MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DON RYAN**, on March 21, 2005 at 3:40 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:
Sen. Don Ryan, Chairman (D)
Sen. Gregory D. Barkus (R)
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: Sen. Jerry W. Black (R)
Sen. Jim Elliott (D)

Members Absent: None.

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

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

Committee Business Summary:
Hearing & Date Posted: None.
Executive Action: HB 16; HB 574; HB 681; HB 310; HB 652; HB 624

EXECUTIVE ACTION ON HB 16

Motion: SEN. MANGAN moved that HB 16 BE CONCURRED IN.

Discussion:

SEN. ROBERT STORY, SD 30, asked if there was a newer fiscal note. **SEN. DON RYAN, SD 10,** said that money for nonbeneficiary students attending tribal colleges was made available in HB 2, and the amount of funding will be made by the House Appropriations Committee. HB 16 allows the funding to be used if the money is made available in HB 2.

Vote: SEN. MANGAN'S motion that HB 16 BE CONCURRED IN carried on a 10 to 1 voice vote with SEN. MCGEE voting no. SENATORS BLACK and ELLIOTT voted aye by proxy. SEN. KIM GILLAN, SD 24, will carry the bill.

{Tape: 1; Side: A; Time Counter: 4.4}

EXECUTIVE ACTION ON HB 574

Motion: SEN. GILLAN moved that HB 574 BE CONCURRED IN.

Motion: SEN. BOB STORY, SD 30, moved the approval of amendment #HB057401.ace.

EXHIBIT(eds62a01)

Discussion:

SEN. STORY said that when HB 574 was heard, it was his understanding that it was trying to allow for a majority vote in bond election circumstances. It was not the intent of HB 574 to change current law for school elections that are held at their normal times. HB057401.ace reinstates current law for bond elections. He said if a school is going to hold a bond election at a time when it is not a regularly scheduled general election, a 40% turnout is needed for the vote to be counted. In addition, if people are voting to consolidate districts and there is bonded indebtedness, a majority of those voting is enough to accept the indebtedness.

SEN. JESSE LASLOVICH, SD 43, questioned why the amendment was needed when the language in HB 574 already states that a majority vote applies for a bond election when held in conjunction with a general or primary election. **SEN. STORY** said that because the language requiring the 40% and 30% votes is stricken, schools

have no place in law to go for school elections other than to revert to what would be thought of as common practice--majority rules. The amendment reinstates all of the stricken language in HB 574.

SEN. GILLAN asked if there were unintended consequences attached to HB 574. **Bob Vogel, MT School Boards Association (MTSBA)** said that **REP. BRANAE'S** original bill was to allow a majority vote for general and primary elections and mail ballot elections. With all of the language stricken, there was no statute to fall back on. As a consequence, if a school district would have run a bond election on a school election date, there would have been no provision in law remaining that would have met the 30% and 40% thresholds. It would have fallen to a simple majority vote no matter when a district ran an election. The amendment restores the original intent HB 574, and **REP. BRANAE** approves of the amendment.

Vote: SEN. STORY'S amendment passed on an 11 to 0 voice vote. SENATORS BLACK and ELLIOTT voted aye by proxy.

Motion/Vote: SEN. GREGORY BARKUS, SD 4, moved that HB 574 BE CONCURRED IN AS AMENDED. Motion carried on a 10 to 1 voice vote with SEN. MCGEE voting no. SENATORS BLACK and ELLIOTT voted aye by proxy. SEN. MANGAN will carry the bill.

EXECUTIVE ACTION ON HB 681

{Tape: 1; Side: A; Time Counter: 16.2}

Discussion:

Connie Erickson, Legislative Services Division (LSD), said that based on the Committee's vote on HB 574, it will have to amend HB 681. HB 681 revises all of the consolidation and annexation statutes. In revising them, it repealed a lot of the current annexation and consolidation statutes and combined them into new statutes. In doing so, HB 681 includes language for what happens when school districts consolidate or when one school district annexes another school and if they do it with bonded indebtedness. When the new section were rewritten, they were done so based on current law. Under current law, voting with bonded indebtedness has to follow the same provisions as the bonding provisions which is having the percentage thresholds before the bond can pass. The sections that were amended in HB 574 go away in HB 681. As a result, certain sections in HB 681 that deal with elections with bonded indebtedness needs to be amended to reflect what the Committee did in HB 574--a simple majority vote. **Mr.**

Erickson added that she simply amended HB 681 to match HB 574 rather that coordinate them.

SEN. GILLAN asked if HB 574 does not pass, what happens to HB 681 if it includes the amendment. **Ms. Erickson** said that the new language in HB 681 would become law because the other sections in HB 574 are being repealed in HB 681.

SEN. MANGAN said that he also has an amendment for HB 574 that is incomplete at this time.

NO ACTION was taken on HB 574.

EXECUTIVE ACTION ON HB 310

{Tape: 1; Side: A; Time Counter: 23.1}

Motion: SEN. STORY moved that HB 310 BE CONCURRED IN.

Motion: SEN. DAN MCGEE, SD 29, moved the approval of amendment #HB031001.acl.

EXHIBIT(eds62a02)

Discussion:

Ms. Erickson said that the House amended HB 310 to add seven additional nonvoting members to the Education and Local Government Interim Committee. The Title of HB 310 needs to be amended to reflect that change in order to pass the bill.

SEN. GILLAN disagreed with the whole concept. Given who the new members would be, she felt that it was just stacked to represent the viewpoints of one or two people. Even if they are nonvoting members, they will dominate the Interim Committee.

Vote: SEN. MCGEE'S motion to approve amendment #HB031001.acl passed on a 10 to 1 voice vote with SEN. GILLAN voting no.

Motion: SEN. STORY moved that HB 310 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. BOB HAWKS, SD 33, said that during the hearing on HB 310, some Committee members felt that the representation of the seven nonvoting members was not broad enough and did not include a teacher.

SEN. RYAN said that HB 310 requires a report on the status of the basic education definition and educationally relevant factors every six years. SB 152 allows for a 10-year review. He felt that 10 years was too long, but that SB 152 could be amended to include the 6-year review. He added that he did not like the composition of the nonvoting members and he opposed HB 310.

SEN. GILLAN found the additional nonvoting members to be nonrepresentational of education and felt that SB 152 could be amended to include the 6-year review.

SEN. STORY asked if before 10 years expired, would legislation be needed to authorize the status report. **Ms. Erickson** said that there is a difference in the review language between HB 310 and SB 152. She felt that it would be better to have the language in both bills match. However, each bill is requesting the study of two different parts of the system--one is reviewing the basic education definition while the other is reviewing the funding formula.

SEN. HAWKS asked if educational needs could be interpreted to mean any change in any phase of education. **Ms. Erickson** said yes.

SEN. MANGAN liked the original intent of SB 152 in that the Legislature shall review the educational relevant factors in a process to be determined by the Legislature. However the Legislature decides to do that, SB 152 will have to be revisited. He said that he did not want to tie the hands of future Legislatures in assigning that duty every six years to the Education and Local Government Interim Committee because it is unwise to do so.

SEN. MCGEE had no problem with asking the Education and Local Government Interim Committee to conduct the study on a 6-year frequency. If the Legislature amends SB 152 to emulate some of the language in HB 310, he felt that would be fine also.

SEN. STORY did not look at HB 310 as being onerous on the Education and Local Government Interim Committee or the process. He said that HB 310 is direction to the Interim Committee to conduct the study on a periodic basis. He felt that the Interim Committee may find that it needs to bring the study bill to the next Legislature to pay for and conduct the full study as opposed to leaving it up to an individual legislator to bring it. He felt that HB 310 would get the ball rolling on the next major study that the Legislature would have to spend money on to hire professional people to do.

SEN. RYAN felt that HB 310 was exclusionary in its representation on the Interim Committee, and it will be known in one or two sessions whether the study will have to be conducted.

Motion/Vote: SEN. STORY'S motion that HB 310 BE CONCURRED IN AS AMENDED failed on a 4 to 7 voice vote with SENATORS BARKUS, BLACK, MCGEE, and STORY voting aye. SEN. BLACK voted aye by proxy and SEN. ELLIOTT voted nay by proxy.

Motion/Vote: SEN. LASLOVICH moved that HB 310 BE TABLED AND THE VOTE REVERSED. Motion carried.

EXECUTIVE ACTION ON HB 652

{Tape: 1; Side: B; Time Counter: 15.1}

Motion: SEN. STORY moved that HB 652 BE CONCURRED IN.

Motion: SEN. STORY moved a CONCEPTUAL AMENDMENT to strike lines 20 through 25 on Page 1.

Discussion:

SEN. STORY said that in visiting with the MTSBA, they were concerned that the amendments added in the House would create more problems than they solve. The amendment would revert the bill back to the way it was originally drafted.

Mr. Vogel, MTSBA, said for example, there is a school bus that runs in a high school district to pick up a high school student. Under a mandatory tuition agreement, the sibling of that high school student could be an elementary student who has the ability to ride in to that same district to keep the family together. Given the inserted language, it is unclear as to whether there needed to be a tuition agreement. MTSBA believed that an agreement was needed between both districts which may raise conflicts between the transportation statutes and HB 652. MTSBA's suggested that the Committee stick to the original intent of the bill and not make it too complicated.

SEN. RYAN felt that if HB 652 was passed with the amendment, it will go back to the House and it will start a fight over a simple solution to a Helena problem that was being cured through a mutual agreement.

Vote: SEN. STORY'S conceptual amendment passed on a 10 to 1 voice vote with SEN. RYAN voting nay. SEN. BLACK and ELLIOTT voted aye by proxy.
Motion/Vote: SEN. MANGAN moved that HB 652 BE CONCURRED IN AS AMENDED. Motion carried on a 10 to 1 voice vote with SEN. RYAN voting no. SENATORS BLACK and ELLIOTT voted aye by proxy. SEN. BLACK will carry the bill.

EXECUTIVE ACTION ON HB 624

{Tape: 1; Side: B; Time Counter: 21.5}

Discussion:

SEN. RYAN asked if there would be a problem passing HB 624 without amendments. **Mr. Vogel** said that it would be MTSBA's preference to pass HB 624 without amendments because time is of the essence. He said April 1 is fast approaching, and districts are trying to make decisions on what elections they are going to hold. For the approximately 120 districts included in HB 624, they need firm word on exactly what they can and cannot do in that election.

SEN. RYAN inquired about the reason for going back to fiscal year 2001. **Mr. Vogel** said that some districts included in HB 624 have been adopting a previous year's budget since 2001 which is the reasoning behind the language.

Motion: SEN. LASLOVICH moved that HB 624 BE CONCURRED IN.

Discussion:

Ms. Erickson said that SB 177 also amends 20-9-308, MCA, and it is amended differently than in HB 624. There is a conflict between the two bills and they do not work together. SB 177 changed the five years to six years and struck all of the soft cap language. The two bills need to be coordinated, and she was unsure how to do that until the conflict is resolved.

SEN. MANGAN said that amending HB 624 defeats the purpose of passing the bill as quickly as possible. However, there is language included in SB 177 that he likes, but the Committee is on a timeline to give direction to school districts. He does not see a coordination problem if HB 624 is enacted as quickly as it is supposed to be. The question is whether the Committee likes the language in SB 177 or HB 624.

SEN. MCGEE said that the problem he has with HB 624 is that it is a band-aid for the next two years. HB 624 does not consider cost reductions. It only talks to perpetuating, historic spending levels regardless of the number of students. The Committee is asking taxpayers to continue to increase spending regardless of whether there are students to teach. He would not support HB 624.

{Tape: 1; Side: B; Time Counter: 28.1}

SEN. RYAN asked if amendments could be written for SB 177 that could replace or override what HB 624 does. **Ms. Erickson** said that she could not coordinate the two bills because it is a policy decision which she cannot make. If HB 624 moves forward and is signed by the Governor before SB 177, then HB 624 is law. She felt that both bill needed to be coordinated before either one got to the Governor's Office.

SEN. STORY said if the Committee did nothing, would the soft caps expire at the end of this biennium. **Ms. Erickson** said yes. **SEN. STORY** said that HB 624 is more than an extension of soft caps because if all the Legislature is doing is extending soft caps, the termination date could be moved in Session Law. HB 624 creates new language that is a different version of a soft cap. He asked if HB 624 allowed new schools to use the soft caps. **Ms. Erickson** said that the idea of the soft caps does not go away, but for schools that are currently in the soft cap process, the soft caps will end for them. It also does not mean that next year, some other school district could not utilize the soft caps.

{Tape: 2; Side: A; Time Counter: 1.3}

SEN. STORY said if a school district lost enrollment and spending authority this year, the district could still vote for a soft cap which will go on for five years from this point in time. HB 624 deals only with those districts that adopted soft caps sometime between 2001 and 2005. **Ms. Erickson** said yes. **SEN. STORY** said that his concern with HB 624 is that if a district had rapidly declining enrollment and voted a soft cap in 2001 that was a certain amount and then went back the next year and voted a soft cap that was less than that amount, it lets school districts go back up to their highest number.

SEN. RYAN said that 63 school districts would benefit from HB 624. He felt the amendments in SB 177 would allow more districts to benefit. The question is how many districts in total can benefit from making the adjustments in their maximum budgets.

SEN. HAWKS said that according to the testimony by the MTSBA, HB 624 gives districts the right to vote to go over their maximum

budgets if they had been there before. SB 177 can push districts over the maximum, but they would need authorization to do that. **SEN. RYAN** said that HB 624 deals with districts that are currently soft cap districts or those districts that were originally over the maximum and allowed to stay there.

Motion/Vote: SEN. LASLOVICH'S motion that HB 624 BE CONCURRED IN carried on a 7 to 4 voice vote with SENATORS BARKUS, MCGEE, RYAN, and STORY voting no. SENATORS BLACK and ELLIOTT voted aye by proxy. SEN. MANGAN will carry the bill.

ADJOURNMENT

Adjournment: 4:35 P.M.

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SEN. DON RYAN, Chairman

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LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

EXHIBIT(eds62aad0.TIF)