

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DON RYAN**, on January 17, 2005 at 3:00 P.M., in Room 303 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, Committee Secretary

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

**Committee Business Summary:**

Hearing & Date Posted: SB 198, 1/12/2005; SB 177,  
1/12/2005; SB 224, 1/12/2005  
Executive Action: None.

**{Tape: 1; Side: A; Time Counter: 1.2}**

**HEARING ON SB 198**

**Opening Statement by Sponsor:**

**SEN. SAM KITZENBERG, SD 18**, said that SB 198 requires school districts to adopt policies prohibiting harassment, intimidation, or bullying on school property, at school-sponsored functions, or on a school bus. He said that bullying, is bullying, is bullying, and it is an activity that should not take place in schools. School intervention needs to happen early before bullying escalates to serious consequences, and serious bullying can be deadly. Bullying also leads to severe emotional and physical problems, physical violence, and crime; and targeted students are prohibited from accessing their education. **SEN. KITZENBERG** felt that Montana's students are entitled to a hassle-free, bullying-free environment. He asked who in Montana is opposed to safe schools? School is hopefully a place where learning can take place for all students.

**Proponents' Testimony:**

**Tim Dowell, Representative, HD 8**, said that bullying does not exist only when big kids on the playground steal lunch money. It happens with looks in the classroom, notes being passed, and inappropriate comments. He said that Flathead County schools were involved in two workshops involving bullying, and it was found that not all of the schools had bullying procedures in place. He added that the time is now to make the statement that there is no room for bullying in Montana schools.

**Kathleen Galvin-Halcro, Representative, HD 26**, said that SB 198 is another tool in her teaching tool chest to help her teach from bell-to-bell without refereeing inappropriate acts.

**{Tape: 1; Side: A; Time Counter: 11.6}**

**Brenda Wahler, Helena**, said that opponent testimony will state that the bullying issue is not the job of the Legislature but for the Board of Public Education. Although the Board is a constitutionally established agency, it is the job of the Legislature to make laws, and the job of agencies and boards to carry out those laws. To say that bullying is not the job of the Legislature is to not do the job of passing and making laws and setting the policies for the state. She urged the Committee to make bullying a critical part of public policy and address it in statute where it belongs.

**June Hermanson, Montanans With Disabilities For Equal Access,** said that all children have the right to access education, and the harassment and bullying of students with disabilities in the public school system needs to stop. All children need the opportunity to learn at their own speed without hate and bigotry. She asked the Committee to vote yes for safe schools in Montana.

**Linda Gryczan, Montana Women's Lobby and American Association of University Women; Sherry Jones, School Counselor, Polson; Jim Rogers, Teacher, Polson; Starshine, Great Falls; Joe Loos, Missoula Chapter of Parents, Families, and Friends of Lesbians and Gays; Jennifer Hendricks, Board, Pride; Dr. Claudette Morton, Citizen; and Luke van Helden,** provided written comments from themselves and others in support of SB 198.

[EXHIBIT\(eds12a01\)](#)

[EXHIBIT\(eds12a02\)](#)

[EXHIBIT\(eds12a03\)](#)

[EXHIBIT\(eds12a04\)](#)

[EXHIBIT\(eds12a05\)](#)

[EXHIBIT\(eds12a06\)](#)

[EXHIBIT\(eds12a07\)](#)

[EXHIBIT\(eds12a08\)](#)

[EXHIBIT\(eds12a09\)](#)

[EXHIBIT\(eds12a10\)](#)

**Jayce Cox, Teacher, Helena,** said that he has witnessed much bullying of children with disabilities, children who are perceived to be "queer", and Native Americans. The Legislature must make the statement that schools are a sacred place and that they will be made safe for all students.

**{Tape: 1; Side: A; Time Counter: 21.6}**

**Dawn Hayden, MT Coalition Against Domestic and Sexual Violence,** said that what is known about perpetrators of domestic violence is that they begin their acts by the time they are 15 years of age, and one in three women will experience domestic violence in their lifetime. SB 198 is not a primary prevention but an intervention, and all individuals deserve to be safe. She urged the Committee to protect the people and students of Montana.

**Betty Kijewski, MT Human Rights Network,** said that she has spent hundreds of hours listening to student experiences and to the ways that they have tried to advocate for their own safety. The Board of Education has taken no action on this issue. Montana children have no control over their school environments. Too many children have been shoved into lockers, had their cars keyed, and

their heads shoved into toilets. Too many children drop out of school and have chosen suicide to stop the pain. She asked why the Legislature should allow any school to do nothing.

**Jake Phielen, High School Student**, said he witnesses the harsh and caustic things that some students say every day. If the Legislature does not take action on this issue, it is setting aside its responsibility to parents, all other people who vote, and high school students; and it is forfeiting all students' rights to be able to live in safe communities with safe schools.

**Rick Wagner, Western MT Mental Health Center**, said that bullying diminishes students' self-esteem, their confidence level decreases, and it feeds their natural timidity. As a result, it often blocks the ability to reach their highest level of achievement.

**Beth Brenneman, Montana Advocacy Program (MAP)**, said that the Legislature is not keeping its promise to children with disabilities. Children with disabilities have the highest teen suicide rate in the country and a two-times higher dropout rate than nonspecial education students. If SB 198 can eliminate bullying for special education kids, she is in support of it.

**John Schneeberger, Bitterroot Human Rights Alliance**, said that problems with harassment and bullying in the Hamilton schools came to the Alliance's attention only because the victims had the gumption to step forward and complain. Unfortunately, it also heard many stories from students who had already dropped out of school for being singled out because of their perceived sexual orientation and conservative, religious views. He supported SB 198.

**Patricia Kemp, Helena Elementary School Counselor**, said that she has met countless students who were dealing with the effects of abuse at the hands of their peers. Helena schools have seen the light and passed a policy for the school district. However, it is very spotted within the state. The Legislature's move on the bullying issue is a chance to no longer remain silent. When people are silent, they give their approval.

**Scott Crichton, Executive Director, American Civil Liberties Union (ACLU) and Gary Stallings, Citizen**, endorsed SB 198 and encouraged the Committee's support.

**Mija, MT Youth Queer Action Coalition**, asked if the Committee members would be sitting where they are if the schools that they attended were unsafe.

**{Tape: 1; Side: B; Time Counter: 5.4}**

**Opponents' Testimony:**

**Eugene Williams, Citizen,** saw no reason for legislators to make laws when schools have administrators and policies to address the issue. He said that proponent testimony is describing crimes that are punishable under current law; and if school administrators are allowing this type of behavior, they should not be in their jobs. He opposes any legislation that involves the Legislature in providing a legal solution to a problem that should be handled by school officials.

**Elaine SollieHerman, MT Eagle Forum,** said that SB 198 is not a positive action for Montana's educational system or its children. It adversely affects the school system financially, unintentionally targets at-risk students, and undermines teacher authority. Some proponents have testified that the problem of bullying has already been addressed. Ms. SollieHerman concluded that SB 198 was an add-on to the state's basic educational system.

**{Tape: 2; Side: B; Time Counter: 12.4}**

**Steve Meloy, Executive Secretary, Board of Public Education; Lance Melton, MT School Boards Association (MTSBA); and Dallas Erickson, MT Citizens for Decency Through Law, Inc.; and Shannon Bennett, Citizen,** provided written comments in opposition to SB 198.

[EXHIBIT\(eds12a11\)](#)

[EXHIBIT\(eds12a12\)](#)

[EXHIBIT\(eds12a13\)](#)

[EXHIBIT\(eds12a14\)](#)

**Lester Johnson, Don Dugan, and Bruceen Fleenor, Citizens,** said that there are better ways to solve the bullying problem and that there were enough policies in place within the school district to address it without additional legislation. They opposed SB 198.

**Julie Millam, MT Family Coalition,** said that SB 198 is divisive and pits one group of people against another. Bullying is a terrible thing and it should not be allowed to go on. However, a law is not going to change it. She asked that the issue be left at the local level.

**Dancing Bear, Citizen,** opposed SB 198 because it was a smoke screen for the left-wing agenda of the gay community.

**Harris Himes, Citizen**, said that there is an effort within the homosexual agenda to take over the schools. SB 198 may seem to be only a little bit but it is part of the big picture. In California, this type of bill has become a sword that if bullying happened, California schools were forced to bring gay and lesbian groups into the schools to indoctrinate teachers. He opposed SB 198.

*{Tape: 2; Side: A; Time Counter: 1.8}*

**Esther Fishbaugh, Citizen**, said that she began home schooling her children partly because of bullying. However, bullying is an issue that should be left at the local level. The Legislature and Courts need not use their time to address bullying when it can be done by people banning together, defining what they want their community to be like, and standing by their decision. SB 198 has two weaknesses: (1) self-reporting and (2) the language "sexual orientation".

**Lynne Baber, Citizen**, said that if sexual orientation were going to be included in SB 198, then so should sports orientation and music orientation.

*{Tape: 2; Side: A; Time Counter: 5.7}*

**Questions from Committee Members:**

**SEN. JEFF MANGAN** asked if SB 198 were possible given the testimony by the Board of Public Education and the MTSBA. **SEN. KITZENBERG** responded that SB 198 does not interfere with local control because school districts are free to write their own policies. SB 198 provides a uniform definition for school districts to follow. When bullying threatens children's safety, why should the school districts and the Board of Public Education be allowed to do nothing about it. **SEN. MANGAN** asked if all Montana school districts currently had bullying policies. **Mr. Melton** said that every school district that he is familiar with has some version or variation of harassment and bullying policies. It is typically something short and succinct.

**SEN. JESSE LASLOVICH** asked with all of the proponents testifying that there are many incidences of bullying, why is the Board of Public Education's monitoring process ineffective. **Mr. Meloy** said that OPI provides the Board with recommendations on areas that it feels need addressing. OPI is also the Board's administrative arm and monitors school districts to see if they are in compliance with the accreditation standards. If there is a problem, anyone can come before the Board and request a general template on

bullying. **SEN. LASLOVICH** requested a list of schools district that do not have a bullying policy.

**SEN. JIM ELLIOTT** asked if California had a homosexual agenda to take over the schools and there was bullying of heterosexual students, would it not be for the students' protection to have a bullying policy in place. **Mr. Himes** said that if the school teachers and school boards take care of the problem for both homosexuals and heterosexuals, it should be the end of the problem.

**SEN. BOB STORY** asked about the penalty for school districts that do not follow the law. **SEN. KITZENBERG** said that there SB 198 did not have one.

**SEN. GREGORY BARKUS** asked if rational data existed proving that districts that have policies are experiencing more incidences of bullying or harassment than districts that do not have policies. **SEN. KITZENBERG** said no, but that he did have eyes, and it is amazing to him that more incidences of bullying and harassment have not been reported.

**SEN. JERRY BLACK** asked why the current policies of bullying and harassment are not being enforced. **Mr. Melton** said that MTSBA hears about incidences of bullying and offers legal and personnel services to those students and hold school districts and students accountable for violations of the existing policies. **SEN. BLACK** asked how a harassment policy could be enforced away from school. **Mr. Melton** said that case law states that anytime a student conducts him or herself outside of a school setting in a way that ties back to the school, there is a right to impose discipline, such as drinking during the weekend. **SEN. BLACK** asked how the policy under SB 198 could be enforced any better than the current policies. **SEN. KITZENBERG** said that where policies exist, they give direction to the faculty and administrators to enforce. He said maybe a part of it is a question of enforcement, but all school districts in Montana should have clearly defined policies.

*{Tape: 2; Side: A; Time Counter: 22.0}*

**Closing by Sponsor:**

**SEN. KITZENBERG** said that SB 198 has no fiscal impact to school districts and districts are required to only make and disseminate a bullying policy. In addition, no action can be taken on a school district through an anonymous report of harassment. He suggested that if the Board of Public Education thinks that a harassment policy should have been and is followed, it should have been followed long before now; and all school districts

should have a policy in place. The question is has the Board of Public Education addressed the problem? He said that students who are not bullied can learn better. He requested the Committee's support of SB 198.

***{Tape: 2; Side: A; Time Counter: 28.5}***

**HEARING ON SB 177**

**Opening Statement by Sponsor:**

**SEN. DON RYAN, SD 10**, said that SB 177 is the "Stop The Bleeding Bill". The Legislature has underfunded public schools for 10 years. He said that Montana schools have worked diligently with the available funding given by the state. School districts must wait until after the Legislature adjourns, usually April, to find out how much money they will receive. That has increased the burden on local property taxpayers across the state and, as a result, the state was taken to court.

**SEN. RYAN** said that currently, quality schools are preparing their budgets for next year. Schools cannot wait until April because the effects would be that many qualified teachers would leave the state for employment. With the Legislature knowing that it must redo the way it is financing schools, the state must put money upfront to address what the Court has told the Legislature to do. If SB 177 passes, it will provide schools with a BASE budget and allow them to be prepared for the spring mill levy elections. SB 177 adds \$250 in ANB entitlements and provides a 3-year averaging of ANB for school districts with declining enrollments.

***{Tape: 2; Side: B; Time Counter: 8.0}***

**Proponents' Testimony:**

**Lance Melton, Executive Director, MTSBA**, provided written comments in support of SB 177 that included several proposed amendments for funding.

**EXHIBIT**(eds12a15)

***{Tape: 2; Side: B; Time Counter: 14.7}***

**Jack Copps, MT Quality Education Coalition (MQEC)**, said that MQEC rises as a reluctant supporter of SB 177 because it assumes that the second year of the biennium will take care of itself. MQEC believes that the first year of the biennium should include a \$300 increase per ANB. He said that SB 177 does not stop the



bleeding if the system is not fixed in the second year. It needs more horsepower.

**{Tape: 2; Side: B; Time Counter: 18.8}**

**Madalyn Quinlan, Office of Public Instruction (OPI)**, said that OPI supports a 3-year, ANB averaging as a means of cushioning the impact of declining enrollments, and it supports increases in ANB funding. However, its concern is that SB 177 terminates after one year. **Ms. Quinlan** cited OPI testimony given during the 2003 Session stating that: "Three-year averaging allows school districts to respond to declining enrollment over a longer time horizon. By using a 3-year average for ANB, districts with declining enrollment will be able to cushion the impacts of reduced state funding and budget reductions". With the 1-year effectiveness in SB 177, school districts will lose the longer planning horizon. OPI is also concerned that given that the provision in SB 177 will expire after one year, OPI would need to make major overhauls to its automated school budgeting system just to deal with one year.

**{Tape: 2; Side: B; Time Counter: 21.1}**

**Darrell Rud, School Administrators of Montana (SAM)**, said that he was also concerned about the second year, but felt that SB 177 was a possible vehicle to provide help to school districts. Schools want and need to maintain a quality education and students deserve nothing less than the state's best effort.

**{Tape: 2; Side: B; Time Counter: 22.3}**

**Dan Martin, Billings Public Schools**, said that Billings' elementary school budgets have been capped for two years and its high school has budget authority because they are increasing in enrollment. However, the budget authority does no good because of the reluctance in voter approval of the Billings' levies. Mr. Martin said that Billings schools have no contingency funds; and if they do not receive more state support, they will have to request a budget amendment.

**Mr. Martin** said that time is of the essence and he supported alternative revenue sources, such as gambling and local option taxes. He also requested the reinstatement of cash reappropriation without the loss of guaranteed tax base (GTB).

**{Tape: 3; Side: A; Time Counter: 4.1}**

**Opponents' Testimony:**

**Eric Feaver, MEA-MFT**, said that he could not support a bill that would not do the job. Every proponent gave testimony that an opponent should give if they were honest to the process. He suggested amending SB 177 in some satisfactory form because it could be a good vehicle but that it would not work in its current form.

*{Tape: 3; Side: A; Time Counter: 5.6}*

**Questions from Committee Members and Responses:**

**SEN. BOB STORY** asked how schools could maintain equity if the caps were removed and how many schools would be affected by the cap removal. **Mr. Melton** said that under present law, the Court assessed and determined that the state was meeting its constitutional obligations with regard to equity. The present law also meets the strict, federal-range ratio method of determining equalization under the Impact Aid laws. He added that there are 29 school districts originally exempted from the maximum budgets and approximately 22 districts in the temporary maximum float.

**SEN. STORY** asked about the total cost when the consumer price index (CPI) is added to the ANB within the BASE entitlement. **Mr. Melton** said that the net present law adjustment is \$17.8 million on a statewide basis and Governor Schweitzer's additional \$250/\$50 in the first year of the biennium adds an additional \$30 million. **SEN. STORY** asked why a decrease in ANB averaging was a good thing. **Mr. Melton** said that when school districts have declining enrollments in a funding formula that has not been deliberately constructed to provide quality, there are districts with disproportionate losses of funding in relation to the reduction in expenses from declining enrollments. He added that there are increased costs associated with growing enrollment that typically apply to building pressures. Montana is funding a very small amount to address those concerns resulting in school districts using their increase in ANB funding to address them at the local level. **SEN. STORY** asked how many schools are getting so many students in a year that they are having to deal with building expansion. **Mr. Melton** said that it depends on the school district. **SEN. STORY** requested an explanation of the term "budgeting unit" in SB 177. **Mr. Melton** said that the language is a change to recognize that Montana funds on a per-district basis. However, in schools that are isolated and a certain distance apart, the state will fund them as if they were two school districts. The language does not make a substantive change.

**Closing by Sponsor:**

**SEN. RYAN** said that the Committee's job is going to take time and thoughtful work, and he did not believe that when the current funding formula was established that it would have put the squeeze on public schools like it has in the last two sessions. If the Committee approves the first year, the advantage will be a full and complete understanding of the concepts that are facing the state in developing a new funding formula. **SEN. RYAN** believed that the current funding formula is severely weighted on a per-student basis and a formula needed to be developed to address overcrowding. SB 177 provides a baseline figure for next year because the current funding system does not do the job.

*{Tape: 3; Side: A; Time Counter: 23.3}*

**HEARING ON SB 224****Opening Statement by Sponsor:**

**SEN. JESSE LASLOVICH (D), SD 43**, said that **SB 224** represents the changes in technology over the past two decades and recognizes that as technology advances, so too must Montana's educational system. SB 224 promotes local control and equality of opportunity in public education. By amending the law to allow school districts to serve children offsite, SB 224 promotes efficiency, flexibility, and cooperation among school districts statewide. School districts are presently constrained to providing educational services in their school buildings--an arcane restriction--that does not contemplate the creation of new technologies that allow quality offsite learning opportunities. As the needs of parents and students evolve, the laws governing the delivery of education by school districts must adapt. SB 224 will allow school districts to make the greatest and most efficient use of technology and delivering high quality education to children.

*{Tape: 3; Side: A; Time Counter: 25.5}*

**Proponents' Testimony:**

**Madalyn Quinlan, OPI**, said that SB 224 recognizes that school in the 21st Century is not necessarily a physical place but a set of programs and course offerings. Ms. Quinlan requested that the language "or attendance agreement between the district of residence and the district of attendance" be added to Section 1. The state needs to recognize that currently two school districts can enter into an interlocal agreement to provide services. When

it happens, it still generates ANB funding for the district of attendance.

***{Tape: 3; Side: A; Time Counter: 26.7}***

**Bruce Messinger, Superintendent, Helena School District**, said that Helena's plan is to provide high quality learning experiences throughout the state through an e-learning consortium. Part of the service delivery will occur on school sites. However, students in home school settings or who need to be educated away from the school site for other reasons can be provided educational services as well. Under current law, schools will be unable to do this and collect ANB funding to cover the cost of the educational service. SB 224 would allow a school district to provide services for students who are unable to attend school sites.

**Darrell Rud, School Administrators of Montana (SAM), and Lance Melton, MT School Boards Association (MTSBA)**, provided written comments in support of SB 224.

[EXHIBIT\(eds12a16\)](#)

[EXHIBIT\(eds12a17\)](#)

[EXHIBIT\(eds12a18\)](#)

***{Tape: 3; Side: B; Time Counter: 1.1}***

**Eric Feaver, MEA-MFT**, said that MEA-MFT supported a similar bill (SB 231) in the 2001 Session. SB 224 is essentially the same bill. It makes good sense and is a part of Montana's reaching out to communities to people, who for one reason or another, cannot be present within school environments. When school districts provide the educational enterprise by offsite means, they would receive ANB funding.

***{Tape: 3; Side: B; Time Counter: 3.1}***

**Questions from Committee Members and Responses:**

**SEN. DAN MCGEE** asked if a student is offsite, such as the Billings Metra, and a video instruction comes from Kalispell, will the ANB funding go to the Kalispell school. **SEN. LASLOVICH** said no, it would stay in Billings which is the resident district.

**SEN. GILLAN** asked if adjustments would be made to the ANB for home school students who participate in offsite education on a part-time basis. **Ms. Quinlan** said that to the extent that a home school student is taking classes in a public school, they are

enrolled in the public school. The ANB is generated based upon how many hours they attend. **SEN. GILLAN** asked if the language "full time" needed to be modified. **Ms. Quinlan** said that schools report to OPI their full- and part-time enrollment. OPI calculates ANB based on a full time equivalent.

**SEN. STORY** asked how many hours a student would have to attend to be considered a full time student under OPI's calculations. **Ms. Quinlan** said that under existing law, a student generates full time funding if they are enrolled for more than two hours a day. **SEN. STORY** asked about OPI's proposed amendment. **Ms. Quinlan** said that students who are enrolled in a school and residents of the districts will generate ANB funding under SB 224. However, OPI wants to add that if two school districts had interlocal agreements to provide educational services and if the agreement included an offsite component, the district providing the service should be able to receive the ANB funding even though the student lives in the other district. **SEN. STORY** asked if there was a current definition of "offsite" in statute, and if not, should there be one. **Ms. Quinlan** said there is no definition of offsite in statute and it would not hurt to have. However, OPI interprets offsite to mean any facility or instructional setting that is not, in and of itself, an accredited unit.

**SEN. STORY** said that SB 224 requires that districts must comply with standards provided by the Board of Public Education in order to provide offsite services. He asked if it created an impediment to some districts or to home schools. **Mr. Melton** said no, that the Board's distance learning standard is very flexible and contemplates that distance learning may not be in a particular classroom.

*{Tape: 3; Side: B; Time Counter: 12.5}*

**Closing by Sponsor:**

**SEN. LASLOVICH** requested the Committee's support for SB 224.

**ADJOURNMENT**

Adjournment: 5:30 P.M.

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SEN. DON RYAN, Chairman

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LOIS O'CONNOR, Secretary

DR/LO

Additional Exhibits:

**EXHIBIT ([eds12aad0.PDF](#))**