

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By CHAIRMAN DARYL TOEWS, on March 12, 1997, at
3:22 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: 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: HJR 23, HB 470; Posted 3/4/97
Executive Action: HJR 23, HB 470, HB 180,
HB 347 TABLED

HEARING ON HJR 23

Sponsor: REP. JOE TROPILA, HD 47, Great Falls

Proponents: Lance Melton, Montana School Boards Association
Don Waldron, Montana Rural Education Association
Larry Fasbender, Great Falls Public Schools
Joe Kerwin, Secretary of State Office
Loran Frazier, School Administrators of Montana
Lynda Brannon, Montana Association of School
Business Officials

Opponents: None

Opening Statement by Sponsor:

REP. JOE TROPILA, HD 47, Great Falls, said the 1995 Legislative Session saw five bills which tried to do something with school elections. He said his tenure as County Election Administrator of Cascade County and County Clerk and Recorder saw a voter turnout of about 12% so he decided to try to do something about it. He stated they tried to combine the school elections with the primary and that didn't work so they asked the Secretary of State if he would have his Election Advisory Committee look at the situation over the interim. The Committee did and said they wanted no part of it because it involved combining Title 13 and Title 20. He reported he asked Eddye McClure to draft a bill and she ended up with a 54-page document, which she shrunk down to two pages, HJR 23. REP. TROPILA said the bill asked for a study to combine school elections with either the general or primary election to ensure a good voter turnout and a large enough percentage turnout to pass a bond issue. He asked the Committee HJR 23 BE CONCURRED IN so it could be put on the list of bills to be potentially studied during the interim.

Proponents' Testimony:

Lance Melton, Montana School Boards Association (MSBA), said they supported HJR 23 and suggested the study should cover the following: (1) The necessity of going to the local voters for assistance. Ensure it was understood the board was going to the local voters because that was the way the system was set up, i.e. a share of state and a share of local funding; (2) Understand that the restrictions of the trustees going to the local voters to ask for assistance could have a direct impact on how the schools operated overall. He said MSBA would be active in participating in any study and would be happy to lend their expertise in any way they could to ensure the issue got further study. He hoped a resolution could be found to satisfy those who were concerned about the number of mill levy elections but also continue to ensure the viability of the public schools.

Don Waldron, Montana Rural Education Association (MREA), said the original 54-page bill had some meaty thoughts, one of which was running bond issue elections with other elections in order to get turnouts. He said MREA would like to be involved in the study if it would get out of Committee and if the money could be found to conduct the study.

Larry Fasbender, Great Falls Public Schools, said people in the Great Falls area were upset at the number of times the bond issue elections had to be run. He stressed they had to be run so many times, not because they didn't pass but because the percentage of turnout was never big enough. He said the timing of elections was an important and complicated issue, so he wasn't sure if limiting the number of times was the best answer. He hoped HJR 23 would BE CONCURRED IN because it would deal with all aspects of voting times and changes.

Joe Kerwin, Secretary of State for Elections, said school elections were unique for Montana because every other type of election was run by the County Election Administrator -- schools were the only ones who could run their own elections. He said most election laws came under Title 13 in the codes; however, school elections came under Title 20, but they sometimes used Title 13, though Title 20 took precedence. He said several things had to be considered; that was why they supported HJR 23.

Loran Frazier, School Administrators of Montana (SAM), said school election bills came up every session and he thought it was necessary to come up with something with which everyone could agree after a careful study. He asked for the Committee's support for the bill as well as for its funding.

Lynda Brannon, Montana Association of School Business Officials (MASBO), said they would like to see this bill go through because the election process was lengthy, cumbersome and not perfect. She said the way the election process was set in law, almost every other deadline was affected; therefore, if the system could be improved or changed, they would welcome it.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: REP. JOE TROPILA said he closed.

{Tape: 1; Side: A; Approx. Time Count: 3:32 p.m.}

HEARING ON HB 470

Sponsor: REP. GEORGE HEAVY RUNNER, HD 85, Browning

Proponents: Lynda Brannon, Montana Association of School
Business Officials
Don Waldron, Montana Rural Education Association
Phil Campbell, Montana Education Association
Lance Melton, Montana School Boards Association
Loran Frazier, School Administrators of Montana
Cliff Roessner, Helena Public Schools

Opponents: None

Opening Statement by Sponsor:

REP. GEORGE HEAVY RUNNER, HD 85, Browning, said HB 470 allowed school districts the right to provide cash compensation in lieu of accumulation of vacation leave. He referred to Page 1, lines 28 - 30, and said the bill provided flexibility and allowed both sides to come to a mutually beneficial agreement.

Proponents' Testimony:

Lynda Brannon, Montana Association of School Business Officials (MASBO), gave a specific example of the financial impact of the bill and said if HB 470 was not in place by the end of the 1997-98 school year, it would cost the Columbia Falls schools \$24,415, explaining the Columbia Schools assumed their classified staff would use their vacation leave on a regular school day, which meant the school district would have to hire a substitute. She said HB 470 would help all districts financially; therefore, she urged the Committee's support of the bill.

Don Waldron, Montana Rural Education Association (MREA), urged the Committee's support because it was good for the district as well as for the employee.

Phil Campbell, Montana Education Association (MEA), said they supported HB 470, explaining classified employees in Thompson Falls (and other districts) bargained this into the contract; however, the Attorney General ruled it unconstitutional, which was what prompted Section 1, Subsection (4) in HB 470.

Lance Melton, Montana School Boards Association (MSBA), said they supported the bill because it was fiscally sound and responsible. He said it also helped the districts to keep from building up a large vacation liability which could cost considerable funds.

Loran Frazier, School Administrators of Montana (SAM), asked the Committee that HB 470 BE CONCURRED IN.

Cliff Roessner, Helena Public Schools, said they supported the bill for all the reasons already given and said the teaching assistants in Helena were the only bargaining unit that had the agreement. He said the district had put \$40,000 into next year's budget as a contingency for the Attorney General's ruling; however, if HB 470 passed, they'd use that money for books and supplies.

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Count: 3:39 p.m.}

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked about vacation days for teachers. REP. GEORGE HEAVY RUNNER said the bill referred to classified employees whose details were worked out in collective bargaining agreements.

SEN. LOREN JENKINS asked why substitute teachers were hired for classified employees. Don Waldron said it was a classroom aide, custodian or other school employees other than certified teachers. He said the term was "substitute", not "substitute

teacher", and the leave was taken at the request of the employee and convenience of the employer.

SEN. JENKINS asked if a janitor would need to be replaced during the summer. **Don Waldron** said the leave could be worked around; however, if a teacher aide wanted a day off during the school year, a substitute would have to be hired.

Closing by Sponsor:

REP. GEORGE HEAVY RUNNER asked for the Committee's support.

EXECUTIVE ACTION ON HJR 23

Motion/Vote: **SEN. MIGNON WATERMAN** MOVED HJR 23 BE CONCURRED IN. Motion CARRIED UNANIMOUSLY 11-0. **SEN. STEVE DOHERTY** will carry HJR 23.

EXECUTIVE ACTION ON HB 470

Motion: **SEN. MIGNON WATERMAN** MOVED HB 470 BE CONCURRED IN.

Discussion: **SEN. CASEY EMERSON** asked if "employee" was limiting enough, i.e. could principal, superintendent, or assistant superintendent be covered as employees. **Phil Campbell** said in Section 2-18-617 teachers were exempt from the provisions; therefore, employees would mean "other than school teachers."

SEN. EMERSON asked if principals and administrators were exempt as well. **Lance Melton** said principals were classified as teachers; therefore, would be excluded from this bill. Superintendents were not school teachers; some Attorney General opinions said they were covered by HB 470. **SEN. EMERSON** wondered about an assistant superintendent and **Mr. Melton** said he didn't think so because when the position below superintendent as defined in Title 20, it would be an administrative personnel with a teaching certificate; by definition it would be a teacher. **SEN. EMERSON** asked about librarians or counsellors. **Lance Melton** said anyone who was in a position which required certification as a teacher would be excluded from the definition.

SEN. LOREN JENKINS asked how many collective bargaining agreements were tied to unions. **Phil Campbell** said the union didn't have a lot of classified contracts; he thought they had about 800 - 1,100 classified members. He reminded the Committee HB 470 allowed it to either be bargained or put into policy.

SEN. DARYL TOEWS commented it worked very well until the Attorney General got involved, and if HB 470 passed, nothing would be changed from before that time.

Vote: Motion HB 470 BE CONCURRED IN CARRIED UNANIMOUSLY 11-0. **SEN. MIGNON WATERMAN** will carry HB 470.

{Tape: 1; Side: A; Approx. Time Count: 3:50 p.m.}

EXECUTIVE ACTION ON HB 180

Amendments: Eddy McClure explained Amendments HB018005.AEM (EXHIBIT 1).

Discussion: SEN. STEVE DOHERTY said another way to deal with immunity issue was to remove it. Eddy McClure said that was addressed in the amendments in (EXHIBIT 1).

SEN. LOREN JENKINS said Sections 1-7 were being left in, which said the licensing bureau had to go along with the law being passed; yet, if Subsection (6) removed the exemption, he could be liable for doing what the law said to do. However, if he did not enact Sections 1-7, he would not be exempt from the liability. Ms. McClure said it was in the bill because of what's in child support, i.e. if the agency followed the law, it couldn't be sued; however, if Subsection (6) was removed, it would mean someone could sue the agency for doing this. She said HB 180 had to have some sort of amendment; if SEN. DARYL TOEWS' amendments were chosen, the bill would have to go back to the House for another vote on the bill. If a 2/3 majority was not gotten, the bill would be dead.

Amendments: SEN. DARYL TOEWS explained Amendments HB018001.AEM (EXHIBIT 2).

Discussion: SEN. MIGNON WATERMAN asked SEN. TOEWS if he meant if the loan was in default, the debtor could still hunt. SEN. TOEWS said he didn't think it was fair to encumber hunting & fishing licensing places to check school loan backgrounds for license applicants.

SEN. BARRY "SPOOK" STANG said he understood he would not be notified of the default, so he would not be the one refusing the license; however, as soon as the license was bought, the Department would take it away from them.

SEN. WATERMAN she felt hunting and fishing licenses were important enough to people who participated in those sports so if their loan was in default, they would pay the school loan.

Motion/Vote: SEN. LOREN JENKINS MOVED DO PASS ON THE TOEWS AMENDMENTS HB018001.AEM. Motion FAILED 5-6 ON A ROLL CALL VOTE.

Motion/Vote: SEN. MIGNON WATERMAN MOVED DO PASS ON THE MCCLURE AMENDMENTS HB018005.AEM. Motion CARRIED UNANIMOUSLY 11-0.

Motion: SEN. MIGNON WATERMAN MOVED HB 180 AS AMENDED BE CONCURRED IN.

Discussion: SEN. BILL GLASER said HB 180 talked about investments in the form of student loans, which were not necessarily paid, and the state's investment, which meant

removing the professional licenses, and others as well. He said the impact of that was they could not contribute to society to help repay the part which was donated to them, which could be two to three times more than the initial investment. He suggested sight was lost of the second investment, which was the state subsidy. He said he would not vote for HB 180.

SEN. BARRY "SPOOK" STANG said if he were one of the students in default whose license would be removed if he didn't pay the loan, he would certainly work out an arrangement in order to not lose his license. He said if he borrowed money from the bank and the loan was in default, the bank would take his business. He felt HB 180 was a good move to get these people back on track -- they got the license with the education.

SEN. WATERMAN said the bill covered a hardship exemption and she agreed if they were not making an effort at all to repay the loan, they should be given a wake-up call.

SEN. STEVE DOHERTY said student loans were a revolving fund and if someone didn't pay it back, the amount of money the loaning entity was able to loan out again was lessened; therefore, it was important to get those to pay who weren't paying.

SEN. LOREN JENKINS said he had a problem with loaning to out-of-state students and to Montana students who left after their education was completed.

SEN. EMERSON reiterated how 47 people in North Dakota were in default but the passing of this law collected from all but nine. He didn't think people in default would give up their license when asked to pay the loan.

SEN. MIKE SPRAGUE said the bill talked about accountability, something everyone needed to learn. He said he thought reciprocity was something to be worked for, and HB 180 was a good message to send.

SEN. DEBBIE SHEA referred to one of the testimonies which said 16% of the licenses in North Dakota were suspended and asked what about the result of the loss of their licenses. **SEN. GLASER** said he paid a lot of taxes, and most of the people he was supporting were neither his family or relatives. He preferred to think he was investing in them and he wanted them working at their maximum capacity. He felt the loan was separate from his investment in the citizens of Montana; he didn't want his investment in these people to be wasted simply because they hadn't paid their student loans.

Vote: Motion HB 180 AS AMENDED BE CONCURRED IN PASSED 6-5 ON A ROLL CALL VOTE. **SEN. MIGNON WATERMAN** will carry the bill.

{Tape: 1; Side: B; Approx. Time Count: 4:10 p.m.}

EXECUTIVE ACTION ON HB 347

Amendments: SEN. DARYL TOEWS explained the amendments (EXHIBIT 3).

Motion: SEN. MIGNON WATERMAN MOVED DO PASS ON THE AMENDMENTS IN EXHIBIT 3.

Discussion: SEN. DELWYN GAGE asked who was going to own the school. SEN. DARYL TOEWS said this bill wasn't about ownership. SEN. GAGE said in a way it was because each of the districts would own a part of the school, and collectively they could have 60% increase in the total budget. SEN. TOEWS said it could be 20% of the total.

SEN. BILL GLASER said the question was whether they should be confined to the 4% per year or should it be 100% immediately.

SEN. STANG said he was concerned about the bill because he was here at a time when the legislature tried to get rid of the exemptions. He said if HB 347 passed, the loopholes might be put back in; therefore, he would not support the bill.

SEN. CASEY EMERSON asked what would happen the following year. SEN. TOEWS said the BASE would automatically go up to the 20% without the vote of the people, and that would be the situation forever.


Vote: Motion DO PASS ON AMENDMENT (EXHIBIT 3) CARRIED UNANIMOUSLY 11-0.

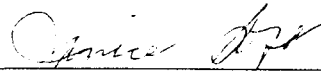
Discussion: SEN. GAGE said his concern was the same people who voted for this locally were here asking the legislature to do something about the high property taxes.

Motion/Vote: SEN. BARRY "SPOOK" STANG MOVED TO TABLE HB 347. Motion CARRIED 8-3 WITH SEN. DEBBIE SHEA, SEN. MIGNON WATERMAN AND SEN. STEVE DOHERTY VOTING NO.

ADJOURNMENT

Adjournment: The meeting adjourned at 4:21.



SEN. DARYL TOEWS, Chairman

JANICE SOFT, Secretary

DT/JS