

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN CAROLYN SQUIRES**, on February 11, 2005  
at 3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Carolyn Squires, Chairman (D)  
Sen. Joe Balyeat (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mike Cooney (D)  
Sen. Jon Ellingson (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Rick Laible (R)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

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

**Committee Business Summary:**

|                        |                                                                                                           |
|------------------------|-----------------------------------------------------------------------------------------------------------|
| Hearing & Date Posted: | Confirmation Hearings:<br><b>Kala French</b> , Board of Regents;<br><b>Mike Foster</b> , Board of Regents |
| Executive Action:      | None.                                                                                                     |

**Kala French, Student Regent - Board of Regents**

**Kala French** stated that she had enjoyed serving as the Student Regent for the past seven months, working on behalf of various student groups, attending many meetings, and being the liaison between the Board of Regents and the student body. She has worked to reduce costs for students, facilitate transfer of credits within the university system, and to improve communications between the Board of Regents and student government. **Ms. French** advised she had moved to Helena for the duration of the Session so she would be able to attend hearings relating to education issues, and to testify on behalf of students.

**Ms. French** publishes a monthly newsletter, and engages in the exchange of ideas through e-mails. She advised, during her time on the Board, she would focus on three areas: accessibility, accountability, and affordability. Accessibility involved the removal of barriers to education, such as academic and financial barriers; it also involved ensuring that programs of the highest quality are available to Montana students, which will result in high-paying jobs vital to a strong economy. Accountability included standards and quality measures, meeting transferability expectations, and addressing problems in the university system. Affordability was the most difficult issue, but she vowed to watch tuition rates and changes, and to work with lawmakers and the Board to find ways to reduce costs while ensuring quality, and to make education affordable.

**Ms. French** provided a copy of her resume.

**EXHIBIT**(sts34a01)

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**SEN. VICKI COCCHIARELLA, SD 47, MISSOULA**, asked how many years were left in her term, and what year she was in as a student.

**Ms. French** replied she was a sophomore, and had three years left in her term. **SEN. COCCHIARELLA** wondered whether she would still be a student by the time her term expired, which **Ms. French** confirmed.

**SEN. COCCHIARELLA** referred to the issues surrounding Ms. French's appointment, and asked her to address some of the concerns presented by University of Montana (U of M) students; she wondered if those concerns were shared by all students. **Ms. French** did not believe they were, as she had received a great deal of support from both sides of the aisle.

**{Tape: 1; Side: A; Approx. Time Counter: 7.3}**

**SEN. MIKE COONEY, SD 40, HELENA,** pointed to an article in the Missoulian, in which she was quoted as saying, "it disgusts me that my confirmation is what ASUM (Associated Students of U of M) is spending so much time on." He asked whether she was opposed to public input to her confirmation. **Ms. French** stated she was not, adding her remark was taken out of context as she felt there were a number of issues of great concern to all students, and those should be their main focus.

**SEN. COONEY** referred to the length of her term, and asked for her comments in light of the fact that other student regents had been appointed to one-year terms, coupled with the fact that she was appointed during the waning months of the previous Governor's Administration. He felt her three-year appointment prevented an incoming Governor from making his own appointment.

**Ms. French** advised she had never made a request for a specific length of term during her campaign, and had made it clear she would serve for however long the term would be. She stated, while her appointment by Governor Martz was within the purview of the Governor's Office, she did understand the concerns raised with regard to the length of her term. **Ms. French** advised she was willing to discuss alternatives.

**{Tape: 1; Side: A; Approx. Time Counter: 11.8}**

**SEN. JON ELLINGSON, SD 49, MISSOULA,** contended that one-year terms would give more students the opportunity to participate and serve on the Board, and asked whether she agreed this would be a worthy policy consideration. **Ms. French** offered another perspective: it took time to become familiar with all of the issues in order to make informed decisions; the Board only met once every two months, and the university system consisted of eleven schools. She added she knew that some Student Regents had served two-and three-year terms, but did not think most were one-year terms.

**SEN. ELLINGSON** advised that he had received many letters and comments which stated Ms. French was held in the highest regard, and was effective in her position. He wondered, though, whether there was a potential for conflict of interest between her position on the Board and her job as a lobbyist for the Petroleum Marketers Association, and asked for reassurance that her job as lobbyist would not lead to her slighting her responsibilities to the Board and to the students. **Mr. French** clarified that she was a legislative aide who was a registered lobbyist, and a registered lobbyist for the university system. She emphasized

that she only lobbied on education issues, and did not see the potential for a conflict of interest, adding the lobbying job for the university system gave her the perfect opportunity to learn more about the issues, and being able to stay in Helena provided her with much more access to lawmakers, which in turn benefitted the students she represented.

**SEN. ELLINGSON** contended that having elected a new Governor and a new Legislature was evidence that the people of Montana desired a new direction, different from that of preceding administrations; he felt the new Governor should be allowed to appoint members of departments and agencies who would reflect his public policy vision. Since the Senate was given the responsibility of confirming appointments made by a previous administration, it was his inclination to take the will of the electorate into consideration, and withhold confirmation of those appointees as they might not represent current public policy goals. **SEN.**

**ELLINGSON** asked whether she understood this process, and whether she had a different view of the Senate's responsibilities. **Ms. French** contended that change was bound to happen with each new administration, whether or not there was a change in parties. She declared that she was elected unanimously by her peers to represent their needs and interests, and not to represent the policies of any Governor, past, present, or future.

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**SEN. JOE BALYEAT, SD 34, BOZEMAN**, stated that the most important issue in the confirmation process was the determination that she was qualified for the task, not political issues. Given the support and endorsements she had received, he did not understand how her appointment had become such a controversial issue, and asked whether she had met with the Governor to discuss the resistance to her appointment. **Ms. French** stated she had not.

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**SEN. STEVE GALLUS, SD 37, BUTTE**, wondered if she would resign her position should her term exceed her enrollment. **Ms. French** replied that she would.

**SEN. COONEY** referred to students at U of M who had opposed her nomination, and asked, should she be confirmed, how she would mend fences. **Ms. French** stated she had a great deal of respect for those students who had expressed concerns, and their opposition would not keep her from continuing the dialogue; she felt it was important to have a working relationship with every campus.

**{Tape: 1; Side: B; Approx. Time Counter: 0 - 2}**

**CHAIR CAROLYN SQUIRES, SD 48, MISSOULA**, asked whether she represented students of the two-year colleges on the Board as well. **Ms. French** stated that she did, and added technical schools provided critical access to higher learning, and their response to workforce needs was essential to Montana's economy.

**CHAIR SQUIRES** expressed concern that even a two-year term would exclude students from two-year colleges to run and be appointed to the Board, and asked Ms. French's opinion. **Ms. French** stated that those students had equal opportunity to be appointed to the Board, and their representatives had an equal vote on the Board; in fact, they were instrumental in recommending her nomination to the Governor's Office, adding that she relied on their input as much as that of representatives of the traditional colleges. As to the length of her term, she stated it was the Senators' decision.

**CHAIR SQUIRES** commented there was a movement towards Colleges of Technology, and she wanted those students to have the opportunity to serve in this important capacity. She added the greater percentage of student regents had been appointed to one-year terms.

**{Tape: 1; Side: B; Approx. Time Counter: 10.2}**

**Mike Foster - Board of Regents**

**Mike Foster** stated he was the current Vice Chair of the Board of Regents, Chair of the Board's Workforce Development Committee, a member of the Board's Academic and Student Affairs Committee, and served on the Board of Directors for the Montana Higher Education Student Assistance Corporation. As a former member of the Montana State Senate, he understood and respected the confirmation process. Despite the political fireworks surrounding the Student Regent's appointment and his own, which began just a few days after the last election, he expressed faith in this Committee and the Senate as a whole to reach a confirmation decision based on the appointees' qualifications and conduct rather than on unfounded opinions or political pressure.

**Mr. Foster** advised, as a registered lobbyist, he was honored to represent healthcare providers, and to be an employee of four Montana hospitals. He stated, since Greg Petesch had clarified it was legal for a lobbyist to be appointed to the Board, he would not address this issue, but wanted to comment on the perceived conflict of interest. **Mr. Foster** advised his job had not created any conflict of interest in the year he had served on

the Board, and vowed, if such a circumstance should arise during his tenure, he would declare such a conflict and recuse himself from voting. He stated if the Speaker of the House of Representatives did not trust people to do their jobs, the Chair of the Education Committee could not be a teacher, and the Chair of the Agriculture Committee could not be a rancher or a farmer. Luckily, the people charged with these appointments have historically judged the quality, expertise, and qualifications of the persons involved rather than how they make their living. He asked the Committee to judge him by his qualifications and conduct as a member of the Board of Regents.

**Mr. Foster** added that his priorities on the Board were workforce development, and solving the transferability issue; he was also a strong advocate of the shared leadership concept initiated by Chairman John Mercer, and effectively developed by Commissioner Dr. Sheila Stearns and her staff. He was certain that Montana's university system would play an ever increasing and positive role in advancing the State's economic development agenda. A large part of this was the need to address the workforce needs, with a particular focus on two-year campuses, which are an essential element.

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**SEN. COONEY** stated that the current Chairman of the Board was one of the more political people, and asked whether Mr. Foster understood the Committee's concerns about current appointments, and how he would respond to a Board member's partisan statements.

**Mr. Foster** replied that he enjoyed the lack of politics present on the Board. He agreed there had been some accusations but felt they were not well-founded; a difference of opinion did not necessarily mean a statement was politically driven. He recalled that Governor Martz appointed John Mercer because she felt a better relationship could be developed between the Board and the Legislature, and he felt this was being accomplished, citing a recent meeting with a legislative subcommittee. **Mr. Foster** added that perspectives change, stating that Mr. Mercer was now building bridges with the Legislature when he had not been the university system's greatest ally during his tenure in the Legislature. He advised that he himself had gained different perspectives and perceptions with regard to public policy while working in the Legislature and then in the Governor's office; he assured the Committee that he would promote the best public policy for the State, and not some political agenda.

**SEN. COONEY** recalled how Chairman Mercer became Chairman and asked whether Mr. Foster thought it was part of a political move.

**Mr. Foster** replied he was not a member of the Board at that time

and did not know any details; he added that even though there were healthy differences of opinion at times, it seemed to him that the Board was very stable, and 99% of the votes were not partisan.

**SEN. COONEY** referred to Mr. Foster's voting record on higher education while in the Legislature, saying this issue was broached in many comments he received with regard to the appointment.

*{Tape: 2; Side: A}*

**SEN. COONEY** asked him to respond. **Mr. Foster** felt he had always been supportive of the university system, adding, how a vote was viewed, depended on the constituent.

**SEN. ELLINGSON** repeated the statement and question posed to Ms. French with regard to appointees reflecting the views and policies of a new Governor and Senate. Regardless of Mr. Foster's qualifications and abilities, he had a different view of policies with regard to the universities, and it was the Senate's prerogative to confirm or not to confirm his appointment. **SEN. ELLINGSON** added, as much as the Senate respected Mr. Foster, consensus was that someone else should be placed in his position on the Board.

**Mr. Foster** stated he appreciated his forthrightness and would welcome working with him on the Board as it was important for the Board to have a wide range of views and perspectives. As to the statement with regard to the Governor's right to appoint new people, he stated that at the end of the current Governor's term, he would, by law, have to make appointments as well, and he thought the Governor would want his appointees to be able to serve their full term. He repeated that politics did not enter into the Board's decisions; he was convinced that the Governor's views on issues facing the Board would not be different from those of Board members.

*{Tape: 2; Side: A; Approx. Time Counter: 7}*

**SEN. BALYEAT** asked whether Mr. Foster had an opportunity to sit down with the Governor and discuss the issues. **Mr. Foster** replied he had not pursued this since he felt it was the Senate's role to handle his confirmation; he did not question the Governor's right to interject his opinion, saying that the arguments centered not on Mr. Foster's qualifications but on the fact that the Governor had certain beliefs about lobbyists.

**SEN. BALLYEAT** wondered whether the Governor asked to meet with him; **Mr. Foster** stated he had not.

**SEN. BALLYEAT** referred to the Montana Constitution with regard to the Board's separation from the Legislature, and asked whether **Mr. Foster** thought it was appropriate for the Governor and the Senate to put their stamp on the Board of Regents with regard to public policy. **Mr. Foster** stated, if he was asking whether it was appropriate for the Governor to unseat Chairman Mercer, that was not his issue. The wall of separation was important, and he stressed the Senate should base confirmation only on the person's conduct and qualifications for the job.

*{Tape: 2; Side: A; Approx. Time Counter: 11}*

**SEN. GALLUS** contended it was not that the Governor had an opinion about lobbyists, but that he disagreed with **Mr. Foster's** interpretation of statute with regard to the Code of Ethics, and asked whether **Mr. Foster** recalled how he voted on an ethics issue in 1995. **Mr. Foster** did not recall his vote, adding his own knowledge of the Governor's statement about lobbyists, and his interpretation of the law, was based on newspaper reports.

**SEN. ESSMANN** commented it would be a tragedy if either **Mr. Foster** or **Ms. French** were sacrificed on the altar of political privilege. Referring to the Governor's stance on the importance of both technical and community colleges, he asked whether **Mr. Foster** agreed, in terms of increasing their visibility and the role they played in the development of Montana's economy.

**Mr. Foster** appreciated his support, and stated that two-year colleges played a large part in his desire to apply for the position on the Board, because of his interest in workforce development; in his opinion, two-year schools were key, as 80% of jobs in the State required less than a four-year degree. This emphasized the need to focus on technical colleges which were a great entry point for young students, and for people looking to re-enter the workforce.

**CHAIR SQUIRES** noted that **Mr. Foster** had been the Executive Director of the Contractors' Association, and now worked in government relations at St. Vincent's Hospital in Billings; she referred to a meeting of the Board's Academic Affairs' Committee where he had stated that, "statewide business groups, such as the Montana Contractors' Association, and the Montana Hospital Association are important sources of information for appointment needs as well as U of M President George Dennison." She asked whether this was an accurate quote. **Mr. Foster** stated it probably was. **CHAIR SQUIRES** expressed concern with this



statement because it dealt with groups familiar to him, and it referred to academia; she added if he was interested in two-year schools, he would not refer students to President Dennison but to the "worker bees". **Mr. Foster** countered that because of his experience with the Contractors' Association, he knew they dealt with workforce shortages, and the types of skill areas provided by two-year colleges, and they kept track of their member companies' needs in terms of employees. He emphasized it was also President Dennison's view that the university system had to react quickly to workforce needs by being pro-active. He gave a brief overview of the development of a data bank which would track those needs, adding that Dr. Paul Polzin, of the University of Montana, would assist in its creation.

***{Tape: 2; Side: A; Approx. Time Counter: 23.6}***

**ADJOURNMENT**

Adjournment: 4:55 P.M.

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SEN. CAROLYN SQUIRES, Chairman

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CLAUDIA JOHNSON, Secretary

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MARION MOOD, Transcriber

CS/cj/mm

Additional Exhibits:

**EXHIBIT ([sts34aad0.PDF](#))**