



## Education and Local Government Interim Committee

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### 60th Montana Legislature

#### SENATE MEMBERS

KIM GILLAN  
BOB HAWKS  
SAM KITZENBERG  
RICK LAIBLE  
DAVE LEWIS  
JIM PETERSON

#### HOUSE MEMBERS

GARY BRANAE  
WANDA GRINDE  
ROBIN HAMILTON  
BOB LAKE  
BILL NOONEY  
JOHN WARD

#### COMMITTEE STAFF

CASEY BARRS, Lead Staff  
LEANNE HEISEL, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
FONG HOM, Secretary  
ALAN PEURA, Fiscal Analyst

# 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.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

September 25, 2007

Room 137, Capitol Building  
Helena, Montana

#### COMMITTEE MEMBERS PRESENT

SEN. SAM KITZENBERG  
SEN. RICK LAIBLE  
SEN. DAVE LEWIS  
SEN. JIM PETERSON  
REP. GARY BRANAE  
REP. WANDA GRINDE  
REP. ROBIN HAMILTON  
REP. BILL NOONEY  
REP. JOHN WARD

#### COMMITTEE MEMBERS EXCUSED

SEN. KIM GILLAN  
REP. BOB LAKE  
SEN. BOB HAWKS

#### STAFF PRESENT

CASEY BARRS, Lead Staff  
LEANNE HEISEL, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
FONG HOM, Secretary  
ALAN PEURA, Fiscal Analyst

## Visitors and Agenda

Visitors' list (**Attachment 1**)

Agenda (**Attachment 2**)

## COMMITTEE ACTION

- The committee adopted the minutes from the June 21, 2007 meeting.
- The committee adopted the Education and Local Government's Work Plan.

## CALL TO ORDER AND ROLL CALL

00:00:06 The meeting was called to order at 1:31 p.m. by Sen. Laible. The Committee Secretary took roll call. Sen. Gillan, Rep. Lake, and Sen. Hawks were not present. The Committee voted to approve the June 21, 2007 minutes.

## Report of the K-12 Subcommittee Meeting

00:00:42 **SEN. KITZENBERG** gave a report on the K-12 Subcommittee's September 25, 2007 meeting.

## Report of the PEPB Subcommittee Meeting

00:08:03 **REP. HAMILTON** discussed the work plan and study issues from the PEPB's meeting (**EXHIBIT 1**).

## Questions

00:12:43 Sen. Kitzenberg asked if there were any discussions or recommendations on Havre's declining enrollment. Rep. Hamilton said that the PEPB did not discuss Northern in particular but they will be getting a report on attendance in all the schools. There was a discussion on whether or not a joint meeting between the K-12 and PEPB Subcommittees would be scheduled to discuss the issue of deficiencies found in the 4-year colleges where 36.7% of the students going into the university have to take remedial math and reading.

**Alan Peura, Fiscal Analyst, LFD**, said that at the last meeting there was a legislative request to spend some interim time looking at college preparedness and whether Montana high school graduates were ready to enter the university system without the need for remedial education. Staff will be looking for both subcommittees' agreement that a joint meeting might be in order and perhaps December might be the opportunity for that.

## 529 College Savings Plan Report

00:19:08 Alan Peura talked about the Montana Family Education Savings Program (**EXHIBIT 2**).

00:40:03 **Ron Muffick, Associate Director, Montana Guaranteed Student Loan Program (MGSLP)**, talked about the Montana Family Savings Program. He said that they are looking at the issue of fees and choices offered in the Family Savings Program and are addressing them.

00:44:33 **Sheila Stearns, Commissioner of Higher Education**, said that one of the first things they did was look at the fee issue and do something about it. She said that the Legislature stipulated an oversight committee with two regents on it. Its job is to be independent of the Board as a whole and to make sure that the interest of the public and the investors are looked at.

#### Questions

00:46:46 Sen. Lewis asked Mr. Peura if he looked at the tax deduction since the program started. Mr. Peura said that he did not go that deep to determine how much that has cost Montana. Sen. Lewis said that he would like to see the breakout by income tax bracket of those who have taken advantage of the deduction.

Sen. Laible said that when he read the document from Mr. Peura, he wondered why the program was set up that way. Mr. Peura said that the term 529 refers to the IRS tax code provision that allows you to invest the deduction as long as it is used for higher education costs. He said that he cannot say why Montana decided to administratively attach the program to the Board of Regents versus the Board of Investments versus getting into the business themselves rather than creating an administrative apparatus that would then hire out an investment manager.

Mr. Muffick said that it is his understanding that it was set up this way to help the individual with the savings by providing for an oversight committee which could help identify safer investments.

#### Public Comment

None at this time.

#### **SECOND YEAR FUNDING - Jim Standaert, Fiscal Analyst, Legislative Fiscal Division (LFD)**

01:01:59 Mr. Standaert discussed a memo from LFD regarding the potential for budget cuts by school districts in FY 2009 (**EXHIBIT 3**). He said that this memo arose from discussions between him and some legislators on possible local school budget cuts in FY 2009 because the state did not provide enough money for the schools in the second year of the biennium.

## Questions

Sen. Laible asked Mr. Standaert to provide a report to the committee at their December meeting which would include any increases or decreases in federal funding. Mr. Standaert said that the latest data that they have indicates that the federal money is stagnant.

Sen. Kitzenberg asked if the districts are going to have to make cuts if there is declining enrollment in 2009. Mr. Standaert said that depending on how much of a decline there is for ANB, the majority of those shrinking districts are going to have to make cuts because they very likely gave salary increases to keep and attract their teachers. The growing districts may not have to cut.

## Public Comment

None at this time.

## **Distance Learning - Casey Barrs, Research Analyst, Legislative Service Division (LSD)**

- 01:24:14 Mr. Barrs discussed the document Distance Learning (**EXHIBIT 4**); Changes to distance learning rules adopted by the Montana Board of Public Education (MBPE) (**EXHIBIT 5**); and the Snapshot of Requirements from other states (**EXHIBIT 6**).
- 01:28:31 **Steve Meloy, Executive Secretary, Board of Public Education (BPE)**, talked about Montana Board of Public Education. He discussed the BPE's Distance Learning Task Force Phase 2 (**EXHIBIT 7**).
- 01:44:21 **Tyler Trevor, Associate Commissioner for Research, Technology & Communication, Office of the Commissioner of Higher Education**, gave a brief overview of the direction and magnitude of distance learning and dual enrollment in the Montana University System and dual enrollment. He discussed accomplishments that were made:
- Expand courses and program offerings to address workforce training.
  - Development of a centralized website listing all courses offered in higher ed via distance education.
- 01:50:00 **Mary Sheehy Moe, Dean and CEO, MSU-Great Falls**, said that she testified at the March hearing on the distance rule and was opposed to it. She said she wanted an exception to it for college faculty delivering distance dual credit courses to high school students. Communities that are not close to a college depend on online courses. They think that equal access to this kind of opportunity is important and have developed a substantial delivery of dual credit course work online. They like the existing rule which requires a K-12 certified teacher to facilitate the online course being delivered. This new BPE rule

requires t local school districts to have a teacher who is certified in the discipline. Online learning is going to be the way that many of us learn in the future and it enables geographically dispersed Montanans to access higher education.

01:57:20

**Eric Burke, Montana Education Association/Montana Federation of Teachers (MEA/MFT)** said that MEA/MFT will be participating in the task force that Mr. Meloy mentioned. He gave a brief synopsis of some of the things that were of concern to MEA/MFT:

- the consistency issue;
- flexibility that exists within the system;
- the BPE rule is not just about higher education or distance learning from higher education institutions;
- No Child Left Behind, according to the U.S. Department of Education officials is built on three pillars: licensure, content knowledge, and a baccalaureate degree from an institution.

02:02:31

**Bob Vogel, Montana School Boards Association (SBA)**, said that their membership at the Delegate Assembly passed a resolution supporting the ability to provide additional opportunities for students through distance learning.

02:05:11

**Darryl Rude, School Administrators of Montana (SAM)**, said that the administrators that have served on Phase I of the Distance Learning Task Force have been opposed to the proposed rule changes since the beginning. He said that he looks forward to being one of the three representatives of school administrators in Montana in the dialogue.

## QUESTIONS

02:06:21

Rep. Ward asked Mr. Meloy how he addresses the issue of controlling schools through licensure, and/or preventing an opportunity because a school cannot afford to have a teacher qualified to monitor through distance learning classes? Mr. Meloy said that quality assurance is what he focused on in his presentation. BPE writes the standards, is charged by the state's Constitution to say this is what teachers need to know and be able to do, and that is what teachers need to do every year to get relicensed. It determines quality assurance not through the market place nor by what other states do. BPE assures quality based on whether teachers meet the written standards.

Rep. Ward said that in Mr. Meloy's original presentation, he inaccurately told the committee that it is a simple matter of paying \$6.00 for a license to accept a teacher from another state. Rep. Ward said that he has no difficulty with the qualifications of our K-12 teachers. He has a great deal of admiration for the

efforts to bridge the gap between K-12 and jumping into higher education.

Rep. Hamilton noted that Mr. Meloy's presentation on Phase 2 mentioned possibly doing Class 8 license. Mr. Meloy said they have Native American teachers that apply for and receive a Class 5 license and they allow the tribes to determine what those teachers must be capable of to teach Native American children. They created a Class 5 license. He also believes that just as they allow the tribes to be involved in determining what those capabilities are, they should also involve the University System to determine what those qualifications should be in Phase 2.

Rep. Hamilton asked whether Class 8 license would be a slightly different set of standards for University professors to be able to teach. Mr. Meloy said that was correct.

Sen. Laible asked Mr. Vogel if he supported the BPE's new rule. Mr. Meloy said that the Montana School Boards Association took a position to oppose the rule as drafted but with the promise to come to the table and help address some of the issues.

Sen. Laible asked Mr. Meloy if it was the normal process for the BPE to enact a rule and then do a study about the rule afterwards? Mr. Meloy said that the study they are doing is on the deferred imposition (July 1, 2009) of the rule. He said that the Board wanted an opportunity to give itself some time to work out some of the concerns that sections 3 and 3A of the rule are causing. He said that he did not believe that the Board will rescind that language but will try to find a way to make it work.

Sen. Laible asked if Mr. Meloy is concerned that there are so many people in opposition to what the Board is trying to do when the Board believes that the Board is doing something in the best interests of the students, including certification and licensing. Mr. Meloy said it is the Board's position to stand by the importance of teacher licensure, not give on that position, hear the problems, hear the concerns, take the criticism, and come to the table in a 2-year period and try to come up with some ideas.

Sen. Laible said that Mr. Meloy brings up valid points about licensure and qualified teachers. Sen. Laible also said that we are also living in the 21st Century and we need to look at ways to provide curriculum to our students, particularly because we are a rural state. He asked Mr. Meloy give an update on Phase 2 at the December meeting to include not only Task Force discussions but

also discussion of the existing program we have, how many students are in it, how it operates now, what we hope to accomplish, and what the vision for the future is.

**Treasure State Endowment Program - Tony Priete, Director, Department of Commerce**

02:36:26 Mr. Priete distributed an editorial from the Ravalli Republic newspaper regarding funding of a Treasure State Endowment Program (TSEP) project (**EXHIBIT 8**).

02:37:52 **Jim Edgcomb, Program Manager for the Treasure State Endowment**, gave an update on the status of the program.

Questions

02:42:56 Sen. Lewis asked if he had a list showing projects that are not going to make it because of federal cutbacks. Mr. Edgcomb said that he did not have that information.

Sen. Peterson asked Mr. Edgcomb to elaborate on the definition of startup conditions. Mr. Edgcomb said that the requirements are: meet the conditions of receiving the TSEP grant, have the scope of work and the budget consistent with the application that was submitted, document that all other matching funds required for completion of the project are firmly committed, be in compliance with auditing and recording requirements, and have a financial system in place that they can properly account for the funds. The only condition that becomes an issue is getting the other funds together.

Sen. Laible asked if the rules have changed in the last two years under which TSEP grants have been administered in his agency. Mr. Edgcomb said that rules are adopted after every session and did change. They made changes to the Administration Manual that provides guidance to them. From the standpoint of what they are requiring from the grant recipients, there hasn't been much change. He said that these things are in HB 512 and are not rules per se adopted by them but are statutory requirements that they are following. They are in their Administration Manual.

Sen. Laible asked if there is a problem with the federal government issuing the funds and, if so, how the Legislature can assist Mr. Priete so that communities get their money and start repairing their infrastructure.

Sen. Laible commented that in the past we did not have that problem because the federal funds were already committed. Mr. Priete said that in the past we had more earmarks. Sen. Laible said that in the future if we want our communities to

get funding from the TSEP program, all we have to do is eliminate that one section on "all funds are firmly committed." Mr. Priete said that is essentially what can be done from a legal and a technical point of view.

03:04:36 Sen. Laible asked the committee if the Department of Commerce should give an updated report on how many projects have been awarded at the December meeting. The committee agreed it should.

A copy of Mr. Edgcomb's list of projects was provided to the Committee **(EXHIBIT 9)**.

#### Public Comment on TSEP

None at this time.

#### Executive Action on Work Plan

03:11:31 **REP. HAMILTON** moved to approve the Education and Local Government's Work Plan. The motion passed unanimously.

03:13:59 **SEN. LAIBLE** said that the College of Technology has issued an invitation to have dinner at their facility on Thursday night, December 13. The next meeting dates are December 13 and 14.

#### Other Committee Business

03:16:00 **Leanne Heisel, Research Analyst, LSD**, said that HB 48 subcommittee will meet October 2, to review their work plan.

**SEN. PETERSON** talked about the report that was completed by the Legislative Fiscal Division on the wage and salary disbursement comparisons by sector in the state of Montana. Sen. Laible suggested that at the next meeting Sen. Peterson could provide information to committee members on what the comparisons are with other states.

#### Adjournment

03:21:49 **SEN. LAIBLE** adjourned the meeting at 4:53 p.m. The next meeting will be December 13 and 14, 2007.

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