



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.**

June 13, 2006
Room 102

Capitol Building,
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. JEFF MANGAN, Chair

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

REP. ELSIE ARNTZEN
REP. ROBIN HAMILTON
REP. MIKE JOPEK

COMMITTEE MEMBERS EXCUSED

REP. MARK NOENNIG, Vice Chair
SEN. JEFF ESSMANN
REP. KATHLEEN GALVIN-HALCRO
REP. JON SONJU

STAFF PRESENT

LEANNE KURTZ, Lead Staff
EDDYE MCCLURE, Staff Attorney
FONG HOM, Secretary

Visitors List and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- Minutes of February 24, 2006 were adopted.
- Draft two proposed bills for the State Library Commission.

TAPE 2B

CALL TO ORDER AND ROLL CALL

SEN. MANGAN called the meeting to order at 8:00 a.m. The Secretary took roll visually (Attachment 3). SEN. LAIBLE moved to approve and adopt the minutes of February 24, 2006 meeting. The motion passed.

LOCAL GOVERNMENT SUBCOMMITTEE REPORT - Sen. Laible

SEN. LAIBLE said that although the Local Government Subcommittee did not have a quorum, they did hold a meeting. He said that several issues were discussed: the impact of city classifications on municipal departments, and allowing second or third-class cities to be able to have a volunteer fire department to supplement the paid fire department.

Sen. Laible gave a report on LC 3000, the SJR 11 work group's consensus bill, and LC 3002, the non-consensus bill. He said the plan is that by the next meeting in August, the working group will take some items out of LC 3002, try to find consensus, and implement them into LC 3000. Sen. Laible said that because of time constraints in EQC, 2 items from the HJR 10 study of wildland fire policy and statutes have been referred to the Local Government Subcommittee. Sen. Laible said that LC 4000, which is the working group consensus, is almost complete; LC 4001 is a bill presented by DNRC; LC 4002, a bill that clarifies that the Department of Labor and Industry is the keeper of building standards and building codes, is a holdover bill from the last session that the committee may be interested in implementing. He said that there was a discussion over the authority of the fire chiefs and that the subcommittee would need a motion from the full committee to accept responsibility of the referral of HJR 10 and also the definition of the authority of fire chiefs.

SEN. LAIBLE moved that the committee accept the two items in HJR 10 study from the Environmental Quality Council: Wildland-urban Interface and the Authority of Fire Chiefs.

There was discussion on the motion with REP. JOPEK saying that he didn't mind delving into HJR 10 but the committee needed to acknowledge that it is a whole can of worms that they are getting into and if the working group and the committee working on it isn't going to be looking at some consensus solutions, the committee will end up in an unfriendly atmosphere that he wouldn't want to be part of. He said that he would ask the working group to work through some of those issues before they send it to the full committee. SEN. GILLAN said that because they are already working on SJR 11 and subdivision and have identified some overlap between

some of the issues that DNRC was trying to address, some of those issues could be addressed in subdivision.

The motion of Sen. Laible passed unanimously.

LOCAL GOVERNMENT LEGISLATIVE INITIATIVE DISCUSSION

Montana Association of Counties - Harold Blattie, Executive Director

MR. BLATTIE discussed MACo's list of legislative issues (**EXHIBIT 1**):

- authorize all elections by mail ballot
- request for interim study of weed statutes
- permanent licensing of junk vehicles
- mill levy elections
- increase county road and bridge capital fund limit
- CTAP funding reinstatement
- increase 5-acre exemption threshold for solid waste sites
- they are still working with the Department of Revenue on SB 48
- HB 474 deals with striking the word "paid" so that a legal notice could be published in a newspaper general circulation rather than general paid circulation
- per diem and lodging rates
- term of office--currently a newly elected official must take oath of office on December 31 and assume the office at 12:01 on January 1; change that to "on or before"
- review jail inspection program
- SJR 40, county attorney salary

MR. BLATTIE discussed draft legislation for an interim study to look at special purpose districts (**EXHIBIT 2**). He asked the committee to consider sponsoring legislation requesting an interim study to look at special purpose districts.

QUESTIONS

REP. JOPEK asked if it could be an issue for collectors who might hold onto cars for ten years before they get to work on them and is it a big issue for people across the state or is it just a few people here and there that are having difficulties. MR. BLATTIE said that it is a big issue and this was not intended to take a vehicle away from anybody. If a vehicle can be declared a junk vehicle, it goes right into the junk vehicle program or it goes through the abandoned vehicle process. Mr. Blattie said that if the vehicles have become old and inoperative that people want to get rid of but don't have the means to haul them away, then they can either call a towing company, or under the junk vehicle program, they can call the county and the county makes arrangements and picks those junk vehicles up.

SEN. STORY asked if the 50 cents on the phone bill for 9-1-1 is used to buy equipment for the 9-1-1 center, or is it money to hire the staff and run the 9-1-1 center. MR. BLATTIE said that he

believes that most of the current 9-1-1 money has been and continues to be used for equipment purchase. However, there are some of the public safety answering points that do use some of the 9-1-1 money for staffing.

SEN. MANGAN asked Mr. Blattie if he could tell him about the second resolution that clarifies airport authority powers. MR. BLATTIE said that was a proposed resolution submitted by Cascade County. He said that an airport authority would not seek a member who has been appointed by either the city or the county.

TAPE 3A

QUESTIONS

SEN. STORY said that Mr. Blattie could do the study of special purpose districts in a bill form so that there can be an appropriation. He said that if the study was assigned to an interim committee, it would probably need to be turned over to a working group.

SEN. HAWKS asked Mr. Blattie if there was some way to categorize or simplify the number of the interest groups on his list. MR. BLATTIE said that the particular districts that are represented by boards of commissioners or city council commissions are adequately represented by the local government representatives that are listed. There may be others not on the list that are appropriate and it is impossible to include all of those.

SEN. LAIBLE said that every session they have more bills that are coming in that are asking to tweak existing legislation so that local governments can better manage their processes. He said that if we do a study on this, and we place into statutes a more uniform process, what are we doing to local control? He said that if they revise the statutes, are they not taking away some of that local control, and as a result of that, are they going to reduce the number of bills that come forward every session for legislators who want to tweak it for their particular locale?

SEN. MANGAN said that this is the second time that this issue has come before a committee that he has chaired, so it is an issue in which the counties are interested in trying to find a solution. He asked if Sen. Hawks and Sen. Story could have a conversation sometime between now and August with MACo to see if there is any way to shape a bill to be forwarded through this committee with language that works and if we can't, then MACo can move forward into the session to propose it.

SEN. MANGAN asked Mr. Blattie if MACo would be willing to do the foot work and work with Sen. Story and Sen. Hawks on what a potential draft would look like and report back with a bill at the August meeting. MR. BLATTIE said that he would be willing to do that.

PUBLIC COMMENT ON LOCAL GOVERNMENT ISSUES

There was no public comment on local government issues.

MONTANA LEAGUE OF CITIES AND TOWNS - Alec Hansen, Executive Director

MR. HANSEN reported on what municipal governments are looking at in the upcoming session of the legislature. He discussed structural imbalance in relation to state budget and his document "Potential Tourist Tax Net Revenue 2004" (**EXHIBIT 3**) which represents evidence that the legislature should look seriously at a local option resort tax for cities, towns and counties. He said that the League of Cities and Towns is not coming to the legislature asking for money but asking for the authority to go to the voters across the state to see if they want to pay this tax as an alternative to property taxes, or to fund some special projects, or build some needed facilities.

Mr. Hansen discussed the problem with burned out buildings in Montana. He said that there are a lot of places in Montana where rundown, dilapidated buildings catch on fire and create a safety hazard. People who own these buildings take the insurance settlement, leave town and the cities are left with the responsibility of cleaning the place. He said that there needs to be a way to commit a portion of the fire insurance settlement for demolition and clean up.

Mr. Hansen also discussed the issue of disciplining firefighters and fire chiefs. He said that the fire chiefs would like a compromise where they can either go to the city council or handle it themselves, but they would like resolution to that before it comes to the legislature.

Mr. Hansen discussed impact fees and model ordinances. He suggested asking Paul Tishler to put together some practical guidelines for cities and towns and counties to use when they consider adopting impact fees. He said that he was not aware of any city or town that has adopted any impact fees since the bill was passed, but there are several cities working on it and they need assistance. He said that having Mr. Tishler, with his experience, on both sides of the issues can be very helpful.

Mr. Hansen discussed Rep. Jopek's bill that passed last session which allows for funding for fire relief associations to be set on a basis of an actuarial study instead of a statutory formula. He said that they are having a hard time finding somebody in Montana who can do an actuarial study on fire relief associations at reasonable costs.

Mr. Hansen discussed SIDs for sewer districts. Mr. Hansen said that water quality is an issue that will come to this legislature. He said that the Department of Environmental Quality is beginning to enforce the water quality standards that were mandated by EPA and they are doing it on a basin wide system. He said that this issue is going to be very dangerous when it shows up in the legislature.

Mr. Hansen said that last session the legislature authorized and funded a Main Street Program in Montana through the Department of Commerce. Main Street is a historic preservation market development strategy to relocate businesses in central areas of cities and towns. The three cities are Polson, Anaconda, and Red Lodge. He said that the money that manages the Main Street Program is in the Governor's Budget and he would hope that this committee, when this bill comes before in the 2007 session, will support it.

QUESTIONS

SEN. HAWKS asked Mr. Hansen if there was any potential for a lien on the property to cover the costs from burned out buildings. MR. HANSEN said that yes, but in some of these places the property has no value and the city ends up with the lot.

SEN. STORY asked Mr. Hansen where the information on Exhibit 3, Tourist Tax, came from. MR. HANSEN said that it was the information that was provided by the Department of Revenue when the legislature was looking at a statewide resort tax.

PUBLIC COMMENT

No public comment regarding cities and municipalities.

TAPE 3B

JUNE 12, 2006 POSTSECONDARY EDUCATION MEETING REPORT - Sen. Story; Alan Peura, LFD; Eddy McClure, LSD; and Sheila Stearns, Commissioner of Higher Education

- SEN. STORY said the PEPB has been discussing concepts of the budgeting process, accountability and goal setting. He said that Alan Peura had put together some decision packages (**EXHIBIT 4**) for the subcommittee to look at. Sen. Story said that the other issue that they discussed was the 6 mill levy.
- EDDYE MCCLURE said that the University System is supported in part by a 6 mill levy that is authorized by the people on a 10-year cycle. She said that the 6 mill levies are scheduled to sunset on January 1, 2009. Historically the 6 mill levy has been authorized through a legislative referendum. Ms. McClure said that the PEPB directed her to draft a piece of legislation for their consideration at their August meeting.
- ALAN PEURA talked about Montana University System Initiatives (**EXHIBIT 5**). He said that the University System presented a series of budget initiatives through the Executive Planning Process. These are the funding goals that the University System has put out as new proposals that they would like to see put into the budget. Mr. Peura talked about Project #1, the concept of introducing policy goals and accountability measures through the budgeting process. He said that because of the governing authority of the Board of Regents, the legislature's authority over the University System comes primarily through HB 2, the power to appropriate funds. He referred the committee to the Budget Initiatives Work Group Proposed Decision Package Language for 2009 Biennium

- (EXHIBIT 6)** which looks at the budget initiatives that the University System has put forth which would include accountability measures.
- SEN. STORY discussed the decision packages: the first one was a new initiative that came out of the most recent Board of Regents meeting that said that if they wanted to keep tuition affordable, they would need about \$10M to \$15M more dollars; the second one is to improve affordability with a \$2.5 M addition to the financial aid programs; the third decision package is transferability of credits within the university system; the fourth initiative is a distance learning package; the fifth initiative is Indian Education for All; and the sixth is health care, which was divided into two parts. One is the workforce requirements to expand some of the medical programs inside the program, nursing and physician assistants and the second is the opportunity to increase the WWAMI slots, which is discussed in **(EXHIBIT 7)**. Sen. Story said that the last three are issues that came out of the last Board of Regents' meeting: technology, deferred maintenance on community colleges, and workforce training in high demand fields.
 - SHEILA STEARNS, Commissioner of Higher Education, said that she appreciates the work that has been accomplished over this interim by PEPB. She said that their blueprint for the next few years has been formulated and is close to finalization by the Board at its July meeting. Ms. Stearns said that the Board of Regents improved transferability; is focused on the trust land issue; and that the Board of Regents' priority is for affordability for the executives as well. She said that the three top priorities that came out were: access/affordability of colleges for Montanans, workforce development, distance learning.

DISCUSSION

SEN. HAWKS said that when he first began to become involved with the Board of Regents, he was trying to get a message out that education was a bit more than economic development. He said that what he hasn't heard stated in the subcommittee work is that we need to remember that when we think of categories of support as we go through the session that that this is part of the economic development package.

SEN. GILLAN asked Ms. Stearns if the University of Montana is in the middle or near the end of their major capital campaign for the Foundations or the Alumni Association and how does that fit into Item 2, Improve Affordability. MS. STEARNS said that Montana State University, Bozeman, literally calls theirs the Scholarship Campaign and it is to build their private endowment so that the earnings from those endowments can help fund scholarships for students, largely merit scholarships. The obligation, especially relating to economic development and general public policy for the University System, is to supplement what the universities do. Ms. Stearns said that the public part needs to be kept up and that is where Montana has fallen behind.

SEN. LAIBLE asked what the difference is in ongoing and one-time only. ALAN PEURA said that the difference is what the University System's goal was in the budget and if they split it into

ongoing versus one-time only. He said that a lot of what the University System is seeking to be ongoing would be made through this accountability measures process, one-time only up until the point when the deliverables are delivered, then the legislature, through PEPB and the companion bill would essentially say that the deliverables have been delivered, the accountability measures have been met, what was one time only (OTO) funding would now be sustainable. MS. STEARNS said that they are in favor of accountability and they are building in measurables into their blueprint and they have been working on making sure that they don't have dueling measurables.

SEN. LAIBLE asked Ms. Sterns what her sense is on how the funding is going to be appropriated as far as colleges of technology, the two year colleges and the University System, and does she feel that the ratio is going to be the same based on attendance of students? MS. STEARNS said that the Board of Regents is trying to keep tuition to zero increase and to help guide students into the two-year sector. She said that they know it's a huge priority of the Executive, but it also is for the Regents. She said that they are doing the right things as a Board in connecting initiatives to goals to achieve those results.

DISCUSSION AND MOTIONS ON DECISION PACKAGES

Initiative Decision Package 1: Keep tuition more affordable for all students

SEN. STORY moved that staff draft a letter from the Committee regarding Decision Package 1. The motion passed unanimously.

Initiative Decision Package 2: Improve affordability

SEN. STORY moved to go forward with this initiative. The motion passed.

TAPE 4A

Initiative Decision Package 3: Transferability and integrated student data system

SEN. STORY moved to go forward with Initiative 3. The motion passed.

Initiative Decision Package 4: Coordinate and improve distance learning

SEN. STORY moved to go forward with No. 4. After discussion regarding the \$450,000 for Montana Distance Learning Gateway; eCollege online courses; distance learning program possibly interfacing with the consortium concept of the K-12, the motion passed.

Initiative Decision Package 5: Improve Indian Education for All was not ready for discussion.

Initiative Decision Package 6A: Healthcare Worker Education - WWAMI

SEN. STORY said that this initiative is to provide funding to expand the WWAMI slots by \$1M

and looking into dental slots. The motion passed.

Initiative Decision Package 6B: Healthcare worker education

SEN. STORY said that this initiative is to expand programs to deal with issues regarding current and pending shortages of healthcare workers. He recommended that the Committee pass on this initiative.

Initiative Decision Package 7: One-time-only investments in infrastructure and program development

SEN. STORY said that they needed more information on this and recommended that the Committee pass on this initiative.

PUBLIC COMMENT

ERIK BURKE, MEA/MFT, said that one of MEA/MFT's gravest concerns has been this constant erosion in the level of state support for Montana's university system in the last decade. He said that he is hoping that this committee and PEPB will talk about at their August meeting how the state pay plan is intertwined because it is an essential component of how the University System is funded. The state pay plan is funded at 36%, which has a direct impact on the ability of the University System to pay its employees and to offer them the same raises that the rest of state government offers. Without additional funding and additional state support to make that happen, the University System is forced to go to tuition. That's an issue that has come up again and again over the last decade and something needs to be done about it if we are going to fix this long term problem because it is one of the driving forces, as are other issues.

2007 LEGISLATIVE INITIATIVES

LEANNE KURTZ and EDDYE MCCLURE discussed the purpose of committee review of Executive Branch bill proposals. Ms. Kurtz said that Executive Branch agency bills need to be introduced before the legislative session begins. In order for that to happen, an interim committee reviews the initiatives and makes a determination whether or not to request that the bill be put into the drafting process. A request on behalf of an interim committee that a bill be drafted is not necessarily an endorsement by the committee or by the legislators on that committee, it is just a committee acknowledging that this initiative should be put into the legislative process and pre-introduced. Many of the agencies go through the Governor's Budget Office for approval before they bring their initiatives to the committee.

EDDYE MCCLURE said the if you are from an elected office, you are not required to go through the EPP process but sometimes they do because they want to be in the Governor's budget.

OFFICE OF PUBLIC INSTRUCTION - Linda McCulloch, Superintendent; and Madalyn Quinlan

Ms. McCulloch discussed OPI's Budget Proposals (**EXHIBIT 8**). She discussed the proposals

that came from SB 152: Students with Special Needs; Indian Education for All; Accredited Programs; Facilities; and Transportation of Students. Under the section OPI Agency Budget, Ms. McCulloch discussed the K-12 Data System, Curriculum Specialists and Indian Student Achievement and Dropout Prevention, Indian Ed Professional Development and Health Insurance.

QUESTIONS

SEN. STORY asked if there was anyone working on a long term fix on the school facilities reimbursement. MS. MCCULLOCH said that they don't have anyone working on that.

MADALYN QUINLAN said that she wanted to remind the committee that they appropriated \$2.5 M for School Facilities Inventory in the Special Session and that the Department of Administration's Architecture and Engineering Division is the one that is overseeing that. They are in the process of choosing an architectural firm or an entity to do that inventory of school facilities. The decision of how to solve it for the long run would come on the heels of having that inventory completed.

SEN. STORY asked for clarification on Ms. McCulloch's comment that Sen. Cobb's amendment on transportation was in special session law but doesn't carry over into general law. MS. MCCULLOCH said that it is a present law phase that needs to be done. MS. QUINLAN said that the statutory changes have already been made so a change in statute is not needed and that what they need is a present law base adjustment for the appropriations process because the money is not in the FY06 base.

SEN. STORY asked how many curriculum specialists are needed . MS. MCCULLOCH said seven.

SEN. STORY asked what the total amount of funding for that is. MS. MCCULLOCH said that it is about \$105M. She said that almost \$59M is present law and inflation adjustments. She said that her new program's total costs is about \$40M.

SEN. MANGAN asked how the Billings School District used their Indian Education for All monies and are there parameters on the use of those monies. MS. MCCULLOCH said that in the Special Session, there were no specific parameters put in legislation because that would go under local control. Ms. McCulloch said that putting someone in a district the size of Billings who would oversee and be in charge of Indian Education for All seemed appropriate to her.

SEN. STORY said that he has been informed that in the drafting of SB 1, there should have been language in there that dealt with some of the overcap schools and there wasn't. He said that subsequent to that, Ms. McCulloch issued instructions for school districts to adjust their budgets so they could make use of the Special Session money which the law didn't allow for in

our attorney's opinion. Sen. Story asked Ms. McCulloch to address that. MS. MCCULLOCH said that she had prepared a handout "1-2-113, Statutes imposing new duties on a school district to provide means of financing" (**EXHIBIT 9**) based on a decision that they had made. She said that there were school districts in Montana that were over the maximum allowance for their budget and they were not able to take the money from the Special Session and use it for the purposes that were defined in SB 1. They addressed it in the Quality Schools Committee and there was a vote that grandfathered in those schools and allowed them to take the money for that. Ms. McCulloch said that this was not an issue that was raised during the Special Session and they realized that there were potential problems with schools that were over-maxed and didn't have budget authority to take the money. In looking at 1-2-113, it is basically the unfunded mandate law which says that any law enacted by the legislature that requires the school district to perform an activity or provide a service or facility and that will require the direct expenditure of additional funds must provide the specific means to finance the activity. She said that by virtue of this law, the legislature gave a mandate to school districts that they needed to be able to take that money and fulfill that mandate. She said that a total of 56 school districts would do this. She said that out of a budget of \$895 M, it is less than .3% of the budget.

TAPE 4B

SEN. STORY said that the reason he brought that up was that he had the Legislative Counsel look into it and there is a letter from the Chief Legal Counsel that discounts the argument the Superintendent has made on the unfunded mandate. SEN. STORY asked Ms. McCulloch if someone from one of those 56 school districts decides to challenge this upcoming budget in that district because of the interpretation of the law and prevails, what happens to the budget in that district? MS. MCCULLOCH said that they went through this decision with their fiscal staff and they also sought counsel from her office and also the advice of the Attorney General; they did not do this in a vacuum, nor did they do it lightly, but clearly the intent of both the legislature and the Governor was that school districts would get the money that was appropriated for those four specific reasons during the Special Session.

SEN. STORY said that he does not disagree that that was the intent, but the law didn't say that through omission. MS. MCCULLOCH said that the law didn't but that 1-2-113 clearly says that. She said that she knows that Mr. Petesch does not agree but she does not agree with Mr. Petesch. She feels comfortable in that the law very specifically says that you can't give a mandate without the money; when you give the money, there's a mandate, you need to have the money to do it.

SEN. STORY asked if Ms. McCulloch had an official Attorney General Opinion which would rule. MS. MCCULLOCH said that they didn't because they didn't have the time. SEN. STORY said that this gets back to the question, what if someone challenges this and your decision was found to be counter to the law, then what happens to those budgets, are they at risk, do they

have to redo their budget? He said that he thinks that they have 56 schools out there that have some risks in their budget process. MS. MCCULLOCH said that at this point they would seek a more official opinion from the Attorney General. She said that she makes legal decisions all the time in her capacity as a state superintendent for schools districts. That is part of the process that goes through county superintendents, it goes through her, it goes through district court, Supreme Court. She said that none of this was done lightly or without a lot of legal minds and fiscal minds working to make sure that it was properly done.

SEN. MANGAN asked for a copy of the letter Sen. Story referred to to be made available to the committee. He said that it was his understanding that the schools in question receive their money per intent of the legislature for the reasons stated by the legislature and that no one has sought to sue to give that money back. MS. MCCULLOCH said that that was correct and that some of the school districts are very small amount, like \$600. They are not huge amounts of money. The largest school district was \$120,000 that needed budget authority. She reminded the committee that the whole entire amount is \$2.5 M which is less than .3% of the school's budget. SEN. STORY said that they are still in their budgeting process and people need to be aware of that.

SEN. STORY asked Ms. McCulloch to give a report on their database system and the student achievement system and if their system is going to be linked to the University's system. MS. MCCULLOCH said that Madalyn Quinlan is the person who heads up the database and the student achievement systems. She said that they have just signed the RFP for the student achievement system. Ms. Quinlan has been working with people in the University System to talk about making sure those systems work. It has been their intention all along that not only should their systems be able to flow into the University System's but it also needs to flow into the Department of Labor's system and that at some point, they should also flow into the Department of Corrections' system.

MADALYN QUINLAN said that OPI has signed the contract with a company called Infinite Campus for the student information system. She said that they have met several times over the last year with people from Higher Education so they know what each other is working on. She said they are not at the point of knowing how the systems will interact but they do know that the flow of information is key to all of this.

BOARD OF PUBLIC EDUCATION - Steve Meloy, Executive Director

MR. MELOY said that the Governor has just appointed Angela Maclean from Anaconda as a new member filling a 5-year term; and Jenny Tiscus, a high school junior from Polson to the Board. Mr. Meloy said that he is the new program chair for the National Association of State Boards of Executives. He said that the increase to their budget has allowed them to not only do the work of the Board, but it has allowed them to also collaborate with Board of Education because they also received money to participate with them twice a year, which the law requires,

and they look forward to their meeting with the Board of Ed chaired by the Governor in July. He said that the only area of increase that he will be asking for in the next biennium is in rent. He gave an update on the passage of a rule regarding bullying. He said that their priorities continue to be funding and the P20 initiatives, their collaborative work with the Governor's Office and the Commissioner of Higher Education and the educational community, specifically in areas in dual enrollment and Indian Ed for All.

QUESTIONS

SEN. STORY asked Mr. Meloy if he had a sense of the Board's understanding of the decisions they made in SB 152. MR. MELOY said that yes they did. He said that they have been working with the legislature on fiscal impact of any rule that the Board would engage in or entertain and adopt.

REP. ARNTZEN asked if Mr. Meloy could share with the Committee the policy direction that they might have for the Committee. MR. MELOY said that the Board is interested in the areas of increased funding for K-12, the collaborative work with the Commissioner's Office on distance learning and the initiatives before the P20 group, and the Board of Education becoming seamless, and the idea of full day Kindergarten.

SEN. HAWKS said that all the emphasis in establishing the definition of education and the implementation in funding seem to fall on the later sections of SB 152. He said that what they don't hear about is section 1, which has to do more with long term outcome orientations in K-12. Sen. Hawks asked Mr. Meloy to give him some sense of what section 1 is about. MR. MELOY said that the Board is engaged in strategic planning each year. He said that this year for his strategic planning is a long range vision.

MONTANA SCHOOL FOR THE DEAF AND BLIND - Steve Gettel, Superintendent

MR. GETTEL discussed his six budget proposals that he had submitted to the Governor's Office **(EXHIBIT 10)**:

- Extracurricular Compensation
- Retention and Recruitment of Staff
- Expansion of Outreach Services
- Guidance Counselor
- School Support
- Educational Audiologist

QUESTIONS

SEN. STORY asked Mr. Gettel what the population is of residential and non-residential. MR. GETTEL said that in regards to residential, they are at 75 but could handle at least 25 more in terms of facilities. He said that their non-residential population usually follows the trends of public school which is flat and declining.

SEN. GILLAN asked if there is any online component in terms of outreach for students who are hearing impaired and is there course work available online if they don't choose to be a residential student. MR. GETTEL said that they don't have any online courses. He said that they had looked at the feasibility and the efficacy in the past. They have looked at the School for the Deaf and Blind in Washington and at what they are doing with distributed education for blind children and there may be some potential there but typically the children who come to their school need direct instruction, meaning they need a teacher who signs and that they can understand that they have direct access to that curriculum.

SEN. MANGAN asked if Mr. Gettel if he expects to have any stand alone bills that will need to be approved. MR. GETTEL said they do not have any.

SEN. MANGAN said it has been a pleasure working with them and that they are doing a great job.

MONTANA STATE LIBRARY - Darlene Staffeldt, State Librarian

Ms. Staffeldt said that the Montana State Library Commission approved the drafting of the following bills concerning library services for Montanans. She discussed two proposed legislation:

- Permanent Public Access (**EXHIBIT 11**), to revise the 1947 statutes regarding state publications to ensure that permanent public access to all state government information in whatever format is maintained.
- Information Access Program (**EXHIBIT 12**), to broaden sections 22-1-325 and 22-1-331, MCA, to better allow the State Library Commission to put into practice the original intent of this legislation to encourage Montana libraries to share resources on with another and to get more library materials into Montanans' hands and at a cost libraries can afford.

TAPE 5A

SEN. GILLAN moved that the State Library's two proposed legislation be drafted. Motion passed.

K-12 EDUCATION FUNDING - Jan Lombardi, Governor's Education Policy Advisor

MS. LOMBARDI gave a brief overview of Governor's plan which is to build a sustainable and structurally sound budget that supports the children of Montana with a world class education that looks to the future.

She discussed the Governor's top three education priorities:

- To help at-risk students
- Improve access and affordability for college
- To deal with the retirement liability

Ms. Lombardi talked about the Governor's School Readiness Summit and the investment in voluntary full-time kindergarten for all Montana students. She said that the Governor has endorsed voluntary full-time kindergarten to help all children become successful students, especially at-risk children. She said that this will be a centerpiece of the 2007 education agenda.

Ms. Lombardi said that the Governor wants to create a strong bridge between K-12 and college by helping low income children realize that college is not just for other people. She said that it is important to improve access and affordability of higher education. The administration will ask for more funding for the Governor's Postsecondary Scholarship Program and focus resources on core services that help to minimize tuition increases. She said that the Governor also supports investing resources to improve credit transferability, including dual credit in the Montana University System. The accountability will rest with the University System to make it happen and to communicate it to the public.

Ms. Lombardi said that regarding the third issue, retirement liability, they believe investing one-time only funds in both TRS and PERS has many benefits, giving teachers a more secure pension, providing and recruitment and retention strategy for new educators, while avoiding future increases on property taxes.

QUESTIONS

SEN. LAIBLE asked Ms. Lombardi if her definition of at-risk students also included the gifted and talented. MS. LOMBARDI said that according to SB 152, the definition is students with special needs and that would include gifted and talented students.

REP. ARNTZEN asked if access and affordability of education for women with children is included in the Governor's plan. MS. LOMBARDI said that access and affordability, and providing money to core services will affect tuition which will make college more accessible for all students. She said that embedded within the Governor's Postsecondary Scholarship is a component that specifically targets non-traditional students in terms of their ability to qualify for need base aid.

SEN. STORY asked if OPI's price tag for all day kindergarten was consistent with the Governor's cost of that program. MS. LOMBARDI said that she did not know what their Budget Office's analysis of that is at this point. She said that the Superintendent's dollars are probably close. SEN. STORY asked if this would be a mandatory full day program or a voluntary one. MS. LOMBARDI said that it would be voluntary because kindergarten is voluntary in the state of Montana.

SEN. STORY asked if there were any other thought processes or solutions that would solve the

problem with dealing with one-time only infusions into the retirement liabilities. MS. LOMBARDI said that she is not an expert on retirement but she knows that the Budget Office is looking at all the different options and alternatives to address the liability.

SEN. LAIBLE asked Ms. Lombardi if the full day kindergarten proposal is a voluntary proposal and the local school districts would decide whether or not they wanted to implement that program within each local school district. MS. LOMBARDI said that it is voluntary and the local board of trustees would determine if they wanted to offer full-time kindergarten. SEN. LAIBLE asked what would happen to the funding if they opted not to. MS. LOMBARDI said that the funding structure would be based on per ANB per student funding, so instead of school districts getting partial FTEs or half FTE, they would get a full FTE; and if they choose not to offer it, they would not need that funding for kindergarten. SEN. LAIBLE asked if there has been any consideration for school districts that want to have full-time kindergarten but don't have the facilities to accommodate that. MS. LOMBARDI said that it is a local decision in terms of what they would want to do, if they have the facilities or if they would like to look at alternatives to make that happen.

SEN. MANGAN asked if Ms. Lombardi could give some background on what the recommendations would be coming out of the PERB Subcommittee and the policy points. MS. LOMBARDI said that the Governor's top priorities are access, affordability and transferability and supporting core services to prevent tuition increases.

SEN. MANGAN said that he was pleased that the committee unanimously agreed to a 0% increase for two-year colleges and asking the legislature to infuse a large amount of cash into that system to make sure that happens. He asked if the 0% and 5% goal numbers that were discussed is something that is on their radar and their goals as well. MS. LOMBARDI said that those were the University's targets. She said that they are looking at what it will cost to meet those targets. She said that what is important about the committee's discussions as well as the Board of Regents proposals is that there are limited resources. She said that the Executive and the Board of Regents, and the legislature are all committed to the same thing that will be good for our students in Montana.

MONTANA QUALITY EDUCATION COALITION UPDATE - Tom Cotton, Superintendent of Deer Lodge Elementary District; and Dr. Bruce Messinger, Superintendent of Helena School District

MR. TOM COTTON, Superintendent of Deer Lodge Elementary District, presented the Committee with his written testimony (**EXHIBIT 13**).

DR. MESSINGER said that he would like to elaborate a bit more on Tom Cotton's reference to the remedy plan. He said that it has been MQEC's commitment from the beginning to work on a remedy for the school funding issues in Montana. MQEC has contracted with APA, an

educational consultant from Denver, Colorado, to assist in their efforts to present a remedy plan prior to the 2007 session. They will bring forth suggestions and strategies on how to build off their present funding formula to satisfy the building blocks of an equitable and adequate school funding system in SB 152.

Dr. Messinger said that the areas that need to be addressed are the unique needs of small schools in our state, provide adequate funds for those schools as well as all schools across the state, teacher compensation, students who are at risk of failure within our schools, and the low wealth districts that do not have adequate resources to address the needs of their students, (the school facilities issue). Dr. Messinger said that MQEC is committed to working with the legislature and the Governor's Office on this remedy plan.

QUESTIONS

SEN. LAIBLE asked Mr. Cotton what kind of data will the consultant provide that the Quality Schools Committee researchers did not already have. BRUCE MESSINGER said that some of the data that was collected and incorporated in the work of the Quality Schools Interim Committee has been and will be considered by APA as they do this analysis. He said that part of the work will be to re-administer some cost analysis based on three different methodologies. Included in their filing with the court is an analysis of the work that was done during the study of the Quality Schools Interim Committee. Dr. Messinger said that there was some concern about some of the methodology used in determining costs associated with SB 152 and that is restated in their filing. He said that in addition to the analysis of costs associated with SB 152, they will make sure that when adequate funds are identified and made available, that they are distributed in the right way to the schools.

SEN. LAIBLE asked that if we continue to study this costing and continue to pile up new data, are we just waiting to see if we get something we like? DR. MESSINGER said that they believe that appropriate analysis will be helpful in the long run and that the work that's been done is constructive and helpful. He said that there is a limit and there can be paralysis that occurs if we over-analyze or over-study the issues, but it is also important, whether it is an educational issue or an environmental issue, or whatever the legislature is considering, we believe that it is important that you have good data, descriptive data that will help you make your decisions, so we think that we can build on the resource base that's there with this analysis.

SEN. MANGAN asked Dr. Messinger for a timeline of when that plan or process will be completed.

SEN. LAIBLE asked if the court filing is based on the fact that the legislature didn't follow the court's instructions in providing a funding formula for base entitlement, that it didn't follow the process correctly, or it didn't provide enough funding. DR. MESSINGER said that you will find in their filing affidavits from school districts describing that there still is not adequate funding in

the present system to satisfy the requirements under the definition of SB 152. He said that specific to the timeline, the initial report will be made available to the legislature and to the public in October with continued work on recommendations around refinements of their present funding formula that would also be completed at a later date but prior to the start of the 2007 session.

SEN. HAWKS asked that when Dr. Messinger speaks of teacher compensation and dropout rates and any other issue that is specific, how is the legislature to know that those funds are in fact going to be dedicated to those uses. DR. MESSINGER said that the Coalition will bring forth in their report a more complete description that will help legislators understand the kinds of resources that would be necessary to respond to those areas of needs.

REP. ARNTZEN asked Dr. Messinger if he discussed accountability with the group of people he was working with out of Colorado. DR. MESSINGER said that there is significant reporting on accountability under No Child Left Behind and some of the areas he referenced in his earlier comments are reported annually by each school community; OPI reports those on their website and is responsible for reporting those to the Department of Education. He said that they believe there is embedded accountability and hopefully in their report there will be a connection between those expectations and their accountability responsibilities.

SEN. STORY asked who the principles are in APA. DR. MESSINGER said that the principles are John Augenblick, Mr. Palick, and John Meyers.

SEN. STORY asked if they have negotiated a contract and if they are going to use some different methods of costs analysis. DR. MESSINGER said that there will be three approaches in this study: the Successful School District Approach, the Professional Judgment Approach, and Evidence Based. He said that their commitment is to refresh and update that data and build off of some earlier work that was done. He said that there were questions from legislators regarding the methodology involved with the professional judgment in the QSIC's study, so one of the requirements in this contract is to not only refresh the data and re-administer the study, but also make that whole process more transparent so that they can explain to the public and to the legislators how those dots are connected so that the analysis makes sense.

SEN. STORY asked Dr. Messinger how he sees the legislature being involved in the process, are they going to have regular meetings that people can attend and that the committee staff could monitor, and how will the legislators be involved from the front end and not just when the report comes out. DR. MESSINGER said that it would be their intent would be to make that open on the front end, establish the timeline. Some of work will start in mid to late summer and the more intensive work in the month of September.

SEN. STORY asked when their consultants will be gathering information. DR. MESSINGER

said that that work has already been initiated with gathering data sets that are available and they have already had a meeting with the Office of Public Instruction.

TAPE 5B

SEN. LAIBLE asked if Mr. Augenblick and Mr. Meyers were involved in the original study. DR. MESSINGER said that they both were involved when the schools initiated an adequacy study a number of years ago prior to the filing of the lawsuit. Mr. Augenblick has also served as a resource to legislative committees in recent years as well. He said that Augenblick & Meyers were not involved in the work of the Quality Schools Interim Committee.

SEN. LAIBLE asked Dr. Messinger what the cost will be to redo the study and who will pay for it. DR. MESSINGER said that the commitment for this process is around \$100,000 and it will be paid for by the Coalition membership. SEN. LAIBLE asked if it would be property tax dollars or general fund dollars, which are taxpayer dollars, that funds that organization. DR. MESSINGER said that there are multiple sources of funding: from the membership of the Montana Quality Education Coalition, from the Coalition member districts; i.e., the Helena School District being one of those; private individuals; associate members; and individuals who have put their own resources into this effort. They also have associations, some of which are the School Boards Association, School Administrators, MEA/MFT, and some small schools organizations are members as well.

SEN. LAIBLE asked if he is at liberty to say who those other private individuals are. DR. MESSINGER said that they would be glad to share that list of associate members.

SEN. MANGAN asked Dr. Messinger if the issue of insurance is included in the study. DR. MESSINGER said that they would see health insurance being the total compensation package, salary, benefit. He said that there is diversity within our state between higher paid and lower paid school employees. Their interest is to look at all sizes of districts and the compensation packages and what they need to be competitive, which is a requirement under SB 152.

SEN. MANGAN asked if teacher retention and recruitment is a big issue in smaller school districts. DR. MESSINGER said that it is and it relates to the compensation package. He said that it is their interest in all sizes of school districts, particularly in the smaller districts that struggle with attracting candidates and retaining them that they work to make sure that there are resources available to provide those competitive salaries.

SEN. MANGAN commented that the Education and Local Government Interim Committee's work is finished August 17 and 18, but he realizes that the Coalition's work isn't done until October. He said that four members of this committee started SB 152 and there is a wealth of knowledge and they are welcome to get on the agenda for the August meeting. He said that if

there is anything that the Coalition wishes to report on or take advantage of this committee getting together for the last time on those dates, please let the staff know to make sure that happens.

SEN. HAWKS asked what the final methodology is that is going to be used. DR. MESSINGER said that the third methodology is evidence based, which will look at what their present practice is, looking at their present expenditure patterns, and looking at some of the outcomes of that because it becomes the foundation in some of the analysis.

SEN. HAWKS asked if there is a weighted balance between the three methodologies. DR. MESSINGER said that they have not put together any kind of weighting or prioritization. He said that he believes that it is the consultants' recommendation to them that they would use the studies as a descriptive format to provide information. He said that part of what they want to do in their open communication of transparency is to both explain the methodologies, how they got to the outcomes, and what the recommendations might be, and how those methodologies interface, and if there are differences, why there are differences.

PUBLIC COMMENT ON ALL EDUCATION ISSUES

ROD SVEE, Superintendent Billings School District, said that he would answer any questions that the Committee might have regarding the usage of Indian Education for All money. He said that they support full-time kindergarten. He said that the voluntary nature of it is critical to them because they do not have the facilities. He said that there is some hesitation on the word "voluntary", that if you anticipate this to address SB 152, you can not have voluntary. If it is going to be at-risk to fulfill part of your definition, it has to be mandatory.

MR. SVEE said that they financed out of the Indian Education for All money a director who was a person on staff, whose position was eliminated and she was moved there because of her expertise in at-risk programs. He said that they received about \$1 M for those programs. He said that they have never done anything like this before and they are trying to guide the process as best they can. He said that the only other expenditure was a secretary hired for the director, and a portion of the curriculum director. He said that the rest of the funds are sitting in the general fund or in the special programs fund and waiting for help from OPI and MIEA who will help them with curriculum materials and implementation.

SEN. GILLAN asked Mr. Svee if the curriculum individual will be doing just Native American or Indian issues. MR. SVEE said that they funded a very small portion of her salary out of the Indian Education money because it impacts all curriculum and they know that it will take a major portion of her time.

SEN. STORY asked if OPI was helping him. MR. SVEE said that the legislators gave significant dollars to OPI for development of curriculum and they are waiting to see the outcome of that

investment. He said that they have been helpful and have been working with them to the extent possible.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE STRUCTURE

LEANNE KURTZ said that she put this on the agenda because it has been discussed among Legislative Services staff. Ms. Kurtz gave a brief history of the structure of the Education and Local Government Interim Committee. She asked if the committee thought that Education should be its own interim committee; if those issues will continue to be hot bottom issues for the state that warrant their own committee. She said that the discussion is, would it be an appropriate change to have a local government and transportation committee, if those issues overlap more, or how would they like to see it go from here.

SEN. STORY said that the odd marriage of local government and education in one committee was the result of property tax commonality between the two. He said that when they did HB 124, one of the companion bills to that was to create a local government interim committee similar to EQC that had legislators and representatives from local government on the committee so they could sit down and work on issues. He said that if the legislature and this committee is going to be involved in the budgeting process of University System, you would need three subcommittees to do that. He said that local government and transportation would probably make a good fit.

SEN. GILLAN said that she agrees with Sen. Story. She said that she sits on RTIC and it is an odd combination and that transportation issues are stuck on the end and not even discussed, whereas transportation is much more part of local government. She said that it is a more appropriate combination.

SEN. MANGAN said that Senate Local Government needs to be a Class II committee. There are too many substantive issues and too many people are involved to be a Class III committee during the session.

MS. KURTZ said that the committee could make a recommendation to Legislative Council that they proceed with doing the reorganization; or the committee could request a committee bill that creates a Local Government and Transportation Committee and an Education Committee.

SEN. STORY asked if there has been any discussion with Revenue and Transportation with realigning that committee. MS. KURTZ said that Jeff Martin does plan to discuss the issue with the Revenue and Transportation. She suggested waiting until August to see what RTIC says.

PUBLIC COMMENT

There was no public comment.

NEXT MEETING

MS. KURTZ said that the final meeting is August 17 and 18, 2006. SEN. MANGAN said that the subcommittees will meet both mornings and the full committee both afternoons.

REP. ARNTZEN said that she would like to review the bill drafts from the agencies. MS. KURTZ said that she will attempt to get them to her if she receives them from the agencies.

MS. KURTZ mentioned a few items that will be on the agenda for the August meetings: the Historical Society's requests; OPI's bill draft requests; the three decision packages and the companion bill from PEPB; and SB 48, how the Department of Revenue plans to treat deleted property. She said that she has been working with Mr. Blattie on the letter that is to go to the Department of Revenue.

MS. MCCLURE talked about getting a copy of the legal brief from Mr. Cotton which she will provide to the committee. SEN. MANGAN said that he would like them to attend the meeting.

ADJOURNMENT

SEN. MANGAN adjourned the meeting at 1:32 p.m.

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