

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN ALVIN ELLIS, JR.**, on January 25,  
1995, at 3:00 p.m.

**ROLL CALL**

**Members Present:**

Rep. Alvin A. Ellis, Jr., Chairman (R)  
Rep. Peggy Arnott, Vice Chairman (Majority) (R)  
Rep. Vicki Cocchiarella, Vice Chairman (Minority) (D)  
Rep. Matt Denny (R)  
Rep. H.S. "Sonny" Hanson (R)  
Rep. Dan W. Harrington (D)  
Rep. Jack R. Herron (R)  
Rep. Joan Hurdle (D)  
Rep. Bob Keenan (R)  
Rep. Sam Kitzenberg (R)  
Rep. Gay Ann Masolo (R)  
Rep. Norm Mills (R)  
Rep. William Rehbein, Jr. (R)  
Rep. John "Sam" Rose (R)  
Rep. George Heavy Runner (D)  
Rep. Debbie Shea (D)  
Rep. Richard D. Simpkins (R)  
Rep. Diana E. Wyatt (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Andrea Merrill, Legislative Council  
Patti Borneman, Substitute Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: HB 228  
Executive Action: HB 125 TABLED, HB 167 DO PASS

HEARING ON HB 228

{Tape: 1, Side A}

Opening Statement by Sponsor:

**REP. SONNY HANSON** said that "HB 228 is the result of efforts of Governor Racicot and the people of Montana to restructure the governance system in the educational field. This bill replaces the state board of education, the board of public education, and the superintendent of public education with a department of education and an educational advisory commission. It removes the Superintendent of Public Instruction as a member of the board of Land Commissioners. It is a constitutional amendment and would require a vote of the public during the 1996 general election. If passed, the 1997 legislature would create the Department of Education and start the transfer of the various K-12 functions to the department. All existing terms of office that are affected by passage would change after December 1st of the year 2000. He passed out a handout detailing Basic Models of State Education Governance. **EXHIBITS 1 and 2.**

He stated that this is the first opportunity the public will have to vote on the type of school structure that they want. He said that some believe that the system should be controlled by the legislature, but he disagreed. The new system would require gubernatorial candidates to take a position on education issues before the election, and it makes them accountable. He said that candidates don't take a stand on education issues, "because it means nothing." He said that the Board of Public Education is causing the legislature many problems.

**REP. HANSON** stated that he queried the agencies that are governed by the State Board of Education (which includes the Board of Public Education and The Board Regents)--the Montana Arts Council, Montana Historical Society, and the State Library Commission--to find out if the State Board is providing planning and coordination. He said he was told that all they do once a year for about 10 minutes is say, "here's our budget" then turn around and leave. The State Board of Education is supposed to do the long range planning and coordination, which they are not doing. **REP. HANSON** then referred to a copy of a section of SB 79, line 28, and read from it. **EXHIBIT 3.** He said he wanted to put more control in the local school boards, rather than in the hands "of those who operate the systems from Helena." He urged the committee's support of HB 228.

Proponents' Testimony:

**Wayne Buchanan, Board of Public Education,** stated that the Board wished to express "qualified" support of HB 228. His testimony would only refer to the parts of the bill that affect the Board of Public Education. He stated that the education governance

system in Montana is not within "any of the two power loops in state government." These power loops are the administrative agencies under the governor and the legislature. He said that education should be within one of these power loops and moving a portion of the governance to the executive level would be "an important and positive step." He said the Department of Education would provide coordination and long-range planning which is currently not being done. He said the bill would create an advisory council whose duties would be controlled by the legislature and he predicted that they would not like this aspect of the bill. He used accreditation standards as an example, and said that despite any plans to hand over control of these standards to local school boards, that there would still need to have some state accountability. The Department of Education, under the control of the Governor, would have that responsibility under this new bill. He suggested they amend the bill and remove the word "advisory" as it applies to the council, replacing it with the following: "They have such duties as assigned by law." The legislature, then, would be empowered to balance the authority in the Department of Education, and with this amendment would have the "mechanism to do that." He describes a scenario whereby they might wish to wield more control over the Department of Education and would be unable to do so under this bill.

**Pat Haffy, Policy Advisor for Education for the Governor,** stated that she is speaking on behalf of the Governor in support of HB 228, which is a result of the Governor's Task Force to Renew State Government. She said they support the bill because it provides "for one efficient education agency that is responsible for K-16 and beyond education." They further support the bill because it provides for one accountable education agency that is responsible for budget development, policy development and implementation. It would provide for an "identifiable" agency that would provide service to campuses and local school districts. They believe this education agency would eliminate duplication. She said they support the opportunity that would be given to voters to either accept the current system or to choose one where the responsibility would reside in the governor's office.

**Bob Ripley, United We Stand-America, Missoula,** provided written testimony in support of HB 228. **Exhibit 4.**

**Terry Frisch, President of Helena Parents Commission,** said he has been involved in education issues on the local and state level and wished to convey an experience he had with the State Board of Education regarding proposed changes to teacher education standards. He said they did not adopt any of the changes his group requested, one of which had to do with parents and students rights, and felt his group was ignored and their request considered unreasonable. They were told that to make those changes would cost money because they'd have to "renotify the rules." He believes a board of education under the jurisdiction of the governor would be more accountable.

Opponents' Testimony:

**Eric Feaver, Montana Education Association,** emphasized his belief that the teachers of Montana deliver the best education that could be found anywhere in the world. His own children have received an excellent education and he is proud of the current school system. He sympathized with those who have made proposals that are not adopted by the Board of Public Education, but stated that even "if this legislature were to become the Board of Public Education, which is what would happen if HB 228 would pass, I could complain if some of those things that I wanted very dearly you would not agree with and I would lose them as well." He commended the governor, whom he said was indeed the "Education Governor." He stated his belief that the governor is the first one since the adoption of the current constitution to take seriously his statutory duties to make the State Board work. He referred to Article 10, Section 9 of the Constitution, and described the work that Governor Racicot has done to make existing agencies work together. He said that HB 228 would make the governor, in effect, the "chief state school officer of this state."

*{Tape: 1; Side: B}*

The governor would appoint the director of the Department of Education, accountable only to the governor. He asked if this was what the legislature intended for voters to consider. If HB 228 were to pass into law, the legislature would be the Board of Public Education, because you have no rulemaking body anywhere in this proposition. But you do require that whatever happens in education, be a matter of law. He continued describing how the legislature would be looking at numerous educational issues such as curriculum, teacher certification, and accreditation. He said the legislature would have to meet year-round to address these issues. He wondered if voters would be given the right choices to make and if they would be provided with the facts. He wondered if the legislature really intends to replace the current system with a "bureaucracy." **Mr. Feaver** then stated that the superintendent of public instruction would be eliminated from the land board, and members of the land board would no longer represent consumers or uphold the purpose of these state lands. He urged the committee to vote no on passage of this bill.

**Don Waldron, Montana Rural Education Association,** read a letter from **Jean Curtiss, Legislative Chair of the Montana PTSA/PTA** and provided this letter in writing. **Exhibit 5.** He added his own comments in support of the letter and with the opponents before him. He corrected the sponsor by saying that the voters had an opportunity to vote in 1972 on the new constitution and felt that the people made the decision they wanted, which was to abandon a "hierarchy" and adopt the current system.

**Terry Minow, Montana Federation of Teachers,** and said she is strongly opposed to HB 228. She said the bill would create a

whole new structure of education governance and cited **REP. ROYAL JOHNSON** who said on the House floor that the proposal rearranges the system but there is no indication that the current system is broken. She said the bill would consolidate power under one very large bureaucracy. The Board of Public Education, the Office of Public Instruction, and the State Superintendent of Public Instruction were created under the Constitution to provide a separation of powers that recognize that public education is one of the highest constitutional duties of state government. She urged the committee to vote against HB 228.

**Fred Happel, Montanans for Better Government**, provided testimony opposing HB 228. **Exhibit 6**

Informational Testimony: None.

Questions From Committee Members and Responses:

**REP. SIMPKINS** said that school trust lands are there to make money for the schools. He said he is concerned that the state is only making a one percent return on school trust lands, when other states are making seven percent, and he said the Montana Land Board is not doing its job. He asked **Mr. Feaver** what good having a school representative on that board has done the state of Montana in the field of education. **Mr. Feaver** said that he didn't know if it pertained to the bill, but "we still have the land."

**REP. SAM KITZENBERG** wondered about the long term effects of this bill. Referring to page 3 of a bill describing duties of the Board of Public Education, he asked about the impact the bill would have on accreditation standards and class size restrictions. **REP. HANSON** reminded **REP. KITZENBERG** that he was reading from the present statute and the law states that funds can be withheld if school districts violate the statute. Violations of this statute have been filed, but funds have not been withheld.

**REP. KITZENBERG** wondered if those standards were removed, if local schools boards would then be responsible for setting class size limits, rather than at the statewide level. **REP. HANSON** said that the standards that are currently in effect would be brought into the Department of Education, but he would suspect that standards would be changed because he said there are a lot of problems with existing standards. For instance, accreditation standards should address academic accomplishment, and not necessarily staffing requirements.

**REP. DEBBIE SHEA** asked **REP. HANSON** if there were five members of the land board. She described the makeup of the board: secretary of state, superintendent of public instruction, state auditor, attorney general, and the governor. **REP. HANSON** nodded yes. She asked if a bill eliminating the secretary of state's position is also being proposed. **REP. HANSON** replied that is correct, but in

reference to that bill, the board would be expanded to compensate for the losses. He said that the state land commission contributes funds toward the education system, but there is no surplus. He said he feels the land board should be just an investment board, and "get the best return possible." **REP. SHEA** asked about the state auditor's position and wanted to know if it is also in jeopardy; she tried to clarify the proposed changes to the makeup of the Land Board. **REP. HANSON** said that the Land Board membership "would drop down to three" but said that another bill would deal with the lieutenant governor and he understands that this bill would "move memberships back up to four and with a chairman, it would be back up to five members."

**REP. SHEA** asked if the lieutenant government would then be a member of the board. **REP. HANSON** responds that he would like to wait until the bill is passed and then they could follow it. He said he could only comment on the specifics of HB 228.

**REP. JOAN HURDLE** asked **REP. HANSON** about potential problems with accreditation standards. She said that **SPEAKER MERCER** told her that "no meaningful education reform was possible with these standards in place and now you're saying that these accreditation standards are a problem." **REP. HANSON** replied that the accreditation standards would create expected academic requirements for schools to follow. He said that the only standards are "staffing requirements" and not academic standards.

**REP. HURDLE** responded to **REP. HANSON** and asked if there should be academic requirements instead and wondered if he suggested that the state set such requirements for schools throughout the state.

**REP. HANSON** said that there has to be a way to determine what students should accomplish, and the accreditation standards should address the specifics. He provided a scenario for **REP. HURDLE** referring to Colstrip and in the event that they violated class size would be required to build another classroom. He jokingly said that "Colstrip could take it out of petty cash" but other districts would have to pass a bond issue. He questioned whether this would be to the "educational betterment" of that community.

**REP. DAN HARRINGTON** asked **REP. HANSON** if this bill passes as well as the one mentioned previously, the governor and lieutenant governor would have two of the four seats on the land board. **REP. HANSON** responded that this is correct, but the bill addresses that potential problem by expanding the membership on the board. **REP. HARRINGTON** stated that the Land Board would be controlled by a governor/lieutenant governor team. He spoke to **REP. HANSON'S** statement that it would "be nothing more than an investment board" and he wondered how it could be justified when they would control the "greatest amount of land in the state of Montana" not only in financial terms, but also in how the land can be used.

{Tape: 2; Side: A}

**REP. HANSON** said he that the Land Board should obtain the maximum production of monies from the land to benefit the schools, and he said that there should be "officer" types of people on the board, rather than people who are there because they were elected to an office.

**REP. HARRINGTON** said that the only problem he sees with **REP. HANSON'S** statement is that this board is probably one of the most important boards and the makeup of this board "should be all encompassing of our state government officials

**REP. HANSON** said he did not see a problem with the Land Board, but said he disagrees that it is a most important board.

**REP. VICKI COCCHIARELLA** defined school accreditation standards-- safety, qualified personnel, etc.--and asked **REP. HANSON** if he was aware if OPI has had to fine a school for a violation and asked what method would be provided for schools to come into compliance with standards with a new Department of Education in control, "so that we have safe schools, quality education, and we don't have fifty kids in a classroom when that's the wrong way to teach kids. "She asked who would be answerable to the people who expect educational standards to be applied.

**REP. HANSON** replied that it is not "we" but it's all of "us" including the local school boards "that are squeezing the school budget." He said she is "losing sight of the whole bill." He said the bill is a constitutional amendment to establish a new governance system.

**REP. COCCHIARELLA** told the chairman that she did not ask that question. **REP. HANSON** said she did, and he answered that in 1997 legislative actions would implement the constitutional change if approved by voters, including how accreditation standards would be managed.

**REP. COCCHIARELLA** stated her objection.

**REP. JACK HERRON** asked **REP. HANSON** if the rules in effect today would be transferred to the new Department of Education should the bill become law. **REP. HANSON** replied that the rules would not be thrown out. All the rules would be assumed by the new agency, and would be changed through future legislation.

**REP. GEORGE HEAVY RUNNER** provided a metaphor whereby the current educational system is a patient scheduled for amputation. He read from the duties of the Board of Public Education (which includes the Board of Regents) and questioned the functions of the board and OPI in regard to these duties. He didn't see where the superintendent of public instruction should be one of the "legs or arms that you'd want to cut off," and asked why it was necessary to eliminate the Office of Public Instruction.

**REP. HANSON** replied that members should keep in mind that they are talking about a constitution change which would establish a single authority in the education system. This is the reason for the proposed elimination of OPI. Further, the superintendent of public instruction has no constitutional duties; the only duties that office has are by statute. He said that voters should be given the opportunity to create a Department of Education, and if they don't want it, then the 1997 session will address it again. This time around, **REP. HANSON** said, they are trying to simplify the conflicts that currently exist. He said it's not as straightforward as some think.

**REP. SAM ROSE** asked **Eric Feaver** about opening remarks where he said the legislature didn't have the "political will" to reform education. He asked **Mr. Feaver** when, after 23 years, would they get the political will. **Mr. Feaver** replied that it is now here in the form of Governor Racicot. He expressed his admiration to the governor for implementing Article 10, Section 9 of the constitution. He said in order to fulfill Article 10, Section 9, an amendment is not required, only the will to do what the constitution already requires.

**REP. ROSE** wants to know why **Mr. Feaver** is opposing the bill. **Mr. Feaver** answered that he believes the current political leadership should continue with their task and doesn't want to see it stymied by "this other attempt that you see before you." He would like to see the current constitution followed. He said he wished the legislature would support the governor's efforts.

**REP. DIANA WYATT** referred to **REP. HERRON'S** question and asked **REP. HANSON** what requires change or "tweaking" in the current system of education. She asked for an example.

**REP. HANSON** replied that he would not list the duties, but said the emphasis is to "eliminate and consolidate into one head an educational system." Thirty-three duties are listed for the superintendent of public instruction; there are sixteen duties under the board of public instruction, but he said the bill doesn't address each and every duty, "it just gives the people the opportunity, do they want one system or not?" **REP. WYATT** responded by saying that was her point and there should be a compelling reason for the legislature to make a major change in the state constitution. She described the kinds of classroom conditions that should be evaluated before considering such a major change. **REP. HANSON** said that a public analysis was conducted showing that they wanted a greater voice in deciding the education system they would have.

**REP. HURDLE** told **REP. HANSON** that, as a former teacher, she tried to understand how it would work without OPI. She spent some time recently teaching in Jordan and said they have financial constraints. While she was there, the OPI reading specialist brought many materials and spent three hours discussing new reading techniques with teachers. She asked if all of OPI would

be eliminated or moved, and if there would still be good inservices for rural teachers.

**REP. HANSON** replied that he couldn't imagine this type of service being eliminated. He said the bill would only change the "controlling structure, not the actual implementation of what goes in." He cited the states of Texas and South Dakota who have adopted a Department of Education and said they are successful.

**REP. SIMPKINS** said that he is concerned about the line of questioning, thinks they are getting misinformation, and asked **REP. HANSON** if the rules are not made by OPI, but are made by the authority of the state board of public education. **REP. HANSON** thought he had said that. **REP. SIMPKINS** asked if he was aware of a statement made in law that said "the board of trustees that have control and the supervision, over their schools. They adopt policies to implement or administer the requirements of the general law, this time, the policies of the board of public education and the rules of the superintendent of public instruction. That's in our laws." He asked if **REP. HANSON** was aware of that and he nodded yes. **REP. SIMPKINS** asked if that seemed inconsistent with some of the testimony regarding the superintendent of public instruction's power to make rules, but rather that rules are made by the board of public education.

**REP. HARRINGTON** asked **REP. HANSON** if it is not true that the legislature determines how much the leases would be on the state land, and that the legislature is to blame if the percentage is low, and not the Land Board. He asked if the legislature is in fact who sets the lease rate. **REP. HANSON** said he didn't know.

**CHAIRMAN ELLIS** asked if there was a representative from the Land Board present at the meeting. No one responded. He responded to **REP. HARRINGTON'S** question and said that he supported a bill in the last session that required the Land Board to do a study, because they thought they weren't getting enough money off those lands as well as grazing lands.

**REP. HARRINGTON** remembered that bill and added that there was a bill that would have raised the leases and the legislature did not pass it.

**REP. ELLIS** said that **REP. HANSON** had described the bill well, but wanted to be sure if the bill would "change the constitution, and it is currently ratified, then the legislature would delineate duties, responsibilities and courses of action." He asked if that was correct.

**REP. HANSON** said that was generally correct. **REP. ELLIS** said that it was the intention of the representative and the governor that the legislature in the 1997 session "would be determining just exactly how that should be laid out." **REP. HANSON** agreed.

**Closing by Sponsor:**

REP. HANSON referred to Mr. Feaver and REP. ROYAL JOHNSON'S remark about giving the governor a chance and said that it's been 23 years since the system was put into place and said it hasn't been working. "Now we finally have a governor who wants to participate."

*{Tape: 2; Side: B}*

He said that nine states are making this change in their education governance system and are looking at who is responsible. He said the Board of Public Education doesn't really take responsibility when problems arise. He said they do not have control over the education system. He disagrees with the sentiment that the system isn't broken and feels that people have no input.

**EXECUTIVE ACTION ON HB 125**

**Motion:** REP. DEBBIE SHEA MOVED THAT HB 125 DO PASS.

**Discussion:** REP. NORM MILLS said that he opposes the bill because he said it ties school spending to a cost-of-living index which is based on out-of-state costs rather than Montana costs. He said that the increase or decrease would be miscalculated and thinks "we're tying it to the wrong horse and I oppose it."

REP. HERRON asked if it was correct that 40% of the BASE budget funding would come from the state. CHAIRMAN ELLIS said yes. REP. HERRON asked where the other 40% came from. CHAIRMAN ELLIS said "it's district-funded, but it's on a guaranteed tax base basis, which means that a mill in that district, no matter what the property tax base is for the district, is guaranteed to be the average across the state of Montana. And that's the mechanism that make up to the 80% of guaranteed funding."

REP. HERRON asked if the state ever adds to the 40% to allow for inflation.

CHAIRMAN ELLIS said no, the governor's budget did not include an increased inflation

REP. HERRON reiterated his question about the state's ability to add to school funding for inflation.

CHAIRMAN ELLIS said that the legislature has "no mechanism to add to pupil funding once they get to the 80%, the base funding level. But in that 80% level, the second 40% funding is locally funded and supplemented by state guaranteed tax base aid." He said that those districts that fall under the 80% are forced to "move up in increments." The ones that are above the 80%, they have the opportunity to raise their budgets either of two ways:

4% of the general fund budget or 4% of the ANB, if they have a student increase. He added that it's always reflective of last year's ANB.

**REP. SIMPKINS** asked how the base rate gets raised and commented that the legislature didn't want to make increases automatic, but thought it'd be better to follow the economy. More money gets "pumped into the system" by raising the percentages. He said that an increase in students means more money for that school. For example, the legislature could decide to give two percent more money, they'd raise the ANB entitlement by two percent which also raises budget authority, and they'd get more money from the state.

**REP. HERRON** asked if they have a mechanism for this, or "does it just rest on the legislature?"

**REP. SIMPKINS** replied that it just rests on the legislature and said it was a problem.

**REP. HERRON** asked, "If we continue to deny any additional money-- and I would assume we will probably do that until everybody comes above the 80 percentile--this is maybe going to cost us one awful lot of money someday. Is that correct?"

**SEN. SIMPKINS** said that is the assumption on the basis that the schools have continued to "buy and buy and buy and continue to raise salaries..."

**REP. HARRINGTON** added that he agrees with **REP. HERRON** and described the situation in his school district and the need to raise property taxes to meet the level required by state law. He said there was 125 more high school students and four fewer teachers, and he predicted that this would happen again if mill levies do not pass. He said that the state level of spending in high schools is about 6.5% below that of the last two years. He said there would be increased enrollment, less money, and this will affect the academic structure. He suggested they table the bill, but said that it is an answer to some of the problems they have with school funding. He said that what they do as a legislature impacts the local school districts.

**REP. HERRON** raised a question addressed to **REP. KITZENBERG** that the committee might recommend an annual increase at the base so it doesn't change, but would provide the state a mechanism to fund schools case by case. He thought there should be a study to guide them in dealing the problem of school funding.

**REP. MILLS** said that to tie this funding to the rest of the United States doesn't make sense.

**REP. GAY ANN MASOLO** wondered if inflation-based increases would require voter approval.

**VICE-CHAIRMAN PEGGY ARNOTT** replied that it would not.

**REP. MASOLO** asked why it said that it requires voter approval.

**VICE-CHAIR ARNOTT** said she misunderstood and thought she meant that it would be a ballot issue and require voter approval, so she said it does require voter approval.

**REP. MASOLO** asked if school boards can get a four percent increase and also pass a mill levy.

**REP. SIMPKINS** stated that schools received a certain amount of money, but the schools said it wasn't to cover the increase in students. Last session, they anticipated an enrollment increase and took \$30 million out of the system as the schools' share which needed to be adjusted based on their increased enrollment. The Senate "found some extra money" and the cut was only \$19 million out of the program. In December 1994 special session, there was an \$18 million supplemental into the school system. Then they wanted more for increased enrollment. He said they are still under a court mandate to come up with equalization for capital improvements, transportation, and raise schools that are below the 80%. That is the priority. He said he is concerned about a \$35 million request in funding for Project Excellence and described what it would pay for. He said they tried to stop that "price tag" and the Board of Education ignored their attempt and were told they may be taken to court for their efforts. He said he opposes the bill until the cost of education is brought under control. He said they have an "obligation to finish the court mandate before we start putting some automatic things in, so I'm going to oppose it."

**REP. HARRINGTON** said that the amount per student across the state for elementary and secondary education was reduced by 4% during the December 1994 special session and every student got less money, and that's why the taxpayers and the local government had to "pick up the tab."

**CHAIRMAN ELLIS** agreed with **REP. HARRINGTON** but said that the difference was very small. He had figures from the LFA that showed several years of student expenditures; climbing one year, decrease another year, and not a tremendous difference.

**REP. MILLS** asked if they'd rather spend the money on schools or fighting court cases, because "if we dink around and don't fund the 80% level, we'll be fighting it in court. ...I'd rather spend the money in the school rooms."

**REP. HURDLE** spoke in favor of the bill and reminded the committee that if the schools are denied adequate funding, that it becomes a local property tax burden. She said that state money is "equitable" money, and stated that if there had been funds to hire counselors in the elementary schools in the last 10 or 15

years, "we wouldn't be spending \$40 million on new prisons and jails."

REP. WYATT asked if there was a Montana index to attach to the bill, and maybe it would aid in bringing about consensus.

REP. MILLS said that he agreed there should be an index developed and thought it should be done before they meet again. He said he has found none that is meaningful. "We need a Montana index, because a lot of things could be tied to it."

{Tape: 3; Side: A}

REP. KITZENBERG said he appreciated what REP. MILLS said: "if we don't put this money into education, we're going to probably be putting it into a lawsuit, and I would rather see the money spent on education." He stated that he is open to changing the index to the "regional indexing factor." He asked **Andrea Merrill** the name of the regional indexing factor.

**Andrea Merrill** said she didn't know the name, but said it does exist and they can find it in a Bureau of Labor Statistics book.

CHAIRMAN ELLIS said that the Bureau of Business Research at the university puts out a Montana CPI. He said that almost any national publication today, such as TIME, Newsweek and newspapers "acknowledges that COLAs put into entitlement are driving those costs up faster than what studies indicate are justified." He said he is opposed to the idea because he said that "communities have the authority to raise funding in excess of what the CPI is" and said it may be less than three percent at this time. He said that he thinks that it is critical that we continue to work towards equalization.

REP. SIMPKINS said that if the base amount is raised, the state is going to have to put in more money. The problems on equalization are not being addressed.

REP. KITZENBERG said that one of the important issues is that this is the only vehicle that is available for extra funding for education, he would like to keep it alive until the end of the session. The concern that was presented is that if nothing is done by the end of the next biennium there will be between a 16-18% decrease in real dollars to schools.

Motion/Vote: REP. KITZENBERG MOVED TO TABLE HB 125. Motion carried 12-6.

EXECUTIVE ACTION ON HB 167

Motion: REP. SIMPKINS MOVED TO AMEND HB 167.

**Discussion:**

**REP. SHEA** said that the schools need to be secured from those with guns and the bill alone does that.

**REP. HARRINGTON** said that he is not voting for the bill because the federal government is forcing him to, but because there are a lot of problems in the schools. The bill is going through because there is a serious problem in not only the state, but in the country.

**REP. MILLS** said that he is concerned that the law does not include the banning of other weapons besides guns. Even taking a gun to school in the back of a truck would be wrong.

**REP. SIMPKINS** said that the amendment is for maintaining local control and avoiding dictates by the federal government.

**Vote:** The amendment failed 8-10.

**Discussion:** **REP. ARNOTT** asked **REP. SHEA** about different weapons being used besides a gun and since the federal law does not address that, what would happen when one is brought to school? **REP. SHEA** said that the bill backs up all the district policies in the state.

**REP. COCCHIARELLA** stated that a student in Arlee brought a BB gun to school intending to use it in a fight. His parents denied the fact that he brought a weapon to school. When asked where he got it, he said that he got it at home. The student was not reprimanded in any way because the school could not determine if a BB gun is a weapon. If the child would have had an AK 47, that is the gun he would have brought. The bill is an effort to get at situations like that.

**Motion/Vote:** DO PASS HB 167. Motion carried 14-4, with REPS. KEENAN, MILLS, REHBEIN, AND SIMPKINS voting no.

ADJOURNMENT

Adjournment: 5:35 pm



---

ALVIN ELLIS JR., Chairman



---

Patti Borneman, Substitute Secretary

AEJ/pb

# HOUSE OF REPRESENTATIVES

## Education

ROLL CALL

DATE 1-25-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Alvin Ellis, Jr., Chairman	✓		
Rep. Peggy Arnott, Vice Chairman, Majority	✓		
Rep. Vicki Cocchiarella, Vice Chair, Minority	✓		
Rep. Matt Denny	✓		
Rep. Sonny Hanson	✓		
Rep. Dan Harrington	✓		
Rep. George Heavy Runner	✓		
Rep. Jack Herron	✓		
Rep. Joan Hurdle	✓		
Rep. Bob Keenan	✓		
Rep. Sam Kitzenberg	✓		
Rep. Gay Ann Masolo	✓		
Rep. Norm Mills	✓		
Rep. Bill Rehbein	✓		
Rep. Sam Rose	✓		
Rep. Debbie Shea	✓		
Rep. Dick Simpkins	✓		
Rep. Diana Wyatt	✓		

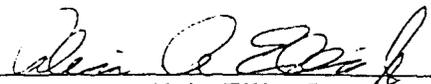


## HOUSE STANDING COMMITTEE REPORT

January 27, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 167 (first reading copy -- white) do pass.

Signed:   
Alvin Ellis, Jr., Chair

  
Committee Vote:  
Yes 4, No 4.

230818SC.Hdh

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Education Committee

DATE 1/25/95 BILL NO. 167 NUMBER \_\_\_\_\_

MOTION: DO PASS

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman	X	
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority	X	
Rep. Matt Denny	X	
Rep. Sonny Hanson	X	
Rep. Dan Harrington	X	
Rep. George Heavy Runner	X	
Rep. Jack Herron	X	
Rep. Joan Hurdle	X	
Rep. Bob Keenan		X
Rep. Sam Kitzenberg	X	
Rep. Gay Ann Masolo	X	
Rep. Norm Mills		X
Rep. Bill Rehbein		X
Rep. Sam Rose	X	
Rep. Debbie Shea	X	
Rep. Dick Simpkins		X
Rep. Diana Wyatt	X	

14 4

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Education Committee

DATE 1/25/95 BILL NO. 167 NUMBER \_\_\_\_\_

MOTION: To adopt Rep. Richard Simpkins'  
Amendment

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman		X
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority		X
Rep. Matt Denny	X	
Rep. Sonny Hanson	X	
Rep. Dan Harrington		X
Rep. George Heavy Runner		X
Rep. Jack Herron	X	
Rep. Joan Hurdle		X
Rep. Bob Keenan	X	
Rep. Sam Kitzenberg		X
Rep. Gay Ann Masolo		X
Rep. Norm Mills	X	
Rep. Bill Rehbein	X	
Rep. Sam Rose		X
Rep. Debbie Shea		X
Rep. Dick Simpkins	X	
Rep. Diana Wyatt		X

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Education Committee

DATE 4/25/95 BILL NO. 125 NUMBER \_\_\_\_\_

MOTION: To table bill

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman	X	
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority		X
Rep. Matt Denny	X	
Rep. Sonny Hanson	X	
Rep. Dan Harrington		X
Rep. George Heavy Runner		X
Rep. Jack Herron	X	
Rep. Joan Hurdle		X
Rep. Bob Keenan	X	
Rep. Sam Kitzenberg	X	
Rep. Gay Ann Masolo	X	
Rep. Norm Mills	X	
Rep. Bill Rehbein	X	
Rep. Sam Rose	X	
Rep. Debbie Shea		X
Rep. Dick Simpkins	X	
Rep. Diana Wyatt		X

12 6

Debate — style and drafting report, Trans. 1693 through 1698, 1708 through 1714, 2925, 2926.

Delegate proposals, Vol. I 180, 228, 319, 320. Final consideration, Trans. 1932, 1933, 1945, 1946. Text as adopted, Vol. II 1093.

**Section 4. Duties.** (1) The executive power is vested in the governor who shall see that the laws are faithfully executed. He shall have such other duties as are provided in this constitution and by law.

(2) The lieutenant governor shall perform the duties provided by law and those delegated to him by the governor. No power specifically vested in the governor by this constitution may be delegated to the lieutenant governor.

(3) The secretary of state shall maintain official records of the executive branch and of the acts of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any other duties provided by law.

(4) The attorney general is the legal officer of the state and shall have the duties and powers provided by law.

(5) The superintendent of public instruction and the auditor shall have such duties as are provided by law.

**Cross-References**

Application of Governor for military intervention, Art. II, sec. 33, Mont. Const. Governor to fill vacancies in certain elected offices, Art. VI, sec. 6, Mont. Const. Governor to appoint department heads and other officers, Art. VI, sec. 8, Mont. Const. Governor to submit budget and legislation to Legislature, Art. VI, sec. 9, Mont. Const. Governor — may convene Legislature, Art. VI, sec. 11, Mont. Const. Governor — may grant reprieves and pardons, Art. VI, sec. 12, Mont. Const.

Policy-making and administrative powers of Governor, 2-15-103. Powers and duties of Governor, 2-15-201. Powers and duties of Lieutenant Governor, 2-15-302. Duties of Secretary of State, 2-15-401. Duties of Attorney General, 2-15-501. State Auditor, Title 2, ch. 15, part 6. Governor — general authority in disasters and emergencies, 10-3-104. Duties of Superintendent of Public Instruction, Title 20, ch. 3, part 1.

**Section 8. School district trustees.** The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

**Cross-References**

Report of annual audit to trustees, 2-7-514. Consent of trustees to appointment of district superintendent as municipal superintendent, 7-3-1348. Management of school money, Title 7, ch. 6, part 28. Education, Title 20. School district trustees generally, Title 20, ch. 3, part 3.

Constitutional Convention Transcript Cross-References Adoption, Trans. 2939, 2940. Committee report, Vol. II 719, 731, 735, 994, 998, 1002, 1004, 1070. Cross-references, 1889 and 1972 Constitutions, Vol. II 757. Debate — committee report, Trans. 1971, 1977 through 2048, 2050, 2060 through 2062, 2106, 2160. Debate — style and drafting report, Trans.

**Section 9. Boards of education.** (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

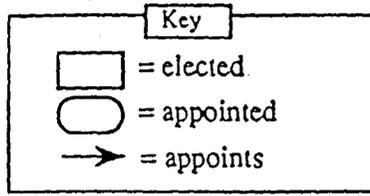
(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state public instruction shall be ex officio non-voting members.

**Cross-References** Bonds for construction building at Montana Science and Technology Submission of uni 17-7-112. Regents without i 18-2-102. University system certain preconstruction, Title 20, ch. 2. State boards and charges for tuition Board of Regents governments for establishment of joint library services Constitutional Con Cross-References Adoption, Trans. 2 Committee report, through 740, 994, 995, 1005, 1070, 1071. Cr tions, Vol. II 757.

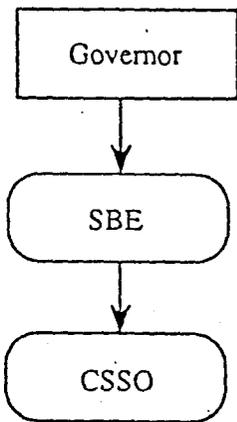
Governor, Superintendent of Public Instruction as executive officers, Art. VI, sec. 1, Mont. Const. Board of Regents exempt from Montana Administrative Procedure Act, 2-4-102. Governor as member of State Board of Education, 2-15-201. Superintendent of Public Instruction, 2-15-701; Title 20, ch. 3, part 1. State Board of Education, 2-15-1501. Board of Regents, 2-15-1505. Commissioner of Higher Education, 2-15-1506. Board of Public Education, 2-15-1507. Appointments to Boards, 2-15-1508. Agencies, boards, commissions, and councils allocated to State Board of Education, 2-15-1511 through 2-15-1520. Application of portions of state employee classification requirements to Board of Regents and Board of Public Education, 2-18-103. Approval of gubernatorial appointments, Title 5, ch. 5, part 3. The Legislature, Title 13.

EXHIBIT 1  
DATE 1/25/95  
HB 228

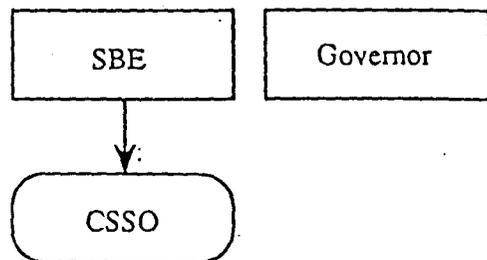
# Basic Models of State Education Governance



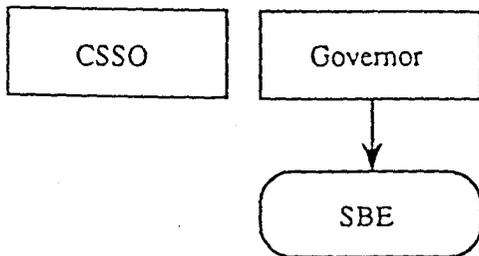
Model One



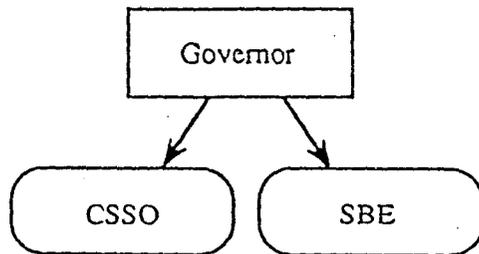
Model Two



Model Three



Model Four



Section 3. Section 20-2-121, MCA, is amended to read:

"20-2-121. Board of public education -- powers and duties. The board of public education shall:

(1) effect an orderly and uniform system for teacher certification and specialist certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and 20-4-111;

(2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

(3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of 20-10-111;

(5) approve or disapprove a reduction of the number of hours in a district's school day in accordance with the provisions of 20-1-302;

(6) adopt policies prescribing the conditions when school may be conducted on Saturday and the types of pupil-instruction-related days and approval procedure for such days in accordance with the provisions of 20-1-303 and 20-1-304;

(7) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of 20-7-101 and 20-7-102;

(8) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of 20-7-201;

(9) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

(10) adopt rules for issuance of documents certifying equivalency of completion of secondary education in accordance with 20-7-131;

(11) adopt policies for the conduct of programs for gifted and talented children in accordance with the provisions of 20-7-903 and 20-7-904;

(12) adopt rules for student assessment in the public schools;

~~(13)~~ (13) adopt rules regarding the school district performance indicators that the trustees of a district are required to report to the public under the provisions of [section 2]; and

~~(14)~~ (14) perform any other duty prescribed from time to time by this title or any other act of the

EXHIBIT 4 4  
DATE 1/25/95  
HB 228

To: SONNY HANSON, (REP) Billings January 25, 1995  
FROM: Robert K. Ripley, Region 4 Coordinator, United We Stand  
America-Montana, businessman, Missoula, Montana.  
SUBJECT: Supporting Testimony for House Bill 228

"My name is Bob Ripley. After twelve years in the public school system of Kalispell, I found myself well prepared for the completion of what many would consider one of the very toughest and demanding courses of college study, that of the US Naval Academy. In the course of my 35 year Naval career, I, like all naval officers, was a teacher, directly responsible for training literally hundreds of officers and sailors under my command. One stop in my career was a detailed study of the broader field of Education in the course of completing a master's degree in Education at Stanford. Mine is a lifelong commitment to improving education, which leads me to speak today on behalf of United We Stand America-Montana (UWSA-MT) in support of the passage of HB 228. This bill would ask the voters of Montana to reorganize State education functions into a single Department of Education. It is a pleasure to come in person to Helena to urge placing this Constitutional Amendment on the ballot, because I firmly believe that a thorough debate over education policy will greatly benefit Montana students and taxpayers.

UWSA-MT, and our national organization, are dedicated to quality education - in fact, to restoring American education to the levels of performance and quality that it had when I was young. Naturally, reshuffling the lines of bureaucratic authority will not by itself accomplish this.

( 2 )

EXHIBIT 4  
DATE 1/25/95  
HB 228

But it will make the highest levels of government in Montana, the Governor and the Legislature, directly accountable for the condition and cost of education. We note with deep concern that the money spent on grades K through twelve has risen dramatically in the past twenty years, but our State SAT scores have in that same period fallen, and our children's preparation for college has fallen behind that of other countries, especially in math and science. Something to reverse this trend simply must be done, and HB 228 is a good place to start.

We emphasize one caution in this matter. It does no good merely to change bureaucrats, but statutes must also be changed to allow new flexibility in all parts of the Montana system. Debate on the rigidity, outmoded complexity, and educational elitism of federal education mandates, as well as TITLE TEN of Montana law governing education, is long overdue. Unless this Legislature does more than provide funding demanded by the education establishment or the Federal Government, there can be no real educational reform. UWSA-MT stands ready to take part in a full blown debate on educational standards, administrative leadership and need for improved education in any forum desired. We are particularly interested in fostering innovation within the public school system through increasing competition; for example, by authorizing charter schools.

In summary, we support passage of HB 228 and 229 so that Montana taxpayers and parents may begin to have an opportunity to participate directly in this process of reforming and improving education. I welcome questions on any aspect of this testimony.

EXHIBIT 5  
DATE 1/25/95  
HB 228

TO: MONTANA LEGISLATURE - HOUSE EDUCATION COMMITTEE  
FR: JEAN CURTISS, MONTANA PTSA/PTA LEGISLATIVE CHAIR  
DATE: JANUARY 25, 1995  
RE: HB 228

My name is Jean Curtiss. I am the Legislative Chair for the Montana PTSA/PTA. I speak for the 11,000 members of PTA in Montana. Today I would like to express concerns with some of HB 228. This bill proposes to create a Department of Education, with a director appointed by the governor.

The Montana PTSA/PTA believes that the office of Superintendent of Schools, which would be eliminated by this bill, should be kept as an elected office. Montana needs this ELECTED position with a person dedicated to K-12 education and accountable to the public. If this position is eliminated and replaced with an appointed director of a new Department of Education the public will lose its vote in choosing the direction of K-12 public education in Montana.

If K-12 public education and higher education and placed in the same department, there is much concern state-wide that K-12 will become the step-child of education and higher education will be in the forefront.

As you consider HB 228, please keep in mind that Section 9. would take away the public's right to vote on the only elected office in education.

Thank you.

  
Jean Curtiss  
1419 Howell St  
Missoula, MT 56802  
406-721-1705

**FAX 541-1136**



HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Education

COMMITTEE

DATE 1-25-95

BILL NO. 228

SPONSOR(S) Rep. Sonny Hansen

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<del>HARRY KENK</del> <sup>1590 RILEY</sup> <del>MEMPHIS TN</del> <del>HUSON AL 37646</del>	<del>UNITED WE STAND AGAIN</del>	X	
BOB RIPLEY	SELF & UUSA	X	
FRED HAPPEL	MT. FOR BETTER GOVT.		X
DOW WALDROW	MREA		X
JIM STANTON	BAKED Schools		X
Pat Haffey		+	
Eric Dean	MEA		XXX
LORON FRAZIER	STAN		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:vissbcom.man

CS-14