

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DARYL TOEWS**, on March 14, 1997, at 3:40 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 523, HB 491; Posted 3/7/97
Executive Action: None

HEARING ON HB 523

Sponsor: REP. LINDA MCCULLOCH, HD 70, Missoula

Proponents: Rachel Vielleux, Missoula County Superintendent of Schools
Don Waldron, Montana Association of County Superintendents and Montana Rural Education Association

Opponents: None

Opening Statement by Sponsor:

REP. LINDA MCCULLOCH, HD 70, Missoula, said HB 523 dealt with school districts who ran their school buses into another school district to pick up students from that district (which was in violation of the law) and were receiving state transportation funds for that bus route. She said HB 523 clarified the county superintendent shall suspend all transportation money for the district which was in violation of the transportation policy until that district complied with the policy. REP. MCCULLOCH said when the violation was corrected, all transportation monies, except for the out-of-compliance dollars, would then be reimbursed. She stressed HB 523 allowed school buses to go through other districts to pick up its own students, if it was agreed upon by both districts and approved by the county superintendent.

Proponents' Testimony:

Rachel Vielleux, Missoula County Superintendent of Schools, said HB 523 was for punitive measures as well as situations where trustees of both districts agreed in writing to allow buses to travel through the district but not pick up students from that district. She said they could still do that (because it was a county road) but they would not receive any transportation reimbursement as long as they were operating a route which was not approved by the County Transportation Committee. Ms. Vielleux also submitted written testimony of Gwyn Andersen, Teton County Superintendent of Schools, (EXHIBIT 1) and Board of Trustees, Greenfield School District, Fairfield, (EXHIBIT 2) who were unable to testify in person because of bad weather.

Don Waldron, Montana Association of County Superintendents and Montana Rural Education Association (MREA), read his written testimony. (EXHIBIT 3)

Opponents' Testimony: None.

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

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if there was a way the districts could solve the issue themselves rather than having to go through a law. REP. LINDA MCCULLOCH said it could be done if the two school districts agreed and the county superintendent approved. She said HB 523 just clarified that.

SEN. EMERSON asked if the rule or regulation which stopped the collection of transportation money was necessary if the vehicle was already in place. REP. MCCULLOCH said there were some instances where one district picked up students in another district without approval and both districts were getting transportation money for routes in the same area.

SEN. LOREN JENKINS gave an example of a situation in his legislative district in which Big Sandy school was sitting on the reservation on the county line. Some distance away were two schools on the reservation, but there were no roads straight across to Big Sandy, i.e. students had to go through the other district and didn't want to attend Big Sandy. He said it was treated as their own school district but theoretically, it wasn't. **Rachel Vielleux** said she was familiar with the situation because her home county was Choteau County. She said the students north of Big Sandy could not be accessed reasonably by a road to go to that high school; therefore, a bus was run from the reservation and they attended there because of approval by the Big Sandy trustees. She said it was not a problem because the solution was agreed upon, and double transportation money (buses over same piece of road) was not received.

SEN. JENKINS asked what would happen if there were no agreement between the school boards, and the bus couldn't get to its school without going through the other district. **Rachel Vielleux** said it wouldn't occur because the routes were approved.

SEN. JENKINS gave a scenario where two school districts disagreed about one district leaving Point A, traveling through the other district to Point B to pick up students and returning to Point A. If HB 523 was in place, he wondered if the districts would lose their transportation funding for all buses. **Ms. Vielleux** said they would.

SEN. JOHN HERTEL asked for enlightenment on why HB 523 was necessary for the Fergus County situation. **Don Waldron** said it was needed to clarify what the Attorney General said in 1983 because it was still the law. He said several families of the Roy school district lived about 15 miles from Roy and about 14 miles from Grass Range; however, they preferred to attend school in Grass Range. The county superintendent maintained it was illegal for Grass Range to pick them up; however, the state superintendent and county superintendent disagreed on the interpretation. **Mr. Waldron** said the Attorney General gave an opinion which said a district could not pick up the students. Those students could attend Grass Range school but they couldn't run a bus to pick them up. He informed the Committee something really had not been addressed in the testimony and that was there was a County Transportation Committee which made the decisions; however, the decisions weren't always what the superintendent wanted.

SEN. HERTEL asked if no agreement could be reached between the two school districts. **Don Waldron** said they could not come to agreement.

SEN. DARYL TOEWS said he understood it was illegal to apply for mileage, but not necessarily illegal to take the bus into the district. **Mr. Waldron** said it couldn't be done because an

illegal route would be operating and no transportation reimbursement would be paid until the illegal route was stopped.

SEN. TOEWS asked if this would be one of the greatest motivators to encourage running the best area school. **Don Waldron** said personalities entered in which should be worked on.

SEN. BARRY "SPOOK" STANG asked for explanation of what was happening in the Nine Mile situation. He wondered if the previous law prohibited the Frenchtown bus from going into that school district, and if HB 523 would enable them to do that. **Rachel Vielleux** said as long as the Alberton school district did not give permission to the Frenchtown bus to go into the Upper Nine Mile, it could not do so without jeopardizing the funding for all of the Frenchtown routes. Therefore, HB 523 would not affect the Nine Mile situation.

SEN. CASEY EMERSON commented HB 523 would put pressure on districts to reach an agreement regarding the bus routes. **Ms. Vielleux** said it asked them to comply with the statute to make it work.

SEN. BILL GLASER asked what would happen if HB 523 was amended to say only the students picked up in the other district would be cut out of the transportation system. **REP. MCCULLOCH** said they preferred to leave the bill as it now was.

SEN. LOREN JENKINS asked what happened if the bus went to the district line to pick up students. **Don Waldron** said the students would have to make the effort to get to the line and then could be picked up by the bus.

SEN. GLASER said three or four buses went into Busby every day to pick up students to take them to Hardin, Colstrip and the mission, rather than have the students attend in Lane Deer or Busby. He asked if HB 523 would make Hardin and Colstrip lose all their transportation reimbursement, or would the students have to stay in Busby or Lane Deer. **Don Waldron** said there must be some agreement in place or nobody had turned it in to the county superintendent; he really didn't know the situation.

SEN. EMERSON asked if the situation cited by **SEN. GLASER** could be done if the two districts agreed. **Mr. Waldron** said they could if the County Transportation Committee approved also.

SEN. STEVE DOHERTY commented all HB 523 did was clarify the penalties for districts who did not get the superintendent's approval. **Don Waldron** said he was exactly right -- that was all HB 523 did.

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

Closing by Sponsor:

REP. LINDA MCCULLOCH said she wanted to recap HB 523 did nothing but eliminate the double transportation reimbursement by the county and state for the same bus route.

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

HEARING ON HB 491

Sponsor: REP. BILL REHBEIN, HD 100, Lambert

Proponents: Don Waldron, Montana Association of County
Superintendents and Montana Rural Education
Association
Jeff Hindoien, Montana Rural Education Association
Evan Jordan, Private Citizen
Susan Stanley, Private Citizen
Rachel Vielleux, Whitlash Residents

Opponents: None

Opening Statement by Sponsor:

REP. BILL REHBEIN, HD 100, Lambert, said the purpose of HB 491 was to get some continuity in the law regarding the transfer of territory between high school and elementary districts. He stated current law said the majority of electors who resided in an elementary district would petition the county superintendent to transfer the property. The county superintendent would then verify the criteria had been met for the transfer, would conduct a hearing and then within 30 days would make a decision to grant or deny the transfer. That decision could be appealed to the county commissioners by residents or taxpayers of either of the affected elementary districts; however, their decision was final unless 20% of the electors of the district from the territory which was to be transferred petitioned for a vote; the results of which would be final. REP. REHBEIN explained the law for a high school district was basically the same, with the major differences being the dispute could be appealed to the state superintendent, and from there it could be appealed to district court; however, that decision would be final.

REP. REHBEIN explained HB 491 was about problems regarding property transfer in both elementary and high school districts; the solution process was to go to the county superintendent and then to District Court -- OPI and the county commissioners were removed from the loop.

Proponents' Testimony:

Don Waldron, Montana Association of County Superintendents and Montana Rural Education Association (MREA), said he would not say

anything but wanted the Committee to know superintendents, district residents and MREA's legal counsel would testify.

Jeff Hindoien, General Counsel for Montana Rural Education Association, said the entire purpose of HB 491 was to make the transfer of territory the same for an elementary district as for a high school district. He stressed this was not annexation, which involved moving an entire district into another; rather, it involved moving pieces from one district to another. He explained current law as did **REP. REHBEIN**; however, **Mr. Hindoien** also referred to: (1) Page 3, Lines 17-20 -- a third superintendent would be allowed to join the decision-making process, thus ensuring a majority decision; (2) Page 3, Lines 21-24 -- if territory was taken from a K-12 district, both elementary and high school territories had to be included so if the transfer went through, the district could continue to operate under the K-12 structure (coterminus boundaries).

Evan Jordan, Resident of Nine Mile Valley, said since 1992, his district had been engaged in its most recent attempt to transfer territory (Upper Nine Mile Valley) from the Alberton School District to the Frenchtown School District; however, it still had not been accomplished because of the current law. He stated this was the sixth attempt during the past 40 years and gave the Committee an historical overview of the process.

{Tape: 1; Side: B; Approx. Time Count: 4:30 p.m.}

Susan Stanley, Resident of Nine Mile Valley, said she had been involved in the process for about eight years and said the current process gave no hope for resolution of their efforts because a split vote was a "no" vote so there was no way to progress. **Ms. Stanley** said the Valley in its entirety was a very strong community -- families shared the same community center, fire department, community council, etc., and were all members of Missoula County. She said students were now attending school in Frenchtown with tuition waivers but the process was still hung up; all involved wanted to see a resolution. She proclaimed HB 491 simplified the process and gave a chance for a logical conclusion.

Rachel Vielleux, Whitlash Residents in Toole County, said they could not testify in person because of bad weather and calves on the prairie. These people attended school in Sunburst but preferred to attend school in Whitlash and to be part of that district; however, without a territory transfer it would not be possible. **Ms. Vielleux** said these people were very much in support of HB 491.

Opponents' Testimony: None.

{Tape: 1; Side: B; Approx. Time Count: 4:34 p.m.}

Questions From Committee Members and Responses:

SEN. DELWYN GAGE referred to Page 2, Lines 23-25, and asked about the person in the receiving district whose input meant nothing. Jeff Hindoien said the conduct of the hearing was governed by Subsection (4). SEN. GAGE commented the appeal had to go to District Court and Mr. Hindoien agreed, explaining when OPI presently conducted a review of a county superintendent hearing of territory transfer under Administrative Procedures Act in Title 20, they conducted it under the identical standard of review District Courts subsequently looked at; therefore, one level was removed from the administrative process. SEN. TOEWS told SEN. GAGE part of the answer was on Page 1, Line 28.

SEN. GAGE asked about the taxpayers who didn't agree with what the trustees did; even though they would be heard at the hearing, they would not be involved in the decision. Jeff Hindoien said there was no consideration of the impact on the residents of the receiving district; however, they were getting a broader tax base.

SEN. CASEY EMERSON asked about the vote of the people. Mr. Hindoien said on the elementary side the vote process was the same as at present; however, if people didn't like the county commissioners' decision, a petition signed by a majority of the people in the transfer territory could be presented which meant the issue would be submitted for a vote by the entire district which was losing the property. At that time the law also said the only considerations to be made were of the people of the territory to be moved; however, that was changed in 1991 to include those who were left behind. He said the effect of changing the language on the election was only 20%, not a majority, of the electors was necessary; therefore, suddenly the electors in the transfer territory were not responsible for coming up with the petition -- it was the voters district-wide. Mr. Hindoien said the only way it would have been put to a vote was if a majority in the territory didn't like the decision they got.

He further explained sometimes the vote process of everyone's interest may not be protected because the people were a minority; if there would be a process of conducting two expensive hearings which resulted in sending it back to a vote, there would be a question of which way the process should be handled.

{Tape: 1; Side: B; Approx. Time Count: 4:42 p.m.}

Closing by Sponsor:

REP. BILL REHBEIN said since 1995, six such cases had been referred to OPI who usually took about nine to ten months to reach a decision. He said he hoped the Committee would pass HB 491 as it was written; however, he might be acceptable to

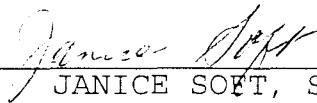
friendly amendments. He said he had nobody to carry the bill so it would be fine if the Committee members would find someone.

ADJOURNMENT

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



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS