



# Education and Local Government Interim Committee

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## 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 McCLURE  
STAFF ATTORNEY  
JOANN JONES  
SECRETARY  
SANDY WHITNEY, FISCAL ANALYST

## MINUTES

October 1, 1999  
Federal Building  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits and tapes are on file in the offices of the Legislative Services Division.

### 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

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

### COMMITTEE MEMBERS EXCUSED

Sen. Jon Tester

### COMMITTEE MEMBERS ABSENT

Sen. Daryl Toews



## **STAFF PRESENT**

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

## **VISITORS**

Visitors' list, Attachment #1.

## **COMMITTEE ACTION**

C Adopted the minutes of the June 14, 1999, meeting

## **CALL TO ORDER AND ROLL CALL**

Rep. Masolo called the meeting to order at 9:05 a.m. Roll call was noted, see Attachment #2.

Sen. McCarthy moved to adopt the minutes of the June 14, 1999, meeting. The motion carried unanimously.

## **EDUCATION COMMISSION OF THE STATES**

### **EXHIBIT #1: Education Commission of the States folder**

Gloria Zradicka, research analyst, Education Commission of the States (ECS), said the organization is an interstate compact of states, not individuals. ECS is a non-partisan organization and acts as a liaison between various factions of the educational community. She said the ECS presents both sides of the issue and does not take sides or represent a particular interest. State commissioners consist of the governor, one representative from each house of the legislature, and four other representatives either appointed by the governor or identified in statute. One commissioner is designated as a member of the ECS steering committee.

Ms. Zradicka said one feature that ECS is known for is that of an information clearinghouse. She said some information is available on Internet and more data is being put on-line to make it more accessible. ECS also conducts research and does surveys, organizes meetings and workshops within the states, hosts educational and informational seminars, and provides publications dealing with educational issues. Ms. Zradicka said one of the most important services provided by ECS is keeping educational issues at the forefront for the people and facilitating communication.

Sen. Ellis asked what the annual fees are, and how they compare with last year's fees. Ms. Zradicka said annual fees are \$43,800 and reflects a 3 percent increase from 1998.

Sen. Sprague said that, according to information contained within Exhibit #1, 65 percent of the money received by ECS through fees goes to administrative costs and asked if that is about average for an organization of its type. Ms. Zradicka said she had not researched that issue. Sen. Sprague said that he was attempting to extrapolate value of offered services.

Rep. McKenney asked who the contact people are on the local level. Ms. Zradicka said it varies from state to state. She said that ECS assigns one staff member to each state. Primary contacts for that staff person are the governor's educational advisor, house and senate education committees, Commissioner of Higher Education, education organizations and associations, and could include school districts, parent/teachers organizations, etc.

Sen. McCarthy said that the ECS is already working on reports with the Lt. Governor and the Commissioner of Higher Education, and asked what will Montana gain from paying the annual fee for membership. Ms. Zradicka said the ECS annual meeting

provides contacts with other people and organizations, technical assistance, and access to a think tank that can provide information research both sides of a question.

Rep. McCulloch asked what the current educational issues are. Ms. Zradicka said that during the ECS spring meeting (a meeting of regional western states), one of the issues that will be addressed will be future planning for postsecondary education. She said that it is anticipated that 100-150 people will be attending, including representatives from the state policy level and college presidents.

Rep. Mangan asked if there are additional fees for attending workshops and seminars. Ms. Zradicka said that it depends on the circumstances, e.g., whether an outside funding source can be found. She said that it also depends on the scope of the meeting. Rep. Mangan asked if the fees are affordable, if fees are required. Ms. Zradicka replied that, generally speaking, the cost is the same whether a legislator or a local official attends. She said the cost for an ECS commissioner is lower, and the cost is picked up if the commissioner is also a member of the steering committee. She said that ECS tries to keep the cost as low as possible.

Rep. Mangan asked if there is a cost associated with acquiring publications. Ms. Zradicka said that commissioners get publications free of charge and ECS is attempting to put more information on-line, at least an executive summary if not the entire document. She said there probably would be no charge for an individual copy, but would have to charge for a volume order of one publication. Rep. Mangan asked if a local teacher can call in and request technical information. Ms. Zradicka replied that if anyone calls in and the information can be accessed with minimal research, there is no charge for the service.

Sen. Jergeson asked how ECS relates to other educational associations. Ms. Zradicka said there is some duplication of effort but ECS is trying to bring together a

compendium of information. She said one main difference is that ECS is not an interest group, unlike many of the others. She said that ECS and other organizations also work jointly on some projects in order to minimize duplication.

Rep. Andersen asked if the state membership meets as an organization, or operates on an individual basis. Ms. Zradicka said that it is a combination of both, and ECS hopes they work together and encourages them to hold regular meetings. She said that ECS responds to whatever approach is adopted by an individual state.

Sen. Jergeson asked that Committee staff do research to determine what other educational organizations Montana belongs to before a final decision is made. Committee consensus was to postpone a final decision on membership pending the receipt of that information. Sen. McCarthy asked that staff determine what membership fees are paid to the other organizations, too.

Ms. Zradicka suggested passing legislation to join ECS separately from appropriating the funds for the dues in order to get a taste of what ECS can do for Montana. Sen. McCarthy asked if a state could have a trial membership for year prior to paying dues. Ms. Zradicka said that has never been done, but it has been considered.

## **MONTANA COMMISSION ON TEACHING**

### **EXHIBIT #2: Quality Teaching, Quality Schools: Strengthening Montana's Most Important Profession, Report of The Montana Commission on Teaching, January 1999**

Erik Burke, Governor's Office, discussed Exhibit #2.

Sen. Sprague asked how a school district can terminate a tenured teacher if that teacher's performance is inadequate. Mr. Burke said the problem lies in how quality teaching is measured, how to enhance the performance of non-achievers, and how to terminate those who cannot be improved. Sen. Sprague said that the teachers who have become apathetic is an issue that needs to be addressed, too. Rep. Masolo commented that the tenure issue is one that may be addressed during the 2001 session. Sen. Jergeson commented that if some bad teachers are fortunate enough to get a coaching position with a winning team, then the community standard converts to placing more value on the athletics than the teacher's performance in the classroom. Rep. Facey commented that peer evaluations can be a valuable tool to improve individual performance because peer pressure is as strong for adults as it is for adolescents.

Sen. Ellis asked if academic standards being developed in Montana were addressed in the report. Mr. Burke said that the report's conclusion was that standards should be higher, and the Montana Commission on Teaching (MCT) supports the efforts of the Office of Public Instruction (OPI) to establish higher standards.

Sen. Jergeson said that most recommendations for enhancing professional development involve a tuition increase, and asked if the report mentioned appropriation from the general fund for professional development. He said there was an initiative during the 1999 session that called for a partnership, but it died in committee. Mr. Burke said a new proposal will be brought to the Legislature for the 2001 session. Sen. Sprague suggested involving businesses and senior citizens as partners in the education process so that their expertise and experience can be utilized in a positive manner.

Sen. Sprague said there is a problem associated with Native American teachers instructing Native American students because there is a tendency to sympathize rather

than empathize. He suggested an exchange where Native American teachers work at non-Indian schools and non-Indian teachers work at the reservation schools, thereby providing a homogenization of the process. Mr. Burke said the MCT recommended that non-Indian schools form a partnership with Indian schools.

Rep. Mangan said that he respects Sen. Sprague and his comments, but wished it officially recorded that not everyone present agrees with Sen. Sprague's views and said that he, personally, was very uncomfortable with those views. Rep. Masolo said that it would be so noted in the record.

Sen. Ellis asked if there is a screening process for student teacher supervisors. Mr. Burke said there is some screening, but it varies from campus to campus. Sen. Ellis asked how superior teachers can be rewarded or encouraged when the system itself rewards longevity. Mr. Burke said the MCT attempted to address that question, and there are alternatives. Rep. Facey said the issue also involves whether there is a will to pay monetary rewards for all those who meet the standards of excellence.

### **TUITION SUBCOMMITTEE REPORT**

#### **EXHIBIT #3: Copy of tuition survey mailed to Montana county or district superintendents**

Rep. Masolo said that the Tuition Subcommittee has had three meetings and mailed 242 surveys out to the school districts; 101 surveys have been returned. The deadline for return of the survey is October 15.

Rep. Masolo said that in comparing procedures with other states, it was found that South Dakota allows the receiving or choice district to make the decision on tuition.



She said that it should be noted, however, that South Dakota provides more state aid to education than does Montana.

Rep. Masolo opened the floor to public comment.

Dave Puryear, executive director, Montana Rural Education Association, commented that sending out the survey was a great idea.

Sen. Sprague suggested consolidation of districts as a solution to the issue. Mr. Puryear said that research shows that simplification is not achieved when districts are consolidated. Sen. Ellis commented that consolidation should be examined as a solution for the bigger towns. Loran Frazier, School Administrators of Montana, said that unless the state is willing to pay the preponderance of the cost, school choice becomes a large issue. He said there is no allegiance for mill levies in the district of residence if a taxpayer's children attend school in another district. He said that transportation also becomes an issue.

Sen. Ellis commented that the Montana funding system used to utilize county equalization, and now utilizes state equalization.

Sen. Jergeson said the Legislature has struggled with how to implement the Supreme Court's opinion on school equalization. He said the issue of crossing district lines and who pays the tuition is part of the struggle, and part of the problem involves the unwillingness to come to grips with the overall picture. Sen. Sprague asked if part of the problem involves the number of school districts. Sen. Jergeson replied that it is a complication although an increase in state funding might make the number of school districts less relevant. Sen. Sprague asked if the state could spend its way out of the dilemma. Sen. Jergeson said a single state district would eliminate the problem, but it wouldn't be palatable to the general public. Sen. Ellis said the solution does not

involve the elimination of choice and eliminating a peripheral school will not save the state any money. He said the larger the size of the school district, the more the parents know that they cannot influence district decisions. He said that parent participation and attendance at district meetings is much higher in a small school district.

### **IMPENDING LAWSUITS OVER VIOLATIONS OF THE FEDERAL VOTING RIGHTS ACT**

**EXHIBIT #4: Copy of Matt & Padilla v. Ronan School District, et al**

**EXHIBIT #5: Copy of Alden, Belly Mule, Roundstone, et al v. Board of County Commissioners of Rosebud County, et al**

Sarah Bond, Office of the Attorney General, provided background material in regard to the pending lawsuits described in Exhibits #4 and #5.

Sen. Sprague asked if the remedy of establishing single member districts created a situation of the residents of that district being limited to electing only a minority candidate, not necessarily the best candidate. Ms. Bond said that the assumption is that the district will elect the best candidate from their slate of candidates.

Sen. Ellis asked if any school districts are in fact single member districts. Ms. Bond replied that she did not have that information.

Rep. Mangan asked how the choice would be made if the local districts were given the option of having single member districts. Ms. Bond said that the counties currently being sued will most likely adopt single member districts by action of their commission, most likely followed by public meetings. Eddy McClure, Committee counsel, said that in 1987, the Legislature gave local school trustees the option to establish procedures by which they could choose single member districts. She asked

Ms. Bond whether providing the same option to counties is an issue that possibly should be examined. Ms. Bond responded that amending the county statute was being examined.

Sen. Ellis said that experience indicates that land owned by Native Americans is not taxed but land owned by non-Native Americans is taxed. He said the single member district gives those who do not pay property tax a much larger voice in government. Ms. Bond said trust lands are not taxable, but fee lands can be taxed, even fee lands owned by a tribe. The Department of Revenue has not yet determined which lands are trust lands and which are fee lands. When that determination is made, districts will see an increase in property tax revenue. She said that the districts with Native American students receive more federal money than districts without Native American students.

Sen. Sprague commented that districts on reservations receive federal money in lieu of the lack of taxable land. Sen. Ellis said those districts receive federal funding, but that does not make the trust land owner any more responsible to the school district. Sen. Jergeson said the connection between paying property taxes and responsibility to the school district is not an argument because there are non-Indians who are operating on Bureau of Land Management property and they are not paying property taxes, either.

#### **LOCAL GOVERNMENT SUBCOMMITTEE REPORT**

Sen. Sprague said that he is the presiding officer and Rep. Mangan is the vice-presiding officer. He said that one of the Subcommittee assignments is that of SJR 38, a study of juvenile probation officer (JPO) salaries. Those salaries are set by the district courts within statutory ranges and have been inadequate since the early 1980s. Sen. Sprague said local counties are the entire funding source and the issue is

whether the state will have to supplement JPO salaries, similar to how the state supplements the funding for county attorneys.

Sen. Sprague said another Subcommittee assignment is SJR 29 which involves the local government laws contained within Title 7 of the Montana Code Annotated. He said the study involves why those laws have to be "tweaked" every session so that they can be implemented. Some of the Title 7 laws can be streamlined but a cautious approach is required because some local governments may want to streamline at the cost of local citizens.

#### **DUTIES AND RESPONSIBILITIES UNDER SB NO. 11**

**EXHIBIT #6: OPI Activities/Announcements for October 1999**

**EXHIBIT #7: Proposed Work Plan for the 1999-2000 Interim Education and Local Government Committee, September 1999**

Connie Erickson, staff, distributed copies of Exhibit #6, saying that although OPI did not have a presentation to make, it was requested that Committee members receive a copy of that document.

Ms. Erickson provided background material on the implementation of SB 11 which reorganized the interim committee structure, and explained the Committee's duties and responsibilities.

Sen. McCarthy suggested that it might be beneficial for Committee members to attend Board of Public Education and Board of Regents meetings. Rep. Masolo said that was a good idea. Sen. Sprague said it should be noted that some of these meetings are not held in Helena in consideration of efficiently managing the Committee budget.

Sen. Sprague asked if it would be advisable for the Committee to meet in communities other than Helena. Sen. McCarthy said that most of the issues that come before the Committee involve education at the state level and asked if a community would be interested in local government issues, also at the state level. Ms. Erickson said there is no specific executive branch agency that deals with local government issues but pieces are distributed among several agencies. Sen. Sprague said that local government actually funds education, and that his primary focus was education in regard to communities.

Sen. McCarthy said that after the Montana Association of Counties (MACo) and the League of Cities and Towns hold their meetings, the Committee may review potential legislation.

Rep. Masolo said that MACo and the League of Cities and Towns should be invited to address the Committee with their concerns.

Sen. Ellis said he didn't believe meeting outside of Helena is a good idea. He said he was a member of last interim's property tax committee that traveled all over the state, and citizen turn-out was not good. Rep. McKenney said he agreed with Sen. Ellis and commented that the public, generally speaking, is apathetic. He said that if any citizen might wish to make comment before the Committee, he or she can travel to Helena for that purpose. Rep. Masolo said she will assume that the Committee will not travel to other cities to hold meetings.

Ms. Erickson asked if OPI should be requested to make a presentation at the next meeting. Rep. Masolo said to invite MACo instead because that organization just held a meeting of their membership.

Sen. McCarthy requested that Committee members be provided with a chart detailing the different types of local government.

Rep. McCulloch asked about interested parties' contacts for local government issues. Ms. Erickson said she would coordinate on a mailing list with MACo and the League of Cities and Towns. Jim Kembel commented from the audience that he works closely with contractors and that they need to be kept posted on local government issues.

Ms. McClure said that the Attorney General's office may request the Committee to sponsor legislation in regard to the pending lawsuits involving Voting Rights Act violations.

Ms. Erickson said the Local Government Funding and Structure Committee and the Court Funding and Structure Committee are being administered by the Departments of Administration and Revenue. She said she is on the mailing lists and will keep the Committee informed about any local government issues that are encountered.

Rep. Masolo asked for Committee input on other issues that members wish to have examined during the interim. There was none.

Sen. Sprague suggested working the subcommittee schedules around the meeting dates of the full committee.

## **ADJOURNMENT**

The meeting was adjourned at 2:00 p.m. The next meeting will be November 4 and 5, 1999.

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