

**MINUTES**

**MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on January 10, 1997, at 1:06 p.m., in Room 402.

**ROLL CALL**

**Members Present:**

Sen. Daryl Toews, Chairman (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Debbie Bowman Shea (D)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Wm. E. "Bill" Glaser (R)  
Sen. John R. Hertel (R)  
Sen. Loren Jenkins (R)  
Sen. Mike Sprague (R)  
Sen. Barry "Spook" Stang (D)  
Sen. Mignon Waterman (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Eddye McClure, Legislative Services Division  
Janice Soft, Committee Secretary

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 15, SJR 2, SB 21; Posted  
December 31, 1996

Executive Action: None.

**HEARING ON SB 15**

**Sponsor:** SEN. MIKE HALLIGAN, SD 34, Missoula

**Proponents:** DON WALDRON, Montana Rural Education Association  
LORAN FRAZIER, School Administrators of Montana  
DORI NIELSON, Office of Public Instruction

**Opponents:** NONE.

**Opening Statement by Sponsor:**

SEN. MIKE HALLIGAN, SD 34, Missoula, said the 17-member interim Juvenile Justice Mental Health Study Commission had been charged

with integrating the entire Mental Health/Juvenile Justice Corrections Youth Court Act/Human Service System into a seamless web, and SB 15 is one component of that massive charge. SB 15 addresses the problem of students moving from school district to school district without their records following them in a timely manner. **SEN. HALLIGAN** said SB 15 is a new section of code which must dovetail with the federal law dealing with education and privacy as well as disability law and confidentiality as it relates to the education and privacy. SB 15 says local education agencies shall adopt a policy that the permanent file or special education records will be forwarded to the new school within five working days after receipt of a written request. He said "five" was flexible; the intended meaning was the earliest possible date, but he would want "ten" to be the maximum time. **SEN. HALLIGAN** said the files must include special education tests, immunization records, disciplinary and other relevant information. He reminded the Committee SB 15 allows for records of emotionally disturbed students who move from district to district to be available to the new school district almost immediately.

*{Tape: 1; Side: A; Approx. Time Count: 1:10}*

Proponents' Testimony:

**Don Waldron, Montana Rural Education Association**, said MREA supported SB 15 but also had a question about the "five days"; however, MREA did not know how to write it out of the bill. He suggested the rulemakers could make the change.

**Loran Frazier, School Administrators of Montana**, said SAM also supported SB 15 because they too would like to see the records transferred as soon as possible. He mentioned some school districts had policies which stated no records would be released until materials were returned or fines were paid. **Mr. Frazier** commented he did not want to extend the "five days" too far but he also did not want to remove the leverage school districts had in collecting unreturned materials, etc.

**Dori Nielson, Office of Public Instruction**, expressed support for the concept of SB 15; however, she wondered about the language which required implementing a statute which would allow transferring records to juvenile justice. She said she had not had a chance to have OPI's attorney look at the wording to add substance to SB 15.

Opponents' Testimony: None.

*{Tape: 1; Side: A; Approx. Time Count: 1:13 p.m.}*

Questions From Committee Members and Responses:

**SEN. DEBBIE SHEA** asked **SEN. MIKE HALLIGAN** if the issue of out-of-state records was addressed. **SEN. HALLIGAN** answered he did not know of a way to require an out-of-state jurisdiction to send records in a timely manner, unless it would be an incentive such as informing the agency more services could be offered to the student if the records were received. He said he did not think federal law allowed the local school any jurisdiction over out-of-state districts. **SEN. HALLIGAN** commented he really did not have a concrete answer to **SEN. SHEA'S** question but could do some research on it.

**SEN. BARRY "SPOOK" STANG** asked **Loran Frazier** if the "shall adopt the policy" would be imposing an unfunded mandate. **Mr. Frazier** said he did not see any additional cost because the transferring of the records would have to happen sometime anyway.

**SEN. LOREN JENKINS** asked **Loran Frazier** if a problem would occur if a student transferred to another district but did not return his materials or pay the unpaid fines, i.e. the sending district refused to send the records because of its policy. **SEN. JENKINS** said the receiving district must enroll the incoming student so he wondered how that policy could be enforced. **Mr. Frazier** said there are those districts which have the "unpaid debts, no records transferral" policy but the population addressed in SB 15 probably would not have unreturned library books, basketball uniforms, etc. However, the sending district could inform the receiving district of particulars concerning the student, i.e. special ed, special child, special individual programs, etc.

**SEN. JENKINS** further questioned **Mr. Frazier** by suggesting five working days would not be an unreasonable time for schools to send records they have. **Mr. Frazier** said it was not unreasonable to suggest notification within five days and then send the records as soon as possible.

**SEN. MIGNON WATERMAN** asked **Loran Frazier** if he could work with staff or the sponsor to come up with wording to address the above-mentioned issue. **Mr. Frazier** said he would be happy to survey school districts to determine how many hold special education students accountable for unreturned books, materials, unpaid fines, etc.

**SEN. STEVE DOHERTY** asked **SEN. HALLIGAN** asked how he would feel about language which would say records must be transferred within ten days, and if the sending school district could not comply, it would notify the receiving school district of the contents of the records and why they were not being transferred. **SEN. HALLIGAN** said he would like to see uniformity among the Montana school districts and perhaps the various associations could help with the language, etc.

**SEN. MIKE SPRAGUE** said he also was a member of the Juvenile Justice Subcommittee and he was able to meet with the Principals Association, the members of which represented about 75% of the total Montana public school enrollment. He said one of their comments was a transferring student really could not be forced to pay fines, return books & materials, etc. He commented on the relationship between the time allotted and actually used to get a job done, i.e. if ten minutes was allotted, ten minutes would be used to complete a task; therefore, it was his opinion to keep the five days, if at all possible.

**SEN. DELWYN GAGE** asked if 41-5-103 defined just licensed regional detention facilities or did it include local educational agencies. **SEN. HALLIGAN** answered he thought it was just regional detention facilities. **SEN. GAGE** asked if local educational agencies meant Montana public schools. **Eddye McClure** explained she had raised the issue on local educational agency with OPI and was told the term was based on federal law. She suggested the possibility of adding "school districts" or "local" because LEA was not used to state law.

**SEN. GAGE** contended he was reluctant to send original student records, rather than copies, to the receiving districts because of the potential need for the records at a later date, i.e. in the case of lawsuits, etc. He wondered what was included in original records, and how many could be copies. **SEN. HALLIGAN** said he understood it was originals that were sent and copies were retained by the sending school district. **SEN. GAGE** wondered if there would be a problem if wording would say immunization records could be originals and other records be copies. **SEN. HALLIGAN** replied he could not think of a reason why the transferred records would need to be originals. **SEN. GAGE** wondered if originals would be more official than copies in a legal setting. **Dori Nielson** explained juvenile justice facilities and non-public schools were not governed by the same record control as public schools. She recommended language which would say copies may be sent to the juvenile justice facilities and non-public schools. She further explained public schools had an obligation to retain the records and not destroy or purge them from their files, and the Board of Public Education had a definition of what was to be retained in the permanent files. She contended the language should address the real meaning of transferred records vs. copies of records. **Eddye McClure** suggested when dealing with the courts, permanent (original) records were what was wanted.

**SEN. BILL GLASER** asked if the court could certify a copy of the records if the sending district found it was unable to send them within the allotted time. **Eddye McClure** said she would need to check if a certified copy would hold up in youth court or a detention center.

**SEN. GAGE** commented we are in the electronic age and soon these records may be transferred electronically. Therefore, he

wondered if SB 15 would include language for electronic transfer. **SEN. HALLIGAN** replied he thought it should be included because if the language was included now, it would not have to be redone later.

*{Tape: 1; Side: A; Approx. Time Count: 1:28 p.m.}*

Closing by Sponsor:

**SEN. HALLIGAN** reiterated Lines 16-17 of SB 15 "licensed regional detention facility", which indicated the privacy restraints could be different from those of a public or alternative school. He said some friendly amendments were being considered to give uniformity and some flexibility for record transferral.

HEARING ON SJR 2

Sponsor: SEN. GREG JERGESON, SD 46, Chinook

Proponents: NONE

Opponents: NONE

Opening Statement by Sponsor:

**SEN. GREG JERGESON, SD 46, Chinook**, said the University System and its operation, governance, etc., generated a great deal of public discussion and concern. **SEN. JERGESON** stated he would like to stress that even though there were discussions and sometimes "tugs-of-war", the basic purpose of the University System was its students. He informed the Committee there were some university students attending the hearing and they were interested in the discussion. **SEN. JERGESON** said the leadership of the 1995 session thought it might be beneficial to convene a legislators' conference to discuss issues relating to higher education, i.e. the Yellow Bay Conference held at Flathead Lake. He said he had some misgivings about the Conference because he was afraid it would degenerate into a "legislators vs. university officials" confrontational meeting; however, the result was an extremely productive Conference. He commented legislators had justifiable questions and issues they wanted to raise with someone who might have answers or know where to find them and the university system representatives came prepared to do so. The ultimate result was ten priority areas which might be useful for the legislature to identify a policy relating to the University System. **SEN. JERGESON** recounted how several Conference participants commented an interim committee would be helpful to discuss those issues and he informed them there already was such a committee (Joint Committee on Postsecondary Education Policy and Budget) composed of eight legislators, two members of the Board of Regents, a representative from the governor's office and a student representative. He went on to relate how the Conference asked the Joint Committee to develop a document which

would outline legislative policy relating to the University System; thus, SJR 2. **SEN. JERGESON** said the Joint Committee had already been studying most of the ten items, so much of the work was already done.

He explained the format and content of the different sections of SJ2 and thanked the various people who had a part in the drafting. He said one of the items discussed at Yellow Bay was an effort to involve more legislators in the dialogue because unless they serve on the Appropriations Subcommittee on Education they are often left out of the loop of information; therefore, the decision was to bring the document to the Standing Education Committees of both the Senate and House. **SEN. JERGESON** remarked SJR 2 was a living document subject to legislative deliberation and amendment change. He invited the Committee's questions, comments and suggestions pertaining to SJR 2 and legislative policy relating to the University System.

*{Tape: 1; Side: A; Approx. Time Count: 1:42 p.m.}*

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

**Richard Crofts, Commissioner of Higher Education**, said the University System was pleased with the tenor and direction of SJR 2. He commented the System was hoping to encourage developing additional ways of communication between the System and legislature and the Regents and legislature. He offered to provide information needed as more detailed discussion of SJR 2 would take place.

*{Tape: 1; Side: A; Approx. Time Count: 1:46 p.m.}*

Questions From Committee Members and Responses:

**SEN. DELWYN GAGE** asked the University students how they felt about SJR 2 and **Jeremy Fritz, MSU-Bozeman**, said the students supported SJR 2.

**CHAIRMAN DARYL TOEWS** asked **SEN. JERGESON** to choose a few items from SJR 2, expand on them and thus generate questions from the Committee. **SEN. JERGESON** took the Committee to recommendations on Pages 2-3, Sub 1 & 4, and said the Joint Committee recommended the Board of Regents consider raising the tuition of non-residents to a level which covered the cost of the education plus market to a level above, but remain competitive with other institutions which might attract those students. He explained sometimes non-resident students represented "cash cows" for the System, i.e. paid the cost of their education plus a margin

above. However, it was important to ensure Montana students were not denied a place in the System because non-resident students would provide more economic value plus perspectives from other parts of the country or world. On the other hand, it was the primary responsibility of Montana's policymakers to maximize the number of Montana students served by the University System. **SEN. JERGESON** said one of the major tasks of the Yellow Bay Conference was the encouraging of two-year higher education (studies showed Montana graduated a higher percentage of four-year rather than two-year graduates). However, he quickly pointed out the Conference was not encouraging fewer four-year education graduates.

*{Tape: 1; Side: B; Approx. Time Count: 1:53 p.m.}*

**SEN. JERGESON** continued by saying students needed to understand opportunities two-year degrees offered as compared to that of a four-year education. He commented there was also concern about the mix of faculty responsibilities, i.e. some faculty members were spending so much time on research they were not imparting the knowledge to the students. He said faculty classroom exposure should be maximized but there was also student value in faculty members being involved in research because it kept them current with new knowledge.

**SEN. CASEY EMERSON** asked if a study had ever been done regarding Montana's retaining more two-year graduates than four-year. **Richard Crofts** answered he was not aware of such a study being done; however, he was quite sure more two-year graduates remained in Montana's work force than the four-year people. He explained the reason was most of the two-year students were the non-traditional who were unlikely to move very far from the area in which they lived. He said the percentage of four-year graduates in the fields of science, engineering or technology who remain in Montana was increasing. **SEN. JERGESON** suggested the real information to consider was the difference between those who came in as non-resident students and those who left as such. He felt the difference was quite narrow.

**SEN. JOHN HERTEL** called attention to Subsection 1, Part D, and wondered if such programs were already in place which would take care of enrolling in a two-year program, or was it a future development. **SEN. JERGESON** said such programs were already in place. **Barbara Keim, Tech Prep Coordinator for the South Central Consortium**, said she was working with 14 school districts to articulate courses at the junior/senior level to match the University System's program at the College of Technology level. Therefore, the students could receive college credit for some high school completed work if a certain grade point average was maintained and if the coursework was accepted at an A or B level for transfer into a particular program. Then the credits from the College of Technology could be transferred into the University System. She further explained the University System

was working hard to help students make the transition into any postsecondary training, including a "School To Work" program.

**SEN. HERTEL** asked how the program was funded at the high school level. **Ms. Keim** said it was funded by a grant which was part of the "School To Work" umbrella.

**SEN. EMERSON** asked if there were a limit to the number of Montana students enrolled in the University System. **SEN. JERGESON** said the budget would be built around the number of enrollment projections of Montana students; however, there was nothing in the law which specifically stated how many Montana students there shall be. **Mr. Crofts** said in the 1995 session, there was legislative action to incorporate into HB 2 a student mix of 78% Montana students and 22% out-of-state, which was a change from the traditional 80%-20% mix. He said the budget was built on the number of students, both resident and non-resident, which could be expected in the next biennium.

**SEN. EMERSON** asked how many Montana students were refused admission into the University System. **Mr. Crofts** replied none were refused that were qualified.

**SEN. DEBBIE SHEA** asked if SJR 2 addressed the issue of students finishing in four years and if the different campuses of the System were coordinating their efforts in that area. **Jeremy Fritz, student at MSU-Bozeman**, said one result was the credit limit was set at 150 and if a student went over that, he or she lost the state subsidy support. He also said there was better faculty advisement which helped, but there was still room for improvement and the plan was to tackle the problem. **Mr. Fritz** said MSU-Bozeman had hired a retention officer who would make sure students stay in school and to ensure they got proper advisement from faculty members. He informed the Committee financial aid (affordable education) could be a problem because sometimes students took a semester off to earn money, which meant they did not graduate in four years.

**SEN. TOEWS** asked what the cost would be if a student went over 150 hours but still had no degree. **Mr. Fritz** said currently students were paying one-third (other two-thirds was subsidized) of their education but after the 150 hours the student paid the full cost, which was equal to out-of-state tuition.

**SEN. LOREN JENKINS** asked the exact impact on the 150-credit limit if a student dropped out for a semester. **Jeremy Fritz** said the 150 credits would not be affected but if a student would drop to only a part-time student or take a reduced load in order to be able to work, eligibility for financial aid could be affected because finishing time would be longer than 4 years.

**SEN. SHEA** asked if the universities' responsibility was to meet with the student, go through the program and advise what courses were required. **Mr. Fritz** said the University System was



responding to the 1995 legislature very well because it was financially prudent to make sure the student was done in four years. He also said the student government was working with the System in providing teacher evaluations so students would know which courses to take for better education. He encouraged the legislators to keep abreast of the progress of the System.

**SEN. MIGNON WATERMAN** asked if the core credits transferred more easily between University units. **Jeremy Fritz** replied in the affirmative.

**Richard Crofts** clarified the distinction between a student taking a longer time to graduate and a student taking too many credits. He said the System had asked the University campuses to check the credits of their current graduates and they found the average was between 148 and 152 hours, but at that time most of the baccalaureate degrees required 128 hours. He explained it another way -- on the average, students were taking two-thirds of a year of additional course work beyond graduation requirements. Therefore, the Board of Regents made the following two changes: (1) Beginning the fall of 1996, students would be subsidized for only 150 credits; (2) All undergraduate programs either reduced their degree requirements to 120 hours or came up with a proposal for an exception to the 120 hours. **Mr. Crofts** said the only approved exception to the 120 hours was engineering and teacher education. He also said by the end of 1997, all six campuses would guarantee four-year graduations, explaining the System promised the students if they did their part (consult with an advisor, don't take reduced loads, don't change programs, etc.) it will commit to providing the courses they need and if all those courses should not be available, the System would not charge tuition for the additional courses needed to graduate.

**SEN. SHEA** informed the Committee of a graduate in her community who was to be the salutatorian of her graduating high school class. She took two courses at Montana Tech and got a B in one of them, which resulted in a loss of her class status. **SEN. SHEA** wondered if such a situation would discourage high school students from taking advanced courses. **Mr. Crofts** said it might have some impact; however, sometimes, if a high school student took the right high school courses, registered for the advance placement courses and took advantage of every opportunity, it was possible to complete at least a semester of college credit.

**SEN. EMERSON** commented the Constitution in 1972 provided for ease of transfer of credits among the six University units and two years ago the Commissioner of Higher Education said progress was being made. He called the Committee's attention to Page 4, Lines 18-19, and asked if the problem was ever going to be solved. **Mr. Crofts** said the language was included at the suggestion of some legislators and the University System endorsed it. He related how there was no transfer problem with the lower level, general education courses among the six University units; however, there

sometimes was a transfer problem in courses within a major and that was why the appeals process was included.

{Tape: 1; Side: B; Approx. Time Count: 2:30}

Closing by Sponsor:

SEN. GREG JERGESON thanked the Committee for the hearing and suggested before taking executive action on SJR 2, Committee members meet with representatives of the University System, members of the Joint Interim Committee or Joint Appropriations Committee if they had questions. He asked for favorable consideration from the Committee for SJR 2.

HEARING ON SB 21

Sponsor: SEN. GREG JERGESON, SD 46, Chinook

Proponents: RICHARD CROFTS, Commissioner of Higher Education

Opponents: NONE.

Opening Statement by Sponsor:

Sen. Greg Jergeson, SD 46, Chinook, said SB 21 would continue the Joint Committee on Postsecondary Education Policy and Budget for eight years, or until 2005. He said the Committee had been in existence for about eight years but its sunset date had always been every two years, which meant each legislative session had to extend it. It seemed prudent to ask for eight years so it would not have to be dealt with again soon. SEN. JERGESON said issues could not be discussed at long length in the Senate Legislative Committee so this Joint Committee was necessary. He asked the Committee's favorable consideration of SB 21.

Proponents' Testimony:

Richard Crofts, Commissioner of Higher Education, said the University System had experienced favorable dialogue with the Joint Committee and they supported the passage of SB 21.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. BILL GLASER asked if this was included in the appropriations bill or was it the "dog and cat." SEN. DARYL TOEWS said it was the "cat and dog." SEN. JERGESON said the budget for the Joint Committee was always added toward the end of the legislative session, often by the Conference Committee. He explained if SB

21 were to pass and by the end of the session the budget item added to HB 2, it would become present law in the next biennium.

Closing by Sponsor:

SEN. JERGESON closed without any further comment.

Further Comments by Chairman:

SEN. TOEWS said he wanted to go on record as saying he prolonged the hearing on SJR 2 because if the proposal were adopted, there were significant monetary consequences. He cautioned the Committee to read through the proposal carefully and consider the implications.

ADJOURNMENT

**Adjournment:** The meeting adjourned at 2:35 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SORT, Secretary

DT/JS