

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DARYL TOEWS**, on February 5, 1999 at 3:24 P.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. Bill Glaser, Vice Chairman (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis (R)
Sen. John Hertel (R)
Sen. Bob Keenan (R)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)

Members Excused: Sen. Mike Sprague (R)

Members Absent: None.

Staff Present: Eddy McClure, Legislative Branch
Janice Soft, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 100, 1/29/1999; SB 261,
1/29/1999
Executive Action: None

HEARING ON SB 100

Sponsor: SEN. JOHN HARP, SD 42, Kalispell

Proponents: Marc Racicot, Governor of Montana
Nancy Keenan, State Superintendent of Schools
Tamara Johnson, Mother, Havre
Tonia Bloom, Trustee, Corvallis
Kirk Miller, Superintendent of Schools, Havre
Lance Melton, Montana School Boards Association
Chris Tuckerman, Superintendent of Schools, Superior
Sarah Garcia, Parent, Bozeman
Heather HerGoldshe, Parent, Bozeman
Bruce Messenger, Helena Schools

Opponents: Eric Feaver, Montana Education Association & Montana
Federation of Teachers
Don Judge, AFL/CIO
Julie Geddes, Parent, Bozeman

Informational: Don Waldron, Montana Rural Education Association
Loran Frazier, School Administrators of Montana

Opening Statement by Sponsor:

SEN. JOHN HARP, SD 42, Kalispell, said **SB 100** was a bill which would increase aid to K-12 public schools and was something which was long overdue. He said the Governor's proposal was fair, addressed needs for additional state support and recognized the increasing effect school funding had on Montana property tax payers. There was an increase of some \$30 million which increased elementary schedules 3.5% and high school schedules 1.5% and was a step in the right direction. He stated the funding of education was closely tied to property taxes; at some point if schools were to be properly funded without relying on property taxes, another source of revenue would have to be considered, such as a sales tax. He explained it would have to replace the state-wide mills; yet allow Montana's economy to grow while allowing public education to improve its ability to take care of Montana's children. He said he had a great amount of respect for classroom teachers in their ability to affect children's lives in a positive way. He hoped the Committee would approve **SB 100** which allow the state support to take place -- this would send a message that the Montana Senate was ready to do its part for public education and schools.

Proponents' Testimony:

Marc Racicot, Governor of Montana, read his written testimony **EXHIBIT (eds29a01)** .

{Tape : 1; Side : A; Approx. Time Counter : 7}

Nancy Keenan, State Superintendent of Schools, said she was a proponent of school funding and **SB 100** was a start of talking about school funding. She distributed copies of **EXHIBIT (eds29a02)** and used the explanation as her testimony. She asked if the legislature was willing to spend the same per pupil in the next biennium as it did in 1991. She admitted there were declining enrollments; however, they were not all leaving the same classroom or the same school so often the kids were moved from a declining school and put into other school classrooms, which caused overcrowding. Tiny school districts could not close their schools so their only options were to cut programs and services. **HB 133** kept the status quo while **SB 100** was \$1 million less than last biennium.

Tamara Johnson, Mother, Havre, read her written testimony **EXHIBIT (eds29a03)**.

{Tape : 1; Side : A; Approx. Time Counter : 17.2}

Tonia Bloom, Trustee, Corvallis, read her written testimony **EXHIBIT (eds29a04)**.

Kirk Miller, Superintendent, Havre Schools, read his written testimony **EXHIBIT (eds29a05)**.

{Tape : 1; Side : A; Approx. Time Counter : 26.9}

Lance Melton, Montana School Boards Association (MSBA), read his written testimony **EXHIBIT (eds29a06)**.

Christine Tuckerman, Superintendent, Superior Schools, read her written testimony **EXHIBIT (eds29a07)**.

{Tape : 1; Side : A; Approx. Time Counter : 34.4}

Sarah Garcia, Parent, Bozeman, read her written testimony **EXHIBIT (eds29a08)**.

Heather HerGoldshe, Parent, Bozeman, read her written testimony **EXHIBIT (eds29a09)**.

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

Bruce Messinger, Superintendent of Schools, Helena, said he was part of the educational forum to draft **HB 133** so he understood what the needs were. He said Helena had a growing population in the early and mid-1990's, which allowed their budget to grow; yet at the same time they weren't at the cap. He said the Helena

community repeatedly voted in favor of levy elections because of a larger and larger budget needed by the schools. However, in the last few years, Helena was at the cap but found its student population declining -- this year there were 80 K-8 students less on which to base next year's funding. He said the student enrollment was about 5,000, or about 300 classrooms. He said because the students were spread throughout the classrooms, it wasn't obvious where to make the change. Under this proposed legislation, there would be less than a 2% increase for their budget; yet their costs were increasing well over \$1 million. Under **HB 133**, they would need to reduce their expenditures by \$1 million, or about 20-25 fewer teachers, as well as cutbacks in administrative services and operational maintenance investments. He said the standards, etc., by the Office of Public Instruction and the Public Board of Education accreditation could not be maintained on that funding level. He believed 4% at the elementary level and 2% at the high school level plus the increase in special education funding would help. The difference between **SB 100** and **HB 133** amounted to a \$250,000 difference for the Helena schools.

Opponents' Testimony:

Eric Feaver, Montana Education Association (MEA) and Montana Federation of Teachers (MFT), distributed copies of **EXHIBIT (eds29a10)**, **EXHIBIT (eds29a11)**, **EXHIBIT (eds29a12)**, **EXHIBIT (eds29a13)** and said he agreed with **SEN. HARP** when he said **SB 100** was long overdue and was a step in the right direction. He reaffirmed their stand on sales tax -- they had thought for a long time it would be a legitimate source of revenue for Montana and might improve the property taxes which were killing public services as well as public schools. He said every November when the voters went to the polls to determine how to pay for what was done, dramatic damage was done to the Constitution, kind of government and fundamental principles of a society that governed itself through a representative democracy. He said sales tax proposals included something for everybody and then it was thrown out in a ballot without adequate public input and debate and it died 3-1; it was hard to get excited about something that was dead on arrival. He suggested the legislature enact a one-cent sales tax and tell the public to vote for it; if they adopted it, those 40 mills put on in 1989 to fund public education in an equalized fashion would go away. For two cents, the county property taxes for employee benefits (retirements, etc.) would be eliminated. He suggested the legislature come up with the proposal and educate the public on its benefits -- if the people wouldn't agree after that, perhaps it was time to stop talking about a sales tax.

He agreed **SB 100** would do a little bit to help the property tax problem but it wouldn't do enough; in fact, it was \$6 million short. He wondered why anyone would stand in support of something that was \$6 million short of what was agreed to by the educational community -- a reasonable and prudent proposition based on revenue estimates that were about half of what was currently projected. He asked that shortage be inserted into **SB 100** because the money was there. **Mr. Feaver** referred to the testimony by **Christine Tuckerman** and didn't see how anyone could hear her and not conclude there was a problem; or to hear **Bruce Messinger** from Helena talk about the programs and jobs which would be cut. In 1981, a Republican legislature increased school funding 18-and-15% over the 1983 biennium -- teachers salaries rose to 24th in the nation, \$900 below the national average while today the salaries were \$9,000 below, which meant Montana wasn't competitive with anybody.

He gave a history of school funding decreases -- the 1986 Special Session took 3% from school funding, the 0.00 increase of the 1987 Session, the 1989 court decision to equalize took school dollars from local school communities, no increase in 1991, HB 667 in 1993 took almost \$30 million out and the Special Session cut schools another 4.5% in budgeting authority, no increase in 1995 and now it seemed certified speech, math, special ed, etc., teachers could not be hired because of the money shortage. He said he was proud to represent members of MEA/MFT because there wouldn't be much in the way of schools if their members weren't doing the work, i.e. the instructional, support and administrative staff. He said MEA/MFT rose in opposition to **SB 100** but would be proponents when \$6 million was added.

{Tape : 1; Side : B; Approx. Time Counter : 13}

Don Judge, AFL/CIO, said he was a proponent of adequate educational funding but an opponent of **SB 100** as it currently stood. He said the reason Mineral County was in trouble was because of the closing of the mills and AFL/CIO had to help those workers (through federal grants) become re-employed; unfortunately, too many had to leave Montana in order to find work. He said his wife was a special education teacher and had two children in the Helena system so he also spoke as a father who was worried about the system. He said he felt there were too many actions addressing what was going on in the business community as opposed to what was going on with Montana's children. He said Montana didn't need a sales tax, it just had to quit giving money away when it wasn't being returned in the form of good-paying jobs -- in 1981 the business inventory tax was cut but no jobs were gotten in return; in the mid-1980's the coal severance tax was cut in half and again, no new jobs were

gotten; in 1989, school equalization raised the statewide mills, and any future increases for oil, gas, coal, mining and timber were prohibited -- it was no wonder there was a property tax revolt. He said just last week a bill was passed and if it made it all the way through the process, there would be a \$162 million General Fund deficit by 2005 because more property tax breaks would be given in hopes more businesses would locate in Montana. He urged that \$162 million not be given away to the business community because 40% of the money would be exported out of state; rather, if real economic development was desired, it should be given to Montana's schools, i.e. a quality education system was the key to economic development because it attracted and retained business and made the future of Montana's children brighter and better. He urged the Committee to put the \$6 million shortage into **SB 100** so both the school districts and kids could be more secure in their education.

Julie Geddes, Parent, Bozeman, said the more she learned about the history of education funding, the less afraid she became to stand before the Committee to ask the members to do more. It was a well-known fact that education empowered people and she hoped all were listening and learning today. She said two weeks ago there was an education panel where principals shared new and exciting ideas to implement in the classrooms and shared goals and visions for their school district which set higher standards for themselves and for their students. She said she needed to hear that kind of excitement and vision for the future of Montana's education from the Legislature; if **SB 100** was the Governor's idea of vision for education for Montana, it lacked the excitement and vision she needed to hear. **HB 133** at least allowed schools to maintain their current level of operation. She said she was asking the Legislature for more money as well as a commitment to the teachers, students and broken stability of Montana's economy. **Ms. Geddes** agreed tax credits for businesses could help foster economic growth which would lead to new jobs and higher incomes; however, she quoted, "Raising the average wages of Montanans is an important but difficult public policy adjustment. New business might offer higher-paying jobs but Montanans will compete for such jobs with thousands of people willing to move to Montana." She said she wanted hers and other Montana children to be able to compete for these jobs; commitment to a quality education would ensure they had the thinking skills needed to earn the right to obtain these jobs. She said national studies ranked Montana schools in cutting lean budgets and credited students for earning high achievement scores, i.e. Montana got a "lot of bang for its buck." However, if Montana continued to deny the schools inflation-adjusted increases there would be a decline in the performance of students because class sizes would be affected, which in turn affected the quality of

education. Squeezed budgets might not show immediate effects; however, in the future when Montana's students could not obtain the jobs they sought, the questions of how and why it happened would be asked. **Ms. Geddes** said she believed **SB 100** sold them short while **HB 133** bought more time to see the ramifications of CI-75, pattern of enrollment numbers and generate new ideas.

{Tape : 1; Side : B; Approx. Time Counter : 23.1}

Informational Testimony:

Don Waldron, Montana Rural Education Association (MREA), read his written testimony **EXHIBIT (eds29a14)** and referred to **EXHIBIT (eds29a15)**.

Loran Frazier, School Administrators of Montana, said they were concerned with potential cutbacks in the districts and were advocates for children. He stated about 50% of the students were at the maximum budget and next year it was predicted to be about 60%. **SB 100** was a good effort but more money was needed.

{Tape : 1; Side : B; Approx. Time Counter : 32}

Questions from Committee Members and Responses:

SEN. DEBBIE SHEA asked what percentage of students were impacted by districts meeting the caps. **State Superintendent Nancy Keenan** said about 21% of Montana's school population was at the cap; however, about 25% were within that 5% increment, i.e. critical maximum had been reached.

SEN. BOB KEENAN said special education was created in 1965, with a 40% commitment for funding; however, the funding commitment had not gone much beyond 8% because of the shift to local property taxes and their increases. He wondered if there was any possibility to overcome the injustice of this cost-shifting without the 40% commitment that was promised 23 years ago. **Don Judge** said both AFL/CIO and NEA had rallied to the cause at the federal level time and time again; however, the problem was it was an issue of priorities, both at the presidential and congressional levels. He said the costs of special education students was rising because the rights of students who deserved and needed special education continued to grow.

SEN. ALVIN ELLIS asked what percent of the basic budget was provided by the state. **State Superintendent Keenan** said it was

71% and the special education was \$33 million, which hadn't been raised since 1989.

SEN. ELLIS said the percentage hadn't changed since the inception of HB 667 and wouldn't change in the future as long as HB 667 remained. **State Superintendent Keenan** said there was more than one fund from which money was supplied to schools.

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

SEN. ELLIS said the percentage contributed by the state to the base budget remained the same, i.e. the state didn't contribute to any part of the budget beyond the base and it was inevitable that as more schools were brought up to the base level the state's share would drop. He asked if it was true that those schools which were within 7% of the base would have their property taxes forced up by either this or the other legislation, and that most of those schools would want to take advantage and not be forced down by the caps. Therefore, there would be an increase in the property taxes. **State Superintendent Nancy Keenan** said when equalization passed the Supreme Court they said the bottom must move up and the top must move down. Local property taxes were increased but the issue was schools had not been funded at the state level; consequently, schools were either hitting the cap or forced to raise property taxes. Another way of wording the issue was "underfunded."

SEN. DARYL TOEWS commented if this legislation was passed, schools would be unequalized and wondered if there was a solution, especially as it pertained to CI-75. **Madalyn Quinlan, Office of Public Instruction**, said CI-75 talked about district-wide property tax increases so a school district would need to vote a tax increase in all nine budgeted funds of a school district. With additional state monies going into schools, there should be some alleviation of local property taxes; however, in those districts who had their spending pushed up because their base budget was pushed up, there would be a district-wide property tax effect -- they could fund the base budget and cut something in other funds.

Closing by Sponsor:

SEN. JOHN HARP said the 1989 Special Session did some things that instituted 40 mills and at the same time they were concerned about the coal and oil industry and what it would do the economy in eastern Montana. He said they tried to recognize the Constitutional question of equalization while also being concerned about Montana's economy -- perhaps what they did wasn't perfect but they did the best they could at the time. He

addressed **Superintendent Keenan's** remark that nothing different was being offered -- it was basically the same as last Session -- and said she was wrong because the \$12.5 million put in for the one-time-only technology was just that; only one time. Her handout showed it was a permanent increase to the base budget of K-12. He sympathized with **Christine Tuckerman** and the demise of industry in Superior because of prohibition of cutting trees on federal land. He referred to the 1993 tax reform and the question of why there was such a terrible time with the ballot. He said the bill was more about spending than about tax reform; this Session the talk would be about property reductions included with tax reform. He said he was a freshman representative in 1981 when the 15 and 18 percent increase was awarded because they thought if the money was put into the schools, property taxes would go down; however, in 1983, virtually every voted levy increased. He said the so-called \$120 million new revenue was based on tobacco and capital gains from the sale of Montana Power Company, neither of which had yet been settled. He said he remembered when there was no increase in education in 1987 and that was because Montana had a recession and there was a responsibility to balance the budget. **SEN. HARP** talked about the cuts in the 1993 Special Session and said that was because of an income tax bill -- the Legislature was not out to hurt education. He reminded the Committee the money was not given away through the Business Inventory Tax of 1981 or reductions in personal property tax -- it belonged to the taxpayers. He admitted they cut the coal tax in order to keep the coal industry. Also, the bill recently passed by the Senate was for small businesses who employed less than 10 people because these businesses were 85-90% of Montana's economy. He said in 1948, when Anaconda Copper was doing well in Montana, the state's per capita income was 11th in the nation but now it was last. He said he was sure the Committee would do the responsible thing with **SB 100**.

{Tape : 2; Side : A; Approx. Time Counter : 10}

HEARING ON SB 261

Sponsor: SEN. MIKE HALLIGAN, SD 34, Missoula

**Proponents: Kathy Fabiano, Office of Public Instruction
Loren Frazier, School Administrators of Montana
Eric Feaver, Montana Education Association & Montana
Federation of Teachers
Don Waldron, Montana Rural Education Association
Lance Melton, Montana School Boards Association
Rachael Vielleux, Montana County Superintendents of
Schools**

Opponents: None

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, Missoula, said in 1993, one of the issues HB 667 dealt with was allowing equalized school budgets by setting formula-driven maximum General Fund budgets with a window of opportunity of between 80-100%. He said **SB 261** attempted to try to deal with the changes of HB 667 in its original form, i.e. school districts were allowed to permissively adopt budgets up to the greater of the previous year's General Fund budget or that based on the ANB. That language was removed in the 1993 Special Session and school districts had been operating under the "lesser than" language. Now districts were faced with dealing with equalization as well as some flexibility in education budgeting. **SB 261** attempted to restore the "greater than" language to allow school districts to permissively adopt up to the greater of the previous year's maximum General Fund budget or the previous year's General Fund budget based on the ANB.

Proponents' Testimony:

Kathy Fabiano, Office of Public Instruction (OPI), said **SB 261** implemented the provisions of CI-75 as it related to school district elections relating to a General Fund tax increase. **Section 1** struck the language in current law which required districts to vote General Fund budgets with spending authority. **Section 2** amended the ballot to require that vote. She said **Section 1** also had a lot of clean-up language -- this was the first time for amendments since the adoption of HB 667. HB 667 had a lot of phase-in language, which was being deleted because the time limit for the language had passed. Current voting provisions on district budgeting authority differed, depending on where the district's proposed budgets were in relation to the district's minimum and maximum budget limits and depending on whether the district was growing or declining. Districts who adopted budgets over their maximum limits were required to get voter approval every year for the budgeted amount over their maximum while districts who adopted budgets between the minimum and maximum limits had differing amounts subject to voter approval, depending on whether the districts were losing or gaining enrollment. If a district's enrollment was growing, it needed voter approval to increase its budget by any amount over last year's budget, but if a district's enrollment was declining, the district would need to reduce its budget from the prior years for each student lost. She said loss of students didn't necessarily translate to reduction in costs and if that was the case, the district needed voter approval to adopt a higher budget.

Ms. Fabiano said the usual public perception was if the district had a General Fund election, it must be wanting to spend more than last year; if the election passed, there would be an increase in local property taxes. If CI-75 was declared invalid, **SB 261** would live on to amend the current voting provisions on budgeting authority -- those amendments began on Page 5, line 26. The amendments put back the words "the greater of last year's budget or last year's budget for ANB" as the starting point for district's elections; therefore, districts with growing enrollment could permissively increase the current year's budget over last year's while those with declining enrollment could permissively budget an amount up to last year's. She reminded the Committee the bill didn't remove the statutory limitation on a district's budget growth because districts adopting a budget over their maximum limit were frozen and those adopting a budget between their minimum and maximum limits, couldn't increase over their permissive budget by more than 4% per year.

She said there were two amendments: (1) Ensured those districts who were over the maximum at the time of HB 667 would be allowed to remain so; (2) Clarified the ballot language to ensure the voter would know the effect of the General Fund mill levy.

{Tape : 2; Side : A; Approx. Time Counter : 15.7}

Loran Frazier, School Administrators of Montana (SAM), said they supported **SB 261**.

Eric Feaver, Montana Education Association (MEA) and Montana Federation of Teachers (MFT), distributed his written testimony **EXHIBIT (eds29a16)** and said they supported **SB 261**.

Don Waldron, Montana Rural Education Association (MREA), said they supported the bill.

Lance Melton, Montana School Boards Association (MSBA), said they supported the bill and appreciated the sponsor bringing it forward and the return to the original language of HB 667.

Rachael Vielleux, Montana Association of County School Superintendents (MACSS), said **SB 261** would allow the Superior School District, who was experiencing declining enrollment, to not require a vote on previously approved budgetary amounts. However, if it increased taxes, there would have to be a vote. She urged the passage of **SB 261**.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. ALVIN ELLIS asked about the ramifications for budgets over the cap. **Kathy Fabiano** said there was no effect -- they had to vote the difference between the maximum and the budget they were adopting.

SEN. ELLIS asked if a district which was at the 110% level but lost 5% of its students could stay where it was, with a vote.

Ms. Fabiano concurred. **SEN. ELLIS** commented the district would then actually increase its per-student entitlement by 5% with a vote. **Ms. Fabiano** said if the voters approved keeping their budget where it was but lost students, their maximum would drop down; therefore, the difference between where they were budgeting and the maximum would be greater. They would have to vote a greater amount, but they could stay where they were.

SEN. DARYL TOEWS gave as an example a school who was losing 25% of its enrollment and its maximum budget was falling, yet it was up against the caps so technically nothing could be done. Would **SB 261** let the district go back to the original budget. **Ms. Fabiano** said the questions by **SEN. ELLIS** concerned districts who were over their maximum budget and if the district in **SEN. TOEWS'** example was over maximum and lost 25 students, the budget would be higher than the maximum and the voters would have to vote the difference. However, if a district budgeted right next to its maximum, and lost students so the maximum was now less than its current year budget, that district would have to drop down to the maximum. Only districts who were over maximum at the time HB 667 was adopted could today adopt a budget over the maximum. If a district was budgeting anywhere within the equalized range, and that range dropped because of declining enrollment, that district had to drop with it. That language wasn't changed in **SB 261**.

SEN. ELLIS commented **SB 261** allowed schools which were within the target and losing enrollment to increase their per-student entitlement and stay where they were without a vote. He asked if that was the only substantive change of the bill. **Kathy Fabiano** said it was.

{Tape : 2; Side : A; Approx. Time Counter : 23.6}

Closing by Sponsor:

SEN. MIKE HALLIGAN said HB 103 was in the process which was almost identical to **SB 261** and both bills were not needed. He said he just wanted to ensure one of the bills didn't miss transmittal.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. DARYL TOEWS, Chairman

JANICE SOFT, Secretary

DT/JS

EXHIBIT (eds29aad)