

SENATE BILL 366

Introduced by Nathe

2/11	Introduced
2/11	Referred to Public Health, Welfare & Safety
2/11	First Reading
2/11	Fiscal Note Requested
2/16	Fiscal Note Received
2/16	Fiscal Note Printed
2/17	Hearing
2/17	Tabled in Committee

1 Senate BILL NO. 344  
2 INTRODUCED BY WATHE  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR  
5 PROVISIONAL LICENSING OF SPEECH-LANGUAGE PATHOLOGISTS AND  
6 AUDIOLOGISTS WHO MAY PERFORM SPEECH-LANGUAGE PATHOLOGY AND  
7 AUDIOLOGY SERVICES IN THE PUBLIC SCHOOLS OF THE STATE;  
8 AMENDING SECTIONS 37-15-102, 37-15-103, AND 37-15-202, MCA;  
9 AND PROVIDING AN EFFECTIVE DATE."

## STATEMENT OF INTENT

12 A statement of intent is required for this bill because  
13 the bill gives the board of speech-language pathologists and  
14 audiologists authority to adopt administrative rules  
15 regarding provisional licensing of speech-language  
16 pathologists and audiologists who may perform  
17 speech-language pathology and audiology services in the  
18 public schools of the state. It is the intent of the  
19 legislature that the board limit provisional licenses to 4  
20 years, conditioned on annual evidence of satisfactory  
21 progress toward meeting any requirements for full licensure.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24      **Section 1.** Section 37-15-102, MCA, is amended to read:

25        \*37-15-102. Definitions. As used in this chapter, the

1 following definitions apply:

2           (1) "ASHA" means the American speech-language and  
3   hearing association.

4           (2) "Association" means the Montana speech-language and  
5   hearing association.

(3) "Audiologist" means a person who practices audiology and who meets the qualifications set forth in this chapter. A person represents himself-to-be to the public that the person is an audiologist when he the person presents himself to the public by any title or description of services or functions that he the person directly or indirectly performs incorporating the words "audiologist", "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician", "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any similar title or description of services.

18 (4) "Audiology aide" means any person meeting the  
19 minimum requirements established by the board of  
20 speech-language pathologists and audiologists who works  
21 directly under the supervision of a licensed audiologist.

22 (5) "Board" means the board of speech-language  
23 pathologists and audiologists provided for in 2-15-1849.

24 (6) "Department" means the department of commerce  
25 provided for in Title 2, chapter 15, part 18.

(7) "Practice of audiology" means rendering or offering to render a service in audiology to individuals or groups of individuals who have or are suspected of having hearing disorders. These services include:

(a) prevention, identification, measurement, testing, evaluation, prediction, consultation, habilitation, rehabilitation, instruction, and research;

(b) participating in hearing conservation and hearing aid and assistive listening device evaluation, prescription, preparation, dispensing, and orientation;

(c) fabricating ear molds;

(d) providing auditory training and speech reading;

(e) conducting tests of vestibular function;

(f) evaluating tinnitus;

(g) planning, directing, conducting, or supervising programs that render or offer to render a service in audiology; and

(h) speech or language screening, limited to a pass/fail determination.

(8) "Practice of speech-language pathology" means rendering or offering to render a service in speech-language pathology to individuals or groups of individuals who have or are suspected of having communication disorders. These services include:

(a) prevention, identification, measurement, testing,

evaluation, prediction, consultation, habilitation, and rehabilitation;

(b) determining the need for augmentative communication systems and providing training in the use of these systems;

(c) planning, directing, conducting, or supervising programs that render or offer to render a service in speech-language pathology;

(d) nondiagnostic pure-tone air conduction, tympanometry, and acoustic reflex screening, limited to a pass/fail determination; and

(e) aural rehabilitation, which includes services and procedures for facilitating adequate receptive and expressive communication in individuals with hearing impairment.

(9) "Provisionally licensed speech-language pathologist or audiologist" means a person who:

(a) does not meet the minimum requirements for licensure as a speech-language pathologist or audiologist under the provisions of this chapter but who is eligible for provisional licensure, conditioned on evidence of satisfactory progress toward meeting the requirements of full licensure;

(b) holds a bachelor's degree with a major in speech-language pathology or audiology; and

(c) may be employed by a public school district of the

1 state of Montana in the practice of speech-language  
2 pathology or audiology.

3 (10) "Speech-language pathologist" means a person who  
4 practices speech-language pathology and who meets the  
5 qualifications set forth in this chapter. A person  
6 represents himself-to-be to the public that the person is a  
7 speech-language pathologist when he the person presents  
8 himself to the public by any title or description of  
9 services or functions that he the person directly or  
10 indirectly performs incorporating the words "speech  
11 pathologist", "speech pathology", "speech correctionist",  
12 "speech corrections", "speech therapist", "speech therapy",  
13 "speech clinician", "speech clinic", "language pathologist",  
14 "language pathology", "voice therapist", "voice therapy",  
15 "voice pathologist", "voice pathology", "logopedist",  
16 "logopedics", "communicologist", "communicology",  
17 "aphasiologist", "aphasiology", "phoniatrist", "language  
18 therapist", "language clinician", or any similar title or  
19 description of services or functions.

20 {10}(11) "Speech-language pathology aide" means any  
21 person meeting the minimum requirements established by the  
22 board of speech-language pathologists and audiologists who  
23 works directly under the supervision of a licensed  
24 speech-language pathologist.

25 {11}(12) "Unethical conduct" means:

1 (a) the obtaining of any fee by fraud or  
2 misrepresentation;

3 (b) employing, directly or indirectly, any suspended or  
4 unlicensed person to perform any work covered by this  
5 chapter unless that person assumes the legal status of a  
6 supervised aide;

7 (c) using or causing or promoting the use of any  
8 advertising matter, promotional literature, testimonial,  
9 guarantee, warranty, label, brand, insignia, or any other  
10 representation, however disseminated or published, which is  
11 misleading, deceiving, improbable, or untruthful."

12 **Section 2.** Section 37-15-103, MCA, is amended to read:

13 "37-15-103. **Exemptions.** (1) ~~Nothing--in--this~~ This  
14 ~~chapter prevents~~ does not prevent a person licensed in this  
15 state under any other law from engaging in the profession or  
16 business for which he the person is licensed.

17 (2) ~~Nothing--in--this~~ This chapter ~~restricts-or-prevents~~  
18 does not restrict or prevent activities of a speech-language  
19 pathology or audiology nature or the use of the official  
20 title of the position for which they were employed on the  
21 part of a speech-language pathologist or audiologist  
22 employed by federal agencies.

23 (3) Those persons performing activities described in  
24 subsection (2) of this section who are not licensed under  
25 this chapter must do so solely within the confines of or

1 under the jurisdiction of the organization in which they are  
 2 employed and may not offer speech-language pathology or  
 3 audiology services to the public for compensation over and  
 4 above the salary they receive for performance of their  
 5 official duties with organizations by which they are  
 6 employed. However, without obtaining a license under this  
 7 chapter, these persons may consult or disseminate their  
 8 research findings and scientific information to other  
 9 accredited academic institutions or governmental agencies.  
 10 They also may offer lectures to the public for a fee without  
 11 being licensed under this chapter.

12 (4) ~~Nothing-in-this~~ This chapter restricts does not  
 13 restrict the activities and services of a student in  
 14 speech-language pathology or audiology from pursuing a  
 15 course of study in speech-language pathology or audiology at  
 16 an accredited or approved college or university or an  
 17 approved clinical training facility. However, these  
 18 activities and services must constitute a part of his the  
 19 student's supervised course of study, and a fee may not  
 20 accrue directly or indirectly to the student. These persons  
 21 must be designated by the title "speech-language pathology  
 22 (or audiology) intern", "speech-language pathology (or  
 23 audiology) trainee", or a title clearly indicating the  
 24 training status appropriate to his the student's level of  
 25 training.

1 (5) ~~Nothing-in-this~~ This chapter restricts does not  
 2 restrict a person from another state from offering  
 3 speech-language pathology or audiology services in this  
 4 state if these services are performed for no more than 5  
 5 days in any calendar year and if the services are performed  
 6 in cooperation with a speech-language pathologist or  
 7 audiologist licensed under this chapter. However, by  
 8 securing a temporary license from the board subject to  
 9 limitations as the board may impose, a person not a resident  
 10 of this state who is not licensed under this chapter but who  
 11 is licensed under the law of another state that has  
 12 established licensure requirements at least equivalent to  
 13 those established by this chapter or who is the holder of  
 14 the ASHA certificate of clinical competency in  
 15 speech-language pathology or audiology or its equivalent may  
 16 offer speech-language pathology or audiology services in  
 17 this state for no more than 30 days in any calendar year if  
 18 the services are performed in cooperation with a  
 19 speech-language pathologist or audiologist licensed under  
 20 this chapter.

21 (6) ~~Nothing--in--this~~ This chapter restricts does not  
 22 restrict any person holding a class A certificate issued by  
 23 the conference of executives of American schools of the deaf  
 24 from performing the functions for which he the person  
 25 qualifies.

(7) ~~Nothing-in-this~~ This chapter restricts does not restrict any person who holds a certificate of registration in this state as a hearing aid dealer from performing those functions for which he the person qualifies and that are described in Title 37, chapter 16.

(8) ~~Nothing-in--this~~ This chapter exempts does not exempt an audiologist who sells, dispenses, or fits hearing aids from the licensing requirements or other provisions of Title 37, chapter 16.

(9) This chapter does not restrict a public school district in the state from employing a provisionally licensed speech-language pathologist or audiologist who provides speech-language pathology or audiology services to persons under 18 years of age."

**Section 3.** Section 37-15-202, MCA, is amended to read:

"37-15-202. Powers and duties of board and department.

(1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

(b) evaluate the qualifications of each applicant for a license as issued under this chapter and supervise the examination of such applicants;

(c) investigate persons engaging in practices which allegedly violate the provisions of this chapter;

(d) conduct hearings and keep records and minutes as

the board considers necessary to an orderly dispatch of business;

(e) adopt rules, including but not limited to those governing ethical standards of practice under this chapter and requirements for provisionally licensed speech-language pathologists or audiologists;

(f) make recommendations to the governor and other state officials regarding new and revised programs and legislation related to speech-language pathology or audiology which could be beneficial to the citizens of the state of Montana;

(g) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints of its secretary filed with the county attorney in the county where the violation took place, and incur necessary expenses therefor for a prosecution or enjoinder;

(h) adopt a seal by which the board shall authenticate its proceedings.

(2) Copies of the proceedings, records, and acts of the board, signed by the chairman presiding officer or secretary of the board and stamped with the seal, ~~shall be~~ are prima facie evidence of the validity of such the documents.

(3) The board ~~may~~ make rules which that are reasonable or necessary for the proper performance of its duties and for the regulation of proceedings before it.

1       (4) The department may employ persons it considers  
2 necessary to carry out the provisions of this chapter.

3       (5) The department shall prepare a report to the  
4 governor as required by law."

5       NEW SECTION. Section 4. Effective date. (This act) is  
6 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0366, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: The bill provides for provisional licensing of speech-language pathologists and audiologists who may perform speech-language pathology and audiology services in the public schools of the state.

ASSUMPTIONS:

1. There will be 16 new licensees under the proposed legislation.
2. There are five board members that will need to attend four additional board meetings the first year at a cost of \$900 per meeting; there will need to be two rule hearings to develop ten pages of rules.
3. The budget will be the OBPP recommended for current and modified level for FY94 and FY95; revenue will be based on actual FY92 income.
4. At the end of the legislative session all bills passed will have to be evaluated to see if the POL Bureau's staff can handle all additional duties created during the Session.

FISCAL IMPACT:

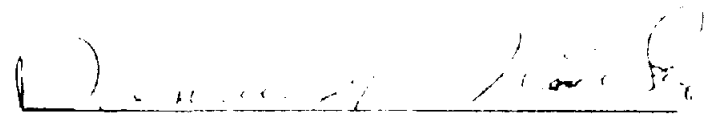
	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	500	1,500	1,000	500	1,000	500
Operating Expenses	<u>10,099</u>	<u>18,419</u>	<u>8,320</u>	<u>10,109</u>	<u>13,409</u>	<u>3,300</u>
Total	10,599	19,919	9,320	10,609	14,409	3,800
<u>Revenues:</u>						
Fees	10,863	12,463	1,600	10,863	12,463	1,600
<u>Net Impact:</u>	<u>264</u>	<u>(7,456)</u>	<u>(7,720)</u>	<u>254</u>	<u>(1,946)</u>	<u>(2,200)</u>

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: If school districts hired provisionally-licensed speech-language pathologists and audiologists, the district savings would accrue from reduced salaries and benefits.

(continued on next page)

 2-16-93

DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning



DENNIS G. NATHE, PRIMARY SPONSOR      DATE

Fiscal Note for SB0366, as introduced

CA 211



LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: The board may need to increase its fees further after the first two years of expenditure experience.

The Office of Public Instruction would still be required to ensure that the qualifications of speech-language pathologists and audiologists providing special education and related-services in schools comply with personnel standards in federal regulations.

TECHNICAL NOTES:

1. Federal regulations (34 CFR 300.153) provide that the minimum academic degree required of a person providing special education and related-services must be "the highest entry-level academic degree needed for any State approved or recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline." The highest entry-level academic degree needed for state approved certification in Montana is a master's degree.
2. While the Board of Speech-Language Pathologists and Audiologists would be authorized under this bill to provide provisional licenses to persons who have not the minimum requirements for licensure, a school district would be in violation of federal regulations if provisionally licensed speech-language pathologist or audiologist provided special education and related-services.