



Education and Local Government Interim Committee

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. The minutes are also 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.

June 29, 2007

Room 137, State Capitol
Helena, Montana

COMMITTEE MEMBERS PRESENT

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

REP. WANDA GRINDE
REP. BOB LAKE
REP. BILL NOONEY
REP. JOHN WARD

COMMITTEE MEMBERS EXCUSED

REP. GARY BRANAE
REP. ROBIN HAMILTON

STAFF PRESENT

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

Visitors and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The committee accepted verbal proxies for the first meeting.
- The committee elected Sen. Laible as chair and Rep. Branae as vice chair.
- The committee established a policy on proxies.
- The committee voted to create three subcommittees: PEPB Subcommittee, K-12 Subcommittee, and HB 49 Subcommittee.

TAPE 1A
Part 1

CALL TO ORDER AND ROLL CALL

00:00:01 SEN. KITZENBERG called the meeting to order at 9:00 a.m. The secretary called roll. All were present except Rep. Hamilton and Rep. Branae. Members of the Committee were asked to introduce themselves and to give a brief background of themselves.

EDDYE MCCLURE, Staff Attorney, LSD, gave a brief legal and historical synopsis regarding election of a chair and vice chair.

DISCUSSION ON VOTING BY PROXY

MS. MCCLURE spoke to the issue of proxies. She said that even though the Legislative Council discourages proxies, each committee can adopt whatever rule they want. After some discussion between members of the committee, REP. LAKE **moved** that the ELG Committee accept verbal proxies for the first meeting. The motion **carried** unanimously.

00:40:57 Before the election of officers, there was a discussion on the historical rotation of officers; the 4-cycle rotation versus the 2-cycle rotation. SEN. LAIBLE **moved** that the committee start with a four-component cycle with Senate Republican this interim, the next cycle a House Democrat, next interim a House Republican, next a Senate Democrat, then start over with a Senate Republican. The motion **passed** unanimously.

ELECTION OF OFFICERS

SEN. HAWKS **nominated** Sen. Laible as Chair. Sen. Laible was elected chair on a unanimous voice vote.

REP. WARD **nominated** Rep. Branae as vice chair. Rep. Branae was elected vice chair on a unanimous voice vote. Rep. Lake said that he had the proxy for Rep. Nooney and wanted the record to show that Rep. Nooney and Rep. Lake voted in favor of the nominations.

00:52:02 CASEY BARRS, Research Analyst, LSD, talked about the roles and responsibilities of the staff.

00:56:05 PERSPECTIVES ON K-12 EDUCATION

LINDA MCCULLOCH, State Superintendent of Public Instruction, distributed and discussed handouts: K-12 Education Update (**EXHIBIT 1**) and Indian Education for All Ongoing Initiatives (**EXHIBIT 2**).

QUESTIONS

SEN. LEWIS said that several small schools in his district were concerned about start-up money for K-12 rooms that they received and he wanted to know what would happen to the money if the student leaves. Ms. McCulloch said that as with other funding, if the student moves, the school is still entitled to that money.

SEN. PETERSON noted that Ms. McCulloch reported that 82% of the students and 54% of the districts are applying for full time kindergarten and asked if there is a trend of rural districts that are not opting into full time kindergarten. Ms. McCulloch said that they have a number of districts that said that they are not ready to do this, that they are going to wait and look at it over the summer, let other districts do it first and then come in the next year.

SEN. PETERSON said that he would be more interested in seeing if there was a pattern with regard to rural districts. For example, are they opting to keep the half day versus the full day because of logistics, transportation, time away from home, etc. Ms. McCulloch said that she could come back and do a full presentation on that.

REP. LAKE asked if requiring districts to have a facility capable of handling that group of kindergarten-age children is a detriment in some areas where they do not have that kind of facility. Ms. McCulloch said that the question of facilities is a local decision, that right now they are just trying to get people signed up so that they can get their computers online to make payments on time. She said that after that is done, they can start looking at what some of the needs and impediments are.

REP. LAKE asked how strictly enforced the requirement of having a facility capable of handling all of the students of that age within the district will be. Ms. McCulloch said that she does not recall such a requirement. It is up to school district trustees to decide if their facilities are adequate.

SEN. KITZENBERG welcomed Rep. Jones and offered him a place at the table if he was interested.

01:24:47 PUBLIC COMMENT

No public comment at this time.

01:25:15 K-12 LEGISLATION - Casey Barrs

MR. BARRS spoke on legislation that passed in the previous regular and special sessions and its effect on education:

- Senate Bill 2
- House Bill 2

DISCUSSION

SEN. KITZENBERG said that at a future point in time he would like the committee to look at competitive teacher salaries in Montana and surrounding states and come up with a consensus plan to address that issue.

SEN. PETERSON said that some of the feedback that he received from school districts is that they felt that the Legislature did a reasonably good job of funding schools for the first year of the biennium. When they look at the second year, they feel like it is going to be difficult for them. At some point, he would like a better understanding of the way schools are funded in the second year.

SEN LAIBLE made a request that Mr. Barrs do a report on funding in the first and second year of the biennium and present it at the next meeting.

TAPE 1B

REP. LAKE said that he would like to see a smoother transition from secondary education to higher education established.

SEN. LAIBLE said that the committee needs to have goals and objectives on what they are trying to accomplish. He asked that each member of the committee formulate some goals that they think are achievable.

SEN. LAIBLE said that he had concerns with the ruling on distance learning which requires professors who teach dual credit courses to high school students to be certified in Montana at the grade level and in the area of instruction being taught. He asked Mr. Barrs find out what the ruling was and how it will impact distance learning in this state. He also asked that Mr. Barrs get someone who is managing that program to give us a report on how it is working, how many schools are participating, what the costs are to the schools, what the fiscal impact is to the school districts, to the state, and to see how effective the program is.

SEN. GILLAN asked if someone from the Board of Public Education would come to the next meeting and explain the ruling on distance learning.

BREAK

01:58:40

PERSPECTIVES ON HIGHER EDUCATION - Alan Peura, LFD

Mr. Peura distributed and discussed the Shared Policy Goals and Accountability Measures for MUS (**EXHIBIT 3**) the Montana Board of Regents Organizational Chart (**EXHIBIT 4**), and The Structure of Higher Education in Montana: Meandering the Murky Line (**EXHIBIT 5**).

02:11:33

MS. MCCLURE talked about the rules found on pages 21-22 of her document "The Structure of Higher Education in Montana: Meandering the Murky Line." Rule 1: The Board of Regents is subject to the Legislature's appropriation power and public policy but the Legislature cannot do indirectly through the means of line item appropriations and conditions what is impermissible for it to do directly.

Rule 2: The Legislative appropriation power extends beyond the general fund and encompasses all those public operating funds of state government, but does not extend to private funds received by state government that are restricted by law, trust agreement, or contract. Rule 3: The Legislature may, within reason, attach conditions to University System appropriations that if accepted by the Board of Regents bind them to the conditions.

DISCUSSION ON TRANSFERABILITY OF CREDITS

SEN. LAIBLE asked Ms. McClure if someone could condition appropriations for transferability of credits. Ms. McClure said that last year they decided to do it as an incentive. She said that you cannot do things as an incentive, that if they meet certain goals then money rolls into the second year and rolls into their base; you cannot withhold money and you cannot take money back. There are certain ways to condition to get certain goals.

Mr. Peura said that you could bring public policy to bear through budgetary mechanisms such as one-time-only funding and attach goals and objectives, that if they are achieved, one-time-only money becomes ongoing; therefore, the university system has a clear incentive to achieve your public policy goals, because then state funding will be ongoing and not one-time-only.

02:30:04

PRESENTATION ON HIGHER EDUCATION - Roger Barber, Deputy Commissioner, Tyler Trevor, and Sheila Stearns, Commissioner of Higher Education

Mr. Barber talked about the beneficial role of PEPB (**EXHIBIT 6**). Tyler Trevor gave a presentation on emerging issues and trends in Montana.

TAPE 2A

QUESTIONS

REP. LAKE asked (1) what types of policies are needed to encourage high quality employers to bring young families back into the state; (2) are they looking at that issue as it relates to the economy in the state; and (3) how is the state going to build that economy in order to generate this?

Commissioner Stearns said that there was a conversation between her and the educational leaders of Montana. She said that the many possible policy approaches that were considered for presentation to the Regents includes working more closely with K-12 to improve the percentage of students who cross the bridge into a one-year certificate or two-year community college, or a 4-year baccalaureate program.

SEN. LAIBLE said that one of the charts indicated that Montana ranked low in the percentage of students enrolled in 2-year colleges. The regional average for such enrollment is 44%, whereas Montana stands at 18%. He asked if this was an indication of the fact that we do not have enough capacity within the 2-year college system to take all of the individuals who would like access?

Commissioner Stearns said that if you acknowledge that our colleges of technology are community colleges and our tribal colleges are community colleges, we have 15 in the state. Most of them have some capacity. She said that they are trying to expand both capacity, marketing and understanding of the

high quality of the community colleges and colleges of technology.

SEN. PETERSON noted that Montana has net out migration of higher education students as well as record low unemployment, and asked what that means in long term projections for the university system? Commissioner Stearns said that, along with Idaho, they are the two lowest in the country. She said that one of her concerns as University System leaders, is that the state has record low unemployment, but what we don't have is a record participation of people in living wage jobs.

PUBLIC COMMENT

There was no public comment at this time.

02:59:58

PERSPECTIVES ON LOCAL GOVERNMENT - Leanne Heisel, Research Analyst, LSD

MS. HEISEL gave a presentation on education and local government committee bills that the interim committee had proposed for the 2007 Session (**EXHIBIT 7**). She also distributed to members of the committee the document "Local Government-related Legislation Enacted During the 2007 Legislature (**EXHIBIT 8**) but did not talk about it.

HB 49 - Study of Local Government Special Purpose Districts

Ms. Heisel said that HB 49 requires that the ELG Committee appoint a study committee to conduct a study of special purpose districts. Ms. Heisel gave a background of the special purpose districts found in the Montana Code Annotated noting that each set of special purpose districts is different, some are outdated, and some do not work well. She said that they will look at determining the feasibility of consolidating the process of each special purpose district and coming up with one set of statutes that might govern all those special purpose districts.

Ms. Heisel said that the membership of the HB 49 Subcommittee will consist of four members from the ELG committee and six members from cities and counties consisting of a county commissioner, a county clerk and recorder, a county treasurer, city manager, city commissioner and a town clerk. The Association of Counties will have some recommendations for the county membership and the League of Cities and Towns will recommend the city membership. The HB 49 Subcommittee will conduct its study, make recommendations to the full committee for a final decision regarding legislation.

QUESTIONS

SEN. PETERSON asked (1) what the definition of special purpose districts is; (2) how broad does that become; and (3) does it include TIFs and a local option sales tax? Ms. Heisel said that there is no definition of special purpose district in the Code. She said that one of the things that she would like the subcommittee to do is to provide such a definition. She said that she did not know if the local option sales tax was contemplated in the drafting of this legislation.

SEN. HAWKS asked that if a substantive issue on local government came before

this committee that required a more focused effort, and the education subcommittees are busy with their studies and was not able to give it their attention, would it be possible for Ms. Heisel to segregate the budgeted work that she is using for HB 49 for light issues? Ms. Heisel said that she does not want to call HB 49 Subcommittee a local government subcommittee because its duties will be specific to that bill. If a local government-related issue comes up that is not under the purview of HB 49, the committee may want to form a bulldog group to look more closely at that issue. She said she would caution against a formal local government subcommittee that would need minutes and a full staffing.

03:17:01

LOCAL GOVERNMENT - Harold Blattie, Executive Director, Montana Association of Counties

MR. BLATTIE gave a background how the language in SB 184 in 1999 came about and how the interim local government committee was formed, and the process of how the special purpose districts came about.

TAPE 2B

MR. BLATTIE said that the Montana Association of Counties (MACo) would like to recommend Mike McGinley, Commissioner of Beaverhead County, as their representative; that the Clerk and Recorder Association has recommended Paul Robinson, Clerk and Recorder in Flathead County, as their representative; that the Treasurers Association has not yet responded.

Mr. Blattie said that MACo will be bringing forth some issues for consideration: (1) how salaries for elected county officials are determined, advertising and printing requirements with Montana Newspaper Association; (2) the public's right to know versus an individual's right of privacy; (3) outdated statutes regarding the handling of warrants for counties that don't fit in with the new system; and (4) the issue of wildland urban interface.

Part 2

00:00:01

RELATED WORK OF REVENUE & TRANSPORTATION COMMITTEE - Jeff Martin, LSD

MR. MARTIN distributed and discussed SJR 31 (**EXHIBIT 9**), a study to examine the future viability of the use of property taxes to fund education.

Mr. Martin distributed and discussed HB 488 (**EXHIBIT 10**), a study to look at the reappraisal cycle before it goes into effect in 2009.

Mr. Martin talked about putting together a layman's guide on constitutional issues as it relates to property tax, and in particular, looking at the constitutional requirement of equalization of values, looking at equal protection and due process, looking at federal provisions; i.e., privileges and immunities; the commerce clause and the 4-R Act.

Mr. Martin said there are other areas not related to this study but which this committee may have an interest in, such as: (1) staff recommendation to clarify the entitlement share payment under 50-1-121; and (2) timely notification of protested property taxes.

00:12:20 INTERIM COMMITTEE GUIDELINES - Casey Barrs
MR. BARRS discussed the Rules, Procedures, and Guidelines for Interim Committees (**EXHIBIT 11**).

COMMITTEE'S MOTION ON VOTING BY PROXY
SEN. GILLAN recommended that the committee adopt a policy on proxies. She said that by requiring written proxies, members will have to give some advance notice that they are not going to attend the meeting.

SEN. PETERSON **moved** that the Committee allow proxies in written form, either faxed or email, or original and given to someone who is going to attend the meeting.

SEN. GILLAN **moved** that the Committee establish a policy whereby proxies will be accepted for voting with the proviso that prior to the meeting (1) the person requesting the proxy communicate in a written format either emailed or faxed to the person carrying the proxy and to the committee staff; and (2) the proxy does not have to delineate specific votes for specific issues but is just permission for a particular member to vote as proxy.

SEN. PETERSON **withdrew** his motion.

The motion by Sen. Gillan regarding proxies **passed** unanimously.

00:25:20 MR. BARRS discussed the format of committee minutes, audio streamed, broadcast of the meeting, and travel reimbursement forms.

00:27:57 PERSONNEL AND BUDGET RESOURCES - Casey Barrs
MR. BARRS talked about the expectations of the members of the committee. He also distributed and discussed a document showing expenses for meetings (**EXHIBIT 12**).

TAPE 3A

00:39:52 WORK PLAN AND STATUTORY DUTIES OF LEGAL STAFF - Eddy McClure
Ms. McClure discussed her statutory duties for Administrative Rule Review. She talked about Standards of Accreditation found in her document, Statutory Duties of ELG (**EXHIBIT 13**).

00:46:08 HOUSE JOINT RESOLUTION NO. 22 - Casey Barrs
MR. BARRS discussed HJR 22 (**EXHIBIT 14**), study repayment programs and other incentives to support access to dental care in the state with emphasis on rural areas.

00:48:46 SUBCOMMITTEE OPTIONS - Alan Peura
MR. PEURA distributed a document on possible subcommittee options for committee discussion (**EXHIBIT 15**):

- Alternative One - create 3 subcommittees
 - PEPB Subcommittee
 - K-12 Public Education Subcommittee

- HB 49 Subcommittee

Alternative Two - create 2 subcommittees

- PEPB Subcommittee
- HB 49 Subcommittee

REP. LAKE noted that separate subcommittees can meet jointly as the need arises. He **moved** to adopt Alternative One. The motion **passed** unanimously.

01:09:43

PUBLIC COMMENT

REP. BILL JONES, sponsor of HJR 22, said that he is here to be a resource for the committee and that he appreciates that the committee is going to hear the issues of dental education in Montana.

BRIAN CRANDELL, Assistant Fire Chief, Central Valley Fire District, said that he is here to offer up the resources of the fire community in the state of Montana. He said that they have had success with HJR 10 last interim, and offered up that resource.

01:15:12

INTERIM COMMITTEE CALENDER - Casey Barrs

MR. BARRS distributed a calendar to members of the committee and discussed meeting schedules (**EXHIBIT 16**). He suggested penciling in the 25th of September as the next meeting date.

TAPE 3B

There was a motion to accept the proposed meeting schedule with the change of the September 10 meeting date to September 25. The motion **passed** unanimously.

01:22:55

OTHER TOPICS OF INTEREST

The 529 College Savings Program, a savings program that people can participate in who are interested in attending college, was discussed by Sen. Gillan, Rep. Lake, Rep. Nooney, and Alan Peura. It was recommended that ELG committee look into the affordability of the program. Mr. Peura said that he would be attending the Board of Regents' July meeting to hear more on this subject and that he will present a report at the September meeting of any discussions that were held on this subject.

KRIS WILKINSON, LFD, introduced herself to the committee. She said that she is a Legislative Fiscal Analyst assigned to the Board of Public Education.

01:43:46

APPOINTMENT OF SUBCOMMITTEES

SEN. LAIBLE made member and chair appointments to subcommittees:

- HOUSE BILL 49 Subcommittee
 Sen. Gillan, Chair
 Sen. Laible
 Rep. Branae
 Rep. Nooney
- K-12 Subcommittee

Sen. Kitzenberg, Chair
Sen. Lewis
Rep. Grinde
Rep. Ward

- Postsecondary Education Policy and Budget Subcommittee
Sen. Hawks, Chair
Sen. Peterson
Rep. Hamilton
Rep. Lake

SEN. LAIBLE said that the subcommittee for PEPB will consist of four legislators, two Regents, an Executive appointee and a Commissioner of Higher Education as ex-officio. The subcommittee for K-12 will consist of four legislators, two members from Board of Public Education, an Executive appointee, and the Superintendent of Public Instructions as ex-officio.

A conceptual motion was made with the clarification that there would be two Board of Public Education members. The motion **passed** unanimously.

01:46:17

DISCUSSION ON OTHER AREAS OF TOPIC

MR. BARRS said that there were five ideas of research suggested by some members of the committee. He distributed a document that listed the issues of interest and who initiated them (**EXHIBIT 17**).

Sen. Peterson talked about Senator Essmann's proposal that would create a statewide school district and funding education in a different way that would have an impact on K-12 education. He said that that study has been assigned to Revenue and Transportation Interim Committee.

There was a discussion on incorporating the use of binders for storing meeting documents resulting in an agreement to provide each member with a binder and meeting documents that have been 3-hole punched. REP. LAKE asked that preliminary work for the meetings be sent via email before the meeting for members to review.

02:01:48

ADJOURNMENT

SEN. LAIBLE adjourned the meeting at 3:10 p.m. The next meeting is scheduled for September 25, 2007.

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