

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN JOAN ANDERSEN**, on January 27, 2003 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Joan Andersen, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Larry Lehman, Vice Chairman (R)
Rep. Norman Ballantyne (D)
Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Carol Gibson (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Bob Lawson (R)
Rep. Joe McKenney (R)
Rep. Clarice Schrupf (R)
Rep. Pat Wagman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddy McClure, Legislative Branch
Mari Prewett, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: HB 366, 1/20/2003; HB 374,
1/21/2003
Executive Action: HB 366, HB 274

HEARING ON HB 366**Sponsor:** REP. PAUL CLARK, HD 72, TROUT CREEK**Opening Statement by Sponsor:**

REP. CLARK stated that this bill is a simple bill. It allows Trustees of certain school districts to hold quarterly meetings instead of four meetings in specific months. **REP. CLARK** explained that HB 366 provides school boards in certain districts, mainly Class 3 districts, with the flexibility to meet quarterly rather than by the State statute which requires specific months for them to meet. He further stated it would provide benefits to these smaller school districts to have the flexibility in when they meet, especially when there are usually only three trustees and at times there are things that come up, such as family emergencies, etc., preventing them to have a quorum at the times set by statute. **REP. CLARK** advised the committee that with the change proposed in the bill he would expect that most of the trustees of these Class 3 school boards would still continue to meet using the traditional schedule, but it would give them the flexibility to modify the schedule should the need arise.

Proponents' Testimony:

Lance Melton, Montana School Boards Association, stated he supports HB 366. He explained the reason for the bill was that because of the size of the small boards in Class 3 districts it's easy to meet a quorum but also easy to break the same quorum.

Mr. Melton went on to say that if two people were gone out of town on a trip or other business they would not be able to meet. As an example, he stated that in larger districts there may be eleven board members, therefore, if two members were gone there would be no problem. The smaller districts do not have that many board members and find the requirement for meeting in particular months is difficult at times because of the schedules of the trustees. **Mr. Melton** told the committee they were not trying to reduce the number of board meetings in a year that they were only looking for flexibility in order to meet the number of meetings required.

Dave Puyear, MREA, stated that his organization was in support of HB 366.

Opponents' Testimony: None**Informational Testimony:** None

Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked **REP. CLARK** how the public is notified of the board meetings. **REP. CLARK** answered that everything in this bill other than the months of April, August, October and January was current language. He went on to say that the a bill was just passed through the House that dealt with public notification and he thought that would have more bearing on this issue. **REP. CLARK** stated the bill did not change any public notice language at all.

REP. GALVIN-HALCRO asked Mr. Melton how the public was notified. **Mr. Melton** explained that schools and agencies under Title 2, the general government title, as such have to provide reasonable advance notice of the meetings the same as all other agencies. **Mr. Melton** stated that there was not specified form of legal notice.

REP. GIBSON clarified that a bill had just been passed in State Administration that there would be a designated number of notices, how it was going to be done, and making it more available to the public.

Closing by Sponsor:

REP. CLARK stated that he closed.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.9}

HEARING ON HB 374

Sponsor: REP. CAROL GIBSON, HD 20, BILLINGS

Opening Statement by Sponsor:

REP. GIBSON stated that the student's residency would be determined by where the child was living, whether with the parents, grandparents, aunts, etc. She further stated that in this way whoever the child was living with would not have to pay tuition to the school for the child to attend. **REP. GIBSON** pointed out that they might need to keep in mind that there could be a constitutional question involved as there is the guarantee that all students have the right to a free education.

Proponents' Testimony:

Jeff Weldon, Legal Counsel, Office of Public Instruction OPI, stated that this is an issue that has been ongoing for OPI. **Mr. Weldon** presented the committee with a copy of the Montana Constitutional and Statutory Law Pertaining to Student Residency, attached as Exhibit 1 to provide context. **Mr. Weldon** proceeded to read several highlighted sections from Exhibit 1 to explain what determined the child's residency. **Mr. Weldon** then presented the committee with an excerpt from the 2000 Montana Census Data. **Mr. Weldon** pointed out that the census showed that there were approximately 12,000 minors living with someone other than their parents. He stated that where this becomes a problem is in context with tuition law. Under current policy if the parent is not a resident of the school district, the school could charge the parent tuition for the child to attend that school. **Mr. Weldon** explained that if the state were to place a child in a district, the state then pays for part of the child's education. He stated that if this bill were passed, that would no longer apply; the state then would not have to pay. He stated that this was not good policy.

EXHIBIT (edh17a01)

EXHIBIT (edh17a02)

Opponents' Testimony:

Lance Melton, Montana School Boards Association, stated that they are in opposition to HB 374. He stated they felt that the children in question were generally children that were problems in their home district which was the reason for the relocation. **Mr. Melton** stated that these students should not be allowed into another school district unless there was some type of a last chance agreement allowing them to do so under strict provisions. He explained that there was a tax impact to the local constituents and the law provides that where the parents reside is where the district is responsible for the constitutional obligation of providing a quality education. **Mr. Melton** continued his testimony by giving examples. **Mr. Melton** stated that this would cause a large fiscal impact and significant policy changes.

Dave Puyear, Montana Rural Education Association, stated that they are concerned about the bill because it causes division between the communities and other services that are provided for the troubled kids. He further stated that this would financially impact the local districts. **Mr. Puyear** advised the committee passage of this bill would create considerable controversy and should be handled at the local level.

Informational Testimony: None

Questions from Committee Members and Responses:

REP. FRITZ asked Mr. Weldon about the law passed last session for money from the state for areas impacted by group homes and if the group home kids would be included in this. **Mr. Weldon** answered that this was for State-placed youth. He further stated that this bill would have some consequences to this in that now that youth would be a resident and the State would not have to pay the tuition.

Mr. Melton added that the statute being talked about was limited to licensed group homes.

REP. JACKSON asked Mr. Puyear to explain about local control and what control is at the local level. **Mr. Puyear** stated that local control means that the local school district can close enrollment or keep the enrollment open.

{Tape: 1; Side: A; Approx. Time Counter: 6.9 - 28}

REP. JACKSON asked Mr. Puyear how he would handle a situation where a student moves in and stays with a relative. He further asked what the process and costs would be. **Mr. Puyear** answered that every district in Montana would try to serve the child. He reiterated that this is an issue that has potential to become very controversial.

REP. LEHMAN asked Mr. Melton what happens when a private facility, which not only educates students but also houses the same children, loses their donations for funding and they can no longer pay for teachers so the children need to be sent to the local school district. **REP. LEHMAN** further asked if the school district would then have to accept the students as that is their residence. **Mr. Melton** replied that was correct.

CHAIRMAN ANDERSEN asked REP. GIBSON if there was a fiscal note for the bill.

REP. GIBSON stated that there was not but probably should be.

Closing by Sponsor:

REP. GIBSON stated that when she proposed this bill she was not thinking about troubled students, but can see the concern. She further related that she had been talking about children where there was an illness in the family or turmoil in the family and cannot cope with the child. **REP. GIBSON** stated that to clarify

the bill it should be amended. She further stated that she believes that all children deserve a free education.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.3}

EXECUTIVE ACTION ON HB 366

Motion/Vote: REP. GALVIN-HALCRO moved that HB 366 DO PASS.
Motion carried 14-0 by voice vote.

{Tape: 1; Side: B; Approx. Time Counter: 6.3 - 7.2}

EXECUTIVE ACTION ON HB 274

Motion: REP. GIBSON moved that HB 274 DO PASS.

Motion: REP. GALVIN-HALCRO moved to AMEND HB 274.

Discussion:

Eddy McClure, Legislative Services, explained the amendments, attached as Exhibit 3. She stated that what it does is clarify that if a student has taken the GED or is going to take the GED in good faith they will be out from under the compulsory enrollment and attendance requirement. **Ms. McClure** then advised that she could not get all of the home schoolers out from under this bill. She explained that the only way the home schoolers are still in the bill is provided in section 20-5-109, MCA, which provides for home school teaching exemptions, see attached Exhibit 4.

EXHIBIT (edh17a03)

EXHIBIT (edh17a04)

REP. LEHMAN asked Ms. McClure if all of the concerns of the home schoolers are no longer concerns as far as the bill is concerned. **Ms. McClure** answered that was true except that they would still need to do some record keeping.

REP. LAKE asked Ms. McClure if this would still leave the home schooler with the requirement of keeping their student in school, receiving instruction and maintaining the records. **Ms. McClure** responded that the parents would have to maintain records and account for their children until age 18.

REP. LAKE asked Ms. McClure if the home schoolers would still have to provide 180 days of pupil instruction. He further stated he did not believe the amendment relieved the home schooler from

what they were worried about. **Ms. McClure** stated that it would if the student had completed the 12th grade and gone on to the university system.

REP. LAKE further asked Ms. McClure if the student at 16, finished with home schooling with a personal desire to go out into the world to make his own way, would still be under the obligation of compulsory enrollment. **Ms. McClure** responded that was correct.

Vote: Motion to **AMEND HB 274 carried 14-0 by voice vote.**

Motion: **REP. GIBSON** moved that **HB 274 DO PASS AS AMENDED.**

Discussion:

REP. GIBSON commented on the importance of education.

REP. LAKE stated he had concerns about the bill and stated that you cannot legislate morality or education. He further stated he would vote against the bill.

REP. BALLANTYNE expressed his concerns and also stated he would vote against HB 274.

REP. BIXBY asked Ms. McClure about 20-5-108 of Exhibit 4 and if there should be a cooperative agreement between reservations and public school districts if they have different compulsory age requirements. **Ms. McClure** replied they did need to be an agreement. **Ms. McClure** stated that if there were a treaty then the school districts would have to accept the tribal councils standards. **REP. BIXBY** stated that she believes that compulsory education to age 18 was needed and that a message needs to be sent that education is important.

REP. JACKSON commented that having taught school at the secondary level, he had found that when there are students in school who do not want to be there it creates a number of problems. He further stated he would vote against HB 274.

{Tape: 1; Side: B; Approx. Time Counter: 7.2 - 27}

REP. GALVIN-HALCRO stated she supported HB 274 because of the No Child Left Behind Act. She further talked about the number of Native American children that are left behind every year. **REP. GALVIN-HALCRO** continued stating that without legislation like HB 274 and the enforcement of the No Child Left Behind Act, which many school districts fail to do, children are being left behind

every day. She stated that until a pro-active stance is taken in educating all of the children, children would continue to be left behind.

REP. WAGMAN stated he did not feel the statistics bear out the fact that compulsory education to age 18 would graduate more students. He further replied that he would vote against the bill.

Eddy McClure clarified that 20-5-108, MCA, that the State of Montana would enforce compulsory education until age 16 as that is state law even though the tribal counsel had a compulsory attendance until age 18.

Vote: Motion that **HB 274 DO PASS AS AMENDED failed 4-10 with REPS. BRANAE, GIBSON, BIXBY and GALVIN-HALCRO voting aye by roll call vote.**

CHAIRMAN ANDERSEN called for a Motion that the vote on this bill be reversed and the bill tabled.

Motion: **REP. LEHMAN** moved **THE VOTE ON HB 274 BE REVERSED AND BE TABLED.**

Vote: The motion carried by voice vote, 14-0.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 4.1}

ADJOURNMENT

Adjournment: 4:00 P.M.

REP. JOAN ANDERSEN, Chairman

MARI PREWETT, Secretary

JA/MP

EXHIBIT (edh17aad)