



Education and Local Government Interim Committee

56th Montana Legislature

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SENATE MEMBERS

GREG JERGESON, VICE PRESIDING OFFICER
ALVIN A. ELLIS JR.
BEA McCARTHY
MIKE SPRAGUE
JON TESTER
DARYL TOEWS

HOUSE MEMBERS

GAY ANN MASOLO, PRESIDING OFFICER
JOAN ANDERSEN
TOM FACEY
JEFF MANGAN
LINDA McCULLOCH
JOE McKENNEY

COMMITTEE STAFF

CONNIE ERICKSON
RESEARCH ANALYST
EDDYE McCCLURE
STAFF ATTORNEY
JOANN JONES
SECRETARY
SANDY WHITNEY
FISCAL ANALYST

MINUTES

JUNE 23, 2000
CAPITOL BUILDING
HELENA, MONTANA

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 documents.**

COMMITTEE MEMBERS PRESENT

Rep. Gay Ann Masolo, Presiding Officer
Sen. Greg Jergeson, Vice Presiding Officer

Sen. Bea McCarthy
Sen. Jon Tester

Rep. Joan Andersen
Rep. Tom Facey
Rep. Jeff Mangan
Rep. Joe McKenney

COMMITTEE MEMBERS EXCUSED

Sen. Mike Sprague
Sen. Alvin A. Ellis, Jr.
Rep. Linda McCulloch

COMMITTEE MEMBERS ABSENT

Sen. Daryl Toews

Draft

STAFF PRESENT

Connie Erickson, Research Analyst
Eddy McClure, Staff Attorney
Jo Ann Jones, Secretary

VISITORS

Visitors' list, Attachment #1.

COMMITTEE ACTION

- C Adopted the minutes from the November meeting
- C Approved a motion that Sen. Ellis be asked to carry the bill clarifying provisions of the law in regard to school district trustee elections
- C Approved a motion to insert a cross-reference during the next printing of the MCA to clarify provisions of 20-3-305, MCA, and 20-9-204, MCA

CALL TO ORDER AND ROLL CALL

Rep. Masolo called the meeting to order at 10:00 a.m. Roll call was noted, see Attachment #2. Sen. McCarthy moved to adopt the minutes from the November meeting, seconded by Rep. McKenney. The motion passed on voice vote.

FINAL REPORT FROM PEPB SUBCOMMITTEE

Exhibit #1: University System Funding -- SJR 16

Connie Erickson, staff, presented Exhibit #1.

Ms. Erickson said a recommendation had been made to the Legislative Council that the Post-Secondary Education Policy and Budget Subcommittee (PEPB) should revert to the Legislative Fiscal Division (LFD) and become a separate committee. The Council would prefer that it remain a subcommittee of the Education and Local Government Interim Committee at least one more interim. She said that if this committee or an individual legislator would like the PEPB to become a separate committee, legislation can be introduced to accomplish that.

Sen. McCarthy said that the PEPB staff did an excellent job. PEPB is different from other subcommittees because the membership also includes representatives from the Board of Regents and the Governor's office. She said that it felt like some sort of stepchild for that reason.

Rep. Andersen said that serving on the PEPB was somewhat confusing. The issues brought before it are important enough that it should be a separate committee.

Sen. Jergeson said the PEPB has always been sort of a hybrid. Part of its function was to establish lines of communication between the Legislature, the Governor's office, and the Board of Regents. He said that it did not feel as integrated with the parent committee as subcommittees usually are.

Rep. Masolo said she feels it is beneficial to have the PEPB affiliated with the parent committee because the standing education committees don't get to hear the same information that is presented to the PEPB.

Sen. McCarthy said she believes that the PEPB should be given another two years.

Rep. Facey asked if the PEPB would have existed without having been assigned SJR 16. Sen. Jergeson said SB 11 mentioned the PEPB, so it has an existence outside of assigned studies.

Ms. Erickson suggested that at the beginning of the 2001-2002 interim, an organizational meeting be held with the new fiscal analyst for PEPB, Pam Joehler. After that interim is completed, legislation for the 2003 session can be drafted to make the PEPB a separate committee.

Sen. McCarthy suggested asking the non-legislative members of PEPB for input.

STATUS OF INDIAN EDUCATION IN MONTANA

Exhibit #2: Copy of Powerpoint slides

Exhibit #3: Evaluating American Indian textbooks and other materials for the classroom

Exhibit #4: Directory of Indian education programs in Montana

Exhibit #5: Board of Education HB528/Montana History Committee Report and Recommendations

Exhibit #6: MT State Conference on Race information and registration sheet

Denise Juneau, Indian Education Specialist, Office of Public Instruction (OPI), presented Exhibit #2.

Ms. Erickson said that as the tribal college system becomes stronger, there will probably be a corresponding increase in the percentage of Indian students enrolled in the university system. Family and cultural ties are very strong and attending a tribal college for two years allows an Indian student to become acclimated to a college environment, making the transition to the university system much easier.

Rep. Mangan asked for data on specifics in lack of technology for the GEAR UP program. Peggy Azure, OPI, said a report is in process and is due to be released this autumn.

REPORT FROM THE TUITION SUBCOMMITTEE

Exhibit #7: LC 000C

Dave Puyear, member of the Tuition Subcommittee, presented Exhibit #7, an act to generally revise out-of-district tuition laws.

Sen. Tester said LC 000C was unofficially approved by the LAD.

Ms. Erickson said the Tuition Subcommittee's final meeting was June 8 so she was unable to mail out copies of the bill draft because of the Legislative Services Division move back to the Capitol building that same day. She said the first change in the bill draft is on page 2 and allows the district to continue to waive tuition, but the district can waive the tuition within a specific group, not just for individuals. Sen. McCarthy asked what the average amount of tuition is. Kathy Fabiano, OPI, said the maximum is \$1900 for high school students and \$1300 for elementary students. Eddy McClure, staff attorney, said the amount of tuition can vary widely among districts.

Lance Melton, Montana School Boards Association, said the bill would cut the maximum tuition amounts in half.

Ms. Erickson said that on page 5 of the bill draft, the issue of a county line being a barrier to attending school in the district of choice is eliminated. The LAD report stated that discrimination based on a county line is unconstitutional because there is no rational reason to justify it.

Mr. Melton said this provision treats similarly situated kids equally.

Sen. Jergeson asked why there is such resistance to re-drawing district lines. Mr. Melton said that it's probably a function of seeking more tax revenue to help cope with inflationary costs.

Sen. Duane Grimes asked if attending a district of choice is an individually determined situation. Mr. Melton said approval would be given for a group, but the children do not have to take advantage of the decision.

Ms. Erickson said that on page 12 of the bill draft, there are additions to the duties of the county Transportation Commission.

Sen. Jergeson asked if a school district can refuse to pay tuition to another school district, even if the child is bound to go to the second district because of geographic situations. Mr. Melton said the districts cannot refuse if the situation mandates attendance at the second district.

Ms. Fabiano recommended changing the bill so that tuition payments from the counties be accounted for differently than what is provided for in current law.

Rep. Masolo asked that all changes be made to the bill draft and that it then be mailed to the Committee.

REPORT FROM LOCAL GOVERNMENT SUBCOMMITTEE

Sen. Sprague said the Local Government Subcommittee had requested staff begin drafting legislation that would correspond with the Juvenile Probation Officers' Association recommendation for JPO salaries. In regard to the public notice statutes, staff was asked to request letters explaining the reasons behind the changes to law that were requested.

Rep. Mangan said that HJR 29 covered public notice statutes. He said that city and county publication content and notice were kept the same as it is now, but the Subcommittee will further examine the section regarding the adjournment of a meeting and its rescheduling.

UPDATE ON HB 584

Exhibit #8: Surplus Computers to Schools (FY 2000)

Ms. Erickson distributed Exhibit #8, a memorandum from Madalyn Quinlan, OPI, reporting that the OPI has coordinated the transfer of 782 computers from state agencies to Montana schools in the past year, in accordance with HB 584.

SCHOOL DISTRICT TRUSTEE ELECTIONS

Exhibit #9: copies of 20-3-313, MCA, and 20-20-401, MCA

Ms. Erickson said 20-3-313, MCA, allows districts to declare a candidate the winner by acclamation. She said that 20-20-401, MCA, creates a discrepancy with absentee ballots that has occurred in at least four school district trustee elections. One law states that a district can declare a no-election 15 days before the election and the other law requires absentee ballots be printed 20 days before the election.

Sen. McCarthy said the trustees take their seats after the ballots are canvassed and asked when seats are taken if there's no election. Mr. Melton said the law is clear and states that the trustees take their seats after the certificate of election is filed.

Rep. Andersen said that applications for absentee ballots could be taken instead of mailing out ballots so notices could be mailed out if an election is not necessary.

Sen. Tester said that could complicate matters and said that standardizing both statutes at 11 days could take care of the problem.

Rep. Masolo asked if it were Committee consensus that Sen. Ellis be asked to carry the bill to make the correction. Sen. Tester so moved, seconded by Sen. McCarthy. The motion passed on voice vote.

QUALIFICATIONS FOR TRUSTEES

Exhibit #10: Copy of 20-3-305, MCA, and 20-9-204, MCA

Ms. McClure said that 20-3-305, MCA, states that any qualified voter in a school district can run for trustee but 20-9-204, MCA, states that an employee of a school district cannot serve as trustee. She said that the Attorney General issued an opinion on this matter, stating that it's legal for any qualified voter to run for trustee, but it may be illegal for that person to serve after being elected.

Ms. McClure said a cross-reference could be inserted into the law. Sen. Jergeson said a cross-reference would be a good idea because that would not require legislation.

Mr. Melton said allowing district employees to serve on the Board of Trustees would create statutory, if not constitutional issues, e.g., if the Superintendent of Schools serves at the pleasure of the Board, what happens if the Superintendent runs for and is elected to the Board itself?

Rep. McKenney moved that a cross-reference be inserted during the next printing of the code. Second was made by Rep. Mangan, motion passed on a voice vote.

TUITION FOR STATE-PLACED STUDENTS

Exhibit #11: Copy of 20-5-321 (1) (d) and (e), MCA

Ms. McClure said clarification of 20-5-321(1)(d) and (e), MCA, should be made to reflect "state payment" instead of "tuition" so that the districts are on board before group homes are licensed.

Rep. Facey volunteered to work on the issue for the Committee.

Sen. McCarthy said something must be done to assist the district because some of the children involved require maximum services that are very expensive to provide.

SINGLE-MEMBER COUNTY COMMISSION DISTRICTS

Exhibit #12: LC 000B

Ms. Erickson presented Exhibit #12, explaining that this legislation would allow the county commissions to create single-member districts outside of the governmental review every 10 years.

Rep. Masolo said she is not supporting this bill as a Committee bill, but it will be brought up again for consideration.

COMMITTEE NAME CHANGE

Ms. Erickson said the Legislative Council has asked that the Committee take on local government issues, but SB 11 calls it the Education Interim Committee. She said the Council will probably add "and Local Government" in a housekeeping bill for SB 11.

OTHER BUSINESS

Ms. Erickson said the proposed meeting date for the Local Government Subcommittee of July 27-28 is not workable, and asked when the full committee wishes to meet again, and reminded members that work has to be completed by September 15. The meeting date is tentatively scheduled for September 8.

Ms. Erickson asked if the Committee would like to hear legislative proposals from the education associations. The Committee consensus was in agreement.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:00 p.m.

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