

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DON RYAN**, on March 7, 2005 at 3:15 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Don Ryan, Chairman (D)
Sen. Gregory D. Barkus (R)
Sen. Jerry W. Black (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Sam Kitzenberg (R)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Bob Story Jr. (R)

Members Excused: Sen. Jim Elliott (D)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Lois O'Connor, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 63, 3/7/2005; HB 184, 3/7/2005;
HJ 17, 3/7/2005; HB 623, 3/7/2005
Executive Action: None.

{Tape: 1; Side: A; Time Counter: 0.3}

HEARING ON HB 63

Opening Statement by Sponsor:

REP. DAN VILLA (D), HD 86, said that HB 63 was submitted at the request of the Office of Public Instruction (OPI). HB 63 allows school districts to lease or rent out district property that is categorized as personal property the same as it can with real property. In the summer, for example, Montana has school districts that rent school buses to firefighters. HB 63 would allow the districts to do that.

{Tape: 1; Side: A; Time Counter: 2.1}

Proponents' Testimony:

Joan Anderson, OPI, said that HB 63 is intended only to clarify, correct, and simplify school finance laws and not to significantly affect what has already been passed into law. A proposed amendment is needed to strike "statewide" and insert "facilities guarantee" to allow the bill to refer to the correct section of law. She also asked the Committee to amend the effective date to "effective on passage and approval" so that a school district would know how much their bonding capacities are to lock in an interest rate.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 1; Side: A; Time Counter: 6.5}

Questions from Committee Members and Responses:

SEN. KIM GILLAN, SD 24, asked why impact aid funds were a logical source for funding students in youth detention facilities. **Ms. Anderson** said that 20-9-130, MCA, currently allows school districts to use their tuition funds, which are levied, budgeted funds. In districts that receive impact aid funding from the federal government, the money is intended to make up for the lack up taxable valuation in the districts. A lot of the impact aid districts are on or adjacent to Indian reservations or national forest land and have no taxable valuation making it very difficult for them to raise the tuition levy that would be needed to pay for the required payments to youth detention centers. HB 63 allows them the opportunity to use the money they do have rather than burdening taxpayers further for that payment. **SEN.**

GILLAN asked if it were an allowable use under federal regulations. **Ms. Anderson** said yes.

SEN. ROBERT STORY, SD 30, said that HB 63 allows districts to use their debt service funds to pay for special improvement district (SID) obligations. He asked how schools were currently funding special improvement districts. **Ms. Anderson** said that by administrative rule, OPI has recognized the need to pay SIDs which are assessed much like home SIDs. They are currently funded through the debt service fund. HB 63 is a correction of current practice by school districts that has been in place for many years.

SEN. BOB HAWKS, SD 33, asked if OPI understood the e-mail opposition to HB 63 from Billings. **Ms. Anderson** was unaware of any opposition to HB 63. **SEN. DON RYAN, SD 10**, said that he also receive e-mails from Billings in opposition to HB 63, but they do not say why.

{Tape: 1; Side: A; Time Counter: 10.9}

Closing by Sponsor:

REP. VILLA urged the Committee's concurrence to HB 63.

{Tape: 1; Side: A; Time Counter: 12.0}

HEARING ON HB 184

Opening Statement by Sponsor:

REP. DAVE MCALPIN (D), HD 94, said that HB 184 updates the Library Federation law and change the manner in which the Federations are established and governed. It eliminates the requirement for headquarters library, it allows the membership to elect a federation coordinator and a board of trustees, and it makes the administration a shared responsibility among library members.

{Tape: 1; Side: A; Time Counter: 14.1}

Proponents' Testimony:

Darlene Staffeldt, Montana State Librarian, provided a map of Montana's six library federations and written comments in support of HB 184.

EXHIBIT(eds50a01)

EXHIBIT(eds50a02)

{Tape: 1; Side: A; Time Counter: 17.7}

Bette Ammon, Director, Missoula Public Library, provided written comments in support of HB 184.

EXHIBIT(eds50a03)

Jim Smith, MT Library Association, said that the Association is made up of librarians in many library practice settings that look to the State Library Commission for guidance and leadership. HB 184 delegates additional responsibilities to the State Library. The federations are unique creations that have served the purpose of overcoming the distance and isolation that many Montana communities have by allowing the sharing of resources, expertise, and training among the participating libraries.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 1; Side: A; Time Counter: 22.5}

Questions from Committee Members and Responses:

SEN. STORY asked if **Mr. Smith** saw the Federation creating more federations in Montana under HB 184. **Mr. Smith** said that Montana's federations have been in existence since the 1950s and have withstood the test of time. He did not believe that there would be additional or fewer federations envisioned under HB 184. Its intent is for the current federations to operate more efficiently and in a more streamlined fashion within the existing federations.

Closing by Sponsor:

REP. MCALPIN felt that the librarians have put together a fair package under HB 184, and he urged the Committee's concurrence.

{Tape: 1; Side: A; Time Counter: 24.8}

HEARING ON HJ 17

Opening Statement by Sponsor:

REP. DAVE MCALPIN (D), HD 94, said that HJ 17 is a resolution to promote increased physical activity among Montana's youth. The Center for Disease Control (CDC) estimates that one in three

children born after the year 2000 will eventually be diagnosed with Type 2 or non-hereditary diabetes. Presently, it is estimated that only 8% of elementary children have daily physical education, 6.5% in middle school, and 5.8% in high school. Scientists and experts on nutrition and fitness are estimating that the nation needs to do a better job of educating its children to get them more health enhancement and curriculum. HJ 17 is an encouragement for school districts to look at increasing health enhancement opportunities for their students.

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Proponents' Testimony:

Gloria Lamberts, MT Association For Health, Physical Education, Recreation, and Dance (MAFORD), spoke in support of HJ 17's health enhancement as part of the MT accreditation standards upon which a quality education is built.

Elaine Taylor, MT Beverage Association, said that the beverage industry is being tagged as a cause for child obesity when, in fact, physical activity has declined significant. She provided a parents' opinion survey regarding the need for physical education in schools and information on Coke's "Step With It" program that is currently being provided in schools. She said the Committee has spent a lot of time trying to find funds for basic education, so physical activity is not always a priority. However, she urged the Committee's concurrence with HJ 17.

EXHIBIT(eds50a04)

EXHIBIT(eds50a05)

Opponents' Testimony: None.

Informational Testimony:

Rick Chiotti, OPI, provided written comments on behalf of Superintendent **Linda McCulloch** supporting HJ 17.

EXHIBIT(eds50a06)

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Questions from Committee Members and Responses:

SEN. RYAN asked why HJ 17 has been amended from requiring four years of physical education to consider additional health enhancement. **REP. MCALPIN** said the approach was not to take an aggressive stance to work with groups, such as is done in

Wyoming. He felt there were more flexible approaches to this situation. Rather than mandate four years, stakeholders felt the language in HJ 17 would better match the curriculum requirements of two years of health enhancement.

SEN. DANIEL MCGEE, SD 29, asked **REP. MCALPIN** to clarify the language "the lack of community recreational facilities". **REP. MCALPIN** said that in speaking with **REP. CAFERRO**, she said that in the past, the Helena Middle School had evening activity hours at its gym. It has been discontinued because of liability issues. He hoped HJ 17 and the weight that it bears would encourage local officials to continue to allow recreational facilities to be used as they had been in the past. **SEN. MCGEE** said that he did not want the lack of adequate community recreational facility to bear on the issue because it is not accurate. **REP. MCALPIN** felt that it was a fair statement to include in HJ 17. It was meant to point out that whereas the facilities are there, they may not be utilized to the full extent possible. He preferred that the language remain in the bill.

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SEN. RYAN said that there is a school district in Great Falls that has twice the amount of physical education required for graduation than what is required in the accreditation standards. When looking at budget cuts, people in the community are saying that it is something to cut. He asked for a response. **REP. MCALPIN** said that it illustrates the very need for the resolution. HJ 17 may show the problem as it is looming large on the horizon, and local citizens may not realize how important and costly obesity could be if the state has to incur the cost of one in three children being diagnosed with Type 2 diabetes. **SEN. RYAN** asked if the state should rid high schools and elementary and middle schools of pop machines. **REP. MCALPIN** said that he preferred a local approach to that decision. He would support it in his local community but would not mandate it on other communities.

Closing by Sponsor:

REP. MCALPIN more additional information on diabetes and testimony from the American Heart and Stroke Association.

[EXHIBIT \(eds50a07\)](#)

[EXHIBIT \(eds50a08\)](#)

[EXHIBIT \(eds50a09\)](#)

[EXHIBIT \(eds50a10\)](#)

[EXHIBIT \(eds50a11\)](#)

He said that there are different approaches that the state could take to address the problems of obesity and diabetes. Montana needs to acknowledge the problem with a measure like HJ 17 because it will be an increasingly costly problem in the future. He urged the Committee's support of HJ 17.

{Tape: 1; Side: B; Time Counter: 9.6}

HEARING ON HB 623

Opening Statement by Sponsor:

REP. GARY MACLAREN (R), HD 89, said that HB 623 is brought forward on behalf of one of his constituents who is a school board trustee. His concern is that current law is not clear with respect to a school districts obligation to transport children to school. He said that Ravalli County is a rapidly growing county with many subdivision whose main access is private dirt roads. His constituent is afraid that the districts may be sued by requiring the to run buses over the poorly maintained roads. HB 623 clarifies what a district's responsibility is by saying it is up to the trustees to specify whether transportation will be provided over the dirt roads or from a bus stop at the nearest road maintained the state or local government.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 1; Side: B; Time Counter: 11.9}

Questions from Committee Members and Responses:

SEN. MCGEE said that with county governments relying more and more on subdivision improvement districts or homeowners associations, they are not approving new county roads. Where people are going to be living will not be part of a bus route. He asked what prompted the legislation. **REP. MACLAREN** said that although, the district currently runs buses over some private roads because they are well maintained, it does not want to be forced to run buses over poorly maintained roads. **SEN. MCGEE** said that if HB 623 is passed, it will become a statewide law. Portions of the rest of the state do not have this type of circumstance. He was leery that the Legislature would be opening a door to something that it may not want to have opened. **REP. MACLAREN** said that although it would be statewide law, HB 623 also states that it is up to the discretion of the board of

trustees to decide where they will run buses. Should it become a problem in other counties, the decision would be up to the boards. Currently, the board of trustees makes the decision to go on private land, but the fear is that they will be sued because the current law is vague.

SEN. STORY said that before Executive Action is taken, the Committee should have someone explain the law. He asked what if a board of trustees wanted to run a bus over a private road route. He said with HB 623 as written, that would not be allowed.

{Tape: 1; Side: B; Time Counter: 18.8}

Closing by Sponsor:

REP. MACLAREN requested the Committee's concurrence of HB 623.

ADJOURNMENT

Adjournment: 4:00 P.M.

SEN. DON RYAN, Chairman

LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

EXHIBIT ([eds50aad0.PDF](#))