

MINUTES

MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By CHAIRMAN DARYL TOEWS, on March 17, 1997, at  
3:07 p.m., in Room 325.

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 560, HB 542; Posted 3/7/97  
Executive Action: None

HEARING ON HB 560

Sponsor: REP. RAY PECK, HD 91, Havre

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. RAY PECK, HD 91, Havre, said HB 560 came out of a concern  
regarding the rising of the reappraisal figures by 42%. He said

he was concerned about the potential creation of new school districts because the tax base would have to increase in order to support it. He stated HB 667, enacted a few years ago, provided for a moratorium on creating new school districts; yet, other sections allowed them so he and the staff attorney decided those sections should be removed. He said he also examined sections which dealt with county high schools, even though the county high schools have become district high schools; therefore, they decided that language should also be cleaned up.

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. LOREN JENKINS referred to Page 7, Lines 6-7, and asked for clarification. Eddy McClure said "county high schools" were not referred to as "county high school districts", i.e. the county was the high school district.

Closing by Sponsor:

REP. RAY PECK said he closed.

{Tape: 1; Side: A; Approx. Time Count: 3:15 p.m.}

HEARING ON HB 542

Sponsor: REP. RAY PECK, HD 91, Havre

Proponents: Kathy Fabiano, Office of Public Instruction  
Kip Smith, Private Citizen  
Ellycia Taapken, Private Citizen  
Melvin Drake, Private Citizen

Opponents: REP. MARIAN HANSON, HD 1, Ashland  
REP. DUANE GRIMES, HD 39, Clancy  
REP. DOUG MOOD, HD 58, Seeley Lake  
Loran Frazier, School Administrators of Montana  
Don Waldron, Montana Rural Education Association  
Lance Melton, Montana School Boards Association  
Dan Rask, Jefferson High School  
Pat McKelvey, Private Citizen  
Greg Wald, Private Citizen  
Susan Schmitt, Private Citizen  
Lynn James, Private Citizen  
Jennifer Schmitt, Helena High Student  
DeLacey Williams, Jefferson County Student  
Tim Puckett, Helena High Student  
SEN. MIKE FOSTER, SD 20, Townsend  
Doug Walsh, Ennis Schools  
George Budak, Poplar Schools Trustee  
Gloria Paladichuk, Richland Developers

Lynda Brannon, Montana Association of School  
Business Officials & Indian Impact Aid  
Rachael Sirs, Private Citizen  
Donna Copenhaver, Private Citizen  
Marion Evenson, Helena School District

Opening Statement by Sponsor:

REP. RAY PECK, HD 91, Havre, said HB 542 stirred controversy and then defined information as: (1) Accurate -- made in a responsible manner; (2) Misinformation -- incorrect, due to simple misunderstanding of full magnitude and details of the bill; (3) Disinformation -- truly false and produced to intentionally mislead. REP. PECK said he thought there was disinformation regarding HB 542 and gave examples. He maintained HB 542 was a complicated bill because of interpreting what tuition was and how it worked. He asked the Committee to "wipe the slate clean" of the disinformation and listen carefully to the bill, explaining it was a principle in this country that all citizens at all levels should receive fair and equal treatment under the law, including taxation. He used the following examples: (1) A family living in the Kessler school district in Lewis & Clark County who got permission under a tuition agreement for the children to attend school in Helena; the tuition bill of which was paid by the taxpayers in the family's district; (2) A family living in the Montana City school district who wanted the children to attend school in Helena so the tuition agreements were agreed to, the tuition bill of which was paid by the state of Montana. He said the tuition agreement in Lewis & Clark County would be figured by Helena based on what its average-per-student cost was, subtracting the ANB payment received from the state, and the Kessler district paying the difference. In Montana City (Jefferson County), the tuition bill would be figured the same way; however, because of a quirk in the law regarding the county line, the bill would be paid by the state General Fund. REP. PECK maintained that was not fair; however, he wasn't sure there was not a legal question which could constitute a class action suit.

REP. PECK suggested the options to make the situation fair were to pay all Montana students' tuition or abolish all tuition, which would probably cause students to go back and forth between districts in a chaotic manner. He remarked the Senate could kill HB 542 but the public was not aware of the quirk in the law. He said there had been a lot of discussion about what would happen if HB 542 passed; there was a lot of misreading of the law and misquoting of statements from authorities. REP. PECK said "mandatory tuition" was a misnomer because the law said it was mandatory; however, the Board of Trustees could refuse in the case of the school being overcrowded, thus threatening their accreditation standard. He contended the passing of HB 542 would make no difference in student attendance because if Helena was currently accepting students from Kessler and Montana City, they would continue to accept them. He reminded the Committee this

would happen because if the student population declined in a district, a special levy would have to be voted upon by the people to take care of the funds lost from the student decline. He countered the comment he had heard the County Commissioners could refuse to pay tuition by referring to the law which said if both districts entered into a contractual tuition agreement, the County was obligated to pay.

**REP. PECK** admitted the passing of HB 542 would cause the mill levies to rise in the districts and counties whose out-of-county tuition was currently being paid by the state of Montana; however, the districts who were already paying out-of-district tuition would feel more fairly and justly treated than they were under current law.

*{Tape: 1; Side: A; Approx. Time Count: 3:29 p.m.}*

**Proponents' Testimony:**

**Kathy Fabiano, Office of Public Instruction OPI**, said HB 542 amended an old provision in law which probably dated back to the days when all of Montana's high school districts were county high school districts. She said OPI supported the bill because it was fair and in keeping with the state's current method of providing equalized funding, i.e. state and county equalization payments in the form of basic entitlement, per ANB entitlement and Guaranteed Tax Base Aid. **Ms. Fabiano** stated the out-of-county payments were an additional per-student entitlement paid only to certain districts across the state but had nothing to do with property tax wealth in either the sending or receiving districts, nor did they depend on the special needs of the students; in fact, the sole criteria for the payments was the location of the county line. She explained tuition costs currently were paid from three sources: (1) Parents paid tuition; (2) Districts paid tuition through a permissive mill levy; (3) State paid tuition under the method of the amount being deducted by the counties from the 55-mill levy before the revenues were sent into the state.

**Ms. Fabiano** said in FY96 parents paid about \$1 million tuition for between 600-700 students who crossed district lines, while in FY97, 69 districts levied tuition mills, ranging from .1 mill to 79 mills, in 22 counties which generated about \$1.5 million. She emphasized parents and taxpayers in all districts were paying 55 mills. She reiterated how the proposed amendments to HB 542 would still allow the payment of revenue from the three sources previously mentioned -- parents would still pay tuition when mandatory provisions were not met; the state would be paying tuition for students placed in a treatment facility or group home by court, state agency or parent; district mill levies would be used to pay tuition in all other cases. **Ms. Fabiano** summarized by saying HB 542 offered a much fairer approach to the payment of tuition because it treated all districts and all taxpayers within those districts the same. She urged support for HB 542.

**Kip Smith, Private Citizen**, read his written testimony (**EXHIBIT 1**).

**Ellycia Taapken, Private Citizen**, read her written testimony (**EXHIBIT 2**).

**Melvin Drake, Private Citizen**, said he supported HB 542 because if a person lived in a particular school district, he or she should be required to attend there. He contended if schools had room to accept extra students, that was fine; however, if it caused overcrowding and ultimately more taxes, it should not be done because they were not paying mill levies in that county. He also said if the students wanted to attend school in the other district they should pay the tuition because if they were attending a private school, they would have to pay tuition there. **Mr. Drake** maintained when people moved to Montana City they knew they were in Jefferson County so they should have expected to send their children to school there.

**Opponents' Testimony:**

**REP. MARIAN HANSON, HD 1, Ashland**, said she opposed HB 542 because it was an unfunded mandate to counties, some of which had no alternatives for these out-of-district students, i.e. particularly Carter County. She said the students were presently bused to high school in Powder River County, some went to South Dakota and others went to Wyoming because of road conditions and travel time (no longer than one hour). **REP. HANSON** said the students going out-of-district were riding 25-30 miles, or more, on a oiled road vs. 60 miles into Ekalaka on a gravel road which was not well-maintained. She said the increases in mills for Carter County was about 7.64; however, several districts ran anywhere from 45 to 55 extra mills besides the basic 270 mills. She urged HB 542 BE NOT CONCURRED IN.

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

**REP. DUANE GRIMES, HD 39, Clancy**, gave a review of what happened to HB 542 in the House. He said it did indeed pass 82-17, but then gave illustrations of the confusion: (1) The House thought there would be only a maximum of a 5-mill impact on any county; however, his county would have a 12-mill impact. The permissive levy would cost every \$100,000 household \$47 additional taxes; (2) The length of time the matter had been allowed to happen. The House had the impression it was since HB 667 in 1993; however, it had been happening since early in the century. **REP. GRIMES** suggested since the impact was so massive and had been happening over so long time period, more time was needed to arrive at a solution. He urged the Committee to defeat HB 542, admitting he knew it would be a factor sooner or later; however, it should not be "brought out of the blue" when it had such a massive impact. He suggested an alternative would be to bring it back next session or delay the effective date.

**REP. DOUG MOOD, HD 58, Seeley Lake**, said in his district some students lived 30 miles away from Seeley-Swan High School and 80 miles from the Deer Lodge High School. He said he was one of those in the House who voted for HB 542, but he was not fully aware of the ramifications.

**Loran Frazier, School Administrators of Montana (SAM)**, read his written testimony (**EXHIBIT 3**).

**Don Waldron, Montana Rural Education Association (MREA)**, read his written testimony (**EXHIBIT 4**).

**Lance Melton, Montana School Boards Association (MSBA)**, said he concurred with the comments of the other opponents to the bill, declaring something that had been going on for over 30 years was fairly well entrenched and would affect many districts. **Mr. Melton** said **REP. PECK** had admitted the savings resulting from HB 542 would fund OPI's School Improvement Plan, something MSBA supported but not at the expense of schools. He urged the Committee to not support the bill.

**Dan Rask, Superintendent, Jefferson High School & Boulder Elementary**, urged the Committee to go slowly if that was the direction to go. He said Jefferson High had been attempting to plan in that direction and to do the wisest thing for its students; however, the effective date of July 1, 1997, did not serve in the best interest of students state-wide. He then used facts from (**EXHIBIT 5**) to finish his testimony.

**Pat McKelvey, Private Citizen**, thanked the sponsor, legislators and OPI for taking the time to meet with the citizens in the Montana City area to try to explain HB 542. He said the Committee would hear many practical and emotional reasons to vote "no" on the bill. **Mr. McKelvey** said no receiving schools were in opposition while the sending school was opposed. He recommended the bill be tabled.

**Greg Wald, Private Citizen**, said he was a resident of Montana City, a father and a teacher at Helena High. He referred to the March 10 meeting where about 100 concerned people attended to hear information regarding HB 542. He said after the meeting he had one major concern, and that was the fiscal impact on the State of Montana and the districts affected by the implementation of the bill. He said decreased enrollment and state funding cuts had forced the Helena district to cut programs and staff and the loss of about 100 students from the Helena district would mean bigger funding cuts and the loss of more jobs. **Mr. Wald** said he was a nontenured teacher who wanted to provide the best for his students and HB 542 scared him because it could mean he would have to do with less or it could cost him his job.

**Mr. Wald** said another fiscal impact was the change in property values and taxes in the areas which were affected, explaining when he and his family bought property in the Jefferson High

district, they were assured the children could attend Helena High but HB 542 would not allow that unless he wanted to pay \$1,850 tuition per child.

He also suggested an impact of an additional 100 students on Jefferson High School would raise taxes as well as add trailer houses for additional classrooms. He said the cost of busing the students 30 miles one way would cost a great deal. He suggested the real impact of the bill was unfair.

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

**Susan Schmitt, Private Citizen**, said she lived just over the county line and had two children attending Helena High; in fact, no matter what happened with HB 542, they would continue to do so. She said her property taxes had doubled since moving to Montana City, and if HB 542 passed, taxes and tuition to Helena would amount to about \$8,000 out of her family's budget for the next three years. She maintained HB 542 was not fair in the way it was presented; however, she admitted it probably was an inevitable piece of legislation but forcing it on people without warning would wreck school districts as well as students' lives. She asked the Committee to vote their rational and reasonable conscience, i.e. vote against HB 542.

**Lynn James, Private Citizen**, said she was opposed to HB 542 and came on behalf of her son who was 15 years old and a freshman at Helena High, and on behalf of other parents in northern Jefferson County whose children were also students at Helena High. She said they had lived in the Montana City area for about 20 years and she and her neighbors drove somewhere between 5-10 miles to work, play or go to school; therefore, they felt very much a part of the Helena community. She commended **REP. PECK** for standing bravely in front of about 100 parents at the Montana City gym and said the law would still permit the attendance of the nearest school. She agreed, but maintained the cost would be prohibitive, as well as contrary to the idea children should attend school in their community. She said Boulder might be the center of their geographical home district but for Montana City students, the home district was Helena. **Ms. James** reiterated Jefferson High was a good school but was 30 miles away and it wasn't their community.

**Jennifer Schmitt, Junior at Helena High**, said she opposed HB 542 because: (1) She had already made plans to attend Carroll College next year because she had gone beyond the math classes offered at Helena High and if she had to transfer to Jefferson High, she couldn't do that; (2) She had a deeply rooted social life at Helena High; (3) She had a job and was involved in many community and church activities -- traveling time to and from Jefferson High would prohibit all those things; (4) She currently had a 4.0 GPA but travel time would take away from studying time; (5) If the Jefferson High bus schedule was not convenient, she would have to drive herself, thus wasting time and money on gas;

(6) The \$1,850 her parents would have to spend for tuition at Helena High would be better spent on her college education.

**DeLacy Williams, Freshman at Helena High,** said her opposition to HB 542 was because of her academic and social life as well as her financial condition. She said she had to have a job in order to support her car and her interests; therefore, if she attended school and worked in Boulder, all her money would go toward her car and the 60 daily roundtrip miles. She said her job would help her in the future by providing skills such as budgeting and working for and with people. She said if HB 542 passed, the needed money might be collected, but her future and knowledge of the business world would be in jeopardy. She said the Committee would not regret its killing of HB 542.

**Tim Puckett, Student at Helena High,** said he represented the Helena High students who lived in Jefferson County and who believed HB 542 should not pass because the tuition of almost \$2,000 or a change in schools from Helena to Boulder, was not in the best interest of parents, students or schools. He said there were many practical advantages of attending school in Helena: (1) The distance to Boulder was incredible, leaving little time for other things while the travel time to Helena allowed time to get to jobs, services and businesses; (2) Students came to Helena for school as well as to be part of the community; (3) Safe travel to Boulder in the winter was a concern. He stated these issues, as well as others, were important to them as students when they registered for high school. **Mr. Puckett** said Helena High offered more options than Jefferson High and that was why Helena High was chosen, i.e. Carroll College program which allowed seniors to attend classes for college credit, three foreign languages at Helena High, and 30 internet-capable computers open to students the entire school day. He informed the Committee if HB 542 passed, Jefferson High would gain about 100 additional students which would mean a struggle to offer quality education because of needed additional buses and classroom space. Helena High would also be affected because of the loss of funding, which would impact everyone; also, Helena High made plans to alleviate its overcrowding through plans for a new parking lot and science wing containing about nine new classrooms. He urged the Committee to vote "no" on HB 542.

**SEN. MIKE FOSTER, SD 20, Townsend,** said the proponents didn't like outsiders, but liked raising taxes and characterized about 600-700 Montana students as a select group. He commended the people who came to give testimony because Jefferson County was the most impacted by HB 542 in the state. He said he had heard both proponents and opponents for HB 542 in Jefferson County as well as from Elk Park people who had traditionally attended school in Butte but with the passage of HB 542, would be attending high school in Boulder. He said the issue was widespread and it was said the bill would not force people to do anything; however, all reacted to economic signals and HB sent that type of signal. **SEN. FOSTER** referred to the fiscal note and



asked about Assumption #4 because he was concerned it would cause problems for school districts immediately because of the immediate effective date of the bill. He stated there were some policy questions regarding the legislature telling people where they had to live, impact on property values, sales of property, etc. He next referred to legislative courtesy, saying neither the sponsor nor OPI informed him about the bill, even though it would have dramatic impact on his district. **SEN. FOSTER** said HB 542 was a money grab by OPI because it had a program it wanted to fund. He asked the Committee to kill HB 542.

**Doug Walsh, Superintendent of Schools in Ennis**, said the Spanish Peaks separated them from residents in Big Sky; therefore, the students could not come to their district other than through Four Corners and come around, which would be over 100 miles for some students.

**George Budak, Poplar School Trustee**, reminded the Committee of the distance they had to travel. If HB 542 was passed, high school students would not be able to enjoy extracurricular activities. He asked the bill not pass.

**Gloria Paladichuk, Richland Development**, said all four high schools in Richland County were located toward one end of the county, leaving a huge area in the western part of the County in which students were as far as 60-70 miles from any of the four high schools. She said HB 542 was a huge hit to her County at a most inopportune time, explaining the March 12 newspaper had said budget cuts denied seven teachers their contract renewal. She urged a DO NOT PASS for the bill.

*{Tape: 2; Side: A; Approx. Time Count: 4:33 p.m.}*

**Lynda Brannon, Montana Association of School Business Officials (MASBO) and Indian Impact Schools of Montana**, said HB 542 would not decrease any resident taxes because it would come from the 55 mills; in other words, the taxes of a resident living on the county line would not be reduced if the students had to stay in Jefferson County for high school.

**Rachael Sirs, Private Citizen**, read her written testimony (EXHIBIT 6).

**Donna Copenhaver, Private Citizen**, said she was from North Powell County and they had a problem with mileage -- some students would have to travel over 120 miles instead of about 80 as previously mentioned in order to reach the high school of their county, Deer Lodge. She expressed opposition for the bill.

**Marion Evanson, Interim Superintendent for Helena Public Schools**, said the impact on the Helena District would be around \$420,000; for that reason, they believed the bill should be taken under consideration during the next legislative session. This would allow affected school districts to plan for the significant

changes which would be necessary to accommodate the drop in revenue and decrease in staffing pattern. She said they were also concerned about the impact this legislation would have on families at this time.

WRITTEN TESTIMONY WAS RECEIVED BUT NOT HEARD FROM THE FOLLOWING:

Cindy Jacobsen, Private Citizen (EXHIBIT 7).  
Janet McCabe, McCone Co. Supt. of Schools (EXHIBIT 8).  
Judi Osborn, Madison Co. Supt. of Schools (EXHIBIT 9).  
Jean Grow, Dawson Co. Supt. of Schools (EXHIBIT 10).  
Kathryn M. Pfister, Musselshell Co. Supt. of Schools (EXHIBIT 11).  
Carolyn Smith, Powell Co. High School Trustee (EXHIBIT 12).  
Dave Johnson, Powell Co. High School Trustee (EXHIBIT 13).  
Virginia Huinbe, Private Citizen (EXHIBIT 14).  
Helmville School District Board of Trustees (EXHIBIT 15).  
Bobby Wiedmen, Trustee, District 42 (EXHIBIT 16).  
Rebecca Fritz, Teacher, School District #367, (EXHIBIT 17).  
Karen Gray, Private Citizen (EXHIBIT 18).  
Ed Haggerty, Private Citizen (EXHIBIT 19).  
John McCormick, Private Citizen (EXHIBIT 20).  
Jim Quigley, Powell Co. High School Trustee (EXHIBIT 21).  
Bernadette Garber, Private Citizen (EXHIBIT 22).  
Ted Stortz, Private Citizen (EXHIBIT 23).  
Robert & Leslie Gray, Private Citizens (EXHIBIT 24).  
John Hollenback, Powell Co. High School Trustee (EXHIBIT 25).  
Jim & Marily May, Private Citizens (EXHIBIT 26).  
Phil Maxwell, Powell Co. High School Trustee (EXHIBIT 27).  
Susan Edwards, Private Citizen (EXHIBIT 28).  
Roy & Debbie Huft, Private Citizens (EXHIBIT 29).  
Mike Maloney, Powell Co. High School Trustee (EXHIBIT 30).  
Gordon & Angela Murphy, Private Citizens (EXHIBIT 31).  
Michelle Haggerty, Private Citizen (EXHIBIT 32).  
Loreen Nemitz, Private Citizen (EXHIBIT 33).  
Marty Haggerty, Private Citizen (EXHIBIT 34).  
Cindy Holst, Powell Co. High School Trustee (EXHIBIT 35).  
David Nomiz, Private Citizen (EXHIBIT 36).  
Candice Dempewtf, Private Citizen (EXHIBIT 37).  
Rita Nemitz, Private Citizen (EXHIBIT 38).  
Arnold Robson, Private Citizen (EXHIBIT 39).  
Amy Scheitlin, Private Citizen (EXHIBIT 40).  
Lee Nemitz, Private Citizen (EXHIBIT 41).  
Bob Phalen, Private Citizen (EXHIBIT 42).  
Jane Nemitz, Private Citizen (EXHIBIT 43).  
Marla McCormick, Private Citizen (EXHIBIT 44).  
Gene Nemitz, Private Citizen (EXHIBIT 45).  
Iris Wiedmer, Private Citizen (EXHIBIT 46).  
Steve Dempewolf, Private Citizen (EXHIBIT 47).  
Dan Buckley, Principal, Kila School (EXHIBIT 48).  
Steve Scheitlin, Private Citizen (EXHIBIT 49).  
Darlene Carter, Carter Co. Supt. of Schools (EXHIBIT 50).  
Tarena Stortz, Private Citizen (EXHIBIT 51).  
Clark & Victoria Stewart, Private Citizen (EXHIBIT 52).

Betty Gray, Private Citizen (EXHIBIT 53).  
Lorraine Haggerty, Private Citizen (EXHIBIT 54).  
Ray Phipps, Supt., Lame Deer Public Schools (EXHIBIT 55).  
Connie Phalen, Private Citizen (EXHIBIT 56).  
Mary Haggerty, Private Citizen (EXHIBIT 57).  
Terry Senecal, Private Citizen (EXHIBIT 58).  
Darcy Nordhagen, Sheridan Co. Supt. of Schools (EXHIBIT 59).  
Gene and Fernande Garber, Private Citizens (EXHIBIT 60).

{Tape: 2; Side: A; Approx. Time Count: 4:38 p.m.}

Questions From Committee Members and Responses:

SEN. BARRY "SPOOK" STANG referred to Section 1, Line 24, and asked if mandatory tuition would be required. Kathy Fabiano agreed, saying the district must enter into a tuition agreement with the district the students needed to attend.

SEN. STANG commented that portion would remain the same as existing law and Ms. Fabiano agreed, saying there was no change.

SEN. STANG suggested the Superintendent from Ennis didn't read the bill correctly, because the mountain would be a geographic condition. Ms. Fabiano said HB 542 would change it in that the tuition payments would be the responsibility of the district, instead of the state, because it would be a mandatory tuition arrangement.

SEN. STANG commented the students would not be required to drive the 150 miles around the Madison Front and Ms. Fabiano agreed.

SEN. STEVE DOHERTY asked for verification of the state paying 100% of the tuition. Ms. Fabiano said it did for those students who crossed county lines.

SEN. DOHERTY asked how, in the issue of equalization, it was justifiable for the state to pay 100% of the costs while in other instances districts levied mills to pay their own costs. Lance Melton said he understood the law to say districts never had the capability to cross county lines; they could never consolidate. He said the historical significance recognized the dangers associated with traveling, so present law alleviated that concern.

SEN. DOHERTY asked if SEN. FOSTER would support an amendment which would say the state would pay 100% of the out-of-district tuition costs of the districts which were levying their own mills. SEN. FOSTER said he would have to think that through and see the fiscal note.

SEN. DOHERTY asked if a person could argue it was unfair that his or her taxes were subsidizing a lifestyle of persons who chose to live in an area with low taxes; in other words, the persons involved should be personally responsible to pay the tuition

costs. **SEN. FOSTER** said "fairness" was a difficult area to pin down; however, in this case the taxpayers of North Jefferson County paid their taxes but were allocated a higher percentage of the share than some other areas of the state. He maintained 30 other counties received funds for the out-of-county tuition. He suggested if HB 542 passed, the legislature would be saying it didn't like people living in North Jefferson County because of what happened to the school policy issues.

**SEN. JOHN HERTEL** said he picked out three large concerns from the testimony: (1) Students had only one or two years left in their present school; (2) Students would have to ride many miles on the bus; (3) Schools would be affected by the influx of students. He wondered if the effective date could be changed to 2001, or at least 1999, so those issues could be addressed. **REP. RAY PECK** said all the testimony was based on disinformation; in fact, there was no basis to think those concerns would happen because Helena Public Schools would not say they wouldn't accept those students, nor would the local districts say they would not pay the tuition because it would be cheaper to let the students go to Helena than to provide the education and transportation for them.

**SEN. HERTEL** repeated his question of changing the effective date. **REP. PECK** said **REP. DUANE GRIMES** had asked that on the House floor and his response was he would like to think about it because if something was unfair and illegal, he didn't know if it should be postponed a couple of years. **REP. PECK** said if the amendment were made, it would have to return to the House for settlement. The Senate had the authority to change the date, but the House voted 68-32 it didn't want to change the effective date. He said as the sponsor, he felt he committed to do what the House did.

**SEN. BILL GLASER** asked for a break-down of where the money was coming from and going to. **Madalyn Quinlan, OPI**, said OPI had information of numbers of students going from one county to the other and the amount of money deducted from the County Equalization Fund; however, they didn't have that information on a district-by-district basis.

**SEN. DEBBIE SHEA** asked how HB 491 (transfer of territory from one district to another) would tie in with HB 542. **REP. PECK** said it didn't apply.

**SEN. LOREN JENKINS** asked if the 30 counties paid more in than they received back from the state. **Madalyn Quinlan** said there was only one county who paid more in than the 55 mills they got back, and that was Rosebud County.

**SEN. JENKINS** asked if other counties, under equalization, received more state aid than they paid in. **Ms. Quinlan** said each county received more back through various General Fund taxes than they paid in under the 55-mill levy. She said property taxes

made up about 1/3 of the taxes, but state income taxes were also a large part.

**SEN. JENKINS** asked what HB 542 would do to Chouteau County. **Larry Stollfuss, Choteau County Superintendent of Schools**, said Choteau County had several different situations; however, he wanted to address a small rural district which bordered Cascade County. He said when the 55 mills were discussed, the additional 40 mills should also be considered. He said the tuition bill of about \$5,000 (about 3 mills) for these students would be paid by the state because they crossed county lines; however, the taxpayers in that district sent about \$142,000 to the state and with HB 542, they would have to pay an additional \$5,000, which would not seem very fair to them. He gave another example of the Box Elder High School, which was across the county line, being visually seen by residents in a housing project on the edge of Choteau County.

**SEN. DELWYN GAGE** asked how the Sheridan County Superintendent of Schools figured the equalization took all their oil money. **Don Waldron** said he would get the information.

*{Tape: 2; Side: A; Approx. Time Count: 5:01 p.m.}*

**SEN. GAGE** asked how the taxes compared on a home in Montana City with one of the same value located in Helena. **Madalyn Quinlan** said the total mills in the Jefferson County High School District for district funds alone was 32.29 mills while the Helena High School District mills were 72.01. She stressed those mills did not include the 95 mills for county and state equalization aid levies. **SEN. GAGE** commented **Ms. Quinlan's** answer covered education but he wanted the total tax bill. **Glenna Obie, Jefferson County Commissioner**, said it was difficult to compare mills with mills because they varied from county to county. She said the mill value in Jefferson County was about \$25,300; while she couldn't remember how many mills were levied she could say the taxes on her personal residence, valued at about \$100,000, totalled about \$1,200. She didn't know what the taxes were in Helena; however, people often talked about the taxes within the city limits, which would mean additional taxes.

**SEN. GAGE** asked if buses currently ran from Boulder to Montana City. **Dan Rask** said they currently operated five bus routes in the north end of Jefferson County, one of which ran to the Montana City School store. He said two or three routes would have to be added to accommodate the Helena students if they attended his facility.

**SEN. CASEY EMERSON** commented if HB 542 passed, it would be possible to keep the students where they currently were if everyone in the state agreed. **Don Waldron** said it would be possible; however, not everyone would agree.

SEN. EMERSON wondered if the testimony was true, if HB 542 passed, it would personally cost them about \$1,800 if they kept on attending where they currently were. Don Waldron said it could if the district elected to not levy the money for the tuition.

SEN. EMERSON commented even if HB 542 passed, many students would have to stay where they currently were because of the geographic conditions. Don Waldron said each case would have to make an application, which would be acted upon, i.e. it wasn't automatic.

SEN. EMERSON asked the same question of REP. PECK who said SEN. EMERSON was correct in that it was an absolute mandatory thing; however, there was a small codicil which said a district could refuse admission if it was overcrowded, thus threatening its accreditation. He said another absolute was a special education student.

SEN. EMERSON asked how many students who were currently crossing county lines would fit under the geographic barrier mandate. REP. PECK said he didn't know; however, his guess would be no more than 10-15%.

SEN. MIGNON WATERMAN asked Kip Smith if he was on the Building Committee of Jefferson High and was told he was.

SEN. WATERMAN asked when the last addition was put onto Jefferson County High. Kip Smith said it was 1985.

SEN. WATERMAN referred to a previous study which showed 75% of the students who would be attending Jefferson County High within 10 years would be living in the north end of the valley; however, they chose to build the addition at Boulder High. She asked if she was correct if a school was located at the north end of the valley (Jefferson County), it would resolve the problem for Jefferson County and was that being considered in the latest bond issue. Kip Smith said if a second school was located as per the three-mile rule in north Jefferson County, most of the mandatory tuition agreements would become null and void when the school became available. He said that was an option being considered by the Building Committee, while the other was an addition to the exisiting school. As to the percentage of students located there, he thought it was about 2/3.

SEN. WATERMAN asked for a time frame as to the proposed bond issue and when the school or addition would be built. Kip Smith said it was to return to the Board by this summer with a recommendation and he thought it would be about two years from the time the proposal was accepted, pending on voter approval.

{Tape: 2; Side: A; Approx. Time Count: 5:12 p.m.}

Closing by Sponsor:

**REP. RAY PECK** said none of the 20+ opponents dealt with the issue he presented, i.e. students living in Lewis & Clark County coming into Helena for school who paid their own tuition plus all the taxes assessed in Lewis & Clark County. He said the opponents had a good deal who wanted to keep it -- the state General Fund paying the tuition -- and he could understand that. He admitted one reason people moved to rural areas was the lower tax rate, which further compounded the difference between the city and rural taxpayer. **REP. PECK** said the people who testified were well-intentioned, hardy people who took it upon themselves to live in the rural areas for many reasons; however, none of the reasons justified the tuition difference. He still maintained they had been disinformed, i.e. had information which was false. He reiterated how the Helena district would still accept the 100 students because it meant about \$460,000; if the students went elsewhere, their levy would have to increase by that amount in order to get back up to the budget level.

**REP. PECK** suggested one big fear was taxation; however, he wanted to discuss the mills in a book put out by the Montana Taxpayers Association, and said the high school mill levy for Jefferson County was 161 mills. He said they were getting the tuition money from the state account. He informed the Committee Daniels County was the highest in the state with 292 mills for high school purposes; however, there was no free tuition in that county. He said Hill County didn't charge tuition but they paid 223 mills, Blaine County paid 215 mills. Glacier County paid 209 mills and Missoula County paid 203 mills. **REP. PECK** asked how it was justifiable that the people in Canyon Creek had to pay 79 mills for tuition alone with a 12-18 mill increase, which was about half of Jefferson County's total millage for education. He invited the opponents to address the issue of how it could be proper to take the money from the General Fund to pay the tuition because students crossed the county line; not their fear they wouldn't get to attend school in Helena.

**REP. PECK** expressed disagreement with the comments **SEN. MIKE FOSTER** made he should get special information message when a bill affected his area.

*{Tape: 2; Side: B; Approx. Time Count: 5:20 p.m.}*

He said he couldn't inform 149 legislators of the changes he proposed in the bill. He referred to a list of the 30 counties and said there was \$813,000 paid by the state; five of those counties got 53% of that state money, so 25 shared 47%. He said the correlation between those 30 counties and the mill levies was the mill levies were low if the tuition was paid by the state.

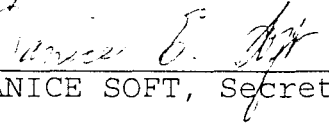
**REP. PECK** again declared he wished the issue of fairness had been addressed, and gave as an example the Kessler School District and Canyon Creek School District who paid all the taxes in Lewis & Clark County but saw students come across the county line with the state paying for it.

He again said HB 542 was a good bill and there were options of what to do with it: (1) Leave the law as it was and suffer the threat of a potential lawsuit, now that this quirk was exposed; (2) Pay all the tuition across the state, which would cost significant dollars; (3) Adopt HB 542 as it was, which would create fairness, i.e. all school districts whould pay their own tuition from the taxable resources the students represented in the district from which they came.



ADJOURNMENT

**Adjournment:** The meeting adjourned at 5:24 p.m.

  
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SEN. DARYL TOEWS, Chairman  
\_\_\_\_\_  
JANICE SOFT, Secretary

DT/JS