

Montana State Legislature

2015 SESSION

ADDITIONAL DOCUMENTS

Business Page

[Signed by Chairman]

Roll Call

Standing Committee Reports

Tabled Bills

Fiscal Reports

Rolls Call Votes

Proxy Forms

Visitor Registrations

***Any other documents, which were submitted after the committee hearing has ended and/or was submitted late [within 48 hours], regarding information in the committee hearing.**

***Witness Statements that were not presented as exhibits.**

Montana Historical Society Archives

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2015 Legislative

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BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
64th LEGISLATURE - REGULAR SESSION**

HOUSE EDUCATION COMMITTEE

Date: Friday, February 20, 2015
Place: Capitol

Time: 3:00 PM
Room: 137

BILLS and RESOLUTIONS HEARD:

HB 433 - Providing a tuition tax credit for K-12 education - Rep. Seth Berglee
HB 540 - Revise natural resource development K-12 funding payment - Rep. Daniel Salomon

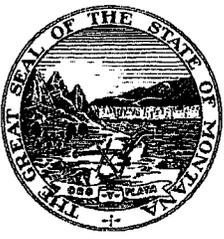
EXECUTIVE ACTION TAKEN:

HB 540-TABLED
HB 284- DO PASS AS AMENDE
HB 339- TABLED

Comments:

ADDITIONAL EXHIBIT-HB 339


REP. Sarah Laszloffy, Chair



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

EDUCATION COMMITTEE

Friday, Feb. 20, 2015

ROLL CALL

NAME	PRESENT	ABSENT/EXCUSED
REP. SARAH LASZLOFFY, CHAIR	✓	
REP. DEBRA LAMM, VICE CHAIR	✓	
REP. EDIE MCCLAFFERTY, VICE CHAIR	✓	
REP. BRYCE BENNETT	✓	
REP. JEFF ESSMANN		✓
REP. MOFFIE FUNK		✓
REP. EDWARD GREEF	✓	
REP. GREG HERTZ	✓	
REP. KATHY KELKER		✓
REP. G. BRUCE MEYERS	✓	
REP. MATTHEW MONFORTON	✓	
REP. JEAN PRICE	✓	
REP. DANIEL SALOMON	✓	
REP. NICHOLAS SCHWADERER		✓
REP. SUSAN WEBBER	✓	

15 MEMBERS

1950

1951

1952

1953



HOUSE STANDING COMMITTEE REPORT

February 20, 2015

Page 1 of 3

Mr. Speaker:

We, your committee on **Education** recommend that **House Bill 284** (first reading copy -- white) **do pass as amended.**

Signed: *Sarah Laszloffy*
Representative Sarah Laszloffy, Chair

And, that such amendments read:

1. Title, page 1, line 6.

Strike: "OR NONPUBLIC ACCREDITED SCHOOL"

2. Title, page 1, line 7.

Strike: "AND"

Following: "POLICY"

Insert: "; AND PROVIDING FOR ENFORCEMENT AGAINST A VIOLATION IN DISTRICT COURT"

3. Page 1, line 11.

Strike: "4"

Insert: "5"

4. Page 1, line 16.

Following: "student"

Insert: "or employee"

5. Page 1, line 16 through line 17.

Following: "that is"

Strike: "repeated" on page 16 through "time" on line 17

Insert: "persistent, severe, or repeated"

Committee Vote:

Yes 15, No 0

Fiscal Note Required

HB0284001SC.hbb

OK
2/20/15
9:30

6. Page 1, line 18.

Following: "causes a"

Strike: "student"

Insert: "person"

Following: "damages a"

Strike: "student's"

Insert: "person's"

Following: "places a"

Strike: "student"

Insert: "person"

7. Page 1, line 19.

Strike: "student"

Insert: "person"

Strike: "student's"

Insert: "person's"

8. Page 1, line 21.

Following: "benefit;"

Strike: "or"

9. Page 1, line 22.

Following: "school"

Insert: "; or

(d) with respect to an employee in relation to a student or another employee, causes a student or employee to believe that the exercise of the student's or employee's first amendment rights under the United States constitution is being unreasonably suppressed"

10. Page 1, line 27.

Following: "public K-12"

Strike: "or PK-12" through "accredited"

11. Page 2, line 9.

Following: "school policy" on line 9

Strike: "and"

Insert: ", "

12. Page 2, line 10.

Following: "agreements"

Insert: ", and any other sanction authorized by law"

13. Page 2, line 12 through line 13.

Strike: "or nonpublic" on line 12 through "shall" on line 13

Insert: "must"

14. Page 2, line 14.

Strike: "or nonpublic accredited school"

15. Page 2, line 15 through page 3, line 3.

Strike: ", but each" on page 2, line 15 through "20-7-102" on page 3, line 3

16. Page 3, line 4.

Insert: "NEW SECTION. **Section 5. Enforcement -- exhaustion of administrative remedies not required.** A person alleging a violation of [sections 1 through 5] may bring an action in district court to enjoin another person from continuing to engage in the violation or for doing any act that contributes to the violation. The person alleging a violation is not required to exhaust any administrative remedies prior to bringing the action."

Renumber: subsequent sections

17. Page 3, line 5.

Following: "through"

Strike: "4"

Insert: "5"

18. Page 5, line 6.

Following: "through"

Strike: "4"

Insert: "5"

- END -

BILL TABLED NOTICE

HOUSE EDUCATION COMMITTEE

The HOUSE EDUCATION COMMITTEE TABLED

HB 339 - Clarify school district open meeting laws - Rep. Ryan Lynch

HB 540 - Revise natural resource development K-12 funding payment - Rep. Daniel Salomon

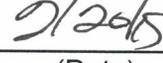
by motion, on **Friday, February 20, 2015** (PLEASE USE THIS ACTION DATE IN LAWS BILL STATUS).



(For the Committee)



(For the Chief Clerk of the House)

 | 

(Time) (Date)

February 20, 2015 (7:21pm)

Nadia Zylawy, Secretary

Phone: 444-4872



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

EDUCATION COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 339

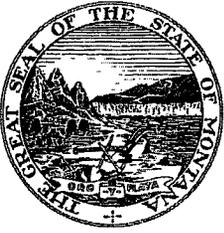
DATE 2-20-15

MOTION Do Pass

(motion failed)

NAME	AYE	NO	PROXY
REP. DEBRA LAMM, VICE CHAIR		✓	
REP. EDIE MCCLAFFERTY, VICE CHAIR	✓		
REP. BRYCE BENNETT	✓		
REP. JEFF ESSMANN		✓	
REP. MOFFIE FUNK	✓		
REP. EDWARD GREEF		✓	
REP. GREG HERTZ		✓	
REP. KATHY KELKER	✓		
REP. G. BRUCE MEYERS		✓	
REP. MATTHEW MONFORTON		✓	
REP. JEAN PRICE	✓		
REP. DANIEL SALOMON	✓		
REP. NICHOLAS SCHWADERER		✓	✓
REP. SUSAN WEBBER	✓		
REP. SARAH LASZLOFFY, CHAIR		✓	

7 8
15 MEMBERS



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

EDUCATION COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 540

DATE 2-20-15

MOTION Substitute Motion to Be Tabled

(motion passed)

NAME	AYE	NO	PROXY
REP. DEBRA LAMM, VICE CHAIR	✓		
REP. EDIE MCCLAFFERTY, VICE CHAIR		✓	
REP. BRYCE BENNETT		✓	
REP. JEFF ESSMANN	✓		
REP. MOFFIE FUNK		✓	
REP. EDWARD GREEF	✓		
REP. GREG HERTZ	✓		
REP. KATHY KELKER		✓	
REP. G. BRUCE MEYERS	✓		
REP. MATTHEW MONFORTON	✓		
REP. JEAN PRICE		✓	
REP. DANIEL SALOMON		✓	
REP. NICHOLAS SCHWADERER	✓		✓
REP. SUSAN WEBBER		✓	
REP. SARAH LASZLOFFY, CHAIR	✓		

8 7

15 MEMBERS

1944

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The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

EDUCATION COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 284

DATE 2-20-15

MOTION Be Amended
(motion passed)

NAME	AYE	NO	PROXY
REP. DEBRA LAMM, VICE CHAIR	✓		
REP. EDIE MCCLAFFERTY, VICE CHAIR		✓	
REP. BRYCE BENNETT		✓	
REP. JEFF ESSMANN		✓	
REP. MOFFIE FUNK		✓	
REP. EDWARD GREEF	✓		
REP. GREG HERTZ	✓		
REP. KATHY KELKER		✓	
REP. G. BRUCE MEYERS	✓		
REP. MATTHEW MONFORTON	✓		
REP. JEAN PRICE		✓	
REP. DANIEL SALOMON	✓		
REP. NICHOLAS SCHWADERER	✓		
REP. SUSAN WEBBER		✓	
REP. SARAH LASZLOFFY, CHAIR	✓		

8 7
15 MEMBERS



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

EDUCATION COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 284

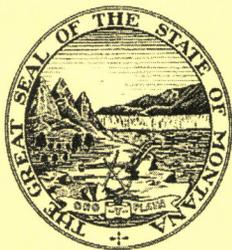
DATE 2-20-15

MOTION Be Amended HB 028403. ALS

(motion passed)

NAME	AYE	NO	PROXY
REP. DEBRA LAMM, VICE CHAIR	✓		
REP. EDIE MCCLAFFERTY, VICE CHAIR	✓		
REP. BRYCE BENNETT	✓		
REP. JEFF ESSMANN	✓		
REP. MOFFIE FUNK	✓		
REP. EDWARD GREEF	✓		
REP. GREG HERTZ	✓		
REP. KATHY KELKER		✓	
REP. G. BRUCE MEYERS	✓		
REP. MATTHEW MONFORTON	✓		
REP. JEAN PRICE	✓		
REP. DANIEL SALOMON	✓		
REP. NICHOLAS SCHWADERER	✓		✓
REP. SUSAN WEBBER	✓		
REP. SARAH LASZLOFFY, CHAIR	✓		

15 MEMBERS



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY

I request to be excused from the House Education

Committee because of other commitments. I desire to leave my proxy vote with:

VC - Rep Debra Lamm

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

Table with columns: BILL/AMENDMENT, AYE, NO, BILL/AMENDMENT, AYE, NO. Contains handwritten entries for bills HB 540, HB 339, HB 284, and HB 028404-03 with 'Aye' votes.

Rep. [Signature] (Signature)

Date 2-20-2015

2011-01-01

2011-01-01

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**MONTANA House of Representatives
Visitors Register
HOUSE EDUCATION COMMITTEE**

Friday, February 20, 2015

HB 433 - Providing a tuition tax credit for K-12 education

Sponsor: Rep. Seth Berglee

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Robert Filipovich	self		X	
Michelle Herrington	self		X	
Marco Ferris	MEA-M&T		X	
Madalyn Quinlan	OPT		X	
Will Randall	self		X	
Sharla Crawford	Teachers - Students		X	
Pat Kemp	self		X	
Marty Elizabeth Ortiz	Self-MHRN		X	
Dan Dodds	DOR			X
Nathan Kosted	Self		X	
Joe Balgert	AFP-MT	X		
JAMES Molloy	Governor Bullock		X	
Heather O'Loughlin	MT Budget + Policy Center		X	
Dianne Burhe	ME&EC		X	
Erin	MT W&Y		X	
Susie Hamilton	Self		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

TO: Montana House Education Committee – February 20, 2015

FROM: Jan Anderson, 406-225-3821 or 406-459-3908

HB 339

RE: HOUSE BILL 339

As the only opponent to testify at the committee's hearing on HB 339, I have learned you since received a *packet of information from Sabrina Steketee labeled HB 339 AG and SC Opinions*. I urge you to consider those materials with care and consider these **points to be detailed below**:

A. THOSE OPINIONS ARE NOT RELEVANT TO THE TOPIC OF HB 339 OR CONTROLLING OF MONTANA'S OFFICIAL POSITION ON MATTERS IN HB 339.

B. THERE ARE EXISTING MONTANA STATUTES MORE DIRECTLY RELATED TO HB 339 AND DIFFERENT FROM THE PACKET'S CONTENTIONS.

C. IF THE COMMITTEE PERCEIVES AN ISSUE IN NEED OF RESOLUTION, THERE ARE MORE NARROWLY FOCUSED WAYS TO ADDRESS THAT AND A POSSIBLE AMENDMENT IS INCLUDED.

A. RELEVANCE OF PACKET MATERIALS

1. The only Montana Supreme Court opinion submitted (*St v Willis*) DOES NOT ADDRESS QUORUM and expressly says so in the final sentence of item 1, midway down the last page of the opinion: "We are not called upon to determine whether a majority of a bare quorum will suffice, as suggested by the respondent, nor what might be the situation if 10 of the aldermen were killed at one time, as suggested by the appellant; happily neither situation is presented, and we confine ourselves to a determination of the case as made by the record." The case is about MAJORITY, NOT QUORUM, so is not relevant. Also it is from 1913 under a prior Montana Constitution.

2. Opinion of Missoula City Attorney: The only case law referenced is *St v Willis* as above. This is a city opinion based only on a case that does not deal with the definition of quorum. Even the opinion writer cautions "it would be prudent to strive for a quorum of four (4); so there are no legal doubts." As the committee was told in Steketee's testimony at hearing, the Jefferson County Attorney had an opinion that differed from this.

3. Lake County Attorney reference to MT AG Opinion from Volume 42, Op. 51, 1998: The highlighted portion does not address HB 339's issue. It only says that no one but the elected officials are elected officials. The opinion says the department head of a state agency is not part of the constituent membership. That is not relevant to HB 339.

4. AG Opinion from Vol. 47, Op. 20, 1998: This does NOT define a quorum as in the bill. It deals with whether an elected city council person no longer counts as a council member when acting as president of the council and acting mayor. This is about cities, not school boards, and is a very different set of facts. Three of the four elected council persons on the full council were involved, not altering in any way the presence or definition of a quorum.

5. West Virginia Ethics Commission Committee: Based on West Virginia code, not Montana Code Annotated, it specifically says it "does not purport to interpret other laws or rules." It also limits its own applicability EVEN IN WEST VIRGINIA to situations in which "the underlying facts and circumstances surrounding the action are the same or substantially the same..." In addition, it is from 2007 and says it stands "until it is amended or revoked." The committee was not presented with evidence regarding any subsequent changes.

B. MORE RELEVANT MONTANA STATUTES

As noted in my testimony at hearing, Montana statutes allow the legislature to utilize the theory of a reduced quorum similar to proposed in HB 339 "following an enemy attack." **10-3-606. Quorum requirement. If, following an enemy attack, the legislature or any state or local government council, board, or commission is unable to assemble a quorum as defined by the constitution of Montana or by statute, then those legislators or members of the council, board, or commission available for duty shall constitute the legislature, board, or commission and quorum requirements shall be suspended. Where the affirmative vote of a specified proportion of members for the approval of any action would otherwise be required, the same proportion of those voting thereon shall be sufficient.** This provision, with roots in the 1947 and 1967 Legislatures, clearly signals that those legislatures and succeeding ones believed there needed to be a major – even dire – reason for altering the quorum requirement.

As also noted in my testimony, other statutes detail how to fill a county commission vacancy when a quorum cannot be

established: 7-4-2106. Vacancy on board of county commissioners (5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the county compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c) of this section, appoint enough commissioners to allow for a quorum to be established. The vacancies must be filled in the order in which the commissioners' terms would have expired. (b) If vacancies occur at different times but, because appointments have not yet been made, a quorum cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough commissioners to allow for a quorum to be established.

As well, MCA defines emergencies for school boards: 20-3-322 (5) For the purposes of this section, "unforeseen emergency" means a storm, fire, explosion, community disaster, insurrection, act of God, or other unforeseen destruction or impairment of school district property that affects the health and safety of the trustees, students, or district employees or the educational functions of the district.

And MCA describes how a vacant trustee position may be filled: 20-3-309. Filling vacated trustee position -- appointee qualification and term of office. (1) Whenever a trustee position becomes vacant in any district, the remaining members of the trustees shall declare the position vacant and they shall appoint, in writing within 60 days, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of the appointment. If the trustees do not make the appointment within the 60-day period, the county superintendent shall appoint, in writing, a competent person as a successor and notify the person of the appointment.

C. NARROWLY FOCUSING THE BILL IF NEEDED

I continue to urge the defeat of this bill, but if the committee perceives an issue in need of a solution, I urge a narrow focus.

SUGGESTED AMENDMENT OF THE BILL

"Whenever a board has more vacant positions than filled positions, making it impossible to convene a quorum to conduct business, all of the existing members in filled seats may meet as a quorum and conduct business limited to addressing an emergency as defined in 20-3-322 (5), MCA. The county superintendent elected by voters in the affected school district may appoint, without the 60-day delay required in 20-3-309 (1), MCA, enough members to return the board to having fewer vacancies than filled positions. When that is accomplished, the board may conduct business as usual."

The reason for empowering the county superintendent to appoint rather than the remaining board members is the county superintendent is elected from a wider geographic area than some school trustees and is subject to removal by voters throughout the entire school district, unlike trustees elected from only a portion of the school district.

THANK YOU FOR CONSIDERING THESE MATERIALS. If I can answer any questions, please contact me through the phone numbers above. And thank you for your service on the legislature.