

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By CHAIRMAN DARYL TOEWS, on February 21, 1997, at 3:16 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. 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

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

##### Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 370, SB 371; Posted 2/17/97  
Executive Action: SB 262, SB 370, SB 371, SB 357

#### HEARING ON SB 370

Sponsor: SEN. FRED THOMAS, SD 31, Stevensville

Proponents: Lance Melton, Montana School Boards Association  
Don Waldron, Montana Rural Education Association

Opponents: Charles Kestle, Board of Architects  
Brandt Salo, Montana Chapter of ICBO  
Pamela Hill, Board of Architects  
Rick Schlenker, Architect, Helena  
Ron Anderson, Architect, Billings

Opening Statement by Sponsor:

**SEN. FRED THOMAS, SD 31, Stevensville,** said (**EXHIBIT 1**) was current law, which said when school districts wanted to engage in a building project, they had to hire an architect and then negotiate with him or her. He said SB 370 might be interpreted by some as saying an architect did not need to be hired at all, but that was not the intent; any school or public building needed to pass all building codes in effect, so an architect was a "must." **SEN. THOMAS** stated the intent of SB 370 was for a school district to be able to negotiate with an architect or architectural firm before hiring, thus ensuring getting the desired professional.

Proponents' Testimony:

**Lance Melton, Montana School Boards Association (MSBA),** said their members were having the provisions in SB 370 interpreted in a way they felt fearful of participating in a project without first contracting and paying an architect before the services may be necessary. He referred to (**EXHIBIT 1**) and said it detailed the different law requirements, but stressed SB 370 was not trying to alter the license requirements. **Mr. Melton** said MSBA would not have any problem amending the bill to bring clarity and suggested: (1) Page 1, Line 17, adding "under Title 37, Chapter 65" after "services"; (2) Page 1, Line 23, replace "may" with "must" and insert "licensed" before "firm" and after "firm" add "licensed architect". He suggested the changes would leave no arguments against SB 370, but would give trustees the flexibility to look at their options, discuss with builders, architects, engineers and others how to get the job done without needing to immediately get into a contract which would start the payment process. **Mr. Melton** referred to Section 2 (current law) and said MSBA would like to give the trustees the flexibility to see if the selection of a firm was necessary. He explained the current interpretation was trustees felt constrained to first hire a licensed architect before considering the project. He urged the Committee's support for SB 370.

**Don Waldron, Montana Rural Education Association (MREA),** said he had always operated by first getting the board's consent to pursue the project, calling several architects to look at the project, getting an estimate and taking the figures to the board who then advertised for the architect. He said he thought it was the legitimate way, but after listening to the testimony, it may not have been. **Mr. Waldron** wanted to go on record as supporting SB 370.

Opponents' Testimony:

**Charles Kestle, American Institute of Architects (AIA),** said he believed there was misinterpretation of existing state law because currently public entities sent out a Request for Proposal (RFP), architects sent qualifications, firms were interviewed and

then the top-ranked firm was selected. He said if the selected firm and school board could not come together regarding the fee, the next firm on the list was interviewed. He insisted no firm was hired without a fee negotiation or no money changed hands until the fee negotiation was completed. **Mr. Kestle** said AIA wanted to express opposition to SB 370 because there were serious, though unintended consequences if the bill should pass. He stated AIA's main concern was SB 370 would compromise the health, safety and welfare of the general public, explaining current law required school boards to retain the services of a licensed architect when contemplating a building project, and SB 370 would make that requirement optional. He said of all the professionals in the construction industry, the architect was uniquely qualified to see that the health, safety and welfare of the public was protected in the design of the building, and that was possible because of intense training and examination. He said some would argue SB 370 would enable school boards to hire architects to do stamped blue prints but hire non-architects to do preliminary design work; however, that would be wrong because the preliminary work was just as important as the blueprints. He illustrated it would be like an architect being handed a budget and preliminary design prepared by an unqualified person, only to find the estimate inadequate and the building codes violated by the design. **Mr. Kestle** insisted current laws made sure qualified professionals were hired for school projects from the onset; SB 370 would change that by making it optional; in addition the last sentence of 20-6-633 was deleted, which was an important provision. He suggested SB 370 conflicted with other state laws which dealt with hiring architects for public projects, and school boards would wonder which laws to follow. **Charles Kestle** urged the Committee to vote against SB 370.

**Brandt Salo, Montana Chapter of International Conference of Building Officials (ICBO)**, said school buildings had critical life-saving issues inherent in their design because of the children they served, and the issues were best addressed through professional design assistants. He said the elimination of the professional design requirements could lead to work being done in a school without exercising the mandate for review. He encouraged the opposition of SB 370 in its current form because it was important to obtain the services of the best design professional for the project.

**Pamela Hill, Board of Architects**, said the Board of Architects opposed SB 370 in its current form because the language was in direct conflict with existing Montana statute, 37-65-102 (5). She informed the Committee except for Mississippi, Montana had more liberal requirements than any other state regarding architectural services. She also said architects were educated, trained and examined over a period of eight years to protect the health, safety and welfare of the public. **Ms. Hill** insisted the language in SB 370 could make requiring architectural services for building, furnishing, repairing or other work optional. She maintained the passing of SB 370 would compromise the health,

safety and welfare of the school children; therefore she was opposed.

**Rick Schlenker, Architect, Helena**, said his firm was working on several school district projects and they were selected in the manner supported by SB 370. He referred to an example of replacing doorknobs and challenged the thinking it could not be very hard because he maintained there were many considerations, including AD accessible, push-pull clearance and prior fire safety codes, to name just a few. He suggested SB 370 was not necessary because his experience showed architects and school districts were already working together on a professional basis.

**Mr. Schlenker** said as a parent he wanted his children to be as safe as possible when they were away from home and he did not want to see unsafe problem areas because a nonprofessional was hired, which was something he had seen in some schools. He said he was opposed to SB 370.

**Ron Anderson, Architect, Billings**, said he opposed SB 370 in its present form because of the life and safety of the children. He expressed concern over shortcuts because of budget constraints, saying the life and safety of the children was compromised.

*{Tape: 1; Side: A; Approx. Time Count: 3:40 p.m.}*

Questions From Committee Members and Responses:

**SEN. LOREN JENKINS** referred to an experience of his where the architect designed a faulty roof on a school in his area, which caused taxpayers to float a \$1 million bond to reroof the building. He wondered about the architect's liability. **Rick Schlenker** said nobody was infallible, and giving the responsibility to a contractor or non-professional opened the school board up for liabilities. He said licensed architects were best trained to solve the largest number of existing problems.

**SEN. MIGNON WATERMAN** asked if there was a challenge to the selection process which led to the problem addressed by SB 370. **SEN. FRED THOMAS** said he did not think the law was interpreted incorrectly. **SEN. WATERMAN** maintained when existing law was read literally, it seemed to say that; however, she had served on the school board and they had done the process as described by **Don Waldron**. **SEN. THOMAS** said in his case they had interpreted it literally.

**SEN. STEVE DOHERTY** asked **Rich Schlenker** if he carried malpractice insurance and was told he did. **SEN. DOHERTY** asked if SB 370 passed, and if a contractor could do the work, was there a guarantee that individual would have malpractice insurance in case an error of omission occurred. **Mr. Schlenker** said there was not.

{Tape: 1; Side: A; Approx. Time Count: 3:47 p.m.}

SEN. DELWYN GAGE mentioned someone had testified if SB 370 passed, hiring an architect would be unnecessary and asked if current statute as was before the Committee said an architect had to be hired. Lance Melton said it didn't; it said so elsewhere. SEN. GAGE commented the statement was misleading. Charles Kestle said the language inserted into SB 370 was "may", which created the option. SEN. GAGE still felt his question was unanswered so Mr. Kestle referred to 20-6-631 and said "projects that exceed \$50,000 require architectural services", which he interpreted to mean anything over \$50,000 required architectural services. SEN. GAGE did not agree with his interpretation.

SEN. GAGE commented it looked like 20-6-631 and 20-6-633 should be repealed. SEN. THOMAS said the bill was not about architects but about the negotiations in the second section; however, if the Committee would like to change "may" in Line 18 back to "shall", it would be all right, but it seemed the opponents of SB 370 did not want it to be flexible. He explained in 20-6-633, the intent was to change the negotiation so it could be done first.

SEN. MIKE SPRAGUE asked how long the \$50,000 limitation had been in existence. SEN. THOMAS said he was not sure, but it seemed it was put into law in 1947 and revised in 1975. SEN. SPRAGUE asked if the \$50,000 limitation was still relevant. Rick Schlenker said he had not really thought about it, but each project was affected differently.

SEN. DARYL TOEWS asked Pamela Hill how she felt about the amendments and was told SB 370 was really about competency for the project, not about the price for the services. SEN. TOEWS asked her if she would support the amendments and Ms. Hill said they were unnecessary because the competency was the most important. SEN. TOEWS asked when in the last five years, an architectural firm had paid a liability claim. Ms. Hill said she couldn't and SEN. TOEWS said the answer was "none."

SEN. WATERMAN asked if existing law could be interpreted as the school board could not negotiate price while selecting competency. Pamela Hill said not exactly because in most cases there was a general idea of what the fees might be. SEN. WATERMAN asked if the board would be violating the law if they asked for a firm proposal while they were discussing the competency. Carol Grell, Department of Commerce, said existing statute said the \$50,000 fee was the first thing evaluated and after that a fair and reasonable fee was negotiated, i.e. they had to determine if the project was going to exceed \$50,000, and then the fee would be negotiated.

SEN. WATERMAN said she was referring to the charge of the architect, not the cost of the project, and she wondered if, in the case of two competent architects, the board of trustees could

discuss which one would charge less before an architect could be selected. **Pamela Hill** said it couldn't.

**SEN. GAGE** asked if any firm would say, after looking at a project, it was incompetent to do that particular job. **Pamela Hill** said the selection of competency was up to the school district and trustees, i.e. the architect would not make that judgment in and of him-or-herself.

Closing by Sponsor:

**SEN. FRED THOMAS** said he and **Eddye McClure** had worked together on the bill and both MSBA and architects had offered amendments; however, there had been no contact with the Board of Architects prior to now. He maintained there had been reasonable negotiations with the architects but felt they did not want the changes proposed. **SEN. THOMAS** asked the Committee to consider the change and reminded them "shall" instead of "may" made the law stronger; also, he reiterated Section 2 and the change to allow the board to consider cost before hiring the architect. He urged DO PASS for SB 370.

{Tape: 1; Side: B; Approx. Time Count: 4:04 p.m.}

HEARING ON SB 371

Sponsor: **SEN. TOM KEATING, SD 5, Billings**

Proponents: **Lance Melton, Montana School Boards Association**  
**Dori Nielson, Office of Public Instruction**  
**Wayne Buchanan, Board of Public Education**  
**Chere Jiusto, Parent**  
**Melinda Arts, Parent**

Opponents: **Eric Feaver, Montana Education Association**  
**Terry Minow, Montana Federation of Teachers**

Opening Statement by Sponsor:

**SEN. TOM KEATING, SD 5, Billings**, stressed SB 371 allowed a person(s) to initiate a charter school to have the mechanism to do so, but it did not institute a charter school. He explained he had seen an article about a charter school in Milwaukee which educated students for about \$3,000 per student as compared to about \$8,000 per student in the public school system, and said the article caught his attention because he was trying to balance the cost of Montana education with the problem of keeping taxes down. **SEN. KEATING** said 25 states permitted charter schools; all had different levels of autonomy, though Arizona had the most. He informed the Committee SB 371 was modeled after the Arizona language. He said Arizona had about 167 charter schools, with a cost of about \$4,000 per student. He suggested the concept of charter schools was somewhere between a voucher system and the public school only. He said there were four reasons for a

charter school: (1) Freedom of choice for families; (2) Entrepreneur opportunities for educators; (3) Explicit accountability for the school; (4) Thoughtful and fair competition for the public school system. **SEN. KEATING** referred to **(EXHIBIT 2)** and said there was a strong similarity between the requirements for the bill and the charter school in **(EXHIBIT 2)**. He described SB 371 by saying an applicant could apply to a local school district for a charter to establish a school which was autonomous from the public system, and all the faculty, administration, curriculum, discipline, etc., requirements were set throughout the bill. He referred to Page 2, Section 5, and said the section was one of the most important of the bill. He said the funding would be on an ANB basis, negotiated with the school district, because students from that particular district would be educated. He further explained if the district was above the 90% level in the equality funding, it could negotiate with the charter school and pay them ANB somewhere just above the 80% line, which would be a savings to the district and would challenge the charter school to deliver a quality product at an acceptable price.

*{Tape: 1; Side: B; Approx. Time Count: 4:18 p.m.}*

Proponents' Testimony:

**Lance Melton, Montana School Boards Association (MSBA)**, explained the amendments as presented in **(EXHIBIT 3)**.

**Dori Nielson, Office of Public Instruction (OPI)**, explained the amendments as presented in **(EXHIBIT 4)**

*{Tape: 1; Side: B; Approx. Time Count: 4:34 p.m.}*

**Wayne Buchanan, Board of Public Education**, said the charter school concept could improve the education in our country and he thanked **SEN. KEATING** for bringing the bill. He suggested changing the language on Page 2, Line 22, because he was not aware of a charter school which was exempt from all state laws, and offered that was not the intent of SB 371. **Dr. Buchanan** said there were currently 12 Montana school districts which utilized a performance-based accreditation standard. He also mentioned alternative standards, which had always been a part of the accreditation standards, which allowed school districts to do a wide variety of things within the existing accreditation standards. He suggested if charter schools were exempt from the accreditation standards, there be an exception for performance standards and measures of student performance. He wished the Committee good luck and said they had their work cut out for them.

**Chere Jiusto, Parent**, said many Montanans were looking for reform in schools and SB 371 gave schools the mechanism, encouragement and incentive for the chartering of schools. She said this was the third session a charter school bill had been considered and

interest in charter schools continued to grow. She said the Republican National Committee endorsed the idea, as well as the Secretary of Education and President Clinton. **Ms. Jiusto** stated there were over 450 charter public schools in the United States serving over 100,000 children. She said these charter schools would allow teachers to do what they did best and gave them a voice in how the school was formed and how it functioned; also, encouraged reform and improvement in a system which could be difficult to move from the status quo. She suggested Montana could benefit from SB 371 because public schools in the cities were becoming increasingly crowded and charter schools could address that problem; in addition, rural areas could also benefit because of the long bus rides the students had to endure. She urged the passing of SB 371.

**Melinda Arts, Teacher and Parent**, said she had seen different ways education could be presented and the kinds of children whose needs could be met. She said her children had been involved in both large urban and small rural schools and she had substituted in both situations. She stated she found large schools sacrificed some flexibility while a teacher in a small school had a great deal of room to tailor her teaching. She gave a personal example of her Attention Deficit Disorder son being successful in the Helena Community School, which tailored a program to meet his needs. She urged the Committee to consider SB 371 as a bill which would offer specialized opportunities for people in special circumstances; not for people who could afford them.

*{Tape: 1; Side: B; Approx. Time Count: 4:48 p.m.}*

Opponents' Testimony:

**Eric Feaver, Montana Education Association (MEA)**, said MEA opposed SB 371 in all introduced forms, because there was no definition of charter school. He referred to the original form of SB 371, Page 2, Section 4, to support that statement, and said Subsection (e) was the first indication there might be a funding circumstance in the bill. **Mr. Feaver** discussed the following from the original SB 371: (1) Section 4, Subsection (2) -- "trustees may provide technical assistance to improve the application" was an unfunded mandate, explaining anyone who had designs for a charter school could rush to the school board and demand technical assistance for the application; (2) Section

*{Tape: 2; Side: A; Approx. Time Count: 4:51 p.m.}*

5, Subsection (b), contradicted Section 5, Subsection (a), -- the charter school would be unaccredited which would mean it could not receive state funding. **Mr. Feaver** stressed MEA's bottom line would be collective bargaining and teacher certification; (3) Page 3, Subsection (3), -- the language regarding the liability and responsibility of the trustees and the board was a curious situation; (4) Section 6, -- 15 years could become a long time without scrutiny from the board of trustees; (5) Section 7, --



enrollment preference extending to siblings of students already enrolled in the charter school, i.e. home schools could become charter schools; (6) Page 5, Subsection (3), -- an uncertified parent in a home school which became a charter school could be eligible for teachers retirement; (7) Page 5, Section 9 -- OPI already indicated they were not interested in coming up with a list of buildings; (8) Page 5, Section 10 -- a good section; (9) Page 6 - end of bill -- statutory exemptions, including no funding mechanism, which could not be in place because the charter schools would be unaccredited. **Mr. Feaver** reminded the Committee a charter school bill was debated in the 1995 session and was amended to the Committee's, MEA's and Senate's satisfaction, and the amendments included the right of teacher certification and collective bargaining in the charter schools. He stressed MEA supported charter schools but not at the expense of MEA's existence. He explained (EXHIBIT 5) and said they would be willing to work with OPI and their amendments.

**Terry Minow, Montana Federation of Teachers (MFT)**, said MFT opposed SB 371, though it did not oppose the concept of charter schools. She said their members were ready, willing and eager to participate in real school reform but they could not support SB 371 because there were serious questions about implementation, impact on collective bargaining and certification and real need for the bill. **Ms. Minow** stressed if Montana were to have charter schools, collective bargaining must be allowed because negotiating was a valuable means of communication. She referred to (EXHIBIT 6), column 3, and said SB 371 did not have the basics in place.

{Tape: 2; Side: A; Approx. Time Count: 5:06 p.m.}

Questions From Committee Members and Responses:

**SEN. MIKE SPRAGUE** asked what kind of charter school President Clinton envisioned. **Eric Feaver** said there was not a precise definition but did stimulate entities to apply for a competitive grant to assist the charter school; however, he had never heard the President specify what he perceived to be a charter school.

**SEN. SPRAGUE** asked why agreement could not be reached regarding what should be in a charter school. **Mr. Feaver** said he believed there could be some validity to not be specific about what a charter school was, except when no decision was made in statute, anybody could offer a charter school. He said MEA was ready to work with the legislature regarding charter schools, but would not surrender certification and collective bargaining.

**SEN. CASEY EMERSON** referred to Page 2, Line 22, and asked if the sponsor would accept an amendment which would say, "all school laws". **SEN. TOM KEATING** said he would. **SEN. EMERSON** asked **SEN. KEATING** if he would consider changing the "15 years" on Page 3, Line 27, to "5 - 15 years" and was told the bill provided for a review of the charter school by the trustees to ensure their

complying with the charter and to revoke the charter if they were not. **SEN. KEATING** said he did not want to leave it open for the trustees because a capital investment could be involved and a period of time to amortize the capital investment was needed.

**SEN. EMERSON** asked about liability and property loss insurance specifically naming and covering the board of trustees and wondered if that should be amended into SB 371. **SEN. KEATING** agreed.

**SEN. DELWYN GAGE** asked what would happen if teachers in a small school would say they could use the internet, do away with the principal and superintendent, do their own janitor work, decide among themselves regarding their salaries and get out from the requirements of OPI and the Board of Public Education in order to do a better job, i.e. put in a charter request. **Eric Feaver** said SB 371 would allow that to happen because the board of trustees would control the application, but if the board would allow it, he would wish the teachers well.

**SEN. LOREN JENKINS** wondered why MSBA, OPI and the sponsor had not met before this day. **SEN. TOM KEATING** said he put in the bill draft request before January but he did not get it until Saturday and he immediately signed his name and got another signature. He said several days ago, MSBA said they liked SB 371 but wanted a few changes and **Gail Gray** saw him in the hall a few days ago and said they were working on some amendments; however, there was no collaboration -- everyone came from their own point of view.

Closing by Sponsor:

**SEN. TOM KEATING** said no contract could be written which would be language-specific to every detail; the only thing which made a contract valid was the good will of the parties involved in the contract. He said if someone really hated a proposal, he or she could go through it word by word and rip it to shreds just because they hated it. **SEN. KEATING** said this charter bill was presented in good faith, explaining the states which had the most restrictions in the laws had the most failures while those who had the least restrictions had the most successes, and not every charter school would make it. He stated over the years he had watched the SAT scores decline until this year, when the decline leveled off because the test was changed. **SEN. KEATING** said he accepted the amendments by MSBA (**EXHIBIT 3**); however, he did not agree with OPI's proposal the charter school was part of the district and accountable to the board of trustees who should employ all personnel of the charter schools. He maintained that concept corrupted the intent of SB 371, which was the charter school had the autonomy to function under the charter as approved by the district but the freedom to fail or succeed. He reiterated he was not here to oppose or replace the public system; rather, SB 371 offered the opportunity for people to do something other than the public system, should they choose to do so -- local control was a mandate in the Constitution. He

stated SB 371 said the charter school was free from bargaining laws, but if the school district was under the bargaining unit, that unit did not necessarily have to go with the charter; however, under federal laws, any entity was subject to a bargaining unit at the vote of the people in the system.

{Tape: 2; Side: A; Approx. Time Count: 5:27 p.m.}

EXECUTIVE ACTION ON SB 262

Amendments: Eddy McClure explained Amendments SB026201.AEM (EXHIBIT 7).

Motion: SEN. MIGNON WATERMAN MOVED DO PASS ON AMENDMENTS SB026201.AEM. Motion CARRIED 10-1 WITH SEN. DELWYN GAGE voting NO.

Motion/Vote: SEN. DEBBIE SHEA MOVED DO PASS ON SB 262 AS AMENDED. Motion CARRIED 8-3, WITH SEN. DELWYN GAGE, SEN. BARRY "SPOOK" STANG, AND SEN. LOREN JENKINS voting NO.

EXECUTIVE ACTION ON SB 370

Discussion: SEN. MIGNON WATERMAN suggested amendments which would delete Section 1 from the bill and change Line 23 to read "must" instead of "may" and "licensed architect" instead of "firm."

SEN. JOHN HERTEL commented \$50,000 was not large enough; he suggested \$500,000.

Eddy McClure explained amendments were handed to her upon which the testifiers and SEN. FRED THOMAS agreed. [Those amendments and the one suggested by SEN. WATERMAN were later combined into Amendments SB037008.AEM (EXHIBIT 8). ED.]

SEN. CASEY EMERSON said Section 1 should be left the way it was, but suggested wiping out Section 2.

SEN. MIKE SPRAGUE said if \$50,000 was entered in 1947, today's prices would make it much higher than SEN. HERTEL'S \$500,000 so he recommended leaving the bill the way it was and let the House work on it; even the Senate Floor would give more time to work on amendments.

SEN. DEBBIE SHEA said she did not agree because if the parties involved came to an agreement on the amendments, the Committee should honor those.

SEN. BILL GLASER commented since \$50,000 was in the title of the bill, could it be raised. Eddy McClure said it was also in the bill so it could be dealt with. SEN. GLASER suggested removing everything from the bill, change the amount to \$100,000 and let everybody mince with that.

SEN. DELWYN GAGE suggested repealing both sections if SB 370 was to be passed.

*{Tape: 2; Side: B; Approx. Time Count: 5:38 p.m.}*

He said he was not in favor of sending something to the House and telling them to deal with it; the Committee ought to send them what it wants them to look at.

SEN. MIGNON WATERMAN commented it sounded like the architects agreed to drop the dollar amount and the trustees would decide when they would need an architect.

SEN. HERTEL said the Committee should not lose sight of what SEN. THOMAS wanted, i.e. negotiation. He explained the board could negotiate first on a building program and then hire the architect, if they wanted to proceed. SEN. HERTEL reminded the Committee that was not the way it was in today's law.

SEN. BILL GLASER said if the \$50,000 limit was removed, with the exception of the Davis-Bacon Act which broke it off at \$25,000, an architect would have to be hired for \$5,000 worth of work.

SEN. BARRY "SPOOK" STANG said it appeared if a building permit within building codes was applied for, an architectural plan would be demanded.

SEN. EMERSON still thought Section 2 should be deleted.

SEN. LOREN JENKINS said he thought the \$50,000 was a base and anything under it could be done without architectural services, according to Section 1. He explained Section 2 currently said after selecting a firm, the trustees would negotiate with that firm a fair and reasonable fee, and if Section 2 in the bill was removed, the law would revert back.

Motion: SEN. MIKE SPRAGUE MOVED DO PASS ON SB 370.

Substitute Motion: SEN. MIGNON WATERMAN MOVED DO PASS ON AMENDMENTS SB037008.AEM.

Discussion: SEN. SPRAGUE said the \$50,000 should be made relevant to today's value.

SEN. WATERMAN suggested if the bill could be moved to the floor, people would have time to figure out an appropriate amount.

Vote: Motion DO PASS ON AMENDMENTS SB037008.AEM CARRIED UNANIMOUSLY 11-0.

Motion/Vote: SEN. MIGNON WATERMAN MOVED DO PASS ON SB 370 AS AMENDED. Motion CARRIED UNANIMOUSLY 11-0.

EXECUTIVE ACTION ON SB 371

Motion: SEN. LOREN JENKINS MOVED DO PASS ON THE MSBA AMENDMENTS (EXHIBIT 3).

Discussion: SEN. DELWYN GAGE asked how the funding worked.

SEN. BILL GLASER said it was innovative privatization.

SEN. CASEY EMERSON said he thought the original SB 371 was better than the ones offered by MSBA and OPI.

SEN. DEBBIE SHEA said she could not get over the fact the charter school concept had been considered several sessions and nobody got together to hammer it all out.

SUBSTITUTE MOTION/VOTE: SEN. DEBBIE SHEA MOVED TO TABLE SB 371. Motion CARRIED 6-5 ON ROLL CALL VOTE Number 1.

EXECUTIVE ACTION ON SB 357

Motion: SEN. BARRY "SPOOK" STANG MOVED TO RECONSIDER SB 357 AS AMENDED.

Discussion: SEN. STANG said he was not going to try to persuade anyone to change their mind, but he would like SB 357 to come out on either a DO PASS or DO NOT PASS motion, with the amendments (EXHIBIT 9) attached. He said it was both his and SEN. JOHN HARP'S intention to bring the bill to the floor because they both felt it was time to try something different with the education system.

SEN. MIKE SPRAGUE asked what the difference was between SB 357 and SB 371. SEN. STANG said he voted to table SB 371 because there were three different bills which would be impossible to work on. He informed SEN. SPRAGUE he supported SEN. TOEWS' charter school bill in the 1995 session all the way to the end and he agreed with SEN. WATERMAN charter schools had merit; however, he objected to it being brought in at the 11th hour.

SEN. LOREN JENKINS asked SEN. STANG if his school district was using it right now and if it was available without a state law. SEN. STANG said he believed their federal grant was good for one or two more years but SB 371 was not just for that school district. SEN. JENKINS commented the only reason the bill was needed was for the funding and SB 371 did not include that at present. He stated in his area the parents got together to have a prekindergarten in the school, which was taught by a mother and assisted by other mothers.

Vote: Motion TO RECONSIDER SB 357 CARRIED 6-5, WITH SEN. LOREN JENKINS, SEN. CASEY EMERSON, SEN. MIKE SPRAGUE, SEN. DELWYN GAGE AND SEN. DARYL TOEWS voting NO.

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

Substitute Motion: SEN. BILL GLASER MOVED DO NOT PASS ON SB 357 AS AMENDED.

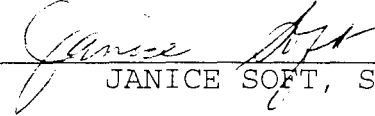
Vote: Motion DO NOT PASS SB 357 AS AMENDED CARRIED 6-5 ON ROLL CALL VOTE Number 2.

ADJOURNMENT

**Adjournment:** The meeting adjourned at 6:00 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS