -- adjunct faculty paid for not by the College of Great Falls but by the Blackfeet Community College. SEN. TOEWS explained Amendments SB015501.AEM. (EXHIBIT 7)

SEN. JOHN HERTEL expressed concurrence with Amendments SB015501.AEM, explaining the deans got together periodically so

they should be able to find out who from the group would be interested in serving on the Council.

**SEN. CASEY EMERSON** said a study was being conducted which the deans wished to be a part of. Then later, the deans planned to refute the study. Therefore, he wondered if SB 155 even warranted amendments.

*{Tape: 1; Side: B; Approx. Time Count: 4:15 p.m.}*

**SEN. DELWYN GAGE** said he felt the turf protection went both ways -- the deans and Board of Public Education.

**Motion/Vote:** **SEN. JOHN HERTEL** MOVED DO PASS ON THE TOEWS AMENDMENTS SB015501.AEM. Motion CARRIED 8-1, with **SEN. CASEY EMERSON** voting NO.

**SEN. GAGE** asked what would happen if only two deans wanted their names submitted. **SEN. TOEWS** said the people he talked to all wanted to be part of this. **SEN. GAGE** said it was his opinion opposing viewpoints on a Council was healthy and brought new perspective.

**SEN. CASEY EMERSON** commented a short time ago they tried having a dean on the Council but it did not work as well as they would have liked. He felt the Board of Public Education wanted the right to select the Council.

**Motion:** **SEN. MIGNON WATERMAN** MOVED DO PASS ON SB 155 AS AMENDED.

**Discussion:** **SEN. BARRY "SPOOK" STANG** agreed with **SEN. GAGE'S** comments on opposing viewpoints.

**SEN. BILL GLASER** said it was an advisory committee.

**SEN. EMERSON** said an outsider on a board caused trouble and he saw this as an outsider on the board.

**SEN. HERTEL** said he didn't see the dean as an outsider; the teachers outnumbered the dean. He felt the balance would have some good qualities and benefits.

**SEN. MIGNON WATERMAN** said this brought the Schools of Education representation to the table with teachers who were in the classroom every day. She was of the opinion the more the Schools of Education representation were involved with teachers who were in the classroom setting, the better off we were.

**Vote:** Motion DO PASS ON SB 155 AS AMENDED PASSED 8-2, with **SEN. LOREN JENKINS** and **SEN. CASEY EMERSON** voting NO.

EXECUTIVE ACTION ON HB 28

Discussion: SEN. DARYL TOEWS said he questioned the need for HB 28 and was told one time the Governor had to write a letter to get the information.

SEN. MIGNON WATERMAN explained the Waterman Amendments HB 002805.AEM (EXHIBIT 8), saying the effective date could be October 1, 1997, instead of immediately upon passage and approval.

Motion/Vote: SEN. MIGNON WATERMAN MOVED AMENDMENTS HB002905.AEM BE CONCURRED IN. Motion CARRIED UNANIMOUSLY 10-0.

Discussion: SEN. MIGNON WATERMAN said she was surprised both Montana School Boards Association (MSBA) and School Administrators of Montana (SAM) did not consider HB 28 a mandate. She suggested the reason was because they testified schools were already doing what HB 28 said; however, if they hadn't liked HB 28, they would have called it a mandate.

Motion: SEN. LOREN JENKINS MOVED HB 28 AS AMENDED BE CONCURRED IN.

Discussion: SEN. DARYL TOEWS said OPI was proposing to make the information public.

SEN. CASEY EMERSON said he thought there was a citizen's right to know in HB 28, even though some information was already being shared.

SEN. BARRY "SPOOK" STANG said if the profile bill passed, HB 28 would not be necessary because OPI would make the information public, pursuant upon funding. He said he was against legislation if the problem was not blatant and it was his opinion this was where this legislation was.

SEN. DELWYN GAGE suggested if the information was not made public, someone could come in and offer to make the assessment. He wondered if, under current law, that person could have access to the information. Eddy McClure answered people had access to their own children's test scores but not to others'. SEN. GAGE voiced concern the confidentiality laws under rules were just as forceful as if they were in statute.

SEN. LOREN JENKINS said he read in HB 28 the scores could not be released by name, but could be released by class, school, etc. Eddy McClure said sometimes the scores could be traced to an individual(s) because of a small class setting, so federal law required the scores to be released in an aggregate fashion. SEN. JENKINS suggested the comparison was between schools of the same size in Montana. Eddy McClure said it depended on the assessment and how it was categorized; OPI said it would try to analyze the data and provide information which would explain the

data. She further explained current Board of Public Education Rule did not allow OPI to compare scores but HB 28 would allow that.

**SEN. CASEY EMERSON** suggested data could be released which would compare same-grade classrooms within a district. **Eddy McClure** that was being done now.

**Vote:** Motion HB 28 AS AMENDED BE CONCURRED IN CARRIED 9-1, with **SEN. BARRY "SPOOK" STANG** voting NO. **SEN. DARYL TOEWS** will carry HB 28.

EXECUTIVE ACTION ON HB 77

**Motion:** **SEN. BARRY "SPOOK" STANG** MOVED THE STANG AMENDMENTS HB007705.AEM BE CONCURRED IN. (EXHIBIT 9)

**Discussion:** **SEN. BARRY "SPOOK" STANG** suggested if students in public schools were required to say the Pledge of Allegiance, students in both private and home schools should be required to do so also. He said his amendments could be a bit illegal; however, **REP. RICHARD SIMPKINS** had no objections when **SEN. STANG** suggested them the day of the hearing.

**SEN. STEVE DOHERTY** expressed agreement with the amendments, because what was good for one was good for all.

**SEN. MIKE SPRAGUE** asked if the amendments passed, would **SEN. STANG** and **SEN. DOHERTY** vote for the bill.

**SEN. STANG** said he wrestled with the concept of freedom of speech, so he was not sure how he would vote. He further explained this was a time when people felt there was already too much government interference, and this was just adding another regulation. **SEN. STANG** related he was always happy and proud to say the Pledge of Allegiance, but forcing someone to say it could have the opposite effect.

**SEN. SPRAGUE** commented it was not right to the sponsor if the bill was amended for purposes of encumbering the bill. **SEN. STANG** reminded him the sponsor had no objections the day of the hearing.

**SEN. CASEY EMERSON** said since public schools received public monies, they could be told what to do; however, putting a mandate on private and home schools was a little more difficult.

**SEN. BILL GLASER** said the amendment reeked of bad public policy so he would not vote for it.

**Eddy McClure** suggested changing "private" to "nonpublic" to keep the language consistent.

Vote: Motion AMENDMENTS HB007705.AEM BE CONCURRED IN FAILED 6-4 on a Roll Call Vote, Number 1.

Motion: SEN. STEVE DOHERTY MOVED DOHERTY AMENDMENTS HB007701.AEM BE CONCURRED IN. (EXHIBIT 10)

Discussion: SEN. DOHERTY said one of the discussions was what to do with 7th Day Adventist students or with other students and teachers who had religious objection to saying the Pledge. He felt if diversity was to be recognized, those people needed to be informed they did not need to say the Pledge. He said he still did not know how he would vote on HB 77; however, he felt students in grades 1-6 sometimes had trouble understanding diversity and if people refused to say the Pledge, they could stick out "like a sore thumb."

SEN. EMERSON stated it would only be right to include SEN. DOHERTY'S amendments in HB 77.

SEN. SPRAGUE wondered if "informed" could be done through a poster on the wall or would it have to be done through a preamble every time the Pledge was recited. SEN. DOHERTY suggested it be placed in the handbook which parents got at the beginning of the school year.

SEN. MIGNON WATERMAN said she saw the potential of using it as a teaching tool, especially at the beginning of the school year.

SEN. JENKINS suggested those who did not wish to say the Pledge could stand silently in the group instead of being singled out. SEN. DOHERTY suggested that went with the bill; he wanted his amendments to let the students and teachers know there was no shame in not reciting the Pledge.

SEN. EMERSON expressed faith the teachers would take care of the issue in the right way.

Vote: Motion AMENDMENTS HB007701.AEM BE CONCURRED IN CARRIED UNANIMOUSLY 10-0.

Motion: SEN. LOREN JENKINS MOVED HB 77 AS AMENDED BE CONCURRED IN.

Discussion: SEN. MIGNON WATERMAN said she also struggled with the bill -- she liked saying the Pledge of Allegiance; however, she worried if it was required, students would become resentful. She maintained schools were managing quite well without HB 77 and would probably continue to do so.

Vote: Motion HB 77 AS AMENDED BE CONCURRED IN CARRIED 6-4 on a Roll Call Vote, Number 2. SEN. LOREN JENKINS will carry HB 28.

EXECUTIVE ACTION ON SB 244

Motion: SEN. CASEY EMERSON MOVED DO PASS ON SB 244.

Discussion: SEN. DARYL TOEWS said the school in Peerless had sent a letter to each Committee member explaining if SB 244 was not passed, it would cost the taxpayers 30 mills. He said he talked to the superintendent in Peerless and asked him if the taxpayers knew how the Bus Depreciation Reserve Fund was funded and was assured they did. SEN. TOEWS said he called school board members to see if they knew and not one knew the Fund was funded by permissive mills. SEN. TOEWS further explained it would take 30 mills to refill the Fund, and it would probably take several years to fill.

SEN. JENKINS commented putting caps on the General Fund caused districts to set up reserve funds, i.e. "creative financing."

SEN. DELWYN GAGE commented the money would not necessarily get back into the Reserve Fund, especially if the bus was completely depreciated out. SEN. TOEWS said they could go to 150% of what the bus cost.

SEN. TOEWS said there was another solution -- make the effective date one year later.

SEN. WATERMAN said the idea of permissively levying mills for one thing and using the money for something else bothered her because if the voters could vote on the levy, they might not approve it.

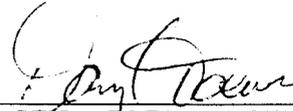
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SEN. GAGE asked how much abuse there was of the Bus Depreciation Reserve Fund. SEN. TOEWS replied substantially more than at first thought.

Vote: Motion DO PASS ON SB 244 CARRIED UNANIMOUSLY 10-0.

ADJOURNMENT

**Adjournment:** The meeting adjourned at 5:00 p.m.



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SEN. DARYL TOEWS, Chairman



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JANICE SOFT, Secretary

DT/JS