

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on January 21, 2005 at 3:00 P.M., in Room 455 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. Margaret H. Campbell (D)
Rep. Wanda Grinde (D)
Rep. Joe McKenney (R)
Rep. Scott Sales (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: Rep. Tim Dowell (D)
Rep. Bob Lake (R)
Rep. Holly Raser (D)
Rep. Jon Sonju (R)

Members Absent: Rep. Roger Koopman (R)

Staff Present: Chris Lohse, Legislative Branch
Nina Barfuss, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 151, 1/17/2005; HB 317,
1/17/2005
Executive Action: HB 122, HB 137, HB 258, HB 302

HEARING ON HB 317

Sponsor: REPRESENTATIVE ROBIN HAMILTON, HD 92, Missoula

Opening Statement by Sponsor:

REP. ROBIN HAMILTON HD 92, opened the hearing on **HB 317**, which would allow school boards to meet in places other than schools. This is an important bill that will change one word and it will be amended to strike four words. On Line 19 of the bill he would like to strike the word, "owned" and replace it with the word "accessible." He would put a period after the word, "building" and strike the words, "located within the district." School boards, like legislators are underpaid or not paid at all. They are also overworked. They might come to the services of the district without background or training in running the school district. Like legislators, they need training. Superintendents have discovered that team building and training result in a more efficient school board. **HB 317** allows the school superintendent to meet with the board off-site in an atmosphere more amenable, and in the summer a place that is air conditioned, rather than in a school cafeteria, gymnasium, or staff room. All of the meetings would still be open to the public and notified appropriately. Official business would not take place in the meetings off-site and no official votes would be taken. Missoula, being the largest district in the Missoula County, is also at the center of a consortium curriculum with members as far away as Drummond and Superior. Out of courtesy to them, it would nice if sometimes people from their schools didn't have to drive to Missoula for every meeting.

Proponents' Testimony:

Jim Clark, Superintendent of Missoula Public Schools, said he is responsible for the bill coming forward. His school system has opportunities for training and team building with his boards. At present he cannot schedule anywhere but in a public building within the school district. In the past he has had experience where he was able to meet offsite. Social settings sometimes help with team building. He would hope that the committee would support that concept and allow boards to meet offsite.

Bob Vogel, Montana School Boards Association, stated that in some of the state's rural districts, the school may be the only public location or meeting place for more than just the school board. When a school board must meet in a publicly owned building within the boundaries of the district, it removes the options for other community groups that need the use of the facility at a particular time. If you know about life in some of Montana's

small towns, it doesn't set well when people are told the school board has a meeting so you cannot meet there on that date. It would be good to have some flexibility where the board can meet in another location in a publicly accessible building. The board may not need the size of the school facility or the type of room where the meeting might take place. His organization believes this is a very good bill. It is a solution to a problem that exists in the larger districts as outlined by the sponsor of the bill and in rural communities.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. ANDERSEN wished the sponsor to enlarge on the idea that meetings could be held on other than school property for such as training and there would be no regular school board business conducted. She stated that she couldn't find that statement written in the bill. **REP. HAMILTON** asked her to look at Line 10 of the bill. He believed the information stated on Line 10 assumes there will be no regular school board business at off-site meetings. **REP. ANDERSEN** questioned whether that information should be specifically written into the bill. She believes present wording leaves the situation up to guess work. **REP. HAMILTON** replied that he is open to amendments, if **REP. ANDERSEN** believes there is need for one.

REP. ANDERSEN told Bob Vogel that he had peaked her curiosity when he talked about some of the small districts needing the school board meeting location for some other activity. She asked, "Where would the school board go?" The new location has to be a publicly accessible location. **Mr. Vogel** related that he did not know where that might be in any given community. His thinking is that if the boardroom is typically a place that has some seating capacity to it, that would allow others to join in a meeting, and if there was a community group that needed that space, the board could find another location. Usually anyone in a small town would know where the location could be found. It might be a challenge. The bill may not solve the problem everywhere, because there may not be another publicly accessible location in a particular community.

His organization's reading of the bill is that it would be allowable for a board to hold a regular meeting, unless the sponsor would like to put the restriction on it that stated no decisions could be reached. His preference and suggestion would be that there is no harm in keeping the language exactly the way

it is written at present. The meeting would still be properly noticed. There is no other change in the statute. The board could be sure that the change of meeting place could be placed on the door of the regular meeting room.

REP. WARD reminded the sponsor that **REP. WARD** is co-sponsor of the bill and he wanted to clarify that because, Line 18 reads, "Except for an unforeseen emergency, meetings must be conducted in school buildings or in a publicly accessible building...." Line 27 says, "For the purpose of Subsection 3, regarding special meetings, "unforeseen emergency" is defined. **REP. WARD** sees the meetings being held on school district property whenever it is most practical to do so. He inquired of **REP. HAMILTON** if he had the correct understanding. **REP. HAMILTON** told **REP. WARD** he is correct.

REP. ANDERSEN asked **REP. HAMILTON** if the portion of the bill which had been pointed out by **REP. WARD** would include the possibility of the school board going somewhere for a training session. **REP. HAMILTON** said, "It would not." **REP. ANDERSEN** sees the bill as being for an emergency situation. **REP. HAMILTON** assured her that that was not his intent in bringing the bill forward. The intent of **HB 317** was to let a superintendent call a meeting outside of a school gymnasium or school room, particularly in the summer months for a purpose other than regular district business. If the superintendent could call a meeting someplace beside a school building or publicly owned building, it would not be for official business, but for something like training, team building or, in the case of Missoula, a meeting of a larger multi-county consortium.

REP. VILLA required information from Mr. Vogel. He inquired, "Should the meeting be properly noticed, and all preliminary required actions taken, doesn't the bill allow the meeting to be held in a publicly accessible location." **Mr. Vogel** replied that he reads the bill in that manner. **Mr. Vogel** would suggest that the sponsor stay with the original wording of the bill.

REP. GRINDE asked Mr. Vogel if it is possible now for a school board to go someplace off-site and have a training session. **Mr. Vogel** advised that she was correct as long as the building is publicly owned and within the boundaries of the school district. **REP. GRINDE** questioned if it could not schedule a meeting at the local hotel. **Mr. Vogel** answered, "That is correct."

REP. BUTCHER clarified with the sponsor that a training session is not a regular board meeting. **REP. HAMILTON** replied that after

consultation, he has decided to withdraw the amendment that would strike the words. **REP. BUTCHER** summarized that the intent of the bill is to open the possibility for a school board to have regular school board meetings and make decisions anywhere within the district. He is curious about whether the board could go anywhere it wanted as long as there is public access. **REP. HAMILTON** replied, "I think you are correct."

Closing by Sponsor:

REP. HAMILTON recommended a "do pass" on the bill.

HEARING ON HB 151

Sponsor: **REP. KATHLEEN GALVIN-HALCRO, HD 26, Great Falls**

Opening Statement by Sponsor:

REP. KATHLEEN GALVIN-HALCRO, opened the hearing on **HB 151**, which would waive some university tuition for K-12 teachers' continuing education credits. It would allow the Board of Regents to waive tuition for one credit each year at a unit of the University System for teachers and special education instructors and school consultants. The credits can accrue over a five-year period so a qualified teacher or specialist could use one, two, or all five credits at one time if the teacher had saved them up. If the teacher fails to use the credits, the credits go away. The sponsor see the bill as a necessary piece of legislation to the state because across Montana, a majority of new teachers enter the profession with the burden of student loan debts ranging from \$15,000 to \$30,000. New and experienced teachers are required to continue their education to keep and maintain their teaching certificate. Across the state there is a teacher shortage in some disciplines. The bill would allow teachers and specialists to work toward other endorsement areas where there is a shortage.

Proponents' Testimony:

Cathy Conover, Montana State University and representing the University System in place of Commissioner Stearns. The University System supports **HB 151**. She said she needed to comment that they have a concern about the fiscal note. The fee waivers are essentially lost revenue to the University System. It leaves the University System to cover \$163,000 in the first year and \$326,000 in the second year. To do that, they would be looking to tuition increases to cover the loss.

Erik Burke, MEA-MFT, rose in support of the bill. It addresses what has long been a struggle for many beginning Montana teachers. Teachers are required to renew their teaching certificate every five years. Three of the required credits must come from a university program or course for a majority of the beginning teachers in the state. Perhaps the only flaw in the bill is that the funding is not placed in the bill from the state level.

Megan Dumas, Associated Students of Montana State University, stood in support of the bill.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WARD question Ms. Conover about her statement that the university system would need to raise tuition to fund this bill.

Ms. Conover remarked that there was an expectation that the system would increase tuition to cover the cost of the bill directed at the university system. The option would be there for the system to absorb the cost, but the key point for them is it represents lost revenue. The system makes it up by reallocating from another source, or it increases tuition.

REP. WINDHAM also had a question for Ms. Conover. She was also concerned about the fiscal note for **HB 151**. She wanted to know how great the increase in tuition would be for each student. **Ms. Conover** said she could not answer that question as it would depend on how many students took the courses on the University of Montana Campus. **Ms. Conover** emphasized that the regents would not have to direct a raise in tuition to cover the bill. **REP. WINDHAM** was inclined to believe that the committee was being asked to pass a bill, but it didn't know how it would affect any given student enrolled in the University System in the future.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 30}

{Tape: 1; Side: B}

Ms. Conover said if the bill passed, it would be an unfunded mandate. It is a permissive waiver, and the University System does provide permissive waivers. It could mean the system might have to cover the state's portion also. **Ms. Conover** stated that she was aware she was not answering the question very well.

REP. ANDERSEN question Ms. Conover about the teacher that saved the credits and used three or more at one time. She was curious

about whether that would cause a problem for the university system. **Ms. Conover** answered that it would be a problem where there is no predictability in terms of when the fee waivers would be applied.

REP. WARD inquired of **REP. GALVIN-HALCRO** whether the waiving of selected non-resident students' fees is a recruiting tool. **REP. GALVIN-HALCRO** told him that what he was reading in the bill is already in law. There are out of state students that do receive an advantage and it could be a recruiting tool.

REP. BUTCHER asked the SPONSOR if this waiver would apply for football players, as an example. **REP. GALVIN-HALCRO** said it was an academic cause waiver.

Closing by Sponsor:

REP. GALVIN-HALCRO closed by stating that she would refute the argument that the bill may increase tuition fees for other students. The bill gives the opportunity and the encouragement to teachers who are in the profession now (especially new teachers) to go back and work on their masters degrees and work on other endorsement areas. They would be paying tuition. One credit a year would be waived. They could save them up and use them all at one time. The bill is a simple tool to allow teachers in Montana to stay in Montana and encourage them to pursue their education in the state.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6}

EXECUTIVE ACTION ON HB 122

Motion: **REP. BRANAE** moved that HB 122 DO PASS.

Discussion:

REP. ANDERSEN stated that she believed the bill was presented to solve a problem in a particular school district and the problem could be solved in that district with the local school board. She opposed the bill.

Substitute Motion/Vote: **REP. SALES** moved that HB 122 BE TABLED. Motion carried unanimously by voice vote. REPS. DOWELL, KOOPMAN, LAKE, RASER, and SONJU voted by proxy.

EXECUTIVE ACTION ON HB 137

Motion: REP. BRANAE moved that HB 137 DO PASS.

Motion/Vote: REP. BRANAE moved that HB 137 BE AMENDED. Motion carried unanimously by voice vote. REPS. DOWELL, KOOPMAN, LAKE, RASER, and SONJU, voted by proxy

Motion: REP. BRANAE moved that HB 137 DO PASS AS AMENDED.

Discussion:

REP. ANDERSEN stated that she is opposed to the bill. There had been a program that was scheduled and funded with federal money, to work with the dropout problem that Montana has been experiencing. She believes that the results of that program might be sufficient to accomplish some of the recommendations talked about in the bill hearing.

REP. GALVIN-HALCRO questioned REP. ANDERSEN as to what program the REPRESENTATIVE was referencing. REP. GALVIN-HALCRO had not been able to attend the bill hearing. REP. ANDERSEN stated there was some federal money that came into the Browning School District. There was some testimony on it during the 2003 Session. REP. GALVIN-HALCRO inquired as to whether the money was federal money or grant money. REP. ANDERSEN said it might have been grant money.

REP. CAMPBELL informed the committee that if she recalled from Stan Juneau's testimony, Mr. Juneau indicated that he had applied for a Dropout Prevention Grant for Browning schools. She did not know if the money was available to other Indian schools in Montana.

REP. BRANAE asserted that everyone must realize what a problem the dropout rate situation is, and he sees the bill as a valid attempt to solve the problem. He believed it was important to remember that Governor Schweitzer was providing money in his budget to fund the bill.

REP. GALVIN-HALCRO affirmed that the Governor's Office is in strong support of the bill. The funding is in the Governor's Budget.

Vote: Motion failed 8-8 with REPS. BRANAE, CAMPBELL, DOWELL, GRINDE, RASER, VILLA, WINDHAM, and GALVIN-HALCRO voting aye. REPS. DOWELL, KOOPMAN, LAKE, RASER, SONJU, and VILLA voted by proxy by roll call vote.

EXECUTIVE ACTION ON HB 258

Motion: REP. BRANAE moved that HB 258 DO PASS.
[EXHIBIT](#) (edh16a01)

Discussion:

Chris Lohse was asked by the Chairperson to explain the amendments offered by REP. KOOPMAN. He proposed placing a restriction on the people eligible for the benefit by saying, "As an American Indian Studies Curriculum Director or as a teacher in a teaching position in which at least 50% of the instruction is dedicated to American Indian Studies." The text of the bill did not specify what curriculum the teacher candidate had to be offering in order to secure the benefits of the privilege. On Page 2, similar language would be inserted on Line 28.

Motion/Vote: REP. SALES moved that HB 258 BE AMENDED. Motion carried 9-7 by roll call vote with REPS. GALVIN-HALCRO, CAMPBELL, DOWELL, GRINDE, RASER, VILLA, WINDHAM, voting no. REPS. KOOPMAN, LAKE, RASER, DOWELL and SONJU voted by proxy.

Motion: REP. SALES moved that HB 258 DO PASS AS AMENDED.

Discussion:

REP. CAMPBELL said she went to her mother who is a non-Indian school teacher. She asked her mother why there would be a need for Indian preference on a reservation that has an Indian school board. The mother said that a person has to remember that one is dealing with an oppressed people. Indians have always believed that they are "Not quite good enough." When they elect a school board, the board is placed in a position to make a decision. They want the best education for their children. Sometimes the board will not select an Indian teacher because the board has been led to believe that Indians are "Not quite good enough." Her mother believes preference is needed.

REP. WARD expressed having difficulties with the bill as amended. His impression is that the bill implies that when the state enacts The Indian Education for All, that person will need a particular curriculum item on Indian education rather than have

it as an integral component of social studies, history, or civics. The state will have to create another class so the bill can be employed. As amended, it says at least 50% of the instruction is dedicated to American Indian studies. That would profoundly affect the curriculum.

REP. WINDHAM moved to suspend the rules for reconsideration of the amendment. The title does not conform with the language.

REP. GALVIN-HALCRO asked Chris Lohse to speak on whether the amendment fits in the title of the bill. **Mr. Lohse** said the amendment may be out of the scope of the title of the bill, due to the fact that there seems to be a drafting error. If one takes a look at the insertion that goes with the title, "...as an American Indian Curriculum Director or as a teacher in a teaching position in which at least 50% of the instruction is dedicated to American Indian studies," followed by what takes place in the actual body of the amendment "as either an American Indian Studies Curriculum Director or in a position in which at least 50% of the instruction is dedicated to American Indian students." Mr. Lohse believed the amendment would be unconstitutional.

REP. GALVIN-HALCRO stated that she agreed with Mr. Lohse and thanked REP. WINDHAM for bringing the situation to the attention of the committee.

REP. ANDERSEN asked Mr. Lohse if he believed the amendment was unconstitutional or that the amendment did not fit in the title of the bill. **Mr. Lohse** iterated that according to the constitution if it does not fall within the scope of the title, it is an unconstitutional provision.

REP. GALVIN-HALCRO suspended executive action on **HB 258** until a later date.

{Tape: 2; Side: A}

EXECUTIVE ACTION ON HB 302

Motion: **REP. VILLA** moved that **HB 302 DO PASS.**

Discussion:

EXHIBIT (edh16a02)

Motion: **REP. VILLA** moved that **HB 302 BE AMENDED.**

Discussion:

REP. VILLA said his amendments are based on the discussion the committee had during the bill hearing. The first amendment addressed **REP. DOWELL'S** concerns that the bill may not accurately portray the needs of small school districts. The second amendment incorporates the needs of school board members to be able to coordinate effectively, at the levying mills as appropriate to district budgets and approved by the voters. It incorporates the requests to not be solely "in support of" but also incorporates "or opposition to."

REP. GALVIN-HALCRO called on Mr. Lohse. He reminded the committee that during the hearing for the bill, there were questions about the original adoption of the changes that prohibited superintendents from being able to speak on the matters addressed in the bill. Mr. Lohse passed out the testimony from the hearing on **SB 205**, held in the 2001 Session. The handout did not contain the testimony given at the hearing. [EXHIBIT \(edh16a03\)](#)

REP. GRINDE asked **REP. VILLA** about a designated employee in a district without a superintendent. She wished to know who would designate the employee. She is assuming the employee is designated by the school board, but **REP. VILLA** used the example of a lead teacher or principal. In the amendment language, she does believe it would have to be a lead teacher or principal.

REP. VILLA referred the question to Bob Vogel, MSBA, without objection. **Mr. Vogel** replied that her assumption is technically true. In the context of the bill, a designated employee would be designated by the board as the administrator for the issue at hand. Potentially that person could be a teacher. The language of the amendment keeps the language open for the designated employee.

REP. ANDERSEN asked Bob Vogel if the language in the amendment was acceptable to MSBA. **Mr. Vogel** assured the Representative that they had had conversations after the bill hearing with the bill sponsor and with Mr. Svee, and MSBA prefers the language in the amendment to that which was discussed during the hearing.

Vote: The motion to amend **HB 302** passed unanimously on a roll call vote. **REPS. DOWELL, KOOPMAN, LAKE, RASER and SONJU** voted by proxy.

Motion/Vote: **REP. VILLA** moved that **HB 302 DO PASS AS AMENDED**. Motion passed unanimously on a roll call vote. **REPS. DOWELL, KOOPMAN, LAKE, RASER and SONJU** voted by proxy.

ADJOURNMENT

Adjournment: 4:08 P.M.

REP. KATHLEEN GALVIN-HALCRO, Chairman

NINA ROATCH-BARFUSS, Secretary

KG/NB

Additional Exhibits:

EXHIBIT ([edh16aad0.PDF](#))