



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

Capitol Building
Helena, Montana
September 8, 2000

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. Alvin A. Ellis, Jr.
Sen. Bea McCarthy
Sen. Mike Sprague
Sen. Jon Tester
Sen. Daryl Toews

Rep. Joan Andersen
Rep. Jeff Mangan
Rep. Linda McCulloch
Rep. Joe McKenney

COMMITTEE MEMBERS EXCUSED

Rep. Tom Facey

STAFF PRESENT

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

VISITORS

Visitors' list, Attachment #1.

COMMITTEE ACTION

- < Adopted the minutes of the June 23, 2000, meeting
- < Adopted a bill draft for general revision of the salary structure for chief and deputy juvenile probation officers
- < Adopted a bill draft for revision of out-of-district tuition laws
- < Voted not to proceed with a bill draft allowing county commissioners to create single-member districts

CALL TO ORDER AND ROLL CALL

Rep. Masolo called the meeting to order at 8:35. Roll call was noted, see Attachment #2. Sen. McCarthy moved adoption of the June 23, 2000, minutes. The motion was passed on a unanimous voice vote.

WICHE PRESENTATION

Exhibit #1: Supporting Higher Education in Montana (packet of WICHE information)

Exhibit #2: WICHE's Role in the Dynamic West: Montana

Exhibit #3: Copy of slide presentation: Montana, The West, and the Issues We Face

David Longanecker, Executive Director, Western Interstate Commission for Higher Education (WICHE), presented an overview of WICHE, see Exhibits #1, #2, and #3.

Sen. Ellis asked if the percentage of students seeking higher education is higher than demographics might indicate. Mr. Longanecker said a decline in the number of

traditional students graduating high school does not correspond to a decline in the numbers of all students in higher education.

Sen. Toews asked if there is a better way to attract out-of-state students to Montana. Mr. Longanecker said WICHE can work more cogently in a smaller state with a centralized governing structure, like Montana. He said he would recommend not investing money in high cost programs when the capacity exists elsewhere. Montana has much to offer, and he said that WICHE can be more proactive in helping states bring in out-of-state students.

Dr. Richard Crofts, Commissioner of Higher Education, said California is not very eager to participate in a program that would send students to a smaller state because they are self-contained because of sheer size and population. He said California has more new students every year than Montana has in the total student population.

LOCAL GOVERNMENT SUBCOMMITTEE REPORT

Exhibit #4: LC 8500 (general revision of the salary structure for chief and deputy juvenile probation officers)

Sen. Sprague said the Subcommittee did not change notification procedures contained within Title 7 of the MCA. He commented that there was not good cooperation and participation from the Montana Association of Counties.

Rep. Mangan explained the background of Exhibit #4. He said the essence of the bill appears in the new language on the top of page 4. The salaries are based on a percentage of the district court judge's salary with incremental increases according to years of service. The cost per year is between \$500,000 to \$700,000.

Sen. McCarthy asked how many chiefs and deputies there are. Rep. Mangan said there are 22 judicial districts and each district has a chief juvenile probation officer (JPO) and there are approximately 100 chiefs and deputies in total. He said this bill would not change the number of chief or deputy JPOs in the state.

Sen. Toews asked why this change is desirable. Rep. Mangan said the chief JPO salaries are specified in statute, while this proposal allows their salaries to be determined by years of service. Sen. Sprague said the minimum and maximum salaries are set in law and have created situations where the chief JPO is paid less than a deputy. This bill provides incentive and reward for longevity.

Sen. Toews asked why the state should pick up half the expenses. Sen. Sprague said the Subcommittee was cognizant of unfunded mandates to the counties. He said that, although the courts are the employers, the counties pay the salaries of the JPOs. This bill reflects an attempt to keep county expenses as they are.

Sen. Tester said the District Court Funding Committee is also examining the issue of JPO salaries, and may or may not issue legislation on the subject. He said it is not fair to change the pay schedule and then expect the counties to pick up the tab.

Sen. Sprague said the JPOs are also responsible to the Department of Corrections for out-of-home placements, so they also work for the state in that connection.

Sen. McCarthy asked if JPOs are state employees and, if so, are they eligible for state benefits. Rep. Mangan said there is a historical precedent for the state paying 50% of the chief's salaries because that's how the county attorney salaries are paid. He said it could be to the JPO's advantage if they were state employees, and they will be if legislation from the District Court Funding Committee passes.

Rep. McKenney said the state share of the salaries is not paid directly to the employees but is a reimbursement to the counties.

Rep. Mangan moved for adoption of the bill; seconded by Sen. McCarthy. The motion passed on unanimous voice vote.

FINAL CONSIDERATION OF TUITION PROPOSAL

Exhibit #5: Memo re: Tuition Bill Draft

Exhibit #6: MREA Background and summary of current status on tuition issue

Exhibit #7: LC 000C (revision of out-of-district tuition laws)

Exhibit #8: Replacement of page 6 for Exhibit #7

Sen. McCarthy said Exhibit #7 should establish timelines for the district or parent to sign attendance agreements. Kathy Fabiano, Office of Public Instruction (OPI), said timelines are established in administrative rules.

Sen. Sprague questioned the use of the term "entities" on page 6, fourth line from the bottom. Connie Erickson, staff, said the language of the statute must be worded so all possible scenarios are covered.

Lance Melton, Montana School Boards Association (MSBA), said that section of the bill may be more broadly written than necessary. He said the intention was that the district could waive tuition where needed.

Sen. Toews said he thinks the section should be left as is.

Ms. Erickson said one issue that is not in the bill, but should be examined, is attendance in a Wyoming school for a Montana resident.

Ms. Fabiano said the law limits the amount of tuition that Montana will pay to another state for a Montana student to go out-of-state to school. She said Wyoming charges \$8,000 for tuition for a Montana student.

Sen. Sprague said Montana cannot mandate how much tuition is paid, but can mandate who is required to pay it.

Mr. Melton drew the Committee's attention to Exhibit #6, and urged the Committee not to take up the out-of-state tuition issue.

Ms. Fabiano said OPI's interpretation of section 3 on page 9 is that mandatory tuition agreements are made, and then the district either sends a bus or the district enters into a contract with the parents for transportation. She said the OPI interpretation is that distance can be a geographic barrier.

Ms. Fabiano said this bill will have a fiscal impact, if enacted. The positive one is the elimination of payments for out-of-county kids (approximately \$1 million), but there are two negative impacts: putting the tuition into the over-BASE budget and the determination of geographic barriers by local jurisdictions. She said those costs are very difficult to estimate and she would like to see a statutory appropriation to cover them.

Sen. McCarthy asked what happens if the state runs out of money for those costs. Ms. Fabiano with OPI would pro-rate with the proper authority or would ask for a supplemental appropriation.

Sen. Ellis asked if the percentage change would benefit districts. Ms. Fabiano said the majority of districts will see a benefit.

Sen. Toews said he believes this to be a good bill, although some provisions could go further. He said his only concern is when the amendments start coming in because there are some who would amend it to include poorly maintained roads as geographic barriers. He noted that an appeals process is contained within the draft.

Mr. Melton said it was the MSBA's intention to leave the appeals process very broad.

Eddy McClure, staff attorney, said the wording should make it clear that OPI can also appeal. Ms. Erickson asked if the Committee wished that change be made.

Committee consensus was to change the wording to make clear that OPI has the right of appeal.

Sen. Toews moved the bill for a Committee bill; seconded by Sens. Tester and Ellis. The motion passed on voice vote, 11-1, Sen. Jergeson voting no.

Rep. Masolo asked Sen. Ellis if he would carry the bill, and he said that he would be happy to do so. Rep. Masolo said Sen. Grimes was also interested in carrying it. Ms. Erickson said the bill draft had not yet gone through the formal editing and legal review process, so there may be minor changes before the final draft is issued.

PRESENTATION BY COMMISSIONER OF HIGHER EDUCATION

Exhibit #9: Legislative Initiatives, Comparisons with Other States, and Budget Priorities

Dr. Richard Crofts, Commissioner of Higher Education, distributed and discussed Exhibit #9.

Rep. Mangan asked for further information on tuition paid now compared to how much would be paid if the \$37 million proposal is enacted. Dr. Crofts said some

estimates could be provided now, although the ultimate decision is with the Board of Regents.

Sen. Sprague said the problem is that there are no new revenue sources to supplement the budget.

INSTRUCTIONAL PROGRAM COST PER STUDENT CREDIT HOUR

Exhibit #10: Average Actual Instructional Program Cost Per Student Credit Hour

Rod Sundsted, Association Commissioner for Fiscal Affairs, Office of the Commissioner for Higher Education, discussed Exhibit #10.

LEGISLATIVE PROPOSALS

Exhibit #11: Preliminary Possible Board of Public Education Legislation - 2001

Bruce Dunkle, Board of Public Education, said legislation will again be introduced to require fingerprinting of school employees and volunteers.

Sen. Tester asked what the fingerprinting policy is for surrounding states. Mr. Dunkle said Montana is the only state in the region where there is no background check, including fingerprinting.

Sen. Toews asked why this legislation is desirable. Mr. Dunkle said it was to protect school children. Sen. Sprague said if Montana is the only state in the region that does not have these safeguards, then it becomes a haven for those people who wish work in the education field but cannot get jobs anywhere else because of a criminal history.

Madalyn Quinlan, OPI, presented **Exhibit #12: OPI Bill Draft Requests**.

Eric Feaver, MEA-MFT, presented **Exhibit #13: Preliminary MEA_MFT Budget & Legislative Proposals.**

Dave Puyear, Montana Rural Education Association, presented **Exhibit #14: MREA Update.**

Lance Melton, MSBA, presented **Exhibit #15: MSBA Action Resolutions as of September 8, 2000.**

Lynda Brannon, Montana Association of School Business Officials, said their proposed legislation would be to: reduce retirement requirement to 25 years of service for all classified school employees, eliminate the voter turnout percentage for bond issues, establish a technology depreciation fund, and expand the bus depreciation fund to include telephones and cameras that are on buses.

Loran Frazier, School Administrators of Montana, presented **Exhibit #16: SAM Resolutions for consideration for possible legislation.**

Gordon Morris, Executive Director, Montana Association of Counties (MACo), presented **Exhibit #17: Montana Association of Counties 2000 Resolutions.**

Alec Hansen, Montana League of Cities and Towns, said the League is proposing one reimbursement program that consolidates all payment programs and provides a growth factor, a local option tax which is a replication of SB 370 from the 1999 session, amending SB 184 in regard to the incentive to raise taxes, and whether counties should be allowed to selectively apply building codes.

STAFF REPORTS

Exhibit #18: LC 000B

Ms. Erickson presented Exhibit #18, which allows a board of county commissioners to create single-member commissioner districts. She said the county-wide election of commissioners can violate the federal Voting Rights Act because it can work against the election of minorities, but the problem can be resolved through the creation of single-member districts. Blaine, Rosebud, and Roosevelt Counties were all involved in lawsuits on this issue.

Sen. Sprague said he objected to the bill because it's a local government issue and should have been presented to the Local Government Subcommittee. Sen. Jergeson said the issue was raised during one of the first meetings of the interim, and the draft was circulated at the second or third meeting.

Rep. Masolo said she discussed this bill with her commissioners and they are not in favor of it.

Rep. Andersen said it might be better to re-draw the district lines according to population. Ms. Erickson said that is required by law after every census.

Sen. Tester said that this bill makes it an option, not a requirement. Sen. Sprague said that it's optional only to the elected officials, not to the people.

Sen. Ellis said two counties have created single-member districts, in spite of Montana law. Ms. McClure said those counties acted under a federal court order. She said that Sarah Bond, Attorney General's office, had recommended this change in law to avoid that situation in the future.

Rep. Mangan said he did not remember the earlier presentation either. He said the bill's intention is to make it easier for counties to avoid federal court orders.

Sen. McCarthy asked if this bill is part of the Attorney General's package of legislation for the 2001 session. Ms. McClure said she does not know for sure, but doesn't think so.

Sen. Sprague moved not to proceed with this bill draft. Sen. Toews seconded. The motion was approved on voice vote, 8-3, with Sens. Jergeson, Tester, and McCarthy voting no.

Exhibit #19: LC 5000 (creation of a state and local government relationships committee)

Ms. Erickson said that part of the proposal for the creation of the State and Local Government Relation Committee is that the LSD will staff the committee. She said that its functions could eclipse those of this Committee.

Exhibit #20: Outline of final report

Rep. Masolo requested that a fiscal note for the costs associated with the Committee be included in the final report. Ms. Erickson will add that.

Sen. Sprague said there is a problem with having subcommittee meetings piggyback on Committee meetings.

OTHER BUSINESS

Exhibit #21: Governor's Task Force on Teacher Shortage/Teacher Salaries Final Report

Erik Burke, Governor's office, distributed advance copies of Exhibit #21. The report will be released on September 11.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:55.

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