MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on January 12, 2005 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:
Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Margarett H. Campbell (D)
Rep. Tim Dowell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Bob Lake (R)
Rep. Joe McKenney (R)
Rep. Holly Raser (D)
Rep. Scott Sales (R)
Rep. Jon Sonju (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Nina Roatch-Barfuss, Committee Secretary

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

Committee Business Summary:
Hearing & Date Posted: HB20, 1/5/2005; HB 83, 1/5/2005; HB122, 1/5/2005
Executive Action: HB20; HB16; HB74

HEARING ON HB 20

Sponsor: REPRESENTATIVE SUE DICKENSON, HD 25, GREAT FALLS

Opening Statement by Sponsor:

REP. DICKENSON gave the committee the reasoning for her bill. Montana School for the Deaf and Blind is located in Great Falls, serving the needs of hearing and visually impaired children from all over the state and even children from out of state. They provide teaching support and resources so that children with these challenges can be all they can be. The children can succeed in school, acquire life skills, achieve independence and self confidence. **REP. DICKENSON** offered an amendment to her bill. The bill allows the Montana School for the Deaf and Blind to be more closely aligned with local school districts and allows an opportunity for less paperwork as a result of the authorization of the new Special Education Law.
EXHIBIT(edh08a01)

Proponents' Testimony:

Steve Gettel, Superintendent of the Montana School for the Deaf and Blind, offered written testimony.
EXHIBIT(edh08a02)

Bob Runkel, Director of Special Education in the Office of Public Instruction, OPI, stated that OPI and the Montana School for the Deaf and Blind have had the opportunity to work together on the language in **HB 20** and OPI supports the bill as amended. The bill provides a clear path for placement of students at the Montana School for the Deaf and Blind that is consistent with Federal Special Education Law.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BUTCHER inquired from Mr. Gettel, "What happens to a person who qualifies for the school after the student reaches the age of 21?" **Mr. Gettel** said that when children reach adulthood and age out of the public school system, if a person needs additional education services, the person needs to seek adult education services.

Closing by Sponsor:

REP. DICKENSON reminded the committee that the Montana School for the Deaf and Blind provides very vital services to all of Montana.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 11}

HEARING ON HB 83

Sponsor: **REPRESENTATIVE MARGARETT CAMPBELL, HD 31, POPLAR**

Opening Statement by Sponsor:

REP. CAMPBELL informed the committee that **HB 83** comes to it at the request of OPI. The bill allows OPI to pay tuition for children placed by state agencies at court in foster care in group homes, causing the students to attend schools in a different district. The bill makes the tuition payments more efficient. Currently, county superintendents in each county pay tuition for state court placement. Even though it is paid by the county superintendent, the money used for this tuition is state money. That is appropriate, because it is paying for placements made by Montana Families Services in the state courts. She agrees that state money should be used to pay this tuition. **HB 83** does not change this arrangement. What the bill does change is the method of paying state tuition for state and court placements. The bill makes the process more efficient by having the state pay for its own placement instead of having fifty-six counties pay tuition using state moneys. Using the proposed method, the state can be sure that the payments are accurate and the state money is used for the kinds of tuition that it is meant for. The bill does not cost any money. The state is already paying for the tuition using state funds at the county level. The amount of tuition will not change.

Proponents' Testimony:

Joan M. Anderson, Office of Public Instruction, stated that the state superintendent of education has requested **HB 83** and supports it. She presented written testimony. She handed out a diagram which explained the money being discussed. Ms. Anderson also handed out a letter from Patricia A. Stennes, Roosevelt County Superintendent of Schools, which states support for the bill.
EXHIBIT(edh08a03)
EXHIBIT(edh08a04)
EXHIBIT(edh08a05)

{Tape: 1; Side: A; Approx. Time Counter: 11 - 30; Comments: End of side A}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. LAKE inquired of Ms. Anderson why there were no county superintendents present to testify as to how they feel about the bill. It is a concern for the representative. He inquired of Ms. Anderson when the current program went into effect. **Ms. Anderson** replied that the current payment system has gone through some evolutions in the past legislative sessions dealing with which tuition situations the state pays. For as long as she remembers, the counties have been paying the tuition on the state's behalf. She has worked at OPI for twelve years. **REP. LAKE** stated that what he noticed in the exhibits is that in some cases the counties appear to understand the process. It appears that with time, the problems in the present procedure are working themselves out. He asked if this is the trend. If so, maybe the bill is not needed. **Ms. Anderson** stated that she is encouraged by the improvement on the part of the counties but does not believe it is a trend. The problem she sees is that different counties have different numbers of children (in different types of placements) each year. The county superintendents don't often deal with the same kind of situation year after year. It is hard for them to get up and running again in order to do the payments when either they haven't had children in foster care for a while or it is an unusual kind of placement for them. It is difficult for the superintendents to keep current on the tuition laws.

REP. LAKE asked to speak to someone in the audience who might speak for school boards across the state. **Bob Vogel, Montana School Boards Association,** said he couldn't respond directly, but he had heard of some county superintendents who were opposed to the bill before they fully understood its content. After understanding the bill's content, they withdrew their opposition.

REP. ANDERSEN questioned Ms. Anderson about the information in Exhibit 4. She wanted the numbers pertaining to Custer County explained to her. **Ms. Anderson** reported the numbers pertaining to Custer County is an error in the spread sheet. **Ms. Anderson** said she would return to the committee with a corrected spread sheet.

Closing by Sponsor:

REP. CAMPBELL alleged the bill allows the state to accurately pay state tuition rather than relying on the counties to figure out all of the complicated tuition laws. Local control of the school is important to the citizens of Montana and it is preserved in the bill.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 7}

HEARING ON HB 122

Sponsor: **REPRESENTATIVE VERONICA SMALL-EASTMAN, HD 42**

Opening Statement by Sponsor:

REP. SMALL-EASTMAN informed the committee that she was asked to bring the bill to the committee by the Big Horn County Commissioners. The bill requests that school district employees be prohibited from using public vehicles for their own use. At present in the State of Montana, superintendents can use a leverage in their contract to use public vehicles for personal use. The Big Horn County Commissioners feel the vehicle use has been abused and they would like to see it stopped. The commissioners feel it is hard to distinguish between personal use and business use. At present, school districts have been allowed to police their own policies. The bill asks that this matter be taken from local control and put into state law.

Proponents' Testimony:

REP. CAROL JUNEAU testified in favor of the bill.

REP. TIM DOWELL, HD 8, affirmed that as a teacher and a legislator, a person must impart to the community represented the trust given to a public official. School property should be used for school business. Personal use is inappropriate, and that is what **HB 122** is trying to establish.

{Tape: 1; Side: B; Approx. Time Counter: 7 - 12}

Opponents' Testimony:

Bob Vogel, Montana School Boards Association and Dave Puyear with Montana Rural Education Association, claimed he is hesitant to rise in opposition to the bill, as he appreciates the efforts of the bill sponsor. When a bill covers Section 20-3-324, he feels

he must make the committee aware that he believes the bill is in conflict with present statutes. His organization's opposition to the bill is because it takes away from local control which has been given to a local school board. He believes there could be constitutional problems with the bill. His organization heard from Albert Peterson, Superintendent of Harden Schools, stating the school provides the superintendent with a car. He administers a school district that is three and a half times larger than the state of Rhode Island. He regularly travels, as school administrator, seventy miles to one of his schools and 50 miles to another. There are occasions when he is asked to go to one of these places and he has personal business along the way. He tends to it, making it more efficient for everyone. Mr. Peterson sent Mr. Vogel a check copy showing that his district keeps close tabs on mileage and how it is used. Mr. Peterson reimburses the district for mileage used for personal use. Mr. Vogel believes most school districts keep a good log on how a vehicle is used. The bill is a reminder to school districts where these decisions need to be made. The district has to be very vigilant in patrolling this sort of activity.
{Tape: 1; Side: B; Approx. Time Counter: 12 - 18}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. SONJU requested information from **REP. SMALL-EASTMAN** as to what the basis is for this law. **REP. SMALL-EASTMAN** replied that according to her county commissioners, the superintendent of schools in her district uses the school vehicle for personal use.

REP. SONJU posed a question to Mr. Vogel, "In your knowledge, can and do most superintendents have access to cars for personal use?" **Mr. Vogel** responded that most schools do not own a vehicle that it gives to the administrator. The district usually gives a transportation allowance to the administrator, as part of the contract for travel in carrying out the duties of the position. Some districts do provide a district-owned vehicle for business use. **REP. SONJU** solicited more information. He asked if local trustees would lose bargaining powers in getting a candidate they wanted, by having this law in place. **Mr. Vogel** said that in his opinion, he doesn't think it would, but it might make a local board look at the procedures they follow in a different way.

REP. KOOPMAN posed a question to Mr. Vogel, "Do you know of any school boards that have put in prohibitions in the use of school vehicles?" **Mr. Vogel** noted that he is aware of boards that closely guard the use of a public-owned vehicle and insist that it be for business purposes. Mr. Vogel believes the bill could

make the use of a school vehicle more difficult and more inefficient for the school district and the individual involved. **REP. KOOPMAN** inquired about the money used to purchase the school vehicle. **Mr. Vogel** was not sure which fund the district would use, but believes it would be through the general fund of the district.

REP. BUTCHER desired information from Mr. Vogel. He asked if Mr. Vogel was aware of many districts that supply a vehicle as part of a school superintendent's contract package. **Mr. Vogel** said in his experience in search committees for a superintendent in larger districts, a district usually offers a car allowance to the candidate. It allows the superintendent to use the vehicle for personal and business.

REP. WINDHAM inquired of Mr. Vogel about the vehicles. She wanted to know who really owns the vehicles in question. **Mr. Vogel** said the vehicle in question would be purchased by the school district for use by school district employees for district business. **REP. WINDHAM** asked Mr. Vogel how the liability insurance works on the vehicle. **Mr. Vogel** asserted that he didn't know for sure how it would work. If an accident occurred during business use, the school would cover it. If an accident occurred during personal use, the personal driving would be responsible.
{Tape: 1; Side: B; Approx. Time Counter: 18 - 30}

{Tape: 2; Side: A;}

REP. GALVIN-HALCRO asked Mr. Vogel if he could get information pertaining to how many school districts purchase a vehicle for employee use. **Mr. Vogel** agreed to do it.

REP. BUTCHER, requested that Mr. Bud Williams, OPI, give informational testimony. **REP. GALVIN-HALCRO** said she would allow it, if there were no objections from committee members. **Mr. Williams** said he had been a school superintendent in Montana for 23 years. In smaller school districts they might buy a drivers' education car and use it for drivers' education purposes and the district would also use it for school business purposes. It is much more efficient to buy the car and use it that way than it is to pay individual transportation for school employees to drive wherever they are going. He is familiar with larger school districts. In larger districts they usually give the superintendent an amount of money to use for transportation purposes.

REP. BUTCHER said he was curious about whether Mr. Williams had ever seen transportation costs abused. **Mr. Williams** said he believes people are very careful about such abuse. **REP. BUTCHER** asked Mr. Williams if he believes a statute like the one being discussed would cause more problems than it would solve. **Mr. Williams** replied that it would be difficult to use such a law.

Closing by Sponsor:

REP. SMALL-EASTMAN said she visited with two of her brothers who are administrators in the state and they believe the bill opens a can of worms. She brought the bill on behalf of her constituents. ***{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.9}***

EXECUTIVE ACTION ON HB 20

Motion: **REP. BRANAE moved that HB 20 DO PASS.**

Discussion:

REP. BRANAE stated that it is a simple bill and makes total sense and needs little discussion. He presented an amendment from **REP. DICKENSON.**
EXHIBIT(edh08a06)

Motion/Vote: **REP. BRANAE moved that HB 20 BE AMENDED. Roll Call Vote Taken, with REP. ANDERSEN voted by proxy. Motion carried unanimously.**

Motion/Vote: **REP. BRANAE moved that HB 20 DO PASS AS AMENDED. Motion carried unanimously by voice vote, REP. ANDERSEN voted by proxy.**

EXECUTIVE ACTION ON HB 16

Motion: **REP. VILLA moved that HB 16 DO PASS.**

Discussion:

REP. BUTCHER presented the committee with an amendment.
EXHIBIT(edh08a07)

Motion: **REP. BUTCHER moved that HB 16 BE AMENDED.**

Discussion:

REP. BUTCHER said the purpose of his amendment was to bring the courses into line with transferability throughout the university system. He wants the bill to be flexible for a junior college type program, which obviously the tribal college is. The amendment will make sure the bill is dealing with the academic subjects rather than community education type courses. He wants to make sure the bill talks about an academic type program.

REP. CAMPBELL noted that she had an issue with the language in the amendment but she and **REP. BUTCHER** have ironed out their differences.

REP. RASER questioned **REP. BUTCHER** as to whether he has spoken with the bill sponsor about the amendment. **REP. BUTCHER** said, "Not recently, but I am sure the amendment is agreeable to the sponsor."

Vote: **Motion carried unanimously by voice vote. REP. ANDERSEN voted by proxy.**

Motion/Vote: **REP. BUTCHER moved that HB 16 DO PASS AS AMENDED. Motion carried unanimously by voice vote. REP. ANDERSEN voted by proxy.**

EXECUTIVE ACTION ON HB 74

Motion: **REP. RASER moved that HB 74 DO PASS.**

Discussion:

REP. RASER presented two amendments to the bill and Ms. McClure explained them to the committee.
EXHIBIT(edh08a08)
{Tape: 2; Side: A; Approx. Time Counter: 6.9 - 11}

Motion/Vote: **REP. RASER moved that HB 74 BE AMENDED. Motion carried unanimously by voice vote. REP. ANDERSEN voted by proxy.**

EXHIBIT(edh08a09)

Motion: **REP. RASER moved that HB74 BE AMENDED.**

Discussion:

REP. BRANAE stated that the operating officer from Billings made a logical argument during the hearing about freeing up some of the money used for transporting students taken from the general fund and using that money for classroom instruction.

Vote: **Motion carried unanimously by voice vote. REP. ANDERSEN voted by proxy.**

Motion: **REP. RASER moved that HB 74 DO PASS AS TWICE AMENDED.**

Discussion:

REP. LAKE said he recognizes the need for school districts to transfer students that are not being brought to school. The problem he has is that it opens up the opportunity for a local school district to separate the funds required for that and then pass a permissive levy to cover those funds at the expense of the local tax payer. He believes it will put one more cost on the local property owner.

REP. VILLA asked what impact this bill would have on the caps under which the districts currently fund. **Ms. Anderson, OPI,** said that currently a field trip would be funded from the general fund in a district. The bill allows the cost to be moved to the transportation fund, which is a permissive levy. It does not have a cap.

REP. GALVIN-HALCRO used the Billings situation as an example. The Billings district spends $200,000 a year transporting students from one school to another to get their core subjects taught to them. It is in no way a field trip. The money has to come out of the general fund at this time. If the bill is passed into law, they would be able to take the $200,000 out of the transportation funds, and it would leave $200,000 for them to spend in the general fund. Field trips, to her knowledge, are not being abused in the state.
{Tape: 2; Side: B}

REP. WARD remarked that it appears to him that the bill would be a "patch" or "band-aid"; where money is taken from the transportation fund for a good use and freeing up money in the general fund. He doesn't like the approach.

REP. GALVIN-HALCRO replied that she understands **REP. WARD'S** concern. If a legislator feels a bill passed out of the Education Committee should be heard by the Select Education Committee that request can be made. If the bill is passed out of

committee today, and it is requested that it go to the Select Committee. It will be done.

REP. WARD continued. He believes the court is asking the legislature to stop incorporating "band-aid" kinds of solutions that don't clearly define what the committee is trying to do. What the bill is trying to do, is offer a flexibility so the student's education can be enhanced. He feels it is being done under transportation and that is counter to the spirit of what should be done.

REP. RASER said she believed she understood what **REP. WARD** was saying but she wondered how the legislature wants to fix the education system. It actually made logical sense that the legislature needs to incorporate transportation costs into the whole solution. The example of the Billings schools is a situation that needs to be addressed. It is a transportation cost and should be a transportation line item.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 6.5}

REP. KOOPMAN interjected that he believes he is drifting toward opposition to the bill because there are holes in the bill. He was concerned about transportation money being a permissive levy. The local taxpayer would not be able to vote on money being used for such things as field trips.

REP. RASER agreed on the points being made. The committee needs to decide where they want control to be found. The bill says the expenditures discussed maybe transferred to the transportation fund. It does not say they must. The decision is left to the local school districts to decide how to handle it.

REP. GALVIN-HALCRO commented that a curriculum must meet state standards.

REP. BUTCHER desired to ask Ms. Anderson of OPI a question. He asked if transferring students from one building to another for academic reasons comes under the current definition of transportation. **Ms. Anderson** said the answer to his question is no.

REP. WINDHAM remarked that she had no problem with the use of the money but she didn't like the cost being transferred to the transportation fund. She asked, "What does a field trip cost?"

REP. VILLA reported that as a former school board member he might answer the question. The cost would depend on the mileage cost and the miles in the trip.

REP. RASER said that typically a field trip at her school costs about one hundred dollars.

REP. GALVIN-HALCRO said that many high schools will be sending classes to visit the Legislature. A bus costs $340 for the trip and carries 50 students. They travel 90 miles one way.

REP. SALES called for the question.

Vote: The motion failed 8-8 with REPS. WARD, SONJU, KOOPMAN, SALES, LAKE, BUTCHER, MCKENNEY, AND ANDERSEN voting no, by roll call vote. REP. ANDERSEN voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 6.5 - 19.1}

ADJOURNMENT

Adjournment: 5:00 P.M.

_____
REP. KATHLEEN GALVIN-HALCRO, Chairman

_____
NINA ROATCH-BARFUSS, Secretary

KG/NR

Additional Exhibits:

EXHIBIT(edh08aad0.TIF)