MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on January 28, 2005 at 3:00 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:
Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Margarett H. Campbell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Joe McKenney (R)
Rep. Scott Sales (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: Rep. Tim Dowell (D)
Rep. Bob Lake (R)
Rep. Holly Raser (D)
Rep. Jon Sonju (R)

Members Absent: None.

Staff Present: Nina Roatch-Barfuss, Committee Secretary
Chris Lohse, Legislative Branch

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

Committee Business Summary:
Hearing & Date Posted: HB 369, 1/21/2005;
HB 396, 1/24/2005
Executive Action:

HEARING ON HB 396

Opening Statement by Sponsor:

Sponsor: REPRESENTATIVE ARLENE BECKER, HD 52, Billings

REP. ARLENE BECKER, opened the hearing on **HB 396,** which deals with asthma self-medication being allowed in schools. The **SPONSOR** considers the bill a life-saving measure for children with asthma who attend school in Montana. Asthma is not only a health problem but an education problem. Asthma research reports that it is the number one reason students miss school today. There is information that asthma is an even bigger problem among Montana's Native American children. People with asthma live with a chronic lung disorder that can be fatal in a short period of time because of the uncertainty of when an asthma attack may occur, how severe it may be and the need for immediate access to the medications which are prescribed by a physician. The bill allows children to take their asthma medication during the school day. Thirty-one other states have similar legislation enacted. Congress passed an act in October 2004 that provides both encouragement and guidance to states to pass laws that address such an issue.

The federal law warns about the tragic refusals to permit students to carry their asthma medication that have resulted in death and litigation in other states. The federal law was used as a guide in developing **HB 396.** The federal law will give preference funding to states that require schools to allow students to carry and self-administer asthma medications. Montana has a law which allows medication to be administered to diabetic students in an emergency. If the bill is passed, there is a clause in it which exempts schools, which are a government entity, from liability for allowing children to administer their medication unless it is gross negligence. The bill requires a two-thirds passage in both houses of the legislature.

Proponents' Testimony:

Dave Paulsen, Executive Director for the American Lung Association for the Northern Rockies, rose in support of the bill and presented written testimony and information.
EXHIBIT(edh22a01)
EXHIBIT(edh22a02)
EXHIBIT(edh22a03)

Jo Ann Dotson, Bureau Chief of the Family and Community Health Bureau in the Department of Public Health and Human Services, stood in support of the bill and presented written testimony.

EXHIBIT(edh22a04)
Lance Melton, Montana School Boards Association, (MSBA) and Montana School Administrators, (MSA), rose in support of the bill. **Mr. Melton** suggested one minor change. The bill should identify what the effect is if the school district doesn't deliver the written notice of waiver of immunity, or if the parent refuses to sign it. The bill says the district must provide the waiver and it says the parent must sign it. It is not listed as a condition under which a school district has to allow a pupil the medication.

Dr. Richard Sargent, rose to support the bill. He has a number of children in his practice who have asthma and are unstable enough in their illness that they have to carry their medication. They cannot predict when the attacks are going to happen, but they can predict the attacks will happen. Children learn at a very early stage that they need their medication and how to administer it.

Beta Lovitt, Montana Medical Association, rose in support of the bill. Children are well aware of how to use their medication. She believed the bill has all the safeguards in it that are necessary.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 22}

Becky Fleming-Siebenaler, presented written testimony.
EXHIBIT(edh22a05)

Sue Buswell, Registered Nurse with the Helena Public Schools, informed the committee that her job as a school nurse is making sure that children have access to their medications at all times and that they know how to use them correctly. The policy in Helena allows students to carry their emergency medication if they choose to. She was in favor of the bill for all students in Montana. She had some reservations. Frequently she has found that students do not have their medications with them when they need them.
{Tape: 1; Side: A; Approx. Time Counter: 22 - 30}
{Tape: 1; Side: B}

There needs to be backup medication available. The Asthmatic School Children's Treatment and Health Management Act of 2004 does have a section for backup medication and it says, "The state must require that backup medication provided by the student's parent or guardian be kept at a student's school in a location to which the student has immediate access in the event of an asthma emergency." Thus, she feels the bill needs an amendment addressing backup medication in the building and that the staff

in the building be trained to use the emergency medications when the student does not have his/her own medication.

Betty Beverly reported to the committee that she rose in favor of the bill as a mother. Her 29-year-old son was diagnosed with severe asthma at the age of ten months. Education was important to her family and the boy learned at a very young age how to care for his illness. She wanted the committee to know that young people are responsible individuals. At a very early age her son knew what he needed to take at all times.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.3}

Sharon Howard, Montana Nurses Association, stood in support of the bill. Medication in a school setting has been an unresolved issue for many years. The bill addresses one disease, asthma. The last session addressed diabetes and it's complications. She believed it doesn't seem prudent to legislate for each disease or medical condition that could be present now or in the future in a school setting. Her organization believes the time has come for a new approach to administration of medication in school districts. The Montana Nurses Association believes it is time to form a reasonable and studied approach to the issue of medication administration of all drugs in the school system.

Erik Burke, Montana Education Association-Montana Federation of Teachers, (MEA-MFT), stood in support of the bill. MEA-MFT was concerned about shared use of medication if the child had it in his/her possession. He believed medication in schools is an unresolved issue; he agreed with Ms. Howard that it is time to approach all medication and diseases, rather than one at a time. He, like Ms. Howard, believes the Education Committee is where it should begin.
{Tape: 1; Side: B; Approx. Time Counter: 5.3 - 8.2}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WARD desired information from Sue Buswell. The **REPRESENTATIVE** recognized the obvious need of the child for backup medication but was concerned about the liability for the school in administering it. **Ms. Buswell** reported that her understanding of the bill was that there was no liability for the school.

REP. WARD redirected his question to Dick Paulsen. **Mr. Paulsen** notified the committee that the federal law released the school

from any liability and this bill would do that as well. He believes that there will be children that cannot afford backup medication in the school. The law would make it necessary for a doctor to write the prescription which allowed the child to take the medication at school. The prescription would go through the parents and on to the school. The medicine must be readily available. **Mr. Lohse** informed REP. WARD that in Title 20, Chapter 5, Section 413, there is a provision for people who have been designated by the parent and are acting on behalf of the school to be limited from liability when dealing with medication.

REP. BRANAE wished information from Sue Buswell. He asked her to discuss the idea of shared medication among the students. **Ms. Buswell** speculated that it is very unusual for students to share medication in the Helena schools, but it does happen. She assured him that it is unusual. It is her understanding that using an inhaler, such as the ones used for asthma, will not hurt a person. A person using the non-prescribed inhaler could experience an increased heart rate for a minute after using it. She said it has not been enough of an issue that the nurses in the Helena School District are concerned about it and the students are allowed to carry their own medication in the Helena schools.

REP. BRANAE referred the same question to Dr. Sargent. **Dr. Sargent** said his answers would be the same as Ms. Buswell's. **Dr. Sargent** claimed a non-asthmatic student using the inhaler would experience a very uncomfortable feeling and the student would not wish to try it again.

REP. ANDERSEN asked Sue Buswell if the Helena School System allowed the replacement medication somewhere in the building. **Ms. Buswell** said, "Absolutely." **REP. ANDERSEN** sought information as to how the school deals with administering the medication. **Ms. Buswell** informed her that the district purchases an epipen and an asthma inhaler for every school in the district. Each school has a doctor's channel order to use those for any student that needs them or for any person in the building that needs them in an emergency situation. If a student had not been diagnosed with a problem and shows signs of an anaphylaetic shock, they can use the epipen if needed. She assured the committee that it is the school nurse's job to maintain the medications in a location where they are readily available and to train the staff in how to use them correctly. They train the entire staff once a year.

Closing by Sponsor:

REP. BECKER informed the committee that only three school systems in the state have school nurses. They are located in Helena,

Billings, and Missoula; and in those cities, there is not a school nurse in every school.
{Tape: 1; Side: B; Approx. Time Counter: 8.2 - 18.6}

HEARING ON HB 369

Sponsor: REPRESENTATIVE DAVE GALLIK, HD 79, Helena

Opening Statement by Sponsor

REP. DAVE GALLIK opened the hearing on **HB 369**, which would fund the cost of taking a college admission examination. The bill represents an investment in Montana's future. It is an act requiring school districts to pay the fee for students to take a national curriculum-based college entrance examination for high school juniors. The bill gives high school students the opportunity to take a meaningful test that will set their sights on the future. The test will give school districts more feedback on how well they are preparing their students for post secondary institutions. It removes barriers for students whose parents do not see college in their children's future. The bill is designed to increase attendance in Montana's universities and two-year colleges. In Colorado, where the test was given as directed in the bill, enrollment at the state's two- and four-year campuses increased by 34.4%. In Illinois, enrollment was up 24%. Because of the successes that have been obtain in these states, Oklahoma and Michigan have implemented the test.

He reminded the committee that it must remember the No Child Left Behind Act. President Bush is recommending that testing be done at the high school level. Currently 56% of Montana high school students take the ACT Test. If all of Montana's 11,660 juniors were to take the ACT test, it would cost the state a little over $300,000 a year. In states where the test is voluntary, the test taking has increased by about 25%. If that happened in Montana, about 8,574 more students would be taking the college entrance exam. In Montana there were 11,298 graduates in 2000, 4,364 enrolled in Montana institutions and 5,155 didn't immediately enroll in college. If one projects an 18% increase in the numbers, 2,034 more students would have gone on to higher learning institutes. The 18% figure is a bottom figure to use, as the increase in Colorado was 34.4% and in Illinois it was 24%. He pointed out the differences in income for people with degrees, associate degrees, of with some college training, etc. With the added incomes derived from more students attending training beyond high school, the Montana economy should improve. He believes it would provide job availability. A more educated work force decreases unemployment rates. He used the ACT test to

define a college curriculum test. He had a chart attached to the podium. The test focuses on English, mathematics, reading, and science. It will measure the progress a student is making in high school and what measures need to be taken to help him/her achieve a higher score.
{Tape: 1; Side: B; Approx. Time Counter: 18.6 - 30}
{Tape: 2; Side: A}

Proponents' Testimony:

Sheila Stearns, Commissioner of Higher Education, rose in support of the bill and presented written testimony.
EXHIBIT(edh22a06)

Jan Clinard, Office of the Commissioner of Higher Education, handed out written testimony from herself and others, along with statistics that backup testimony from the SPONSOR and Ms. Stearns. **Ms. Clinard** believed the bill complemented other legislation that will go before the present session.
EXHIBIT(edh22a07)

John Fuller, Member of Montana State Board of Education, reported that it was his opinion that students today have a very bad attitude about higher education. He believed they lack goals in seeking life long careers. He believed this test would offer students an opportunity to see success in their higher education future. When a student does well on the test, he/she begins being stroked by the colleges in the free marketing effort. There is no substitute for success. To him there is no greater thing the state can do than improve the quality of the career opportunities of the young people in the State of Montana. He believed that young people must have education beyond high school.

Asheley Peterson, Director of ACT's West Region, rose in support of the bill and presented written testimony.
EXHIBIT(edh22a08)
EXHIBIT(edh22a09)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 30}
{Tape: 2; Side: B}

Jess Grennan, Associated Students of the University of Montana rose in support of the bill. When she took the ACT test as a junior, it made her realize she had to take more academic courses rather than the fun classes she would have liked to take.

Kala French, student in the Montana State University System, believed the bill represented an admiral concept. She took the test several times. Students need a nudge to realize they are capable of college courses and graduation.

Erik Burke, Montana Education Association-Montana Federation of Teachers, (MEA-MFT), rose in support of the bill. They saw it as a good investment to help and encourage post secondary education for Montana students. **Mr. Burke** mentioned that presently a great deal of testing is done in Montana schools.

Opponents' Testimony: None

Informational Testimony:

Rafaeh Magallan, The College Board, presented written testimony. **EXHIBIT(edh22a10)**
{Tape: 2; Side: B; Approx. Time Counter: 0 - 10}

Questions from Committee Members and Responses:

REP.SALES asked Commissioner Stearns if her office had any statistics on the college dropout rate in the states where the ACT test was given and college attendance numbers rose. He felt the numbers presented for Colorado would mean the college had to spend sufficient money to meet the needs of the rising population in their colleges. If dropout numbers were large, it would be very costly for the college after making preparations to meet the needs of more students. **Commissioner Stearns** conveyed to the REPRESENTATIVE that the Interim Secondary Education Policy Budget Committee had identified six policy goals with two indicators for each goal. One of the goals is to get the retention data for each of the colleges in the University System. Her office has been able to track the information more systematically. She offered to get that information to the committee. In some colleges the retention rate is improving but in others it might be slipping a bit. **Commissioner Stearns** said she is interested in the college retention rate in a state like Oklahoma which is giving a mandatory ACT test and if she gets some figures she will send them to the committee.

REP. KOOPMAN also wished information from Commissioner Stearns. He was curious as to what she believed the goal should be for high school students going on to college in Montana. He was wondering what the percentage might be. **Commissioner Stearns** advised him that the Montana Board of Education has been trying to figure out what would be an appropriate goal. Most of the economic data is showing, because of work force development and a knowledge based human capital based economy in this century, the

goal should be in the high 90% for at least some level of post secondary education. It is much higher than Montana is delivering. Her office's retention data used to be very general. If the student started post secondary education and did not finish with a degree, that student was considered a failure in the data. Now it is realized that a student may be highly successful after attending less than four years and not receiving a degree.

REP. KOOPMAN asked if such programs as apprentice courses are included in the statistics she has mentioned. **Commissioner Stearns** assured him that those programs are included and her office is working closely with other work force development components of the state infrastructure for work force development. Her office believes that kind of training to be post secondary enhancement of the state's skills and workforce. **REP. KOOPMAN** inquired whether the post secondary school system in Montana could accommodate another 20-30% of the graduating seniors. **Commissioner Stearns** told him that would be a terrific problem to have, but it would most likely mean that the two-year institutions, apprentice programs and several of the four-year units would be able to absorb those numbers because Montana is one of four states in the union, all of which are on the Northern High Plains, that have declining high school graduation rates.

REP. KOOPMAN required information from John Fuller. He wondered if motivation is an important part in getting ahead in one's career. He believed a student lacked motivation if he/she needed the state to pay $28 for a test. If the state pays for such people to take the test and they lack the motivation to start with, what is gained, he wonders. **Mr. Fuller** said he believed the answer to the question is that sometimes what people need is someone other than their immediate family or their direct support system giving them definitive proof of what they are capable of. He said, "You never really know what it is exactly that will turn a kid on to advanced learning." He believed that showing a student physical proof of an ACT or SAT test can be definitive to the one last step that says to the kid, "Do it."

REP. BUTCHER asked Commissioner Stearns which test she believed to be the best one to give the juniors. **Commissioner Stearns** informed him that more Montanans are inclined to take the ACT test, but she was not going to stand in judgement as to which test is the "best" test to be given. She said the reason that the ACT test gets the edge is because it is curriculum based and is geared more to the standards being taught in high school. **Commissioner Stearns** reminded the REPRESENTATIVE that in the bill the SPONSOR did not mention which test would be given.

REP. BUTCHER would like to know which test would give an indication about the vocational aptitude of the student and how would the student be guided toward a vocational school rather than a four-year university education. **Commissioner Stearns** informed him that he was grappling with a key question involved in the testing that would need the entire educational community to sort out. She believed the educational community needs to work more closely with high school counselors throughout the state. She felt they would have more wisdom about the situation than she does.

REP. BRANAE called for information from the SPONSOR. The **REPRESENTATIVE** said he knows that presently the state requires testing at the junior level. He was wondering if there was any thought to making the ACT test the required test rather than what is used presently. **REP. GALLIK** informed him that there had been talk about doing that. He asked to refer the question to Dr. Clinard. **Dr. Clinard** told the committee that at this point, that idea is still at the talking level. **REP. BRANAE** asked if there was a possibility of it being used. **Dr. Clinard** answered in the affirmative.
{Tape: 2; Side: B; Approx. Time Counter: 10 - 30}
{Tape: 3; Side: A}

REP. GALVIN-HALCRO solicited information from Asheley Peterson. She sought data for the committee specific to the dropout rates in the states that mandate the ACT test and where university attendance had greatly increased. **Ms. Peterson** said she would get what data they have to the committee, but the program is ground breaking and no state has given the test and then followed the students through college graduation. They never identify students individually as they protect their privacy.

REP. GALVIN-HALCRO wished information from Dr. Clinard. The **REPRESENTATIVE** was curious as to who pays for the Iowa test that is given in Montana schools. **Dr. Clinard**, said, "The state does." The **REPRESENTATIVE** asked, "Are children that are home schooled invited to take the Iowa test at OPI's expense?" **Dr. Clinard** was not able to answer the question. It was referred to Bud Williams from OPI. **Mr. Williams** did not believe OPI payed for the test but said he would research the question and get the information back to the committee. **REP. GALVIN-HALCRO** said her question was leading into whether home school students would be welcome to take the ACT test if it became law, and she would like that information also.

Closing by Sponsor:

REP. GALLIK said he had been thinking about the amount of money the state puts into education and it seems like an extra $28 to take the students over the top is a good investment. The data that indicates how this might increase the state economy is encouraging. He acknowledged that dropout data sought by the committee would be very important to consider.
EXHIBIT(edh22a11)

ADJOURNMENT

Adjournment: 5:10 P.M.

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REP. KATHLEEN GALVIN-HALCRO, Chairman

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NINA ROATCH-BARFUSS, Secretary

KG/nb

Additional Exhibits:

EXHIBIT(edh22aad0.TIF)