

MEMORANDUM

TO: Senate Education Committee

FROM: Steve Meloy/ Executive/ Board of Public Education

RE: Inquiry Regarding Rulemaking

DATE: January 24, 2005

SENATE EDUCATION

EXHIBIT NO. 7

DATE 1-21-05

BILL NO. SB-10

Per your request during the hearing on SD 10 on Friday, January 10, 2005 please find the following information.

- Article X, Section 9 grants "general supervision" to the Board of Public Education over the public School system.
- 20-2-121 describes the "powers and duties" and describes areas to be considered through rulemaking
- 20-2-115 requires a rule with "substantial impact" to be accompanied by a fiscal note and prevents implementation until July 1 following a legislative session in order for the legislature to consider the cost.
- Anyone can petition the Board for a rule change affecting the standards but most come through the office of Public Instruction who is working with the school districts on a daily basis in all areas.
- The Board considers each request in the following manner:
 - a. A request to be placed on the agenda is made 20 days in advance of one of eight meetings held a year.
 - b. The Board considers the request and make take under advisement or make motion to "notice the rule" with the Secretary of States Office.
 - c. If we notice the rule it is filed on the next filing date of the SOS's office. Ten days later the rule is published with the invitation for public comment. The public comment period is 28 days.
 - d. The Board then may decide if a hearing is necessary. If they decide "no" hearing and 10% of any affected group object, the Board must hold a hearing.
 - e. The Board then has a hearing and gives the public and/or any affected party the ability to testify.
 - f. At the conclusion of the hearing, the Board reviews and responds to comments made and proposes a final notice for adoption at a meeting at least 45 days later. In all, the public has the ability to comment on any rule on at least three occasions and over a span of about 60 days.
 - g. The Board understands that the legislative staff for the Interim Education and Local Government Committee can segregate out any rule making procedure for review by the Interim Committee.

Please find attached a list of rule making hearings the board has conducted over the past few years. If you have any further questions regarding this information please do not hesitate to call me at 444-0300.

Board of Public Education public hearings since May 2002

- May 2, 2002 public hearing held in the Office of Higher Education to consider the adoption of a rule relating to substantial and material nonperformance of a contract of employment. Eight individuals appeared, four individuals testified, all witnesses belonged to educational entities.
- June 25, 2002 public hearing held in the Office of Higher Education to consider amendments to the standards for school buses in Montana. Nine individuals appeared, and the only testimony offered was on behalf of the Office of Public Instruction.
- January 25, 2003 public hearing held in the Office of Higher Education to consider amendments to both the Accreditation and Certification Standards. The main witnesses testified on behalf of the Office of Public Instruction and educational entities from around the state.
- September 4, 2003 public hearing held in the Office of Higher Education to consider amendments of rules relating to reinstatement and renewal of Class IV vocational and technical educator licenses. Five members of the educational community attended and three witnesses on behalf of the Office of Public Instruction testified.
- April 22, 2003 public hearing held in the Office of Higher Education to consider the amendment of a rule relating to renewal unit verification. One witness attended and testified on behalf of the Office of Public Instruction.
- January 29, 2004 public hearing held in the Office of Higher Education to consider a proposed amendment of a rule concerning distance, online, and technology delivered learning. Thirty individuals attended and thirteen witnesses including all our educational partners testified.
- May 10, 2004 the Board of Public Education amended a rule relating to board membership after public comment without a public hearing.
- August 5, 2004 the Board of Public Education amended a rule concerning student records without a public hearing. No public comments were received.
- September 2, 2004 the Board of Public Education, at a hearing at the Office of Commissioner of Higher Education conducted a public hearing to consider amendments in Chapter 57 regarding educator licensure. Six members of the public attended and three members of the Office of Public Instruction offered testimony.

The largest public and partner participation in our rule making was centered around a complete revision of licensure and certification standards known as Chapter 57. This rule hearing was a culmination of a year and a half worth of work of a task force consisting of over 30 members of the educational community. I believe that this rule making process, as well as the distant learning rule, was presented by legislative staff to the Interim Committee.

I believe that current law coupled with a responsible and prudent Board of Public Education is adequate safeguard to prevent implementation of unreasonable and costly mandates to local school districts. As Mr. Melton of MTSBA stated, I believe our public input to rule making is one of the most accessible processes in state government. In some respects, our "oversight" is provided for by the thousands of constituents we supervise who are always extended an invitation to the processes the Board uses when it promulgates rules.