

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON EDUCATION & CULTURAL RESOURCES

**Call to Order:** By CHAIRMAN DARYL TOEWS, on February 19, 1997, at 3:14 p.m., in Room 402.

#### ROLL CALL

**Members Present:**

Sen. Daryl Toews, Chairman (R)  
Sen. C.A. Casey Emerson, Vice Chairman (R)  
Sen. Debbie Bowman Shea (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:** Sen. Steve Doherty (D)

**Members Absent:** None.

**Staff Present:** Eddye McClure, Legislative Services Division  
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: HB 104; Posted 02/14/97  
Executive Action: SB 301, SB 313, HB 104

#### HEARING ON HB 104

**Sponsor:** REP. ANTOINETTE HAGENER, HD 90, Havre

**Proponents:** Robert Runkel, Office of Public Instruction  
Hank Hudson, Department of Public Health and Human Services  
Mike Ferriter, Department of Corrections

**Opponents:** None.

**Opening Statement by Sponsor:**

**REP. ANTOINETTE HAGENER, HD 90, Havre,** said HB 104 was requested by OPI as a correction bill to clean up the budgeting confusion for the agencies involved. She said it would provide greater accountability and make it easier to follow budget expenditures.

**REP. HAGENER** stated the key point was on Page 4, Lines 5-6, explaining in the past two years OPI was held responsible for students placed by other state agencies, even though it could not anticipate, budget or monitor the costs. She said the amount of money had tripled over the past two years, which forced OPI to cut funding in other areas. **REP. HAGENER** maintained it was reasonable and practical, as well as sound accounting practice, to have the agency making the decision to place the child in the out-of-state residential facility be responsible and accountable for those expenditures. She said the agencies involved had agreed to the principal, and the cost was nothing more than a budget transfer. She explained the fiscal note had a correction -- #4 should read FY98 instead of FY96; also, she asked the Committee to note the fiscal impact on the General Fund and the counties was zero.

**Proponents' Testimony:**

**Robert Runkel, Office of Public Instruction (OPI),** said current law required OPI to pay for the education costs for children with disabilities who were placed with out-of-state agencies, which meant the placing Montana agency could do the placement without bearing the full impact of the cost. Therefore, the cost was shifted to OPI. **Mr. Runkel** stated another problem was OPI's being able to manage the funds which needed to be set aside for a widely fluctuating cost. He explained OPI notified schools on a preliminary basis of funds being distributed to them as much as 18 months prior to the end of the fiscal year; however, now OPI had to reserve special ed funds from distribution to schools based upon speculation of what might be needed to pay the education for the out-of-state placements. **Mr. Runkel** said if the costs were over-estimated, there was a loss of funds which would have been distributed to schools; however, if they were under-estimated, OPI had to scramble to try to figure out how to pay the bill. He informed the Committee under current law when the Department of Public Health and Human Services (DPHHS) and Corrections placed a child in an out-of-state program, the provider had two revenue sources, which made it difficult for the provider. He also suggested current law may not provide the best bargain because when DPHHS or Corrections negotiated for services, the leverage of a third party to pay for certain costs could result in inflated costs and cost-shifting. **Mr. Runkel** stressed HB 104: (1) Affected a narrow group of children -- about 150 annually, with about 100 being special ed; (2) Affected only those children placed by state agencies in out-of-state facilities; (3) Shifted the education cost from OPI's special education General Fund and Tuition Fund to the agency making the placement; (4) Increased accountability by ensuring the agency

making the placement incurred the full cost; (5) Simplified the law by reducing the number of partners responsible for payment; (6) Simplified calculation procedures; (7) Allowed agencies in the legislature to track actual costs.

**Hank Hudson, Child and Family Services Division, DPHHS**, said both his division and department were supporters of HB 104 and had worked with OPI in arriving at the division of resources. He suggested they were in a better position to consider the complete costs of making a decision to place a child in an out-of-state facility as well as the consideration of the complete budget.

**Mike Ferriter, Department of Corrections**, said his department managed a placement budget of over \$4 million for juvenile offenders. He said they had worked very hard to streamline the payment process for placements; therefore, he supported HB 104. He stated there currently were about 100 offenders placed out-of-state and HB 104 would place funds directly into his department's budget which would allow them to develop placement contracts which would include educational costs. **Mr. Ferriter** maintained HB 104 would allow the departments to make all payments directly to the provider. He thanked the Committee for supporting HB 104.

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Count: 3:25 p.m.}

Questions From Committee Members and Responses:

**SEN. DEBBIE SHEA** asked if school districts were considered agencies. **Robert Runkel** said they were not, as far as HB 104 was concerned.

**SEN. SHEA** asked if a school district would be responsible for payment if it recommended placing a student in an out-of-state agency. **Mr. Runkel** said public schools made very few placements in out-of-state agencies and HB 104 did not address that issue; however, present law required school districts to pay if they made the placement decision.

**SEN. SHEA** commented wise educational decisions were not always made, especially if they impacted the budget, and wondered if this might be a problem within the agencies. **Mr. Runkel** said it was obvious the costs would increase for those agencies making the placements. The money transferring to the agencies would help make the financial impact neutral.

**SEN. SHEA** asked for verification that money would be used only for that specific purpose. **Mr. Runkel** said they would not be restricted to use it only for educational costs -- the money would go into their General Fund budget to be applied toward a variety of purposes.

SEN. SHEA wondered about the accountability of that. Robert Runkel said it was his experience the agencies made very responsible decisions regarding placements and he did not think HB 104 would change that.

SEN. DELWYN GAGE reaffirmed the only costs involved were the educational costs and Mr. Runkel agreed.

SEN. LOREN JENKINS commented he understood the education money would be given to two departments and Mr. Runkel agreed.

SEN. JENKINS asked if the revenue came from county equalization. Mr. Runkel said most of the money came from the state special ed appropriation; very little came from the counties. He explained the reason was some money for children without disabilities who were placed out-of-state came from the county equalization aid account; HB 104 would relieve that.

SEN. JENKINS wondered why OPI did not pay the full cost instead of working with two or three agencies. Robert Runkel said the law had a long history. In the old days, if a state agency made the placement, the public school district paid the education costs. About four to six years ago, it changed to if Corrections or DPHHS made the placement, OPI paid. HB 104 was the final evolution in that the agency making the placement would pay the bill.

SEN. JENKINS asked if HB 104 went through House Appropriations and REP. HAGENER said it did not because it did not actively involve any funding change.

SEN. JENKINS suggested if Appropriations did not change the funding, it would "come out of their hide." Robert Runkel said the full intent was to not transfer obligations without the money so they would support any appropriations hearing which would transfer the funds as outlined in the fiscal note. He said HB 104 should not pass if the funds would not transfer.

{Tape: 1; Side: A; Approx. Time Count: 3:34 p.m.}

Closing by Sponsor:

REP. ANTOINETTE HAGENER said she hoped the Committee would see HB 104 as management and accountability. She asked HB 104 BE CONCURRED IN.

EXECUTIVE ACTION ON SB 313

Motion: SEN. DEBBIE SHEA MOVED DO PASS ON SB 313.

Discussion: SEN. CASEY EMERSON said he taught for 28 years and had student teachers which required extra work at the onset but at the end allowed the classroom teacher to have extra time; therefore, he felt the time evened out so the cooperating teacher

should not be paid at all. He suggested deleting that from SB 313.

**SEN. DEBBIE SHEA** said SB 313 did not specifically state the amount of money the cooperating teacher received; however, it was her experience it was just a token. Also, SB 313 was an ethics bill and did not deal with monetary amounts. **Eddye McClure** said the intent of SB 313 was to not have an ethics violation when cooperating teachers received the money.

**SEN. EMERSON** voiced his disapproval of the concept of the payment and said it should not be part of SB 313.

**SEN. BARRY "SPOOK" STANG** commented it did not sound unethical to pay a cooperating teacher because he had worked two different jobs at the same time and had received two paychecks. He said he did not think teachers should be held in ethics violation to accept the money; also, if an enforcer were to go around checking it would cause more problems and cost more money than it was worth.

Vote: Motion DO PASS ON SB 313 CARRIED 9-1 WITH SEN. CASEY EMERSON VOTING NO.

#### EXECUTIVE ACTION ON SB 301

Motion: SEN. BARRY "SPOOK" STANG MOVED DO PASS ON SB 301.

Discussion: SEN. MIKE SPRAGUE commented they would not have qualified for the loan if they had not had the reserve account.

Vote: Motion DO PASS ON SB 301 CARRIED 9-1 WITH SEN. LOREN JENKINS VOTING NO.

#### EXECUTIVE ACTION ON SB 357

Amendments: Eddye McClure explained the Waterman Amendments, SB035701.AEM. (EXHIBIT 1)

Motion: SEN. MIGNON WATERMAN MOVED DO PASS ON AMENDMENTS SB035701.AEM.

Discussion: SEN. WATERMAN explained she had wanted to connect this with the Early Childhood Project at MSU and was told it was impossible to administratively attach something to a project. She said an early childhood program was currently operating in the Department of Children and Family Services, who also oversaw a number of prekindergarten and child care programs. SEN. WATERMAN said she had talked to SEN. STANG regarding the amendments and he supported everything except #10, and she offered to segregate it if he so desired.

**SEN. BARRY "SPOOK" STANG** said he did not find any problem with the amendments as they were and was willing to accept "in the

program" in #10, unless the Committee felt strongly about leaving it in the classroom. He said both he and **SEN. JOHN HARP** felt strongly about the program not going through OPI.

**Vote:** Motion DO PASS ON AMENDMENTS SB035701.AEM CARRIED UNANIMOUSLY 10-0.

**Motion:** SEN. LOREN JENKINS MOVED DO PASS ON THE TOEWS AMENDMENTS SB035705.AEM. (EXHIBIT 2)

**Discussion:** SEN. DELWYN GAGE said he understood future legislators could not be bound.

SEN. BILL GLASER said he was curious what kind of fiscal note they would get.

**Vote:** Motion DO PASS ON TOEWS AMENDMENTS SB035705.AEM FAILED ON A TIED VOTE, 5-5, WITH SEN. DELWYN GAGE, SEN. DARYL TOEWS, SEN. BILL GLASER, SEN. JOHN HERTEL AND SEN. MIKE SPRAGUE VOTING NO.

**Motion:** SEN. BARRY "SPOOK" STANG MOVED DO PASS ON SB 357 AS AMENDED.

**Discussion:** SEN. MIKE SPRAGUE said he would have to vote NO because of the part in the bill which said Committee members were to be compensated. He said he understood if there was no program, there would be money provided, but he thought this was a case of setting up a process and funding it somehow. He thought it was a great idea but felt local people should be involved; he did not want to put it into statute.

SEN. DELWYN GAGE asked if it was working now, why should the state, who would probably only mess it up, get involved.

SEN. BARRY "SPOOK" STANG said to his knowledge, the program was part of only one school district in Montana, but thought it should be available to other school districts. He suggested schools would have to find federal money and it would be better to create the program at the state level so the state could tell the feds how it wants to run the program. SEN. STANG felt it was an opportunity for Montana to step in on their own so the feds would not.

SEN. GAGE said it was a "big brother" concept because states don't like the feds telling them what to do and neither did school districts like the states giving them mandates.

SEN. BILL GLASER said the state was having a hard time funding what was currently being done or keeping the taxpayers from rebelling. He admitted parent or surrogate parent involvement was important, but would have to vote NO on the premise of his former statement.

**SEN. CASEY EMERSON** shared how he had conducted a study for his Master's Thesis which compared students who attended kindergarten with those who did not. He said he found there was no significant social or educational difference in the two groups. He reminded the Committee years ago the reason given for mandatory kindergarten was the children would be better prepared for society and school but his study did not substantiate that. He said he compared his studies with several in other states and all found there was not much of a difference. He reported he also looked in the Head Start programs and found they did not work very well either, unless they worked with the families.

*{Tape: 1; Side: B; Approx. Time Count: 4:01 p.m.}*

**SEN. EMERSON** suggested it was not the program that was working; it was the fact better parents were being made. He maintained putting three-and-four-year-olds into school would not help the family, but destroy it. He stated the testimony heard regarding this program would save children from becoming criminals, etc., was heard when kindergartens became mandatory and when Head Start began. He contended it hadn't worked then and would not work now either -- the direction should be to strengthen the families. He referred to **SEN. STANG'S** comments about going down to one-and-two-year-olds, if necessary, and said that was the way it was in Castro's Cuba; it seemed we were headed that direction. **SEN. EMERSON** closed by saying the thing to do was to work toward improving families.

**SEN. BARRY "SPOOK" STANG** said the saying, "Pay now or pay later," described SB 357. He reminded the Committee it did not have any money in it and had not cost the state anything. He stated the program would help to do what **SEN. EMERSON** said it would not because the program in Superior, MT, proved the strengthening of the family and community, even to the extent faith in schools was reestablished. He insisted SB 357 was going the direction **SEN. EMERSON** suggested because it was telling parents they must spend time with their children. He referred to a letter from a parent who had a child with Attention Deficit Disorder, but early identification allowed her to be mainstreamed and not need special education. **SEN. STANG** said a program like SB 357 would have detected the problem at the age of three instead of five or six years. He reiterated he truly believed SB 357 would bring the families together and though there was yet no money, private contributions would be allowed. He suggested running the program in a few places for two or four years and then coming up with statistics to prove or disprove the program. He affirmed his premise SB 357 was a step in the right direction and should not be passed up.

**Vote:** Motion DO PASS SB 357 AS AMENDED FAILED 6-4 ON ROLL CALL VOTE, NUMBER 1.

EXECUTIVE ACTION ON HB 104

Motion: SEN. MIGNON WATERMAN MOVED HB 104 BE CONCURRED IN.

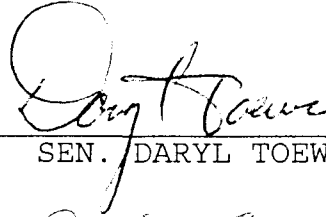
Motion/Vote: SEN. DELWYN GAGE MOVED THE GAGE AMENDMENTS  
HB010401.AEM (EXHIBIT 3) BE CONCURRED IN. Motion CARRIED  
UNANIMOUSLY 10-0.

Motion/Vote: SEN. MIGNON WATERMAN MOVED HB 104 AS AMENDED BE  
CONCURRED IN. Motion CARRIED UNANIMOUSLY 10-0. SEN. MIGNON  
WATERMAN will carry HB 104.



ADJOURNMENT

**Adjournment:** The meeting adjourned at 4:22 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS