



Education and Local Government Interim Committee

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59th Montana Legislature

SENATE MEMBERS

JEFF ESSMANN
KIM GILLAN
BOB HAWKS
RICK LAIBLE
JEFF MANGAN
ROBERT STORY

HOUSE MEMBERS

ELSIE ARNTZEN
KATHLEEN GALVIN-HALCRO
ROBIN HAMILTON
MIKE JOPEK
MARK NOENNIG
JON SONJU

COMMITTEE STAFF

LEANNE KURTZ, Lead Staff
EDDYE MCCLURE, Staff Attorney
FONG HOM, Secretary

MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

July 15, 2005

Capitol Building, Room 137
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. JEFF ESSMANN
SEN. BOB HAWKS
SEN. RICK LAIBLE
SEN. JEFF MANGAN
SEN. ROBERT STORY

REP. ELSIE ARNTZEN
REP. KATHLEEN GALVIN-HALCRO
REP. MIKE JOPEK
REP. MARK NOENNIG
REP. JON SONJU

COMMITTEE MEMBERS EXCUSED

SEN. KIM GILLAN
REP. ROBIN HAMILTON

STAFF PRESENT

LEANNE KURTZ, Lead Staff
EDDYE MCCLURE, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, [Attachment 1](#).

COMMITTEE ACTION

- Proxy votes will be allowed in conformance with the rules
- Two subcommittees were set up: Local Government Subcommittee and Postsecondary Education Policy and Budget Subcommittee
- Ms. Eddy McClure will review appropriate rules and discuss those which she think may become an issue at each Committee meeting

CALL TO ORDER AND ROLL CALL

SEN. STORY called the first Education and Local Government Interim Committee meeting to order at 10:00 a.m. Members of the Committee and staff introduced themselves; Secretary took visual roll ([Attachment 2](#)).

VOTE BY PROXY

A discussion about voting by proxy was held. REP. GALVIN-HALCRO asked if the chairman and vice chairman would accept proxies whether they're verbal or written. A motion was made by REP. GALVIN-HALCRO to accept voting by proxy and Rep. Noennig made a second motion that all proxies be in writing and in no particular format. SEN. MANGAN seconded the motion and asked the committee to vote.

SEN. HAWKS asked for clarification on voting by proxy, verbal or written. He talked with Sen. Gillan yesterday, and her concern was offering a proxy to him in case the committee needed it, specifically for the election of officers. Rep. Hawks did not have a written one, because he was notified that morning and was authorized a proxy by her. REP. NOENNIG said the proper way is to go with the approval of the proxy's vote in accordance with the rules. He has no problem with the chairman making it subject to the committee's right to always overrule the chairman.

Rep. Noennig withdrew his motion to let Rep. Galvin-Halcro's motion stand that the committee allow proxies that would be in conformance with the guidelines. Motion passed unanimously.

ELECTION OF OFFICERS

SEN. LAIBLE nominated Sen. Jeff Mangan as chair. The motion by Rep. Noennig to close nominations passed unanimously and Sen. Jeff Mangan was voted chairman of the Education and Local Government Interim Committee.

SEN. JEFF MANGAN nominated Rep. Mark Noennig as vice chair. Sen. Laible moved to close nominations and cast a unanimous ballot for Rep. Noennig. Motion passed unanimously.

LOCAL GOVERNMENT ISSUES FOR THE INTERIM

Alec Hansen, Montana League of Cities and Towns, talked about legislation that the 2005 Legislature passed that was of significance to the League of Cities and Towns.

- Main Street program funded by HB 2
- HB 185, Impact Fees
- Statewide Public Defender Program
- HB 22, Water Adjudication Program

- Fire Relief
- Impact of Oil and Gas Development
- SB 48, Business Equipment Tax

Mr. Hansen asked the committee to consider a study on state and local government transportation funding and policy. Mr. Hansen told the committee that the League will be more involved with subdivision issues this interim.

SEN. LAIBLE asked Mr. Hansen if model regulations for impact fees were being drafted and if MACo will be involved in the impact fee issue. Mr. Hansen said that they would not be drafting model regulations. They will provide information and start first with a presentation at their conference in Helena in September. Mr. Hansen said that MACo would like to work with those cities who have impact fees.

SEN. STORY asked if the increase in the allocation of gas tax revenue to cities and counties in 1993 coincided with the increase of gas tax that year. Mr. Hansen said that there was a 3% increase in the gas tax that year because of problems with the Highway Trust Account.

SEN. STORY asked when the cities and counties get the gas tax revenue and use it, whether they have an opportunity to match that with federal money if they use that as a supplement to the local revenues. Mr. Hansen said that very little is matched with federal money.

Harold Blattie, Montana Association of Counties (MACo), submitted a document listing what issues the counties will be looking at over the interim. **(EXHIBIT 1)** Some legislation that MACo wants to look at for the 2007 Session are:

- Mail ballot process
- Vehicle registration and definition of junk vehicle
- Reimbursement to local governments as a result of SB 68 and raising the exempt threshold for business equipment tax from \$5,000 to \$20,000
- Special district and district laws in Title 7 that are not consistent
- Uniform penalties for zoning violations

KEY K-12 EDUCATION ISSUES FOR THE INTERIM/EDUCATION AND LOCAL GOVERNMENT INTERFACE WITH QUALITY SCHOOLS INTERIM COMMITTEE

EDDYE McCLURE, Staff Attorney, gave an update on the status of the Quality Schools Interim Committee and its time line. An RFP was issued to study the recruitment and retention of teachers and was awarded to MSU, Dr. Doug Young and Dr. Chris Stoddard, to gather data relating to that issue.

SEN. LAIBLE asked if part of the discussion with RC Wood is looking outside the box to look for ways to provide educational services in a different light (i.e., distance learning), particularly for rural schools. He wondered about a distance learning consortium and if there was some discussion on different ways to deliver those services and ways of looking within the funding formulas to change the emphasis from as many school districts as we have and do some consolidation to get more funding within the classroom. MS. McCLURE said distance learning is how you deliver the accredited programs. When RC Wood sent out their Needs Assessment, there were questions on 8 categories, including what the districts capacity is to do distance learning. When they start discussing costs, they will deal with distance learning. RC Wood will

only provide information on costs, they will not do any policy making.

SEN. HAWKS said that it seems that there was a study done at MSU - Bozeman several years ago about teacher recruitment and retention. He did not know how applicable that is at this point, but it might be good to look into that. MS. McCLURE said that the one that she was familiar with was "Who Will Teach Our Children" and she was not sure whether that was out of MSU but out of OPI. She said that Dr. Young is instructed to do a survey of the literature, all the studies out there in different states. She will check with Dr. Young regarding the study from MSU, and if there is one, Dr. Young is aware of it.

REP. GALVIN-HALCRO asked how the information about the surveys was put out to the public. MS. McCLURE said that if you go the Quality Schools website, there is a direct link to RC Wood. A notification was sent to every newspaper in the state and OPI sent out a press release.

MADALYN QUINLAN, Office of Public Instruction, distributed the State Superintendent's report to the committee entitled "K-12 EDUCATION, 2005 Legislative Session Summary of Legislation Related to K-12 Education" (**EXHIBIT 2**). Ms. Quinlan discussed:

- Statewide Student Assessment
- Indian Education for All
- OPI's Data Warehouse
- School Law Book will be published after the Special Session
- Preliminary Determination for Adequate Yearly Progress will be sent to school district
- Peer Review

SEN. LAIBLE asked if OPI is working with the Chief Information Officer in creating that Data Warehouse. Ms. Quinlan said that the proposal is included in the State's Strategic IT plan.

SEN. LAIBLE asked if OPI will continue to be an active participant in the creation of the program. Ms. Quinlan said yes.

SEN. LAIBLE said his concern is that when the Finance Committee starts to fund these things, they get a report from the Chief Information Officer that says where they are, if they are on target, or this is where they will end up; this is a safeguard for the Legislature and schools as well.

SEN. STORY asked if the concept of fall testing and sampling is a good idea and how late in the fall will the tests take place. Ms. Quinlan said that that is one of the issues that the Board will have to deal with because they know that you have to test after kids have been there long enough to get acclimated, but one benefit of testing in the fall is then the teacher who will be teaching those kids for the full school year will have the advantage of getting those test results back and being able to target if those tests reveal certain weaknesses or gaps. The teacher can then design a strategy to reflect that.

POSTSECONDARY EDUCATION POLICY AND BUDGET SUBCOMMITTEE

ALAN PEURA, Associate Fiscal Analyst, LFD, talked about Postsecondary Education Policy

and Budget Subcommittee (PEPB) and passed out the document describing PEPB (**EXHIBIT #3**).

SEN. LAIBLE said that Mr. Peura did attend the Board of Regents strategic planning and he might want to give a report on what took place. Mr. Peura said that it will be the first strategic plan that they have drafted under the new Commissioner, Dr. Sheila Stearns. The primary drivers to the strategic plan will be to continue the concept of shared leadership, a paradigm shift in terms of positioning the University System as being seen as a driver of economic development as opposed to a receiver of state funding. The strategic plan will be written and ready for distribution in December and will coincide with the work of PEPB.

CHAIR MANGAN reconvened the meeting at 12:25. Three things the committee needs to do:

- determine the subcommittee structure
- discuss the Administrative Rule option
- determine how to handle reviewing agency legislation

DISCUSSION ON SUBCOMMITTEES

CHAIR MANGAN suggests that the committee divide up into two subcommittees: Postsecondary Education Policy and Budget and Local Government. Any other business that will come before the Committee, such as K-12 education could be handled by the full committee because the full committee will still be meeting, just not as frequently.

SEN. LAIBLE concurs with Chair Mangan's recommendation. SEN. HAWKS asked that all Committee members be kept up to date regularly on the subcommittees' activities. CHAIR MANGAN said that any decisions that come out of the subcommittees will be made by the full committee. The role of the whole committee is not lost in this process. REP. NOENNIG asked that the minutes of the subcommittees be available to the whole committee. CHAIR MANGAN said that Rep. Noennig and he will be on both subcommittees, but may not attend all meetings.

Motion was made by SEN. LAIBLE to set up two subcommittees structured with the authority given to the Chair to appoint members. Motion passed unanimously.

1. Local Government Subcommittee: Sen. Laible as chair, Rep. Jopek as vice chair, and members are Sen. Gillan, Rep. Sonju, Sen. Essmann, Rep. Noennig and Sen. Mangan.
2. Postsecondary Education Policy and Budget Subcommittee: Rep. Galvin-Halcro as chair, Sen. Story as vice chair, and members are Sen. Hawks, Rep. Hamilton, Rep. Artzen, Rep. Noennig and Sen. Mangan.

CHAIR MANGAN said that Sen. Story said it best at the beginning of the meeting that the purpose of the interim committee is to collectively work on issues and potential legislation for the next legislative session. Chair Mangan does not expect the subcommittees to be political and would ask the chairs not to tolerate that, remember what the goal is moving into the next session, and said that any decisions will be made officially by the full committee.

OVERVIEW OF GENERAL INTERIM COMMITTEE GUIDELINES

LEANNE KURTZ, Research Analyst, LSD, went over the guidelines and procedures with the

committee. Before adopting the work plan, Ms. Kurtz would like to hear what the committee would like to do. Ms. Kurtz will put together a chart with meeting dates and roughed-out agendas that will be adopted at the next meeting. Interim committee work must be finished by September 15, 2006.

The committee has the responsibility for reviewing legislation that is proposed by the Office of Public Instruction, the Board of Public Education, and the Board of Regents. Those entities have to have their budget plans into the Governor's Budget Office in the spring before the legislative session. This committee as a full committee will look at those proposals in June of 2006. If the committee decides it wants that legislation to be proposed, the committee as a body will formally request legislation.

PRESENTATION OF COMMITTEE STATUTORY DUTIES AND WORK PLAN

LEANNE KURTZ discussed the Summary of Statutory Duties and Proposed Work Plan (EXHIBIT 4).

EDDYE McCLURE commented on administrative rules and rules coming from the Office of Public Instruction. MS. KURTZ added that there are some detailed procedures on how the Committee can respond to administrative rules and the amount of authority they have on requesting rulemaking records, submitting written recommendations, requiring that a hearing be held, polling the legislature and requesting Economic Impact Statement for a proposed rule.

REP. NOENNIG asked what the volume of those rules are and said he would feel more comfortable if there is a list and summary that would be included in the information given to the committee. MS. McCLURE said the proposed rules come in every two weeks and she could send out with each agenda a list of rules and her comments. Ms. McClure does not review them for substance but reviews them for compliance with the Montana Administrative Procedure Act.

A motion was made by REP. NOENNIG that Ms. McClure review all appropriate rules and list those that she thinks are uncontested as well as those that she thinks may become an issue and that she give a discussion about those at each of the Committee's meetings in accordance to what she described. Motion passed unanimously.

LEANNE KURTZ discussed the budget of the committee. There is a little more than \$35,000 in the budget that should accommodate the needs of the full committee and subcommittee's meetings.

CHAIR MANGAN discussed the meeting schedules of the committee. He would like to work with staff and get the meeting schedule set for both subcommittees and the full committee. He asked the chairs and vice chairs of the subcommittees to put together what their possible work plan would be during the interim and provide that information to Ms. Kurtz in a month.

There was discussion between Sen. Hawks, Sen. Laible and Chair Mangan regarding the scheduling of subcommittee and full committee meetings so they don't conflict with the schedules of the staff and could be coordinated so the subcommittees could meet on the same days.

SEN. ESSMANN asked about the potential December 1 and 2 full committee meetings and if that will coincide with the special session. SEN. STORY said that the question of when the special session will be was posed to the Governor and he had replied that the special session will be when there is a product ready that is workable.

LEANNE KURTZ discussed the processing of the reimbursement forms. SEN. STORY wanted clarification of reimbursement of meals and the guidelines for claiming one day or two days.

PUBLIC COMMENT

PEGGY TRENK, Montana Association of Realtors, spoke to SJR 11 and offered the support of the Association.

TIM DAVIS, Montana Smart Growth Coalition, also spoke to SJR 11. He urged the committee to set up a similar working group that was established in the last interim.

MYRA SHULTS, Attorney from Missoula, Land Use Consultant for JPIA Pool, MACo. She said she would like to continue the working group for this interim.

There was discussion regarding the working group idea for subcommittees. Sen. Story wanted to point out the controversy that the working group of the Quality Schools Interim Committee is facing regarding what constitutes a meeting, how formal the meeting should be and if it relates to the Crofts Decision. Ms. McClure clarified what the working group of the Quality Schools Committee did to resolve the conflicts that had been raised by the public regarding the working group's meetings.

REP. NOENNIG asked Ms. McClure for a copy of the Crofts Decision. He agrees with the purpose to make sure there is no question about public participation but if you don't have people with the authority to make a decision who are meeting, you don't have a public meeting under the law.

SEN. LAIBLE wanted clarification from Ms. McClure about possible conflicts and changing the spontaneity of the working group meeting. Should it be structured and go to the chair or be spontaneous? CHAIR MANGAN said that staff will be directed by Mr. Petesch on how he would like staff to operate under the current system and to let us know at the next meeting.

REP. GALVIN-HALCRO requested that the full committee hear where the Board of Public Education and Office of Public Instruction are and what they are doing. CHAIR MANGAN said that that would be included in the work plan, to get updates and present them at our meetings.

SEN. LAIBLE requested that the Local Government Subcommittee meet after the interim committee adjourns.

ADJOURN

CHAIR MANGAN adjourned at 1:20 p.m.

LOCAL GOVERNMENT SUBCOMMITTEE
July 15, 2005 Meeting

CHAIR LAIBLE called the meeting to order at 1:25 p.m.

Chair Liable said SB 116 is a procedural bill and addresses how the process of subdivisions is handled and how the applications are handled. SJR 11 deals with the substantive issues of subdivisions. For the past 15 or 20 years, the legislature has been putting mandates on the subdivision statutes. He would like this committee to begin the process of working on subdivision issues.

A motion was made by REP. JON SONJU to have the working group proceed forward and begin the process. The motion was seconded and passed unanimously.

There was discussion among this subcommittee regarding meeting dates, getting some background information to Rep. Sonju, ideas for the subcommittee to discuss, and voting by proxy.

NOENNIG moved to adjourn.

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