MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DON RYAN**, on February 16, 2005 at 3:15 P.M., in Room 102 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: Christopher Lohse, Legislative Branch
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: SB 263, 2/16/2005; SB 341, 2/16/2005; SB 335, 2/16/2005; SB 383, 2/16/2005
Executive Action: None.

{Tape: 1; Side: A; Time Counter: 0.2}

HEARING ON SB 263

Opening Statement by Sponsor:

SEN. CAROLYN SQUIRES (D), SD 48, said that SB 263 limits the term of service for the student regent on the Board of Regents to one year. During the last appointment process, the student regent at that time had been appointed for three years. Since that time, she has worked with many students from the university systems across the state to have the term limited. She stressed that SB 263 was not a political maneuver, only her passion.

SEN. SQUIRES added that an appointment for more than one year gives the appointed student an advantage over other student government members. Accountability to student governments and student families footing the bill is diminished during terms of more than one year.

{Tape: 1; Side: A; Time Counter: 5.9}

Proponents' Testimony:

Jessica Grennan, Lobbyist, Associate Students of the University of Montana-Missoula, provided written comments in support of SB 263 along with a list of former student regents and their terms.

EXHIBIT(eds38a01)
EXHIBIT(eds38a02)
EXHIBIT(eds38a03)

Gerick Kransky, President, Forward Montana, said that he supported a one-year term for the position of student regent for three reasons: (1) the change in legislation constitutes a term for the student regent not a term limit; (2) by requiring the student regent to obtain the nomination and approval of the entire student body each year would encourage open and accountable student representation on the Board; and (3) all students deserve the opportunity to serve as the student regent. The law, as currently written, could exclude the state's 2-year college of technology students from the opportunity. A term of one year provides students with the opportunity to present themselves as a student regent.

{Tape: 1; Side: A; Time Counter: 10.1}

Opponents' Testimony:

Connie Summers, Lobbyist, Associated Students of Montana State University-Billings, said that she understands that SB 263 is to entitle all full-time students at a unit of higher education equal opportunity to partake in such a high honor as representing students on the Board of Regents. She asked that the Committee leave the terms as they are which are determined by the Governor and must be for not less than one year and not more than four years. What the Associated Students are looking for is effective student representation. To get effective student representation, it involves more than just showing up at a Regent's meeting. It involves a period of orientation, a period of learning current statewide issues, and learning the impact of state budgets and their consequences in order to make informed votes. **Ms. Summers** felt that the one-year limit was putting the student regent at a disadvantage.

{Tape: 1; Side: A; Time Counter: 13.5}

Megan Dumas, Associated Students of Montana State University-Bozeman, provided written comments in opposition to SB 263.

EXHIBIT(eds38a04)

Valerie Tutvebt, Student, said that the student regent is the sole voice for students at the Board of Regents. By allowing he or she multiple terms, it gives them the opportunity to get things done and to be an active and effective member of the Board. The presence of the student regent is to be the voice of the students, and what is in the best interests of the 30,000 students across the state should be the consideration of the Committee.

Ms. Tutvebt added that the vo-tech schools do have the opportunity to serve in the student regent position. Over 60% of the students at Helena's College of Technology go on to higher education, and it is at the Governor's discretion to appoint someone to a 2-year term.

Informational Testimony:

Kayla French, Current Student Regent and Sheila Sterns, Commissioner of Higher Education, stood as informational witnesses.

{Tape: 1; Side: A; Time Counter: 19.5}

Questions from Committee Members and Responses:

SEN. JEFF MANGAN, SD 12, asked if **Ms. Dumas** was directed by the student body to speak in opposition to SB 263. **Ms. Dumas** said that the student regent issue has been a topic before the Montana State University Senate meetings nearly every meeting. The MSU Senate universally agreed that MSU students want the power of the student regent to remain. They are concerned with the 1-year period because it would take away from the power of the student regent. She added that there is a MSU Senate resolution on the current student regent but not on SB 263 specifically.

SEN. GREGORY BARKUS, SD 4, asked if the student regent position was a perk that allows student participation in the process or is it student representation. **SEN. SQUIRES** said that it was both. The position is a resume builder, and yet, students get together and work for the position. Governor Martz appointed the last two student regents to 3-year terms which is two people for six years. She felt that inappropriate because it decreased the opportunity for other students to work with the Regents and understand how the system works.

{Tape: 1; Side: A; Time Counter: 27.9}

SEN. ROBERT STORY, SD 30, asked if the proposed 1-year term could be reappointed. **SEN. SQUIRES** said that it was her intention to limit the student regent term to one term per person. **SEN. STORY** felt that it would be important for the student regent to develop relationships in order to be effective. **SEN. SQUIRES** said that normally, the student regent is picked in either their junior or senior year. They will not have the opportunity to establish any particular relationship, and if they did, it would not be for more than two years. **SEN. STORY** was of the opinion that the proper way to solve the issue would be a 2-year appointment and be allowed to serve only once.

{Tape: 1; Side: B; Time Counter: 6.4}

SEN. MANGAN said that from 1985 until the appointment of Student Regent Hur, there were 15 student regents with one year or less appointments. He asked if the 15 students were ineffective during their 1-year terms. **Commissioner Stearns** said that there have been many good Student Regents who have had 1-year terms. However, the issues before the Board have become more complex over the years.

{Tape: 1; Side: B; Time Counter: 8.2}

Closing by Sponsor:

SEN. SQUIRES said that SB 263 is totally based upon a response from university students to limit the student regent position to one year and nothing more. She is trying to fulfill a commitment that she made to the last group of students who did not want Regent Hur to serve three years. She asked that the Committee review the bill objectively and keep politics out of the issue.

{Tape: 1; Side: B; Time Counter: 10.5}

HEARING ON SB 341

Opening Statement by Sponsor:

SEN. KIM GILLAN (D), SD 24, said that SB 341 may pose some confusion because the Committee passed a school funding bill (SB 177) at a previous meeting. However, the answer to the question of whether the Legislature is done with its work on school funding is no. **SEN. GILLAN** provided a summary of SB 341, and hoped that the concepts contained in the bill would move the Legislature closer to a school funding solution.

EXHIBIT(eds38a05)

{Tape: 1; Side: B; Time Counter: 16.7}

Proponents' Testimony:

Jack Copps, MT Quality Education Coalition (MQEC), said that MQEC views SB 341 as a realistic request that will provide immediate, substantial relief to schools until a new funding system is fully implemented to provide resources to school districts based on educationally relevant factors. Montana's school districts are in crisis. They are struggling with the recruitment and retention of teachers, particularly in the smallest, most isolated communities. Schools are struggling to meet accreditation standards, and local communities and districts are struggling to find the resources to construct safe and adequate school facilities. Local districts are also struggling because the state share of funding has declined over the past decade--71% to 60%--causing the burden to be placed on the local property tax base and taxpayer. The 80% level of school funding is not guaranteed to every district in the state. Schools are trying to ensure that they have "quality" by using voted levies to provide the insurance. This is not what Montana's Constitution intended.

Mr. Copps added that the current funding system has not kept up with the educational rate of inflation and is 17% behind the inflationary rate. The state has been short-sheeting education since 1994; and every year by increasing numbers, districts are struggling with frozen budgets and inadequate funding that does not allow them to provide guarantees of quality any longer.

Mr. Copps said that in 1993 when HB 667 was enacted, it provided no mechanism to deal with inflation, no figures based on teacher pay, the cost of meeting accreditation standards, fixed costs of school districts, or the costs of special education. HB 667 was a regression analysis based simply upon previous expenditures whether they were insufficient or not. In addition, information used to construct HB 667 was two years old at the time that it was enacted. HB 667 also provided no analysis to justify the disparity between high school and elementary entitlements. To add to all of this and shortly after enacting HB 667, funding for HB 667 was reduced by $19 million or 4.5% in HB 22 during a special session. Montana has been able to address crisis when it arrives if they are sincerely meaningful and deserve meaningful attention. The approximately $80 million that is currently available is a lot of money, but it is not a lot of money if it does not provide for a minimum increase in the teacher salary base.

The Court also concluded that the state is defenseless on the plaintiff's claim that the state has not implemented Indian Education For All (IEFA) despite the Constitution's directive to do so. The state needs to make absolutely certain that it has all of the resources necessary to begin construction on an action plan to implement IEFA.

In conclusion, **Mr. Copps** said that the District Court did not shy away from the statement that the state is no longer providing adequate funding to schools. It declared that the current school funding system violates Article X of the Montana Constitution. He said that if any other bill passes in the 2005 Session other than SB 341, there will be continuing cuts to school districts and it will not stop the bleeding. He said that all introduced legislation, including SB 341, needs to be in the mix to address school funding.

{Tape: 2; Side: A; Time Counter: 3.1}

Karl Olson, Civil Rights Caucus, provided an overview of Quality Education is a Civil Right, and said that the Civil Rights Caucus believes that quality education must include measures that promote equal protection, equal access, cultural relevance, and the well being of Montana's students.

EXHIBIT(eds38a06)

{Tape: 2; Side: A; Time Counter: 5.3}

Bruce Messinger, Superintendent of Schools, Helena, said that the proposed inflationary adjustment would offset the impact of declining enrollment. It takes the Helena School District $2.2 million a year to honor its contracts and give a 2% inflationary adjustment. SB 341 would allow the District to make an inflationary adjustment while maintaining the same number of employees. Anything less than SB 341 will result in continued reductions in programming.

{Tape: 2; Side: A; Time Counter: 9.5}

Darrell Rud, School Administrators of Montana (SAM), said that over the last 17 years, he has frequently gone away from the Legislature with the message that the state would give schools what is left after they deal with more important things (i.e., they will use what they give to education to balance the budget). The school funding system is broken; and he finds it ironic that the critics of public education say that the state does not have the resources to fix it. **Mr. Rud** said that Montana does have the resources--the more than 146,000 students who are still attempting to have a quality education in the state.

{Tape: 2; Side: A; Time Counter: 13.0}

REP. CAROL JUNEAU, HD 16, provided an overview of Why Adequately Fund Indian Education For All Montanans?. She also provided a copy of the $23 million budget contained in SB 341 for the implementation of Indian Education For All and the Montana Indian Education Association's (MIEA) amicus brief related to the Columbia Falls v. State of Montana school funding lawsuit.

EXHIBIT(eds38a07)
EXHIBIT(eds38a08)
EXHIBIT(eds38a09)

REP. JUNEAU said that Montana is unique in its 1972 constitutional language and promise related to Indian education because it is the only constitutionally mandated curriculum in the state. She said that it was unconscionable that the state has waited 34 years to address this issue; it was unconscionable that it took a lawsuit for the Legislature to be told by the Courts that the state has neglected its duty to provide Indian education to all Montanans; and it was unconscionable that Indian educators have to show up time and time again to plead to the Legislature to fulfill the constitutional promise.

{Tape: 2; Side: A; Time Counter: 22.2}

REP. NORMA BIXBY, HD 41, said that all children in the state need to know about American Indians because Indian children are a part of Montana's educational system. They are not separate, and they attend public schools on a daily basis. She felt that SB 341 was part of the answer, and it attempts to keep the promises made in the Constitution.

{Tape: 2; Side: A; Time Counter: 26.1}

Bob Vogel, MT School Boards Association (MTSBA), said that SB 341 addresses inflationary adjustments because it is a necessary component to any short- and long-term school funding remedy. The MTSBA also believes that SB 341 addresses interdistrict agreements and increases direct state aid (DSA) to offset local property taxes.

Erik Burke, MEA-MFT, said that MEA-MFT believes that it will take over $145 million to get schools back to where they would have been had the state been funding education adequately over the past decade. In the past 10 years, schools have made the cuts, eliminated programs, and eliminated school buildings. It is also becoming harder to ask for adequate teacher salaries when MEA-MFT sees the programs that must be cut to provide them. **Mr. Burke** said that SB 341 represents a coalition of interests, and he urged the Committee's support.

{Tape: 2; Side: B; Time Counter: 3.1}

Joe Lamson, Office of Public Instruction (OPI), spoke in support of SB 341 because it addresses important needs in Montana schools, but particularly because of its IEFA component.

Rod Svee, Superintendent of Schools, Billings, said that he worked for school districts that have been either on or bordered Indian reservations for over 20 years. In 1989 during the first school funding lawsuit, he testified as an expert witness for the cost of accreditation and for Public Law 874 (P.L. 874) dollars (federal impact aid dollars for Indian schools). At the time, the state put no funding into Indian education and relied on the P.L. 874 dollars, which is totally opposite of what the Constitution requires. Currently, the P.L. 874 dollars have decreased as the funding priorities have shifted at the federal level. **Mr. Svee** added that the current funding system does not include maintenance or capital construction which are issues contained in every one of the Supreme Court decisions. He supports any legislation that keeps options open for schools.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 2; Side: B; Time Counter: 10.1}

Questions from Committee Members and Responses:

SEN. RYAN asked how the state could respond to the statutory spending cap in light of the Court decision. **Mr. Copps** said that statutory spending caps cannot trump the Constitution or the obligation the state has to education nor can spending caps be an excuse for the state to ignore a Court decision.

{Tape: 2; Side: B; Time Counter: 15.1}

Closing by Sponsor:

SEN. GILLAN thanked the MQEC for its perseverance and opening the eyes of the Legislature. She said that quality education is one of the main economic engines of the state. She asked for the Committee's support of SB 341 in hopes that it could be blended with other education concepts introduced in the 2005 Session.

{Tape: 2; Side: B; Time Counter: 17.4}

HEARING ON SB 335

Opening Statement by Sponsor:

SEN. CAROL WILLIAMS (D), SD 46, said that SB 335 revises the blind vendor vocational opportunities program to include military reservations, such as Malstrom Air Force Base in Great Falls. She offered an amendment which reinstates the language that exempts vocational technical centers and state universities from being included in the preference granted blind vendors.

EXHIBIT(eds38a10)

{Tape: 2; Side: B; Time Counter: 18.4}

Proponents' Testimony:

Dan Burke, Vice President, MT Association for the Blind, said that the Association agreed with university representatives to not make any changes to the language in the Blind Vendors Act. Blind vendors received assurances that they could bid and compete for vending machine opportunities within the Montana University

System. **Mr. Burke** provided an overview of a fact sheet related to the Montana Business Enterprise Program For The Blind and Visually Impaired. SB 335's purpose is to eliminate the exclusion of federal military reserves, namely Malstrom Air Force Base, so that blind vendors can put their vending machines on federal property.

EXHIBIT(eds38a11)

{Tape: 2; Side: B; Time Counter: 25.0}

Bob Maffit, MT Independent Living Project, said that the blind came to the Living Project and request jobs for individuals who are blind and visually impaired because up to 75% of individuals who are blind are unemployed. As a result, the blind vendors program was established which capitalized on vending machines. By removing the prohibition in statute to permit blind vendors to embark on starting businesses on federal reserves will open up opportunities for expanding routes, create economic development, and promote independence for individuals with disabilities.

Carl Schweitzer, MT Association of the Blind, spoke in support of SB 335.

Opponents' Testimony: None

Informational Testimony:

Beverly Berg, Program Manager, Blind and Low Vision Services, was available to answer questions.

{Tape: 2; Side: B; Time Counter: 29.2}

Questions from Committee Members and Responses:

SEN. DANIEL MCGEE, SD 29, asked how the state could tell a federal military reservation that it had to be open to a state blind vendor program. **Mr. Burke** said that the state does not have jurisdiction over federal military reservations, and current state law says that blind vendors cannot start vending businesses on those properties. Since federal law gives blind vendors the authority to start vending businesses on federal military reservations, SB 335 would change state law to comply with federal law.

SEN. STORY asked if SB 335 would displace any business that is already located on Malstrom Air Force Base. **Mr. Burke** said that more than likely, blind vendors would be displacing someone.

{Tape: 3; Side: A; Time Counter: 2.1}

Closing by Sponsor:

SEN. WILLIAMS said that even though blind vendors may be displacing someone, the blind vendor program must issue competitive bids. SB 335 is important for blind vendors. They are hard working, they want to be independent, and they want a chance.

SEN. STORY requested information before Executive Action on what is the blind vendor preference--was it a tie breaker or an absolute preference.

{Tape: 3; Side: A; Time Counter: 4.8}

HEARING ON SB 383

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, said that in 1988, the Legislature went through a thorough retrenchment process within the university system where it identified areas that would save money for the system by eliminating duplicative programs. One of the programs eliminated was the speech pathology and audiology program and the University of Montana-Missoula that was not duplicated anywhere else in the state. Speech pathologist and audiologists are requesting a stipend like other teachers in the system who achieve and pass certain levels of mastery. SB 383 covers only full-time speech pathologists and audiologists.

SEN. COCCHIARELLA said that currently, there is a shortage of speech pathologists and audiologists in the state, and they are requesting a stipend, which may be considered a hiring incentive, if they meet certain high standards. In Montana, most of them do meet those standards. She requested the Committee's help with a problem that was created by the Legislature and give an opportunity for schools to reward those who have remained in Montana to help its children.

SEN. COCCHIARELLA offered an amendment to add audiologists who were inadvertently left out of the drafting of SB 383.

EXHIBIT(eds38a12)

{Tape: 3; Side: A; Time Counter: 10.1}

Proponents' Testimony:

Janice Nugent, Speech Language Pathologist, provided written comments in support of SB 383 and a side-by-side, informational comparison between the National Board for Professional Teaching Standards and the American Speech-Language-Hearing Association (ASHA).

EXHIBIT(eds38a13)
EXHIBIT(eds38a14)

{Tape: 3; Side: A; Time Counter: 13.5}

Laura Jo McKamey, President, ASHA, said that Montana currently has 141 speech-language pathologists working in its public schools and 164 speech-language pathology aides. There are more aides working in the schools because of the severe shortage certified speech-language pathologists. There are 23 unfilled positions in the state, and the uniqueness of their training has come to light with the passing of No Child Left Behind. Speech-language pathologists are trained and certified in the areas of language development and literacy and are being asked more and more by the school districts to provide literacy services for early learners. Montana is nationally ranked in the bottom 10 for teacher salaries, and speech-language pathologists who work in Montana's public schools are paid on the teacher salary schedule.

{Tape: 3; Side: A; Time Counter: 17.9}

Elaine Spino, MT Speech and Hearing Association, said that although she is a licensed and certified speech pathologist, what makes her different is that she works in a private setting not in the public schools. The difference between the therapists in private settings and those in public schools is that private-setting therapists are allowed to have waiting lists. For the last 10 years, St. Peter's Hospital in Helena has continually had a waiting list for pediatric patients. Unfortunately, because of the legal responsibility to provide services within the schools, a waiting list is not a luxury that they can have.

Ms. Spino said that SB 383 is not setting a precedent because other states, such as Mississippi and Oklahoma, provide salary supplements or stipends to credited speech-language pathologists. SB 383 offers a stipend to speech-language pathologists that is comparable to the stipend offered by the National Board of Professional Teaching Standards--$3,000 currently provided in Montana.

{Tape: 3; Side: A; Time Counter: 21.4}

Erik Burke, MEA-MFT, said that Montana schools are facing a shortage of speech-language pathologists who are highly trained and specialized people and who work very had to cover the needs of schools across the state. SB 383 addresses that shortage, and he spoke in favor of SB 383.

Jim Smith, Speech-Language-Hearing Association, said that many of the problems in the speech-language pathology profession could be traced back to the closure of the program at the University of Montana-Missoula. Since the mid-1990s, the Association has tried various approach to rectify the situation, but it has proven difficult. SB 383 is another attempt. The Association, along with MEA-MFT, is trying to establish a statutory authorization for the speech-language pathology stipend, not the funding. It would give the profession and the people within it a strong incentive to work with OPI and other stakeholders to come back to the 2007 Session and seek the appropriation to provide the actual stipend.

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 3; Side: A; Time Counter: 27.0}

Questions from Committee Members and Responses:

SEN. MANGAN asked if the recruitment and retention of new speech-language pathologists was more important than maintaining the ones that Montana currently has. **SEN. COCCHIARELLA** said that both are equally important. With the teacher salaries that Montana currently pays, it is having a very difficult time recruiting speech-language pathologists and audiologists. **SEN. MANGAN** questioned why SB 383 contained no appropriation and if there were any options available. **SEN. COCCHIARELLA** said that Senators cannot carry appropriation bills. The stipend provided for in SB 383 will be funded locally if schools have enough money in there budgets to do so. **Ms. Nugent** added that currently, the recruitment of speech-language pathologists and audiologists would be the primary need. However, retention relates because of retirement issues.

SEN. STORY said that 141 speech-language pathologists would qualify for the stipend but not all of them are members of the ASHA. According to the drafting of SB 383 and in order to receive the stipend, they must belong to the ASHA. **Ms. McKamey** said that many licensed speech-language pathologists in the state do not belong to the ASHA because it is quite expensive. If the annual

dues of $175 are not paid, the ASHA does not recognize them as an accredited members. There are also 75 speech-language pathologists who do not belong to the MT Speech and Hearing Association, and she was unsure whether they would qualify either. SB 383 mandates that the speech-language pathologists be members of the ASHA. **SEN. STORY** asked if SB 383 was a membership program for ASHA and was there any defensible reason why the state could not give the stipend to a person who had the same qualifications but was not a member of ASHA. **Ms. McKamey** said that SB 383 uses language from bills previously introduced in other states, and she was unsure whether a defensible reason existed if the state did not give the stipend to a nonmember of the ASHA.

{Tape: 3; Side: B; Time Counter: 7.1}

SEN. STORY asked if MEA-MFT would support a stipend in other areas of education. **Mr. Burke** said that MEA-MFT has supported special educational circumstances in the past and will continue to do so in the future. SB 383 is comparable, and the shortage in the speech-language pathology area is very pronounced across the state.

SEN. McGEE asked if the fiscal note numbers reflected that audiologists were not included in SB 383. **SEN. COCCHIARELLA** was unsure about the difference between a pathologist and audiologist because most of them are both. In addition, SB 383 does not expect membership in any group or club. **Ms. Spino** added that there are 10 audiologists who serve all of the schools in the state of which 5 to 7 are contracted.

SEN. MANGAN asked how many new speech-language pathologists and audiologists are hired per year. **Ms. McKamey** said that Montana hires four new speech-language pathologists and audiologists in a year while 30% of the ASHA members are contemplating retirement. In addition, three retirees have been rehired because the positions that were vacated cannot be filled.

{Tape: 3; Side: B; Time Counter: 10.1}

Closing by Sponsor:

SEN. COCCHIARELLA requested that the Committee take the first step in treating the speech-language pathologists and audiologists the way they need to be treated and support SB 383.

ADJOURNMENT

Adjournment: 5:55 P.M.

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SEN. DON RYAN, Chairman

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LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

EXHIBIT(eds38aad0.PDF)