MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DON RYAN**, on January 5, 2005 at 3:00 P.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Don Ryan, Chairman (D)
Sen. Gregory D. Barkus (R)
Sen. Jerry W. Black (R)
Sen. Jim Elliott (D)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Sam Kitzenberg (R)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Bob Story Jr. (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Lois O'Connor, Secretary

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

Committee Business Summary:
Hearing & Date Posted: SB152, 12/30/2004
Executive Action: None.

{Tape: 1; Side: A; Time Counter: 0.2}

Informational Testimony:

Greg Petesch, Director of Legal Services, Legislative Services Division, stated that according to the Montana Supreme Court, the funding system for schools violates Article X, Section 1, of the Montana Constitution because the Legislature has never defined a "quality" school as used in that section. Until such time that the Legislature defines "quality", it cannot determine which educationally relevant factors are included in that definition. Once the Legislature has defined "quality" and has determined those relevant factors, the state will then be required to provide its share of the cost of its defined system. Mr. Petesch added that the Supreme Court affirmed the District Court's conclusion that it does not agree with everything said in the District Court case. Until the Legislature knows the areas in which both Courts do not agree, the Legislature will be speculating which could be very dangerous.

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Questions From The Committee:

SEN. DAN MCGEE, asked if the term "educationally relevant factors" was included in the Montana Constitution. **Mr. Petesch** said no, but added that Judge Jeffery Sherlock's decision stated that because the funding system did not comply with Article X, Section 1, he determined that the current funding system was based on a regression analysis of historic spending and that the Constitution requires the Legislature to define a basic system of "quality". In addition, Judge Sherlock stated that the system must be funded based on educationally relevant factors and, at a minimum, fund the accreditation standards adopted by the Board of Public Education. Since the Legislature is requiring schools to do something, the Legislature has decided that those requirements are educationally relevant and the Legislature has an obligation to fund it.

SEN. BOB STORY, asked if the Court ruled that the funding system was inadequate because there is not enough money in the system. **Mr. Petesch** said that because the Legislature has not defined all the requirements in the Constitution and because it has not identified educationally relevant factors, he felt it premature to say that the state is not providing sufficient funding. **SEN. STORY** asked if the state is required to fund the entire system with state funds. **Mr. Petesch** said the Constitution indicated that the state share is not a fixed percentage and that the Montana Code Annotated (MCA) contains a section of law that

states that local government entities are not required to implement a state mandate if the funding does not follow that mandate.

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Jim Molloy, Attorney, School Funding Plaintiffs, provided an overview of Columbia Falls School Dist. et al. v. State of Montana. The exhibit includes both decisions by the Montana Supreme Court and Judge Jeffery Sherlock, the plaintiff's opening statement to the Court, and written comments on The Montana Constitution Guarantees Quality Schools--Not "Basic Education". **EXHIBIT(eds03a01)**

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Questions From The Committee:

SEN. MCGEE asked if Mr. Malloy argued educationally relevant factors before the Court. **Mr. Molloy** said that the plaintiffs proved that there were funding and expenditure disparities that were totally unrelated to educational relevant factors. Educationally relevant factors will not be found in the constitutional debates, but some reference are made to the fact that education was funded at the end of the legislative sessions when there was very little revenue left. **SEN. MCGEE,** asked if there was a level of funding beyond what the state currently provides that Mr. Molloy feels is necessary to fund the system. **Mr. Molloy** said no one knows what level of funding would be necessary to meet the cost of the educational system.

SEN. JIM ELLIOTT asked if once the state makes the determination of what the minimum accreditation requirements are, must the state fund all of it. **Mr. Molloy** said that the state must assure that every school district in the state has equitable access to the resources necessary to meet those accreditation standards.

SEN. STORY asked if it were correct that the Constitutional language regarding the state share states that the Legislature has the full power to determine its share and that the share did not have to be anything. **Mr. Molloy** answered that if the Legislature looks at the totality of the proceedings, no one could conclude that the delegates intended that the state could establish a funding system and then say here is 10% of what it costs. **SEN. STORY** said that the interpretation of what the Judge's finding was is that the state share does not meet full to the face but that it has to be a workable system so that local taxpayers can get to BASE.

SEN. GREGORY BARKUS asked how the Legislature could equalize schools across the state when there are huge population disparities. **Mr. Molloy** responded that the constitutional language intended that Montana would have a system of public, elementary, and secondary schools that would be free and quality schools.

SEN. BOB HAWKS asked if the Committee's deliberations should include discussion on free, quality, primary-secondary schools and add to the definition of schools to define a quality education. **Mr. Molloy** responded that outside of the traditional infrastructure of a school building or classroom, the intent of quality is to have a more dynamic definition. The Legislature was never meant to be hamstrung into a specific delivery system.

SEN. STORY asked if by defining basic and quality education, would the Legislature innoculate itself from further court actions. **Mr. Molloy** said that Judge Sherlock's decision included a statement that a school funding system, to continue to meet contemporary needs, should include a review mechanism and an inflationary adjustment.

Connie Erickson, Research Analyst, Legislative Services Division, provided an overview of an informational notebook containing relevant materials that the Committee will need in its process of defining a quality education.

EXHIBIT(eds03a02)

HEARING ON SB 152

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Opening Statement by Sponsor:

SEN. DON RYAN, SD 10, provided an overview of SB 152--an act defining a "basic system of free quality public elementary and secondary schools". **SEN. RYAN** emphasized that SB 152 was only a starting point for discussion and input and was not cut in stone. Hearings and public comment on SB 152 will be an ongoing process. He said that the Legislature must satisfy, to the best of its ability, the Montana Supreme Court's ruling that the state assess its educational needs and define a quality education for all of its students.

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Public Testimony:

Dennis Granlie, Music Supervisor, Great Falls Public Schools, provided written comments on the rational for including the arts in a basic quality education, a statement of principles on the value and quality of arts education, and the impact of the arts on learning.

EXHIBIT(eds03a03)
EXHIBIT(eds03a04)
EXHIBIT(eds03a05)

Rod Svee, Citizen, Billings, provided an overview of a packet of information that included the current definition of a basic education program for elementary, middle school, junior high school, and high school grades; Montana's accreditation standards and procedures; criteria for identifying a child with disabilities; information on administrative personnel; information on the professional development of Montana's teachers; Wyoming Public Schools' Facility Design Guidelines; and rules related to pupil transportation.

EXHIBIT(eds03a06)

Dick Motta, Citizen, Philipsburg, did not believe in the term "free" education stating that someone would have to pay whether it be paid at the local, county, state, or federal levels. Mr. Motta felt that the Supreme Court lawsuit was totally displaced and that it was up to the Office of Public Instruction (OPI) to determine what a quality education is. OPI should also determine class sizes and curriculum. Mr. Motta also voiced his concern on the declining number of students in public schools. He said that money is available for education but the problem is that students are not receiving the education that they deserve. He felt that it was up to the Legislature to set standards to ensure that the educational system was accountable for the money that they are provided. Mr. Motta added that there did not seem to be a definition of what is a proper amount of money for each student. He said that if the state is going to impose standards, the Legislature must have control on all of the areas of funding, particularly in the area of federal funding.

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Questions from Committee Members:

SEN. JEFF MANGAN asked what the Legislature's definition of a quality education would do to art education in the state. **Mr. Granlie** said that what he did not want to see happen is to have

parts of arts education eliminated because of funding. He added that in order to have a quality education, arts must be included in the school curriculum and students must have the opportunity to experience at least one of the arts. **SEN. MANGAN** asked if there should be a number of art education programs available in all of the Montana schools or is art education a practice of the local school boards. **Mr. Granlie** believed that every school should have an arts program.

SEN. RYAN asked about the current accreditation standard relevant to the arts. **Mr. Granlie** said that if the current accreditation standards set forth by the OPI are kept in place, it would represent a quality arts program.

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SEN. STORY asked if the Legislature took the existing educational system and describe it, would that definition meet the definition of a basic quality system. **Mr. Svee** believed that it would. However, other things may need to be defined in order to comply with the "No Child Left Behind Act". He said that if all of the components are put together and funded, he felt that is what was intended by the Court.

SEN. McGEE asked if a portion of the funding of a quality-based education should be used for elections of school trustees. **Mr. Svee** said that if the Legislature requires something as part of a system, it would stand to reason that it is an educationally relevant factor and it should be funded.

SEN. ELLIOTT asked if the Legislature defined the current system of education, would that definition meet the Court's requirement of a definition of a quality, free-public educational system. **Mr. Svee** believed that if all factors are put in place (i.e., administrative rules, laws, etc.) and if they are funded, he felt that the Legislature would be fulfilling the educationally relevant facts required by the Court. **SEN. ELLIOTT** questioned the possibility of providing a quality education with lesser funds. **Mr. Svee** said that it could be possible but the Legislature must provide concrete reasons why it chose to cut back or expand in certain areas of education (i.e., these reasons were established after a public process, and it was decided that changes needed to be made.)

ADJOURNMENT

Adjournment: 5:00 p.m.

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SEN. DON RYAN, Chairman

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Lois Ann O'Connor, Secretary

DR/laoc

Additional Exhibits:

EXHIBIT(eds03aad0.PDF)