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Education and Local Government Interim Committee

59th Montana Legislature

SENATE MEMBERS

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

HOUSE MEMBERS

MARK NOENNIG--Vice Chair
ELSIE ARNTZEN
KATHLEEN GALVIN-HALCRO
ROBIN HAMILTON
MIKE JOPEK
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.**

August 17 and 18, 2006

Room 102, State Capitol
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. JEFF MANGAN, Chair
REP. MARK NOENNIG, Vice Chair

SEN. JEFF ESSMANN
SEN. KIM GILLAN
SEN. BOB HAWKS
SEN. RICK LAIBLE
SEN. ROBERT STORY

REP. ELSIE ARNTZEN
REP. KATHLEEN GALVIN-HALCRO
REP. ROBIN HAMILTON
REP. MIKE JOPEK
REP. JON SONJU

STAFF PRESENT

LEANNE KURTZ, Lead Staff
EDDYE MCCLURE, Staff Attorney
DAWN FIELD, Secretary

Visitors and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The June 2006 meeting minutes were approved with no changes.

TAPE 1A

CALL TO ORDER AND ROLL CALL

SEN. MANGAN called the meeting to order at 1:07 p.m. The secretary noted the roll. The June 2006 minutes were approved as written on a unanimous voice vote.

OFFICE OF PUBLIC INSTRUCTION (OPI)

LINDA MCCULLOCH, SUPERINTENDENT, discussed ten bill draft requests (**EXHIBIT 1**):

- Full-Time Kindergarten
- Quality Educator Payment
- Inflationary Increases for K-12 BASE Aid and General Fund Components
- Allow use of district retirement fund to pay retirement costs
- Group Home Placement as a condition for Mandatory Tuition
- Funding for high cost special education services
- Eliminate the 3-mile limit for transportation reimbursement
- Revise Adult Education statutes
- Revise Special Education statutes
- School Finance Clean-up

QUESTIONS

SEN. STORY asked if Ms. McCulloch had any idea of what the costs might be for the 3-mile limit issue. MS. MCCULLOCH said that she did not have those figures to date. SEN. STORY asked if there will be some clean up language dealing with the omission of the Special Session on the CAP schools. MS. MCCULLOCH said that Ms. Joan Anderson is working on what needs to go into the clean up bill.

REP. ARNTZEN asked if there had been a straw poll taken regarding all day kindergarten to see how many school districts would be able to implement all day kindergarten. MS. MCCULLOCH said that very few school districts would not want to offer all day kindergarten, if not from the first year, at least second or third year after that. She said that half-day kindergarten is still optional for parents.

REP. JOPEK asked Ms. McCulloch if there were any provisions for the gifted and talented students. MS. MCCULLOCH said that she had proposed some increases and funding for gifted and talented children in her budget.

PUBLIC COMMENT

No public comment on OPI's proposed legislation.

MOTIONS

SEN. STORY **moved** to approve all requests for drafting except for the proposal to allow use of district retirement fund to pay retirement costs for school employees paid from federal funds.

Motion passed on unanimous voice vote.

SEN. HAWKS **moved** to approve pre-introduction of the proposed bill for retirement for federal funded employees.

DISCUSSION ON SEN. HAWKS' MOTION

Upon request of Rep. Noennig, SEN. STORY gave a brief history of events that lead to the bill. He said that retirement for federally funded employees of the school systems had to be from federal funds instead of from countywide retirement funds. This freed up some state money to allow them to increase the ANB and base entitlement funding in 2003. In 2005, a bill came forward to roll that back, but that failed because of the possibility of local property tax increases which the 2005 Legislature did not want.

REP. NOENNIG asked what was the criteria to determine whether they are within the scope of the agency and why does this committee have to approve the preintroduction. LEANNE KURTZ said that there are no criteria as far as what is supplied to the committee for its review. In 1999, that was changed as a way to give legislators a heads up on what agencies are proposing and to take feedback on those proposals. The procedure was changed to have agencies go through interim committees so that interim committees can offer suggestions, preintroduce bills so that staff isn't hit with a lot of legislation that no one had seen before.

MOTION to approve proposed bill draft regarding retirement for federally funded employees passed 8-4 on a voice vote with Sen. Laible, Sen. Essmann, Sen. Story and Rep. Sonju voting no.

DROP OUT REDUCTION AND PREVENTION REPORT

SUPERINTENDENT LINDA MCCULLOCH gave a presentation on drop out prevention and reduction of dropout rates, as required by HB 2 (**EXHIBIT 2**).

TAPE 1B

QUESTIONS

REP. JOPEK asked if Ms. McCulloch thinks that the new data analysis is going to affect dropout rates. MS. MCCULLOCH said that the analysis would give them the opportunity to actually track achievement with subgroups of students and give them something that they can use to find out what is and isn't working with students.

SEN. HAWKS asked Ms. McCulloch to comment on the fact that they might be facing requirements to create a more rigorous program for math, writing and science. MS. MCCULLOCH said that they prepare children in K-12 for the future which may be a 4-year college, a 2-year college, apprenticeships, specialized training, or right into the workforce. She said that it is their job to make sure that the students get the whole package and are ready to go for all of those eventualities in school.

SEN. LAIBLE asked for clarification between dropout rate and graduation rate. MS. MCCULLOCH said that you cannot say that out of 100%, 87% will graduate and that the remaining 13% is the dropout rate because it is two entirely different formulas. Dropout rate is looking at all students in the 9th through 12th grade in a high school in that year and obtain the percentage of kids who dropped out in that one school year.

SEN. LAIBLE asked for an explanation of what the intent was of funding for Indian Education for All that came out of the Special Session. MS. MCCULLOCH said that Indian Education for All is Article X, Section 1, paragraph 2 of the Constitution which deals specifically with cultural

heritage and cultural issues of Indian people and making sure that all of our students in Montana know those cultural heritage and contemporary issues of Indian people.

SEN. STORY asked, in reference to the high achievement in ACT numbers, if Montana wasn't one of those states that actually has a high percentage of people taking the test compared to the other states? MS. MCCULLOCH said that with the ACT that they moved from 15th to 13th in the nation.

REP. SONJU asked where Montana ranks with the graduation rates. MS. MCCULLOCH said that Montana ranks very high in their graduation rates. REP. SONJU asked what state has the worst graduation rate. MS. MCCULLOCH said that if she had to guess it would be states in the South.

SEN. STORY said that you give an ID number to a child and they do not stay in the same place throughout their educational career, they might not even stay in the state, and if they move and then come back to Montana, would the school system know who that student was and be able to pick him up or are they going to have to give that student a new ID number? MS. MCCULLOCH said that if that student tells that school that they were in this school before, if they have records that show that they went to that school, then that school can go back and find that out.

TAPE 2A

SEN. MANGAN asked what percentage of scholarships go to Native American students. MS. MCCULLOCH said that she didn't have that percentage but would be happy to get it.

SEN. MANGAN asked if this information could be online somewhere and, either through a letter or a newsletter, that OPI would make this report available. MS. MCCULLOCH said that they can do that.

MONTANA HISTORICAL SOCIETY

RICHARD SIMS, Director of the Montana Historical Society, gave a brief background of his job and what he has planned for the future of the Historical Society.

QUESTIONS

REP. ARNTZEN asked if there would be a concluding report on the Lewis and Clark adventures across our state. MR. SIMS said that the Lewis and Clark Commission will cease to exist December 31, 2006, but there was a final commission meeting in Billings and a final report will be forthcoming in the next few months.

SEN. STORY asked for an update of the plan to buy the Mall MR. SIMS said that he and the Governor and the Board of the Historical Society are trying to remain site neutral until they do some planning about the "what" and then see where they want to park the detailed dream of the new Society where it best fits physically. He said that the legislative session did approve a \$7.5M bond to start the construction of the new Historical Society building somewhere, but bill language remained site neutral. As far as any real estate activity on the Capital Hill Mall, he understands through the people who have informed him in his first month that it is still available for purchase for public or private entities who are interested in it.

SEN. MANGAN thanked Mr. Sims for coming and welcomed him to the state and is looking forward to working with him.

ADVANCING EARLY CHILDHOOD EDUCATION, SCHOOL READINESS

MARY JANE STANDAERT, Director, Head Start State Collaboration Office, talked about two grants at the federal level: Maternal and Child Health or the Early Child and Comprehensive Grant and the Human Services Division. The goal is to identify all early childhood partners in the state and in the communities, pull them together and try to make things more efficient, more coordinated and more effective for children and families in each state.

Ms. Standaert distributed and discussed two documents: State Government Groups focusing on early childhood school readiness (**EXHIBIT 3**) and Early Childhood Activities (**EXHIBIT 4**). She said that the School Readiness team and the core team that coordinates the early childhood comprehensive systems grant need to consolidate efforts and come to an agreement about what their focus will be and WHAT is important in Montana for our children.

Ms. Standaert distributed and discussed the Summary of Priorities of School Readiness Teams from the June 16, 2006 Summit (**EXHIBIT 5**) and The Early Learning Guidelines for School Readiness (**EXHIBIT 6**). Ms. Standaert encouraged the Committee to include them in discussions because they can make a difference in the efficient use of money for the best outcomes for Montana's children.

TAPE 2B

QUESTIONS

SEN. GILLAN said that it came to mind that one of the contacts that parents of young children often have is with their pediatrician. She asked if the Montana Association of Pediatricians is actively involved in any of these teams. MS. STANDAERT said that they are not and they have been contacted and there are plans for more contact.

SEN. LAIBLE asked if there is any data that shows the differences between students that come from either a half-day kindergarten or a full-day kindergarten, or no kindergarten at all that reflects on what their performance levels are once they get into elementary school. MS. STANDAERT said that there is research about full-day kindergarten as opposed to half-day kindergarten as opposed to no kindergarten and that research is not difficult to obtain.

PEGGY HOLLOW PHELPS, Helena Public Schools, Teacher, Preschool Special Education Specialist, said that early childhood education is not new, nor is the focus or the need for specialized training in early child education new, but current brain research promotes and educates us and propels us to look at what we are doing for our youngest learners as a state and how we provide for them.

SEN. STORY asked how to keep the parent engaged because you can't teach a child anything if there is no reinforcement at home. MS. STANDAERT said that that is what the school readiness teams identified public awareness and parent education as key to the things that they wanted to accomplish in their communities.

REP. NOENNIG asked what kind of incentive programs are there to get parents to participate. MS. STANDAERT said that the communities were inspired to think of new ways to recruit, to

promote, and to encourage parents at that level.

K-12 FUNDING

TOM COTTON, Superintendent of Deer Lodge Elementary School District, Chairman of the Board of Directors of the Montana Quality Education Coalition, said that on behalf of the Coalition, they believe that it is important to establish a collaborative process with the legislature in finding a solution to the K12 funding problem that we face in Montana. He gave an update of the events leading from the last meeting in June when they filed a status report with the court. He said that since that time, the state filed a response, they filed additional documentation and have not received a response from Judge Sherlock. He said that when they last appeared they talked about the timeline that the Coalition had for moving the process forward in finding a solution for funding and they had undertaken a study.

DR. BRUCE MESSINGER, head of the Remedy Committee of the Coalition, reviewed the study done by Augenblick, Palish and Associates:

- The Successful School Adequacy Study where the consultants gathered data regarding the achievement of the students, the nature of the students, the demographics, what funding is in place and looking at patterns, trends and associations that they can find in the data analysis between the level of investment, the nature of the learners, and ultimately, in their productivity or their achievement.
- The Professional Judgment Adequacy Analysis where the consultants looked at the definition of "quality education". The additional data that will be presented to and made available to the Professional Judgment Panel.
- Create an adequacy, cost estimate based on the work of the Successful Schools Analysis as well as the professional judgment based on what the cost would be to get to that level and satisfy the definition established by the Legislature and look at the present funding system to determine what will work as far as getting the right level of funding to school districts where there may be inadequacies and how that money gets to the school districts.

Dr. Messinger said that they will work with Eddy McClure and provide information as it becomes available.

COMMITTEE QUESTIONS

REP. JOPEK said that he is concerned about the reluctance to talk about the correlation between the jurisdiction's tax base and the funding that that tax base provides for the district. He asked if they are going to look at any historic analysis in tax bases per jurisdiction. DR. MESSINGER said that the committee might look at some of the work that was done the last two summers with the Quality Schools Interim Committee. He said that he thinks that is an area that needs to be looked at because additional sources of revenue might be needed. He said that it is important that the legislature is aware of how those revenues are being generated and the burden that it places on different taxpayers.

SEN. LAIBLE asked Dr. Messinger was going to share Coalition's list of associate members with the staff. DR. MESSINGER said that the Coalition has been in transition with their staff, with Jack Cobb stepping out of the Executive Director's position, but that he would follow up on that request and will get that list to Ms. McClure.

SEN. STORY asked if Dr. Messinger has notified the legislative staff when they were meeting and what would be discussed and if the staff would be allowed to sit in at the meeting if they

requested to do so. DR. MESSINGER said that that information has not been provided; that they have just received an update prior to this meeting but they will share that with staff as to specific dates and locations.

TAPE 3A

Ali Bovingdon, Attorney General's Office, distributed copies of the State's response to the Coalition's motion for supplemental relief and an order to show cause after the 2007 Session (**EXHIBIT 7**). She said that the state filed a motion opposing the Coalition's request because the litigation in this case is over that was filed in 2002. They are also waiting for Judge Sherlock's decision as to whether or not a show cause hearing would be appropriate after the 2007 Session.

QUESTIONS

REP. NOENNIG asked if Judge Sherlock has set a briefing schedule and has given an indication whether he is going to have oral argument or a hearing or when the decision may be rendered. MS. BOVINGDON said that the Judge did not set a briefing schedule because it was a motion filed by plaintiffs and they have a deadline in which to respond and file their reply.

HIGHER EDUCATION

SHEILA STEARNS, Commissioner of Higher Education, discussed highlights of the Board of Regents 2006-2010 Strategic Plan (**EXHIBIT 8**).

QUESTIONS

REP. SONJU asked Commissioner Stearns to comment on what were some of the barriers of getting juniors and seniors in high school to utilize the community colleges, universities, colleges of technology. COMMISSIONER STEARNS said that one of the barriers is funding. The question is: if a student is enrolled in a course and getting credit for both high school and college, who gets the money? Another issue is with K12, the certification. The questions is: can you have a college teacher helping a high school student get credit for a high school class if they don't have high school certification.

REP. SONJU asked if the certifications between the college professor and the high school educator be under the purview of the Board of Public Education. COMMISSIONER STEARNS said that the certification is under the Board of Public Education and that the Governor has a newly configured committee structure for the Board of Education which is the two combined called Kindergarten to College Workshop.

SEN. GILLAN asked if they track high school students that enroll in college but don't go to college in Montana. COMMISSIONER STEARNS said that they do not have that. Their continuation rate for students going to college is higher than they are able to track. If they go out of state, they can't include them in their figures.

DAVE GIBSON, Associate Commissioner of Higher Education, talked about a national clearing-house for post-secondary education that has access to all information on where students go, who they are, etc., that they can use for tracking purposes. He said that the problem at K12 is that they don't have access to the data at the statewide level to feed into that, and legally, once they have their data system, they have to be a member. Mr. Gibson also said that it is important that we get the K12 data system up and functional so they can start working with them on some

of those transition issues.

SEN. GILLAN asked if Montana anticipates picking up more out-of-state students. COMMISSIONER STEARNS said that it is complicated because Montana's nonresident tuition has accelerated faster than the surrounding states have. She said that there are 20% nonresident students.

SEN. HAWKS responded to Sen. Gillan's question by saying that he looked at a chart of statistics that suggested that the net import of college students to Montana is slightly higher than the export. He asked if the Commissioner could give the committee a quick version of P20. COMMISSIONER STEARNS said that P20 stands for pre-school and 20 stands for 20 through graduate school. The intent is to create seamless connections so that students from a very young age are empowered, prepared, have rigorous curriculum, are understanding in 7th grade that they need to take certain courses in order to be able to go to college, or to be work ready. It is that effort to make it all sync together.

TAPE 3B

SCHOOL HEALTH TASK FORCE

REP. ARNTZEN distributed her memo to the Education and Local Government Committee regarding health safety issues (**EXHIBIT 9**) with children in middle school and high schools in our public schools in Montana. She said that the committee is not only talking about the school medication issue but they are also talking about how the medications are stored within the public school buildings, who administers these, the delegation factor.

Marci Butcher, Dietician, Wilsall, State Health Department Diabetes Project, presented information about school health partners (**EXHIBIT 10**). Ms. Butcher discussed the updated list of School Health Partners Participants (**EXHIBIT 11**) and School Health Partners: Keeping the Focus on the Child (**EXHIBIT 12**) which dealt with children with diabetes.

Sue Buswell, School Nurse, Helena School District, said that it is estimated that between 24% and 32% of all school children in the United States have some sort of a chronic health condition. She feels strongly that it is the responsibility of everyone to do whatever they have to do to provide an opportunity to all children regardless of their health conditions. The major problems, chronic health conditions that she sees in children are: asthma, children with diabetes and seizure disorders, problems resulting from obesity and nutritional problems. Ms. Buswell said that families need support and teaching from them as professionals in schools to deal with these issues. She said that there needs to be a coordinated approach in getting more school nurses.

Becky Fleming Seibenaler, said that she manages the Child Care Licensing Program. They work with child care providers to make sure that medication administration is done by the new law that was passed last session where written parental consent is garnered any time a child receives any type of medication. She is concerned about the laws that say only a nurse can administer medication.

Darrell Rud, Executive Director, School Administrators of Montana, said school nurses are invaluable and valued by all school people. As the nurse population has decreased, the health issues for kids have significantly increased. He said that he is concerned about liability. One

of his key role is to help develop a curriculum for medication administration so that something is given to schools that will help schools be equipped in a fashion that a child needs.

SEN. MANGAN thanked for everyone for their presentation.

REP. ARNTZEN said that this is for awareness and that was the purpose and thanked for the committee's indulgence.

PUBLIC COMMENT

None given.

TAPE 4A

RECESS

SEN. MANGAN recessed the meeting at 5:27 p.m.

August 18, 2006

Room 102, State Capitol
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. JEFF MANGAN, Chair
REP. MARK NOENNIG, Vice Chair

SEN. JEFF ESSMANN
SEN. KIM GILLAN
SEN. BOB HAWKS
SEN. RICK LAIBLE
SEN. ROBERT STORY

REP. ELSIE ARNTZEN
REP. KATHLEEN GALVIN-HALCRO
REP. ROBIN HAMILTON
REP. MIKE JOPEK
REP. JON SONJU

STAFF PRESENT

LEANNE KURTZ, Lead Staff
EDDYE MCCLURE, Staff Attorney
DAWN FIELD, Secretary

TAPE 5A

CALL TO ORDER AND ROLL CALL

SEN. MANGAN reconvened the Education and Local Government Interim Committee meeting on August 18, 2006, at 1:08 p.m. Secretary noted the roll visually. Sen. Essmann was excused.

LC 9000 - Request an interim study of local government special purpose districts

LEANNE KURTZ reviewed the components of LC9000, requesting an interim study of local government special purpose districts (**EXHIBIT 13**).

SEN. STORY moved to draft LC9000 as a committee bill for the 2007 legislature.

DISCUSSION

Rep. Jopek urged the committee to take into consideration the diverging opinions as they move forward because growth areas have different issues than non-growth areas. Rep. Arntzen wanted to know how many people will be involved in the discussion process. Sen. Story said that it would mainly involve the oversight people, the county commissioners, the city people and legislators. Sen. Mangan talked about the issues dealing with airport authority and trade port authority.

PUBLIC COMMENT

HAROLD BLATTIE, Executive Director, Montana Association of Counties, said that the original language included a larger committee. Mr. Blattie said that the idea of road trips and outreach meetings across the state affords good opportunities for the local people to comment on what is going on. He thinks it would be appropriate to change the number of county commissioners with the intent to balance municipal and county representation and that the port authorities are governing bodies and have governing body powers similar to a county or a municipality.

ANNA MILLER, Department of Natural Resources and Conservation, Water and Sewer District Implementation, said that they highly endorse this study proposal. She distributed an example **(EXHIBIT 14)**. She said that DNRC will have a bill before the Legislature on public finance clean up. The district area of laws is a complicated procedure to work through and they endorse this effort and would be happy to help in any way.

ALEC HANSEN, League of Cities and Towns, said that he supports this idea and it is something that needs to be done. He said that there are some inconsistencies, some contradictions, and some conflicts in the laws that deal with special improvement districts particularly. It would be good to get those things reconciled and get the law clear.

COMMITTEE DISCUSSION ON LC9000

SEN. MANGAN **moved to amend** LC9000 to change the number of county commissioners from two to one, and add representatives of port authority and airport authority.

REP. NOENNIG asked if Sen. Mangan wanted to make any adjustments to sub (3) on page 9 as a result of his amendment.

SEN. STORY asked Ms. Kurtz how the non-legislative members are appointed. MS.KURTZ said that they would be appointed by the chair of the Education and Local Government committee with the concurrence of the vice chair considering recommendations from MACo and the League of Cities and Towns.

SEN. MANGAN **withdrew** his amendment and **offered** an amendment to change it to one county commissioner. Motion **passed**.

Motion on LC9000 **passed** as amended.

SEN. STORY's motion to have LC9000 drafted as a committee bill **passed**.

LOCAL GOVERNMENT'S RECOMMENDATIONS TO FULL COMMITTEE

SEN. LAIBLE presented and discussed a list of recommendations from local government subcommittee **(EXHIBIT 15)** to the full committee.

HJR 10 Recommendations:

- LC4003, prescribing the authority and duties of governmental fire agency fire chiefs **(EXHIBIT 16)**.

PUBLIC COMMENT ON LC 4003

SCOTT WALDRON, Montana Fire Chiefs Association, said that the Association is in full support.

SEN. LAIBLE **moved** to draft LC4003 as committee bill. MS. KURTZ said that she plans to work with Mr. Waldron and the Department of Justice on coordination with DOJ, fire prevention and investigation and some tweaking on language.

DISCUSSION ON LC4003

SEN. STORY asked if this bill deals with powers and responsibilities of fire chiefs. MR. WALDRON said that it is clear in state law and within their jurisdiction that they have authority. When there is overlapping jurisdictions such as in wildland situations, they are in direct protection in the state of Montana, which is a forested zone where either the Forest Service and local government, or the state and the local government, both have jurisdictional responsibilities. In those situations, unified command should come into play in management of those activities.

Motion to draft LC4003 as a committee bill with the caveat that some minor changes may be made **passed** on unanimous voice vote. Rep. Essmann proxy by REP. NOENNIG. SEN. GILLAN will sponsor.

- Department of Natural Resources and Conservation proposed legislation for mitigating fire in the Wildland Urban Interface (WUI) (**EXHIBIT 17**). The Subcommittee did not recommend to the full committee for a bill to enact DNRC's proposed changes because the WUI issues did not come out until later in the process. The Subcommittee does not believe that the proposal is developed enough to request a bill at this time. The subcommittee would like to ask the full committee to concur in having DNRC continue to work on this process with the LC4000 working group. Sen. Laible said DNRC had made valid points and should be included as part of LC4000.

TAPE 5B

- LC4000, require growth policies to address wildland fire and clarify what kinds of construction techniques that subdivision regulations may be required to be used to mitigate hazards (**EXHIBIT 18**). There are some concerns that cities and towns were not as involved in this process as they should have been. SEN. LAIBLE requested a committee bill so that they can move forward on this and that the working group will continue to work on it on a consensus basis.

PUBLIC COMMENT ON LC4000

ALEC HANSON, League of Cities and Towns, said that he will have an urban fire chief who understands this issue work with the subcommittee to make sure that the interest of the cities is properly represented.

HAROLD BLATTIE, Executive Director, MACo, urged the committee to consider LC4000 and move it forward.

BERNIE JACOBSON, Counsel for Bureau of Building and Measurement Standards, Department of Labor and Industry (DOLI), testified that DOLI is committed to bringing commonality and understanding about the laws involved and the approaches to WUI issues and urges the committee to move forward with LC4000.

GLENN OPPEL, Montana Realtors Association, said that they recommend that the committee

bring this bill forward. Their main concern is local control and LC4000 has local control in it.

MARY SEXTON, Director, DNRC, expressed DNRC's support for LC4000 and urge that there be construction standards for the WUI, working with the Bureau of Building and Measurement Standards.

TIM DAVIS, Montana Smart Growth Coalition, said that this bill has the opportunity to fuse through the working group some of the provisions that DNRC wanted to address WUI and creates a framework to do that.

SCOTT WALDRON, Montana Fire Chiefs, said that they support LC4000.

SEN. LAIBLE **moved** to draft LC4000 as committee bill.

DISCUSSION

REP. JOPEK said that the bill has potential to move forward in a consensus manner yet that consensus currently does not exist. He urged the people of interest to get together with some of the people who the Department of Labor is targeting and figure out how to move it forward.

SEN. LAIBLE urged that this bill be voted forward.

The motion to draft LC4000 as a committee bill **passed** with Sen. Essmann proxy by REP. NOENNIG as yes and REP. JOPEK voting no.

SJR 11 Recommendations:

- LC3000, proposes changes to annexation, zoning, and subdivision statutes (**EXHIBIT 19**). The subcommittee recommended a bill request from the full committee to implement the provisions of LC3000.

PUBLIC COMMENT ON LC3000

TIM DAVIS, Montana Smart Growth Coalition, said that if there are any amendments to LC3000, all groups have to support those amendments.

MYRA SHULTS, Consultant Land Use Attorney, Joint Powers Insurance Authority, MACo, urged the full committee to move forward on this bill.

GLENN OPPEL, Montana Association of Realtors, said that MAR has been part of the process from the beginning. They have a task force that has been following the working group and has been making recommendations. They urged the full committee to make LC3000 as a committee bill.

JIM KEMEL, Montana Association of Registered Land Surveyors, said that they also support LC3000.

PUBLIC COMMENT AGAINST LC3000

There was no opposition in moving LC3000 forward as a committee bill.

SEN. LAIBLE **moved** LC3000 forward as a committee bill with the caveat that the Working

Group will continue to work on it through the legislative process and continue to build consensus

DISCUSSION

REP. NOENNIG said that there were no provisions in LC3000 regarding exemptions from review which is one of the directives of SJR11. Those provisions were not subject to a consensus of the group at that time. They attempted to get the resolution on that issue for the committee and have not to date, so those provisions were removed from the draft as it was presented today. He said that he is hopeful that there can still be resolution for that because they have been addressing that for a number of interims.

MR. DAVIS said that David Nielsen, Helena City Attorney, proposed a change to a subsequent hearing process that was created last session in SB116 (**EXHIBIT 20**) which they will be considering. He said that they can find consensus on that and move that forward.

SEN. LAIBLE said that the Working Group has been working on this legislation for a year and a half. He said that the reason that the two sections were removed is that the surveyors came with their changes and they elected to remove those two sections.

MR. KEMBEL said that the surveyors were there on a regular basis, participating and working hard. He said that they did not have time to react to the parts in the nonconsensus bill that had been moved over to the consensus bill because of the increased workload on the membership.

The motion to draft LC3000 as committee bill **passed** on unanimous voice vote with Sen. Essmann's proxy voting yes.

SEN. MANGAN said that following the election he will assign who will carry which bills.

- Assistance for Planners. Two options: 1) the Department of Commerce's program that was eliminated in 2003; the University of Montana Law School Land Clinic to provide services. The subcommittee recommended that the full committee send letters to the Governor's Office of Budget and Program Planning, the Board of Regents, expressing support for technical assistance programs to our local governments and send both options forward.

The full committee **voted and approved** unanimously with Sen. Essmann voting yes by proxy to send letters to OBPP and the Board of Regents expressing support for technical assistance programs through a program from the Department of Commerce and through services provided by the University of Montana Law School's Land Clinic.

SEN. MANGAN thanked Sen. Laible for all his work on the Local Government Subcommittee. He also thanked Rep. Jopek and Sen. Gillan for their work on these issues. SEN. LAIBLE thanked his subcommittee, the Working Group, and Ms. Kurtz for all their work.

POSTSECONDARY EDUCATION POLICY AND BUDGET SUBCOMMITTEE REPORT

REP. GALVIN-HALCRO thanked Commissioner Stearns, Dave Gibson, Ms. McClure, Alan Peura, and others for their invaluable work on the committee. She said that Rep. Hawks will sponsor any bills from this committee on postsecondary education. She presented PEPB's proposed legislation (**EXHIBIT 21**):

- Six Mill Levy for Montana University System - Eddy McClure, Staff Attorney
MS. MCCLURE discussed the Six-Mill Levy Decision Pathway (**EXHIBIT 22**). She provided a chart (**EXHIBIT 23**) giving the historical background of the Six-Mill Levy.

TAPE 6A

MS. MCCLURE asked that PEPB prepare a draft bill, LC8888, an act submitting a 6-mill levy for support of the Montana University to the Electorate (**EXHIBIT 24**). Ms. McClure referred to a copy of 15-10-107 (**EXHIBIT 25**) for language regarding 6-mills.

PUBLIC COMMENT ON LC8888

SHEILA STEARNS, Commissioner of Higher Education, urged the committee to support LC8888 as a committee bill.

No public comment in opposition was given.

REP. GALVIN-HALCRO **moved** for a do pass on LC8888 going forward as a committee bill. Motion **passed** on a unanimous voice vote with Sen. Essmann voted yes by proxy held by Sen. Story.

ALAN PEURA, LFD, discussed the report from Postsecondary Education Policy and Budget Subcommittee (**EXHIBIT 26**). Mr. Peura said the report contains information on three budget initiatives that came from the PEPB with a recommendation to this committee that they be approved and forwarded to the Executive Office with a recommendation that they be considered in the Executive Budget.

- Initiative Decision Package 5 addresses improving Indian Education for All
- Initiative Decision Package 6B addresses Healthcare Worker Education
- Initiative Decision Package 7 addresses one-time-only investments in infrastructure and program development

MOTION ON INITIATIVE DP 5 - Improving Indian Education for All

REP. GALVIN-HALCRO **moved** for a do pass on Initiative DP 5.

DISCUSSION

SEN. STORY said that these initiatives have already been through the process in the Governor's Office and the Governor had declined to make this a priority in his budget. SEN. HAWKS added that there was discussion in the PEPB meeting regarding getting those issues on the table.

The motion **passed** on unanimous voice vote with Sen. Essmann voting yes by proxy.

MOTION ON INITIATIVE DP 6B - Healthcare Worker Education

REP. GALVIN-HALCRO **moved** for a do pass on Initiative DP 6B.

DISCUSSION

Mr. Peura said that PEPB decided to remove contingency language so that the entire decision package now calls for \$3M appropriation as a one-time-only into HB 2. The companion bill would allow an accountability report to be given during the interim and empower an interim committee working with the Governor's Office and the Legislative Fiscal Division to erase the OTO designation.

SEN. STORY said that it would have been better if the Companion Bill had been discussed prior to this discussion. Some of the reasons why the accountability measures were changed in the subcommittee for the benefit of those who don't sit on that committee has to do with constitutional issues and the concept of converting OTOs to base funding in advance of the next biennium.

REP. GALVIN-HALCRO **withdrew** her motion regarding Initiative DP 6B.

HB 2 COMPANION BILL CONCEPT

ALAN PEURA discussed Item 4 of PEPB's report regarding the Companion Bill. He said that this item was to frame the discussion for the committee, that they might consider having that same discussion because it is the expectation of the staff that the Legislative Finance Committee will be having a similar discussion at its October meeting about both concepts of a companion bill; one being as the mechanism to clean up all of the HB 2 language that has been conflicted in this current biennium, and secondly, could a companion bill become a mechanism for accountability measures and conditioning appropriations, not only for the University System but for other state agencies.

SEN. MANGAN asked that a discussion on the companion bill issue be held at a later time.

MOTION ON INITIATIVE DP 6B

REP. GALVIN-HALCRO **moved** for a do pass on Initiative DP 6B.

DISCUSSION

SEN. STORY said that he supports the motion but on the issue of one-time-only money, it is difficult for the University System to build programs on OTO. He said that if you authorize creation of programs, it is hard to get rid of them once they are started and if the legislature decides not to pay for them, then it will be the students not the Board of Regents who will take the blame for that.

SEN. MANGAN said that one of the purposes of this decision package is for the legislature to exercise control over those issues. He said that passing this decision package won't give them the control to do that, but will set them down that discussion path to see if they can't make that happen in the future.

SEN. STORY said that it is his belief that it gives the legislature better reason to look at its previous decisions and reevaluate them.

SEN. HAWKS said that this issue of performance funding in dealing with an entity like the Board of Regents is really the definition of walking the line. He said that he is considering that as ongoing funding, otherwise, he would not support it at all.

The motion to approve Initiative DP 6B **passed** on unanimous voice vote.

MOTION ON INITIATIVE DP 7 - One-time-only Investments in Infrastructure and Program Development

REP. GALVIN-HALCRO **recommended** a do pass on Initiative DP 7.

DISCUSSION

ALAN PEURA discussed DP 7. He said that that is one-time-only and is not intended to roll into the base. The Regents had approved it and asked PEPB to look at. PEPB approved it.

SEN. STORY said that the legislature needs to think about funding buildings and repairs into the community college system. The community colleges are not state institutions.

The motion **passed** on unanimous voice vote, with Sen. Essmann voting yes by proxy.

ITEM 3, UNIVERSITY FUNDING FORMULA

ALAN PEURA referred to the spreadsheet depicting the historical funding of the Montana University System (MUS) (**EXHIBIT 27**). He said that this illustrates the trend of state percent support of the total budget of the MUS. Mr. Peura said that PEPB contemplated recommending changes to the funding formula but after reviewing funding formulas, they voted to recommend that the current funding formula model for the university educational unit should be maintained as is. The committee would encourage the Regents, the Executive, the Commissioner of Higher Education, and the Legislature to negotiate a full and fair approach to present law adjustments and then agree on these factors as well as on the state pay plan. Mr. Peura said that PEPB supports the concept of reversing the downward trend that appears in the spreadsheet of the state percent share of funding for the units and reserving that downward trend as an overall goal of the budget together with a new initiative decision package.

DISCUSSION ON THE COMPANION BILL

EDDYE MCCLURE said that the companion bill is still in its infancy stages. She said that they will be taking the accountability measures and trying to put them in a format that does what PEPB wants it to do. Ms. McClure said that she did not want to see tuition in a companion bill.

SEN. MANGAN said the full committee could move forward in a letter saying that they support any type of companion bills.

ITEM #4, THIRD BULLET: COMPANION BILL CREATING AUTHORITY FOR CONTINGENCY FUNDING, WHEREBY SECOND YEAR FUNDING IN THE BIENNIUM WOULD ONLY BE RELEASED CONTINGENT UPON COMPLETION AND DEMONSTRATION OF ACCOUNTABILITY MEASURES

SEN. STORY asked if the Companion Bill could be drafted in such a way so that it is actually an appropriations bill. He said that if they put \$3M one-time-only into the University System with these reporting contingencies, are they going to have one companion bill, HB3 for example, that covers the whole HB2 and puts all the language in there, or are they going to have different ones for different sections. Sen. Story wanted to know that if you draft the language bill so that if this language isn't implemented, this appropriation is no longer there; either that or you can't do companion bills.

SEN. HAWKS said that he is not sure that he understands Mr. Petesch's reasoning with having an appendix on HB2 that has all these provisions tied to it. MS. MCCLURE said that legally HB2 is supposed to be nothing but money that goes up to the Finance Committee.

DISCUSSION

SEN. MANGAN said that they will move forward with the letter supporting the first two bullet points to the Legislative Finance Committee, that the Education and Local Government

Committee supports the idea of a companion bill seeking accountability with the support and collaboration of the Higher Education System because they have been in step with the legislature through this process.

SEN. STORY said that he would like to carry forward their concerns about some of the what ifs that have been expressed today. Do we need more than one companion bill because the Governor's concern wasn't about the constitutionality of putting language into it, it was about the separation of power.

SEN. HAWKS said that affordability is his highest concern but it seems that they have put the University System in a position where they are saying, that they will take whatever they can get and this is one way they can do it.

SEN. GILLAN **moved** to send a letter to the Legislative Finance Committee supporting language regarding contingency funding.

Motion **passed** on a unanimous voice vote.

ITEM #5, Community College Funding Study Bill

REP. GALVIN-HALCRO said that Item #5 is the Community College Funding Study bill draft (**EXHIBIT #18**). MR. PEURA explained said that Item #5 is an FYI. The Legislative Finance Committee conducted an interim study on the community college funding formula and found it lacking. Their recommendation on that study resulted in a bill draft, LC0179 (**EXHIBIT 26**). PEPB wanted to bring this to the attention of the committee for informational purposes and entertain any discussion they wanted to have. That will be an item agenda at the October PEPB meeting.

JANE KARAS, Kalispell Community College, thanked Alan Peura, Mark Bruno and Pam Joller, from the Legislative Fiscal Analyst Office and the Governor's Office and the Commissioner's Office for working with the three community college on this funding study and to thank the Finance Committee, especially Sen. Laible and Sen. Williams for their support and assistance. The community colleges are fully in support of the PEPB's recommendation to continue to support this funding formula.

REP. GALVIN-HALCRO said that we have already touched on the letter that was sent to the Governor's Office back in July 13 and it includes the Decision Package No. 1 and 3, and 2.

TAPE 7A

DISCUSSION ON DECISION PACKAGES 1, 2 AND 3

ALAN PEURA said that the Governor was interested DP 1, funding the tuition with the objective of the 5 and the 0 formulas to keep tuition increases down during the 2009 biennium. He said that there wasn't extensive discussion about the accountability measure with the Governor's Office but the Budget Office did express some interest in the concept of the accountability measures on this one only. The primary response for Item 1 is that it is a funding priority and they indicated that they were going to attempt to work pay plan issues for the University System into this whole tuition concept which may mean that the University System would not be a part of the state pay plan bill. The Budget Director expresses support for the DP No. 3. This was intended as an informational item for this committee so that you would know the clear response

that the Budget Office and the Governor's Office had to your letter.

SEN. MANGAN asked if the transferability or the accountability standards in Decision Package 1 was too specific? ALAN PEURA said that the Governor's Office had some concerns: was it a separation of powers issue or was it just too onerous and too detailed. He said that overall it was a statement that the transferability, while the number and the goal was agreed to with this committee, the accountability measure was a head scratcher and they didn't anticipate that they wanted to move that forward. SEN. MANGAN asked if Commissioner Stearns and her staff were not only supported but assisted in the development of those accountability standards? MR. PEURA said that they assisted in the development but that he would prefer that they speak to their position on it at this point in time, rather than to him.

SEN. MANGAN said that he was curious that the Governor's Office thought that the accountability standards we had in DP 3 on transferability were too specific and his comment was, this was a collaborative process which Commissioner Stearns and her office participated in and what are her feelings about the accountability standards on the transferability decision package? COMMISSIONER STEARNS said that the Board of Regents did not feel that they were necessarily too onerous but perhaps too detailed to be in statute. If you look at our strategic plan, there are the transferability goals and we have them even more specific that we are working out in terms of our policy, but what was appropriate for our plan as opposed to being embedded in statute, our appropriations language was some of our concern.

REP. GALVIN-HALCRO said that she has informational reports that are attached to the first one (**EXHIBITS 27, 28, and 29**).

SEN. MANGAN said that he appreciates all the work of Rep. Galvin-Halcro and Sen. Story and other members of that committee.

OTHER BUSINESS

HAROLD BLATTIE, Executive Director, MACo, said that there wasn't an opportunity to work with the Department of Revenue during the interim in reaching an understanding on the handling of deleted property. He said that the effect of the passage of SB48 and the increase of the exempt amount of business equipment property from \$5,000 to \$20,000 made a difference on whether local jurisdictions, taxing jurisdictions, were whole by virtue of a tax shift to the remaining property, or if they, in fact, had a net revenue loss. The bottom line of the change that occurred there will be a net loss of revenue.

RANDY WILKE, Property Assessment Division, Department of Revenue, talked about property tax issues. He distributed and discussed the following exhibits:

EXHIBIT #30 - 2003 certified taxable value information

EXHIBIT #31 - HB37 (2001) dealing with reporting requirements for certified taxable property

EXHIBIT #32 - SB 501 (2001)

EXHIBIT #33 - legal opinion regarding issue

EXHIBIT #34 - 2006 certified taxable value information

ALEC HANSEN, Montana League of Cities and Towns, said that the ability to adjust mills for declining value is the only reason why half the cities and towns haven't gone bankrupt. He said that you cannot be passing laws that force people to have to make a difficult decision about

laying off police officers or closing parks. There has to be a way for cities and towns to stay above the water line and the ability to adjust mills for a decline in value was the plan that we all agreed on to keep local governments in business during difficult times. He said that either we allow the bills to float up and this problem with deleted property be eliminated, or there is an appropriation to reimburse local governments for loss of revenue.

REP. JOPEK commented that he would urge Mr. Hansen and Mr. Blattie to look at the tax base in Columbia Falls and what has happened over the last ten years. They will find extreme cases of what happens with legislative action and how that affects funding mechanisms and they will find that their taxable value and tax base is lower today than it was 10 years ago. When you begin to look at that, you begin to get to the root causes of some of the court actions that have been taken. It not only affects municipal counties but it also affects schools.

FINAL REPORT OF EDUCATION AND LOCAL GOVERNMENT

MS. KURTZ said that she will be working on the final report and a draft will be sent to the members of the committee when it is done so they can weigh in with any comments they might have.

The final item on reorganization, from the last meeting, the committee talked about splitting this committee into two separate committees, the other possibility being joining Local Government and Transportation. She emailed the letter from Revenue and Transportation Committee that they wanted to keep Transportation. The options are: do nothing, forward a recommendation to Legislative Council that Council proposes a bill to split Education and Local Government, or request a committee bill to effectuate that change.

TAPE 7B

MS. KURTZ said that there are only two secretaries for all the interim committees. The Fiscal Division secretary staffs PEPB and staff support for three subcommittees would be difficult. Next interim there will not be a Quality Schools Interim Committee, so this committee will be handling higher ed, K-12, and local government.

SEN. MANGAN said that there should be two committees: a local government committee and an education committee. He said that it doesn't hurt to ask and propose it and tell them why.

MS. KURTZ said that what they would be proposing is a statutory change or a recommendation that there be a K-12 subcommittee similar to PEPB with non-legislative members.

MS. KURTZ said that for the Committee's information, one of the things that staff will be discussing with Legislative Council and Susan Fox, the new Executive Director, is the possibility of classifying interim committees similar to session committees and be budgeted appropriately. If in one interim there weren't local government issues coming to the fore, that that could be a Class II or whatever interim committee, given a lesser budget and not meet as often. Those are the kinds of things that Legislative Council will be discussing.

SEN. MANGAN said that this Committee will request that Legislative Council take a look at separating the committees, if not, getting more staff and expanding the committee to make Education and Local Government Committee work better.

SEN. LAIBLE said that he thought that the Committee had accomplished a lot because of good leadership that they had and that Sen. Mangan has done a good job and he has learned a lot. He will be sorely missed. Sen. Laible also said that Rep. Noennig will also be missed. He thanked his subcommittee members for their hard work to keep not only his feet to the fire but also to make him look better and make his job easier. He apologized for the record to Mr. Kembel and that he did not mean to infer that they had done anything mischievous at all.

REP. NOENNIG said that since this is his last time, he appreciated the opportunity to serve on this committee particularly because it was a joint education/local government committee and the members of the committee have been excellent. He thanked Sen. Mangan for his good work.

SEN. MANGAN said that he wanted to recognize REP. GALVIN-HALCRO, who is also term limited out, and like Rep. Noennig, she was not able to get on any interim committee because of her votes in session. It has been a real pleasure working with both. He said Sen. Story is a good friend, unbelievable mentor. If he had stuck around, Rep. Jopek would have been a good jousting partner; Rep. Hamilton and Sen. Hawks, glad they were on board; Eddy and Leanne, we have the best staff.

REP. NOENNIG adjourned the meeting.

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