

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 March 7, 1997, at 3:38 p.m., in
Room 402.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. C.A. Casey Emerson, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
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: None

Members Absent: None

Staff Present: Eddye 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: HB 263, HB 180; Posted 3/4/97
Executive Action: HB 263 BE CONCURRED IN AS
AMENDED, HB 192 TABLED, HB 79
TABLED

HEARING ON HB 263

Sponsor: REP. TIM DOWELL, HD 78, Kalispell

Proponents: Ron deYoung, Fairmont School District
Bob Benke, Rural Flathead Valley Administrators
Phil Campbell, Montana Education

Opponents: None.

Opening Statement by Sponsor:

REP. TIM DOWELL, HD 78, Kalispell, said HB 263 allowed a couple school districts to voluntarily get together to form a new middle school district, which would allow all to more easily meet the needs of their students.

Proponents' Testimony:

Ron deYoung, Fairmont-Egan School District, said they had to build onto their schools a few years ago and would probably have to do so again, even before the levy for the last addition was paid off. He said area schools got together to see what could be done and decided they wanted local control for K-6, but realized they would be better off if they came together collectively for grades 7-8. Mr. deYoung maintained present law would not allow them to do that; therefore, they needed the flexibility of HB 263. He said Flathead County High School had the largest student population in Montana; in fact, only grades 10-12 could fit into the school. Ninth graders from Flathead County were in the city junior high in Kalispell, which meant Kalispell seventh graders attended school in a separate facility. Mr. deYoung explained they were attempting to build a second high school and were looking at a technology school similar to the one in Billings; at that time, all students in grades 9-12 would fit into the high schools and the Kalispell junior highers would return to their building. He stated the grades 7-8 overcrowding in the rural schools could be absorbed in the city and county schools for a short time only; therefore, another option in Flathead County might be to build a county-wide seventh and eighth grade junior high. He stressed even that was not an option under present law because they would not be able to maintain the K-6 local control. He reiterated either scenario needed the flexibility of HB 263; therefore, he asked for a vote of DO CONCUR.

Bob Benke, Rural Flathead Valley Administrators, said he represented all school districts in Montana who were experiencing rapid growth. He stated they were looking for the option of local control and powerful programs with small numbers of people. Mr. Benke said schools in the Flathead Valley were handling reduced funding through a variety of creative and cooperative ways; however, a program requiring technology, science labs, etc., needed specialized programs on a campus to address the educational needs. He shared how one of his teaching partners felt HB 263 would allow teachers to teach more effectively and would allow them to become specialists in the middle school and junior high grades. Mr. Benke reminded the Committee there were no financial implications with HB 263; all it asked was the ability to take control of education at the local level.

Phil Campbell, Montana Education Association (MEA), said they supported HB 263 because it allowed school districts the flexibility they needed. He recounted how districts now could

form special ed cooperatives but could not get together to have a joint building. He urged the Committee's support.

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Count: 3:51 p.m.}

Questions From Committee Members and Responses:

SEN. MIGNON WATERMAN commented she missed where HB 263 was only addressed to middle schools and wondered if it was because of the section of law being amended. REP. TIM DOWELL agreed. SEN. WATERMAN wondered if HB 263 would allow districts who wanted to come together to form a math/science school, or would separate legislation be required. Eddye McClure said the bill was for bonding, but it didn't limit the funding to just K-12.

SEN. DELWYN GAGE asked if HB 263 would allow a bus barn for cooperating districts. Eddye McClure said it was narrowed down to a school building, i.e. let them build what needed to be built. He referred to Page 2, Line 4, and suggested "school" be changed to "facility."

SEN. CASEY EMERSON said he didn't see why it wouldn't be a good idea for the two districts to become one district. Ron deYoung said local districts liked to elect their own boards, and in his case, there would be about eight districts combining; therefore, the board would be elected from the eight districts to run the eight schools. He said it would probably be harder to get the levies passed because people liked the local communities.

SEN. EMERSON asked if there were potential board problems regarding agreement after the school was built. Ron deYoung said a separate facility may not need to be built because there could be one already available. He said the curriculum consortium in the rural schools had been effective because presently almost everyone was on the same curriculum, and would feed into the seventh and eighth grade track. He said there would be a separate board for the seventh and eighth grade and each school would have its own.

SEN. LOREN JENKINS asked about the building available and Mr. deYoung said it was a rural school located in a suburb of Kalispell. He said they were trying to acquire the flexibility ahead of time -- they would not be acting on it immediately. He also stressed it was only an option; other options were building a new school, go county-wide (have one district for two junior highs) or county-wide (build onto the Kalispell one).

SEN. JENKINS asked what HB 347 would do to HB 263. Eddye McClure said they would not need to be coordinated because HB 347 addressed schools which were still part of a district. Ron deYoung said districts received different funding for K-6 than for 7-8; however, this was not addressed in HB 263, so if the

bill passed, the funding would be another hurdle to get through. He explained it cost more to educate grades 7-8, and OPI paid more for them; however, the reality was that money helped to offset the lesser amount received for K-6. Therefore, when the grades 7-8 students were lost to the junior high, they would have to survive on the lower funding level, or new funding would have to be found.

SEN. DELWYN GAGE commented there were debt limits on school districts which would have to be addressed in the agreements. **Eddye McClure** agreed. **SEN. GAGE** wondered if the contract would give a specific amount each district would pay, and then what would happen if the levy went down in some but not in others. **Ron deYoung** said he wasn't sure how that would work; it was something they would have to work on.

SEN. CASEY EMERSON wondered what would happen if the population ratio would shift -- would it affect the amount the districts would have to pay or would the contract need to be rewritten. **Ron deYoung** assumed language would have to be written which would allow for varying payments, dependent on population proportions. **Eddye McClure** referred to a similar situation in Kalispell where one district didn't pass their bond; therefore, nothing happened. She said everybody had to participate and everything had to be lined out to the voters.

SEN. GAGE said he was concerned what could happen after the bonds were approved, the school was built and operating, but then went down.

{Tape: 1; Side: A; Approx. Time Count: 4:09 p.m.}

Closing by Sponsor:

REP. TIM DOWELL reiterated how HB 263 was voluntary because school districts didn't jump into things. He suggested HB 263 addressed how Montana could provide its students an opportunity to compete in this world.

He said **SEN. LINDA NELSON** would carry the bill.

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

HEARING ON HB 180

Sponsor: **REP. JOHN BOHLINGER, HD 14, Billings**

Proponents: **Arlene Hannawalt, Montana Guaranteed Student Loan
 Program (MGSLP)
 Mark Bryson, MGSLP Collector**

Opponents: **None**

Opening Statement by Sponsor:

REP. JOHN BOHLINGER, HD 14, Billings, said HB 180 would allow for the suspension of state-issued licenses of debtors who defaulted on guaranteed student loans. He said the provision of HB 180 sounded bold and some might wonder if it was fair. REP. BOHLINGER illustrated by saying if one of the Committee loaned him \$5,000, with interest, for a hospital bill and then he "stiffed" the member, he thought the lender might like a legal vehicle to be able to collect the debt. He said Montana currently had a student loan balance of \$496 million, of which \$27.1 million from 6,000 borrowers was in default. He stated the default rate was growing at .5% per year while success in collection was going down. REP. BOHLINGER reiterated HB 180 wanted the authority to suspend state-issued licenses, which was really not that revolutionary because in 1993 he introduced legislation to revoke licenses to someone who was in default or noncompliance of their child support payments. He said last year over \$800,000 had been collected from about 765 parents because of this. Also, commitments had been made to pay over \$2 million in past due child support payments, i.e. threat of license suspension brought results and debts got paid.

REP. BOHLINGER explained the Montana Guaranteed Student Loan Program (MGSLP) by referring to and reading (EXHIBIT 1). He also referred to the bill: (1) Page 1, Line 14, of HB 180 and said the notice had to be served to the debtor in person or by certified mail; (2) Line 15 said the license would be suspended in 90 days if the entire debt was not paid or a payment plan arranged for; (3) Page 1, Lines 22-24, provided for a hearing to determine whether the suspension of the license was appropriate. If a suspension order was granted, the debtor could appeal through a provision found on Page 2, Line 8; (4) Page 2, Lines 28-30, said if the debtor continued in his occupation while the license was suspended, he or she would be guilty of a misdemeanor, the penalties of which were provided for on Page 3, Lines 1-4; (5) Page 3, Lines 21-28 allowed for a stay of suspension if the suspension would create a significant hardship on the debtor, the debtor's employees or legal dependents. REP. BOHLINGER said he said he hoped HB 180 would soon be law in Montana.

{Tape: 1; Side: A; Approx. Time Count: 4:19 p.m.}

Proponents' Testimony:

Arlene Hannawalt, Montana Guaranteed Student Loan Program (MGSLP), said HB 180 was requested by the Board of Regents to help in collecting the debt in default from the debtors. She said HB 180 was not used as a punishment tool, but as another way to collect the debt. Ms. Hannawalt said wages could now be garnished for the debt but the problem came with the self-employed people who had their own businesses and licenses because there was no tool to use with them. She explained (EXHIBIT 2) as

showing how many contacts were made with the borrower regarding loan repayment, and (EXHIBIT 3) as examples of types of students whose loans were in default. She said HB 180 would help them work with those debtors.

Mark Bryson, Collection Supervisor for MGSLP, said he could not add anything but he wanted to be on record as being a proponent.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. STEVE DOHERTY asked if MGSLP administered loans for Montana residents who had a school out of state. **Arlene Hannawalt** said MGSLP guaranteed the loans no matter where Montana students went to school, no matter whether they were in Montana, other states or abroad; in addition, they guaranteed loans for out-of-state students who came to Montana. She said they did about \$100 million in loans this past year to about 26,000 borrowers.

SEN. DOHERTY asked if the licenses would include hunting and fishing licenses. **Ms. Hannawalt** said the possibility existed, though the mechanism was not available to do that with hunting and fishing licenses; however, she could foresee the debtor going in to buy such a license through an automated system and his or her name would come up with a flag to notate the default. She said such a mechanism would require her department to work with Fish and Game to put it into place; however, at this point the automated system was just a possibility.

SEN. DOHERTY commented the licenses did not include drivers licenses and wondered what would be done to a person such as an over-the-road trucker who required a special license. **Arlene Hannawalt** said, if after determining their income, etc., the department felt they were doing their best they would try to work with them.

{Tape: 1; Side: B; Approx. Time Count: 4:26 p.m.}

SEN. DOHERTY commented all licenses except one (attorneys) would be able to be suspended and wondered if MGSLP would go to the State Bar and get the Supreme Court to adopt rules which would be implemented by the State Bar to accomplish this. **Ms. Hannawalt** said they would.

SEN. DARYL TOEWS asked for explanation why Montana guaranteed loans of both Montana students out-of-state as well as those of out-of-state students who attended school in Montana. **Arlene Hannawalt** said it was easier for both the students and the school if the loans were at one place; actually, it was the students who determined which lender they were going to use.

SEN. MIKE SPRAGUE asked how MGSLP worked the reciprocity. **Ms. Hannawalt** said they hoped to enter into agreements with other states who had passed or would pass the same laws.

SEN. SPRAGUE asked if the letter sent to the employer requesting the garnishing of the wages was tactful because he had received one as an employer from the Labor Department for an employee whose wages were to be garnished for child support. **SEN. SPRAGUE** said the letter was very rude and arrogant and he hoped the letters sent from MGSLP were more sensitive. **Ms. Hannawalt** said they were required to follow the Department of Education's format and policy. **Mark Bryson** said all guaranty agencies in the nation used the same format, and basically it asked for cooperation and current information.

{Tape: 1; Side: B; Approx. Time Count: 4:33 p.m.}

SEN. CASEY EMERSON asked for more information on the statistics reported earlier. **REP. JOHN BOHLINGER** said currently MGSLP had a loan portfolio of \$496 million outstanding; of that amount, \$27.1 million was in default -- the amount in default was owed by 6,000 borrowers.

SEN. EMERSON asked how many of the borrowers in default lived outside Montana. **Arlene Hannawalt** said about 25% of the defaulted borrowers were out-of-state.

SEN. EMERSON asked if borrowers would tend to leave Montana when pressure was put on them to pay. **Ms. Hannawalt** said that didn't seem to be a problem.

SEN. DELWYN GAGE asked if direct loans were still made, and if so, how many were there. **Arlene Hannawalt** said direct loans were handled directly by the Department of Education. Those loans had an income contingent repayment plan, which meant if the student had not repaid the loan within 25 years, the taxpayers picked up the tab.

SEN. GAGE referred to Section 2, Subsection (3), and wondered if it meant the debtor could say he didn't owe that much, or wasn't delinquent. **Ms. Hannawalt** said it meant the debtor had already had a hearing to determine the debt was legitimate; therefore, if the hearing was offered on the license suspension, the only things the debtor could protest was whether the debt was truly delinquent, if he or she had tried to enter into a repayment plan with MGSLP, and the amount of the debt. She said when MGSLP purchased the loan from the lender, the debtor was offered the opportunity to go before a hearing to refute the debt.

SEN. GAGE referred to Page 3, Lines 21-23, and assumed the decision had already been made to suspend the license. **Ms. Hannawalt** agreed, saying it just gave another option, and wanted to ensure due process was followed.

SEN. EMERSON wondered who "we" was when it was said "we buy the loan." Ms. Hannawalt said it was the Board of Regents through MGSLP. SEN. EMERSON commented he had discussed this with Ms. Hannawalt's boss earlier, and wondered why each university unit didn't handle its own loans as was the procedure years ago. He commented at that time if the loan was not paid, the transcript would not be available, and asked if HB 180 would allow the transcript to not be issued. Ms. Hannawalt said technically it could not be done because the money was owed to MGSLP and not the university. SEN. EMERSON remarked the money was not owed to the licensing bureau either and Ms. Hannawalt said that was true and that was why the legislature was being petitioned for help.

SEN. LOREN JENKINS asked how many of the 6,000 people who were in loan default currently worked outside Montana. Arlene Hannawalt said she did not have numbers. SEN. JENKINS commented HB 180 would not touch those out-of-state students who returned to their homes. Ms. Hannawalt said that was the reason reciprocity would be sought; eight states currently had this legislation and others were in the process of securing it.

SEN. JENKINS asked about the \$92,000+ owed as shown on (EXHIBIT 3), wondering how the figure could be so high. Ms. Hannawalt said it was possible through loans for all four undergraduate years as well as for graduate school.

SEN. STEVE DOHERTY wondered if HB 180 would be flawed if Section 3, Subsection (6) (immunity section) was removed and was told it would not.

{Tape: 1; Side: B; Approx. Time Count: 4:44 p.m.}

Closing by Sponsor:

REP. JOHN BOHLINGER said there was concern in the House HB 180 was too far-reaching and reminded the Committee the bill entered into diligent process to collect the money, i.e. phone calls, letters, attempts to contact the debtor. He referred to Page 3, Section 5, and said sensitivity to the debtor's circumstances was provided for. REP. BOHLINGER said the threat of license suspension was effective and said in North Dakota suspension notices were sent to 43 people, but only 9 were actually suspended. He reiterated how seven or eight states currently had the provisions of HB 180, and more states were undertaking such considerations. REP. BOHLINGER addressed SEN. DOHERTY'S question on immunity and said an amendment had been distributed to the Committee (EXHIBIT 4); however, it failed to get a 2/3 majority vote in the House.

EXECUTIVE ACTION ON HB 263

Motion: SEN. DEBBIE SHEA MOVED HB 263 BE CONCURRED IN.

Substitute Motion/Vote: SEN. DELWYN GAGE MOVED AMENDMENT HB026301.AEM BE CONCURRED IN (EXHIBIT 5). Motion CARRIED UNANIMOUSLY.

Discussion: SEN. BARRY "SPOOK" STANG said he would vote against HB 263 because if school districts got together to bond for the building, but one school district could not pass the operating levy to pay its operating share, the other school district could not carry the load. He expressed concern if that should happen, the districts would be back to the legislature to ask for various exemptions.

SEN. DEBBIE SHEA asked how that would be different from one school district having the same problem. SEN. STANG said there would not be a problem if there was one big district -- it would just have to cut back; however, this bill called for two districts, one of which might not be able to come up with its operating share.

SEN. DARYL TOEWS said HB 263 addressed the issue of bonding, which would take place. He said if the school was shut down because of no money, that would not be the legislature's concern. SEN. STANG still expressed a concern they would expect the legislature to "fix the problem."

SEN. STEVE DOHERTY referred to Section 1, which said the contracts had to be approved by the governing body of each party in the contract. He suggested the local school boards could figure that eventuality out and put something into the contract to protect themselves. SEN. STANG still maintained a concern future legislation would be requested.

SEN. CASEY EMERSON said he also could see some potential problems coming "down the pike"; however, they had to be allowed to solve them when they got there.

Vote: MOTION HB 263 BE CONCURRED IN AS AMENDED CARRIED 8-1, WITH SEN. BARRY "SPOOK" STANG VOTING NO. SEN. LINDA NELSON will carry HB 263.

EXECUTIVE ACTION ON HB 192

Motion: SEN. BARRY "SPOOK" STANG MOVED HB 192 BE NOT CONCURRED IN.

Discussion: SEN. STANG explained Amendments HB019201.AEM (EXHIBIT 6).

Substitute Motion/Vote: SEN. DEBBIE SHEA MOVED TO TABLE HB 192. Motion CARRIED 6-2 ON A ROLL CALL VOTE.

EXECUTIVE ACTION ON HB 79

Discussion: SEN. DELWYN GAGE suggested the benefit of HB 79 was the opportunity to get to the Supreme Court to appeal the ruling made previously by the District Court, but never appealed.

SEN. CASEY EMERSON asked from where in the bill the \$35 million mentioned by the sponsor came. SEN. DARYL TOEWS said at its inception, "Project Excellence" was quite costly, and that was from where the number came; however, he didn't think the number was quite correct. He contended since that time, rulemaking from the Board of Public Education had not been that costly.

SEN. STEVE DOHERTY suggested the appeal might not be a particularly good idea; also, there was no guarantee the current client (attorney general who decided to not appeal the other ruling) would appeal the first ruling.

SEN. LOREN JENKINS commented it would be nice to get the situation settled, but doubted HB 79 would accomplish that.

SEN. BARRY "SPOOK" STANG said he had listened to this since 1987 and still did not feel it was necessary because he maintained standards should be set as high as possible and then funding should be found. He said he was afraid if this legislation continued, the legislature would be in the business of setting the standards and he did not think that was a good thing.

Motion/Vote: SEN. BARRY "SPOOK" STANG MOVED TO TABLE HB 79.
Motion CARRIED 7-1, WITH SEN. DELWYN GAGE VOTING NO.

ADJOURNMENT

Adjournment: The meeting adjourned at 5:09 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS