

MINUTES

MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By CHAIRMAN DARYL TOEWS, on March 26, 1997, at  
3:20 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: None  
Executive Action: HB 282 TABLED, HB 523 BE  
CONCURRED IN AS AMENDED, SJR  
15 DO PASS AS AMENDED

EXECUTIVE ACTION ON HB 282

Amendments: Eddye McClure explained Amendments HB028201.AEM  
(EXHIBIT 1).

Motion/Vote: SEN. LOREN JENKINS MOVED DO PASS ON AMENDMENTS  
HB028201.AEM. Motion CARRIED UNANIMOUSLY 8-0.

Motion: SEN. CASEY EMERSON MOVED HB 282 AS AMENDED BE CONCURRED  
IN.

Discussion: SEN. DARYL TOEWS reminded the Committee this bill divided families.

SEN. JOHN HERTEL said he wasn't present at the hearing so asked for a quick synopsis of HB 282. SEN. TOEWS explained present law said if a high school district had two elementary districts (one in the country and one with the high school) and a high school student from the country had to attend high school in town, the elementary sibling could attend the elementary district in town tuition-free, if the parents so chose. HB 282 would make that decision the school board's instead of the parents'; if the elementary student attended in town, parents or the district would pay the tuition.

SEN. BILL GLASER asked if the sending or receiving district made the decision and was told the sending district did. SEN. GLASER said if choice was going to be involved, it should be the receiving district who made the decision.

SEN. BARRY "SPOOK" STANG asked if the state paid the tuition and SEN. TOEWS said it didn't because county lines were not crossed.

SEN. CASEY EMERSON said he made the motion only so a substitute motion could be made.

Substitute Motion: SEN. LOREN JENKINS MOVED TO TABLE HB 282. Motion CARRIED 6-2 WITH SEN. MIKE SPRAGUE AND SEN. STEVE DOHERTY VOTING NO.

#### EXECUTIVE ACTION ON HB 523

Discussion: SEN. DARYL TOEWS said HB 523 was the Roy - Grass Range bill, saying it was written if a bus went outside the district on an unapproved route all transportation funding for all buses would be taken away. He stated he felt that a bit aggressive; therefore Amendments HB052301.AEM (EXHIBIT 2). SEN. TOEWS explained there would first be a warning and if it wasn't heeded, the funding for the offending route only would be removed.

SEN. BILL GLASER asked if the amendments were intended to cover a situation where a bus had to drive through another district in order to pick up its students, or was the amendment meant to deal with the bus picking up the students in that other district. SEN. TOEWS said the County Transportation Committee would have approved the route through the other district so it could pick up its students, even if it crossed county lines.

SEN. JOHN HERTEL asked what would happen if Grass Range agreed to get paid just for their usual route, but not get paid for the students they picked up in the Roy district. SEN. TOEWS and Eddy McClure said if the route was unapproved, they wouldn't get paid and if it was approved by the Committee, they would receive transportation reimbursement.

**Motion:** SEN. LOREN JENKINS MOVED DO PASS ON AMENDMENTS  
HB052301.AEM (EXHIBIT 2).

**Discussion:** SEN. STEVE DOHERTY commented part of the bill was because of an Attorney General's opinion and asked for, and was granted, permission to have someone from the Attorney General's office speak. He asked how the amendment squared with the Attorney General's opinion.

**Rob Smith, Attorney General's Office,** said Attorney General Greeley gave an 1982 opinion which said when a bus route went outside its designated transportation area and wasn't approved by the County Transportation Committee, the County Superintendent must suspend all transportation reimbursement payments to the district until the violation was corrected. When the violation was corrected, funding was restored and made good for all the correct miles traveled; however, the district was still out for the unapproved miles traveled. **Mr. Smith** said it was his opinion when the original HB 523 was drafted, it, in conjunction with the Transportation Service Area Act which was approved last legislative session, would put Attorney General Greeley's opinion into statute. He was of the opinion the amendment was a policy question for the Committee and the legislature to decide how the unapproved route outside the district should be treated. He referred to the School Choice Bill of 1993 and said it freed the students and tuition to go where they could get approval; however, it really didn't deal with the question of transportation, which was a big factor in the decision of parents sending their children to another district. **Mr. Smith** reiterated how the amendment was a policy question -- if the loss of funding was to be restricted to the one route, it was the Committee's decision to make.

**Don Waldron** said he agreed with **Mr. Smith**; however, they had also considered: (1) Loss of funding for the one route; (2) Fine system; (3) Loss of all transportation funding. He suggested the Committee consider, before making a decision, if the penalty wasn't severe enough, districts might feel the value of the unapproved route was worth the loss of funding, i.e. several students might be good basketball players.

**SEN. HERTEL** asked **SEN. TOEWS** why the original bill was harsh; after all, those involved were doing something they weren't supposed to be doing. **SEN. TOEWS** said he thought it was harsh because throughout the state there were many transportation "gentlemen's agreements" (permission to travel beyond the approved route but agreement to stop if asked), with no payment involved. He thought it too severe if all funding was removed for stepping "over the line" just once.

**SEN. HERTEL** said he wasn't sure one of the two involved communities in Fergus County would have backed down. **SEN. TOEWS** said it would have to back down because all that was needed was a

complaint. **SEN. HERTEL** suggested the penalty in the amendment perhaps wasn't big enough for them to back down.

**SEN. BARRY "SPOOK" STANG** said he understood the amendments to provide a warning as well as a lesser penalty. He said he agreed with the warning but also with **SEN. HERTEL** in that the penalty should be big enough for them to heed the warning.

**SEN. GLASER** said schools were moving closer and closer to schools and families making choices; therefore, he felt the amendments were "right on." He stated choices would make stronger and stronger schools.

Substitute Motion: **SEN. STEVE DOHERTY MOVED TO KEEP THE WARNING AMENDMENT AS WELL AS THE PENALTY PORTION OF THE ORIGINAL BILL (LOSE TRANSPORTATION FUNDING FOR ALL ROUTES).**

Discussion: **SEN. LOREN JENKINS** asked what would happen if students lived on the far edge of a district, but were closer to a school in another district. **SEN. BARRY "SPOOK" STANG** said it was probably an approved route and therefore, not a problem. He related how in his district a bus from St. Regis had to go through the Superior district to pick up several St. Regis students so they picked up several Superior students to bring to St. Regis. Superior didn't like that so St. Regis had to stop picking up those students, because if it wasn't stopped, the funding would have been lost. He said it was solved when students who wanted to attend St. Regis drove their cars to a point outside the district and were picked up there; in fact, it worked the other way also, with St. Regis students wanting to attend in Superior. **SEN. STANG** said the routes were approved; however, the students being picked up were not approved.

**SEN. JENKINS** commented it was silly they had to go that far. **SEN. TOEWS** used Dodson (little school) and Malta (big school) as an example, saying students went back and forth for various reasons, i.e. big school offered more vs. little school gave more individual attention. He said he doubted there was a written agreement; however, the "gentlemen's agreement" was working -- everybody was happy. **SEN. TOEWS** wondered if, in such a situation where there was agreement and comradery, the bus routes should be removed just because they had this understanding; in other words, why should a problem be created when there was none.

**SEN. JOHN HERTEL** said the gist of HB 523 was the districts knew they were doing wrong so he wondered why they needed a warning.

**SEN. TOEWS** wondered if it was right to make a statewide policy based on the Roy - Grass Range situation.

**SEN. GLASER** commented the Committee was putting the administration and old way of doing things against the students; therefore, he said he was going to vote for **SEN. TOEWS'** amendments because they were "kid-friendly."

Vote: Motion TO SEGREGATE THE TWO AMENDMENTS CARRIED 5-3 WITH SEN. BILL GLASER, SEN. LOREN JENKINS AND SEN. DARYL TOEWS VOTING NO.

Motion/Vote: SEN. STEVE DOHERTY MOVED DO PASS ON THE WARNING AMENDMENT (FIRST PART OF #7, SUBSECTION (5) OF AMENDMENTS HB052301.AEM). Motion CARRIED UNANIMOUSLY 9-0.

Discussion: SEN. JENKINS commented the loss of all transportation funds was in the original bill so no action had to be taken on it.

Motion/Vote: SEN. CASEY EMERSON MOVED DO PASS ON AMENDMENT TO LOSE FUNDING ON THE VIOLATING ROUTE ONLY. Motion CARRIED 5-4 ON A ROLL CALL VOTE.

Motion/Vote: SEN. LOREN JENKINS MOVED HB 523 BE CONCURRED IN AS AMENDED. Motion CARRIED UNANIMOUSLY ON A ROLL CALL VOTE. SEN. DARYL TOEWS will carry HB 523.

#### EXECUTIVE ACTION ON SJR 15

Amendments: SEN. DARYL TOEWS explained Amendments SJR01501.AEM (EXHIBIT 3).

Discussion: SEN. CASEY EMERSON commented the amendments allowed adding to the memorial. SEN. TOEWS said he envisioned the creation of a permanent memorial meant names could be added, instead of creating individual memorials for each name.

SEN. JOHN HERTEL asked if a name could be added only through a body such as this. SEN. DARYL TOEWS said the bill called for a Senate Legislative Committee which would make the recommendation.

SEN. DEBBIE SHEA commented it could be called "A Memorial To Chet Blaylock and Others"; that way his would already be established and the others would have to go through the Senate as well. SEN. TOEWS said he felt the problem was a "Chet Blaylock Memorial" vs. a "Senate Memorial" and SJR 15 put it inside a memorial already.

SEN. MIGNON WATERMAN referred to Page 2, Lines 1-4, and suggested it would read better if it said "permanent Senate memorial to Chet Blaylock.....". She said otherwise this one would be authorized and there would be future ones which would go through the Committee.

SEN. BILL GLASER commented he thought what SEN. TOEWS wanted was a Senate memorial and Sen. Chet Blaylock would be the first name. SEN. TOEWS said he wasn't enamored with his wording; perhaps there was a better way to convey his meaning.

SEN. STEVE DOHERTY suggested striking 'Strike: "To Chet Blaylock"' (Amendment #3 of SJR01501.AEM) so the language would

be a permanent memorial to Chet Blaylock; future placement would have to come through resolutions. He felt everything would be accomplished which would need to be. **SEN. DOHERTY** spoke against Amendment #2 because the whole idea behind the resolution was looking to appropriate Senators who rose above their personal goals and tried to pursue the joint goals.

**SEN. MIKE SPRAGUE** said he thought honor could be given to Chet Blaylock through a Senate memorial; therefore, from now on it would be a memorial to Chet Blaylock, given by the Blaylock family, for the Senate.

**SEN. DEBBIE SHEA** commented this came before the Committee because of Chet's family and **SEN. KEATING**; therefore, that as well as Sen. Blaylock himself had to be the center of SJR 15. She agreed with **SEN. DOHERTY'S** suggestion regarding putting "to Chet Blaylock" back into the bill, and to incorporate "others" so it would be known this was a memorial for other Senators as well.

Motion: **SEN. MIGNON WATERMAN** MOVED DO PASS ON AMENDMENTS SJR01501.AEM WITH THE FOLLOWING CHANGES: AMENDMENT #2 -- END THE SENTENCE AFTER "ESTABLISHED"; AMENDMENT #3 -- ELIMINATE 'STRIKE: "TO CHET BLAYLOCK"'. .

Discussion: **SEN. TOEWS** asked for clarification how it would be interpreted. **SEN. WATERMAN** she thought it would mean authorizing a memorial to Chet Blaylock and in the future any memorials to Senators would be approved by the Senate Legislative Administration Committee, without needing a resolution of the legislature authorizing it.

*{Tape: 1; Side: B; Approx. Time Count: 4:08 p.m.}*

**SEN. STANG** asked for clarification on "Capitol" and **SEN. WATERMAN** said there was a House as well as a Senate part of the Capitol; therefore, the jurisdiction of SJR 15 would be the Senate part.

**SEN. GLASER** said from the very beginning he envisioned this to be one Senate memorial of which Chet Blaylock would be the first honoree.

**SEN. DOHERTY** said he envisioned a large memorial entitled "Senate Memorial" with "Chet Blaylock" either on the first or second line, and then small memorials added as the Senators were honored.

**SEN. WATERMAN** said that was what the Blaylock family envisioned. She said HJR 15 authorized a permanent Senate memorial to Chet Blaylock.

**SEN. LOREN JENKINS** interpreted the suggestions as a case for Senate memorials and Chet's would be the first. **SEN. WATERMAN** agreed, saying it would up to the Senate Legislative

Administration Committee to choose the size and placement of the memorials on the wall.

**SEN. TOEWS** suggested adding language to make it a Senate memorial of which Chet Blaylock would be the first.

**SEN. JENKINS** suggested it read, "...permanent Senate memorial to Chet Blaylock be authorized for placement outside the Senate Chamber. Chet Blaylock will be the first honored and future placement of memorials to Senators whose careers are.....". It was suggested "long" be deleted and it was agreed.

**Vote:** Motion DO PASS ON AMENDMENTS WITH THE CHANGES SUGGESTED BY **SEN. WATERMAN** CARRIED UNANIMOUSLY 10-0.

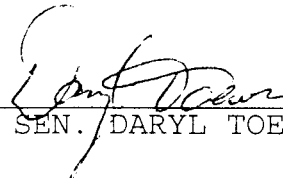
**Discussion:** **Eddye McClure** said she would draft an amendment (EXHIBIT 4) and check it with all Committee members the next day. (EXHIBIT 5).

**Motion/Vote:** **SEN. MIGNON WATERMAN** MOVED DO PASS ON SJR 15 AS AMENDED. Motion CARRIED UNANIMOUSLY 11-0.

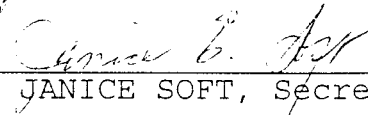
**Discussion:** **SEN. DELWYN GAGE** asked what was meant by "tutelage and adhering to the standards" on Page 1, Line 30. **SEN. TOEWS** said standards were different from philosophies -- the sentence stopped after "established" on Line 30. **SEN. WATERMAN** said she thought whether people agreed or disagreed with Chet's philosophy, most people felt he was an honorable man who had high standards; "tutelage" meant learning from each other, whether or not they agreed.

ADJOURNMENT

Adjournment: The meeting adjourned at 4:18



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS